

Unified Government of Athens-Clarke County, Georgia
Mayor and Commission
Special Called Session
Tuesday, April 16, 2019
6:00 p.m.
City Hall

The Unified Government of Athens-Clarke County, Georgia met this date in a special called session. Present: Mayor Girtz; Commissioners Davenport, Parker, Link, Wright, Denson, NeSmith, Herod, Thornton, and Hamby. Absent: Commissioner Edwards.

The purpose of the meeting was to consider an addition to the Code of Ordinances: Defined contribution plan and enter into executive session for discussion of real estate acquisition and/or disposal.

Citizen input

There was no citizen input.

Old business

A motion was made by Commissioner Davenport, seconded by Commissioner Denson, to adopt the following ordinance (#19-04-) which was presented by title only. The motion passed by unanimous vote.

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO DEFINED CONTRIBUTION PLANS; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. There shall be added to the Code of Athens-Clarke County, Georgia a new Chapter 1-26, which shall be entitled "DEFINED CONTRIBUTION PLANS."

SECTION 2. A new Section 1-26-1, entitled "*Definitions*," shall be added to Chapter 1-26 of the Code of Athens-Clarke County, Georgia as follows:

Sec. 1-26-1. – Definitions.

The following defined terms and phrases shall apply to this Chapter:

1. *Board* shall mean the Deferred Compensation Board as described in this Chapter.
2. *Deferred Compensation Plan* or *Defined Contribution Plan* shall mean a plan that allows an employee to set aside a portion or percentage of his or her salary to be paid at a later date, generally tax-deferred, such as plans available under Sections 401, 403, and 457 of the Internal Revenue Code or other sections as may later be added to the Internal Revenue Code. These terms *do not* include the Athens-Clarke County Employees' Pension Plan as described in Chapter 1-14 of the Code of Athens-Clarke County, Georgia.
3. *Employee* shall mean any person enrolled on the active employment rolls of the Unified Government of Athens-Clarke County, Georgia.

4. *Participant* shall mean any person who has funds in a Deferred Compensation Plan account provided by the Unified Government of Athens-Clarke County, Georgia.

5. *Unified Government* shall mean the Unified Government of Athens-Clarke County, Georgia.

Whenever used herein, a pronoun in the masculine gender shall be construed to include the feminine gender unless the context clearly indicates otherwise.

SECTION 3. A new Section 1-26-2, entitled "*Deferred Compensation Board*," shall be added to Chapter 1-26 of the Code of Athens-Clarke County, Georgia as follows:

Sec. 1-26-2. – Deferred Compensation Board.

(a) There is hereby created a board to be known henceforth as the "Deferred Compensation Board." Effective July 1, 2019, the Deferred Compensation Board shall administer, in compliance with this Chapter, any Deferred Compensation Plan that the Unified Government provides to its Employees.

(b) The Board shall consist of seven voting members and three non-voting, ex officio members. The voting members shall be as follows:

(i) A Commissioner to be designated by the Mayor and Commission;

(ii) The Manager;

(iii) The Human Resources Director;

(iv) The Finance Director;

(v) Two current Employee Participants; and

(vi) A resident of Athens-Clarke County, Georgia.

The non-voting, ex officio members shall be as follows:

(i) The Athens-Clarke County Attorney or his designee;

(ii) The Assistant Human Resources Director, who shall serve as secretary to the Board; and

(iii) The Benefits and Wellness Administrator, who shall serve as assistant secretary to the Board.

(c) The Manager, the Human Resources Director, and the Finance Director shall serve continuously as voting members of the Board. The Commissioner shall serve as a voting member during his term of office.

(d) The two current Employee Participants who serve as voting members shall serve staggered terms of two years each, and shall be selected by a majority vote of Employee Participants. Their membership on the Board shall be voluntary, and they shall receive no extra compensation for their service on the Board. In order to stagger the terms, the initial term of one of the Employee Participants shall be one year. In the event of a vacancy of an Employee Participant member due to death, disability, termination, resignation, or otherwise, there shall be an election within sixty (60) days of such vacancy to fulfill the remainder of the term. No Employee Participant shall serve more than two consecutive, two-year terms.

