



## MONTGOMERY COUNTY ETHICS COMMISSION

Public Meeting of July 8, 2014

### Minutes

#### IN ATTENDANCE:

Commissioners:	Kenita V. Barrow, Chair Mark L. Greenblatt, Vice-Chair Claudia Herbert Joe Kale Steve Rosen
Staff Member:	Robert W. Cobb, Chief Counsel Kelly Uhas, Program Specialist II

Item 1. The meeting was called to order at 7:25 p.m.

Item 2. Kelly Uhas was welcomed as a new member of the Ethics Commission staff.

Item 3. The minutes from the 6/10/14 meeting were approved as presented.

Item 4. Robert Cobb provided a brief update on Ethics Commission program operations, including that registered lobbyists had been notified of their obligation to file lobbying activity reports by July 31, 2014.

Item 5. Robert Cobb outlined options on handling enforcement for the Commission and a discussion ensued regarding related matters. Cobb provided an overview of the legal and practical constraints on the Commission staff conducting investigations where the Commission could subsequently be called upon to file a complaint and conduct a hearing on the same matter – the primary limitation being that should Counsel to the Commission be involved in an investigation, he would be precluded from advising the Commission should the matter subsequently require resolution through the quasi-judicial process.

Cobb outlined the possibility of the Commission seeking to establish through regulation the process applied to addressing enforcement issues. A regulation could detail the options in handling enforcement issues and outline possible steps to those handling the issues on bringing matters to a conclusion without the necessity of the complaint and hearing process being triggered. Cobb indicated that the path with clear support in the Public Ethics Law was to utilize the County Attorney's legal services in connection with investigations and prosecutions of ethics law issues. Cobb suggested the possibility of utilizing the legal services of the County Attorney even at a preliminary stage of an activity might be viable, but should be supported through an executive regulation. Cobb also indicated that the Counsel to the Commission or other Commission staff could be involved at a preliminary inquiry stage of a matter and still be eligible to advise the Commission should a matter be later subject to the complaint and hearing process. Cobb suggested that a regulation that supported this process would be helpful in drawing the precise lines on what was and was not a permissible activity for the Commission staff to get involved with. Cobb indicated that aside from matters being handled by the Commission staff or the County Attorney, the Inspector General could be called upon or outside counsel could be hired. With the selection of any of these options, a regulatory framework for process would be beneficial. Commissioner Greenblatt inquired as to whether a model could be developed – possibly pursuant to legislation - that was similar to the Inspector General model, where Commission staff could investigate matters and the Commission could reach findings absent a formal complaint and hearing process, with a view towards sending the findings to management for further action. The advantage of this process would be the development of a report demonstrating the nature of a violation with the support of facts developed through investigation. Such a mechanism would bypass the construct of the current ethics law (designed to be consistent with the State Ethics Law) which keeps the adjudicator of an issue separate and apart from the investigative function. Cobb is to develop a proposed regulation to address the Commission's handling of possible ethics law violations. Cobb is also to include references to the handling of apparent ethics violations in the 2014 annual report. Inclusion of these matters is to reflect the importance the Commission places on these matters and to show the disposition of matters by the County.

Item 6: Commissioner Kale announced that by virtue of the fact that he would soon no longer be a resident of Montgomery County that he would be resigning as a member of the Commission before its next meeting.

The meeting adjourned at 8:20.

Respectfully Submitted,



Robert W. Cobb