

**Escambia County Charter Commission
Minutes of January 13, 2004 meeting
Pensacola Campus of Pensacola Junior College
Bldg. 96 – Room 9663
(Fortieth Meeting)**

Members

Present: M. J. Menge, Chair
Rita A. Riffel, Vice Chairman
Charles F. Beall, Jr
Johnny W. Blackmon
Barbara Forehand “Bobbie” Brown
Laurel Dick
Elbert Jones, Jr.
Denis McKinnon, Jr.
Frank Montenes
E. P. “Ted” Nickinson, Jr.
Lucy Rentz
Lamar Smith
Garrett W. Walton

Members

Absent: LeRoy Boyd (conflict in schedule)
Jewel Cannada-Wynn (conflict in schedule)

AGENDA NUMBER

1. Call to Order

Mr. Menge called the meeting to order at 5:35PM.

2. Approval of the Agenda

A motion was made by Mr. Jones to approve the agenda with a change to allow the public forum to come prior to the completion of Mr. Walton’s proposal and the motion was seconded by Ms. Rentz. The motion passed unanimously.

3. Approval of Minutes

The approval of the minutes of the December 18, 2003 meeting was postponed until the next meeting.

4. Communications

- 1) Correspondence from Mr. Montenes
- 2) Official minutes of the November 18th meeting

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

- 3) Email from Mr. Menge containing some questions and answers he had put together in response to a request from the campaign team that has been established by the steering committee of the PAC with the stipulation that some of the questions and answers may be changed depending on the action of the Charter Commission. It is intended as an educational tool to advise the electorate concerning the content and purpose of the Charter.
- 4) Handout from Bobbie Brown addressed to Bonnie Jones and Janet Landers regarding the March election.
- 5) Copies of Supreme Court opinion from Garrett Walton
- 6) Letter dated January 12, 2004 from David Tucker.
- 7) Memo from Garrett Walton with suggested language for his newly proposed districting plan.
- 8) E-mail from Garrett Walton dated January 11, 2004.

5. Review of the proposed Charter for Escambia County

Mr. Menge asked if all members had received the marked up and smooth copies of the Charter. He proposed that the commission review the smooth copy of the Charter to verify that all the changes requested by the Commission had been incorporated in the smooth copy. There are other minor revisions he will pass out. Also, Mr. Walton has some items for consideration. Mr. Menge asked if there were any objections regarding the language used to incorporate the changes requested by the Commission. There were no objections.

Mr. Menge then passed out some minor changes that needed to be addressed. On page 11, he stated a phrase had been left out. On page 20, he added a period. On page 26, he added a numeral four in Section 1104. On page 34, he put in the numbers in Section 1607 after the numerals.

Ms. Rentz stated that on page 15 Section 903 – Non-Discrimination Clause, she had thought they were going to omit the catalog of statutes item.

Mr. Menge responded that action had been recommended by the Legal Team, but the commission had decided not to do that.

Mr. Beall asked if Mr. Menge was referring to textual or substantive changes.

Mr. Menge responded he was looking at both. He then turned the floor over to Mr. Walton to address two items of interest.

Mr. Walton stated that the first item was Section 1202 part five concerning term limits. He asked if someone was elected in 2004, from what time does he or she get to serve two terms.

Mr. Menge stated that the elected member would serve from the date of the election in 2004.

Mr. Walton stated he was concerned that it was not clear in the language.

Mr. Beall recommended that Mr. Walton look at the language on page 27 used for the appointed member to see if it was clearer.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Menge entertained discussion between Mr. Walton and Mr. Beall concerning clarifying the language. After a satisfactory compromise, he told the members that he wanted to hold this to discussion only, and that the members would vote on the language after the public forum.

Mr. Walton stated the second item concerns the alternate method of qualifying for candidates. He then discussed the two ways of qualifying for office. Because of the redistricting, the petition method may be hard to accomplish. He then discussed the method used by the State of Florida for state offices. He recommended that they could provide language to allow candidates to receive petition signatures from any citizen in Escambia County.

Mr. Menge said that what occurred to him was that it would be fair this year because qualifying by petition opens January 2nd, and runs through June 21st. He felt that this was probably already being done. He discussed two things about this issue. First, he recommended that the language should be changed to include the 2004 election and any other redistricting in the future. For the alternate method of qualifying, he asked if they should go back to Florida Statutes for a definition. He felt that as it was, it could be questioned.

Mr. Walton stated he had no problems with the recommended changes.

Mr. Menge asked if anyone had any problems with what was being done.

Mr. Beall stated that as he understood it, during a redistricting year someone could get a signature from anyone in Escambia County even though he wouldn't be in most of the County Districts. He offered an alternate petition process.

Mr. McKinnon asked if we should delay consideration of this matter until we decide whether the County will be redistricted in 2004.

Mr. Menge stated no because what is being discussed is not applicable just to 2004.

Mr. Montenes felt the primary objective is to allow those who want to run in 2004, who don't know what redistricting will look like, to start gathering signatures for the petition.

Mr. Menge stated that what is being proposed is at any time there is redistricting it would be fair for those out seeking signatures to not be penalized. Second, if the Commission was going to approve alternative qualifying, it should apply in 2004.

Mr. Montenes asked if there is a general law that specifies the frequency of redistricting.

Mr. Menge said that if the members approved Mr. Walton's recommendation, that is, if they adopt a redistricting plan for 2004, it would be prudent to clarify they are talking about the candidates being able to use the alternative qualifying method in 2004.

