

DEKALB COUNTY CHARTER REVIEW COMMISSION

May 17, 2023

In Person Meeting

Manuel J. Maloof Center

SUMMARY

I. CALL TO ORDER: 6:02 p.m.

II. ROLL CALL

Steve Henson, Chairman

Virginia Harris, Vice Chairwoman

Karen Bennett

Claudette Leak

Lance Hammonds

Mary Hinkel

Robert Wittenstein

Susan Neugent

Clara DeLay

Jim Grubiak

Dwight Thomas (by phone)

Vickie Turner

ABSENT:

Dr. Gerald Austin Sr.

Bobbie Sanford

John Turner

Ex-Officio Representative Karla Drenner

Ex-Officio Senator Emanuel Jones

STAFF:

Zachary Williams, Chief Operating Officer

Representatives of the Carl Vinson Institute

Viviane Ernstes, County Attorney

Barbara Sanders-Norwood, Clerk

III. MINUTES: Minutes from the May 11 meeting will be voted on at the June 8 meeting.

- IV. INTRODUCTION of INVITED GUESTS: None
- V. REPORT FROM THE CHAIR: Recognized that the proposed work schedule needs to be revised and an additional public hearing added on the calendar
- VI. UNFINISHED BUSINESS: The Chair provided brief updates to what was discussed at the May 11 meeting regarding Sec. 4 Running for other elective offices, Sec. 6 Vacancies and Sec. 7 Oath and Bond

VII. NEW BUSINESS:
 The Commission reviewed and discussed possible revisions to Org Act Sections 8-10(A) with each other and with Lori Brill of the Carl Vinson Institute and Viviane Ernstes, County Attorney. Commissioner Ted Terry, who was in attendance, was asked for additional comments regarding Section 9 Powers and duties of the Commission.

Chair Henson announced that the Code Compliance Director will be a guest speaker at the June 8 meeting.

VIII. REMARKS OF INTERESTED CITIZENS/PUBLIC COMMENT

Davis Fox
 Steve Binney

XI. NEXT MEETING DISCUSSION & ADJOURNMENT:
 The next meeting will be Thursday, June 8, in person at the Maloof Auditorium beginning at 6:00 p.m. A second June meeting will be held on June 22.

The Commission adjourned at 8:45 p.m.

MINUTES

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MALOOF AUDITORIUM

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Barbara Sanders-Norwood, County Clerk
Commissioner Edward Terry
Lori Brill, Carl Vinson Institute

Chairman Henson – The minutes from the previous meeting are not ready. They will be submitted at the next meeting. We are going to ask Mr. Williams to bring the Code Enforcement officer or the head of the building process to the next meeting.

I would just like to comment on a few things that were discussed at the last meeting. Particularly vacancies. The commissions positions are staggered, especially people who are running for CEO. Four commission seats run so that they run concurrent to the CEO position. If those four commissioners wanted to run for CEO, they would serve through the year, but they wouldn't be able to qualify for their seat. Someone else would fill that seat for the summer. The other three are not concurrent and when the election comes around, if they qualify for CEO they have to resign their position under State Law. We could conceivably lose three commissioners at one time. Under present law, all vacancies are addressed, and they can be filled with an appointment if there are less than 180 days remaining. In Mr. Grubiak's recommendation, he did have language, trying to make sure the Commission knew that they needed to address that appointment quickly. He suggested a 30-day time limit for the commissioners to fill a vacancy. So that might address everybody's concern quickly. We might want to address the situation with Former CEO Lee May and Former CEO Burrell Ellis. The CEO was indicated and removed from office. Lee May was acting as CEO and his seat was vacant. What Mr. Grubiak has suggested is that the vacancy should be filled in a temporary manner within 30 days of the vacancy. We may need a little extra language to make clear that the elected commissioner who was presiding during the vacancy would not be knocked out of a seat because they appointed somebody to fill the vacancy. Judicially, there might be some precedents that would resolve that. Does that sound appropriate Mr. Grubiak?

Commissioner Grubiak – Basically, my main point last week was how all this fits together. It is more complicated than it appears on the surface, and I would like to have some guidance from the Law Department on how we best deal with the current state of the law. The question was asked who would put that temporary person in place?

Chairman Henson – At the present time, I believe Mr. Grubiak’s amendment was built on the foundation of State Law. If there is a vacancy, the Commissioners will appoint the new person.

Commissioner Leak – Are you referencing Section 6(b), where the presiding officer, in the event of a vacancy in the seat of the Chief Executive Officer, the presiding officer moves forward and then it creates all of that. I just want to make sure I’m on the right section.

Chairman Henson – You are in the right section. There were comments in your recommendation on CEO and Mr. Wittenstein’s. I do have concerns about having the Executive Assistant filling the role of an elected officer. The Executive Assistant may not even live in the county.

Commissioner Leak – I don’t even know if it’s legal or not. I’m not a lawyer. We may have to get an opinion from the County Attorney. Also, I wanted to amend the last sentence at end of the paragraph where it says “Upon the completion of the election process”, it should read, prior to the completion of the election process, where I was recommending that instead of all this movement between the board and executive officer, the CEO has delegated to the COO certain responsibilities. If it is a short period of time that these openings would occur, then you want to keep as much stability in place as possible. If you are designated temporary CEO, you run the risk that there are going to be changes, operational changes and things that may occur.

Chairman Henson – I think the simpler way to make sure we have an elected person take the job would be the presiding officer. Would it be possible that it is meant to be temporary, because you wouldn’t want to disenfranchise the official. I think we can resolve it without moving the executive assistant up. Again, the executive assistant may not even live in the County and to have them take on not only the managerial roles but also more would be tough and even if you say the presiding officer will take over the ambassadorial duties that becomes confusing and would take more changes and be confusing.

Commissioner Leak – I am open to any language. This was my first pass.

Chairman Henson – I would like you to comment off the cuff County Attorney. Fulton County has a 30-day requirement to fill the vacancy for a commissioner.

County Attorney Ernstes – Let me offer a couple of points as you think about this section. If you go back to Mr. Ellis’ indictment, it’s very important to remember the CEO Ellis was not removed from office.

Chairman Henson – Correct.

County Attorney Ernstes – He was simply suspended.

Chairman Henson – Correct.

County Attorney Ernstes – So I believe you don't want to confuse a permanent vacancy with a temporary vacancy. I don't think a temporary vacancy would ever trigger a Special Election because as you all know, Mr. Ellis returned to office. It was a brief period of time, but it was within his term, and he did return to office after his conviction was reversed by the Georgia Supreme Court. So, as you are making these changes, it appears that you are solely focused on the temporary nature of this position.

Chairman Henson – No, the 30 days we're talking about would be on all vacancies. We are also talking about would be on all vacancies. We are aware that he was suspended and not removed, but we are also aware that Lee May was acting in that position.

County Attorney Ernstes – I was not County Attorney at that time. So, the view is not the County. I take responsibility for the decisions that I make as County Attorney.

Chairman Henson – Thank you, but we don't want to address that situation where it's a temporary situation. Hopefully, it will never happen again - temporarily removed but not vacant.

County Attorney Ernstes – You're not trying to address a permanent vacancy?

Chairman Henson – In our discussion right now, I'm talking about a temporary vacancy.

County Attorney Ernstes – Okay, that's what I wanted to make clear.

Chairman Henson – Sure, but part of the same discussion.

