

DEKALB COUNTY CHARTER REVIEW COMMISSION

April 13, 2023

In Person Meeting

Manuel J. Maloof Center

SUMMARY

I. CALL TO ORDER: 6:09 p.m.

II. ROLL CALL

Steve Henson, Chairman

Virginia Harris, Vice Chairwoman

Karen Bennett

Claudette Leak

Mary Hinkel

Robert Wittenstein

Susan Neugent

Clara DeLay

Jim Grubiak

Dwight Thomas

Vickie Turner

John Turner

ABSENT:

Dr. Gerald Austin Sr.

Lance Hammonds

Bobbie Sanford

Dwight Thomas

Ex-Officio Representative Karla Drenner

Ex-Officio Senator Emanuel Jones

STAFF:

Zachary Williams, Chief Operating Officer

Representatives of the Carl Vinson Institute

Viviane Ernstes, County Attorney

Barbara Sanders-Norwood, Clerk

III. MINUTES: Minutes from the March 9, 2023 meeting were approved unanimously.

- IV. INTRODUCTION of INVITED GUESTS: None
- V. REPORT FROM THE CHAIR: Brief review of work timeline and process
- VI. UNFINISHED BUSINESS:
The Chair asked members to send him or the Secretary any remaining questions for the Purchasing Department Director. They will be collected and sent together.
- VII. NEW BUSINESS:
The Commission reviewed and discussed possible revisions to Org Act Sections 1-5 with each other and with Lori Brill of the Carl Vinson Institute and Viviane Ernstes, County Attorney
- VIII. REMARKS OF INTERESTED CITIZENS/PUBLIC COMMENT
Andrew Bell
John Frayse (sp?), Kings Road Community Association
Davis Fox
Joel Edwards
Steve Binney
- XI. NEXT MEETING DISCUSSION & ADJOURNMENT:
The next meeting will be Thursday, May 11 in person at the Maloof Auditorium beginning at 6:00 p.m.

The Commission adjourned at 8:17 p.m.

MINUTES

DEKALB COUNTY CHARTER REVIEW

MALOOF AUDITORIUM

April 13, 2023

- I. **CALL TO ORDER** – 6:11 P.M.
- II. **ROLL CALL**
Steve Henson, Chairman
Virginia Harris, Vice Chairwoman
Mary Hinkel

Claudette Leak
Karen Bennett
Susan Neugent
John Turner
Clara DeLay
Jim Grubiak
Dwight Thomas (by phone)
Vickie Turner
Robert Wittenstein
Lance Hammonds

ABSENT:

Dr. Gerald Austin
Lance Hammonds
Bobbie Sanford

STAFF:

Zachary Williams, Chief Operating Officer
Barbara Sanders-Norwood, County Clerk
Vivian Ernstes, County Attorney
Lori Brill, Carl Vinson Institute

III. MINUTES

Chairman Henson stated that they have been given a yellow folder in which you will find a few things. The agenda and minutes. There is a stapled copy from Jim Grubiak shared with us and another page of some thoughts of possible changes on these sections that Mr. Wittenstein has shared with us. There are also some public comments which came through the website.

I would like to have a MOTION to approve the March 9, 2023 minutes.

Commissioner Wittenstein made a MOTION to approve, seconded by Commissioner Vickie Turner and approved unanimously.

Chairman Henson – Are there any elected officials present? No one responded.

IV. REPORT FROM THE CHAIR

Chairman Henson – just wanted to remind people that we had sent out a projected work schedule. We are going to work on that schedule, but it will be fluid. If we don't get things done today, they will be brought up at the next meeting. This meeting is kind of unique and special because up until now, we've been trying to hear from people who work for the county and the departments and the processes that they encounter, how their relationship is with the County, our Executive Assistant and the CEO or the commissioners and try to

learn. I've seen at the legislature that many times we go over the charter and people don't even know what the charter was about. So, we spent six months going over the charter. I appreciate the County attorney and other staff for helping us with that. We have some things from Lori Brill and the County Attorney regarding recommendations.

Until we vote on the final vote at the end, nothing is really final. Many of these subjects are going to be kind of complex. One of the topics that I think Mr. Wittenstein has, county manager versus the CEO. Some new issues may come up out of place. We will probably discuss them and decide whether or not to spend a lot of time on them.

V. UNFINISHED BUSINESS

We are looking for follow-up questions for Michelle Butler. So, if any of you have any follow-up questions you know about the Purchasing Director, we are getting some questions to ask her. Also, at the previous meeting, we did discuss maybe hearing from the Finance Director. So, I talked to Mr. Williams. We'll get T.J. Sigler back in here and talk to him if we can. We also had one of the members talk about code enforcement, so we're still going to address that issue. Then the County auditor.

VI. NEW BUSINESS

We have sent out a notice for you to look through Sections 1 through 5. The Carl Vinson Institute has handed you a book that is going to facilitate our work. So, if Ms. Brill with the Carl Vinson Institute will explain what is in your book, including the summaries and how it's constructed to facilitate your work

Lori Brill – Carl Vinson Institute - Well, first of all, you have a chart of the technical changes because I went ahead and did some edits to the charter. So, these are just the easy changes. It might be a year that's wrong. It might be the planning that's wrong or it has to comply with state statutes, so I made the changes there. So, these are all those changes for Section 1 through 5 in the first technical sheet. After that we have a cover page for each section that has a summary and the part of the Org. Act itself that coincides with it. Following that, we put in supplemental research for you that will help you make decisions based on probably the tougher questions and other questions we have here. In this one, we have structural forms of county government. We did the pros and cons of each so that you could see that because I know that was a big thought of yours and you wanted to look at it. Someone had also asked about reapportionment in districts, so we have that in there. We have a demographic study here that shows for DeKalb County the citizens, how many are in each district, what the racial makeup is, the age makeup is, so that you can make an informed decision if you wanted to enlarge the amount of districts. We also have some attorney general opinions in here that deal with the issues. We also have statutes that I relied upon, which we just haven't made copies of them.

