

## M E M O R A N D U M

November 2, 2020

To: Senator Sally Harrell  
Representative Mike Wilensky  
Representative Matthew Wilson

From: Robert Wittenstein, Chair  
Anne Hicks, Vice Chair  
Marian Adeimy Avise  
Wayne Radloff  
Amy Swygert

Cc: Mayor Lynn Deutsch  
Councilmembers: John Heneghan, Stacey Harris, Tom Lambert, Jim Riticher, Joe Seconder, Pam Tallmadge  
City Manager, Eric Linton  
City Clerk, Sharon Lowery  
Assistant City Attorney, Bill Riley

Subject: 2020 Dunwoody Charter Commission Final Report

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In accordance with the provisions of the Dunwoody charter adopted on April 10, 2014, the Dunwoody City Charter Commission met from August through November and reviewed each section of the charter. All meetings were advertised in accordance with Georgia Open Meetings requirements in O.C.G.A 50-14-1. Meetings were conducted via Zoom and were open to the public. Resident input was sought at the start of every meeting, the end of every meeting and when any proposed change was to be voted on by the Commission.

The Commission wishes to thank the city staff for their support and expertise throughout this process. It was invaluable.

The Commission's recommendations are below. They have been divided into two categories:

1. Changes that will require the legislature to call for a local Dunwoody referendum.
2. Changes that we recommend that do not require a local referendum.

Local Referendum proposed changes

The Commission recommends the voters of Dunwoody be asked to approve the following four charter changes:

1. Changing the term limit for the mayor from two consecutive terms to three consecutive terms.
2. Establishing term limits for council members at three consecutive terms.
3. Support the election of council members with a plurality of 45 percent rather than a majority of 50 percent to reduce the likelihood that a council election will be decided in a runoff election.
4. Shift the election for mayor by two years to coincide with the district elections effective 2025.

### Changes by action of the Legislature

The Commission recommends the state legislature make the following six changes to the Dunwoody city charter:

1. Include "improve water quality" under Environmental protection. (We believe its omission is a scrivener's error.)
2. Provide for compensation for the mayor and council to be indexed by the Consumer Price Index.
3. Remove the defined expense allowance for the mayor and each council member and replace that with reimbursement for expenses as approved by the city council.
4. Shift the swearing in of newly elected officials from the first work day of the year to the first regularly scheduled meeting of the year.
5. Provide for the establishment of emergency powers in the event of an emergency impacting life and health within the city.
6. Push back, by one month, the schedule for approval of the annual budget.

### Items considered but not approved by the Commission.

It is worth noting several areas where items were discussed, but motions to make the changes were not approved by the Commission. These included:

- Removal the millage cap of 3.04 percent in Sec. 1.03(37)(A).
- Support the election of the mayor with a plurality of 45 percent rather than a majority of 50 percent to reduce the likelihood that the mayor's election will be decided in a runoff election.
- Structural changes to the Development Authority in an attempt to foster better coordination between Dunwoody's Development Authority, the county and the school system.

Respectfully Submitted,

Dunwoody Charter Commission

Specific code section changes as approved by the Commission are outlined below.

**Sec. 1.03. – Powers and construction**

(b)(8) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the city, the region, and the state through the enactment of ordinances that preserve and improve air quality, improve water quality, restore and maintain water resources, the control of erosion and sedimentation, manage storm water and establish a storm-water utility, manage solid and hazardous waste, and provide other necessary or beneficial actions for the protection of the environment. These ordinances shall include, without limitation, ordinances that protect, maintain, and enhance the public health, safety, environment and general welfare and minimize public and private losses due to flood conditions in flood hazard areas, as well as protect the beneficial uses of floodplain areas for water quality protection, stream bank and stream corridor protection, wetlands preservation and ecological and environmental protection. Such ordinances may: require that users vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; restrict or prohibit uses which are dangerous to health, safety, and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion; control filling, grading, dredging and other development which may increase flood damage or erosion; prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and protect the storm-water management, water quality, stream bank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas;

**Sec. 2.01. – City council creation; number; election.**

(3) One councilmember shall be elected from each of the three council districts and shall hold Council Posts 1, 2, and 3, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers for such posts shall be elected by a ~~majority~~ plurality vote of at least 45% of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a ~~majority~~ the necessary plurality vote of the qualified electors of the council district voting in the election, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post will be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council must reside in the district he or she seeks to represent.

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(4)(e) With the exception of the ~~initial~~ term of office defined in Section 2.02(b), a mayor of the City of Dunwoody, with the powers and duties specified herein, shall be elected to a term of four years and until his or her successor is elected and qualified. The mayor shall be elected by a majority vote of the qualified electors of the city at large voting at the elections of the city. In the event that no candidate for mayor obtains a majority vote of the qualified electors of the city at large voting at the elections of the city, then a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election shall be included in the run-off election and the candidate receiving the highest number of votes in the runoff of the qualified electors of the city at large voting at such runoff shall be elected. The term of the ~~first-elected~~ mayor elected in 2025 shall expire upon the administration of the oath of office to his or her successor elected in the regular election held in November ~~2011~~27, as provided in subsection (b) of Section 2.02. Thereafter, a successor to each mayor shall be elected at the November election

immediately preceding the end of such mayor's term of office and the term of each mayor shall expire upon the administration of the oath of office to his or her successor.

