

DEKALB COUNTY CHARTER REVIEW MEETING

MALOOF AUDITORIUM

OCTOBER 12, 2023

I. CALL TO ORDER – 6:02 P.M.

II. ROLL CALL

Steve Henson, Chairman
Virginia Harris, Vice Chairman
Mary Hinkel
Clara DeLay
Claudette Leak
Dwight Thomas
Jim Grubiak
Susan Neugent
John Turner
Robert Wittenstein
Karen Bennett
Lance Hammonds
Bobbie Sanford
Dr. Gerald Austin
Vickie Turner
Senator Sally Harrell

STAFF:

Zachary Williams, Chief Operating Officer
Vivienne Ernstes, County Attorney
Representatives from Carl Vinson Institute

III. REPORT FROM THE CHAIR

Chairman Henson -We are called to order and the Secretary has called the roll. I don't believe there are any elected officials present. I think the commissioners are attending meetings out of town today and Barbara Sanders-Norwood is not here today, but the minutes will be recorded and prepared. Zachary Williams, COO, and Viviane Ernstes, County Attorney, are also in attendance.

I just want to thank you all for being here. We have a great attendance and we're going to try to move through a proposed Organizational Act and amendments presented as a model that we've worked on through the previous meetings. I tried to take things from the meetings that I thought could get a consensus, get 10 votes, and improve the structure of the Dekalb County government. We presented this model last week. The only change that I believe we made to the model – and Ms. Brill can correct me if I'm wrong - is that we added a section about record retention, based on a comment that Mrs. Leak made about making sure that all records required by State Law would be included. We did add that one and as

we go through the sections, I think four of our members submitted to me written amendments to address today.

When we get to those sections, my intent is to go through the Model Act and vote on the sections as they're presented in the model and move relatively quickly, since we went over it October 5th , and then take the amendments, which will also need to get 10 votes in order to be adopted.

County Attorney Ernstes says that former CEO Burrell Ellis is here and would like to address us if that is not out of order. He is not currently an elected official but he did serve our County as an elected official and sacrificed for us. Hopefully, there are no objections to allowing him to address us.

Former CEO Burrell Ellis - I would just like to read into the record very quickly if I could. I just want to thank the Commission for your fine work and your hard work. I don't want to take up a lot of your time so obviously I'm Burrell Ellis, former Dekalb County CEO.

Let me begin by thanking you for your service and the opportunity to speak today. I understand you've been working together for several months now and your hard work, dedication, and commitment to volunteering your time to make our County better is commendable.

Yesterday, I received the draft document of the proposed changes to the County Organizational Act. I have not yet had an opportunity to read it in detail, but a quick scan revealed some revisions I am happy to see. For example, it is appropriate that we re-title the Executive Assistant as Chief Operating Officer, an unofficial change we implemented at the beginning of my tenure as CEO. Given the professional qualifications required to carry out their job, this is a good change. I also appreciate some of the provisions clarifying the roles and functions of the branches of county government

I am concerned, however, that neither I nor any former elected CEO (to my understanding) has been invited to share his or her perspective on County Government. These are unique perspectives from a small group of individuals who have each campaigned across the entire County, hearing from a diverse spectrum of constituents, and were then called to govern. I assume that each of us has some thoughts, gleaned from practical application and having the luxury of time after leaving office to reflect back on how the Organizational Act could be improved to better serve the people. These are perspectives grounded in actual experience, that should be considered.

For example, I noticed during my scant review that the Commission would no longer be designated as a part-time job. I'm concerned that there are a number of potential good candidates for office in their prime earning years who will be rendered unable to serve because they have other, full-time, employment that they cannot afford to relinquish. I know, from my personal experience, that I was one of three Commissioners who was first elected in 2000 and had full-time employment elsewhere. Even noting that the commissioners now, appropriately so, have higher salaries, those salaries alone remain insufficient in today's economy to support a family. If we remove the part-time designation, I'm concerned that we raise the full-time expectation.

And while the CEO would appropriately retain the exclusive power to supervise, direct, and control the administration of county government, the commission's powers would be expanded to investigate departments and agencies, along with subpoena power in order to do so. This, I believe, is a clash of control and a train wreck waiting to happen. It will no doubt result in more conflict, more confusion, and very likely litigation. I would advise against making that change.

Finally, I understand that there is consideration of moving to a County Manager form of government. I didn't see it in this document, but I've heard some chatter. Other than to create disproportionate representation and wrestle political power away from the majority, there is no reason to make such a change. Our current elected executive form of government is representative of the people who live in the county and modeled after our federal government, our state government, and the most modern and efficient large urban governments in our nation. An elected executive, unlike a County Manager, is directly accountable to the people who elect him or her. Separation of powers among branches, as opposed to consolidation into a single branch, is good government, builds trust and, while imperfect, is the best form of representative government known to humankind.

In closing I would like to suggest that more time be given to the people of this county to review these proposed changes before any further action is taken by the Charter Review Commission to move things along. I recommend that each of the former elected CEOs be invited and given an opportunity to share their views before this Commission, and that there be widely advertised live and virtual meetings held throughout the county for public weigh in. I am aware that you all have been holding public meetings but I'm talking about really deep engagement and education in every Commission district and throughout the neighborhoods in this county. I respectfully submit these comments and ask that they be included in the Record. I appreciate your time and unless you have any questions for me, I won't take up any more of it tonight.

Chairman Henson - OK. I will say that we of course were created by the present CEO and did speak with Lee May along the route and invited him to speak. We didn't invite them all, but we have been public and we've been live streamed; We have tried to get attention, so I appreciate very much your comments and we'll address them as we go through this discussion. I want to point out that we were created in April 2022 and we've been meeting since June on a regular basis since then.

IV. UNFINISHED BUSINESS

None.

V. NEW BUSINESS

Chairman Henson - We have none except for the business at hand. We have a discussion of the voting and proposed changes presented by the Chair and any amendments offered by the Commission members. Ladies and gentlemen, I just want to mention to you there's no perfect structure in getting something accomplished. The one thing I want to mention to you as we go through this process is that this is not the last stage of a process; what we do will not become changes to the charter. We're really kind of a beginning stage in the process where what we do will create the environment where there's additional discussion with the Georgia legislative delegation and commissioners. I think it's positive that we're moving forward. We have been meeting for over a year and I've heard from many of the commissioners here that they have other things to do and weren't planning to be here after December. I'm afraid if we have too many more meetings, we won't have ten votes to act on something, so you know that while I wish we could keep everybody happy I know that's difficult, but I think it's important we move forward because I think there's some substantive things we're doing to move this county in the right direction and for the legislature to investigate further. Some of the amendments that may be presented here tonight may not be adopted, but they'll be on the record. They will be in our report as considerations and be attached probably in a couple places in our report so that people like Senator

Harrell and Representative Bennett, commissioners or their staff, Ms. Ernstes, and Mr. Williams and others will be able to comment on them.

So, what I propose is going through each section one by one. You know it will take ten votes to approve the section changes. When we get to the section there'll be some amendments. The plan is to try to adopt the proposal I have and then work with the amendments. If there's someone who has an objection bring it forth and we'll discuss how to handle that so we can get to the true intent of this body. For instance, Mr. Ellis brought up subpoena power. When we get to that I'll probably have a separate vote on that one issue just because it's come up and may now be a little bit more controversial. I don't want other changes which are pretty much just fixing stuff to be brought into that one issue so that's where we're going to go.

Commissioner Thomas – Mr. Chair when you get to each section will you call out the page number, please?

Chairman Henson - Sure I will.

Section 1 Governing authority: There are no changes. No vote needs to be taken.

Section 2 The commission

Chairman Henson - We did have changes. You'll notice the blue is deleting or striking through current language and the red is adding additional language. On page 1, the intent and the effect of the red and the blue on this page is simply that, instead of the list on the following pages of all the county precincts and voting districts, we're just incorporating by reference the reapportionment plan of the General Assembly. This is how it's done in the most current charters and it keeps us from doing the list, but there's no change from the plan presently created by the General Assembly to apportion all the districts that exist now. Then in paragraph (e), page 9, there is a change, but it's a change to conform to State Law.

Commissioner Wittenstein - My suggestion is that for each Section we have a motion to approve and a second before a vote because that would be the normal course for adopting anything and we can make those really quick. I would suggest that we have a motion to approve and a second before we do each one.

Section 2 Motion to approve changes made by Robert Wittenstein and seconded by Virginia Harris

Section 2 Vote: 15 ayes

Section 2 Amendment:

Chairman Henson - We had a subcommittee report presented at the last meeting and that subcommittee recommended that we retain the two super districts, but we move to 7 regular single districts so there would be less people in each district, but there would be 9 total commissioners. There was a recommendation to pass out of subcommittee three to two, so Madam Chair do you have any comments that you want to make?

