

**State Election Commission**  
**Tuesday, March 6, 2018 – 3:00 p.m.**  
**Secretary of State's Office**  
**Minutes**

**Attendees:**

Members

Gary Collias, Chair  
Mac Warner, Secretary of State  
Vince Cardi (By Teleconference)  
Taylor Downs (By Teleconference)

Guests

Donald Kersey, Deputy General Counsel and Director of Elections  
Chuck Flannery, Deputy Secretary of State and Chief of Staff  
Missi Kinder, Campaign Finance Specialist  
Karen Ireland  
Brad White

The State Election Commission met on Tuesday, March 6, 2018 at 3:00 p.m. in the Secretary of State's Office at the State Capitol Complex. The meeting was called to order and chaired by Gary Collias. A quorum of members was established.

The next item on the agenda was the approval of minutes from the October 25, 2017, January 12, 2018 and February 20, 2018 meetings. Secretary Warner made a motion to approve the minutes with Vince Cardi seconding. The motion passed with a unanimous vote.

The third item on the agenda was consideration of candidates' written applications for disqualification. Donald Kersey addressed the Commission. He explained that there were two candidates in person who have made written application to the State Election Commission and two other candidates that have applied for disqualification from the ballot.

The first discussion was in regards to Sharon Toothman. She is currently incapacitated. The request for disqualification came from her husband as Power of Attorney on her behalf. Jackson County Clerk Cheryl Bright and Al Toothman joined the meeting by speakerphone. Sharon Toothman is a Jackson County Board of Education candidate. She is ill and hospitalized. As a result, she has not filed a Financial Disclosure Statement with the Ethics Commission. Mr. Toothman addressed the Commission to explain the circumstances. The Commission members asked various questions. A detailed discussion took place. Clerk Bright and Mr. Toothman temporarily left the meeting to obtain verification of records.

The next discussion was in regards to Karan Ireland. Ms. Ireland was present and addressed the Commission. She explained that she filed for reelection as City Councilor for the City of Charleston. She has since decided to go back to college, which will require relocating. She continued that there are many candidates that have filed to run and her concern is that by staying on the ballot she could potentially take votes away from other candidates. In addition, she stated that she will be changing her residence to either Berea, KY or Morgantown, WV. After questions and discussion, Donald Kersey explained that by W. Va. Code and case law, the change in residence is synonymous with domicile for election purposes. This would allow the Commission to remove her from the ballot for ineligibility. Secretary Warner

made a motion to remove her name from the ballot by disqualifying her for ineligibility. Vince Cardi seconded the motion. The motion passed with a unanimous vote.

The next discussion was in regards to Delegate Brad White. Delegate White was present and addressed the Commission. He explained that after filing for reelection, his father became ill. He has since become a co-guardian with his sister for their father. He continued that he feels his responsibilities are now elsewhere and no longer with running a campaign. Secretary Warner asked what the code allowance is for removing a name from the ballot under this circumstance. Mr. Kersey responded that there are broad allowances under W. Va. Code §§3-5-11 and 3-5-19 specifically subsection 5. After further questions and discussion, Secretary Warner made a motion to remove his name from the ballot due to incapacitation based on the Delegate's own word. Vince Cardi seconded the motion. The motion passed with a unanimous vote.

Mr. Kersey indicated that he had heard back from Clerk Bright regarding Sharon Toothman. She sent a fax received from Thomas Memorial Hospital in South Charleston, WV dated March 1, 2018. The fax was written by the attending physician and states that after examination, the patient currently does not demonstrate capacity to make medical decisions. It contains an explanation of what lack of capacity entails and is signed by the physician. It states that being there is not a completed medical Power of Attorney in the chart, the doctor assigned Amanda Ranson to be the designated medical decision maker and surrogate for Sharon Toothman. Mr. Downs asked if Mr. Toothman has general Power of Attorney for his wife. Mr. Kersey responded that the document only relates to medical decisions. Gary Collias asked if a candidate's name can be removed from the ballot if the request does not come from the candidate if it can be shown that the candidate is in fact incapacitated. Mr. Kersey responded that W. Va. Code §3-5-19 states there has to be a written request for disqualification by an individual, but is not specific about who the individual is. Legal discussion continued. Secretary Warner made a motion to remove Ms. Toothman's name from the ballot in May with Vince Cardi seconding. The motion passed with a unanimous vote.

The final discussion was in regards to Mr. Briggs. He filed to be a candidate for the Marshall County Democratic Executive Committee. He is also a new employee of the Division of Highways. He learned from his employer, after the withdrawal deadline, that he cannot run for public office because he is a civil service employee. In order to keep his job, he would like to be removed from the ballot. As a covered civil service employee, he is no longer eligible to be a candidate. Secretary Warner made a motion to remove his name from the ballot with Gary Collias seconding. The motion passed with a unanimous vote.

Gary Collias asked if there was any other business.

The Commission entered into Executive Session at 3:56 p.m.

The Commission exited Executive Session at 4:05 p.m.

With no further business, Secretary Warner made a motion that the meeting adjourn with Mr. Cardi seconding. The motion carried. The meeting was adjourned.