County Attorney Ernstes – different than you would a permanent vacancy.

Chairman Henson – We're trying to address them very similarly. We're trying to say that if it's a permanent vacancy, you are right. We're mainly focusing on the temporary vacancy at this time. If CEO is a permanent vacancy, we would worry about the backfill situation of the Fifth District. Under the present state law, if the CEO were to die or something were to happen, what would be the replacement method, the presiding officer would become CEO?

County Attorney – It depends on the amount of time left on the term.

Chairman Henson – Okay. More than 180 days.

County Attorney Ernstes – That's right.

Chairman Henson – So it would be a temporary vacancy for the district if he has less than 180 days and the presiding officer would still act. Right

County Attorney – Right.

Chairman Henson – We would want to make some arrangement where the fifth district had a temporary person and so that was brought up last meeting that they don't want to be without, even if it's only for 90 days. So, if we put a 30-day thing in there, we might be able to get somebody. Someone suggested that a temporary person be barred from running for office in the future. I don't personally think that's a good idea. I don't think we ban people from running, because that's democracy; people decide.

County Attorney Ernstes – Maybe what you just do is make a very simple recommendation. Rather than trying to write the language itself, you just make the recommendation. The temporary vacancies, just as you described the vacancy provision this evening, could just have a bullet.

Chairman Henson – In many places, as we do this, in many places we will just have a line saying, red line. This is what we suggest.

County Attorney Ernstes – Or just a suggestion that it be amended to provide for a temporary vacancy that should be filled.

Chairman Henson – In many cases, we will do that. If we can get the language pretty close, I'd like to provide it because I know what the legislature is like and the more help we can give the better.

County Attorney Ernstes – You're providing it to the board, you're not providing it to the legislature. You're making a recommendation to the Board of Commissioners and the CEO.

Chairman Henson – A question was asked if everything was being sent to the legislature. The legislature is the one that will create the action to make any changes.

County Attorney Ernstes – Correct.

Chairman Henson – The legislature is also a member of the committee with the Chair of the House and the Senate.

County Attorney Ernstes – We've been told recently that legislative council has its own opinion on how things should be drafted. It is just a thought for you to consider. With respect to your having the executive assistant serve as the CEO, I think you've probably hit the nail on the head. There is in Georgia Law, if I remember correctly, you're not allowed to make folks live in the county if they're not elected. I don't believe you can make county employees live in the county in which they work. So you could have a very difficult situation, and I agree with you. It probably needs to be an elected official. I've not researched that, but that does make sense.

Commissioner Hammond – We've gone through the sections, we're making recommendations and we're going to catalog these, and then we're going to come back and vote on these at a certain time?

Chairman Henson – I think that's an appropriate way. I'm open to recommendations, but I kind of thought that we might go through each section and be able to make changes. I would like to have it as detailed as possible and then we can vote on it. If we do not reach ten people, which is a high threshold on any recommendations, then we'll have another meeting where somebody from the commission wants to go back and rework it and bring something else, we'll have another crack at it.

Commissioner Hammonds – Okay, Because I was just thinking if there's a vacancy, if the COO would move up, I'm vehemently against that because that's not an elected person, and COO could just keep doing their job and the citizens won't suffer. That is what this thing is all about, delivering services to the citizens of DeKalb County. So, there is not a need for the COO to step up to the CEO. I am not for that.

Chairman Henson – No, I appreciate you stepping forward and saying that because I think that brings clarity.

Commissioner Wittenstein – 15 minutes ago I said I was fine with Mr. Grubiak’s recommendation. I really do think we can move on. I think the question for the County Attorney was can we fill a seat on the commission temporarily while the Chair is acting as CEO? Can the commission temporarily fill a seat on the commission that then gets vacated when the Presiding Officer comes back. Also, whether or not we can have a 30-day requirement and at the end of that 30 days for picking somebody, the head of Superior Court gets the opportunity to fill the seat. Right. I think everybody has beat to death the idea that the COO would become CEO.

Chairman Henson – thank you for moving us on. Also, regarding Oath and Bond, I also think we discussed and resolved those issues. So now we are going on to number 8 – Compensation.

Commissioner Grubiak – Mr. Chairman, before we go on from Oath and Bond, we need to look at that a little more carefully in terms of the amounts and so on, whether they make any sense or not. The County may have a blanket bond that covers all officials in the county with ne – I don’t know if the amounts vary, how it is in DeKalb, Viviane, if you have a blanket bond through your insurance property casualty.

County Attorney Ernstes – I do not. That is outside my purview.

Commissioner Grubiak – But counties do?

Chairman Henson – They may have all their fiduciary employees bonded, which might be more than we are asking about.

Commissioner Grubiak – Lori you did look at other counties and their bonding levels and they were similar.

Lori Brill – I provided it to you.

Commissioner Grubiak – A lot of county officials are required to be bonded. There’s no requirement that county commissioners be bonded that I know of, in general law, many of them are, but it’s not required. But there are requirements for like the sheriff and county police and deputies and a whole series of county officials are named in various state statutes. The objective of the bond is to protect the county from wrongdoing.

Chairman Henson – Even though Mr. Wittenstein commented in his comments that maybe we didn’t need it, we can look into it and if the COO thinks it cost the county unnecessary money, let us know but if it protects the taxpayers and it’s part of the package, I don’t think we need to spend a lot of time on it.

Let’s move to Number 8 in Compensation. We are all aware that since the charter was originally done, there has been some changes in state laws. One of those state laws allows the commissioners to set salaries and another long practice and it is also an option under state laws for the general assembly to set salaries for the commissioners and CEO. Recently a bill passed by a state representative which sets the salary for a CEO and commissioners at a certain percent of the Superior Court judge’s. Mr. Grubiak’s recommendations and his recommendations had and several of the other people had as well. Ms. Hinkel and Mr. Wittenstein both had discussions of it where we would put in this chapter that we set salaries based on applicable state laws. At the State Law, we will reference the one that allows commissioners to set their salaries and we’ll reference the state law that allows General

Assembly to set the salary. Mr. Wittenstein you had the commission would be 75 percent of, I believe the 100 percent of the Superior Court judges is around \$220,00, which would be the new CEO salary. The Commissioner's salary is 31,994 and Carl Vinson thought it would move to approximately \$71,000.

Commissioner Wittenstein – In terms of the CEO and the county Commissioners, the CEO's salary in accordance with state law, the way that I understand it, is that the county commission can give the CEO a raise. The CEO can't give himself a raise.

Chairman Henson – The legislature can set it, or the governing authority can set it, which would include both inactions and actions by the commissioners, primarily, but also the CEO. So the commissioners would have to approve a change in salary for the CEO and for themselves, if they wish, or not. I think that would be open for a veto action if the CEO wanted to try to do that on any of those salary issues. If they were enacted by the governing authority, the CEO – the commission, then it would be applicable.