Commissioner Harris - We had a total of four meetings where we invited the public to let us know how they felt about the number of commissioners we had. We had two meetings in person and two virtual

meetings and the subcommittee decided to take action at our last meeting on the 25th and that was to increase the district commissioner from 5 to 7.

Commissioner Thomas - I was one of the people that voted against that particular recommendation and I still stand against that recommendation. The reason being that the reasons that were proposed really are not sound. Because what we're talking about is a certain number of residents of DeKalb County – throwing out numbers like 750,000 and that sort of thing - and we're talking about service delivery, but in actuality, when you consider Brookhaven, Dunwoody, Stonecrest, Clarkston, the City of Decatur you've got less people for county service delivery. Those particular entities have their own government - City Council and the mayor. So, what does unincorporated DeKalb render to that large swarth of residents: sewer, water, and sanitation. And how does the increase in the Commission districts impact on that service delivery? I don't think it does and I think what you're going to end up doing is increasing costs and increasing the size of the government and you're going to have many more complaints about everything. When you think down the road, right now and we got to be real - we've had cities created and annexations, and it's not going to stop. At some point in time two extra commissioners – where are they going to go? There's not going to be anything left to govern except a black hole so I'm against increasing the number of Commission districts in any number whatsoever other than what it is now.

Commissioner Austin - Without being redundant I feel strongly about that in terms of what has happened in our county here and also the move to do that. It's an unnecessary move and also it really diminished the whole issue of the voting population to a disproportionate number, and really it's not in the best interest of what we need to focus on as a Commission. I'm opposed to that.

Senator Harrell - I'm actually in support of this amendment. I think that one of the things that has driven the cityhood movement is feeling like the districts are very large and commissioners represent more people than they used to because of population growth. And I think that part of the reason cities grew is because people wanted more representation. Senate districts are very similar type districts; actually, I think a little smaller than Commission districts, and they're huge. You have to raise a lot of money in order to run and they're not as personal as some of the smaller districts, so I believe that increasing the number of districts will add to the personalization of government and people will feel like they have a stronger voice if they have fewer people per commissioner.

Commissioner Vickie Turner - I hope it's appropriate, but I would like to know since the subcommittee had four meetings, two virtual and two in person, I would like to know the attendance at those meetings, because we've already brought out at the beginning of this that more engagement has been needed and we're disappointed in the lack thereof, so I would like to know about the attendance. Is that appropriate to get that information from Madam Chair?

Commissioner Harris - The attendance was pretty much the same as you have seen here at the larger Commission meetings.

Section 2 Amendment Motion on amendment to add two single commission districts moved by Robert Wittenstein and seconded by Mary Hinkel

Section 2 Amendment Vote to Add Two Single Commission Districts: 6 ayes, 7 nays, 2 abstentions

Commissioner Hinkel: I had an amendment that I will withdraw that we add one single district commissioner to reduce the number in each district from 152,500 to 127, 100, but I would also suggest that this be further defined as an additional commissioner in unincorporated DeKalb and possibly further defined specifically for the area South of I 20 and West of I 285 because that is where we have the greatest commotion for a new city. I will withdraw this amendment knowing that it will perhaps get in the record and can be discussed at the delegation meetings. I'm sure legislative counsel and the mapmakers will not take my specific geographic recommendation into account, but I agree with Senator Harrell that one of the reasons people have been annexing and creating new cities is that they feel that not only are they not getting the services that they want, but they're not getting the representation that they want.

Section 3 - Establishment of the Commission

Chairman Henson - On page 10, the dates are being updated so there is no substantive change in legal function. In paragraph (e) there is a change which simply states - and there was discussion of this at a couple meetings prior to last Thursday - that the first meeting is when the term would start, so future commissioners shall take office at the first meeting in January instead of the first day.

Section 3 Motion to approve changes made by Robert Wittenstein and seconded by Virginia Harris

Section 3 Vote: 15 ayes

Section 4 Running for other elective offices

Chairman Henson – These changes conform to State law. Mr. Grubiak can explain why these changes are appropriate.

Commissioner Grubiak - This language comes from the constitution. It's really straightforward - that's what the law is in Georgia right now so we need to put it in the Org Act to replace what we have now.

Section 4 Motion to approve changes made by Robert Wittenstein and seconded by Vickie Turner.

Section 4 Vote: 15 ayes

Section 5 – Chief Executive

Chairman Henson – On page 11, the changes being recommended here are to make this section conform to State Law. In the current charter it says the candidate for CEO has to be 30 years old and has to be a resident for five years. State Law says 21 and one year of residence, so it's making that section conform to state law.

Section 5 Motion to approve changes made by Robert Wittenstein and seconded by Mary Hinkel.

Section 5 Vote: 15 ayes

Section 5 Amendment

Commissioner Wittenstein - We have talked at multiple meetings about whether or not the CEO form of government serves the county as well as it might. Every other county in Georgia has one single governing authority and that is the County Commission, and the County Commission employs professionals to run the day-to-day operation of the County. DeKalb is unique in that we have separated the executive and

legislative functions and I am not sure that has served the county well. I am keenly aware that DeKalb has grown more slowly than the other counties in Metro Atlanta and it does not have a reputation for having the best functioning county government in the region, so I propose that effective January 1, 2032, which is 8 years from now so that those currently running for office would have the opportunity to serve two four-year terms, but at the end of that the county would implement the county manager form of government where the county manager is hired by the County Commission and is responsible to the County Commission for running the day-to-day operation of the county. The Commission Chairperson shall be elected county wide and shall preside over the County Commission and represent the county.

Prior to January 1, 2032, amendments to the rest of the charter to make it conform to this would also have to be implemented because this touches, you know, many different sections. I recognize that we've discussed this at great length and I also recognize there aren't the votes to pass it, but I think it is important for us to go on the record, especially since while we have not had robust citizen involvement almost every person who has come up to talk to us has suggested this change. I think the CEO form of government is not popular among those people who think about these things in our County, and so with that I propose that we pass this amendment.

Senator Harrell - I'm prepared to go ahead and vote for the amendment just because I would like to see this discussion move forward and stay relevant. I think our CEO has done a great job and I want to support my constituent in this issue. So, I would like us to continue having this dialogue so I'm going to vote in support.

Commissioner Austin- I don't quite understand why we would make a decision to do something in 2032. It is almost like outrunning your headlights, so why would we do this?

Commissioner Weinstein - Dr. Austin, I think our current CEO has done a great job and I'm a huge fan, and you know we've had great CEOs and we've had awful CEOs; the point was that to be planning ahead makes this not about the current CEO or the people running for office. The point is to look forward. We would have eight years in which to implement a change of a form of government, rather than to try and put something together that would presumably interfere with the current electoral process. So, this is directional in nature with the idea that it might set the wheels in motion, but again I don't want to spend too much of our meeting tonight on this because I recognize that we have a lot to go over and that we have talked about this in multiple meetings, so I'm certainly prepared for us to vote and move on.

Commissioner Thomas - I like the comments that you made because I think we also have to understand it's conceivable that other counties may eventually adopt what DeKalb has. You've got other counties that are growing. They may decide that the separation of powers or the executive form of government that's good enough for the state - and it's good enough for the federal government - will be good enough for that county, so who knows by 2032 we might not be the exception, so I agree we shouldn't be tinkering with that at all at this point in time.

Commissioner Hinkel – In 1994 and in 2000 the DeKalb County Civic Coalition studied county governments and found in DeKalb an inappropriate division of powers and reported that the problems are systemic and are likely to exist regardless of how confident and professional the CEO may be. They concluded that a county manager form of government would be most suitable for DeKalb. In 1999, the Supreme Court of Georgia found that the CEO and Board of Commissioners are not equals in the running

of government in the county and they found that the Org Act conveys a limited grant of power to the Commission while bestowing on the CEO broad executive and administrative powers. I believe that is contrary to what was intended to be a “checks and balance” form of government. In 2004, former Commissioner Bill Brown called for changes to relieve the office of the CEO of absolute authority over the day-to-day management of county government. In 2013 a special grand jury report recommended a reorganization of county government, the elimination of the CEO position, and a review of the Org Act. All of this is to say county government is broken and one of the ways to think about improving it is the county manager type of government.

Commissioner Leak - Senator Harrell and Representative Bennett - do you think a positive vote for this amendment would spark the conversation with the delegation - if there's any desire to seek change, I mean?

Senator Harrell – I do think that a positive vote would keep the dialogue going amongst the delegation.

Mr. Hammonds – Can't the delegation take it up whether it's a positive or negative vote, if they wanted to consider it?

Senator Harrell – Absolutely.

