

REV.

DEKALB COUNTY

ITEM NO. 12

HEARING TYPE

Action

BOARD OF COMMISSIONERS

BUSINESS AGENDA / MINUTES

MEETING DATE: March 10, 2015

ACTION TYPE

Ordinance

Substitute

SUBJECT: Amending the Code of DeKalb County as Revised 1988, Chapter 2 Article IX, Office of the Internal Auditor

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☒ YES ☐ No

PAGES:

INFORMATION Sharon Barnes-Sutton and
CONTACT: Kathie Gannon, Commissioners

PHONE
NUMBER:

PURPOSE: To amend the Internal Auditor Ordinance.

NEED/IMPACT: This document reflects all of the changes agreed to by Commissioners Gannon and Barnes-Sutton after significant discussion of the merits of various policy issues. The amended ordinance creates an oversight committee to recommend candidates for the position of Chief Internal Auditor and refines and clarifies the qualifications, duties and responsibilities of the position and office. To hire the Chief Internal Auditor takes four votes of the commission and the individual hired must possess certain professional certificates and qualifications. The Chief Internal Auditor is to consult with the District Attorney as necessary and various safeguards are placed within the ordinance to ensure that audits are conducted in a professional manner.

As drafted, this ordinance encourages transparency in government and creates a functioning and efficient office that will aid the Board of Commissioners in its auditing responsibilities.

RECOMMENDATION(S): Adopt the attached 2-27 clean draft of the ordinance and authorize the Interim Chief Executive Officer to execute all necessary documents.

AN ORDINANCE

**AN ORDINANCE TO AMEND THE CODE OF DEKALB
COUNTY, GEORGIA, CHAPTER 2, RELATED TO THE OFFICE OF THE
INTERNAL AUDITOR, AND FOR OTHER PURPOSES**

WHEREAS, the Organizational Act of DeKalb County, 1981 Ga. Laws p. 4304, as amended, ("Organizational Act") confers upon the Board of Commissioners certain enumerated powers; and

WHEREAS, the Organizational Act confers upon the Board of Commissioners the power and authority to fix and establish by appropriate resolution or ordinance, policies, rules and regulations governing all matters reserved to its jurisdiction by the Organizational Act; and

WHEREAS, the Organizational Act also confers upon the Board of Commissioners' Audit Committee the authority to screen and recommend an internal auditor to be employed by and serve at the pleasure of the board of commissioners whose function shall be to audit the various departments, offices, and agencies of the county government on a continuing basis; and

WHEREAS, the Organizational Act requires the chief executive officer to carry out, execute, and enforce all ordinances, policies, rules, and regulations of the board of commissioners when such resolution or ordinance becomes effective;

NOW THEREFORE, BE IT ORDAINED by the governing authority of DeKalb County, Georgia, that Chapter 2 of the Code of DeKalb County, as Revised 1988, is amended to read as follows:

PART I. ENACTMENT

By deleting sections 2-238 through 2-241 in their entirety and substituting in lieu thereof the following new sections 2-238 through 2-241 to read as follows:

ARTICLE IX. OFFICE OF THE INTERNAL AUDITOR

Sec. 2-238. Composition and Selection.

- (a) The Office of the Internal Auditor is hereby established and shall consist of, at a minimum, one (1) full-time position of chief internal auditor. The chief internal auditor shall be approved by the affirmative

- vote of at least four (4) members of the board of commissioners, after recommendation by the board of commissioners' audit committee.
- (b) The audit committee shall establish a process of screening candidates for recommendation and shall establish the position's job description which is recommended to include requirements that a candidate:
- (1) Be either a certified public accountant, certified chartered accountant, or a certified internal auditor;
 - (2) Have five (5) years of managerial or supervisory experience; and
 - (3) Have the knowledge, skills, and abilities to implement the requirements of the position.
- (c) Additional staff and funding for the Office of the Internal Auditor shall come under the authority of the chief internal auditor subject to the annual budgeting process. The chief internal auditor shall work with the director of human resources to hire qualified staff, and it is recommended that each staff person who will conduct or assist in the conducting of audits possess a bachelor's degree in business or public administration, accounting or a related field. It is further recommended that the chief internal auditor consider retaining an investigator, if appropriate or necessary.
- (d) An Internal Audit Oversight Committee ("oversight committee") is hereby established to provide professional guidance and insure the independence of the internal auditing function. The oversight committee shall evaluate and recommend well qualified candidates for the chief internal auditor position to the audit committee and the board of commissioners; recommend approval of an annual work plan, review completed audits, publish its findings and recommendations to the chief executive officer, the board of commissioners and the public. The oversight committee shall also recommend an annual department budget to the chief executive officer.
- (e) The oversight committee shall be comprised of five (5) voting members appointed as follows: two (2) members shall be appointed by the chief executive officer; and three (3) members shall be appointed by a majority vote of the board of commissioners. Of the three members appointed by the board of commissioners, one member must reside in the north end of the county, one member must reside in the central part of the county and one member must reside in the southern part of the county. All members

