



6. The Commission considered the issue of whether lobbying fees should be raised from \$125 to \$250. Several considerations were discussed:
  - The Commission may charge each lobbyist a reasonable annual registration fee in an amount set by an Executive regulation adopted under method (2). The revenue to be raised by the fee must not exceed the cost of administering this Article. (1990 L.M.C., ch. 21, § 1; 1994 L.M.C., ch. 25, § 1.)
  - The Commission discussed the Council's recommendations to increase the fee to \$250 and the requests for an Executive Regulation. Ethics Commission staff was looking for the extra filing fees to be dedicated to the creation of an online filing system. When it appeared that this was not going to happen, staff was concerned that raising the fee would exceed the costs of administering the lobbying article in contravention of 19A-23(e).
  - As funds are now being dedicated to create an electronic system, and as funds are going to be dedicated to a new employee at the Ethics Commission, and further as lobbying revenue is apparently less than previously projected, it may be that doubling the filing fees to \$250 would not cause a violation of 19A-23(e)'s limitation.
  - The Commission discussed the lobbying fees in other jurisdictions, particularly in the State of Maryland, Maryland Counties, and around the nation. Two national surveys were considered:  
[http://www.opencongress.org/wiki/State\\_Lobbying\\_Disclosure\\_Requirements#State-by-State\\_Disclosure](http://www.opencongress.org/wiki/State_Lobbying_Disclosure_Requirements#State-by-State_Disclosure) and <http://www.ncsl.org/legislatures-elections/ethicshome/50-state-chart-lobbyist-registration-requirements.aspx>
  - Consideration was given to the propriety of charging lobbying fees that were not in line with other jurisdictions, including the cost to those seeking redress from Government officials, the appearance that the Ethics Commission was gouging those doing business in Montgomery County making it an unfriendly business environment, and that in the long term the fees generated would exceed the costs of the program and have to be reduced in the future.
  - Consideration was also given to the Council's current and prior positions which clearly recommend the increase of the fee to \$250. This consideration was made in the context of the Commission's independence and with particular attention to the statutory limits on lobbying fees.
  - Concerns were raised as to the impact on non-profits and small businesses of the fee increase. Cobb related that Councilmember Reimer had suggested at the work session that the thresholds for having to register might need raising in the context of burdens associated with higher fees.
  - The Commission directed Cobb to develop options for consideration by the Commission at its next meeting. In particular, one option would involve pursuit of

the direction of the Council to seek a regulation to increase the lobbying fee to \$250. A second option would be communicate the concerns of the Ethics Commission to the Council and, assuming the Council wishes to proceed further, to seek a legislative package that increased the fee to \$250, raised the threshold for filing, and provide some relief to non-profit organizations from the lobbying registration requirements. It might be that the Council would want to remove the limitation on fee charging that appears in the Public Ethics Law, but doing so would make high fees susceptible to legal challenge. Cf. See: American Civil Liberties Union of Illinois v. White, N.D. ILL, E. Div. (Feb. 10, 2012).]

7. The Commission considered ways of improving communication with the Council, especially making sure that the Commission was aware of and can address any concerns the Council may have. The Commission directed Cobb to discuss the issue with Steve Farber.
8. The Commission reviewed a proposal requesting comments from the Charter Review Commission to allow the Council to expel a Council member for a serious violation of ethics law. The Commission directed Cobb to comment on the proposal on behalf of the Ethics Commission. The comment should reflect the Commission's view that the proposal is good, but should go further to include all serious violations of law, not just violations of ethics law. The Commission also suggests that there be a standard of review incorporated into the provision, such as preponderance of the evidence or other appropriate standard.
9. The Commission addressed a financial disclosure filing question concerning certain County positions where filing of paper forms has preceded appointment, with an electronic form following appointment. The Commission thought this dual filing was unnecessary. The Commission thought any changes in financial status that occurred between application or nomination and beginning County service could be addressed by the question being asked whether a change in status had occurred since the original filing.

The meeting adjourned at 8:25 p.m.

Respectfully Submitted,



Robert W. Cobb  
Chief Counsel