Chairman Henson – Did everybody follow that? After the yellow tab is the supplemental research. She has constructed it so that we have a little summary. We have two committee members who brought some interesting ideas that we're going to go over. In your folder is a one pager from Mr. Wittenstein and then a two pager which is from Mr. Grubiak who has

just done exactly what we asked to provide us some food for thought and some subjects that may need to be addressed to make sure the county is run better. So first of all under Section 1, we've got a summary. Really just an introduction on government authority. I did not see anything that needed to really be changed in **Section 1** and neither did Ms. Brill. County Attorney if you can think of anything.

Commissioner Leak – I did bring - have some updates or comments relative to each one of these sections. I made a copy for you. Under Section 1 I was suggesting some new language. There should be a Section 1C which deals with more clarity of language related to the governing authority to just be clearer about that these are separate branches of government. The BOC represents the legislative branch. CEO represents the county's administrative branch and they act independently based on the respective powers and duties of the commission. The Chief Executive shall be provided in this act. So, I thought as we went through those other Section 9, more details later on about BOC responsibilities. Section 13 more about the CEO's responsibility, we could cover more in depth, but this was a suggestion.

Chairman Henson – Do you have a copy you could share with me?

Commissioner Leak – Yes, I do.

Chairman Henson -Even if we all agree that some definitions need to be done or some help you know might be provided to some section. You know when we talk about the County Manager it might be effective so we'd have to come back to it.

Commissioner Leak – The other change was adding Section 1D, would be the administrative and legislative branches are coequals as members of the governing authority. As such, a balance of power shall be established based on the respective powers and duties of the commission and chief executive as provided in the Act. That is where I was suggesting that we could get more in depth to those specific categories or sections related to the board ad CEO. We could discuss that more.

Chairman Henson – It's the first I've seen it and we'll review it. Let me read to you what it is. Section 1C, which you basically did state, new insert language, "As the governing authority, the CEO represents the County's administrative branch" – I think you pretty much read the whole thing. The BOC represents the legislative branch of government and act independently based on respective powers and duties of the commission and the chief executive shall be as provided in this Act. I think there – we have some concerns. You know that might be done better at another point.

Commissioner Leak – Thank you. Keep in mind these were just discussion points and I only completed it before coming here today.

Chairman Henson – Thank you.

Commissioner Leak – It's just a suggestion.

Chairman Henson – Change Section 1D insert language. "The administrative and legislative branches are coequals as members of the governing authority. As such, a balance of power shall be established based on their respective powers and duties of the commission and

chief executive shall be provided in this Act.” Obtaining the balance of power can be discussed in Section 9. I’ll have the attorneys vet it.

Commissioner Leak -All I was trying to do was be more descriptive of what that might look like. You know there would be clarity. But as I said, it’s open for discussion feedback, change, deletion or whatever.

Chairman Henson – I don’t think it will necessarily change anything. I think that what you’re thinking, your intent, is to let the public know that both are important structures in the government. Both are needed to make the government work and they both have a role in representing the citizens. So, I think your intent there to establish them both is important. The thought people seem to understand the idea of checks and balances. I think it would be helpful to have that potentially in the language. I like that. I don’t know how it would be structured.

Commissioner Bennett – I just concur with that and perhaps the attorney can help us with that language. But I do think that the separation of powers and this would be a great place to put it before we move forward.

Chairman Henson - We will get some legal advice on that. Come back to the next meeting on that.

Chairman Henson – **Section 2** – the summary that’s provided by us specifies a total number of members on the commission and the representative constituencies. The section explains in detail that Commissioners 1, 2 3, 4, and 5 are each represented from districts comprising part of the county population and Commissioners from 6 and 7 represent districts comprising approximately one half of the county creating a system whereby each resident has two elected officials on the commission representing them. This section also lays out the current residency requirements for begin commissioner. Mr. Wittenstein, do you have some comments on Section 2?

Commissioner Wittenstein – I had three specific changes. I would like us to think about increasing the size of the county commission from seven to nine. I think most policy decisions are best made by small groups. If it’s too small then you can end up with a single person who can be a dominating person. Also, we add a county commission chair who is elected countywide. We would have one person elected countywide, two people elected in super districts and then six people elected, each representing a different part of the county. So the Commission would grow by two. Lastly, we would end up with someone who is elected countywide who would then chair the county commission. So rather than having commissioners meet and decide which of them will be Chair then we would ask the citizens of DeKalb County to elect somebody to lead them on.

Chairman Henson – Some of these issues, I may poll the commissioners to see whether it’s worth going down a certain lane.

Commissioner Wittenstein – What Chairman Henson is hinting at is when we get to Section 5, which is the role of CEO, I’m proposing that we do away with the CEO and we go with the

County commission form of government. And so, part of doing that would require us to make some structural changes in the county commission.

Chairman Henson – I want to have your comments. Anybody else feel strongly on this issue?

Commissioner Hinkel – I would point out that in the 1979 report, they recommended nine commissioners. So, they were sort of ahead of their time with what they were thinking. But I would favor – I'm not speaking to the CEO or Chair, but I would favor additional – lets see. It would be – we 'd go from 7 to 9. So, there are six single districts, two super districts – or seven single – I'm sorry. Seven single districts and two super districts. I definitely support the super districts. I have a whole page of rationale for that. We should increase based on our population growth.

Commissioner Bennett – I want to understand. If the rational is to increase the number of commissioners so that the commission districts are smaller in size then how does the two super districts – how are they divided for representation?

Commission Wittenstein – The issue with the super districts is that they're going to be almost impossible to get rid of. One could argue that having a county commission of nine where eight people each represent their own district provides the smallest number of voters per commissioner.

Chairman Henson – When we changed in the 92 session and did reapportionment, we actually had at-large commissioners that were countywide, too. But we were afraid that we might. County wide was still majority white, so we were afraid that we might be in violation of the Civil Rights Act. Now the County is such that you could have county-at-large districts. I haven't heard any anybody on the commission, going back to at-large because that's just so big. At 70,000 people or whatever, to have to run is hard; it is very difficult. So I think from what I'm hearing, it's pretty much comfort on these 50/50 models for super districts.