Commissioner Wittenstein – I would make two points:

1. I like the idea of taking the power of setting salaries away from the CEO and the County Commission and setting those based on a benchmark that's somewhere else so that the salary doesn't become a political issue. If the salary is based on the salary of the Superior Court judge, then the state legislature essentially is responsible for setting the salary. We don't have to worry about the commissioners doing a favor for the CEO by raising his salary and having some kind of quid pro quo and having potentially political issues around whether or not they're getting salary raises.
2. The County Commissioners have become a full-time position, and I think they need to be recognized as that. I think the idea that you're going to pay somebody 30 or 40 or 50 or \$60,000 for a full-time job is unreasonable. It means that only people with money can become county commissioners. I think we need to recognize this as a full-time job and that's the reason that I suggested that the county commissioner get 75 percent of the salary of the CEO. I would also restrict their ability to earn money in other ways outside of being a county commissioner. So, they shouldn't be running a business or getting paid to speak or doing consulting work because the commissioners have told us this is a full-time job, and they're doing this every day.

Chairman Henson – I believe that Mr. Grubiak or Ms. Ernstes might want to comment. I believe state law, general law states that the commissioners can set their salary. I don't think through a local act, the local act wouldn't supersede a general bill. We have no power. We're referring to the commission and to the delegation. The delegation would have to change a general state law to allow counties and their charters to vary. So, we can't take away the commissioners' power to do that. I believe that more often than not, elected officials, although a few years ago there was a controversial issue in DeKalb, more often than not elected officials tend to be afraid to raise their salaries for political purposes.

Commissioner DeLay – I would be very hesitant to restrict their ability to have outside income. They are not giving up their entire lives for a commission seat. I think it would be restrictive, especially for married individuals.

Commissioner Wittenstein – The CEO has restrictions and there are restrictions in order to avoid potential conflict of interest. If you have a full-time employee of the county, you ought not be doing things that might have a conflict of interest. I am interested in not having somebody pulling a full-time salary from the county as a commissioner and also having a full-time job somewhere else and trying to claim two full-time salaries.

Chairman Henson – I kind of missed that as your intention of raising the 75 percent. Your intention was to also, beside the raise, like the CEO, prohibit them from outside work?

Commissioner Wittenstein – I'm not so concerned about them having any outside income as much as I want them to recognize that we've elevated this to a full-time position.

Chairman Henson – I think the constituents when they elect people, they have the right to decide who's running for those offices. I kind of agree with Ms. Delay. You know, as in the past we had bank presidents serve as county commissioners. Now it is more demanding than when Robert Harris was around or Bill Evans years ago. But still there are people that have investments and holdings and business that may be very capable and may be very helpful to the commission to have served. I tend to agree with her that we might want to be careful.

Commissioner DeLay – The concern is more ethical and the ethics rules bar you from having business that are related to the county and county business.

Chairperson Henson – Yes, I think we need to look at that.

Commissioner Leak – One of the suggestions that I had relative to this section on compensation, and I tend to agree with Robert that we haven't had any discussion, but should we have discussion on whether or not the board is full time or part time? In 2018, their salary was \$40,000. As of the bill that as just passed in the General Assembly, where they got a 31 percent of the judge's salary, those salaries are now at \$71,000. I have something to discuss with the County Attorney. That increase that the commissioners gave themselves, was a lawsuit filed and what is the status of that so that we can be clear, you know?

County Attorney Ernstes – It's still pending.

Commissioner Leak – It's still pending. Thank you. I was raising the same question as it relates to the Board being able to give itself a raise versus the state and their ability to give a raise as well. A lot of time it is not going to be as visible at the state level as it is going to be the local level so the fire's not as hot. That is what happened last legislative session where the board received another increase. So actually, since 2018, it's increased 43 percent.

Chairperson – The commission had raised the salaries to about 60,000.

Commissioner Leak – 64.

Chairperson Henson - 64. So this is a little bit increased on that. General law pretty much covers this section because compensation through general law says the commissioners can set the salary or the General Assembly can set the salary. That back and forth is not going to happen because of the ramifications therein and my county attorney can you comment on that?

County Attorney Ernstes – So I'm not going to comment on the litigation, nor am I going to comment on Section 8. It would not be appropriate for me to do so at this time. But let me just make two points for you all to know. When Senator Henson talks about general law, just for everyone to understand, if you change general law, it changes the law for all 159 counties. You don't want to do something like that. I mean, that's the power of your commission. But I think what he is saying is making recommendation that would change general law that would affect all 159 counties is probably not going to get as much traction or consideration by commissioners, CEO and the delegation in the legislature. And, secondly, under this general statewide law, commissioners are only as it's the governing authority who sets it, you're absolutely correct. You can be hired as co-council. The governing authority sets it, but they can only set it at certain times, which are close to elections. So there is built into that law for the 159 counties, if you don't like what's happening, you can un-elect someone who set their salary at some high level. I just thought you might want to have that.

Chairman Henson – The main issue when a local authority sets their salaries is that it doesn't go in effect until the next term.

Commissioner Leak – Correct.

Chairman Henson – I see Commissioner Terry is here. Do you want to weigh in on this discussion. I won't allow him to speak on compensation.

Commissioner Leak – I do agree with Ms. Delay about whether or not the commissioners have another job or not. If you can handle it, handle it. And if the constituents think you are not, they'll let you know.

Commissioner Hammonds – Yes

Chairman Henson – Elected officials, even though you recognize them as full time, they're not like the regular county employees. They're elected officials elected by the people for a short period of time. Their job has moved into something that is full time. So, let's just leave it. I think we should leave it full time and come up with a way where they don't have to raise their own salaries. We expect them to all work full time and do like I did under work at the other job, which I tried to get away with for 20 or 30 years.

Commissioner Vickie Turner – I'm trying to agree with Ms. Delay. I don't think it would be appropriate to restrict their ability to garner other income. I think that the fact that when the salaries were low, nobody had any problem with them working two and three and four jobs, however many that was, nobody had a problem. I think that the fact that we're giving recognition to the fact that this is a full-time job still should leave that to the discretion of the voter if they feel like they are being represented accordingly.

Commissioner Bennett – Before you leave this topic, I would like to let the record show that I am reluctant about putting a value on any salary amount. We can say that it is a lot of money or not a lot of money, but I am reluctant for this body placing value on different salaries. As Dr. Turner said, when salaries are low, no one complained. 70,000, could be high or low, depending on what community you are in and what the cost of living is and several other factors. I wanted to weigh in on this subject. Commissioner Grubiak your recommendation was "Unless otherwise provided by a local act to the General Assembly, compensation of the CEO, commissioners, including salary, expenses and

expenses in the nature of compensation, may be fixed by the governing authority in accordance with the state law and the OCGA is now and herein amended.” That would allow both general laws, one allows this legislature to set it, and local government set it?

Commissioner Grubiak – Correct. There are actually three other statutes that are companions to the first one. I didn’t have it in what I handed out to you last week, but there are three other provisions that follow right after 36-5-24 that deal with cost-of-living adjustments and some other adjustments.

Chairman Henson – Ms. Hinkel.

Commissioner Hinkel - I would like to ask this commission in our recommendation, I do think salaries for the Board of Commissioners and the CEO should be public knowledge and should be somewhere on the website so that the public does know what the salaries are. Because if we’re taking out the numbers from the charter, which I totally understand and agree with, I still think for transparency, the public deserves to know the salaries of these officials.

Commissioner Bennett – Mr. Chair, I am totally in agreement with total transparency. However, when we get into publishing one set of elected officials’ salaries, then are we looking at the judges down and as you say does it impact across the state?

Chairman Henson – No, that’s a good compensation question. The charter addresses most directly the commissioners because the general law prescribes much for the sheriff and others. In fact, the legislation that Representative Mitchell passed had a full train that you voted on that has those other officers. So that is a good point.