Mr. Smith stated he didn't think this is an issue because petitions are too easy to come by.

Mr. Elbert Jones asked if the Florida Statutes cited by Mr. Walton applied only to state elections. How about at the local level?

Mr. Dick stated that this is affecting current candidates. It was his understanding that a candidate could get a signature from anyone in the County.

Mr. Menge explained that if this proposition passes, a person could get a signature from anyone in the County.

Mr. Montenes stated that the problem isn't in the ease of getting signatures; the problem is the verification of the signatures.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Ms. Riffel asked how this would affect precincts.

Mr. Menge stated that it wouldn't affect them. He then addressed items in the Charter. First, there was a question by a local attorney concerning Section 311 – Redistricting. The question was that it appeared that the state law was different than what is contained in the Charter concerning the six month limitation. It was his opinion that the legal team needs to look at this and provide comments. Next, under Section 403.1 on page 11, reference to the Florida Statute would require department heads be approved by the County Commission. That is not what the commission had agreed on. He provided suggested language to alleviate this variance.

Mr. Montenes said he thought it was a good idea to have the department heads approved by the County Commissioners.

Mr. Menge next addressed Section 703. He felt language should be added to prevent the County Commissioners from abolishing the Department of Human Resources and the Department of Central Purchasing. He moved to Section 906 on page 17. He recommended language to change the recruiting of unclassified employees by the Human Resources Department so it delineates just who is included. On Section 1102 – page 24, he suggested that for clarification, language that provides the current Florida Statute 92-248 as it exists on the date of Charter approval be added to the second sentence. In Section 1202 on page 27, the same thing applies when it says the provisions of Chapter 24.500 are incorporated in this Charter. Section 1401.3 on page 29, the question was asked if they wanted County Officers or their employees to be appointed to the Charter Review Commission. He asked Mr. Beall to consider that question and they would return to it later. In 1503 – Eligibility for Appointment on page 30, the question arose that if a Board member of the ECUA left office, would he or she be prohibited from being employed by the County Commission. He read suggested language, and asked the members to think about it and they would address it later on. Then Section 1612 on page 35, he addressed the repeal of Special Acts in a special election. He then discussed the Political Action Committee formed called Citizens for Charter Government and their future activities in supporting the Charter. There is a speakers' bureau that has been giving speeches at various civic clubs. A major opposition he has run into has to do with the power they perceive the Charter would give to the County Administrator. When he is confronted with this, two things come up. The super-majority vote it takes to hire/fire the County Administrator, and the non-interference clause. Based on what they did the last meeting concerning who could be contacted if you were a County Commissioner, he suggested changing the first paragraph of the non-interference clause to read in accordance with the handout he passed out earlier. He then read the recommended language.

Mr. Montenes stated it was his opinion that if there is to be a non-interference clause, it should go both ways. He also discussed the lack of facilities and administrative support for the commissioners. He referred to the new Courthouse, and felt there is no reason the commissioners shouldn't have offices there. Finally, he didn't think the rewrite of the paragraph will change people's perceptions.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Beall stated that he had heard several concerns by individuals about the lack of office space and administrative support for the commissioners. He agrees with the concept, but feels that by addressing this in the Charter it becomes a political problem. He recommended deleting the third paragraph, and trust the commission to use good judgment not to do what the commission has done in the past.

Mr. Menge felt there is a misconception as to what the County Commissioners can do in the way of providing themselves with adequate office space and administrative support. He referred to the language in the Charter. The thrust of the Charter is to move from an antiquated system where County Commissioners are also administrators. What we hope to do is attract people to this office who will not feel they will have to be full time administrators. He feels the model is more like a businesses board of directors.

Mr. Beall stated that he agreed with everything Mr. Menge had said. However, he doesn't believe that – some citizens with a knee-jerk reaction will make the assumption that they won't be able to call their commissioner. It is a wrong assumption and it is an uneducated assumption. His concern is the perception – not the reality.

Ms. Riffel stated that another perception could be that if they want to speak to the County Administrator or a County Commissioner, the citizens are not sure of who to call. How is that to be handled?

Mr. Menge stated the Charter gives the Commissioners authority to hire adequate staff to handle scheduling – it is his feeling that there is not a need to have ten secretaries to handle the commissioners' needs. If these limitations are not outlined in the Charter, we could end up back where we were.

Mr. Blackmon stated that the major issue he is hearing in his community is the dilution of the minority voter. He feels people do not know that the issue has been addressed and the other thing is the County Administrator and the need for a super-majority to hire/fire.

Mr. Montenes stated that it is the average citizen who is making these perceptions or coming to these conclusions. He explained his reasons for these perceptions and conclusions. He gave examples of where he thought the commission had gone overboard in its decisions. He also stated that he did not feel it is the job of the commission to tell commissioners they have a part time job – it is not a part time job. He stated that the actions of the commission have created the perception that power has been shifted from the commissioners to an all powerful County Administrator.

Ms. Riffel stated she agreed with much of what Mr. Montenes said because she feels it will drive away a lot of good people who would run for commissioner. Many people with full time jobs can not get away from work to attend meetings.

Mr. McKinnon said that several years ago there was a public outcry to do away with much of the space and support provided to the commissioners. He said the commission had to do this because that is what the people wanted.

Mr. Montenes reminded members that he had no heartburn with the salary issue.