Commissioner Wittenstein – The next section – the next part of Section 2E reads “Each commissioner shall be elected by a majority of the electors voting within the respective commissioner district” I would like to suggest that we change that sentence to “Each commissioner shall be elected in accordance with Georgia State law in a method determined by ordinance of the commission” The reason for that is there is discussions at the state level of allowing other methods of election other than majority voting. So, for example, ranked choice voting or some number less than the majority. State law requires a majority but that may not always be true. As long as we are working on the charter, we have an opportunity to make it ready so that if the state of Georgia provides for other methods, then the county commission could choose to use one of those new methods without having to go back to the legislature to change the charter.

Chairman Henson – If a state law was changed, for instance in the case of runoffs would the charter have to be changed?

County Attorney Ernestes – Typically, the general state law will override the charter. Charters are applicable to just one county. If there was a change in state law, that would override a

provision in a charter. One of the ways you could make that change is just to say “that shall be elected as allowed by state law”.

Commissioner Wittenstein – That’s essentially what I’m putting in here is to be elected as allowed by state law. And if there are multiple options by state law, to allow the county commission to decide which of those options this county would use.

County Attorney Ernstes – I just don’t think that you could dictate that the county commission makes that decision. You would just have to say as allowed by state law.

Chairman Henson – I think he’s saying that state law – if the state law was permissive and said the county could do a ranked choice in a runoff or in regular voting, he’s saying that the county commissioner would be the final authority.

County Attorney Ernstes – That would depend on what the state law said.

County Attorney Ernstes – I could not opine on a hypothetical.

Commissioner Vickie Turner – It is starting to appear that perhaps we are – we may be giving power to the Commission to decide based on the makeup of the commission, how we’re going to be voting.

Chairman Henson – Of course, there would have to be a state law change before they could do anything. This isn’t a major part of where Virginia’s going. So, I mean, I would, you know, like to get kind of a feeling. Do more members have any discomfort with that?

Commissioner Vickie Turner – Dwight got – he lost – the call dropped. But what he’s telling me is that state law to determine this would get mired in litigation. Is that why you are hesitating on opining at this point?

Chairman Henson – Well, you know, the only thing the State Law could be really probably would be the state constitution where it would be run into trouble with that. I think state law could be changed.

Commissioner Vickie Turner – I think he’s talking about tying the county into – its hard for me to figure out.

Chairman Henson – It’s hard when the guy’s on the phone. We need his expertise and hopefully he’ll be back next time. But we’re not close on that. I could see the legislature weighing in if the commission did something they thought was in their self-interest and not in the interest of the citizens.

County Attorney Ernstes – While I don’t know that I can predict what the legislature would do, in recent years, it has appeared that in the are of elections the state has reserved almost all authority in conduct elections to itself. So, it would be very surprising to me that they would allow DeKalb to run elections and runoff differently than they would allow Fulton.

Commissioner Wittenstein – So Mr. Chairman, I’d be fine taking out the last part of that clause and just saying “Each commissioner shall be elected in accordance with Georgia State

law,” and just leaving it at that. That way, if Georgia state law changes, we aren’t in conflict with state law where we say it has to be a majority if state law allows for something else.

Chairman Henson – I think that makes sense. So if there’s no objection to that. Our final vote on stuff is going to take ten votes. But we’re going to include that in our working process because there’s been no objections. Basically, ten people are optimistic that will be it. So we will put that in our working document to change.

Commissioner Wittenstein – So the last suggested change in Section 2 deals with term limits. And I’ve got to say, I’m conflicted with this one. I like term limits for the executive positions. You know, I like term limits for the governor. I like term limits for the mayor. I like term limits for the President. In many cases having term limits for the person who is administrative in charge feels right. Sometimes it feels right for legislatures. Sometimes it doesn’t. I’m struggling with this. A little part of me feels like a county commissioner is in a position of really tremendous power. It is often difficult for a challenger to unseat an incumbent. I would love for us to see elections with a level playing field. On the flip side, I don’t want to deny the citizenry the right to vote for people that they think will represent their interests. I think of people like John Lewis who represented the 4th District for so long and was such an institution that you would have hated for him to have to leave office simply because he’d been there for 12 years. But I do think it’s something we ought to consider.

12 is the number that comes to me as if you’ve been there for three consecutive terms, my thought was that we would ask you to step out for one term and then be able to serve for three more terms and then step out for one term and then serve for three terms. As long as you come back in with a vote of a majority then there is no limit to how long you can serve. So there is the third and final section to change would be to institute term limits at 12 years before you have to take a break.

Chairman Henson – Is there any thoughts on that? I have my own feelings, but I’ll let you all comment first. .

Commissioner Bennett – I read that and gave a lot of thought to it as well. Number 1 – I know that you had admitted that there’s no rhyme or reason to 12. That’s an arbitrary number. So what evidence is it that 12 is the golden standard? You mentioned John Lewis and the institutional knowledge that sometimes-seasoned representatives bring to the table. The question becomes what the unintended consequences are when we set strict guidelines. At the end, it goes to the voice of the voters. We all have term limits when our voters go to the polls. I trust the voters. I trust the democratic process. When I read that those were some of the points that came to mind. So I’m glad that you are split between it.

Commissioner Wittenstein – And this resonates with me as well.

Commissioner Bennett – But the people – at the end of the day I think the people’s voice resounds. When we start going down that road, I think there are so many unintended consequences. When we lose institutional knowledge, that could not be in the best interest.

Commissioner Grubiak – I also have concerns about the limitation on terms. You have to rely more on the bureaucracy to make decisions rather than have your own institutional knowledge.

Commissioner Vickie Turner – I think that we underestimate the knowledge of our voters. That is their power and their right to be educated, overrepresentation, and successful recognition or the lack thereof, and it should be their choice to make. It will be deferred to the Committee.

Chairman Henson – We have a high benchmark to get anything approved with this committee. We have to have ten members support it to add it to our final report. We have 17 members. We have three vacancies. That's 14. We have the chair of the House and Senate delegations that are kind of ex officio and you know will come when we do our final report. They are not here all the time. So that leaves 12. We have to have strong consensus to get ten votes on anything.

