

MINUTES
CHARTER REVIEW COMMISSION
AUGUST 4,2022

- I. **CALL TO ORDER:** 6:00 p.m.
- II. **ROLL CALL:** The Chairman called the roll and reviewed the appointments of each member present.

PRESENT:

STEVE HENSON - CEO - CHAIRMAN
VIRGINIA HARRIS - CEO -VICE-CHAIRMAN

Dwight Thomas - Commissioner Lorraine Cochran Johnson
Vickie Turner – DeKalb School Board
Claudette Leak - House Delegation
Representative Karla Drenner - Ex-Officio
Mary Hinkel - House Delegation
John Turner - House Alternate
Lance Hammonds - Senate Delegation
Robert Wittenstein - Commissioner Robert Patrick
Susan Neugent - Commissioner Jeff Rader
Clara DeLay - Commissioner Mereda Davis Johnson

ARRIVING AFTER ROLL CALL:

Representative Karen Bennett – House Delegation

ABSENT:

Bobbie Sanford - Commissioner Larry Johnson
Jim Grubiak - Commissioner Ted Terry
Dr. Gerald Austin, Sr. - Commissioner Steve Bradshaw
Ex-officious Senator Emanuel Jones

STAFF:

Zachary Williams, Chief Operating Officer
Barbara Sanders-Norwood, County Clerk

- III. **Minutes from July 20, 2022, Meeting:** Motion was made by Robert Wittenstein and seconded by Lance Hammonds to approve the Minutes. Ms. Leak asked that the minutes be amended to reference the Commission as “Commission” in the minutes, rather than “Board.” The Chairman asked that the minutes be adopted with that correction by unanimous consent. The minutes were approved unanimously.

IV. **Introduction of Invited Guest** - County Attorney Viviane Ernstes - The Chairman called on County Attorney Ernstes to continue her review of the Organizational Act. The County Attorney highlighted certain parts of the following sections as follows:

SECTION 10 - AUDITS

The Commission chooses three (3) of its members to serve as an audit committee. The outside auditor shall be employed pursuant to written contract to be entered upon the minutes of the commission, and the contract shall state clearly and concisely the depth and scope of the audit and that it shall be conducted in accordance with the requirements of the act providing uniform standards for audits of municipalities and counties within the State of Georgia. The outside auditor shall complete the audit in compliance with Article 1 of Chapter 81 of Title 36 of the Official Code of Georgia Annotated each year, and within ten days after its completion, the auditor shall deliver a copy of the audit to each commissioner, the Chief Executive Officer, and the grand jury of the DeKalb County superior court.

SECTION 10A-INDEPENDENT INTERNAL AUDIT

The Auditor shall be appointed by a majority vote of the Board of Commissioners from a list of not fewer than two (2) nor more than three (3) candidates.

The position of the auditor shall be nonpartisan. The auditor shall have authority to conduct financial and performance audits of all departments, offices, boards, activities, agencies, and programs of the county in order to independently and objectively determine whether:

- activities and programs being implemented have been authorized by this Act, Georgia law, or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws.
- Management has established adequate operating and administrative procedures and practices, systems or accounting internal controls systems, and internal management controls.
- Indications of fraud, abuse, or illegal acts are valid and need further investigation.

All officers and employees of DeKalb County shall furnish to the auditor unrestricted access to employees, information, and records.

QUESTION:

How do you fire or remove a Chief Audit Executive from office?

The County Attorney said she would have to look that question up to be sure, but it might come under Title 45 – a state statute covering removal of public officials. She'll get back to us.

Clarification of how many represents the majority vote of the BOC?

County Attorney: Four is the majority number.

SECTION 11 - PRESIDING OFFICER

The Chief Executive Officer shall have no vote at any regular or specially called meeting of the commission unless the members of the commission are equally divided. Even when the members of the commission are equally divided, the Chief Executive Officer may not vote on a matter which is not subject to veto by said officer under the provisions of subsection (d) of section 15 of this Act. There are two (2) areas in which the CEO cannot break a tie vote and that is any planning or zoning ordinance or rules regulating the operation of the Commission

At the first regular meeting in January of each year, the Commission shall elect from its membership a presiding officer and a deputy presiding officer. They shall retain all rights, powers, and duties as a member of the Commission. The Presiding Officer shall preside at the meetings and shall be able to convene special meeting as deemed necessary, but all members shall be notified as least three days in advance of any special meeting. The Presiding Officer shall also appoint the members and chairpersons of committees of the Commission and may establish and fill vacancies, but any such appointment may be rejected by a majority vote of the total membership of the commission. In the event the office of the member serving as Presiding Officer becomes vacant for any reason or if the officer is absent or in the event the presiding officer exercises the powers of the Chief Executive Officer pursuant to subsections (b) or (c) of section 6 of this Act, then the deputy presiding officer shall exercise the powers and duties of the Presiding Officer or until a successor presiding officer is elected by the Commission at the first regular meeting held during the next succeeding January.

QUESTION:

Is this the section followed when former Commissioner Lee May was elevated to the CEO position?

County Attorney: Yes -Section (d) here and the previous Section 6 of the Organizational Act, which deals with Vacancies.