Section 5 Amendment to Move Toward a County Manager Type of Government moved by Robert Wittenstein and seconded by Mary Hinkel

Section 5 Amendment Vote: 7 ayes, 8 nays

Section 6 Vacancies

Commissioner Grubiak – The changes here try to recognize two different kinds of vacancies – permanent vacancies by reason of death, resignation, removal from the county or district - and temporary vacancies when there are suspensions. For example, the CEO is suspended and the presiding officer moves up to fill that position on an interim basis and creates a temporary vacancy in the Board of Commission. This section now provides the process for filling that temporary vacancy on the Commission during the time the suspension is in place and basically says the position is vacated on an interim basis and the person filling it is in a temporary placement position until the presiding officer acting as CEO returns to the Commission position. The point is, first, everybody has representation the entire time and, secondly, it provides a process and timeline to make this happen expeditiously so it doesn't get delayed. Basically, nothing has changed since the last meeting.

Chairman Henson – This makes sure that there is a mechanism in place if vacancies or suspensions occur and a timeline. If the commissioners or others have different observations or differences, they can make those known to the General Assembly.

Section 6 motion to approve changes moved by Robert Wittenstein and seconded by Jim Grubiak

Section 6 Vote: 15 ayes

Section 7 Oath and Bond

Chairman Henson - There was no change to this section so no need to vote.

Section 8 Compensation

Chairman Henson - We inserted what the state law says presently. This will make it clear for citizens reading it that compensation is set by the general assembly or by the commissioners. At one time commissioners could not do that, but state law was changed. So, this is merely confirming state law. In our final report there will be a page from the legislation passed at the last legislative session which actually will tell what the method is for determining salaries based on percentages of the Superior Court Judge salaries.

Section 8: Motion to approve changes moved by Robert Wittenstein and seconded by Jim Grubiak

Section 8 Vote: 15 ayes

Section 9 Powers and Duties of the Commission

Chairman Henson – Page 13 – the first change in paragraph (a) reflects the concerns of the members of this Commission that we make sure the word “legislate” is included in this section. We refer to the Board of Commissioners as the legislative body and this should be reflected in the Org Act. We also changed the word “oversight” to “implementation” to make it clear that when the Board of Commissioners passes an ordinance, they have some role in its implementation. Of course, an ordinance is law and they could go to court if the CEO doesn’t follow the legal direction of the Board as it is, so I don’t think this changes the status quo.

The change in paragraph (10) restates what is currently happening in the County concerning zoning. This language was taken from a court case that existed on this, so this is keeping the status as it is but it better describes what occurs: when you have a zoning issue you need affirmative action from either of the two people that represent the district for that to move forward.

In paragraph (18) rather than having a long list of the Commission’s legal taxation remedies, we merely took what’s in state law today and put it there so they still have the full powers given to the Commission under state law for taxation.

On page 14, paragraph (c) we just made this conform to state law. Instead of imprisonment for 30 days, state law now says 60 days.

Paragraph (d) on page 14 – we added that the Commission may establish one or more citizen engagement programs, including but not limited to community councils that presently exist, neighborhood planning units, or other initiatives designed to foster greater input and participation by county residents in the DeKalb County government affairs.

Commissioner Hammond - After more reflection on this particular section and the importance of citizen engagement which we've talked about - and it has come up time and time again - I'd like to make a motion that we change the word from “may” to “shall.”

Chairman Henson - I will accept that motion at the proper time and appreciate your bringing it up. Also, I will say this too - when we approve the model section, we will not be providing paragraph (e) because Mr. Burrell Ellis brought it up in his statement. I want to make sure everybody has a chance to deliberate on it so we will bring that up separately. I did think the section, which is in the Georgia Model County Commission Act, was reasonable. I have heard nothing from Mr. Williams or the CEO that they refused to

allow Commissioners to talk to county officials and get information for their business, so I didn't think this addition was onerous. I still feel that way but we will vote on that after voting for the other changes here.

Section 9 Motion to approve changes moved and seconded by Robert Wittenstein and Greg Austin

Section 9 Votes – 15 ayes

Section 9 Amendment 1 re new paragraph (d)

Chairman Henson - OK then I'm going to let Mr. Hammond make a motion.

Commissioner Hammond - The more I thought about it the more I thought about the difference between may and shall, and you can write a book on the difference between may and shall. I actually did a word count in our document. "Shall" shows up 417 times; "May" shows up 61 times, and so when we go back to our last discussion about why we didn't want to handcuff any group as far as working through this document and putting in too many details in there, I also looked in here and it says that we have committee councils, we are including community councils, so the word "shall" does not stop the commissioners from doing anything that they want to do. They could just say: Hey we like what we have and we're going to stay with it, or they can have courage and say we need to do better and this gives them the option. But I think because the topic of engagement keeps coming up over and over and over again, I think it's incumbent upon us to make sure that citizen engagement is important. I think the word "shall" is appropriate in this spot.

Commissioner Turner - I'm here as an alternate and can't vote, but I can add a comment – I'm on the community council for District 2. I'm a firm believer in citizen engagement. When we first started this Commission, it was one of the top topics. We need more community engagement and in various and sundry ways. I may be wrong, but this may be the only place in the Org Act where it states that we shall have community engagement and I don't think we should turn away from that. I think we should have community engagement, and to have it codified in the Org Act is appropriate.

Commissioner Weinstein - I think this is a mistake. I think whether or not we have NPUs is a decision for the Commission. Their responsibility is to manage the zoning process and I don't think that this document should mandate that the county implements planning units. I think there are pros and cons.

Chairman Henson - May I ask a question, because I believe you have a good point. But this section doesn't mandate npus. The county presently has community councils so this amendment would mean they are in conformity with his amendment, but your point is that we shouldn't require either one of those today.

Commissioner Wittenstein - They have decided the community councils are what they want to have. If we change this wording from "may" to "shall" it is saying that the county will put neighborhood planning units in.

Chairman Henson - What his amendment will do is clarify that the Commission shall establish one or more citizen engagement methods, including community councils, so his amendment is that we shall have some community engagement – they couldn't do away with community councils right now, but it doesn't require NPUs.

Commissioner Wittenstein – If it doesn't require NPU's, then I'm OK with it. I just don't want us in this document to dictate how the Commission handles zoning. We shouldn't be giving them a straight jacket to operate in.

Senator Harrell - I just wanted to say that I support this amendment to the word "shall" because I think it sends a strong message to the delegation that this group considers engagement a critical issue for DeKalb County.

Commissioner Bobbie Sanford – I think we should retain "may" because we had discussion about this topic at one of our other meetings and this at least opens the door that there is the opportunity for them to discuss and to consider other entities. But to indicate that they must do that I think is overstepping our bounds. I think we've kind of compromised by, in my opinion, allowing the word "may" so that gives them the opportunity to look at these suggestions and other ideas as well.

Chairman Henson - Your point is well taken and I appreciate it.

Section 9 Amendment motion to change wording from "may" to "shall" moved by Dwight Thomas and seconded by Mary Hinkel

Section 9 Amendment 1 vote: 14 ayes, 1 nay

Section 9 Amendment 2 to include subpoena power

Chairman Henson - Now we're going to take the second amendment and this is included in your document.

Commissioner Hinkel – I brought this up. It is in the model Georgia county commission act. Also, we've looked at other governments in the United States that have the executive and legislative type of government that we have and they also provide that the legislative groups in those areas do have the power to subpoena for an investigation. I think this addition helps us to address what I think is an imbalance of power between the administration and the commissioners. We looked at Wayne County, Michigan; which I believe is Detroit, Jefferson Parish, LA, and also Prince Georges County in Maryland which is always held out as a great example of a county that has a similar executive and legislative form of government. I just believe that this is an important point to keep in here as a power of the Commission and surely if they abuse it there will be further opportunity for us to speak to that, but I just think it addresses some of the imbalance.

Commissioner Thomas - I'm in favor because I think that that is how you have checks and balances. Even Congress right now is having issues with the executive branch and conducting congressional investigations. This has been going on from the beginning of the time when this republic was formed. We've always had investigations by the legislative branch, so I'm in favor.

Commissioner Neugent - I would just add that for anyone who has concerns about this, that as I read it, I think it would require a super majority of the Commission - five of the seven commissioners to uphold what could be a veto by the CEO's office were the subject of a subpoena to come up, so it's a fairly benign action.

Commissioner Thomas - The subpoena is enforced by the Superior Court. The CEO cannot veto superior court action.

Commissioner Neugent - So a resolution is the way we do things here. It is passed by a majority and then forwarded to the CEO for his approval. If he vetoes it, you can't get it. So that was my point that this is a fairly benign action. It's not a draconian action.

Chairman Henson - When you say you can't get it if the CEO vetoes it, it goes back to the Commission where it would take five commissioners to approve it to overcome the veto.

Section 9 Amendment 2 to include subpoena power motion made by Susan Neugent and seconded by Dwight Thoms

Section 9 Amendment 2 votes: 15 ayes

Section 10 – Audits and Section 10A – Independent Internal Audit (changing to Section 11)

Chairman Henson – there are no changes to 10, but Ms. Hinkel and Mr. Grubiak have amendments.