Commissioner Leak – I've heard that one of the reasons that the public would like to keep the super district is because sometimes one of them may not be responsive. You at least end up having another option in terms of getting resolution or overcoming challenges that you might be presenting to the government. In terms of term limits – I've heard that people can vote someone out. When you are an incumbent, no matter how you perform, you've got the name recognition and financial wherewithal generally in that respect. I am withholding an opinion.

Chairwoman Harris – I am not sure where I would go with this consecutive term. I believe that our voters are educated, empowered and engaged in the process where if someone is not working out, they can be voted out of office. I think we need to allow voters to make those kinds of decisions.

Commissioner DeLay – I am going to cosign with that as well. People are unhappy but they seem to be unhappy about a few things that are personal to them, They do not understand who's responsible for making them happy, for addressing things. This is Dwight agreeing with me.

Commissioner Thomas – Incumbency sometimes can be an albatross over that incumbent's head. I always agree that voters get it right ultimately anyway. If you look back at the history of the state of Georgia, incumbency didn't work for Roy Barnes. He had the money too. Yet he was defeated by somebody very little known, Sonny Perdue. Voters are educated enough to know whether or not that incumbent has been there too long. Sometimes you know and they know what to do to get rid of them. Vote against them. We've had waves against incumbents for many elections. So I would agree with you guys.

Commissioner Leak – I just wanted to go back to the recommendation or the change to a county commissioner chair. Do we have any research or any information that outlines the pros and cons of that kind of position versus an executive?

Lori Brill – We have in your packet is a pros and cons of each form of government. It will show the information.

Commissioner Grubiak – Section 2 in the Subsections B, C, and D were amended by House Bill 1250 in 2022. These are technical changes dealing with redistricting. The second item is Subsection E, conforming to the age and residency requirements for the commissioners to state law. The current verbiage would read, “Each Commissioner shall be a citizen of the state at least 21 years of age and shall have been a resident of the geographic area encompassed by the commissioner district for at least 12 months. It’s 25 years of age in the current charter and a residency of two years. Under the general law it’s 21 years of age and 12 months. And there is an option for making it 18 years of age by going through a couple extra steps. I don’t think that is appropriate. 21 is young enough.

Commissioner John Turner – You want to keep the residency within the district? In addition to the county?

Commissioner Grubiak – Yes, well, it would have to be in

Commissioner John Turner – I know it has to be within the county but keep the district requirements.

Commissioner Grubiak – Yes, I’m assuming we would – we would prefer to do that.

Commissioner DeLay – Well the Org Act says two years at this point. Are we changing that to 12 months.

Chairman Henson – That was the recommendation.

Commissioner DeLay – We are conforming to state law. I just wanted a clear understanding.

Commissioner Grubiak – The third item – Subsection E except for displacement of their respective districts due to reapportionment of the districts, any commissioners who cease to be resident of their respective commissioner districts during their terms of office shall thereby vacated their seats on the commission.”

County Attorney Ernstes – As you all know, when state law changes, the ultimate arbiter as to what it means and what the words on the page ought to be is the legislative counsel for the state of Georgia.

Chairman Henson – I am sure Representative Bennett might be willing to Zoom with the legislative counsel with one of our lawyers.

Commissioner Bennett – I’d be happy to be a liaison and facilitate that conversation.

Commissioner John Turner – Expressed question on residency and the time frame.

Lori Brill – We did add a sentence to the old E, which is now the new D, at the beginning that kind of clarifies things and it sets it straight that says “No person shall be a member of the board of commissioners if that person is ineligible for such office pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law as here or thereafter amended”. So it would cover that section.

Chairman Henson – What would the effect of that be?

Lori Brill – 45-2-1 is what says whether a person is eligible or ineligible to run or to be a commissioner. So if that law or if there's a new law that is passed on that subject, then you are covered by this language because you're saying whether this law is changed or any future law that comes in and changes this language. So you wouldn't have to go back and rewrite.

Chairman Henson – Would that change anything now? Does it have anything to do with citizenship?

Lori Brill – No. This just has to do with the fact of so that you will conform to state law. Viviane is going to look over the local constitutional amendments so that might change things. However, if it does not, then that would just cover you for a later date.

Chairman Henson – The other thoughts you had were they pretty much what Jim said or was there something.

Lori Brill – There's also – I agreed with Mr. Grubiak and I changed, in the red line I gave to you the age year from 21 – it changes to 21 and the residency to one year. It complies with the current state law. It's a technical change.

Commissioner Hinkel – The one that I am looking at doesn't say anything about Commission District 6 and 7.

Lori Brill – Right. Because it would be included in that plan, so you wouldn't need anything for any of the -- you would just need the plan name.

Commissioner Hinkel – Okay

Lori Brill – Because that would all be in the plan and it would be attached to the Charter.

Chairman Henson – This needs to be included. Because, we're trying to make this where people can read it without referring back to legal law books.

Lori Brill – Ok, Yes

Chairman Henson – So can you do that without changing any substance, but make sure 6 and 7 are referred to?

Lori Brill – Yes

Commissioner Hinkel – So its 45-2-1?

Lori Brill – That is the one that discusses whether somebody is ineligible to run for office. What the criteria is.

Commissioner Hinkel – Okay. So in the actual Org Act that you gave us with the red, we need to have it as 2-1?

Commissioner Grubiak – Yes that's correct.

Commissioner Hinkel – Thank you.

Commissioner Karen Bennett – Question. Just so we all are on the same page. So under 2D where it currently says 45-2-2, that should be changed?

Lori Brill – Yes.

County Attorney Ernstes – So as you all consider these changes, those that code section could be moved. It could be amended. It might be simpler to just say as allowed by applicable state law now or as it may hereafter be amended rather than trying to cite to a specific.

Lori Brill – Yes.

County Attorney Ernstes – That way you account for new codes, changes in the codes, re-numbering and you then don't have to go back and change the charter. There can always be a footnote added that currently O.C.G.A. 45-2-1 addresses eligibility that Municode could address.

Lori Brill – Yes.

County Attorney Ernstes – If you look at our code, there are a number of what I call footnotes. They're usually headers that if there is an applicable state law that gives somebody an understanding of where to go.

Lori Brill – Exactly.