Commissioner Grubiak – The salary bill that the Chairman is referring to. Did that not supplant the decision that was made by the commissioners back four or five years ago to set their own salary. Is that kind of moot now?

County Attorney Ernestes – Before you move from this, just one point about transparency. So, it’s my understanding that you can set salaries either by local law, general law, or this process in 36-5-24, all of those local law is publicly available and most county official and judges that is set by local law so that is publicly available. It can be on a website as well, but it is in local law. Oftentimes the local law is codified in your code and does occur in DeKalb as well. The action to set it by the commission has to occur at a public meeting.

Chairman Henson – If you are not at that meeting and its 12 years later and you want to see what the CEO makes, you couldn’t find it out unless you called him and asked him. So, your point is well taken, there is a means for securing the information.

Commissioner Hinkel – I just want it public.

Commissioner Leak – On Section 8-1, to delete it. That’s the reference to the 1991 salaries? Need it to just be deleted.

Chairman Henson – If that is all, I think we will go to Section 9. There are several recommendations on powers and omissions. Madam Secretary, would you like to go first.

Commissioner Hinkel – So I had on 9(a), I wanted to add the word “oversight”. I would say Mr. Grubiak has taken care of my concerns by adding the word “legislative”. It’s just being consistent that the

Board of Commissioners is the legislative branch. But then I have new powers I'm wanting to give to the Board of Commissioners. One is control over hiring of the planning director.

Chairman Henson – I want to ask Mr. Williams (a) the role of the planning director. And if there's areas the planning director has that do not fall directly under the powers of the commissioner and if the commissioners at present have staff here. They have a chief of staff, and they have maybe four other members. Do the commissioners have the power to have someone who focuses on planning and zoning on their staff and would that person be able to coordinate with the administration staff? If so, I think Mrs. Hinkel's concern is that the powers of zoning and planning, many of them are the commissioners. You don't want to have the CEO have somebody under their employ who's not working fully and not devoted to the commissioners on their actions. So why don't you give us some thoughts on what the role of the planning director is and whether or not you think this would be appropriate.

Mr. Williams - We have the Planning and Sustainability Director and he has a couple of different shops or sides of the operation. The most important is the function of the zoning administrator which is really dedicated to the zoning issues that come before the Board of Commissioners and that the CEO has no jurisdiction over. That is an element within the Planning and Sustainability Department. That is a specific function within that business unit that deals with zoning, but there are also functions that deal with long range planning. There are functions that deal with permitting and building codes. As a matter of fact, Mr. Robinson came and spoke with spoke to you and he deals with more than building codes, but there is that zoning administrator function. The Commissioners do have a few staff members who assist with the managing of the commission, issues that come before them, typically in committees, assisting in the evaluation of the budget and that sort of thing. They would not be a replacement for the zoning administrator. The zoning administrator and that function is a separate specific function that currently reports to the Planning and Sustainability Director.

Chairman Henson – So on the position, correct me if I am wrong Madam Secretary, if the commission is responsible for zoning, that they have a greater impact on hiring the person who is making those recommendations.

Mr. Williams – I think the position would be specific. When our forefathers wrote the original arrangement for the selection, appointment, and confirmation of the planning director, that maybe was the thinking and have the CEO nominate and the board confirm the Planning Director. That is how it currently works. That does not necessarily get to that specific responsibility as enumerated that gives the Board of Commissioners responsibility and authority over zoning. There is a specific position in the Planning and Sustainability operation that deals with that.

Commissioner Hinkel – So why can't the Board of Commissioners be responsible for hiring the Head of the Planning and Sustainability Department for all of that? All of the areas that are under the Planning and Sustainability are areas that the community and residents of communities care about. Long-range planning, the comprehensive development plan and 2050 plan. You have had community meetings about this. These are areas that the people really do connect with, and they turn to their commissioners for help with. I don't understand why the director couldn't be hired under an employment contract. "The commission shall seek the advice of the executive assistant and merit system director in selecting candidates. If the Chief Executive – what do we say here? "Subject to confirmation by the Chief Executive, the commission shall select and nominate the Planning Director, seek the advice of the executive assistant and merit system director in selecting. If the Chief Executive does

not confirm the nominee, the commission may submit another nominee or approve the appointment, with five votes. The Planning Director shall be hired using an employment contract every four years. This contract shall be reviewed by the commission and subject to evaluation, renewal or dismissal by the commission. So, there is a role for the chief executive, if we have – continue to have one, but this is coming under the Board of Commissioners.

Chairman Henson – We may not need a comment from him. Recently the CEO is over the administrative branch. Specific zoning, I saw as a concern. I have some concerns about chopping up half the administrative branch.

Commissioner Hammonds - In my work with the coalition and other community groups, we go through the zoning process, people are real sensitive and concerned about zoning issues because it's in their backyard. If you think about how this process goes, it goes from the community council, then it goes to the planning commission, which is made up of citizens, then it comes to the commissioners to make a vote. The commissioners have the right, if the planning commission says, or the planning director, his department says, we recommend you don't do this. They do have the option, if I understand this correctly, they can say, no, this is for the betterment of the people, so we're going to do this. They could get sued and go through legal whatever, but they do have the option to make decisions. Could that be a conflict of interest of them hiring somebody that is telling them, no, don't do this, and they choose to do it anyway? So that might be something to consider in that situation, because the commissioners do have the last say on this.

Commissioner Hinkel – Well, the commissioners have the last say, but there are some areas that the administration of the Planning Department, the Planning Department Director, control that they can approve things that the commissioners then don't know about. So maybe that is a communication function.

Commissioner Wittenstein – Those are administrative variances. There's some class of variances that the Planning Department can make and that can be challenged later.

Commissioner Hammonds – My only concern is I just don't want there to be a conflict of interest if they hire the Planning Director. The way I see it, there could be a conflict of interest if that person is their employee.

Commissioner Hinkel – Okay, so shall we just move on to the next item? I don't think we're going to resolve it.

Commissioner Grubiak – We never heard from the planning director in terms of planning process in DeKalb. The long-range planning and the decisions that are made about the future of DeKalb, does that come within the terminology of zoning, or is that, say, planning and zoning? Are the commissioners responsible for planning and zoning or just zoning only? I'm a little confused about that. Who does the long-range planning? If the Commissioners express some interest in doing an overlay district in some neighborhoods, how does that get developed? Is that part of the Commissioners function?

Chairman Henson – Yes, but I do think the commissioners do vote for overlay districts and do approve them. So, they're evidently involved in the process and probably their work sessions discuss that and have a relationship with staff. County Attorney do you have a comment?

County Attorney Ernstes – The Org Act currently provides for the Board of Commissioners to have authority over planning and zoning. I do know the Planning Director does things outside of long-range planning. The Planning Director does things outside of long-range planning. Permitting is one issue. Building permits, electrical permits, and business license. They do that which is outside of the planning and zoning category. I think those are the two that I can think of that are closely related to building and permitting but are not really related to planning and zoning.

Commissioner Grubiak – That kind of gives rise to the notion of if the commissioner is responsible for planning, long range planning and so the staff that actually performs that work is the CEO staff, it seems like it takes away their ability to apply the public policy kind of issues that they are interested in setting forth through the comprehensive planning process. So, the Commissioners want to go in one direction, and they can't tell the staff, okay, here's what we want to do, you go and do it and report back to us. Because it is the CEO who is going to be the one that says, yes, I agree with the commissioners. Go ahead and do that planning function or pursue that planning question. If the CEO doesn't say that is a good idea, I'm for it, it's the top of my priority, then it may not get done.

