



OHIO ETHICS COMMISSION

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OHIO ETHICS COMMISSION

2024 APR - 3 A 9:34

SETTLEMENT AGREEMENT

**In the Matter of Roger Hunker
Inquiry No. 21-Q-0312-006
February 28, 2024**

This agreement is entered into between the Ohio Ethics Commission (Commission) and Roger Hunker (Hunker) pursuant to the Commission's authority under Ohio Revised Code Section 102.06(G).

ALLEGATION SUMMARY: The Commission opened an investigation into potential ethics violations by Hunker, a Lyme Township Trustee in Huron County. Specifically, the Commission received multiple allegations that Hunker had been representing his private employer, Apex Clean Energy, Inc. (APEX), and himself as a Lyme Township Trustee interchangeably. It is alleged that Hunker has appeared at numerous neighboring township trustee meetings acting both as an employee of APEX and as a Trustee. It is further alleged that Hunker has appeared at numerous Huron County Commissioners meetings in his capacity as both an APEX employee and a Township Trustee. It was unknown at the time of allegation what, if any, official action Hunker has taken as a Township Trustee to benefit his employer APEX.

INVESTIGATIVE FINDINGS: Hunker is currently a Lyme Township Trustee and works as a Development Coordinator for APEX. APEX is a renewable energy company that on March 9, 2018 sought a Payment In Lieu Of Taxes (PILOT) program in Huron County which includes Lyme Township. PILOT is a payment made to compensate a government for some or all the property tax revenue lost due to tax exempt ownership or use of real property. Hunker's first

term as Trustee started on January 1, 2006, and he has remained a Trustee for Lyme Township ever since.

The investigation found that on March 19, 2018, during a Lyme Township Trustee Meeting, Hunker noted that he had been approached by APEX to provide consultation services on a compensated basis. Hunker stated he contacted the Huron County Prosecutor for an opinion on the issue of conflict of interest. He was advised there would be no conflict of interest given the scope of duties that have been set forth. APEX did not have business with the township prior to hiring Hunker and did not have any pending business or applications or like with Lyme Township.

On June 4, 2018, during a Lyme Township Trustee Meeting, Hunker stated that yard signs in support of the project were available for interested residents to display. On September 4, 2018, during a Lyme Township Trustee Meeting, Hunker noted he should have more affirmative information as to the projected units for Lyme Township by the October 1, 2018. On November 5, 2018, during a Lyme Township Trustee Meeting, Hunker stated a public meeting is scheduled for November 15, 2018 from 5:00 p.m. to 7:00 p.m. at Bronson Conservation Club in Norwalk. He stated that the layout of the turbines in this locale will be available for review as well as representatives being on hand to discuss any questions or concerns.

On February 4, 2019, during the Citizens' Comments portion of a Lyme Township Trustees Meeting, Hunker, as a consultant with APEX, spoke from his consultant's role. He stated that APEX's applications were submitted on January 31, 2019 for potentially 19 wind turbines in Lyme Township and that a public meeting was planned for the end of February, but no specific date had been announced. He also stated that the Huron County Commissioners' March of 2018 meeting minutes noted their approval of a PILOT program, but, as of February 4, 2019, they had not officially approved the measure with formal legislation. He stated that township officials need to

contact the Commissioners and urge them to move forward in completing the formation of the PILOT.

On March 4, 2019, the Trustees noted that, in time for their March 19, 2019 meeting, the Huron County Commissioners requested written documentation from the Trustees that state their position of "For" or "Against" the PILOT for the county.

On March 18, 2019, during a Lyme Township Trustees Meeting, the trustees discussed the PILOT program for the APEX project. There is no record of whether Hunker participated in the discussion at that particular time. The trustees then voted on adopting a Resolution in favor of the PILOT program. Trustees David Lepley and Michael Nottke voted in favor of the Resolution. Hunker abstained.

Hunker, in his public role as a Lyme Township Trustee, also attended neighboring township trustee meetings in Sherman Township and Oxford Township and Huron County Commission meetings promoting his private employer and his support for the PILOT program for APEX. Oxford Township is located in Erie County.

COMMISSION FINDINGS: Staff reviewed the results of its investigation with the Commission at its regularly scheduled meeting, in executive session, on June 28, 2023. The Commission found that the facts support a violation of R.C. 102.03(D) and R.C. 102.03(E) of the Ethics Law.