County Attorney Ernstes – Right. But the language itself is a little bit – if you think about it I would suggest maybe a little bit broader language just to account for future changes in the code.

Lori Brill – I have that all written down.

Commissioner Hinkel – Thank you.

Chairman Henson – Just for clarity, we were doing this work, we had first got a first version and there were some things in, like the ethics or something. And the version we looked at wasn't correct. Well, those were updated to another version. We just didn't see it, Tell us where we are now in trying to update Municode.

County Attorney Ernstes – There was a reference to a 1915 or 1916 state law. It really was a 2016 state law in some of the Org Act. When I gave you your first draft and printed and downloaded all 23 sections, the old version of the ethics board was included with a number of nongovernment entities making appointments to that ethics board. If you look at the bottom of the pages that you have, you'll see a number that says in parentheses Sup, Number 2. Ms. Sanders as the Clerk has asked and I have asked them to make a number of changes. They make supplemental changes that deal with ordinances. They don't necessarily deal with changes to the Org Act. We're now at supplemental number 65. That does not necessarily change to the Org Act.

County Attorney Ernstes – The changes made on March 28, so just very recently. Those changes now correct the right ethics code in Municode when you print it out. Ms. Sanders

has asked that they do that annually so that they have been looking at what the general assembly does each year and then make changes to the Organization Act.

Chairman Henson – Nothing else on 2? I think Mr. Grubiak, you had some comments.

Commissioner Grubiak – **Section 3** is similar to Section 2 in the sense that it's really technical changes to conform to House Bill 1250 in 2022. Subsection E, this too came up during one of our deliberations. And so, I just have written down consider revising Subsection E to provide that commissioners take office upon being sworn in at the first meeting of January instead of on the first day of January. I don't know if there are any downsides to that, if that could open the door to some kind of skullduggery by somebody. I don't know. The officials don't meet on the first day of January. That's New Years Day. And so does it make sense to make it the first meeting of January instead of the first day of January? So that was what the discussion was back whenever we touched on this month ago.

Chairman Henson – We asked the County Attorney if you would talk to the Executive Assistant or others to see if there was going to be any issues with payroll going into the first year. If there's any cleanliness in doing it the first, you know, certainly it hasn't caused a major problem that they're sworn in three days later or five days later. We can have the County check to see if for any reason, whether it's payroll or insurance. You know there might be reasons why the 1st makes more sense.

Commissioner Karen Bennett – the only thing that comes to mind – I'm aware of a condition – a situation that's occurring somewhere else where someone is to take office and the meeting keeps getting postponed or canceled for other trivial things. So that would be the only thing. Otherwise, I don't have a problem with it – I don't see a concern. But if there were other counties doing it, that's a pretty good sign that 's not that big a problem.

Commissioner Vickie Turner – Similarly to Representative Bennett, I've been personally involved in a situation. And one particular person, a small committee, one particular person just could not get sworn in. And we didn't have a quorum for a couple of meetings. So I don't think that would be this serious in this case. But I would like the language to be very specific.

Chairman Henson – I could see another thing – Mr. Grubiak, if the first meeting they attend was the language and you missed the first meeting, it might be another month. So somebody might be getting paid. We will ask the Carl Vinson Center to check with other counties to see what their status is. Also the County Attorney to see if there are any issues with the County.

County Attorney Ernstes – Well, I think there could be an issue because you could have a situation where your term of office ends December 31st and you would have no one in that office. You know, our typical first meeting is not necessarily January 3rd. Our first meeting might be the second Tuesday in January. You would not have someone in the office. So we will look at that.

Chairman Henson – Section 3 anything else?

Lori Brill – Well, we just changed Section 3, my question would be for Vivian to look at that and see whether the years 2012, etcetera, in there about when they take office. If that's the exact years should be changed too.

Commissioner Hinkel – Or its 2014 – 2024 or 2026.

Chairman Henson – Would there be a problem in going ahead and updating those dates or do you think those dates have some historical legal influence? Okay **Section 4** Do you have anything?

Commissioner Grubiak – The language in Section 4, this deals with if a commissioner or CEO decides to run for another office. Not elected to the same office, but another office. There's a constitutional provision that applies to all county officials, all municipal officials, state officials, everybody is subject to the same requirement. The seat is vacated upon qualifications for another position. In our Org Act, it talks about some specific timelines like April and so on. I think it is now May, if I'm not mistaken in Georgia. So, there are things that don't like line up with the constitutional provision. I am going to read something to you. I would suggest maybe deleting the whole of Section 4. This is just a thought. It may not or maybe doesn't work. But something along these lines. "The office of the Chief Executive or any member of the commission shall be declared vacant upon such elected official qualifying in general primary or general election or special primary or special election for another state, county, or municipal elected office or qualifying for the house of Representatives of the Senate of the United States if the term of the office for which the chief executive or qualifying begins more than 30 days prior to the expiration of such officials present terms of office. The vacancy created in any such office shall be filled as provided by Chapter 2 of Title 21 of the Official Code of Georgia as now or hereafter amended. That echoes almost exactly the constitutional provision. I just inserted CEO and commission since that's who we're talking about. But that applies to any officials in the State of Georgia, school board, too. So it just comports with that. Let's go back to your intentions here. Your intention is not to change but to clarify and make sure we comply with state law.

Commissioner Hinkel – It just says revise but maybe he's got something else.

Chairman Henson – Do you have that new language?

Commissioner Grubiak – Yes I do.

Chairman – If the commissioners have the time, I would like to stay for another few minutes minutes after. We don't have a ton of public here. Hopefully, we'll get 15 or 20 minutes and that will be all they need or less. Commissioner Wittenstein, you have some thoughts about **Section 5** just to get an idea of where we are on that. It may not take too long.

Commissioner Wittenstein – This is the big one. Should we transition from a CEO elected chief executive officer to a county commission that hires a county manager who is responsible to the board for running the day-to-day operations. So rather than have a CEO who gets elected and who, yes, you can fire, but you might have to wait four years to do it, I would rather have the county run by somebody who's got professional credentials, who's managed counties and demonstrated their ability as a manager, and who is answerable to the

board of commissioners who represent the people. So that's a biggie. But I think we would be well served to follow the other counties in the metro area, all of whom – who have county managers who report to the commission, who are professionals, responsible for the day to day and who are hired by, supervised by, and can be fired by the commission.