County Attorney Ernstes – I think that is part of the reason that the Planning Director is subject to confirmation by the Board of Commissioners and is a merit protected employee That means that employee cannot be fired without cause. He or she has protection under the personnel code. So, he or she actually has a property interest in their job which is different than someone like me.

Chairman Henson – Mr. Terry do you have any comments.

Commissioner Terry – No, I appreciate that. I', here listening. I think it's a fascinating conversation. I'm picking up what Jim and Mary are putting down. I think Lance also makes a really good point as well. I never got a chance to vote for the planning director. He was already approved and voted on before I got here. We currently have an interim planning director. It is an opportunity to evaluate how the Planning Director is doing. I would like to know how long there can be an interim director. As long as they want? This brings up another question, how long can other appointments be vacant?

Chairman Henson – I think we saw that in the last presidential situation where there were numerous people in high levels that demand Senate confirmation; never got it. Your next item Ms. Hinkel.

Commissioner Hinkel – I have “the power to adopt ordinances structuring the means to promulgate administrative procedures for the operation of county government. The Board of Commissioners may recommend or propose at any time to the CEO and executive assistant such measures or proposals as are deemed necessary or desirable to improve the administration of the affairs of the county.”

Chairman Henson – That might be something we want to take a look at. I'm sure that Mr. Williams has, and he's stated that commissioners come to him and propose things frequently.

Commissioner Hinkel – They have resolutions, and they go back and forth between the different committees. In 2021, Robert Patrick introduced a resolution to ask that the county improve its county website. It has gone through many times back and forth between committees, then back to the Board of Commissioners, deferred, and then I just noticed recently it's been dismissed and there's no explanation available to the public unless you're attending every single meeting. Anyway, I just think here it is specifying that the Board of Commissioners can put forth administrative procedures for operating county government, that's taking it to the next level.

Commissioner Hinkel – Next: Power to make inquiries of department heads for purpose of obtaining information needed in the discharge of duties, including responding to constituents concerns and sharing information with the commission as warranted.

Chairman Henson – The Org Act is very clear in stating that the commissioners can ask department heads for information, and they can get that information.

Commissioner Henkel – But related to policy development, not relating to necessarily constituents' concerns.

Chairman Henson – Mr Wittenstein.

Commissioner Wittenstein – One of the challenges with the CEO form of government is that county commissioners can ask for information, but there is no obligation among the department heads or the county employees to give them the information. The department heads aren't answerable to the county commission. There isn't a sense that the county commission has any mechanism other than to get on their knees in front of the CEO and say, please can't someone get me this?

Chairman Henson – First, we need to decide if it needs to be fixed. I know that they do ask for things to be done and it doesn't always get done. But as far as general information, I think they get it; if they ask for somebody's garbage truck to be picked up and it doesn't happen the next day, I don't know that we can put that in the Org Act.

Commissioner Wittenstein – That would not be appropriate. We don't want department heads to be taking work orders from county commissioners. However, they should not be in a position where they can ignore county commissioners or provide less than full information when asked.

Commissioner Vickie Turner – I think when I'm listening to the comments that Robert is presenting, I wonder if it's unique to some individuals and not the whole. Sometimes when things have affected a select few, it influences our ability to impact the whole. That's where we get into challenges. As our Chairman said it is probably very basic. If it isn't broke, don't fix it. Just because one person says it's broke or a small group says it's broke, I do believe we need to evaluate – things need to be put in place to evaluate the effectiveness of our practices. If that is the issue, then that needs to be addressed or maybe make recommendations. I just think the scenario that is presented does not negate the need for a CEO run county, if that makes sense.

Chairman Henson – I am not dismissing this concern. It is a legitimate concern if people aren't getting full disclosure. I don't know that it is easy to construct a solution into the Org Act without this going over those lines of administration and the role of administrating the staff.

Commissioner Terry – I have been a little frustrated about things that we've passed as a whole board that have been unanimous votes, where it seems to take a while to get to the point of action or delivery. I think a lot of it has to do with capacity and prioritization. I'm testing it because I introduced a resolution on Tuesday that simply asks the administration, when the Board of Commissioners passes a resolution, a funding item, that there be a response within 60 days. This is my personal opinion of sometimes having to wait months and months, if not years, for there to be a response to something. I don't want to relegate something we already passed. I would hope that would be embraced, that if the commissioners vote to say we want to do something or we want the administration or the CEO or

anyone on this, that there would be a response within a reasonable amount of time. 60 days seems to me to be reasonable. Could be 90 days. Not a year, not two years or more.

Chairman Henson – I think that is a good way to deal with it. Resolution from the board is one way to deal with it. Another way to deal with things is if you are not getting responses and you feel it's negatively affecting your constituents and you are not getting responses, you go to the press and you tell them the administration is doing wrong. If you engage the public, you will usually get action.

Commissioner Vickie Turner – Mr. Chair if I could just ask Commissioner Terry, because I don't know if it was in actuality. So, you have had things that have taken a year and two years. I needed that clarity.

Commissioner Terry – Yes.

Commissioner Leak – If I could just add something. Commissioner Terry is correct. Having sat through about five years of all committee meetings and all BOC meetings, there has been legislation that has taken over a year. So, one of the questions when you get legislation from the General Assembly, it usually gives you an effective date as part of that legislation. Do the Commissioners put an effective date into their ordinances or resolutions? I know you said 60 days, but is that a general practice?

Chairman Henson – They can. But even under the General Assembly, when we pass bills and it has an effective date, at time administration doesn't implement it and it is a frustrating thing for legislators.

Commissioner Leak – I am not going to belabor the point, but I did suggest the amendment to Section 9(a) and the two words that I will just mention are to compel enforcement of implementation. You can write laws all day long or any policy or procedure, but if it's never implemented, it doesn't exist. The other word is oversight. In a lot of instances, we're talking about outdated information, processes, procedures. So, the fact that it works okay today, is that the best way going forward in the 21st century that we want to go, or do we need to look at some innovation and other things to improve the services?

Commissioner Hammonds – Mrs. Turner has a lot of constituents and a lot of schools and a lot of folks there. The one thing that I picked up here is if you have got these department heads and now instead of having one boss, now they have got seven or nine bosses making requests that they have to respond to, how do you manage that with the school board? Mrs. Turner, they hired a superintendent, so they got that person that they hired to get them answers. I don't know if the commission has an "I got to get these answers kind of person". We must be careful that we don't create another problem by having nine commissioners or whatever the number ends up as extra bosses, because that could be a long jam right there.

Commissioner Hinkel – The next new proposed power is the power to compel attendance at BOC meetings and sworn testimony of a CEO and any county employee by subpoena, if necessary, subject to the policy of the BOC as established by its rules. This includes the ability to subpoena department heads which is included in the Georgia Model County Charter and it's in other counties outside of Georgia. These are counties that have an Executive and Legislative type government like we do, and they give their county councils or county commissions the subpoena power for getting to follow up. It's a formal mechanism to check the executive administrative activities and follow up on decisions.

Chairman Henson – I think that makes sense. Madam Attorney, do you know of any commissioners who request to speak to a county employee, department head, or other county employee, what is their legal right to hear from that employee?