Commissioner Hinkel – I would suggest we change the heading of Section 10 on page 16 to “Outside Financial Auditor” because these three paragraphs have to do with the outside financial auditor.

Commissioner Grubiak – I picked up on the same thought that Mary had in terms of the title. I suggested “Annual Financial Audits” I'm OK either way. I'm just really trying to distinguish between the external annual financial audits and what the internal auditor does, which comes up in the next section, currently 10A. That's just to distinguish the two.

Chairman Henson - Which one do you want?

Commissioner Hinkel - I'm happy with Mr. Grubiak's suggestion.

Chairman Henson – OK, we're going to go with Mr. Grubiak's suggestion, but we will focus on Mr. Grubiak's efforts trying to harmonize 10 and 10A, the Independent Internal Auditor, before voting.

Commissioner Grubiak - So under the current status and current org act, it says that the Board of Commissioners appoints a committee as an Audit Committee. That happens to be what they call the FAB committee and the FAB committee does other things but the FAB committee also acts as the audit committee. Now it says the audit committee shall screen and recommend to the full board the independent outside auditor. At the same time in 10A there is an audit oversight committee that's created and those are professionals in accounting and auditing and in paragraph (9) (g) of that section it says that one of the duties of the audit oversight committee is to make recommendations to the Board of Commissioners on who the outside auditors should be, and they're to exercise their professional judgment and give some choices to the Board of Commissioners audit committee. That's now the practice and that's how it works now so this just makes it clear by adding this new language that the recommended independent auditing firm shall be selected from the list of firms recommended by the audit oversight committee.

Commissioner Wittenstein - I also notice what it says on the existing language in Section 10 paragraph (b) that the auditor shall immediately inform the Commission in writing if any irregularities occur, and it just occurred to me we should also notify the chief executive at the same time.

Chairman Henson – It is my understanding they do.

Chairman Henson - OK we are saying that under section 10 the Commission's Audit Committee actually makes the decision, but they get the recommendations of three qualified firms to consider from the Audit Oversight Committee.

Section 10 motion to change the title to Annual Financial Audits made by Mary Hinkel and seconded by Wittenstein.

Section 10 votes: 15 ayes

Continued Discussion re Section 10A (changing to Section 11)

Chairman Henson - On page 16 you just see a little red line I've just mentioned several places in here and I bring it to your attention where there's a state statute the Carl Vincent Institute said it's appropriate to add "as now or hereafter amended" just by reference in case that state law changes.

On page 17 it we just are saying that the report goes to the General Assembly and on the website which we talked about the other day

On page 18 we talked about the auditor's comments that he'd like some response from audited agencies within a time period. It doesn't have to be a full report but he'd like a status report within 45 days of the auditor submitting the information. Also, on that page, we're just clarifying the selection of the Audit Oversight Committee selection as "on or after" October 2015 when the original legislation was enacted.

We didn't do much on the auditing section since there is a board for the Independent Audit function that can go to the General Assembly and give them information. We didn't make any real substantive changes.

Section 11 Motion to accept changes to Independent Internal Auditor section moved and seconded by Robert Wittenstein and Virginia Harris

Section 11 Votes – 15 ayes

Section 11 Amendment

Chairman Henson - There is a recommendation by member Claudette Leak. Would you please describe your amendment?

Commissioner Leak – This is the only place that measuring performance appears, so I'm proposing to track performance and efficiency of government services by comparing key performance metrics associated with the provision of services to those of similarly situated governments with similar services. The Independent Internal Audit shall include benchmarking in its individual agency audit reports and include benchmarking in its annual report to the CEO and commissioners. The independent internal audit may commission such studies from outside entities with experience in performing such studies based on criteria established by the auditor and in consultation with the audit oversight committee. Such studies shall be presented publicly to the audit oversight committee, CEO, and the Board of Commissioners and each such study shall be posted to the independent internal audit website.

Chairman Henson – Thank you very much. We discussed benchmarks earlier. It was also commented on by the DeKalb Municipal Association. I thought it was really more appropriately handled through an

ordinance by the commissioners if they want to do benchmarking. I didn't think it was something for the charter, but it is up to each and every one of you.

Commissioner DeLay – There are a few grammatical changes that need to be made. You read them correctly into the record, but they are not on the handout: similar should be similarly and the addition of the word “from” in front of “such studies.”

Commissioner Grubiak – Doesn't the Internal Auditor already do this - compare our services to how they're provided in other counties?

Commissioner Leak – I've reviewed quite a few of the audit reports that are on the auditors website and I've not seen that. I think the importance here is that somewhere we should make sure that there are performance measures in place and metrics where the public can be comfortable with that we're performing the best that we can, so but that's why I was suggesting that.

Chairman Henson – I kinda of think that in an ordinance they could maybe define the benchmarks more accurately. Here you have kind of a general thing and you can always use different things for benchmarks. But, if there's no further discussion we're going to take a motion.

Section 11 Amendment motion to add benchmarking moved by Commissioner Leak and seconded by Representative Bennett.

Section 11 Amendment votes: 12 ayes, 2 nays, 1 abstention

Commissioner Grubiak - Mr. Chairman, on this particular provision I think it I did vote in favor. So, I like the idea of benchmarks, but I'm still not clear on whether or not the internal auditor is doing something like this already or maybe this language needs to be rewritten in some fashion.

Senator Harrell - I'll take this to the delegation for clarification.

Section 12 Presiding Officer

Chairman Henson – we removed paragraph (a) that says right now that the CEO can vote to break a tie. There were several concerns that this paragraph might be out of place and that it should be moved to the CEO section of the Org Act. But 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, meaning zoning issues. But this was written when the 2008 legislature took setting the agenda and presiding at meetings away from the CEO and this paragraph remained. I thought there was pretty much consensus in our discussion that we would remove this paragraph. The CEO would still retain his veto power but if something tied, it would fail for lack of a majority. Mr. Williams had mentioned that in his recollection this had not been used very often and he mentioned it may have been used once, but it's not a common practice, so in fact the recommendation is to not move it anywhere else and the CEO would not vote or have the power to vote if there was a tie on the commission.

Section 12 motion to delete paragraph (a) moved and seconded by Robert Wittenstein and Jim Grubiak.

Section 12 votes – 15 ayes

Section 13 - There were no changes.

Section 14 – Powers and duties of the Chief Executive. We do have at least one amendment for that but I will go over the model language first. There's a new paragraph (a) incorporating language from page 22 that you'll see in blue - some struck language which mentions the chief executive officers shall represent the county in governmental matters and seek to promote the county government. We took that language and added a little more descriptive language and we thought it was important to put it in the front of this section. It doesn't change the powers or authorities of CEO but it makes clear that he or she is a representative - the external representative to Congress and other counties and the state. We also reflected here the change in title from the executive assistant to chief operating officer that Mr. Ellis applauded and this will be done throughout the Org Act as we move forward. We made some semantics changes near the bottom of paragraph (b) where it says that commissioners can seek information. Now it says to establish policy and we just add "or legislative action" and then we added another line that this request shall be responded to by the chief executive or the chief operating officer or another person designated by the chief executive in a timely fashion. We just put a little extra language there to help make sure that somebody's responding to the request of the commissioners. I don't believe it's a problem at this time. On paragraph (c) that says the chief executive has the power to consolidate or abolish departments upon approval of the Commission, we added upon approval of the Commission "by resolution" just so they had to take a formal action. They would in most cases do that anyway, but we want it to be on the record if a department is going to be abolished. We don't want just the budget document that changed the funding to be the only thing on record that says they did that. We thought they should be on record by resolution saying they had approval by the Commission. In the same paragraph it says the chief executive may create departments, so again we added the words "by resolution" so it was clear that the Commission had to be on record.

Commissioner DeLay - I'm not certain that I understand the last part of this. It says on page 21 at the bottom in paragraph (d) that the CEO within the budgetary limitations can fix the compensation of the CEO and the County Attorney and both officers serve at the pleasure of the chief executive. Then it says the Commission may also discharge either.

Chair Henson - I apologize. I skipped over it when we went over it last Thursday and kicked myself when I got home. Right now the CEO or the executive assistant can be fired or discharged by the CEO and he can be fired by the county commissioners if five of them move to fire him, but there has to be cause. That words "for cause" means that he has to have violated some standard that is defined in state law. Many of the commissioners throughout this thing talked about balance between the CEO and the board of commissioners; that the CEO or executive assistant works for both of them. He certainly, you know, helps manage the government and his relationship with the CEO is special, but he also assists and works with the commissioners and to make sure that the COO had the respect of and dialogue with commissioners we thought that they should have the authority if five of more of them thought he should be discharged that they shouldn't have to find a legal pretext of cause. We felt that if five or more commissioners wanted to discharge the COO, they should have that power and that the COO then would be responsible a little more to both parties. It does change the dynamic. I think it's a substantive change. I recommend it to you, but it is something that you should consider.