shall be residents of DeKalb County and shall hold no other county office or county compensated position. No member of the oversight committee shall have a financial interest in any county contract or work for any entity that has a contract with the county. No official elected by the voters of DeKalb County who has held that elected office within the previous eight (8) years may be a member of the oversight committee. Each member shall have an expertise in performance auditing, and have a minimum of five (5) years' experience as a certified public accountant, a certified internal auditor, or as a certified performance auditor, or eight (8) years of other relevant experience. Members of the oversight committee shall be appointed for five (5) year terms with the initial appointments to be staggered as follows. The initial appointments by the chief executive officer shall be for initial terms of two (2) years and successive appointments shall be for terms of five (5) years. The initial appointments by the board of commissioners shall be for initial terms of three (3) years and successive appointments shall be for terms of five (5) years. Members shall serve until a successor is appointed and members may be reappointed to successive terms without limitation. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. If a member moves outside the County, that action shall constitute a resignation from the oversight committee, effective immediately.

- (f) It shall be the responsibility of the oversight committee to recommend qualified candidates for the chief internal auditor position to the audit committee of the board of commissioners, and any individual may submit names to the oversight committee of potential candidates for the position of chief internal auditor. The board of commissioners shall select or reject a chief internal auditor within 90 days from the date of the written recommendation of a candidate by the oversight committee. If a candidate is rejected, the oversight committee shall recommend another candidate to the board of commissioners. The recommendation process and time limitations set forth in this subsection shall apply until the board of commissioners selects a chief internal auditor.

Sec. 2-239. Independence and Removal.

- (a) The chief internal auditor may act independently of the board of commissioners, the chief executive officer, and all other officials of DeKalb County. The chief internal auditor shall notify the board of commissioners and the chief executive officer, in writing, in the event he or she perceives inappropriate influence or pressure exerted on the Office of the Internal Auditor. Such notification shall state the source and nature of the perceived influence or pressure. The chief internal auditor shall be subject to the same requirements as the executive

assistant in the Organizational Act, Section 14 (e) whereby he or she shall be discharged for participation in the management of any political campaign or holding office in a political party or body.

- (b) The chief internal auditor will serve at the pleasure of the board of commissioners, but the affirmative vote of at least five (5) members of the board of commissioners shall be required to discharge the chief internal auditor.

Sec. 2-240. Term.

The chief internal auditor shall be a full time employee of the board of commissioners and his or her contract shall be for five continuous years with the option to renew for one additional five year term. The chief internal auditor may not serve for more than ten years in total.

Sec. 2-241. Powers and Duties.

- (a) The existence of the Office of Internal Auditor will create public trust and encourage transparency in government. The chief internal auditor shall have the power to audit the various departments, officers, and agencies of the county government on a continuing basis. Such audits may go into areas such as preventing waste, fraud, and abuse; promoting legal, fiscal, and ethical accountability; and reviewing the effectiveness and efficiency of programs and operations of county government and elected and appointed county officers.
- (b) The chief internal auditor shall be authorized to request any information from any department, officer, or agency of the county government on behalf of the board of commissioners.
- (c) The chief internal auditor, upon official request of and on behalf of the board of commissioners, shall be authorized to request the chief judge of the Stone Mountain Judicial Circuit to submit to the judges of superior court the question of impaneling a special grand jury charged to facilitate the work of the chief internal auditor in order to compel compliance with audits and investigations conducted by the Office of the Internal Auditor. In the instance that any audit or investigation conducted by the Office of the Internal Auditor or any information presented to the special grand jury in conjunction with any audit or investigation conducted by the Office of the Internal Auditor exposes any evidence that suggests possible criminal activity, the chief internal auditor shall consult with the district attorney of the Stone Mountain Judicial Circuit for further guidance and direction.