Mr. Nickinson addressed the length of the ballot question – 75 words. He then discussed the retention of the County Offices vice the County Officers.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Walton addressed Section 305. He agreed substantially with what Mr. Beall's language said, however he drafted some additional language that he will make a motion to include at a later time. He also wants to discuss the salaries – one-third versus one-half.

6. Discussion of districting plan proposed by Garrett Walton

Mr. Walton reviewed how the commission had gotten to this point of redistricting (Seven Single Member Districts and Three At-Large). He stated that the members had indicated they were receptive to addressing this if the redistricting could be done without the dilution of the minority vote. He explained how he had worked with the Supervisor of Elections to come up with the numbers to ensure the minority vote was protected. He emphasized that the map and numbers being presented are just for illustration purposes to show the members that it can be done. He said there are four exhibits – three emailed to the members and a map. He reviewed the exhibits. First, as the county is today. Second, the county demographic data on seven single member districts – 3 & 6 are the majority minority districts. Third, Mr. Tucker's input. Finally, the map was presented to the commission and public with an explanation of the districts.

Mr. Menge asked about the boundaries of District Three, and if it is legal gerrymandering. He then asked Mr. Albritton of the legal team to address the commission.

Mr. Albritton reiterated that what has been represented is simply an illustration. The legal team had looked to ensure it met the Voter Rights Act. Mainly, they wanted to be sure that the black representation had not been diluted. He stated that the current illustration did not dilute the minority vote. In order to achieve the necessary numbers, there are district boundaries that do not meet the squares or circles the Supervisor of Elections was looking for. He said that as it is currently outlined, it would not dilute the minority vote, and he feels it would pass legal muster.

Mr. Beall stated he would love to adopt this plan, but has a legal concern. He gave the background on voter rights and one person one vote court cases. He reviewed an old Supreme Court case (Bailey v. Hunt) that addressed the population within a district. The bottom line is that the disparity between the districts should not be more than 10%. At a quick glance, he sees the disparity in the plan presented is approximately 29%. It is his opinion that the county will lose a court case not from the black community, but from the white community.

Mr. Blackmon stated that the 20% must be minority representation. He said they could get 20% of five or ten, but how do they get 20% of seven? Also, the at-large issue is that it is a white vote. He feels the black community will not accept the at-large plan.

Mr. Menge explained that if they were going to five and two, the black community could not retain the 20%. However, under this plan, not only do you retain 20% in the districts, but the black community will have a large impact on the at-large seats. If it is assumed that the three at-large seats will be white, with the plan as it is drawn there are two safe harbor districts.

Mr. Elbert Jones stated that he likes this plan. It fits what the commission has wanted to do. He looks forward to being able to vote for a black representative from his district as well as three at-large seats. With some tweaking, he stated he would support this plan.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Montenes stated he appreciated all the work put into this plan, but he agreed with some of what was said about a white voter backlash. He asked for the criteria used in developing the districts and the map. He said because of the lack of information on the redistricting, the non-interference clause, and the ten commissioners he will oppose the Charter.

Mr. Albritton stated the legal team took into consideration that there would be a period of time for redistricting. He said that he was not advocating this plan, and that he did not consider this to be a plan. Again, it is an illustration only. With proper adjustments it can be brought in line and be defensible.

Mr. Menge inquired about the gerrymandering that is done to bring in the African-American population up in Cantonment. Does the case law on the books allow that kind of districting?

Mr. Albritton stated it could be utilized. The deviation – the one man one vote is the most important thing currently in the case law. The drawing of lines is still a consideration, but he feels that if they are trying to accomplish something – to make sure the black vote is not diluted, then there can be some deviation in drawing lines – the numbers have to come a lot closer.

Mr. Montenes stated his concerns with the deviation. If the integrity of communities can not be preserved, then we shouldn't be just form fitting this issue. He said it was his opinion that this plan will tear this county apart on racial issues. That is another reason he can't support the current Charter.

Mr. Nickinson stated that he was excited about this plan. He pointed out that the African American community will have the opportunity to vote for four commissioners – three at-large and one in their district. He stated that if they build a wall around district three, there will be a segregated vote. He said there is a time when the barriers will be brought down and the black population will be able to live anywhere in the county and still have an opportunity to elect a black representative. He stated that the commission has heard so much hot air about different forms of government. Each was debated, and the one that will work is now before us. He plans on supporting the Charter.

Mr. Beall asked to hear Mr. Walton's response to the questions. Based on the time Mr. Walton spent at the Supervisor of Elections office, he would like to know if he felt it was possible to get these margins to a workable level while still maintaining the two minority districts.

Mr. Walton stated that the work was done by county personnel, and that he had not spent much time at the office. Second, the deviation was 18% and not 29%. This is based on just two runs of the numbers. He said he was very confident it was alright now. The bottom line is that the deviation goes the opposite of diluting the black vote.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