Then on paragraph (i), due to this commission's concern for always making sure the public has the ability to see things, we just added that the summary of the annual report should be published on the county website as well as the official organ.

Section 14 motion to accept changes made and seconded by Robert Wittenstein and Claudette Leak

Section 14 votes – 11 ayes, 4 nays

Section 14 Amendment

Commissioner Leak - I'm requesting that this be added to the last line under paragraph (b): "Failure to provide the commission request for information the chief executive office executive must provide written response as to the reason for denial of the request. In such instance, the commission may use its subpoena powers to compel the production of requested information." It has happened in DeKalb County where commissioners have requested information from staff and they have been told by the executive officer not to respond so that's the purpose for which I am making this motion.

Commissioner Thomas - How does how does comport with the open records act because the open records act is a state act and of course the CEO and most public agencies have to conform or comply with the open records act , including the CEO, so is this redundant in some way or another, is this overlapping or is it in conflict?

Commissioner Leak - I would venture to say that the Commission should not have to go through that process if they're trying to obtain information that's relative to the function of their responsibilities in making policies and ordinances. They would not have to go through an open records request to get that information to help them make decisions or run the county. So, that's why I was doing that.

Commissioner Thomas – The issue is that you've got the open records request as the state legislation or general law for the entire state and if this is in effect without giving an exception in this situation are we going to have some sort of problems, some litigation problems with the CEO saying "I'm relying on the open records act" and the commissioners relying on this.

Chairman Henson - Thank you. I appreciate that comment. I'll just say this I have some unreadiness on this. It's coming to us today. We've added language creating some responsibility to CEO in the appointment process already and we also created subpoena power that the commissioners can use if they need to, so I don't really see the necessity for this.

Commissioner Wittenstein - I think there's a distinction that's important here between an open records request and what this does and that is an open records request requires somebody to produce some document that already exists, right? You're not allowed to hide data or something that you're refusing to release. But this is saying if the Commissioners ask for something in the course of their work to be compiled or a document which doesn't exist then they have the power to compel the information to be created for the Commission.

Representative Bennet – But is not this the same as 9(e)?

Commissioner Leak – This is saying that commissioners should have access to information they need in implementing their legislative function.

Chairman Henson – But compelling the production of information that may be contrary to state law is a problem. How about if we just say failure to provide the Commission request for information chief executive must provide written response for the reason of such denial.

Commissioner Leak – I'm not locked into the wording. I would accept this friendly amendment.

Chairman Henson – OK, so if they asked for information as we've stated before and this administration refuses, the CEO should respond with the reason why they're refusing. I would say we're not going to get it perfect today. I would say go to the legislature where they're debating it and talk to Senator Harrell, because we're having a tough time getting through tonight.

County Attorney Ernstes - I am concerned that you are voting from the floor on items that have not been discussed and deliberated upon and there are items that are being introduced from the floor this evening without opportunity for discussion or input from staff. And they are substantive items; they are not clerical changes, so I just wanted to express that to you.

Chairman Henson - Thank you for those concerns. Some of them we may not have vetted as well as we would like, but every member of this Commission has to weigh that, look hard at these amendments, and not just do a courtesy vote for another member because you like them or that you respect them or that you think it's well done. But this is an opportunity for everybody to make their amendments. We're going to continue with the process and I understand your concerns. I believe shorting that sentence is fine. Again, if this was the last committee passing the bill out to the governor or on the floor of the Senate or House, I'd be a little more worried. There is a legislative and county Commission that will review this. You can make additional changes. That being said, there was a motion and an amendment to delete the last sentence of the amended language.

Section 14 Amendment motion to accept made by Claudette Leak and seconded by Robert Wittenstein

Section 14 Amendment votes: 11 ayes, 0 nays, 4 abstentions

Chairman Henson – Again, if as these amendments go on, if you have any reservation personally you can consider addressing them to the General Assembly. I do think Madam Attorney did make a good point.

Commissioner Vickie Turner – Mr. Chair, I'm sorry to interrupt you and I know we've just taken the vote, but it is a bit disconcerting if the attorney presents an opinion and it would appear as if it's disregarded. It just makes me a little bit uncomfortable. And maybe we have the power to do that - I understand the explanation - but I think it's a valid point and that's why the attorney is here is to render opinions and to keep us in compliance right? So if why she is here is to render an opinion to us and to bring guidance, then I would hate to overlook that. I understand you're saying the process is at the beginning and it's got to go through other steps so this is not the final word, but I just want to go on record that it makes me uncomfortable.

Chairman Henson - I think that each and every member of this committee heard the attorney and her recommendation was that we shouldn't do amendments on the fly. Now you know that they're brought to us today and without more deliberation. We don't have time really to have a Commission meeting every week to discuss these. I generally agree with her. I voted for that out of courtesy because Ms. Leak shortened it. I still had reservations about it. Every member of this Commission has to make a decision to vote for or against these amendments. I will tend to vote against them. Again I voted for it because she was generous in taking out the part of it that I thought was onerous and confusing, but your point is well taken and I think that all of us should reflect hard. Things that were not brought up last Thursday - we need to really make sure are good. And I think Ms. Leak's intent and experience means they probably are, but we should still think hard about it. But I could not come to this meeting and refuse to take amendments and at any meeting in the future if I were to put this meeting off for a month and you were

acting as group and somebody offered an amendment, I would feel obligated to take it. To be honest with you I didn't really want a lot of amendments tonight. That was my wish, but you know that each and every member has their own prerogative.

Commissioner Leak - From what I'm hearing from the County Attorney is that it's not one but all of the amendments that are being presented tonight. So is there a reason following this meeting where we're voting and they've been approved that we can't send it to the County Attorney for a final review?

Chairman Henson - The County Attorney will receive our report and she will, I'm sure, mark it up and have comments. I am sure the CEO will have comments. I am sure COO Williams will be asked by the county Commission and CEO to have comments. The commissioners will have comments, and I would hope all of them would engage with the legislative delegation if this is put in as a some legislative action.

I think all of us would have liked more robust involvement of commissioners and CEO, etc. Now it's just a matter of time. We're a voluntary commission. We're trying to do the best we can to improve things. I'm fully aware that we were given the whole charter. If we had been charged to just look at one section, you know, just look at the budget issue, I think we could have maybe then taken even more actions and feel even more assured that everything was perfect, but we've had a lot to do and I'm proud of the work you've done. There is a second amendment on Section 14.

Section 14 Amendment Two

Commissioner Leak – I would like to add: The CEO hiring responsibility shall include the authority to change department head designation from merit-system based hiring to contracts. This provides the CEO flexibility to ensure responsibility, accountability, and transparency for the effective delivery of services to DeKalb County citizens. This change becomes effective July 2024 as directors (department heads) retire, resign, or for any reason that the position is vacant. The County Attorney, finance director, planning and sustainability, and human resource positions are exempt from this provision and shall remain under the Merit System. Updates to chapter 20 of the Code of DeKalb should reflect this change.

Chairman Henson - Thank you. I think you know during our Commission hearings we had discussions on the merit system. I think it is legally sensitive and I would urge you not to adopt this amendment without more study. I'm very concerned about taking people in and out of the merit system or allowing a chief executive to do. I don't think this is a positive thing without more study so that is my recommendation.

Commissioner Neugent - I just wanted to ask a question. Why did you in this proposal exempt the attorney, finance director, planning/sustainability, and human resources positions? Why did you exempt those from this.

Commissioner Leak – They are already specified under the merit system and they're the only department points or functions that do that, so that was the reason I put the exception in there because it's already specified that they fall into the merit system. The other reason for putting this in here is if you're trying to run and improve the services of the Dekalb county for its citizens, the merit process can be a long-drawn-out process. The thought behind this was that the contract would give you more flexibility because the requirements of the job would be specified in the contract.

County Attorney Ernstes – I'm not trying to comment on every amendment, but this section is legally problematic. There are certain property rights that come with being a member of the merit system and a move into contracts would require a good bit more discussion before you could consider this language. I am not covered by the merit system right now. Mr. Williams and I are not merit protected employees right now and so we are not under the merit system. I would just caution you to perhaps leave this for another day, if possible. I don't know that I even know the extent of the legal ramifications standing before you this evening.

Chairman Henson - Thank you and I remind everybody later in this document we will put forth a recommendation that we have a future Commission to look at the charter. I urge you to have further study on this issue and then get to the legislature.

Commissioner John Turner – Just for clarification. In the first sentence it says the CEO responsibilities shall include the authority to change but it doesn't say it has to change. Are you saying that he has the authority to change it in departments he or she wants to change it in, or this would be a wholesale change except for those four positions over time?

Commissioner Leak - I had not thought that would be wholesale for all the other department heads. As it is today the directors fall under the merit system.

Commissioner John Turner - Because when I read the language it seems like it could be discretionary.

