

# ATTACHMENT B

**Initial Comments of Individual Members of the DeKalb County Board of Commissioners to Charter Review Commission's Report and Recommendations:**

Presiding Officer Mereda Davis Johnson expressed concern about the following:

1. Don't eliminate the legal term "for cause" as a condition for the BOC discharging either the COO or County Attorney but retain a 5-vote majority to terminate.
2. The CEO should be given at least 60 days to appoint a vacancy, rather than 30 days.

Commissioner Edward "Ted" Terry expressed his support of all recommendations submitted in the Charter Review Commission report.

Former Commissioner Larry Johnson expressed concerns about the proposed changes to the budget year and ensuring that any change does not interfere with operations.

Commissioner Steve Bradshaw's comments are attached as Exhibit 1.

Commissioner Michelle Long Spears comments are attached as Exhibit 2.

# Exhibit 1

March 7, 2024

Dear Colleagues:

For the record, I have tremendous respect and appreciation for the public service that was rendered by the members of the Charter Review Commission. The work product that they produced is a testament to their individual and collective diligence, for which they should all be commended.

This effort should not be in vain. We should act upon their recommendations asap.

Pursuant to that intent, the resolution that was submitted by Commissioner Long Spears contains the following language:

Now therefore we...

- 7; Accept.and.endorse.the.recommendations.presented.by.the.  
Charter.Review.Commission.as.outlined.in.the.attached.  
document;
2. Encourage.the.DeKalb.Delegation.to.adopt.these  
recommendations.

This language implies that we support all of the recommendations, which I do not. This language should be modified to reflect something other than unanimous consent.

As of now I am fully prepared to support a substitute resolution with the following amendments:

- The provision granting subpoena power to the BOC should be eliminated.
- The provision eliminating the CEO's voting rights at BOC meeting should be removed. In my seven plus years here, I can only recall one situation where this has been required. Therefore, this provision strikes me as a solution in search of a problem. Depending upon the composition of future boards of commissioners, I can envision a scenario where things could grind to a halt if a provision for breaking ties does not remain in place.
- The provision calling for a new charter review commission to commence in January 2029 should be modified to January 2032, to conform with the eight year intervals recommended in the report .
- Regarding vacancies and appointments to volunteer boards, requiring the CEO to fill such vacancies within 30 days or else be subjected to action by the BOC strikes me as too restrictive. There can be unforeseen circumstances that would make acting within that timeframe problematic given respective due diligence requirements. Therefore, 90 days strikes me as more reasonable.

As an additional note I think this work product would have been greatly enhanced if it had included the formal testimony of the former CEO's of DeKalb County. There are four individuals among us who have served in that role: Liane Levetan, Vernon Jones, Burrell

Ellis and Lee May. The official listing of guest speakers does not include any former CEOs.

The individuals who have actually discharged the duties of that office all have a unique perspective that would have been valuable for this process. Perhaps the DeKalb Delegation will seek that input as a part of their due diligence process.

I understand if certain individuals were not interested in formally participating in this process. However, at a minimum I hope that each former CEO was extended a formal invitation from the Charter Review Commission to testify for the record. And I hope that each of them has been provided with a copy of the final report as a courtesy.

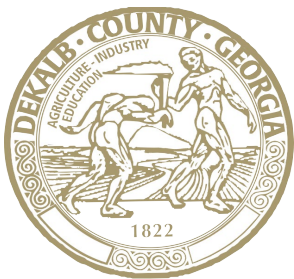
Thanks for your consideration.

Sincerely,

Steve Bradshaw

DeKalb County Commissioner, District 4

## Exhibit 2



# DeKalb County Board of Commissioners

Michelle Long Spears  
District 2

## DeKalb County Charter Review Commission: Recommendations

Submitted by Michelle Long Spears, District 2 Commissioner, DeKalb County Board of Commissioners

**I support ALL of the recommendations presented in the report, *DeKalb County Charter Review - December 2023*, by the DeKalb County Charter Review Commission (DKCRC) members.** Below are four (4) recommendations I'd like to highlight with corresponding rationale:

**#1 - Section 20 (a). The CEO is to draft for BOC consideration and adoption a purchasing ordinance by April 1, 2025. BOC can modify and approve.**

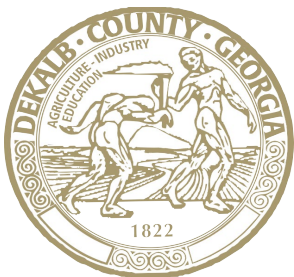
DeKalb County should adopt a purchasing ordinance because it establishes regulations and a framework for how the county procures goods and services. Adoption of such ordinance ensures efficiency, transparency, fairness, and accountability in the overall purchasing process, discouraging and preventing fraud, waste, and abuse of public funds. Additionally, embracing a purchasing ordinance promotes competition among county vendors, ultimately leading to cost savings and better value for taxpayers.