7. Public Forum

1. Mr. Jeff Marker - stated that he had sent the members a couple of emails and hoped they hadn't thought he was being harsh. He stated he supports the concept of Charter. However, for the members to be able to absorb all that has been discussed, and understand all the changes being made, it would take more time. He addressed the redistricting, and gave his opinion on the value of each proposal. He asked the commission why they were rushing. He felt they should take their time and do it right. He felt that the way the commission is going now will result in not getting the vote. He does not want to see them lose the vote. He felt it would be so much easier if they left the county with five districts. He felt the elected Chairman was the way to go. He then thanked them for their hard work.
2. Admiral Tim Wright - first offered his thanks to the members and stated he knew it was a tough job. He said that there has been a lot of talk about the non-interference clause, the offices and assistants, and the citizens' ability to get to their commissioners. In his view, what they are doing is changing a form of government developed and modified very little over the last 100 years. The County is a very different place today. Because they are talking about moving from pot-hole politics to a policy making body, the idea of a full time commissioner does not apply. Secondly, the visioning statement is very important. Based on his experience on the County Commission, the members were concentrating on their districts and the people in their districts. There needs to be some group of people interested in the broader view – that is why he likes the seven and three – it gives them three people who are looking at the county as a whole. What has been presented looks like it will work. Third, he has been hearing members say that the voters are not going to buy this. He feels that it is up to those who support the Charter to make sure the voters understand the truth. He felt that there is a lot of misinformation going on about the tax increase and other things, and it is their duty to make people understand that this will not set up an all powerful County Administrator, and it won't raise their taxes. He again thanked the commission for its hard work.

BREAK: 7:30 P.M. – 7:45 P.M.

Mr. Walton stated he wanted to respond to questions addressed earlier. First he discussed the Supreme Court ruling dealing with equal protection. He stated that if anything, the numbers arrived at do not dilute the minority vote. He again addressed the deviation issue, and felt it could easily be worked out. He then addressed the dilution concerns brought up by Mr. Elbert Jones and Mr. Blackmon. Concerning the map, he passed out excerpts of two Supreme Court decisions dealing with equal rights protection cases (14th Amendment). He reviewed the cases, explaining how they affected what they were proposing.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Smith felt that the three at-large districts idea trumps most of the concerns about Charter that most people have. Most people he has talked to are opposed to Charter. However, he feels that if the Charter provided some form of county-wide vote those people may support the Charter. It was his opinion that with four commissioners to vote for, many of the anti-charter people will support this Charter. He feels that this is going to be a very important issue with people undecided about Charter. However, he is concerned on the diligence that is placed after the election in drawing the seven districts. It is critical that they be drawn to meet the test. He feels there should be a fall-back position if legal issues come up on the 7/3 plan.

Ms. Rentz whole heartedly favors the at-large system, and appreciates Mr. Walton's efforts. This is one of the major issues she has heard when talking to other citizens.

Mr. Nickinson felt he stated his support earlier, but again he is elated about this proposal. If some are saying we are living in old days, take a look at his neighborhood – Cordova Park. This is a great opportunity to break the bonds holding people back.

Mr. Montenes explained the reasons for his opposition. He feels the map developed is a misleading thing. He stated that people are not going to vote for Charter if they can't see the map beforehand. He reiterated that there are other forms of government available to the county. By establishing ten commissioners, the Charter is not going to solve the problems.

Mr. McKinnon stated he has heard statements during the meeting that the commission is not in touch with the community. Because of the composition of his neighborhood, he feels he is hearing the community and what they are saying. All the people he has talked to want at-large commissioners. He addressed the earlier statement about the commission rushing things; if they took another four months there would be very few changes to what has already been done. There has been good dialogue and great debate. To take more time would be a waste, and cost the county more money.

Mr. Elbert Jones stood by his earlier comments, and again stated that he liked the plan. Because this is just an illustration and that experts will be refining and improving the numbers, he wants to use something Mr. Smith had said. He does not want the County Commission to come in later and change things done by this commission.

Mr. Menge stated that from the first he was in favor of at-large representation. He has continuously heard from the people that he has talked to that they would like to have at-large representation. Personally, he is elated that the commission has come up with a plan that does not dilute the minority vote and still has at-large representation. He intends to vote for the plan. He proposed that they do like the Commission did before when talking about having ten single member districts, that if it proves that the BCC cannot do the redistricting by April 30th without diluting the minority vote, that they have a fall back position as outlined in the Charter as currently written.

Mr. Riffel said she had been happy with the five district plan. However, this is a much better plan than having the five districts with two commissioners each. She feels that this plan provides a good compromise and the at-large addresses a lot of the needs of the people of this county.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Dick stated he was also in favor of five districts. He was not in favor of the two commissioners from each district because of the Sunshine Law issues. He felt that the at-large plan answers that question very well. He doesn't like to have the two per district as the fallback.

Ms. Brown stated she was not for at-large. She feels they would all come out of the same district. She felt it would probably be the down-town group. In her opinion the government would not run well. She would like to stay with five districts and five commissioners and hoped the people would elect descent and honorable people.

Mr. Menge asked Mr. Walton if he envisioned dividing the county into a southern, middle, and northern district for residency purposes for the three commissioners to be elected at large?

Mr. Walton stated that other Charter Counties around the state do not do that.

Mr. Blackmon stated he wanted to go back to what he said earlier. His concern was having a district map. After he has had time to absorb the plan, in principle he agrees with the plan, but it will be a hard sell to the people he knows. Now, he stated he could agree with the plan. Again, it will be a hard sell. He asked Mr. Walton if there was going to be a non-dilution statement included.

Mr. Walton responded that he had proposed language that states specifically that – No dilution of minority representation in the county.

Mr. Blackmon again said that in principle he could agree with the plan. Also, he reiterated that it would be a hard sell in his community.