Chairman Henson – Does anybody want to weight before I do?

Commissioner Hinkel – I think it's premature to make that decision. I think we need to be looking more broadly at the powers and duties of the board of commissioners, the county executive assistant or the COO and the CEO and look at those powers and duties. There's plenty of work to do. There's plenty of power to go around for anyone who is power hungry but we can make – we can balance this. I definitely support the idea of a professional county manager. And it's just that triangle and how do we do it. In our history, we have had board chairman's who were very powerful and then we decided to have a CEO. We've gone, I think, back and forth on this. So before we just quickly make a – get into a fight about this, let's stop and think about the power – the duties that have to be performed and the best way of getting that done.

Commissioner Virginia Harris – I'm in the same position that we are not as far long now to be in position to make that decision. There is so much more work that we need to do, so many other things we need to look at balance, authority, responsibilities before that decision could be made by me.

Commissioner Grubiak – Just from the standpoint of where we are in the Org Act, I just would point out that Section 5 really doesn't have anything to do with the powers of the CEO, it's really not the right time talking about CEO versus a chair form of government. I think we just kind of move on from Section 5 as soon as we address some of the technical questions that have to do with the qualifications and someone of the CEO.

Chairman Henson- I don't have any problem with the title CEO or the fact that we have one. I think it's really the powers that people have that, you know – as somebody said that when we get to the subject we talk. I also want to comment here – and not because Mr. Williams is here but it's a fact that when we throw out terms like other counties have professional managers, we're not being fair to the public. They're not hearing the truth. Because our county has a professional manager who's done work for Fulton County and other counties. And any CEO who has to run for election is going to be responsible for getting qualified professional managers working for him or her. It's a matter of who has the power. Some people think that it would be better for the manager to have more power. Some are worried that they'll be drawn into the politics of the commission. So we will debate those issues. But you know, if any of you have any strong feelings or just have a problem with the term CEO let me know. I just want to remind everybody and remind the public, you know, we weren't charged with just looking at the County CEO versus chairman and the county commission responsibility for CEO. We were charged with a 39-page document of a charter. We were also charged to get truly almost – not unanimous but pretty solid support of ten people for the changes. It's a high threshold and it's a good threshold because any recommended changes we make are going to be certainly looked by the legislature as being things they should consider and need to do. There are 30 different types in the state where the

county manager has a certain amount of powers. Even when we talked to Fulton and Cobb – I mean yeah, Fulton and Gwinnett, you know we heard the differences of Charlotte was a fairly strong county commission chair and they delegated certain duties via contract to the county manager. In Fulton County, there was a relatively weak county chair. And those structures varied because of the nuances of the laws in creating it. We have some input from the Commissioners and the CEO, but not many commissioners have come and said the CEO is a bad form of government. You know, if the people who are the stakeholders in the government have not come forward and I don't think anyone in the public has done that much. Mr. Wittenstein would you like to make some closing comments on that?

Commissioner Wittenstein – Yes. I did not expect us to make any kind of decisions tonight. The difficulty was that we listed Sections 1 through 5 as tonight's agenda. Section 5 deals with the office of the CEO. So, this felt like the right place to introduce the topic for discussion. I recognize that there are pros and cons. You know this is not the – none of these are hills to die on, right. These are things that we need to discuss because we've been brought here to discuss them. But I certainly understand that this is something that's going to play out over a number of weeks and months.

Chairman Henson – I wanted you to bring it forward at this time even though it's not the detailed section on the powers of the CEO of the County Commission. Everything we do, you know, affects everything else. So, we need to kind of get feeling as we move along where we're at on each of these issues. But I appreciate that.

Commissioner Leak – Mr. Chairman, could I just ask a question?

Chairman Henson – Sure.

Commissioner Leak – Earlier when we were looking at Section 1 with the new or the suggested two new areas for that particular section, I wonder if we – you know, we have a committee to look at the BOC. The issue is the governing body consists of the administration and the board of commissioners. Do we need to look at that separately as we are with the BOC or are we just going to wait until we get to chapter Section 13 and Section 9? I'm just wondering if we're going to look at it holistically. When we talk about the governing authority, it should be the CEO and board of commissioners.

Chairman Henson- I'll reflect on that and might talk to you a little more about what your intent is to make sure it's clear in my mind.

Commissioner Leak – It's just to take a holistic approach. When we talk about governing authority, its not just the CEO. It's not just the board of commissioners. It is a combination of those two branches of government.

Chairman Henson – Absolutely, there may be certain things that we need to do in this commission report that are more recommendations of paragraph form or even longer pages of what needs to be looked at and studied in the future. I certainly like it when we can just cross out one line in red and put it back. There is not going to be the case on some of these topics.

Commissioner Hinkel – You want to do the qualifications? Do you want to do 5A?

Commissioner Grubiak – It's not going to take long.

Chairman Henson – Mr, Grubiak is our expert on qualifications, so if you would comment on those other possible changes in 5A and in 5.,

Commissioner Grubiak – So for Section 5, again its technical. So, in section A, there's also, again, qualifications for the CEO just like there are for the commissioners. And I don't know if there's any – I don't know that here's anything that distinguishes the CEO from the commissioners when it comes to qualifying for the position. I think it's the same age and residency requirements.

Chairman Henson – Five years for the CEO,

Commissioners Grubiak – In the Org Act it is, but the state law - I believe it is the same. Since they conform to state law, whatever – however that plays out. So that's Subsection A. Also in Subsection A, there's just a technical error. It's the first Title 34 somewhere it –

Lori Brill – It's at the second to last line. It refers to Code Title 34 – it should be 21.

Commissioner Grubiak – It shall be nominated and elected pursuant to Code Title – it should be Code Title 21 not Title 34. So that's just a technical change. The third point deals with Subsection B and it looks like we don't need that at all anymore. Just deals with the first –

Commissioner Hinkel – The first time it was implemented.

