



A Review of the Procedures Utilized for Appointment of Municipal Court Judges

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Introduction

The City of Roswell requested that the Carl Vinson Institute of Government provide additional information regarding potential procedures to be employed in selecting a municipal court judge for appointment and to comment on the advantages or disadvantages in appointing or electing multiple judges. To accomplish this, the faculty at the Institute of Government reviewed the city charters and codes of ordinances of 14 large cities in Georgia and followed up by interviewing officials familiar with the appointment processes used in 7 of those jurisdictions.

Electing Multiple Judges

As indicated in our initial report, other than the City of Atlanta, which subjects its appointed municipal court judges to retention elections, the City of Roswell is the only city in Georgia that elects its municipal court judge. Thus, there are no comparison cities in this state to examine for any potential advantages or disadvantages of electing more than one municipal court judge in a competitive election. Many cities do, however, employ multiple appointed municipal court judges. However, it is the author's viewpoint that it is reasonable to assume that the same advantages and disadvantages discussed in the previous report pertinent to electing one municipal court judge will be present in electing multiple judges.

There is, of course, the possibility that electing multiple judges would complicate the operation of the court. Typically in larger cities, there is a Chief Municipal Court Judge that makes decisions for the court on administrative matters. Since municipal courts have citywide jurisdiction, presumably the judges would run citywide. Some method would be needed for determining which of the two citywide elected judges should serve in the capacity of Chief Judge.

Electing multiple judges could also further dilute the ability of voters to hold the performance of individual judges accountable. While elected judges would have the benefit of being independent of their elected counterparts in making decisions, there is the very real possibility that voters, operating with limited information on day-to-day court operations, would hold one elected judge accountable at the ballot box for decisions made by a counterpart. As with electing one judge, the only readily apparent potential advantage to electing multiple judges is that they will be equally independent from any political pressure from the municipal governing authority.

Appointment Procedures for One or More Judges

A legal review of the charter and ordinances of 14 large Georgia cities indicates that actual appointment power usually takes the form of either mayoral appointment subject to

confirmation by the council, or by mayor and council acting together depending and depends upon the nature of the city government structure. There was at least one city we discovered where the city manager selected the municipal court judge and submitted it to the city council for confirmation. The relevant excerpts from the law in these cities are included as an appendix.

In order to obtain details on how the appointment processes worked, we contacted various city managers, city attorneys, city clerks, and judges in these cities. Out of the fourteen cities listed in the appendix, we were able to speak with representatives from seven cities—Athens-Clarke County, Duluth, Warner Robbins, Albany, Rome, Peachtree City, and LaGrange. From those interviews, it appeared that the nature of the municipal court judge selection process ranges from traditional political appointments to traditional employment recruitment practices.

In some jurisdictions, the process can be very informal if a likely candidate is already known to the elected members of the governing authority. In Athens-Clarke County, for example, the level of informality in selection of candidates for appointment as municipal court judge has varied depending upon the desired approaches of different mayors. There have been two vacancies on the municipal court for Chief Judge in the last decade. For one of the vacancies, the mayor and city attorney selected one local attorney that they knew and trusted. For the other vacancy, it was a more formal process: the mayor asked that the local bar association send out a notice that there was an opening. Applications were received, and the mayor interviewed five candidates. The selection was made with the help of some attorney acquaintances informally asked to offer their opinions on the candidates. In Warner Robins, the mayor and council usually will consider potential candidates known to them for the municipal court vacancies. The city might also informally contact the local bar association to gauge whether anyone is interested. For associate judges, the Chief Judge recommends people to serve.

In Rome, the candidate identification process has been informal, but has still involved an interview process in which the city manager and the city attorney meet to discuss which local lawyer they believe would be a good candidate. They interview potential candidates; and the mayor and city council ultimately ratify the nominee. The same procedure is utilized to select appointed associate judges. In Duluth, the City Manager has traditionally solicited resumes via the city Human Resource department which advertises the open position. The resumes are reviewed, and the mayor and council make the decision. The chief judge selects any associate judges.