Mr. Beall stated that Mr. Nickinson had said something that reminded him of a personal experience in his early school days. He gave an example of how things have changed in the county. He said he had given his concerns about this plan. He still has concerns over whether this plan can pass muster. He is willing to put aside his concerns, and put his faith in the people who can do this professionally and also on the Legal Advisory Team. He said he would support the plan, because he feels it is in the best interest of the county. This kind of a plan with at-large representation will give the county a buffer zone against the county electing the wrong people. He provided four concepts that he thinks the commission should consider: 1) if they went 8-2 they would come closer to meeting one man one vote. 2) 7-2 plan should be discussed. 3) Also, 7-3 should be discussed. 4) There must be a backup plan in the Charter.

Mr. Menge stated that if Mr. Beall wanted to discuss 7-2, they needed to do it now.

Mr. Beall stated the only reason he brought up 7-2 was because recent discussions raised the issue of perceptions of the black community that this will dilute the vote. The 7-2 plan would ease some of these concerns and get them to a odd number which in general is preferable. He feels 7-3 could work, but he thinks it would be wise to consider 7-2 in case the question comes up.

Mr. Dick asked about the division of the county to accommodate the at-large. Does this mean that only those in the designated areas get to vote?

Mr. Menge stated that what is being proposed is that there be a north, central, and south area in which they have to reside, but they run county-wide. The Charter should not have a

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

situation where there could be three neighbors that could get elected county-wide. If the county is divided by population into south, central, and north areas, they just have to reside in one of the three.

Mr. Walton said that none of the Charter Counties he looked at had that stipulation.

Mr. Beall stated he was opposed to dividing up the county. At-large means that the people who are most qualified should be able to run.

Mr. Blackmon felt that this would add to the confusion for some people who already are unsure about the Charter.

Mr. Dick stated that if they go with a three area division, one of the areas could have a larger percentage of black voters.

Mr. Montenes asked if it was possible for the commission to go back to the people who drew up the map and get the list of criteria used.

Mr. Menge responded to Mr. Montenes explaining his concept of this plan. He stated that just as with the ten single member district provisions, the Charter would direct the Board of County Commissioners to redistrict the county into seven single member districts conditioned upon it being done without diluting the minority vote. Then, if they have a saving clause that says in the event they can't do that by April 30, then they go back to the plan already approved. He stated that the Charter is not going to get into drawing the lines.

Mr. Montenes stated he thought they were doing that. It is his concern that this plan is violating the law.

Ms. Brown recited Section 203.2 – Truth in Government. She felt that the commission did not need to turn the Charter in on the 20th – more time is needed. If they are going to go with the current proposal, the map needs to be finished and attached to the Charter so people will know what they are voting on. It is her opinion that they are rushing. In line with Truth in Government, she feels the voters should have everything – don't hold anything back.

Mr. Menge responded by saying that he didn't feel that after studying county government and working on the Charter for the last fourteen months or so they were rushing. The issues being discussed now have been discussed before. They have adopted a redistricting plan before based on the data they have. He felt they were saying, based on Mr. Walton's information, that if in fact this is a feasible deal – legally and numerically – that it is a preferable plan for this county. If they can come up with seven districts with two of them being majority minority districts and three at-large, that is a preferable plan conceptually. If she was talking about drawing up the map and having it demographically precise and present it to the voters along with the Charter, he thinks that would be a mistake because that is not the commission's job. The BCC will draw the lines.

Ms. Brown said she understood that, but they should give them a proposal – some idea of what we are doing.

Mr. Beall stated that they could not do that legally. The state law says that the BCC does the redistricting.

Mr. Montenes stated, that is not the question being asked. He somewhat agrees with Ms. Brown. He reiterated that the commission does not know how the map was generated. Now that

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

there is an integrated document, the commission should call in the County Administrator, the County Attorney, and the Supervisor of Elections and get their opinion on whether this plan can be practically implemented and they support it. He felt they were rushing into disaster to meet the March 9th date.

Mr. Dick stated that they could get 20% by going to eight and two. Do we have to vote on a given number? He feels seven is not a magic number.

Mr. Menge explained that the data that Mr. Walton presented is on the basis of seven. Some are saying it should be seven and two. He feels it is a matter of fairness. If you have two and eight then that's fair. He stated that there are going to be people who will claim reverse discrimination. He strongly supports the seven and three, and feels for residency purposes the County should be divided into three areas for the three at-large commissioners. He recommended that instead of making a motion with precise language in it, let's deal with the concept. If the concept is approved, then the language can be written and provided to the members.

Mr. Walton stated he had language that tracks what is being discussed. He reviewed and explained the language.

Mr. Beall stated he is not certain about the new language in Section 1504, but assumes that some tweaking can be done if the motion passes as is.

Mr. Montenes asked when they would get a clean copy of the document to be used at the 20th meeting.

Mr. Menge stated that he would finish marking up the document that night and send it to Ms. Putman for typing. The members will have a copy before the week-end. What he wants to do is to go around to the members after making these amendments, because he does not want to plan on delivering the Charter to the BCC on the 20th if there is a majority vote against what we are doing tonight. It is his plan to take a formal vote on the 20th that affirms what they decide to do tonight. He told Mr. Walton that he would still like to have a fallback position.

Mr. Walton made a motion that the memo as supplemented outlining the seven/three concept be adopted and the motion was seconded by Mr. Elbert Jones.

Mr. Menge stated he would entertain a substitute motion to the effect that they adopt this language, and also adopt fallback language in the event the County Commission says it cannot adopt this plan without diluting the minority vote. The fallback plan would be the plan that is in the Charter now that was approved at the last meeting. The substitute motion was moved by Mr. Smith, and seconded by Mr. Blackmon.