**Sec. 2.02. – Mayor and councilmembers; terms and qualifications for office.**

(b) ~~An election shall be held on the third Tuesday in September 2008, to elect the first mayor and city council. At such election, the first mayor and council shall be elected to serve for the initial terms of office specified in Sections 2.01(d) and 2.01(e).~~ **Starting after the 2025 election for Mayor, the City Mayoral election shall coincide with the election of Council Posts 1, 2 and 3. The Mayor elected in 2025 shall serve a term of two (2) years.** Thereafter, the time for holding regular municipal elections shall be on the Tuesday next following the first Monday in November of each odd-numbered year beginning in 20**27**~~09~~.

(c) The number of successive terms an individual may hold a position as a councilmember shall be ~~unlimited~~ **no more than three (3) consecutive terms. An individual who serves as a Councilmember (for any district) for either one, two or three consecutive terms may stand for subsequent elections provided the individual is not a Councilmember at the time of such elections.**

(d) The number of successive terms an individual may hold the position of Mayor shall be limited to ~~two~~ **no more than three (3) consecutive terms. An individual who serves as mayor for either one, term or two, or three consecutive terms, may stand for subsequent elections provided the individual is not the mayor at time of such elections.**

**Section 2.07—Compensation and expenses**

The annual salary of the mayor shall be \$16,000.00 and the annual salary for each councilmember shall be \$12,000.00. Such salaries shall be paid from municipal funds in monthly installments. **The mayor and city councilmembers' salaries shall increase in an amount consistent with the Consumer Price Index or similar inflationary index.** ~~The mayor shall be provided an annual expense allowance of \$5,000.00 and each councilmember shall be provided an annual expense allowance of \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor and councilmembers in carrying out their duties as elected officials of the city.~~ **The city council may provide by ordinance for the provision of insurance, retirement, workers' compensation, and other employee benefits to the mayor and members of the city council and may provide by ordinance for the reimbursement of expenses actually and necessarily incurred by the mayor and members of the city council in carrying out their official duties.**

**Section 2.09 – Oath of office timing**

(a) The city council shall meet on the first ~~working day~~ **regularly scheduled meeting** in January immediately following each regular municipal election. The meeting shall be called to order by the ~~mayor-elect~~ **outgoing/current mayor** and the oath of office shall be administered to the newly elected mayor and councilmembers collectively by a judicial officer authorized to administer oaths.

**Sec. 2.12. - Administrative and service departments.**

New subsection: **2.12(a) Emergencies.**

**To meet a public emergency affecting life, health, property, or public peace, the city council may convene a meeting on call of the mayor or three councilmembers and may promptly adopt an emergency ordinance. In the emergency ordinance, the city council may declare that a state of emergency or disaster exists. No state of emergency or disaster may continue for longer than 30 days unless renewed by the city council. A declaration of**

a state of emergency or disaster shall activate the emergency and disaster response and recovery aspects of the city's emergency or disaster plans.

(b) In such an emergency, an ordinance can be passed by two-thirds vote of those present; provided, however, that the city council cannot in an emergency meeting (1) Levy taxes; (2) Grant, renew, or extend a franchise; (3) Regulate a rate for a public utility; (4) Change any zoning regulations outlined in Chapter 27 of the Code of Ordinances or zoning conditions, designations or restrictions on any parcel; (5) Grant Special Land Use Permits; or (6) Borrow money.

(c) An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three councilmembers shall be required for adoption. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(d) Unless otherwise limited by the city council in such an emergency ordinance, the Mayor shall have and may exercise for such period as the state of emergency exists the following additional emergency powers (1) to suspend the administrative procedures for conducting regular city business if strict compliance with any city ordinance or procedure would prevent, hinder, or delay necessary action in coping with the emergency or disaster; (2) to work with the city manager and chief of police to issue, implement and enforce emergency orders to protect life, safety and property.

(e) Emergency meetings convened under this section shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted.

#### **Sec. 5.03. - Submission of operating budget to city council.**

(a) On or before a date fixed by the city council, but no later than the first day of the ~~ninth~~ **tenth** month of the fiscal year currently ending, the city manager shall, after input, review and comment by the mayor, submit to the city council a proposed operating budget and capital budget for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor and city manager containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other comments and information as they may deem pertinent. The operating budget, capital budget, the budget message, and all supporting documents shall be filed in the office of the city manager and shall be open to public inspection.

#### **Sec. 5.04. - Action by city council on budget.**

(b) The city council shall adopt a budget on or before the first day of the ~~eleventh~~ **twelfth** month of the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed deadline, the operating budget and capital budget proposed by the mayor and city manager shall be adopted without further action by the city council.