In Albany, LaGrange, and Peachtree City, the selection process for municipal court judges is more formalized. In Albany, the city takes applications by putting an advertisement in the local paper. The applicants then submit written applications to the city clerk. The mayor and commissioners then decide to interview a candidate at their discretion. This process is utilized for both the chief and associate judges. In LaGrange, after a vacancy in the 1990s, the city manager let members of the local bar know that there was an opening. Prospective candidates sent letters and their resumes to the local bar association so that the governing authority would have an adequate pool from which to select a judge. Finally, in Peachtree city,

the city puts an advertisement in the local paper, and candidates put in a bid—their resume, qualifications, and the hourly wage which they would charge to the city. The city manager, city clerk, and municipal court clerk review the bids and make a decision which then is confirmed by the city council. This process is the same for associate judges as well.

Conclusion

Although there is a range of procedures utilized in selecting candidates for appointment in the municipal court judge selection process, most cities share a similar approach in finding candidates when one is not readily apparent to the appointing authority. Those seeking to find the best candidates for appointment typically use the local bar associations to spread awareness of a vacancy on the court, advertise in a local paper, have select individuals that work for the city (often a combination of the city attorney, manager, or mayor) to interview candidates or use the city's human resource department to solicit applications. All provide that final appointment decisions rest finally in the hands of the mayor and council in accordance with state law requirements that municipal court judges serve at the pleasure of the municipal governing authority.

Appendix A: Selected legal provisions related to municipal judge appointment

Albany: (population: 77,434)

Sec 22-30 (Code of Ordinance)

Every two years a Chief Judge is named by the board of commissioners

Interim Municipal Court Judges are appointed by the board of commissioners every 2 years

All appointees shall serve at the will & pleasure of the board of commissioners of the city

Vacancy: board of commissioners appoints a person who meets the qualification requirement – 30 years old, member of the state bar & 5 years of experience

Sec 22-31 (Code of Ordinance)

The Chief Judge is selected by the Mayor & board of commissioners

Section 3 (i) of the charter states that on the second Monday in January every two years, the mayor & board of commissioners appoint a chief judge

(c) If there is a vacancy for the position of the Chief Judge, then the board of commissioners shall appoint an attorney who meets the qualification of this charter.

Athens Clark-County: (population: 115,452)

Sec 1-4-17 (City Charter)

The judge shall be nominated by the Mayor and confirmed or rejected by the Commission on or before the first voting meeting in June of the year the term expires with the appointment to be effective July 1 of said year.

The mayor nominates a person to fill the vacancy of a municipal court judge, which is then confirmed or rejected by the Commission.

Dalton: (population: 33,128)

Sec. 6-2 (City Charter)

Judges shall serve at-will and may be removed from office at any time by the mayor and council unless otherwise provided by ordinance.

Must be 21, a member of the State Bar, and possess all qualifications required by law.

All judges shall be appointed by the mayor and council and shall serve until a successor is appointed and qualified.

Duluth: (population: 26,600)

Sec. 2-209 (Code of Ordinance)

The mayor and council shall appoint a chief judge of the municipal court of the city. The chief judge shall serve as the judge of the municipal court and shall also be the court administrator. The duties of the court administrator shall include the supervision of all court personnel, conducting written job evaluations of said court personnel at least once per fiscal year, and monitoring and overseeing the day to day operations of the municipal court. The court administrator shall be considered a department head.

The chief judge shall serve at the pleasure of the mayor and council. The city manager shall have the authority to review the job performance and compensation of the chief judge/court administrator and to make adjustments in said compensation in the same manner as provided for in the city personnel policies for all other administrative employees. The mayor and council shall have the sole authority to hire, terminate or discipline the chief judge/court administrator.

In case of a vacancy, the city council shall have the authority to appoint an interim chief judge who will serve until such time as a new chief judge can be appointed pursuant to the Charter and Code of Ordinances of the city.