Majority of Georgia Counties have implemented purchasing ordinances to protect their citizens and the use of taxpayers' dollars ensuring transparency on how tax dollars are allocated; holding elected officials and the administration accountable for purchasing decisions; promoting fair competition among vendors with a clear, defined and open bidding process; and ensuring that DeKalb County obtains services and goods at the best price.

Not having a county purchasing ordinance can lead to several other problems. First, without established guidelines, the purchasing process may lack transparency, making it difficult for stakeholders to understand how decisions are made and how taxpayer funds are being used. Second, without standardized procedures, purchasing decisions may be inconsistent and inefficient, leading to wasted time and money. Third, operating without a purchasing ordinance can expose the county to legal and financial risks, including potential lawsuits from vendors or regulatory agencies for unfair practices or mismanagement of funds.

It is important to note that, during the Charter Review planning process and in response to a question from a Charter Review Commission member, the interim purchasing director testified that the CEO can change county purchasing and procurement rules and regulations at any time. Neither BOC review or approval of the changes is required. There is no oversight of this critical function, which can make our county vulnerable to an increased risk of fraud and corruption. It is a conflict of interest that the person responsible for county purchasing and procurement is also the person responsible for making the purchasing rules. This is especially problematic because, with the exception of





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contracting for public works and road construction projects, there is little or no guidance from state law on the subject.

In closing, a county purchasing ordinance is essential for promoting accountability, transparency, and efficiency in the procurement process, ultimately benefiting taxpayers and the community as a whole. The proposed revisions to Section 20 address the problems noted above by making the legislative branch, the BOC, responsible for enacting the initial county purchasing and procurement ordinance. Rules and regulations to implement the ordinance would be subsequently promulgated by the CEO.

## **#2 - Section 27. Establish position and hire for an Open Records Officer.**

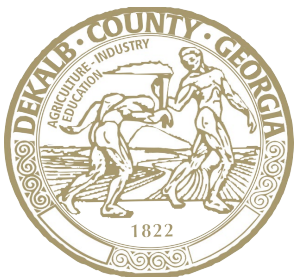
An open records officer is an individual identified by a government entity to oversee and manage requests for access to public records under the Open Records Act, which “governs which public records are open for public inspection.” This position’s responsibilities include receiving and processing requests for public records, ensuring compliance with relevant laws and regulations, coordinating with various departments to gather requested records, determining fees (if any) associated with the request, and handling the release of information in accordance with legal and time requirements.

As stated in 50-18-70, 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.”

The absence of this role in our county government leaves us vulnerable to several negative consequences, including accountability issues, reduced transparency and misuse of information. Without an open records officer position, there is not a designated individual responsible for managing requests for public records, which can lead to inefficiencies in processing requests. Second, an open records officer position is paramount to ensuring transparency and accountability by managing access to public records. Without this role, there may be less transparency and accessibility in county operations, making it difficult for citizens to access information on the use of their tax dollars and how County decisions are made. Last, without a designated position handling public records requests, there is a risk that private or sensitive information could be mishandled or improperly disclosed, potentially compromising a citizen’s privacy and security.

Per the Carl Vinson Institute of Government (CVIOG), the below jurisdictions have an Open Records role in their government:

- Fulton County: Designated Official Custodian of the Records (person in the law department)



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- ARC has a designated Open Records Officer
- Fulton County DA: Open Records Manager
- Atlanta: Transparency Officer
- Gwinnett County: Open Records Officer
- Augusta: Open Records Officer
- Douglas County: Records Administrator

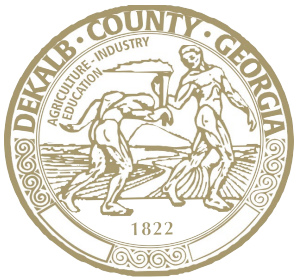
Ultimately, hiring an open records officer is essential for ensuring compliance with legal and time requirements, promoting accountability and transparency, and protecting citizens' rights to access public information through a defined, open public records process dictated by the Open Records Act. Unless an open records officer is appointed, every DeKalb official or employee who has or maintains public records is considered a custodian of the records they possess. So, the 3-day rule for the county responding to a request starts when the person to whom the request is made receives it. Even if the requestor makes the request to the wrong person or department, the 3-day clock starts running at that time and not when the request eventually gets to the right person or department. With an open records officer, the request is directed to the right person for a response at the outset making it easier to meet the 3-day response time. While having an open records officer clearly benefits the county, it is also a great benefit to the public—no guessing where to send a request.

### **#3 - Section 9 (e). Commission may conduct inquiries, investigations, use subpoenas to secure information from Administration. Subpoenas are enforced through Superior Court.**

Enabling the BOC with subpoena powers allows commissioners to investigate various county agencies, subpoena witnesses, and require the production of evidence. This authority ensures that county commissioners can gather all necessary information to make informed decisions, enforce laws, and maintain accountability within our jurisdiction.