Mr. Walton stated that this will not work. What we will be doing if we approve the substitute motion is to take the fifteen months of work by the Charter Commission and put it in the hands of the County Commission. If the BCC doesn't want seven and three and want to go five times two, all they have to say is that it will not work. The only body that is going to tell you if it works is the court. We are playing with fire. The seven and three plan will not dilute the minority vote if the County Commission does its job.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Menge responded that we have been wrestling with this for many months. The Supervisor of Elections has been asked several times if there is any way we can come up with at-large representation without diluting the minority vote. The answer up to now has been “no” it can not be done. If it can not be done we need a fallback position.

Mr. Walton stated that the courts could provide the fallback position.

Mr. Menge stated that if in fact the County Commission did say it could not do it, then someone will file a petition for a writ of mandamus and the court will say yes you can and here are the facts and then we will have a court mandated plan if we have to.

Mr. Nickinson stated he was against the substitute motion because there are three County Commissioners – one of whom is a swing vote and the other two appointed people who have acknowledged they were against Charter. One of them is sitting in the room. His district voted 67% for Charter but he still appointed three people to the Charter Commission who have made it clear that they are opposed to the adoption of a Charter. He feels they are really inviting disaster if you leave the work of the Charter Commission to the vote of that County Commission as it sits, and therefore he will vote against the substitute.

Mr. Smith felt that they were asking for disaster if they don't have a fallback position that they favor. If they don't have a fallback position, then the fallback is five. If this commission is serious about going to ten, and there is no fallback position and the decision is not made by the BCC or the courts, they will be stuck with five.

Mr. Montenes said he agreed with the need for a backup position. It was also said that two of the appointed commissioners appointed people who would vote for the Charter.

Mr. Beall feels they need a fallback position, if only for the election purposes. If Charter passes, and based on the assumption that there is going to be seven and three, and the commissioners don't have the political guts to redistrict the County in accordance with the will of the voters, they will be run out of office on a rail like they ought to be. Second, is there another way that we can fall back. Could the fallback still have at-large representation?

The substitute motion passed 8-5 with Ms. Brown, Mr. Dick, Mr. Nickinson, Ms. Riffel, and Mr. Walton voting against the motion. The fallback position will be included in the Charter. Mr. Menge was then asked about calling the main question. He responded that it cuts off all debate and it takes a two-thirds vote. The question is just to go with the main motion without allowing any other substituted motion and no further discussion. The call of the question passed unanimously. The motion now is to adopt the language proposed by Mr. Walton with the fallback position that was approved in the substitute motion. Motion passed 9-4 with Ms. Brown, Mr. Dick, Mr. Montenes, and Ms. Riffel voting against the motion.

Next, Mr. Menge asked if the commission wanted to add a residency requirement for the at-large representatives.

Mr. Walton asked who draws those three districts.

Mr. Menge stated it was the County Commission. They divide it into equal population drawn on a north to south basis.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Walton stated that was one of the reasons he opposes this. He feels the reason for at-large is to have people represent the county as a whole and global thinking. He explained his reasons for his opposition.

Mr. Menge stated that what they are trying to get to is someone realizing they are not just running in a district, they are running county-wide. Dividing the county into three residence areas would hopefully overcome the argument made earlier by Ms. Brown. Discussion ensued on the value of a residency requirement.

Mr. Beall stated he was opposed to the motion. There are two problems. They run the risk of having two qualified people living in the same part of the county that will run against each other and he feels that will limit people's choice. Second, the more this is done, the more likely there will be unopposed elections.

Mr. Menge reviewed the proposal to divide the county into three districts for residency purposes for those running for at-large seats. He entertained questions concerning the mechanics of running for an at-large seat.

A motion was made by Mr. Smith to add the residency requirement for the three at-large districts and was seconded by Mr. Dick. The motion passed 8-5 with Mr. Beall, Mr. Jones, Mr. McKinnon, Mr. Nickinson, and Mr. Walton voting against the motion.

Mr. Beall asked to address the language in Section 1504. He felt to make sure there is no misunderstanding, it should be spelled out more explicitly. He offered language to ensure this.

Mr. Walton asked the members to look at Section 302 – second paragraph. He felt this language dealt with the concerns expressed. He continued to explain his reasoning behind the language he had drafted.

Mr. McKinnon opposed putting the language in the Charter.

Mr. Elbert Jones stated that if that language was in the Charter, it would make it a lot easier to sell it in his neighborhood.

Mr. Walton reminded members that the Charter has to be sold to the public. If they let all the anti-charter folks do all the talking, we will lose.

Mr. Beall made a motion for Section 1504 to include suggested language that he read. The motion was seconded by Mr. Elbert Jones. The motion passed 11-2 with Ms. Brown and Mr. Walton voting against the motion .

Next, Mr. Menge addressed the four page handout with minor changes, and asked for a motion to approve. **The motion to approve was made by Mr. Elbert Jones, and seconded by Mr. Beall. The motion passed unanimously.**

The next item of business was Section 309 – Non-Interference Clause on page 9. He referred to his handout containing suggested language to replace the first paragraph. He stated he would entertain a motion to replace the first paragraph in Section 309 of the Charter. **The motion was made by Mr. McKinnon and seconded by Mr. Elbert Jones. The Motion passed unanimously.**

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Next, Section 403.1 – General. Add language.