County Attorney Ernstes – Almost every department head is at every commission meeting, and they are called up at will by various commissioners. I have not seen a situation where another elected official was required to provide sworn testimony at a legislative Board of Commissioners meeting. I think, as drafted, this would require the CEO to be able to be compelled to provide testimony under oath at a commission meeting.

Chairman Henson – What was the last statement about the CEO?

County Attorney Ernstes - I think, as written, this is to compel the CEO to be required to raise his right hand and swear under oath at a commission meeting if required to do so by the Board of Commissioners. Unless I am reading it wrong, it is sworn testimony.

Chairperson Henson – Do you have any problems with a department head, or what problems do you foresee with a department head or even a deputy department head being required to subpoena, and have to swear under penalty of perjury to the information provided?

County Attorney Ernstes – I've seen this for the first time this evening, so I don't really have any thoughts in that regard. I don't want to respond off the top of my head.

Chairman Henson – I will ask our Carl Vinson staff if you could please look to see if any other counties in Georgia and even after that you don't see anything, you might look at other counties, if any other counties have where the commissioners can compel with a subpoena, or, if without a subpoena, there's any swearing and penalty for false testimony to the commission in any other jurisdiction.

County Attorney Ernstes – I don't know of any instance where somebody has given intentionally false testimony before the Board of Commissioners, or intentionally misspoke. But I don't perceive that as an issue that has ever really come up. I've been here since 2001 - where a county employee has actually walked up to the podium and lied to a county commissioner because it's an open meeting. You are going to figure out if someone has lied.

People are very careful about what they say when they report. This is what I believe to be the case. Don't hold me to it. I'll check. I will get back to you. Let me confirm it. I think Mr. Williams and I spend a good bit of time at the county commission meetings in order to try to be very accurate and precise and complete, as do department heads who are here and are at every committee meeting; if they have an issue or an item on the agenda – not every department head is here if they don't have anything on the BOC agenda. Most of them, especially the big ones like Police, Ms. McNabb, the Finance Director, the Purchasing Director, is here for every meeting. She sits through every meeting and every committee meeting and is called up at will. I've never seen an employee decline to answer a question. I have declined to answer questions if there was a privilege, like I declined to answer this question this evening. If there is a need to do so for a legal reason. I was going to caution Commissioner Terry not to talk about Section 8 had he been called upon, but that did not occur.

Chairman Henson – I think the point being we think they should speak to the commissioner and tell the truth. The question is whether or not it's necessary for us to take action. Mr. Hinkel, have you heard of cases where department heads were caught lying?

Commissioner Hinkel – I mean, I'm more concerned about whether they can subpoena a department head – if they're not getting information, can they subpoena the department head?

Chairman Henson – By subpoena, are you worried more about the attendance to the meeting and being able to talk?

Commissioner Hinkel – It's just "if necessary."

Chairman Henson – Have you ever heard that they asked for a department head to come and speak?

County Attorney Ernstes – No.

Commissioner Leak – Just a comment, not a question. Maybe some of you were not around many years ago, over 20 years ago, but we did have something happen and we can't act as though certain irregularities didn't occur. We had a situation in which a commissioner in a board meeting would ask a question and the CEO would say to the department heads "Don't answer that." Now, who do you think the department head is going to listen to? It's on tape because it was always broadcast via DCTV. The only reason I bring this up is because we can't always project that there are going to be honest players in every situation and we're not trying to get into the weeds of it. I thought part of our job is to make sure we protect DeKalb County and its taxpayers. So, I don't see it as it may never have to be used, but I don't see a problem with it. I've seen commissioners walk out of the meetings, their own duly meetings and the CEO has the ability to compel them to attend. So, I think we just need to make sure as we discuss these different sections.

County Attorney Ernstes – To Ms. Leak's point, that was part of the reason that the Organizational Act was changed, as when previous CEOs actually chaired the commission meetings, and thus no longer do that. So, when the CEO attends, he sits with the staff. The Presiding Officer and the Board of Commissioners have control over their meetings. So, there is not a CEO who is running that meeting or instructing staff from the dais because he or she does not have the authority to run that meeting any longer.

Chairman Henson – We still want you to look at that because we may come back to you. Both these members bring up good points. We do feel Commissioners question should be answered.

Commissioner Hinkel – The last new one I had was the power, and this may not be appropriate, I don't know, but it was the power to enter into intergovernmental agreements with DeKalb municipalities to share in provision of services where duplication of services occurs, and both the county and the municipalities benefit from sharing the load. For example, how many roads and drainage crews are on standby at night in our various cities in our county? Is there any way of looking at sharing resources? What do you need to do that? Is it intergovernmental agreements and who's making those happen?

Chairman Henson – Mr. Williams can probably answer those questions. We have agreements, intergovernmental agreements with many of the cities, especially on police services. We have the helicopters and SWAT, and some of them, don't. Different cities pay different millage rates because we offer more contractual services in police or other areas than we do in other cities.

Mr. Williams – As you mentioned, there are several IGAs between the county and cities. Whether it's assisting with installing sewer pipes, assisting with putting in streets when it fits a mutual need, depending on the progress that the cities have going, as well as the county. We've found in many instances where it makes sense to subcontract the work and have cities do it. Ultimately, it does go to the Board of Commissioners to sign off. It would start at the department head level. Whether it's a parks director, a police chief, or something like that, they would have conversation amongst themselves, then it would go up through their various management chains. It would then go to our committee and then to the Committee of the Whole, which says we want to enter into some agreement. Then it would go to the respective commission committee as necessary to discuss further and then to the Board. It could be generated from elected officials talking to one another. Most often, those types of things are more the boots on the ground talking to each other.

Commissioner Wittenstein – These happen all the time. There is really no issue here. The City of Dunwoody enters into all kinds of intergovernmental agreements with both the county and with other cities. It's very routine.

Commissioner Grubiak – I did have a couple of items that people mentioned. In 9(a) just adding the word legislative. It's the legislative function that the Board of Commissioners is carrying out that law-making activity. That just clarifies that.

Chairman Henson – I know our county attorney hasn't probably looked over all of them real thoroughly but just added the word legislative before policy making in 9(a). "A commission shall exercise only those powers which necessarily and properly incident to function as a legislative, policy.

Commissioner Grubiak – I also had a suggestion about the planning director. We've hashed that back and forth, no need to continue that. In (a) 18 there's some old language in there referring to business, occupation, taxes and licensing which I would say "old" because the law has changed over the years and I think those topics are addressed by ordinance. Ms. Ernstes, if I'm not mistaken, I think you mentioned that in one of the previous meetings. So, there is some old language in there that doesn't apply anymore. So we just need to go through (a) 18 and just either clean it up or I don't know about eliminating it, or just maybe refer to the ordinances and make it conform to current law, that's all.

The easiest way to do that, whether it's to clean it up, or eliminate most of it and just refer to state law or refer to existing county ordinance in its place, that's fine. I think it would be very helpful if the legal department took a good look at that one, a close look at that one and made some recommendations on it.

Commissioner Hinkel – May I ask a question on that while we're on the subject? In the legislative book that you handed out to us, Ms. Ernstes, there was legislation creating a license review board, but do we have a license review board? Much of the language in that law is now in this power. So, I'm a little confused about it.