Commissioner Grubiak – It goes back to 1984. So it looks like it's something that doesn't really have any need in today's Org Act. But unless there's some legal reason to keep that in place. Viviane, maybe you –

Chairman Henson – But it does mention that the successor shall be elected in general election immediately proceeding expiration of term.

County Attorney Ernestes – I would not suggest deleting that entire section. Because it does also contain the “each chief executive shall serve until the successor is elected and qualified,” If by some chance you had someone after election pass away right –which we actually have had in DeKalb when our sheriff was killed after election, So I'm not sure that you'd want to delete that for just logistic purposes – technical purposes.

Commissioner Grubiak - So leave it then. Again, this goes back to the discussion we had earlier about when the person take office. Is it on the first day of January or the first meeting. The same discussion whether that's more appropriate to make at the first meeting of January or the first day of January. All of that would apply to the CEO as well., So, however that – how that works to, we need to make that adjustment. If it's January 1st, better, keep it January 1st.

Chairman Henson – Ms. Brill is there anything you want to talk about?

Lori Brill – No I had the same that Mr. Grubiak pointed out about the years and also about Title 34 should be Title 21.

Chairman Henson - Hearing no other, we'll close our discussions on this. We'll try to get our cleaner versions and then research some of the items that you brought up. Appreciate it. Any other new business that I'm unaware of?

Chairman Henson – Hearing none, we'll move on to the public comments, remarks from the interested citizens. Again, you should be a resident of DeKalb County. We would like you to state your name and where you reside. You will have up to three minutes to talk. We appreciate you coming and spending the time with us.

PUBLIC COMMENT:

Andrew Bell, resident of DeKalb County. Obviously in 1979, they didn't have it right because when you create smaller districts, it's not equitable. The larger the district, the more equitable it is. That means the person on this side of the district is getting the same thing as the person on the other side of the district. When you start having these little quaint districts, then that disenfranchises people. Maybe they were coming up with that in 1979. So, I don't think the district should get anymore smaller. It looks like a trick bag and coming in, okay.. Because that's going to negatively impact my community. I don't know who's paying attention, but I am. That's not right. We must make things as equitable as possible. Good governance. I'm not totally against term limits either. But I was a candidate in the District 3 county commissioner race. From January 1st to May 30th, my opponent spent over \$725,000. I put up my own money because I just believe in the cause. So, if we're not doing any type of campaign – see I'm for fair elections. So if we're not doing any type of campaign finance reform or anything of that nature, it's hard for a person that wants to get in public office to compete against \$715,000 in local election. We don't want to be hypocrites either. Because I know people that fought and died for that flag. So, I just read the law and it does allow for the commission to have people run for county commission to have people run for county commission at 18. Now, realistically, I doubt if that happens. But since we want to be patriotic and let the voters decide and everything, We don't want to take their vote and not let them run for office. So, if we're not doing – if we're not going to support term limits, let's at least make it so that somebody 18 could run for office. We don't want to be hypocrites.

John Frieze – President of Kings Road Community Association – I just have a few comments. I have been listening for and what my community is interested in responsiveness and accountability. So right now we don't feel like we are getting that. What we would like is to make a change because what's happening now is not working. So, if you change to a new management style, that would not be a problem for us if we could be responsive. Part of it is because there are other variables such as the way you deal with employees, the way that you do evaluations, the way you make people accountable, and we don't see that being done right now. I wanted to comment on the term limits issue is that Mr. Wittenstein mentioned John Lewis. Well, I worked in the city for 30 years. And I ran into John Lewis all the time. Mr. John Lewis was such a rare person that it's hard to compare him with other people considering all that you read in the news considering all the history we've had here and other areas of Atlanta. John Lewis was just really those rare. What I would say to that is that's where the dilemma is. Sometimes you do get extraordinary folks. If you look at what has recently occurred in Nashville and Memphis, you know that there are plenty of new and very vibrant young people who can come in and do extraordinary jobs representing the citizenry. I heard a lot of comments tonight about compliance with the State. I'm very concerned about what's happened. When I was in Atlanta, somebody was always trying to get that

airport as they were with Nashville's – people trying to get Nashville's airport and all this going on. But I would say to you some of the threats that were made, like, to the local governments in order – because they don't have to worry in Tennessee legislature about the will of the voters anymore. I don't want to see that happen to us. When you all decide o how you're going to do that, I want to be sure constituents vote on as many things that they possible can. Voters are intelligent. We need to make them more intelligent because they don't vote in their interest. If you think they do then you have to look at the statistics on gun violence for children, women's issues. There's a whole bunch of stuff you better look at. People voted for these folks.

Davis Fox – I am a resident of DeKalb County. I would like to speak with you about a tweak in the Org Act that I believe furthers the intent of the Org Act and is typical practice in other counties. In DeKalb County, the Planning and Zoning function primarily belongs to the board of commissioners. One of the listed powers and duties of the BOC is to, “regulate land use by the adoption of the comprehensive plan and by the adoption of the planning and zoning ordinances. The CEO has no vote in planning and zoning matters. He doesn't approve, deny or even veto planning matters. In fact, he doesn't even veto planning matters. He doesn't approve, deny or even veto planning matters. In fact, he doesn't even sign the ordinances as they relate to planning and zoning as he does in all other ordinances. The intent of the Org. Act is to give the BOC primacy over planning and zoning matters. The zoning ordinance further consolidates the power of the BOC. Eight out of nine planning commission members are appointed by the board of commissioners. Seven out of the seven board of zoning appeals members are appointed by the board of commissioners. That is in contrary to other typical appointments that the CEO makes the appointment, and the BOC approves. From a practical perspective, it only makes sense for the board of commissioners to be responsible for planning and zoning matters. There were approximately 150 cases last year. There's no way the CEO could give that kind of attention to 150 cases. The board of Commissioners are swamped by meetings with neighborhoods, applicants, their attorneys, their engineers, the planning staff, and occasionally the law department. It's a huge workload for them. Last month there were 17 cases alone on their agenda. It's very logical for planning and zoning to be under the purview of the board of commissioners. Citizens are comfortable with that structure. However, citizens are asking for more input. That is one reason why you're hearing public concerns about neighborhood planning units. People want to hold the planning function a little bit closer to them. They want a greater voice and a little bit more accountable.