(e) The resident of Athens-Clarke County, Georgia who serves as a voting member of the Board shall have at least five years of demonstrable professional experience in finance, securities investing, accounting, or a closely related field, and shall not be an Employee, a Participant, a person with a vested interest in a Deferred Compensation Plan provided by the Unified Government, or an elected official of the Unified Government. Such resident shall serve a term of two years, and shall be selected by the Mayor and Commission. In the event of a vacancy of the resident member due to death, disability, resignation, removal, change of residency, or otherwise, the Mayor and Commission shall, within sixty (60) days of such vacancy, designate another qualified resident of Athens-Clarke County to fulfill the remainder of the term. Prior to the expiration of this member's term, the Mayor and Commission shall have the authority to remove such member for cause, on written charges, after a public hearing. Such member shall serve without compensation but may be reimbursed for actual expenses incurred in the performance of his duties. No resident shall serve more than three consecutive, two-year terms.

(f) The Commissioner shall serve as the chair of the Board and the Manager shall serve as the vice-chair of the Board.

SECTION 4. A new Section 1-26-3, entitled "*Meetings of the Deferred Compensation Board*," shall be added to Chapter 1-26 of the Code of Athens-Clarke County, Georgia as follows:

Sec. 1-26-3. – Meetings of the Deferred Compensation Board.

- (a) To constitute a quorum for transacting business, there must be at least five voting members present at any meeting of the Board.
- (b) Decisions of the Board shall be by a majority vote and shall be binding.
- (c) The Board shall meet at least quarterly, but may meet as often as necessary to conduct business.
- (d) The Board shall, as soon as practicable, adopt written bylaws and rules of procedure for the conduct of its meetings and hearings. The Board may amend such bylaws and rules of procedure as necessary.

SECTION 5. A new Section 1-26-4, entitled "*Powers and Duties of the Deferred Compensation Board*," shall be added to Chapter 1-26 of the Code of Athens-Clarke County, Georgia as follows:

Sec. 1-26-4. – Powers and Duties of the Deferred Compensation Board.

The Commission of Athens-Clarke County, Georgia hereby delegates to the Board the following powers and duties:

- (a) The Board shall be responsible for the initial review and vetting of Deferred Compensation Plans and the providers of such plans and shall make recommendations for action to the Mayor and Commission. However, the Mayor and Commission shall retain the power to approve Deferred Compensation Plans and providers.
- (b) Upon approval of Deferred Compensation Plans and/or plan providers by the Mayor and Commission, the Board shall have the following duties:
 - (i) Review and select investment options within each Deferred Compensation Plan.
 - (ii) Develop investment policy statements as necessary.
 - (iii) Review fees for investment options and ensure that, considering market conditions and other pertinent factors, such fees are reasonable and not excessive.

- (iv) Ensure that each Deferred Compensation Plan is approved by the Internal Revenue Service as necessary.
 - (v) To communicate and correspond with Deferred Compensation Plan providers as necessary to perform the duties of the Board as listed herein.
 - (vi) To recommend changes and improvements to Deferred Compensation Plans to ensure a competitive retirement program for Employees of the Unified Government.
 - (vii) To consider and decide appeals from any Employee or Participant dissatisfied with any determination relating or pertaining to application for or eligibility for Deferred Compensation Plan benefits.
 - (viii) To review reports and valuations relating to or pertaining to Deferred Compensation Plans.
 - (ix) Consider comments or suggestions from Participants regarding Deferred Compensation Plans, and take action on such comments or suggestions within the powers and duties of the Board as it deems appropriate.
 - (x) As applicable, receive regular reports from plan providers about economic conditions and the impact of such conditions upon Deferred Compensation Plans.
 - (xi) Regularly review, at intervals set forth in the Board's bylaws, Deferred Compensation Plans and providers.
 - (xii) Other duties regarding or pertaining to Deferred Compensation Plans that may from time-to-time be delegated to the Board by the Mayor and Commission.
- (c) In order to perform the duties listed in this code section, the Board's chair, or if the chair is absent or unavailable, the Board's vice-chair, shall be authorized to execute any necessary agreements. The Board's secretary or assistant secretary shall attest to such executions.
- (d) As necessary, the Board may submit recommendations or suggestions to the Mayor and Commission regarding Deferred Compensation Plans.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A motion was made by Commissioner NeSmith, seconded by Commissioner Herod, to enter into executive session for discussion of real estate acquisition and/or disposal. The motion passed by unanimous vote.

The meeting adjourned at 6:04 p.m.

Clerk of Commission

