

**Minutes of the January 3, 2019  
Meeting of the West Virginia Ethics Commission**

The January 3, 2019, meeting of the West Virginia Ethics Commission was called to order in the Commission's office at 210 Brooks Street, Charleston, West Virginia, at 10:00 a.m. by Chairperson Robert J. Wolfe. Also present in person were Commissioners Lindsey Ashley, Robert Harman, Lawrence Tweel, and Terry Walker. Participating by telephone were Commissioners Karen Disibbio, Suzan Singleton, and Monté Williams. Commissioner Lynn Davis was absent. Executive Director Rebecca L. Stepto, General Counsel Kimberly B. Weber, Staff Attorney Theresa Kirk, Staff Attorney Derek A. Knopp, and Special Assistant to the Executive Director M. Ellen Briggs, all from the Commission staff, were present.

WHEREUPON, Chairperson Wolfe asked for approval of the November 1, 2018, Commission meeting minutes.

WHEREUPON, Commissioner Singleton made a motion to approve the minutes of November 1, 2018. Commissioner Harman gave a second, and the motion passed, with new Commissioner Ashley abstaining from the vote.

WHEREUPON, Chairperson Wolfe reported that Betty S. Ireland was not reappointed to the Commission. He introduced new Commissioner Lindsey Ashley from Pineville, West Virginia.

WHEREUPON, Ms. Stepto gave a recap of the previous month.

WHEREUPON, Chairperson Wolfe called upon Ms. Stepto to present the Employment Exemption requests.

WHEREUPON, Ms. Stepto presented Employment Exemption 2018-58 requested by Jeffrey L. Bush, Office Director, Department of Health and Human Resources, Office of Accountability and Management Reporting; Employment Exemption 2018-59 requested by David Millhouse, Transportation Crew Supervisor 2, Department of Transportation, Division of Highways; Employment Exemption 2018-60 requested by David Burris, Assistant District Engineer, Maintenance, Department of Transportation, Division of Highways; Employment Exemption 2018-61 requested by Anthony E. Clark, Maintenance Engineer, Department of Transportation, Division of Highways; Employment Exemption 2018-62 requested by Jason M. Boyd, Director, Contract Administration Division, Department of Transportation, Division of Highways; Employment Exemption 2018-63 requested by Ron Stanevich, Director, Materials Control, Soils & Testing Division, Department of Transportation, Division of Highways; Employment Exemption 2018-64 requested by John E. Taylor, Assistant Director, Contract Administration, Department of Transportation, Division of Highways; Employment Exemption 2018-65 requested by John P. Toomey, Contract Process Manager, Department of Transportation, Division of Highways; Employment Exemption 2018-66 requested by Delmas M. Crum, Consultant Services Manager/Field

Coordinator, Department of Transportation, Division of Highways; Employment Exemption 2018-67 requested by Jonathan T. Storage, General Counsel, Department of Transportation, Division of Highways; Employment Exemption 2018-68 requested by Hao Chen, Contract Analytics Coordinator, Department of Transportation, Division of Highways; Employment Exemption 2018-69 requested by Michael A. Dodd, Contract Management Coordinator, Department of Transportation, Division of Highways, and Employment Exemption 2018-70 requested by David Scott Abbott, Integrated Construction Technologies Supervisor, Department of Transportation, Division of Highways. Commissioner Walker made a motion that Employment Exemptions 2018-58, 2018-59, 2018-60, 2018-61, 2018-62, 2018-63, 2018-64, 2018-65, 2018-66, 2018-67, 2018-68, 2018-69, and 2018-70 be ratified. Commissioner Singleton gave a second, and the motion carried.

WHEREUPON, Chairperson Wolfe called upon Ms. Kirk to present proposed Advisory Opinion 2019-01 for consideration.

WHEREUPON, Ms. Kirk presented proposed Advisory Opinion 2019-01. After discussion, a motion was made by Commissioner Harman to accept proposed Advisory Opinion 2019-01 as presented. Commissioner Walker gave a second, and the motion carried, with Commissioner Tweel opposed.

WHEREUPON, Chairperson Wolfe requested Commissioner Tweel to read a RESOLUTION in honor of former Commissioner Betty S. Ireland. Commissioner Tweel read as follows:

**WHEREAS**, the West Virginia Ethics Commission honors Commissioner Betty S. Ireland for outstanding leadership and guidance to the West Virginia Ethics Commission;

**WHEREAS**, Commissioner Ireland faithfully and with honor, integrity and great distinction served on the West Virginia Ethics Commission;

**WHEREAS**, Commissioner Ireland is recognized as being a member of the West Virginia Ethics Commission from 2013 through 2018.

**RESOLVED**, that the West Virginia Ethics Commission formally acknowledges and extends its profound appreciation of Commissioner Ireland for her years of dedicated service to the State of West Virginia and the West Virginia Ethics Commission; and

**RESOLVED FURTHER**, that the original of this RESOLUTION be sent to Commissioner Ireland and that this RESOLUTION be recorded in the official minutes of the West Virginia Ethics Commission this 3rd day of January 2019.

A motion was made by Commissioner Tweel, seconded by Commissioner Walker, and carried unanimously that this RESOLUTION be approved, and the original be sent to Commissioner Ireland.

