

DeKalb Municipal Association

Recommendations to the DeKalb County Charter Commission

July 13, 2023

Introduction

DeKalb County Chief Executive Officer Michael Thurmond issued Executive Order 2019-001 *Creation of a Charter Review Commission to Examine the DeKalb County Form of Government* on March 25, 2019. In the introductory language of the order, the CEO expressed a desire “for a comprehensive review of the Organizational Act of DeKalb County (Org. Act) to ensure that the government of DeKalb County is representative of all citizens of DeKalb County and responsive to the needs and demands of the citizens of DeKalb County” and indicated a hope for “recommend changes in order to achieve the best delivery of services to the citizens of DeKalb County.”

By way of background, the organizational acts of a county government are akin to a city charter in that they establish the form of government, establish electoral districts, and provide other details on how the government is organized and operates. They are local Acts of the Georgia General Assembly that may be amended by the legislature (so long as they do not deprive the county of Constitutional and general statutory home rule powers) and to a lesser extent by the County government itself (within parameters that do not change the form of government or conflict with state law). After delays caused in large part by the global COVID-19 pandemic, the commission has begun meeting. The Chair of the Commission, former State Senator Steve Henson, invited the DeKalb Municipal Association to submit recommendations for consideration.

Recommendations

The following recommendations are being presented here after discussions with Mayors on the DMA Executive Committee. Some of the issues raised by some cities concerning the specific county-wide services of ambulance transport and water/sewer service would require legal changes outside of the purview of the Charter Commission. Thus, the following suggestions for amending the County’s organizational act are

respectfully offered with the hope and intention of creating avenues for achieving greater accountability from county government.

Recommendation 1: Change the form of County Government from the CEO/Commission form to a Board of Commissioner/County Manager Form of Government.

DeKalb County's CEO form of government is notably unique in Georgia and particularly among its peer county governments in the metro Atlanta area. Each of the other metro counties with populations exceeding 300,000 have a county commission, with a county-wide elected commission chair serving as the presiding officer and either a county manager or county administrator that is answerable to the commission as a governing body.¹ By stark contrast, the CEO of DeKalb County is elected countywide as the head of the executive branch of county government and is vested with sweeping executive powers. The closest equivalent to a county manager in DeKalb's form of government is the Chief Operating Officer (called the Executive Assistant in the County Organizational Act). DeKalb's COO, unlike the county managers in neighboring counties, can be dismissed at any time by either the CEO or by a majority vote of the county commission. Removal of the county manager in counties with a more traditional commission structure requires a majority vote of the commission.

The division of DeKalb County's government into an executive branch run by the CEO and a legislative branch run by the Commission creates a significant bifurcation of responsibility and places Commissioners in a limited role. Although a majority of them can dismiss the COO, in practical terms, they have very little power to hold county departments and their operations accountable because the COO is accountable directly to the CEO over whom the Commission has almost no authority. Decisions regarding interpretation of policy, code enforcement, and personnel decisions are ultimately made by the CEO, one elected official for a county of over 760,000 people.

¹ For Cobb County, see Article II of Section II of State Enabling Legislation, for Fulton County, see Divisions 1 and 4 of Article II of Chapter 1 of the County Code, for Gwinnett County, see 1988 Ga. Laws, p. 4658 and Article III of Chapter 2 of the County Code.

Most municipal officials, generally able to develop working relationships with their local district county commissioners, are often able to find common ground with them concerning service delivery or governmental coordination issues as they tend to be “closer” to the city constituents that they represent on the county level than the CEO. Concerns raised by municipal officials to their sympathetic local county commissioner, however, often produce little more than a grudging mutual acknowledgement of the limited ability of a commissioner to effect any change regardless of the validity of the operational concern. City managers attempting to resolve operational and cooperation issues with their staff peer at county government encounter a similar challenge. Because the COO’s ability to make management decisions on behalf of the county is subordinate to the daily level of autonomy granted by the CEO, their hands are often tied or must wait until such concerns become significant enough to warrant the attention of that sole county-wide elected county official.

Although it would require a thorough re-write of the County Organizational Acts, the time is long overdue for DeKalb County’s form of government to be changed to a Commission-Manager form of government similar to those of its peer neighbors. Doing so would enable consensus making decisions at the county governing authority level as well as accountability through a county manager to be far more direct. It would also elevate concerns raised by individual commissioners and thus indirectly those of their constituents, including city officials and city residents.

Recommendation 2: Designate a County Open Records Officer.