Ms. Riffel asked why the change was necessary.

Mr. Menge explained that there was an inconsistency between Chapter 125.61 and what this commission had done concerning appointing department heads.

Ms. Rentz made a motion to add the suggested language to Section 403.1 and the motion was seconded by Mr. McKinnon. The motion passed unanimously.

Next is Section 703 – Changes in Departments. He suggested adding the language contained in the handout. **The motion was made by Mr. McKinnon and seconded by Ms. Riffel. The motion passed unanimously.**

Next is Section 906 – Recruitment of Personnel page 17. He provided suggested changes to the language. **A motion was made to approve the changes by Mr. Elbert Jones, and seconded by Mr. Nickinson. The Motion passed unanimously.**

In Section 1102 on page 24, added language was recommended. **A motion was made to approve the additional language by Mr. Beall, and seconded by Mr. Dick. The motion passed unanimously.**

The same would apply to Section 1202 – Santa Rosa Island Authority. **A motion was made to approve by Mr. Beall, and seconded by Mr. Dick. The motion passed unanimously.**

Mr. Walton asked if Mr. Menge wished to address Section 1202.4 and 1202.5 on page 27.

Mr. Menge explained the proposed language addressing the start date of limitations for members of the SRIA. **A motion was made to approve by Mr. Beall, and seconded by Mr. Walton. The motion passed unanimously.**

He then asked if the members wanted to put any language in the Charter prohibiting any County Officer, or employee of a County Officer, to be appointed to the Charter Review Commission.

Ms. Brown asked if that meant that anyone on the Charter Commission can sit on the Charter Review Commission.

Mr. Menge stated that at this time they could; however, if the members want to do anything with Section 1401.3, this is the time to do it.

Mr. Walton made a motion to leave Section 1401.3 as it is. Mr. Elbert Jones seconded the motion. The motion passed unanimously.

Mr. Menge next addressed Section 1503 – Ineligibility for Appointment. The issue was raised by a member of the ECUA. He explained the circumstances behind the question raised – eligibility for employment with the Charter Government after a person has completed his term as a Board member of ECUA.

Mr. Beall felt that the language Mr. Menge offered did just the opposite. He suggests that they strike the phrase “in Charter government” and insert the more specific language in there.

Mr. Menge stated that what it is saying right now is that if you are a Board member of the ECUA, this says that the person can also be holding a compensated position under the Board of County Commissioners – it can’t be done at the same time. The question is, after a person’s term expires, should they then be prohibited during the one year period from accepting a compensated position under a Board they weren’t on.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

The motion was made to approve by Mr. Beall, and seconded by Mr. Dick. The motion passed unanimously.

Ms. Riffel addressed Section 1505 (5), and explained her concern with the citizens perceiving that their power to enact, amend, or repeal county ordinances were limited.

Mr. Smith made a motion to approve language that explained how amending certain provisions were prohibited by general law. Mr. Nickinson seconded the motion. The motion passed unanimously.

In Section 1612, add language “in a separate special election.” **A motion was made to approve the added language by Mr. Nickinson, and seconded by Ms. Rentz. The motion passed unanimously.**

Mr. Nickinson stated that Mr. Menge had passed over Section 1601 – Referendum and Ballot. The ballot language was 76 words, and he recommended a solution. The language suggested by Mr. Nickinson was approved.

Mr. Walton revisited his memo discussing the redistricting, and alternate provisions for qualifying for office.

Mr. Walton made a motion to approve the language in Section 302 for these provisions. Motion was seconded by Mr. McKinnon. The motion passed unanimously.

Mr. Menge stated that the people he has been talking to have expressed a concern about the requirement of a super-majority to terminate the County Administrator.

Mr. Beall felt they could still go to a compromised position some of the Chartered Counties have adopted allowing a majority to do it if they do it in two straight meetings. That would be his preference.

Mr. Menge asked for a vote on whether to leave the language as written or accept Mr. Beall’s compromise language.

Mr. Walton made a motion to leave it as written. Motion was seconded by Mr. McKinnon. The motion passed 10-3 with Mr. Beall, Mr. Menge, and Mr. Smith voting against the motion.

Ms. Brown stated she wanted to put the current level of taxation in the language so people would know what they are now. **She made a motion to change the language, and provided suggested alternative verbiage. The motion was seconded by Mr. Montenes.**

Mr. Chris Jones stated it was his opinion that this language would be in conflict with general law.

Mr. Touart stated he agreed. State law prohibits counties from raising millage above ten mills. He felt it would be extremely difficult for ten commissioners to raise taxes.

Mr. Menge explained that there was a Supreme Court case where they tried to change the millage rate and restrict it and the court stated that it was the exclusive prerogative of the Board of County Commissioners. The only limitation is ten mills, and the county cannot exceed the ten mill limitation unless additional millage is approved by the voters.

Ms. Brown withdrew her motion and Mr. Montenes withdrew his second.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Chris Jones stated that the use of MSTUs and MSBUs could allow the county to go to twenty mills. That is at the County's discretion.

Mr. Menge stated the Charter Commission could not change the general law that allows the county to adopt MSTU's and MSBU's.

Mr. Walton addressed Section 305. He recommended deleting language concerning facilities and administrative support for commissioners. He then explained reasons for this action. He feels it is up to the people and the County Commissioners.