- (d) The chief internal auditor will direct his or her office, subject to an annual work plan which the chief internal auditor must submit to the audit committee for approval within six months of appointment. The chief internal auditor may amend the plan during a term. The chief internal auditor must consider recommendations and may seek suggestions for the work plan from the chief executive officer, the board of commissioners, elected and appointed county officers, and employees of county government. When advance public or agency knowledge of an audit included in the annual work plan would substantially impede the work of the office, the chief internal auditor may keep that portion of the work plan confidential, but must comply with the applicable requirements of the Georgia Open Records Act.
- (e) The chief internal auditor shall, immediately upon completion of any and all audits, present a written copy of the audit report to each member of the board of commissioners and the chief executive officer delivered simultaneously to each official by email and by hand delivery. The audit report must describe the purpose of the audit, the research methods used, and the chief internal auditor's findings and recommendations. Each affected department or agency must be given a reasonable opportunity to respond to the chief internal auditor's final draft of the audit report, and upon receipt, the chief internal auditor shall provide the response simultaneously via email and hand delivery to the chief executive officer and each member of the board of commissioners.
- (f) Subject to federal and state law, the chief internal auditor, in order to maintain the integrity of audits performed by the Office of the Internal Auditor, shall keep any and all reports prepared pursuant to this article, and any and all information received in connection with that report, confidential until the report is released to the public.
- (g) In performing his/her duties and work, the chief internal auditor or his/her designees will adhere to national auditing standards/principles in matters impacting work performance, finance, and governance within the County. The chief internal auditor shall follow all applicable guidelines and recommendations of the Association of Local Government Auditors (ALGA) and the Institute of Internal Auditors and will conduct all internal auditing functions in accordance with all applicable law and requirements of the industry.
- (h) The chief internal auditor, or his or her designee, shall attend each and every meeting of the Board of Commissioners audit committee.

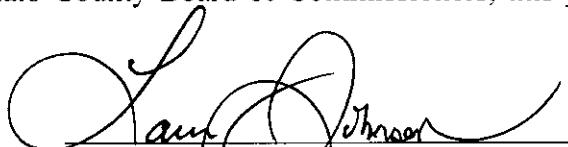
PART II. EFFECTIVE DATE

This ordinance shall become effective upon adoption by the Board of Commissioners and approval of the Chief Executive Officer.

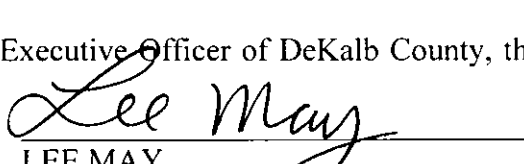
PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions or parts thereof in conflict with this ordinance are repealed.

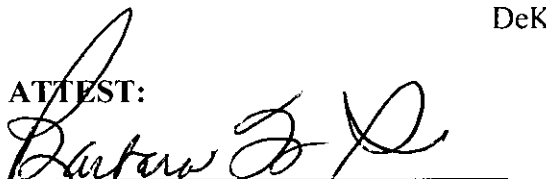
ADOPTED by the DeKalb County Board of Commissioners, this 10 day of MARCH, 2015.


LARRY L. JOHNSON, MPH
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

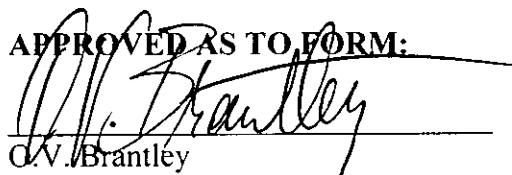
APPROVED by the Chief Executive Officer of DeKalb County, this 13 day of MARCH, 2015.


LEE MAY
Interim Chief Executive Officer
DeKalb County, Georgia

ATTEST:


BARBARA H. SANDERS, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO FORM:


G.V. Brantley
County Attorney
DeKalb County, Georgia



MEMORANDUM

This communication is confidential and protected by the attorney-client privilege and attorney work product rule. It is intended only for the individual or entity to which it is addressed and should not be given to persons or entities not directly involved with the subject matter on behalf of the County. It expresses the professional judgment of the attorney(s) rendering the opinion regarding the legal issues expressly addressed herein. By rendering an opinion, the attorney(s) does not insure or guarantee any particular result or outcome of any transaction or lawsuit.

by pdf and hand delivery

To: Barbara H. Sanders, Clerk
Antwyn Brown, Policy Analyst

From: Viviane H. Ernstes, Deputy County Attorney *Vhe*

Date: March 23, 2015

Subject: Internal Auditor Ordinance and Hiring
(Our File No. 02-0780)

Last week you asked me to revise the Internal Auditor Ordinance to reflect the amendments added from the floor at the March 10, 2015 BOC meeting. Enclosed please find a clean and red-line copy of the ordinance. I have not circulated this to the elected officials as I am sure you will do so at the appropriate time.

If you need anything else, please contact me.

cc: O.V. Brantley, County Attorney
Shaheem Williams, Assistant County Attorney