County Attorney Ernstes – Well, it may have been superseded by further amendments to the Organizational Act and so it may not exist anymore. I'll have to look at it and see.

Commissioner Hinkel – I would appreciate knowing that because it does impact some code compliance businesses that are regularly not acting well as citizens in the community and they're still getting their licenses. I was wondering if there was a license review board in place that could create civil

penalties, not criminal, that might help us deal with the outcry that we get from citizens about the lack of code compliance/enforcement. So, the citizen license review board is governed by state law. In 1982 it was adopted by the Board of Commissioners, but I can't tell that it was implemented and I'm just curious about that.

Chairman Henson – Our next meeting is June 8, 2023, and I am hopeful you can respond to that at that time. Ms. Leak, do you have something to say?

Commissioner Leak – I have a new section which I labeled Section 9(b) and identified as new. This section deals with the Chief Executive Officer having exclusive power to supervise direct staff on implementation of resolutions, ordinances, minutes, policies, etcetera. I just added a statement that the commission shall have the authority to establish rules to ensure the implementation and enforcement of governing matters of irregularities identified by the independent auditor or board of ethics. The enforcement piece of it would be under the exclusive power of the executive branch to take action on that. The other Section is on 9(b), no member of the commission shall directly or indirectly order, instruct or otherwise attempt to control the actions of county personnel subject to the administration and supervision of the CEO. There is no recourse for the commission to make sure its ordinance rules are carried out. Basically, we are talking about oversight. I don't know if you had an opportunity to look at it. There was a summary in our packet which you may remember from Former Commissioner Bill Brown and he served on the commission for eight years. After he left office, he came up from his viewpoint with some suggestions that might help with this balance of power that we've talked about.

Commissioner Wittenstein – I had one suggested change and it's to number 9, Section 10 and it was to get rid of the veto power of a single commissioner to control whether or not a zoning items gets passed by the commission. I don't want one commissioner to have veto power. It should not be a matter of law that a single commissioner can prohibit the county commission from making a zoning change.

Chairman Henson – Mr. Wittenstein brought up what is now kind of a home rule provision, which is actually in the charter and states that, as he stated that a local commissioner, either one of them, the super district or the other district, if they don't want something, they can kind of veto a zoning ordinance in this district. What he is projecting is that we remove it from the charter so that it is not a guaranteed power of the commissioners. If they made it a rule, then they would risk having it brought up again, it would probably create a little more hesitancy of a commissioner doing it without some reservation.

Commissioner Hinkel – I have a problem with it, but I am not sure I can articulate it as well as you can articulate your position. But as a neighborhood leader for over a dozen years and I see Mr. Fox back there raising his hand, you're getting into dangerous territory for those of us in communities. I've been involved now for a dozen years in planning and zoning matters, and I feel somewhat protected by the fact that this language is in the charter. You have two commissioners. Either one of them could say a project is okay, but you have to have at least one of them approve it. I appreciate this courtesy being in the charter that these commissioners can work with. I am probably not very articulate about this so if the Chair would allow Commissioner Terry to speak on this.

Chairman Henson – I don't want him to be picked on for every question. This is a pretty simple one. Right now, sole commissioner, if it's in your district, you can veto it.

Commissioner Hinkel – that is not true.

Chairman Henson – County Attorney, you might want to comment.

County Attorney Ernstes – I don't think that is accurate. It's what it says, right?

County Attorney Ernstes – Every zoning action before the Board of Commissioners has to get four votes. So, every zoning has to have four votes. What this provision says is that one of those votes has to either be the district commissioner or the super district commissioner. I think that is different.

Chairman Henson – That is different and that is the way I stated it. It is absolutely correct.

Commissioner Wittenstein – But that is not what it says. I am sorry. What it says is that provided, however, that no planning or zoning ordinances shall become effective unless approved prior to consideration and adoption by the governing authority, by the member or members of the commission representing the district or the super district. Prior to being acted upon, it has to go through – there's a veto here that it doesn't get to the floor of the commission unless it has been – if either of the two commissioners say that it shouldn't come before the commission.

County Attorney Ernstes – That is how it works. It is one of the four people who vote yes. They do not have prior approval. They do not control what comes on a zoning agenda. Neither the district nor super district commissioner has any control. So, one commissioner cannot say the Ernstes zoning application will not appear before the agenda.

Commissioner Wittenstein – We should change that to represent that because that is not what this says.

County Attorney Ernstes – You should be very careful in considering how you change this. I understand what your comment is, but this is a significant item and I think, is one of the few times it is of significant importance. No offense to Commissioner Terry, but I think you should talk to the remaining members.

Chairman Henson – Jim did you have anything on number 10?

Commissioner Grubiak – The only thing I had on ten was trying to connect it to 10(a). The only thing I really am suggesting is you connect it to 10 (a) with the independent auditor and the oversight committee. It basically says that the Audit Oversight Committee does the screening of candidates to fill the role of financial auditor. So, my suggestion was just simply to say the recommended outside auditor shall be selected from the list of auditors recommended by the Audit Oversight Committee pursuant to Section 10(a) and (9) of this act. It is just a clarification point, connecting the two together. I was going to add where it says 10, the word "financial" up in the caption just to start distinguishing between audits here and audits under the Independent Auditor Act and try to just make sure the two are different.

Chairman Henson – County Attorney, the word financial, I don't think it has no material effect and we will email it to you and ask.

County Attorney Ernstes – Under Georgia law every county, every year has to have an audit. Every city has to have an audit. There was a new name for it; however, it was Certified Annual Financial Report, often referred to as CAFRS. That Audit must comply with certain standards. The auditor has to be a

firm. You couldn't hire Vivian Ernstes, the auditor out of my garage, to do the annual audit for a county or a city. I just don't know if everyone was aware of the difference between an internal auditor and the auditor that does the books, so to speak, of all of the departments. So, I am not making any comment about the suggestion. I just wanted you to understand what that auditor is referring to.

Chairman Henson – We were thinking about making that section a Section 11. It was added in the legislature as a 10 (a), so we thought about renumbering it as 11 rather than leaving it as a Subsection. Do you have any problems with that off the top of your head?

County Attorney Ernstes – I don't know why that was done that way. I want to be absolutely clear; I don't know.

Chairman Henson – On Section 9, there's a reference to work gangs. Ms. Ernstes, we just thought that the term probably – we looked in the code, we didn't want to stop the sheriff from being able to ask for volunteers to go out and clean up the side of the road.

Commissioner Hammonds – We need to be clear on the word "work gangs." I mean this is some historical reference way back to slavery days when folks were freed and that free labor was gone. So, this work gang thing was a way to put that stuff back into place in certain counties. We need to be clear that needs to come out because that puts a negative spin on our county.

Chairman Henson – I don't see any objection to that. Another thought was that 10 (a) be renumbered to 11 simply because it's confusing. The Internal Audit Commission should review on 10 (a) (n) (iii) and IV). We talked about it, we needed to look at it.

Commissioner Leak – The issue was Ms. Ernstes had pointed out earlier that the charter states that members of the Audit Oversight Committee shall be selected in a certain way. She said that just had not been done.

Chairman Henson – Yes, the January 15th deadline. The charter states that as of a certain date in 2015, the members would be appointed in a certain way. It goes on to describe the staggered terms of the commissioners. That section might need to be looked at and cleaned up because we didn't want to wholesale change it, because I like the staggered terms of the commissioners. The County Attorney had made a comment that they weren't appointed necessarily on that initial timeline. In 10(a) there are two Ds, which I think is just a clerical error.