Commissioner Leak - I think at this point I'm going to drop it because of the concerns or withdraw it because of the concerns from the County Attorney.

Chairman Henson – So I accept your withdrawal of this amendment.

Section 14 Amendment Two Withdrawn

Chairman Henson - we are going to allow public comments up to 3 minutes must be arrested the DeKalb county we realized that you know the position we're putting you in doing in the middle meeting but I think it's better making you wait till 9:30 or whenever we finish so you have 3 minutes is there anyone from public which would like to speak.

VI. PUBLIC COMMENTS

Stephen Binney – A point of order I would like to point out -that Mr. Burrell Ellis is a citizen of DeKalb County, I am a citizen of DeKalb County and had to wait two hours beyond him in order to give my comments.

Good Evening, Charter Review Members, Thank you for your votes tonight. Whether I agreed with your decisions or not I do appreciate each of you for the job you are doing to try to improve Dekalb County government.

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 grudgingly to change. Your efforts are appreciated.

Thank you for your votes on tightening up the appointment process. Appointments often are taking too long to be made or not made at all. Some boards are out of date or non-functional. Guidelines do need to be included in our Charter to correct this process.

Thank you also for your consideration in changing the budget submittal date. The CEO's current budget submittal date of December 15th is too late a date for county commissioners to give a close and careful evaluation of the proposal and have to vote on it in February after the budget year has started, given the holiday season.

It will be an improvement to ask that future fiscal year budgets be provided to commissioners at the start or middle of October so that it can be properly evaluated and voted on by the commissioners by the end of the year or early in January.

An additional bonus to increasing the number of commissioners from 7 to 9 is in Section 15 if the number of commissioners is increased to 9 the number of votes needed to override a veto will increase from 5 to 6 but the percentage will decrease from 71% to 67% which is right at the 2/3rds stated in the Charter.

I had hoped to see more dynamic movement on the issues of transparency and communication which need to be improved. The official organ of Dekalb County is currently "The Champion", which is not easily available in all parts of Dekalb County. Perhaps including or even allowing the county to use the AJC and or other local Dekalb County information outlets in the Charter will increase the visibility of announcements made by the county, allowing an opportunity for more public input into county decisions.

The board has shied away from the ethics portion of the Charter but I believe there is a need that must be addressed in this section. There are no provisions in our county charter to protect whistle blowers from retaliation by the county while accusations are being investigated. Persons who make such accusations have been routinely fired or forced to resign after bringing ethical issues to light. Just this year the Deputy Ethics Officer was suspended for making accusations of racial harassment in the Ethics Office.

Brave individuals who are willing to shine a light on the underbelly of Dekalb County government deserve our protection and I hope that you will believe so and add some employee whistle blower protections into the new Organizational Act.

Thank you for taking a vote on the form of government we want in Dekalb County. Was not expecting any great changes in this matter but it is good to know where all of us stand.

I believe that the CEO form of government is less effective than a County Manager or other type. Too much power concentrated in one person and an unbalanced and unfair division of power between the executive and legislative branches. It doesn't matter who is in charge because the end result is that the current Act is simply a system that allows those in power to diminish the input of its citizens in decision making.

I want those on the board who have introduced language, tried to adjust, or change language to allow County Commissioners a little more oversight and say so in how Dekalb County progresses into the future to know I am grateful for your efforts on behalf of the citizens of our county.

Thank you for your time and consideration.

Andrew Bell DeKalb County resident

I guess you guys already decided about these extra 2 commissioners when we already have more than everybody else. We have more than Fulton; we have more than Cobb, Gwinnett, Clayton and Gwinnett Cobb and Fulton more population and our bigger, but since I've been sitting here, I think there are going to be some lawsuits coming and mainly because it's you guys say Oh well this person they get a chance to review it and that person didn't get a chance to review it. How about the public? How about the public? All of these meetings I never heard you guys weren't say correcting this thing I was just at just the board meeting you know people can barely speak. It's you got three minutes to talk and if you don't take off work and you're not one of the people selected where then you could come back to next meeting which you probably not going to be able to do so it seems like it's an effort to keep people from their First Amendment rights, and so we might have to let the courts decide that. Even in this meeting it seems like the public should speak first, so that's why nobody's here because nobody has time to sit around. This is the public county the public dollars and so if people have a concern it seems like they would be able to voice their concerns first, and then you guys could talk about it. I mean it might then that makes sense. So we've gotten backwards in this county some kind of way, where it's kind of like an authoritarian totality. It's like it looks like China. The people should speak first. The people should bring their concerns first, not the commissioners, not the CEO, because they didn't get a chance to review it. How about letting the public review it first? How about you hurry up and get over. It's getting out of hand and I'm telling you we got to fix this these meetings where people are not allowed to speak or you are definitely going to get a lawsuit from me.

Chairman Henson - Thank you very much. We will go back to the committee meeting and section 15.

Section 15 – Appointments to public office

Chairman Henson - There are some changes here to try to make sure that appointments get made and that they get done in a timely way, so in paragraph (B) where the charter presently says within 20 days after the date the notice described in paragraph (A) is received the Commission either in a regular called or specially called meeting shall confirm or reject the nominee of the chief executive, we have added that if the Commission does not confirm or reject the nominee within the specified time, the nomination shall stand confirmed. It hasn't been a problem, but the point is being made that they should be acted on so there won't be a MARTA board or a state board that doesn't have the personnel on it. Then the next one just says that if the second nomination is not confirmed or rejected by the Commission within a certain time period, the nomination stands. Then to try to balance things out we've created paragraph (F) that says notwithstanding the provisions of subparagraph (A) if the chief executive does not nominate a person to fill a post or vacancy as required by the subsection within 30 days of the date the vacancy occurs, the Commission may within 30 days or hereafter at a regular or specially called meeting, elect a qualified person to fill the post without the necessity of a nomination by the chief executive so it makes sure that we don't have vacancies. That has been a public concern at previous meetings. Then paragraph

(e) we've added the line where the chief operating officer shall coordinate and supervise the process for making appointments vested by law in the chief executive and the Commission by maintaining a roster of all appointments required by this act and otherwise by law, identifying vacancies and the timing of the vacancies, reporting same to the chief executive and the Commission on a timely basis and posting on the county website a roster of appointments and public notices as to the existence and status of vacancies including the schedule for making such appointments. We asked the COO Mr. Williams if that was possible and he said that he thought it was. I think it's reasonable that somebody is responsible for monitoring when vacancies occur and making sure they are filled in a timely fashion so I think it's reasonable.

Section 15 motion to approve made and seconded by Jim Grubiak and Mary Hinkel

Section 15 votes: 13 ayes, 2 abstentions

Section 16 Chief Operating Officer

Chairman Henson - Right now the title is executive assistant so when the title was changed by us earlier in the Org Act to chief operating officer, we've done that throughout this section. In paragraph (a) it presently says the Commission shall confirm the executive. We're just changing the semantics - we're saying the chief operating officer whose nominations shall be subject to confirmation by the Commission. It's the same basic effect, but this makes it clear that the nomination is subject to confirmation by the Commission. It previously says the Commission shall confirm like they don't have a choice, so we just thought it more appropriate to have it the way. Then in paragraph (b) it says when directed to do so by the chief executive officer, the chief operating officer may exercise any of the administrative duties and powers vested in the chief executive or CEO we added the language: "In furtherance of this subsection the chief executive may delegate to the chief operating officer matters concerning the operation, supervision, and administration of one or more departments or agencies within the scope of the chief executive authority, including but not limited to appointment, compensation, or removal of department directors and other employees of the county." It exists now that the CEO can delegate that; we're just making it clear. And in paragraph (f) we did strike the word "exclusive" in that paragraph and took out the number "two" referring to administrators to assist the chief operating officer.

Re the delegation of authority - my reading of this and the attorneys that I talked to it said that it really had no official or legal change. The power rests in the CEO but he can choose to delegate some to the COO.

Section 16 motion to approve moved and seconded by Robert Wittenstein and Jim Grubiak

Section 16 votes: 15 ayes

Section 16 amendment

Commissioner Leak – In paragraph (f) where it says the CEO has the power to fix compensation for two administrators, I'm adding three deputies COO positions for infrastructure, development, and public safety and to include these positions on the county's organizational chart. I'm proposing this because Mr. Williams had indicated that they have three deputy COO's now, but it's not on the org chart and I think it

just needs to be defined because they're each carrying one third of the burden of delivering the services to the county. So that was the reason behind it.

County Attorney Ernstes - So I think it is unwise to define what deputy COO's exist and what departments they would be advising or representing this in a charter. County government can change over time; that's really not something that needs to be in your charter. Also, filling a vacancy in an employment position within a certain number of days is going to be problematic. Requiring it to be filled within 60 days does not seem to make sense. If you're in a terrible budget situation you may choose not to fill that position in order to do something else. Again, I just am concerned with you all doing these amendments at the very last moment.