The Georgia Open Records Act provides as follows:

The General Assembly finds and declares that the strong public policy of this state is in favor of open government; that open government is essential to a free, open, and democratic society; and that public access to public records should be encouraged to foster confidence in government and so that the public can evaluate the expenditure of public funds and the efficient and proper functioning of its institutions. The General Assembly further finds and declares that there is a strong presumption that public records should be made available for public inspection without delay. This article shall be broadly construed to allow the inspection of governmental records.

O.C.G.A. § 50-18-70(a). To that end, the Act provides that local governments may “. . . but shall not be obligated to, require that all written requests be made upon the

responder's choice of one of the following: the agency's director, chairperson, or chief executive officer, however denominated; the senior official at any satellite office of an agency; a clerk specifically designated by an agency as the custodian of agency records; or a duly designated open records officer of an agency . . .”²

DeKalb County's current approach to open records requests, as indicated by its website, is to encourage those seeking records to send the request by email to the “appropriate department” On one of the county web pages a list of thirty-six different department titles, each associated with a different name, email address, and a phone number is given, but nothing on this page indicates the types of records maintained by these different departments.³ Additionally, individual department pages also list names and email addresses of individuals that may be sent open records requests.⁴ However, there does not appear to be a designated open records officer for the county or one portal through which to make a request. By contrast, every other large metro Atlanta area County government has established an online open records portal through which records may be requested regardless of which department houses them, and some of the governments have assigned the duty to respond to their county attorney's office to facilitate ease of access to government records.⁵

DeKalb's organizational act could easily be amended to provide that the county create and maintain an online open records portal and a specified office or officer responsible for processing open records requests so that the public can with greater ease exercise its right to review county records. In 2015, the Georgia General Assembly legislatively created the office of internal audit that is empowered to act independently and have access to all records in each county department.⁶ It makes sense therefore, to amend the powers and duties of the internal auditor to include the function of serving as

² O.C.G.A. § 50-18-71(b)(1)(B).

³ See: <https://www.dekalbcountyga.gov/openrecords>; last accessed June 13, 2023.

⁴ See e.g. Sanitation Services at: <https://www.dekalbcountyga.gov/sanitation/open-records-request>; last accessed June 13, 2023.

⁵ See: [https://claytoncountyga.govqa.us/WEBAPP/rs/\(S\(fuwog3gosaytqolpxn1zrqzl\)\)/supporthome.aspx](https://claytoncountyga.govqa.us/WEBAPP/rs/(S(fuwog3gosaytqolpxn1zrqzl))/supporthome.aspx), <https://www.fultoncountyga.gov/inside-fulton-county/fulton-county-departments/office-of-the-county-attorney/open-records-request>, <https://www.cobbcounty.org/board/county-attorney/open-records-requests>, <https://www.gwinnettcounty.com/web/gwinnett/departments/communications/mediarelations/openrecords>.

⁶ See Georgia Laws 2015, p. 3826.

the open records officer of the county and to be responsible for managing a county open records portal.

Suggested language:

Section 10A – Independent Internal Audit

Adding a new subsection (p):

The auditor shall be the designated open records officer of the County. The office of internal audit shall create and maintain an online portal to facilitate receipt, monitoring, and response to records requests. The office of internal audit shall work in consultation with the County Attorney and the heads of the various departments to ensure compliance with state law regarding such requests. In addition, the office of internal audit shall conduct an annual audit, presented to the Board of Commissioners, of departments to ensure that they are operating according to the provisions of state law.

Recommendation 3: Add Service Benchmarking Requirements to Performance Audits.

One of the best ways to track efficiency in the provision of government services is to compare key metrics associated with individual service provision to those of other similarly situated governments providing similar services under similar circumstances. The International City County Management Association, numerous public and private Universities and consulting firms across the country provide service benchmarking assistance and studies. The proximity and similarity of nearby Cobb County and Gwinnett County in terms of service responsibility, size, and population characteristics makes them both excellent peers to use for comparison. Publishing benchmarking reports allows opportunities for both sharing knowledge with peers and holding departments accountable for efficiently delivering their mission.

For example, what are response times for ambulances, police, and fire in the areas served by these governments? How many road miles has each government repaved in the last year? What are the comparative records for managing sewage spills? Having the office of independent audit commission and publish benchmarking data is another way to hold the county accountable for service provision and to shed light on any unique challenges that require attention as well as highlighting successes.

Suggested language:

Section 10A – Independent Internal Audit

Adding a new subsection (q):

The auditor shall cause to be published annually a benchmarking report that compares key metrics of service performance for the various services offered by the county. Such reports may be commissioned from outside entities with experience in performing such studies pursuant to criteria established by the auditor in consultation with the audit oversight committee. Such studies shall be publicly presented to the audit oversight committee and the Board of Commissioners and shall be published on the office of internal audit website.