Commissioner Leak – I was suggesting a new section 10 (a)(g)(viii). It reads non-audit contract. On Section 10(b), amend section to define the responsibility and action to be taken by the executive officer and commissioners when irregularities are reported to the commission as an audit finding, since they're over the budget. The second one was 10 (c). I just made a distinction to reflect that there was authority to act upon or to correct any irregularities.

Commissioner Grubiak – The first one I'm suggesting, it doesn't really mean a whole lot, but there's some old language in there that may not be needed. There is a public use that is required in the General Assembly to provide for the proper administration operations of DeKalb County. I just suggest you take it out. I don't know what it does, but it doesn't really belong there.

Commissioner Hinkel – This was created by a citizens group that carried this legislation through to the General Assembly. While I am not opposed to taking it out, I do think why it's in there is to remind

DeKalb citizens and the DeKalb Governing Authority of the importance of this guardrail once again, which is the Independent Auditor. So that's why it's there, I think.

Chairman Henson – It's probably served its purpose and it doesn't have any legal substance.

Commissioner Grubiak – Suggestion on the second D. The second D refers to the process for removing the independent auditor. I just wanted to throw it on the table and the Idea of maybe saying that he could be removed but removed "for cause" from office. If there is any merit to it, I recommend that it stays.

Chairman Henson – What you are suggesting is that an independent auditor could be removed for cause. The concern some may have is that some might manufacture a cause that the auditor was hitting on the wrong line and that is why federal judges are lifetime and sometimes we get a cruddy one but it is created that way to prevent impacting them by their selection process. I would be a little hesitant to add it, but I am going to wait and listen to you all.

Commissioner Wittenstein – I would not make it harder to get rid of an independent auditor who may or may not be doing a good job. I don't want us to find ourselves in a position wherein the auditor is saying, you can't fire me because I didn't steal anything. Right now they can remove the independent auditor so the current language allows them to remove the independent auditor.

Commissioner Grubiak – These are for consideration under J(4): an audit agency is to respond with comments to the auditors draft within 60 days, our current auditor suggested 30 days.

County Attorney Ernstes – I would say 30 days is a very short turnaround time when services are being provided. Often times these audits take months and months for them to be completed and are very long. I'm not trying to take over Mr. Williams' role, but I do know it takes a lot of time to respond to these audits line by line, which is often how that occurs.

Commissioner Hinkel – I would also like to suggest that we have the Chief Auditor back with his presentation. I mean he came to the meeting, but we were late and asked him to reschedule. His presentation has a point about this, and he has an explanation as well, as to what he would be expecting in 30 days. It's not a complete draft of how you are going to deal with this.

Commissioner Grubiak – He says it is not a complete response. It is just to get some conversation going. I have another one which has to do with transparency under J(5). It describes what happens to the report when it's done. The audit reports. This is the final report. Now the report shall contain relevant background information and findings and recommendations and shall communicate results to the Audit Oversight Committee, the audit agency, and the governing authority. It says each report shall be posted on the county website by the chief operating officer within 30 days of its being submitted to the governing authority.

Chairman Henson – The Chair asked for any questions on Commissioner Grubiak's comments.

Commissioner Hinkel – After reviewing Pierce County in Washington, 925,000 population, they have an element in their charter that says within 90 days of the completion of a performance audit, the council will hold an evening public meeting to present, review and allow discussion of action plans developed in response to audit finding recommendations.

Commissioner Leak – 10(a), I am suggesting a new section and that we codify the process for the internal independent auditor to process non-audit contract reviews. They are currently doing that where the office of the internal auditor has a plan of who they are going to do audits on. They are also looking at contracts before they are let. With a review of this item, it saved the county \$20 million. The departments have 60 days to respond. Anyone missing this deadline, the CEO can take action and send a letter to the Commission. The last one is there are five members on the Oversight Committee. The intent of the independent auditor was that it is solely independent from the administration and board of commissioners. Yet their oversight committee, which is comprised of five people, three of those appointed with the majority of that committee is comprised of appointments by the CEO and Board of Commissioners.

Chairman Henson – Mr. Williams, I would like you to respond at our next meeting on how the auditors are reviewed and responded to.

Mr. Williams – I will not be here on the 8th, but I could have it at our next meeting.

NEXT MEETING – The Chairman stated it would be held on June 22, 2023.

PUBLIC COMMENT:

Davis Fox – I am a resident of DeKalb County and apologize for the outburst. Mr. Wittenstein is correct, a zoning case cannot be approved if both district commissioners are opposed to it. That is so five other commissioners could not dictate what goes on in a particular district. The Planning and Zoning function does include other functions besides just planning and zoning. It has the safety permits and the building permits and development code. Business License is now a part of it. The principal part of the Planning and Sustainability department is to provide guidance for long range planning and short-term planning. The CEO is still going to direct this person. They still report to the CEO. All that is being proposed is that the Board of Commissioners has some input into the hiring of the director. That seems like a very reasonable request to me, given the workload and given also the fact that the CEO doesn't have a dog in this fight. The Board of Commissioners is held accountable for planning and zoning decisions, not the CEO. Our government framework is based on a governing authority that is divided into two pieces, a legislative and executive branch. These are two different teams. We need one team.

Steven Binney – 1083 Seville Drive, Clarkston, Georgia – Many of the points discussed last week are secondary until you decide if you want to maintain a CEO style government or not. Why discuss Section 13. Powers and Duties of the Chief Executive until you determine as a board if you believe that a CEO form of government is the best for DeKalb County and its citizens. Why discuss Section 9, Powers and Duties of the Commission until you have determined what the division of power will be between the executive and legislative branches of DeKalb County government Section 13(a), 14, 15 and 17, among others cannot be intelligently discussed until a decision on the type of governmental system that we will be in effect in DeKalb County has been determined. You must lay a strong foundation before you start building. You must also have a floor plan before you start building. Determining the form of government, you desire into DeKalb County is the foundation for all you will discuss in the future, as well as the beginning of the floor plan from which you will build out government. I believe that the CEO form of government is less effective than a county manager, too much power concentrated in one person and an unbalanced and unfair division of power between the executive and

legislative. The budget process discussion is basically set in stone by the administration before it is presented to the county commissioners, who over the nine years that I have watched the budget process, only have power to nibble around the edge to make minor changes or get a pet project added. This is not due to the lack of effort by the commissioners but is instead embedded in our CEO form of government that does not encourage cooperation or communication between branches of government. The new SPLOST to be voted on in November is another example of the unbalance of power in DeKalb County. I hope they will see the need for change we so desperately need in DeKalb County. Please have the courage to make the changes needed to make DeKalb County a better place for all of us. Also, as you raise the Commissioners salaries you are raising the qualifying fee so that more and more poor people or middle class people cannot even qualify for the office.

COMMENTS FROM THE CHAIRMAN

We will address Section 13 through 20 at our next meeting. I will need to have your recommendation prior to the meeting. Hopefully, I will meet with the Carl Vinson Institute. We are working on a spreadsheet to assist with the presentation. We will probably have to move to two meetings a month.

ADJOURNMENT:

After hearing no further comments, the meeting was adjourned at 8:45 p.m.

Steven Henson, Chairman

Barbara Sanders-Norwood, County Clerk