Chair Henson - Thank you. I appreciate that and I share that concern. I would urge you to defeat the amendment. The amendment brings up some things that possibly should not be in the charter. Organizational structure is an issue that changes over time. The charter provides an outline for the structure of government.

Commissioner Leak - I would just like to make the point that the reference is already in the Org Act relative to the administrators and if there are positions that are being funded under this office they should be included. I'm not locked into what you call them, I just put infrastructure, development, and public safety in the amendment based on what Mr. Williams had told us previously of how it was structured.

Commissioner Hinkel - Does the word "administrators" mean something in the county that I don't understand or can it be an all-encompassing term? Is a deputy COO an administrator position? I think what's being communicated here is the frustration of lack of communication through the organization chart and in practice that these positions exist but they're not being reflected in our organization.

County Attorney Ernstes - To answer your question there is not a difference. There is not a special term or definition for the word administrator.

Section 16 amendment motion accept made by Claudette Leak and seconded by Susan Neugent

Section 16 amendment votes: 2 ayes, 11 nays, 2 abstentions

Section 17 Enactment of ordinance and resolutions; Veto Power of CEO

Chair Henson – We made a change on the title here. We added enactment of ordinance and resolutions prior to veto power chief executive and we added a sentence in paragraph (a) to say that if the chief executive does not approve or vetoes an ordinance, it becomes effective without his approval. That language is in paragraph (b) but we just thought it made better sense in this paragraph. There is no substantive change.

Section 17 motion to accept changes moved and seconded by Robert Wittenstein and Dwight Thomas.

Section 17 votes: 15 ayes

Section 18 Comprehensive development plan

Chair Henson – In this section we added “the present and planned physical” to economic and social aspects of the county. When they prepare the plan it's pretty much outlined by state law. We want to make sure it's clear for people looking at this regulation that they consider the present and planned physical, economic, and social aspects in line one and then in paragraph (b) we added the county shall at all times exceed the minimum required state law for public input regarding the preparing or revising of the comprehensive development plan. They do that now. The county told us they presently exceed that so we just thought it was good for the public to know they presently exceed the public input requirement. It's not that they have to exceed every aspect of the state law but it's important that they exceed the requirement for public input.

Section 18 motion to approve made by Vickie Turner and seconded by Clara DeLay

Section 18 votes: 15 ayes

Section 19 Budgeting

Chair Henson - State law requires a budget officer be designated for every county. Mr. Grubiak believes the CEO presently acts in that form so we added paragraph (a) to clarify that. In paragraph (b) we changed the budget submission date from December 15th to October 1. We talked at length about how the budget is presented but not approved until three months into the new fiscal year so we're changing the timeline from December 15th to October 1st throughout this. In paragraph (b) we're also saying the Commission may specify the manner in which the budget report to the Commission is to be prepared, presented, and supported with documentation. We want to make sure the commissioners understand the report and it makes sense that they have input on how it's presented to them. Upon submitting the budget to the Commission, the budget officer shall give notice to the public regarding the availability of the budget report and the schedule for any public meetings as required by state law. The Budget Office shall also cause to be published in the official organ of the county and county website information a summary of the proposed budget. Pretty similar language already exists, we just enhanced it. In the event the budget is not approved by December 31st we're saying the one presented by the CEO will be the acting budget for the upcoming year until the Commission approves it or amends it as they see fit because there won't be that three month delay, In paragraph (e) we just added the chief executive 's designee and revised the list of state offices mentioned in the state constitution as separate entities.

Commissioner Wittenstein - I raised the concern earlier about 19 (c). I had requested that we indicate that a summary of the budget will be published in the official organ, but the whole budget should be on the website. The way this got written it looks like a summary of the budget would be on the website. The website should have the whole 150 pages, which we can't put in The Champion. So in The Champion it should be a summary of the budget and on the website it should be the complete budget, and so I would ask that that wording be changed to recognize the difference between those two things.

Chair Henson - Ms. Brill will make that change. Does everybody understand that? That is a friendly amendment and is accepted and will be fixed.

Section 19 motion to approve changes made by Virginia Harris and seconded by Robert Wittenstein

Section 19 votes – 15 ayes

Section 20 Purchasing and Contracts

Chair Henson – We made some changes here, but basically right now the chief executive, subject to approval of Commission, shall establish rules and regulations re purchasing. We have changed this slightly to say that not later than 120 days after the approval of this referendum (There was discussion about what “this referendum” means and we discussed it with a couple of attorneys who said this is a referendum to approve the charter and that’s understood) the CEO will bring to the Commission a proposed ordinance not affecting those independent agencies (and we added the probate judge). The ordinance and any amendment made by the Commission shall be approved by the Commission within 60 days of receiving the draft from the chief executive. If the Commission fails to approve or reject the ordinance within that time frame the recommended one by the chief executive shall stand approved. Following this, the CEO may promulgate rules, regulations and/or guidelines. Also, the Commission may make subsequent amendments changes. We added to the thing that the ordinance would be published on the county website.

Now remember this section is part of a legislation that occurred in 2016. It was passed by the General Assembly but it was not placed on a referendum. Even though the county says they follow it, it’s really not codified because there wasn’t a referendum. If we get this before the General Assembly and have a referendum, I think it’ll be a positive move.

Commissioner Neugent - So the second to the last sentence following approval of the initial ordinance the chief executive “may” promulgate rules regulations and guidelines to administer the ordinance. I would propose we replace “may” with “shall.”

Chair Henson - I don't have a big objection to it but I wouldn't mind moving forward if you're alright with it I'd like to make it an amendment.

Commissioner Grubiak - Excuse me, but I'm not clear with that language “no later than so many days after the approval of the referendum.” I don’t think it's clear what the referendum is. That’s something we may need to work with the legislative counsel on. I think we need to determine what the date of the referendum is and then add 120 days. I think this is a one-time first step in creating this ordinance and then following up with the rules and regs by the CEO so there should be a hard date in there rather than saying a referendum.

Chair Henson – My thought was that when they take it to have it drafted by legislative counsel, they will put the date there and that will be clarified. As long as you understand it, I'm presently asking for approval the way it is and then we’ll vote on Susan’s amendment.

Section 20 motion to approve changes moved and seconded by

Section 20 votes – 14 ayes (Note: Commissioner Sanford had left the meeting at this point.)

Section 20 Amendment One

Section 20 motion to amend by changing “may” to “shall” moved and seconded by Susan Neugent and Mary Hinkel

Section 20 Amendment One vote: 14 ayes

Section 20 Amendment Two - Clarification re referendum date – After some discussion re potential dates in 2024 for a public referendum and the use of the word “by” in lieu of “no later than”:

Commissioner Grubiak - I'm going to assume that the most likely referendum date if this passes the legislature will be the November 10th election even though it's possible to do before, but maybe the most practical is the general election in November. If you had 120 days that's roughly April first of 2025, so I would just say no later than April 1, 2025, the chief executive shall establish rules.

Commissioner DeLay – I think we should use the word “by” instead of “no later than.”

Chair Henson - My belief is that if we do get this in there it will be a bill and it will probably pass one house in '24 and the second house in '25, so I'm not too worried about this today because I think it's going to change but Mr. Grubiak is a respected member of this Commission. He's made a change. Please repeat your motion.

Commissioner Grubiak - I would replace the “not later than 120 days” language with the date of April 1st 2025.

Chairman Henson - I will make sure that this Senator Harrell tells all the other members of the legislature that “by” should be considered and the date should be considered.

Section 20 motion to amend by replacing “not later than 120 days” to “not later than April 1, 2025” made by Jim Grubiak and seconded by Robert Wittenstein.

Section 20 Amendment Two votes: 14 ayes

Section 21 Department of Finance

Chairman Henson – So, in section 21 we just made a clarification – “except as otherwise provided by resolution of the governing authority”

Commissioner Grubiak - If you read on page 27, subsection (c) provides that the provisions of this section are advisory only. Basically, we're just making it a little more substantive since this section sets forth general accounting principles that exist but they may change and it presently says that this information is advisory. Because they might change, we want to give it a little more strength. We're saying that in this one section 21 if the commissioners wish to change these things to effectively keep up with the general accounting practices or as required by state law, they can change it without doing a referendum and coming to the public. They can do that instead of just saying the whole thing is advisory; this gives county government authority to do it. We had discussed it earlier.

Section 21 motion to accept change moved and seconded by Vickie Turner and Karen Bennett.

Section 21 votes – 13 ayes, 1 commissioner had stepped away and did not vote here

Section 22 Records; minutes

We stated in paragraph (b) from the discussions the other that the governing authority shall establish and maintain a record retention program in compliance with O.C.G.A. 50-18-99. I think the county would anyway; there is also an ordinance in the county to keep and maintain records so they already have that under ordinances but we think that's appropriate to reference here.