Hunker violated R.C. 102.03(D) when he used the influence of being a township trustee to advocate to other township trustees to pass a Resolution that benefitted his private employer. He also violated R.C. 102.03(E) when he accepted a paid position with APEX to promote their wind

energy project to Huron County Commissioners, Lyme Township Trustees, Sherman Township Trustees, and the Oxford Township Trustees.

The Commission determined that these matters should be addressed through its settlement authority under R.C. 102.06(G) based upon the factors stated in Mitigation.

LEGAL ANALYSIS: The applicable Ohio Revised Code sections are:

R.C.102.03(D) No public official or employee shall use or authorize the use of the authority or influence of office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

R.C.102.03(E) No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

MITIGATION: Hunker participated in the Commission's inquiry. He answered all questions asked by Commission staff. Ultimately, the APEX Energy wind turbine project was rejected and APEX nor Hunker benefitted from his participation in the matter. Hunker asserted during a March 19, 2018 township meeting that he sought legal advice from the Huron County Prosecutor's Office about whether accepting the job from APEX was a conflict of interest, and the Office told him it was not. Hunker asserted that the Huron County Prosecutor and Assistant Prosecutor discussed the issue with him over the phone and told him that they both agreed that there was no conflict as the township does not have any direct vote on a wind project. Hunker also asserted that they told him that if anything regarding APEX came up, he would just have to abstain.

RESOLUTION: Per the terms of this Settlement Agreement, Hunker acknowledges that he violated R.C. 102.03(D) when he used the influence of being a township trustee to advocate to other township trustees to pass a Resolution that benefitted his private employer. He also violated R.C. 102.03(E) when he accepted a paid position with APEX to promote their wind energy project to Huron County Commissioners, Lyme Township Trustees, Sherman Township Trustees, and the Oxford Township Trustees.

In lieu of a referral of this matter to the appropriate prosecuting attorney, Hunker accepts a reprimand from the Commission. In addition, Hunker agrees to attend the one-hour The Ohio Ethics Law E-Course within thirty days of signing this agreement and providing proof of attendance to the Commission. Hunker agrees he will not make any public argument in defense of the acknowledgement contained in this settlement agreement by stating that he did not do anything wrong; that the facts do not support a potential violation of the Ohio Ethics Law; or that the resolution of this matter is legally or factually deficient for any reason due to the investigation or processes of the Ethics Commission.

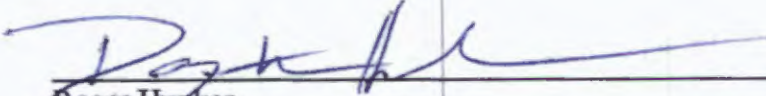
A copy of this Settlement Agreement will be shared with the Huron County Prosecutor's Office and the City of Bellevue Prosecutor. This Settlement Agreement will be a public record. Finally, Hunker acknowledges that any future alleged violations brought to the Commission or the prosecutor's office will be fully investigated and, if warranted by the facts, recommended to be prosecuted to the full extent of the law. This Settlement Agreement shall apply to any similar events as described in the above investigative findings involving Hunker's appearance on behalf of Apex at any meeting before the Huron County Commissioners, Lyme Township Trustees,

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Sherman Township Trustees, and the Oxford Township Trustees through the date of the Settlement Agreement.

Pursuant to R.C. 102.06(G)(3), if Hunker breaches this settlement agreement, the Commission or prosecuting authority, in the Commission's or prosecuting authority's discretion, may rescind the agreement and reinstitute any investigation, hearing, or prosecution of Hunker. No information obtained from Hunker in reaching the settlement that is not otherwise discoverable from Hunker shall be used in any proceeding before the Commission or by the appropriate prosecuting authority in prosecuting the violation. Notwithstanding any other section of the Revised Code, if a settlement agreement is breached, any statute of limitations for a violation of this chapter or R.C. 2921.42 or R.C. 2921.43 is tolled from the date the complaint or charge is filed until the date the settlement agreement is breached.

Per the terms of this Settlement Agreement, the Commission will hereby close its review of this matter in lieu of any referral of this matter for prosecution.



Roger Hunker
Respondent

3-20-24

Date

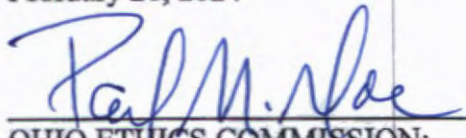


J.B. Hadden, Esq.
Counsel for Respondent

3-25-2024

Date

Roger Hunker
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OHIO ETHICS COMMISSION:

By Paul M. Nick, Executive Director

4/3/24
Date