

**Minutes of the January 13, 2017  
Meeting of the West Virginia Ethics Commission**

The January 13, 2017, 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. Present in person at the meeting were Chairperson Wolfe and Commissioners Betty Ireland, Lawrence Tweel and Terry Walker. Commissioners Karen Disibbio and Monté Williams participated by telephone. Commissioner Suzan Singleton was absent. Executive Director Rebecca L. Stepto, General Counsel Kimberly B. Weber, Staff Attorney Theresa M. 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 December 1, 2016, Commission meeting minutes.

WHEREUPON, Commissioner Ireland made a motion to approve the minutes of December 1, 2016. Commissioner Tweel gave a second. The motion passed.

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

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

WHEREUPON, Ms. Stepto presented Employment Exemption 2016-45 requested by David Nichols, Legal Assistant/Legislative Liaison, Secretary of State's Office; Employment Exemption 2016-46 requested by Paul A. Mattox, Jr., Cabinet Secretary and Commissioner of Division of Highways, Department of Transportation; Employment Exemption 2016-47 requested by John Doyle, Deputy Cabinet Secretary, Department of Revenue, and Employment Exemption 2017-01 requested by Harry J. Bergstrom, Deputy Cabinet Secretary and Deputy Commissioner of Highways, Department of Transportation. After discussion, Commissioner Tweel made a motion that Employment Exemptions 2016-45, 2016-46, 2016-47 and 2017-01 be ratified. Commissioner Walker gave a second, and the motion carried.

WHEREUPON, Chairperson Wolfe called upon Mr. Knopp to present proposed Advisory Opinion 2017-02 for consideration.

WHEREUPON, Mr. Knopp presented proposed Advisory Opinion 2017-02 to the Commission for consideration. After discussion, a motion was made by Commissioner Tweel to accept the proposed Advisory Opinion. Commissioner Ireland gave a second, and the motion carried.

WHEREUPON, Chairperson Wolfe called upon Ms. Stepto for miscellaneous agenda items.

WHEREUPON, Ms. Stepto requested approval of the revised Records Retention and Disposal Schedule for the Ethics Commission. After discussion, a motion was made by Commissioner Ireland that the Records Retention and Disposal Schedule be approved as presented. A second was given by Commissioner Tweel, and the motion carried. Ms. Stepto noted that the document will be sent to the Department of Administration for its approval.

WHEREUPON, Ms. Stepto reported on the proposed modified Legislative Rule regarding "Use of Public Office for Private Gain, Including Nepotism" and the proposed addition of nepotism to the Ethics Act. A motion was made by Commissioner Ireland that the following language be added to the proposed version of the Rule which had previously been approved by the Ethics Commission:

### **Legislative Rule 158-6-3**

1.5. Sunset Provision: This rule shall terminate and have no further force or effect upon the expiration of five years from its effective date.

3.2. The Ethics Act prohibits public officials and public employees from knowingly and intentionally using their office or the prestige of their office for their own private gain or the private gain of another person. Nepotism is one form of the use of office for private gain because if public officials or employees use their positions to give an unfair advantage to relatives or persons with whom the public official or employee resides, the primary benefit to such action is to the public official or employee or another person rather than to the public.

Commissioner Ireland also moved that a bill to add the following language to the Ethics Act be proposed:

### **6B-2-5. Ethical standards for elected and appointed officials and public employees.**

(4) Nepotism is one form of the use of office for private gain because if public officials or employees use their positions to give an unfair advantage to relatives or persons with whom the public official or employee resides, the primary benefit to such action is to the public official or employee or another person rather than to the public. As used in this subsection, the term "nepotism" means favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides.

Commissioner Tweel gave a second to the motions, and the motions carried.

WHEREUPON, Chairperson Wolfe called for a motion to go into executive session to discuss proposed action on the Complaints in VCRB 2016-098 and VCRB 2016-099. Commissioner Tweel declared a conflict of interest and left the meeting room.

WHEREUPON, a motion was made by Commissioner Ireland to go into executive session, pursuant to W.Va. Code § 6-9A-4(12), to consider proposed action on the Complaints in VCRB 2016-098 and VCRB 2016-099. Commissioner Walker seconded the motion. The motion carried. The guest present left the meeting room.

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

WHEREUPON, Commissioner Ireland made a motion that the Commission rule that probable cause exists to believe that a criminal violation has occurred and that the Complaints in VCRB 2016-098 and VCRB 2016-099 be referred to the appropriate county prosecuting attorney for a criminal investigation and possible prosecution. Commissioner Walker gave a second, and the motion carried. Commissioner Tweel returned to the meeting room.

WHEREUPON, a motion was made by Commissioner Ireland 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. A second was given by Commissioner Tweel, and the motion carried. The guest and staff, except Ms. Stepto, left the meeting room.

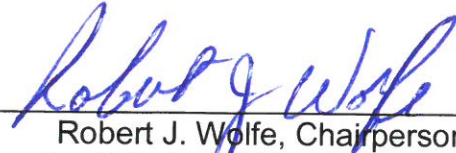
WHEREUPON, the Commission returned to public session, and staff returned to the meeting room.

WHEREUPON, Commissioner Ireland, as Chair of the Personnel Committee, moved that the staff evaluations presented to the Personnel Committee and goals set for 2017 be accepted. Commissioner Tweel gave a second, and the motion carried.

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

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

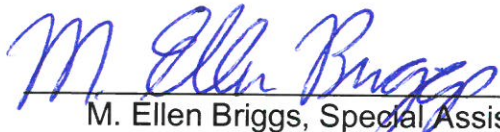
The foregoing minutes of the West Virginia Ethics Commission were approved at the February 2, 2017, meeting.



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Robert J. Wolfe, Chairperson  
West Virginia Ethics Commission

ATTEST:



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