WHEREUPON, the Commission reviewed purchases on the P-Card monthly reports for October and November. Commissioner Harman moved, and Commissioner Walker seconded, that the reports be accepted. The motion carried.

WHEREUPON, Ms. Stepto reported that the 2018 lobbyist audit has been completed by Rowan & Associates. Mr. Rowan requested documentation from 20 randomly selected lobbyists to support the expenditures which they reported in the three Lobbyist Activity Reports filed for 2017. Ms. Stepto noted that George Pilato terminated his lobbyist registration on August 13, 2018, and Mr. Rowan reported, "we are unable to complete our procedures...due to lack of supporting documentation being submitted by George Pilato ..." Chairperson Wolfe asked that Mr. Pilato's file be flagged as being non-compliant should he request to be re-registered as a lobbyist. A motion was made by Commissioner Walker that no further activity is required by Mr. Rowan; that there is no information disclosed in the reports relating to lobbyist compensation or other information which is not required to be disclosed pursuant to W. Va. Code § 6B-3-1 et seq. and that the reports be deemed final. Commissioner Tweel gave a second, and the motion carried.

WHEREUPON, Chairperson Wolfe called for a motion to go into executive session to discuss proposed action on Complaint VCRB 2018-62.

WHEREUPON, a motion was made by Commissioner Tweel to go into executive session, pursuant to W. Va. Code § 6-9A-4(12), to consider proposed action on Complaint VCRB 2018-62. Commissioner Harman seconded the motion. The motion carried. Ms. Kirk and the guest present left the meeting room.

WHEREUPON, the Commission returned to public session, and the guest returned to the meeting room.

WHEREUPON, Commissioner Tweel made a motion that, pursuant to W. Va. Code § 6B-2-4(w)(1), the Commission make a criminal referral in VCRB 2018-62 to the appropriate county prosecutor. Commissioner Williams publicly declared a conflict of interest in this matter and left the conference call. Commissioner Walker gave a second to the motion, and the motion carried.

WHEREUPON, Chairperson Wolfe asked Commissioner Tweel, as Chair of the Commission's Committee on Open Governmental Meetings, to summarize Open Meetings Advisory Opinions 2019-01 and 2019-02, which were issued by the Committee on the morning of the Commission meeting.

WHEREUPON, Commissioner Tweel reported that the Superintendent of Brooke County Schools asked whether out-of-calendar days ("OC") and outside the school

environment days ("OSE") are counted when computing time periods for providing notice under the Open Meetings Act. Commissioner Tweel reported that in response, the Committee on Open Governmental Meetings issued Open Meetings Advisory Opinion 2019-01, which held:

The Committee therefore holds that OSE days and OC days are not considered legal holidays and are thus counted for purposes of computing time periods under the Open Meetings Act.

Commissioner Tweel also reported that the City of Winfield had asked whether it could enact an ordinance prohibiting private citizens from filming public meetings under the Open Meetings Act. Commissioner Tweel reported that the Committee issued Open Meetings Advisory Opinion 2019-02, which held, in part:

... as it pertains to the use of equipment necessary for broadcasting, photographing, filming or recording a meeting, a public agency may not prohibit anyone -- the public or the media -- from using such equipment unless it is to prevent undue interference with the meeting. Further, the public's ordinary use of such equipment alone may not be declared to constitute undue interference with a public agency's meetings.

Commissioner Williams returned to the conference call during Commissioner Tweel's report of Open Meetings Advisory Opinion 2019-02.

WHEREUPON, a motion was made by Commissioner Tweel that the Commission go into executive session pursuant to W. Va. Code § 6-9A-4(b)(2)(A), relating to matters arising from the appointment, employment, retirement, promotion, transfer, demotion, disciplining, resignation, discharge, dismissal or compensation of a public officer or employee. Commissioner Williams gave a second, and the motion carried. All staff, except Ms. Stepto, left the meeting room. Ms. Stepto left the meeting room for a portion of the meeting.

WHEREUPON, the Commission returned to public session, and Ms. Stepto and Ms. Briggs returned.

WHEREUPON, Chairperson Wolfe reported that he had made the following Committee appointments effective December 13, 2018:

Administrative Law Judge Committee

Suzan Singleton, Chairperson

Robert Harman

Monté Williams

Lindsey Ashley (alternate)

Karen Disibbio (alternate)

Open Governmental Meetings Committee

Larry Tweel, Chairperson  
Suzan Singleton  
Monté Williams  
Lynn Davis (alternate)  
Robert Harman (alternate)

Personnel Committee

Terry Walker, Chairperson  
Lynn Davis  
Karen Disibbio  
Robert Wolfe, Ex-Officio

WHEREUPON, Chairperson Wolfe stated there were no more items for discussion.

WHEREUPON, Commissioner Tweel made a motion to adjourn, and Commissioner Walker seconded. The motion passed, and the meeting was adjourned.

The foregoing minutes of the West Virginia Ethics Commission were approved at the Commission's February 7, 2019, meeting.



Robert J. Wolfe, Chairperson  
West Virginia Ethics Commission

ATTEST:



M. Ellen Briggs, Special Assistant  
to the Executive Director  
West Virginia Ethics Commission