Dunwoody: (population: 46,267)

Article IV. Sec. 4.02 (Code of Ordinance)

Judges shall be nominated by the mayor subject to approval by the city council.

The judge pro tempore-nominated by the mayor subject to approval of the city council.

4 year term, but may be removed by a 2/3 vote of the entire membership of the city council or shall be removed upon by the State Judicial Qualification Commission.

Gainesville: (population: 33,804)

Sec. 4.11 (City Charter)

Judges serve at will and may be removed from office at any time by the governing body unless otherwise provided by ordinance.

No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 25 years, shall be a member of the State Bar of Georgia, and shall possess all qualifications required by law. He or she shall hold no other municipal office in the city during his or her tenure as judge.

Johns Creek: (population: 76,728)

Article V. Sec. 5-11. (City Charter)

The Chief Judge is appointed by resolution of the city council; other judges are selected by a method provided by the ordinance.

Chief Judge serves 4 year term; is removable by a vote of five members of the city council or by action taken by the Judicial Qualification Commission.

Must be 21 and member of the State Bar of Georgia for a minimum of 3 years.

Chapter 26 Sec.-2 (Code of Ordinance)

Mayor shall also appoint additional judges pro tems as necessary to serve as requested; Judges pro tems serve at the pleasure of the mayor

Kennesaw: (population: 29,783)

Sec. 6.02 (City Charter)

Judge must be 21 years old, must have no prior conviction in a crime involving moral turpitude, and needs to be qualified to vote in Cobb County.

The municipal court judge shall be appointed by the mayor and council and shall serve at their discretion.

Nothing in the charter shall disqualify the mayor or any councilmember from serving as municipal court judge pro tem.

LaGrange: (population: 29,588)

Sec. 7.02 (City Charter)

At the first regular meeting in January of each year, the mayor and council shall appoint the municipal judge, and may also appoint an assistant municipal judge, each of whom shall serve for a term of 1 year and until his or her respective successor is appointed and qualified. The mayor and council shall also be authorized to fill any vacancy or unexpired term in such offices and to fix the compensation of the municipal judge and the assistant municipal judge.

Should the mayor and council choose not to appoint an assistant municipal judge pursuant to subsection (a) above, the municipal judge, with the consent of the mayor and council, may appoint one or more assistant municipal judges who shall conduct court and preside there over when requested or in the absence or disability of the municipal judge and shall otherwise have the same power and responsibility as the municipal judge of said court. In all instances, the

mayor and council shall have the authority to remove any municipal judge or assistant municipal judge at their pleasure, with or without cause.

Marietta: (population: 56,579)

Article VI. Section 6.2 (City Charter)

All judges are appointed by the mayor; must be active member of the Bar and in good standing.

The mayor may serve as judge ex officio of the court.

All judges serve at the pleasure of the mayor, and any judge may be removed from office by the mayor.

Peachtree City: (population: 34,364)

Sec. 8.2 (City Charter)

The judge shall be appointed by the city council and shall serve at the discretion of the city council.

Neither the mayor, any member of council, appointed officer, nor any employee of Peachtree City shall be qualified or eligible to serve as judge.

Must be 21, and not have been convicted of a crime involving moral turpitude

Rome: (population: 36,303)

Section 15-1 (City Charter)

The judge of the municipal court shall be appointed by the city manager and subject to the approval of the commission.

Section 13-1 (City Charter)

The city manager has the authority to appoint standby associate judges to serve from time to time in the judge's absence.

Valdosta: (population: 54,518)

Section. 6.1 (City Charter)

Mayor & council appoint municipal judge who shall hold office at the pleasure of the mayor & council.

Municipal judge pro tempore shall have the powers & authority of the municipal judge is approval by the mayor & council.

Warner Robbins: (population: 66,588)

Sec. 6-102 (City Charter)

The appointment of each judge shall be for a term of one year or at the pleasure of the mayor and council.

No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall be a member of the state bar of Georgia and all judges shall be appointed or removed by a majority vote of all council members.