



MONTGOMERY COUNTY ETHICS COMMISSION

Special Public Meeting to Consider Financial Disclosure Law

February 26, 2013

Minutes, as amended

IN ATTENDANCE:

Commissioners:

**Stuart Rick, Chair
Rachel Brown
Mark L. Greenblatt
Nina Weisbroth**

Staff Member:

Robert Cobb, Chief Counsel

The Meeting was called to order at 7:30 p.m.

The Commission decided that the following should be the elements of a revised financial disclosure system:

1. The system will adhere to the requirements of the Maryland State Ethics Law.
2. All reports will be publicly available.
3. Three tiers of filers with different filing obligations: a) elected officials, b) very senior employees, and c) other filers.
4. Elected officials file disclosures that meet or exceed filing requirements for elected officials in State law.
5. Very senior employees, whose positions would be identified in law, would file a disclosure report like that of elected officials, but without values of assets.
6. Other filers would file disclosures that identify gifts and possible conflicts of interests between their private activities and holdings and their official duties. These other filers would be those designated by law (at or above a designated pay level) or based on a determination by their Department or Agency that the employee is in a position to substantially affect private interests in the execution of

public duties or have access to confidential information that could be used for private gain. The Commission would provide guidance to assist department heads in identifying who should be designated for filing.

7. All filers would have an ongoing obligation to disclose any new conflicting interests that arise during the course of a year. This disclosure would be required to be made before the filer could take action on the matter giving rise to the conflict. This ongoing obligation to disclose would also apply to gifts that are received during the course of a year.
8. All filers would certify that their disclosures are made to the best of their knowledge and belief.
9. The disclosure forms should include examples of the types of interests that could pose a conflict of interest.
10. The CAO would maintain the list of filers.
11. Ethics Commission would be authorized to request and receive additional information from filers about disclosed items.
12. Retention of disclosure documents to correspond with State retention periods, as appropriate.

Commissioner Greenblatt expressed concern that nondisclosure of a possible conflict could be defended with a claim of ignorance that the disclosure was required to be made, such as "I did not know it was a conflict." In his view, proving that a person knew that an undisclosed personal interest was required to be disclosed as conflicting would pose great challenges. Discussion included the point that an employee who had a conflict of interest and did not disclose it would still be culpable for the conflict of interest, even where it could not be shown that the omission from a financial disclosure statement of the conflicting interest was intentional.

The meeting Adjourned at 9:45.

Respectfully Submitted,



Robert W. Cobb