SECTION 12 - MEETINGS

Regular Board of Commission meetings are held on the 2nd and 4th Tuesday of each month. There are also Specially Called meetings, night zoning meetings and prior to the Pandemic there was a "Take the Show on the Road" meeting. These meetings are held at the County seat. No official action shall be taken by the Commission except in a meeting which is open to the public. The Presiding Officer and any three (3) of members of the commission or any four (4) members of the commission, exclusive of the presiding officer, shall constitute a quorum, except that a lesser number shall be sufficient to recess or adjourn any meeting; but no official action shall be taken except upon the affirmative vote of at least (4) members of the commission.

QUESTION:

Who has the power to set the Board of Commissioners' Agenda?

County Attorney: Item 20 Section 9 (Powers and Duties of the Commission) says the Board prepares its own agenda, but it also says the commission shall accept agenda items by the chief executive officer upon motion by any commissioner to be placed upon the agenda, pursuant to the rules by which an item may be placed on the agenda by a member of the commission.

On the 1st and 3rd Tuesday of each month, the Board of Commissioners convenes a Committee of the Whole meeting to review items for the upcoming agenda. At that time the Chief Executive Officer usually presents a recommended executive agenda for review.

The County attorney is sending the Board's procedural rules to each member of the Charter Review Commission.

SECTION 13 - POWERS AND DUTIES OF THE CEO

The Chief Executive shall have the exclusive power to supervise, direct and control the administration of the county government. The Chief Executive shall carry out, execute, and enforce all ordinances, policies rules and regulations of the commission when they become effective. No member of the commission shall directly or indirectly order, instruct, or otherwise attempt to control the actions of county personnel subject to the administrative and supervisory control of the chief executive.

Subject to confirmation by the Commission, the CEO shall appoint the Executive Assistant and the County Attorney. No member of the commission shall be authorized to nominate persons for the office of Executive Assistant or County Attorney. Within budgetary limitations the Chief Executive shall fix the compensation of the Executive Assistant and County Attorney.

Subject to confirmation by the commission, the CEO shall appoint the Planning Director, Finance Director, and Merit System Director.

QUESTION:

Is there a provision to address an appointment of the Executive Assistant or County Attorney if the candidate is not confirmed?

County Attorney: I don't think the CEO has that authority. The item stays on the agenda until something is worked out.

Which employees fall under the Merit System?

County Attorney: See Chapter 20 of the DeKalb Municipal Code where there is a list. State law created a merit system which is like civil service or tenure so that an employee cannot be fired except for cause. There is a strict procedure to follow in this case, including a hearing.

The County Attorney ended her review of the Organization Act at this point.

V. REPORT FROM CHAIR

Chairman Henson asked Executive Assistant Williams to provide an update on the Carl Vinson Institute Contract. Mr. Williams stated that the item had been presented to the Board of Commissioners' OPS Committee and they were in favor of passage. It will now go before the full Board of Commissioners at their regular meeting next Tuesday where it is expected to pass.

VI. UNFINISHED BUSINESS: The Chair reported that he had met with CEO Thurmond regarding the By-laws. The CEO is very interested in the Commission's work being successful and supported by the public. Together, the Chair and the CEO concluded that the By-Laws should be amended as reflected in the proposed amendment sent to all commission members prior to the meeting:

Section 2. Commission Quorum; Voting

Eight (8) members of the Commission shall constitute a quorum for the transaction of business. The affirmative vote of a majority of those members present and voting shall be required to agree to any procedural motion. The affirmative vote of seven (7) members shall be required to agree to any substantive motion except relative to the Final Report of the Commission. To the extent the Final Report proposes to add, eliminate, modify, or change any provision of the Organizational Act, an affirmative vote of at least ten (10) members of the Commission is required to agree to any such proposals.

As used in these bylaws, the term "official action of the Commission" means the affirmative vote of members of the commission as described in the previous paragraph.

Chairman Henson reviewed the amendment and asked for a motion to adopt the amendment. MOTION was made by Robert Wittenstein, seconded by Karen Bennett, and passed 7-4.

Members voting "NO":

Claudette Leak, Mary Hinkel, Lance Hammonds, Susan Neugent

Members voting 'YES':

Virginia Harris, Robert Wittenstein, Clara DeLay, Dwight Thomas, Vickie Turner, Rep. Karla Drenner, Karen Bennett

The Chairman then asked for a vote to approve the By-Laws as amended and with the corrected typos reported by the Secretary. A MOTION was made by Susan Neugent, seconded by Claudette Leak, and passed 9-0 to approve the minutes as amended.

QUESTION:

Who will decide if a motion is procedural or substantive?

The Chair responded that it would be at the discretion of the Chair.

VI. NEW BUSINESS:

The Chairman stated that the Secretary is seeking a location for the next meeting, which will be a public hearing in person and not virtual.

Several members requested that the Chairman be mindful of the numbers regarding the pandemic. He stated that anyone concerned could be excused from the meeting.

VII. PUBLIC COMMENT:

None

VIII. ADJOURNMENT:

MOTION was made by Robert Wittenstein, seconded by Clara Delay, and passed by unanimous consent to adjourn.

Steve Henson, Chairman

Barbara Sanders-Norwood

Clerk to the Board of Commissioners