Further discussion with the County Attorney became confused over what was being voted on – the model draft or the amendment included on a handout from Commissioner Leak. Clarification was made that Commissioner Leak withdrew her amendment here, so the vote was on the drafted model language.

Section 22 motion to accept changes made and seconded by Robert Wittenstein and Vickie Turner

Section 22 votes: 14 ayes

Section 23 Agreement of candidates – there are no changes.

Section 24 Officials not to be interested in contracts

Chairman Henson - We changed the title to “officials not to have financial interest in county contracts.” We didn't see any problem with that. Again, Ms. Ernstes, you may think that that's not a proper description and while we may not get your input today on this I want you to know that Representative Bennett and Senator Harrell are willing to address all of your concerns.

Section 24 motion to approve made and seconded by Robert Wittenstein and Mary Hinkel

Section 24 votes – 14 ayes

Section 25 code of ethics

Chairman Henson - On page 32 midway, the CVI staff took out “nonanonymous” in paragraph 4. I don't recall discussing that, so without review and understanding, “ nonanonymous” is staying in and is not being deleted.

Commissioner Thomas – In this country if you are accused of something, especially if a fine or criminal sentence is involved, you have the right to know who is filing the complaint. This means the complaint cannot be filed without identifying the complainant. You have the right to know who your accuser is.

Commissioner Hinkel - We have chosen as a matter of policy not to mess with the code of ethics section, leaving it to the new ethics officer and the new board to work with what they have and if they have suggestions, they can bring them to the delegation.

Chairman Henson - We do have a few additions of “now or hereafter amended” in reference to statutes so we will do a vote on this section.

Section 25 motion to accept changes made by Robert Wittenstein and seconded by Dwight Thomas.

Section 25 votes: 14 ayes

Old Sections 24-27 were reserved in the current charter but we're deleting that reference. Legislative Counsel can reserve some sections if they want to.

Old Sections 24-27 motion to delete made by Robert Wittenstein and seconded by Jim Grubiak

Old Sections 24-27 vote: 14 ayes

Old Section 28 Use of voting machines

Chair Henson - Again we felt that this section is not necessary. This references a state law authorizing the use of voting machines from 1947. We're deleting this section.

Old Section 28 motion to delete made and seconded by Robert Wittenstein and Mary Hinkel

Old Section 28 votes: 14 ayes

New Section 27 Open Records Officer

This section is based on recommendations from the DeKalb Municipal Association. It does not mean that one person would get all the information, but there be one person in charge of coordinating and ensuring such requests are handled in a timely manner. We got the language from Gwinnett County. We looked at it for their open records officer. State law says the county is to have an open records officer. Many do, but we didn't have one designated. Presently you go to the department head and you file your open records request. This would allow one person to kind of manage it. They would still go to the departments and ask for the stuff to be done.

County Attorney Ernstes - So I don't think you can under the state law require folks to get sent all open records act request to the open records custodian. I have not looked at that recently but I believe that you can still make open records act requests to department heads and that it doesn't have to be to the open records tracked custodian necessarily. The issue I had and I need to check that but the issue I had was I thought that there was an amendment which was saying that all of the records would be under the custody and control of the open records custodian and you can't do that. Every department maintains records and so if that is not the amendment, then you can ignore the comments.

Chair Henson - OK thank you and, again, state law does mention open records officer. Many counties do have an open records officer and the open records officer would mainly be a person to help coordinate the events of open records request.

Commissioner Leak – Would this position be designated as the custodian of records.

Chairman Henson – No, they won't be. The clerk is by law custodian of the records. This would be somebody that the CEO would designate for that position and probably somebody that already exists in government.

New Section 27 motion to approve made and seconded by Robert Wittenstein and Greg Austin

New Section 27 votes – 14 ayes

New Section 28 Organizational Act Review Commissions

Chair Henson – We have all discussed that this has been a great process, we're all happy we're here, and we feel that other people should be so enriched by serving on future organizational act review commissions. We were told many cities and counties have periodic review of their charters. This section would allow the commissioners to do that. It does ask that they pay for it and provide technical expertise, and it does allow them to maybe highlight certain areas to look at. The last two sentences also say that they can - if the commissioners want to or the CEO wants to - tell them to look at certain ordinances and code chapters and make recommendations for revisions of said chapters, they can do that. The way it is written the next Commission would be January of 2029, which is six years away, and then every eight years thereafter there would be another Commission. There was some discussion of making it eight years throughout, but the legislature can discuss this.

New Section 28 motion to approve made by Jim Grubiak and seconded by Vickie Turner.

New Section 28 votes: 14 ayes

New Section 29 Pending matters

Chair Henson - Pending matters except as specifically provided otherwise by this act - you know actions contracts and legal or administrative proceedings - shall continue and any such ongoing work or cases shall be completed by such county agencies and personnel. I was told by the Carl Vincent staff this is commonly put in modern charters so all pending matters are properly handled.

New Section 29 motion to approve made and seconded by Robert Wittenstein and Dwight Thoms

New Section 29 votes: 14 ayes

Old Section 28 becomes Section 30 Existing ordinances, resolutions, rules and regulations

Section 30 is existing language. We only changed the section number, so no vote is needed.

Section 31 Specific repealer

This is new language and, again, it's standard form for new charters.

Section 31 motion to approve made and seconded by Robert Wittenstein and Greg Austin

Section 31 votes: 14 ayes

Section 32 (old section 29) General repealer

This repeals all laws and parts of laws in conflict with this Act.

Section 32 Motion to accept made by Robert Wittenstein and seconded by Greg Austin.

Section 32 votes: 14 ayes

Section 33 Separability clause.

Chair Henson – We just changed the “a” in Act to a capital letter and changed the number. Because it's the last one, we're going to vote on it.

Section 33 motion to approve changes made and seconded by Mary Hinkel and Jim Grubiak.

Section 33 votes: 14 ayes

Chair Henson - Ladies and gentlemen, your work has been tremendous. We still have a report to do. The Carl Vinson Institute is going to try to re-capitulate issues that have come up and any of your positions that may differ. I would like to remind members that they're going to prepare a report and I would like all of you to think that if there's something you thought was done here that wasn't right, if any of you think that there's a better way to handle this or section by section general comments, but try and limit to a couple pages, you can do so and these messages will be one of the appendices. Commission members thoughts and your thoughts are appreciated, so if you have a page or two you want to say on thoughts of how this could have been better, or issues we should have taken up, or any comments you want that are positive as well, you can present that. This is an historic thing that the CEO has done. We are actually recommending some significant changes for the legislature to continue. Often these things are dropped.

I think this is going to move forward. Please get your letters to us as soon as possible by November 15th. Send them to Lori Brill, Chair Henson and the secretary.

We do have the public hearings in District 1 and District 3 to hold and the dates that we had talked about were November 9th. November 9th is where we were looking at possibly district three. I had surveyed y'all for October 26 in case we needed to carry on voting on the 26th, but I don't think we have time necessarily to do a public hearing on October 26, so we're going to do one November 9th probably at the Senior Center in District 3. We will get that information to you.

We have our draft so we can get input from the public. Then we will have a full report hopefully in early December and the reason we haven't set a date for that yet is because I don't know for sure when they'll have the draft copy ready. I want us to have a draft copy and I wanted to have either a meeting preferably like the first Thursday in December when we would have a quick meeting to look over the draft copy and, hopefully it'll be perfect, then we can approve it. It will be sent to you as soon as we get it, but I don't know the exact timing when it's going to be ready. Then the following week we would have a public hearing with the full report that you could give to the press and any public there and again get more feedback on what we've done. Members of General Assembly - hopefully you'll be there because you can get some of the objections maybe to what we've done or thoughts so that you can take that back for the next phase. So that was my thought. So, right now I would keep the date November 9th for the next public hearing and then I would try to keep the first two Thursdays in December available. Those would be my preferred dates to have a meeting and have a public hearing. We will take no official action if we don't have a quorum. We'll still hold a public hearing. I want a quorum, so do to come if you can.

Commissioner Hammonds - The public hearing - that is different from public comments? They're going to be specifically commenting on the document that we're presenting or is it still kind of open?

Chairman Henson - It's open. The public hearing will be open for any thoughts or comments they have and they will be added, even the last one that was after we get a draft. Whatever comments we get at that time or up to that time will still be added at the back of the report.

Commissioner Wittenstein - I want to thank Steve for his efforts. This has been a herculean effort and he has done really a spectacular job.

Chair Henson – Thank you. I appreciate it. Our vice chair has been a tremendous help. She's been a good sounding board for me and Mr. Grubiak has been a big help and all of you who have engaged in this thing have been tremendous. I would appreciate it if you would, again, look to your emails because our secretary will update you whether or not we're able to find a location for public hearing and where and when our next meetings will be.

VI. ADJOURNMENT

Meeting adjourned at approximately 9:15.

Steve Henson, Chairman

Barbara Sanders-Norwood, County
Clerk