

West Virginia Ethics Commission

Meeting Minutes January 6, 2022

The January 6, 2022, 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 Acting Chairperson Terry Walker. Mr. Walker reported that Mr. Wolfe asked him to serve as Acting Chair in Mr. Wolfe's absence. Commissioners and the public were invited to attend via telephone.

Present

Terry Walker, Acting Chairperson (by telephone)
Lynn Davis, Commission member (by telephone)
Karen Disibbio, Commission member (by telephone)
Robert Harman, Commission member (by telephone)
Suzan Singleton, Commission member (by telephone)
Monté Williams, Commission member (by telephone)
Kimberly B. Weber, Executive Director
Theresa M. Kirk, General Counsel
Andrew R. Herrick, Staff Attorney
John E. Roush, Staff Attorney
M. Ellen Briggs, Executive Assistant

Absent

Robert J. Wolfe, Commission chairperson

Approve Minutes

Ms. Singleton made a motion to approve the minutes of the Commission's November 4, 2021, meeting. (The Commission's December meeting was cancelled.) Mr. Harman seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Recap of Previous Month

Ms. Weber provided a summary of news and developments relating to the Ethics Commission during the previous months.

Employment Exemption Requests

EE 2021-24

James A. Rossi, P.E., Highway District Manager, Department of Transportation, Division of Highways

EE 2021-25

Russell L. Kees, Contract Management Regional Coordinator, Department of Transportation, Division of Highways

EE 2021-26

Carter Muncy, Project Supervisor, Department of Transportation, Division of Highways

Ms. Davis moved that Employment Exemptions 2021-24, 2021-25, and 2021-26 be ratified. Ms. Disibbio seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Advisory Opinion 2022-01

Mr. Walker called upon Ms. Kirk to present Advisory Opinion 2022-01 to the Commission for consideration. Ms. Kirk presented the proposed Advisory Opinion. Mr. Harman made a motion that the Advisory Opinion be approved as presented. Ms. Disibbio seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Advisory Opinion 2022-02

Mr. Walker called upon Mr. Herrick to present Advisory Opinion 2022-02 to the Commission for consideration. Mr. Herrick presented the proposed Advisory Opinion. Ms. Singleton made a motion that the Advisory Opinion be approved as presented. Mr. Harman seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Advisory Opinion 2022-03

Mr. Walker called upon Mr. Roush to present Advisory Opinion 2022-03 to the Commission for consideration. Mr. Roush presented the proposed Advisory Opinion. Ms. Singleton made a motion that the Advisory Opinion be approved as presented. Mr. Harman seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Approve P-card Monthly Report

The Commission reviewed the P-card monthly report for October 2021. No purchases were made with the P-card in November 2021. A motion was made by Ms. Singleton to approve the October report as presented. Ms. Davis seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Resolution for Lobbyist Audit

Mr. Walker called upon Ms. Weber to present the proposed Resolution setting the number of lobbyist audits to be conducted in 2022, and each subsequent year unless changed by a subsequent resolution. Ms. Weber recommended the following underlined language be added to her initial recommended Resolution:

WHEREAS, the Ethics Commission has determined, by passage of a proper motion of the full Commission on January 6, 2022, that it will conduct one lobbyist lottery auditing 20 lobbyists in 2022 and each subsequent year unless changed by a subsequent resolution.

A motion was made by Mr. Harman to approve the proposed Resolution with the additional language recommended by Ms. Weber and be recorded in the minutes of the January 6, 2022, Commission meeting. Ms. Singleton seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

The Resolution is attached to these minutes and incorporated herein.

Legislative Rule, Use of Office for Private Gain, including Nepotism

Mr. Walker called upon Ms. Kirk to present staff's proposed changes to Legislative Rule, Title 158, Series 6, Use of Office for Private Gain, including Nepotism. Ms. Kirk discussed the proposed changes to the Rule. A motion was made by Ms. Davis to authorize staff to request that the Legislature amend the Rule's nepotism language to prohibit public officials or public employees from participating in decisions affecting the employment and working conditions of a relative or person with whom he or she resides unless required by law and an independent third party is involved in the process. Ms. Disibbio seconded the motion, which passed as follows:

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

Mr. Harman made a motion to adjourn, and Ms. Singleton seconded the motion. The motion passed as follows, and the meeting was adjourned.

Davis – aye
Disibbio – aye
Harman – aye
Singleton – aye
Walker – aye
Williams – aye

The foregoing minutes of the West Virginia Ethics Commission were approved at the Commission's February 3, 2022, meeting.



Terry L. Walker, Acting Chairperson
West Virginia Ethics Commission

ATTEST:



M. Ellen Briggs, Executive Assistant
West Virginia Ethics Commission



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RESOLUTION

WHEREAS, W. Va. Code § 6B-3-11(a) provides that the Commission shall initiate, by lottery, random audits of lobbyist registration statements and disclosure reports.

WHEREAS, the Commission may hold up to four lotteries per year. The number of lotteries held within a given year will be a matter within the Commission's discretion. W. Va. Code § 6B-3-11(b).

WHEREAS, the number of audits to be conducted will be determined by the Commission through resolutions adopted at public meetings and based on various factors, including the complexity, results, and time required to complete the audits. W. Va. Code § 6B-3-11(b).

WHEREAS, the Ethics Commission has determined, by passage of a proper motion of the full Commission on January 6, 2022, that it will conduct one lobbyist lottery auditing 20 lobbyists in 2022 and each subsequent year unless changed by a subsequent resolution.

It is RESOLVED, that the Executive Director of the Commission is directed to initiate one audit of lobbyists' registration statements and disclosure reports per year in accordance with the West Virginia Ethics Act and W. Va. Code R. § 158-15-1 through 6.1.i.

It is RESOLVED FURTHER, that the **RESOLUTION** be recorded in the official minutes of the West Virginia Ethics Commission this 6th day of January 2022.

A handwritten signature in blue ink that reads "Terry L. Walker".

Terry L. Walker, Acting Chair
West Virginia Ethics Commission