Currently, the CEO nominates and the board of commissioners confirms the planning director. Why not just flip that? Have the board of commissioners nominate the planning director and have the CEO confirm it. Have the Board of Commissioners, with the assistance of the County manager and human resources director, nominate this person. As they work so much in planning and zoning issues, they ought to have a little bit more say in who and how that department functions. To further accountability, I would suggest using the Gwinnett County model and having the planning director hired using an employment contract so that it can be renewed, revised, extended, or canceled. In Cobb County and in Gwinnett County, the board of commissioners is – does the hiring of the planning director with the input from the county manager. I think that's an acceptable method for DeKalb as well.

Joel Edwards – I am a member of Restore DeKalb. I have lived in King Ridge subdivision here in DeKalb County for past 38 years. This charter review committee comprised of citizens of DeKalb County and

two elected officials. Now the thing is that when you want to change the Org. Act and it comes to elected officials on term limits, we have some elected officials on this committee. So how do you think they're going to vote? They're not going to vote for themselves to have term limits so they can relinquish their seats.

I think that the committee should be natural voters in this county other than elected officials. We have some elected officials in this county that do nothing, but they get elected year, by year. We do need term limits. We need it. It's imperative that we have it. We have some congressmen that were supposed to represent us. I know one that can hardly move, okay. He's been in Congress for the past 12 – 14 years. In my opinion, he's done nothing. So, we need to look at that. When you have an 18-year-old that can go in the service and fight in Afghanistan, fight in Iraq, when he comes back home if he's qualified, he should be able to vote. He should be able to run for public office. He's a natural born citizen, fought for the country and if he wants to run for office, he should. I am hoping for you all to get it right and think about the interest of the citizens of DeKalb County because this is the most important thing is the citizens of DeKalb County. I moved in DeKalb County because of the fact it was green and clean. But things have changed. It's not like it used to be. I know things change, but things are supposed to change for the better. That is why I am a community activist. It's not that I am against politicians. I'm about accountability, integrity ethics and the rights of the people. And we the people. So, I hope that you all can come together and get this Org. Act right in the interest of the citizens of DeKalb County.

Stephen Binney - Mr. Binney is a resident of DeKalb County. Good Evening Charter Review Members, Section 1 part A is truly the crux of Dekalb County's biscuit. "And Chief Executive Officer, who shall not be a member of the commission". A county is not a country or a state and should not be ruled like one. A county is a series of local communities and should be ruled as such. Whether with a CEO with reduced powers or a county manager the commissioners need more influence with the day to day operations of Dekalb County government because they are closer and more respondent to their constituents. Your two guests last meeting spoke to the importance of and sometimes the difficulty to get their commissioners working together on the same page but both emphasized the quality of the end results when they did. There are various ways to do this, Countywide elected Presiding Officer, appointed County Manager, or others. The final decision is yours but the concentration and uneven distribution of power must be corrected. It has both a history of and a future potential for abuse. Not to mention that the amount of transparency in a CEO form of government is negligible. In section 2, I believe the number of current commissioners (7) is too few for the current number of residents in Dekalb County. Representing over 150,000 residents is quite a job. The City of Atlanta has too many commissioners and most counties in our area have too few. I suggest the number of commissioners be set at nine. Seven individual and two super-commissioner districts. The seven individual districts would represent a little over a hundred thousand residents each, which is still a large number but would prevent the commission itself from becoming too large to function effectively. The two super-districts are needed to help bring a county-wide perspective to issues that need one. Individual commissioners have the potential to think only about their district and lose sight of how things might affect the entire county. If that happens, it is the job of super-district commissioners to help expand and maintain that vision. In parts 3 through 6 I believe that the line "decennial census of 1990" should be changed to "latest decennial census" to keep out districts up to date. In section 3, I support the concept of keeping commissioner elections during even years to allow a greater number of voters to elect them. What is missing from section 3 is any discussion of term limits. Throughout the country, states, and especially local communities the percentage of incumbents losing when running for re-election is very small. In these times of rapid change, new blood is needed in governing systems. I would like to set up two terms of four years as a maximum for

commissioners but I have heard talk about three terms and that is a satisfactory compromise. The interesting part of this will be how it will put into effect. Will current commissioners be grandfathered in and the new rules will not affect them? Will their term limits start when the new organizational is passed or will they not be allowed to run at all in the next election? I like the concept of resigning from current office to run for another in section 4 and hopefully we can delete section 5 entirely. I appreciate each of you for the job you have accepted to try to improve Dekalb County government. Few men and women are willing to brave the disapproval of their fellows, the censure of their colleagues, the wrath of their society. Moral courage is a rarer commodity than bravery in battle or great intelligence. Yet it is the one essential, vital quality for those who seek to change a world which yields most painfully to change. You have the moral courage to make Dekalb County a better place to live. Please use it. Thank you for your time and consideration,

Chairman Henson - Thanks to each of you for coming out tonight and participating in the forum. Our next meeting will be held on Thursday, May 11, 2023.

Commissioner Vickie Turner – I can look at my own schedule. The last day of school is May 24, 2023. The first graduation I’ve got down is May 23, 023 and the next one is May 25th and May 26, 2023.

Commissioner Harris – I have a graduation on the 25th.

Commissioner Hinkel – I do too. So, we are going to need to modify that.

Zachary Williams – We might have a zoning meeting on that date also.

Chairman Henson – how about the 18th?

Commissioner Wittenstein – I have something on the 18th, but I’ll figure something out.

Commissioner Neugent – It’s also a really hard day for me.

Chairman Henson – The 18th is bad?

Commissioner Wittenstein – What about taking it a week later and doing June 1st”

Commissioner Vickie Turner – I’ll be out of town June 1st.

Commissioner Hinkel – Remember, we have the subcommittee meeting on the 19th.

Commissioner Harris – I’m out of town on June 1st.

Chairman Henson – Well, we know we will be meeting on May 11th and we will try to have two meetings in that time frame before the June meeting.

Is there any other discussion?

If not, with no objection, we are adjourned. Thank you.

Steve Henson, Chairman

Barbara Sanders-Norwood,
Board of Commissioners, County Clerk