With DeKalb County's CEO (Chief Executive Officer) form of government structure, the CEO is responsible for the administration and execution of policies established by the county commission. Subpoena powers granted to county governments are typically vested in the county commission rather than the CEO. The county commission, if adopted in the Org Act, is responsible for enacting legislation that grants subpoena powers. Therefore, in CEO-led counties, while the CEO may play a role in the administration of subpoenas and compliance with legal processes, the authority to issue subpoenas is usually held by the elected county commissioners. If the BOC believes there is a reason to investigate the conduct of a county employee or function, and the administration refuses to cooperate or provide information necessary for the investigation, a subpoena may be necessary to proceed. If adopted, this process will be designed, implemented, and monitored according to the provisions identified in the authorizing legislation.

Concern has been expressed by some that this power is vulnerable to abuse. However, this would certainly be curtailed by the fact that the authorizing resolution is subject to the CEO's authority to



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veto resolutions of the BOC. Outside of Georgia (DeKalb is the only county in Georgia with this form of government), there are counties with the CEO form of government where the BOCs do have subpoena power, such as *Wayne County*, Michigan, *Jefferson Parish*, Louisiana, *Prince George's County*, MD, per Carl Vinson Institute of Government (CVIOG). According to CVIOG, the Fulton County Manager does have that power, too. There are also a handful of counties with boards, like ethics boards and licensing boards, that have subpoena powers. In addition, the 2015 DeKalb Organizational Task Force (created by Interim CEO Lee May) recommended amending the Org Act to vest subpoena power in the BOC, but it was never implemented.

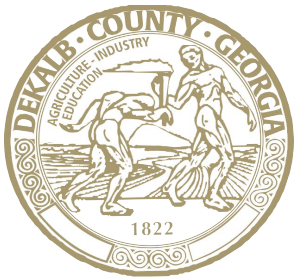
In closing, subpoena powers play a critical role in maintaining the balance of power in our CEO form of government by promoting transparency, accountability, and adherence to legal and ethical standards. Subpoena powers empower the BOC, as the legislative branch in our form of government, to fulfill oversight responsibilities and serve as a safeguard against potential abuses of executive authority.

#### **#4 - Section 28. Establishes a periodic review of the organization act, the first to occur no later than 2029 and every eight years thereafter.**

This new section proposes future Org Act Review Commissions being created by the BOC periodically, with the first being by 2029 and then every eight years thereafter. Future review commissions could be tasked with reviewing the entire Org Act, specific sections of the Org Act, or the DeKalb Code of Ordinances.

The rationale for the setting the next Review Commission six years from the date of the Charter Review Commissioner Report, which was December 2023, is based on the electoral calendar. Rather than being created at the beginning of a term of office for an incoming CEO, it seemed more appropriate that the next Review Commission conduct its work midway through the 4-year CEO term of office, so that any recommendations could be implemented before the next CEO takes office. Org Act reviews on a periodic basis are critical to adapt to changes in demographics, evolving community needs, legal requirements, and the effectiveness of our existing governance structures:

1. Address Evolving Community Needs: DeKalb County has continued to evolve and grow, with shifts in demographics, economic conditions, community values and challenges. Regular Org Act reviews allow counties to assess whether their governance structures and powers are still effective in meeting the evolving needs of residents.
2. Ensure State Law Compliance: Laws and regulations governing Georgia counties change over time. Periodic Org Act reviews ensure that the county's governing document remains in compliance with state laws and requirements.
3. Enhance Efficiency, Effectiveness and Responsiveness: Org Act reviews provide an opportunity to evaluate the efficiency, effectiveness, and responsiveness of our CEO form of government. By



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identifying areas for improvement, streamlining processes, and solving systemic failures, we can greatly improve our ability to deliver services, appropriate funds and respond to constituent needs.

4. Increase Community Collaboration and Engagement: Org Act reviews stimulate and advance community engagement and input opportunities in our county government. Seeking volunteers to serve and soliciting input from the broader community ensures that the Org Act reflects the evolving needs, diverse perspectives, and values of our community.

5. Promote Accountability and Transparency: Org Act reviews promote accountability and transparency in county government. By conducting periodic reviews of our governance structure, policies, and decision-making processes, the BOC and administration signal to the public that they embrace and a commit to openness and responsiveness in our county government.

Lastly, Org Act reviews by an appointed Review Commission are essential for maintaining the relevance, effectiveness, and legitimacy of our county government. Periodic reviews provide an opportunity to ensure that governance structures align with the needs and values of the community and promote accountability, transparency, community engagement and public participation in our county government processes.

Warm regards,

Michelle Long Spears  
DeKalb Commissioner - District 2