Mr. McKinnon felt that if they leave it to the County Commission, it will go back to what it was – exclusive private offices and full time personal aides. He feels the County has made an outcry that they do not want that.

Mr. Walton felt the outcry was over the salary and not the support.

Mr. Touart stated he was concerned about available facilities for the commissioners, because people want to be able to meet with their elected officials. He asked them to remember the Sunshine Law. The County Administrator has to locate and personally talk to each commissioner. He asked them to reconsider the limitation on office space.

Mr. Menge stated that what had just been said aggravates him. Basically, what Mr. Touart would lead the public to believe is that if this provision is adopted then they can't meet with their County Commissioners? That is not true. Citizens can contact their Commissioner. They can meet their commissioners at the courthouse in an office. What this provision says is that the Board of County Commissioners will decide what they need for adequate facilities and what they need for personal aides, but all ten do not need ten offices and ten personal aides. If this prohibition is not in the Charter, there will be ten personal aides and ten personal offices.

Commissioner Banjanin stated the Charter would set up part-time commissioners who are as Mr. Menge said full-time businessmen. He said those kind of people work 10-12 hours a day. When are they going to meet with all these constituents? With no offices, people will be coming to the commissioner's house at night in numbers. What is being done is this is cutting off the citizens from any voice in the issues of this county. Being a commissioner is a full-time job.

Mr. Smith stated that many of the past commissioners had full-time jobs, received full-time pay, and had full time aides. He feels that argument is fallacious to begin with. He feels they will make time to meet their constituents. He stated the same thing happened to the School Board and ECUA.

Mr. Montenes stated that the four commissioners who got removed were part-time. Being a commissioner in this county is a full-time job. Let the people who are involved work it out.

Commissioner Banjanin felt they would encounter difficulty complying with the Sunshine Law. He explained how if there were only a couple of personal aides, it would be easy to break the law when working with several commissioners.

Mr. Menge asked the Commissioner if he talked to the County Administrator? Does the County Administrator talk to other County Commissioners?

Commissioner Banjanin answered in the affirmative, but asked what that has to do with secretaries?

Mr. Menge stated that secretaries talk to more than one commissioner.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Beall stated he was speaking differently to the motion – purely political. He has heard opposition to the Charter based on this, and that the County Administrator was going to be too powerful. All this is not true; however, it can be fixed by eliminating this, and he planned on supporting the motion.

Mr. Menge stated the reason he was opposed to it primarily centered on what Admiral Wright had stated. The Charter Commission has indicated it does not want to continue with the same old thing that we have had in the past. We want to break that mold and show the citizens of this county that it is a new day. We are moving into the 21st century, and we are not going to continue the quasi-administration system we have expecting them to be full-time commissioners which automatically gets them involved in administrative details that has caused the kind of problems we have had.

Mr. Dick asked if they basically do the same thing by cutting the salaries for County Commissioners and the secretaries. If they cut the salary, they will have to have another job.

Ms. Riffel stated she thought it would still be a scheduling nightmare. She feels there will be a problem with confidentiality.

Mr. Walton made a motion to delete the last phrase in the final paragraph of Section 305 and the motion was seconded by Mr. Montenes. The motion failed 6 – 7 with Mr. Blackmon, Mr. Jones, Mr. McKinnon, Mr. Menge, Mr. Nickinson, Ms. Rentz, and Mr. Smith voting against the motion.

Mr. Walton addressed the salary reduction. It was his opinion that the salaries for the County Commissioners should be one-third instead of one-half. He felt that \$34,000 was not part-time pay in Escambia County.

Mr. Dick stated his opposition to the motion. He didn't feel \$34,000 is a very large amount for a full-time job.

Mr. Montenes said he didn't think that any member of this commission should make a decision that belongs to the citizens and the people they elect. It is not the commission's job.

Mr. Walton explained that he does not want a person who is employed full-time to be precluded from running for office.

Mr. Walton made a motion to reduce the salary from one-half to one-third of the state mandated amount. The motion was seconded by Mr. Smith. **The motion failed 2 – 11 with Mr. Smith and Mr. Walton voting in favor of the motion.**

Mr. Menge provided comments concerning the Charter Commission's performance. He stated he was personally proud of the way the members diligently worked on this difficult task. He feels they have come up with a document they could truly be proud of. He asked for a straw poll of members on their individual votes.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Walton	– Not Sure
Mr. Smith	– Supports reporting it out to the BCC
Ms. Rentz	– Supports Charter
Mr. Nickinson	– Supports Charter
Mr. Montenes	– Cannot Support Charter
Mr. McKinnon	– Supports Charter
Mr. Jones	– Supports Charter
Ms. Riffel	– Supports Charter being presented to BCC
Mr. Dick	– Cannot Support Charter
Mr. Blackmon	– Supports Charter
Mr. Beall	– Supports Charter

Mr. Menge stated that upon inclusion of the changes approved, there should be a majority vote to submit the Charter to the Board of County Commissioners on January 20th.

Ms. Rentz stated that on behalf of the commission she wanted to compliment Mr. Menge for doing an outstanding leadership job.

Mr. Nickinson complimented Ms. Putman on the services she has provided the Charter Commission. All members and Mr. Menge agreed.

Mr. Menge stated the University of West Florida Whitman Center has done a commendable job in support of this commission.

8. Unfinished Business

There was no unfinished business.

9. Items added to the agenda.

There were no items added to the agenda.

10. Announcement regarding the next meeting.

The next meeting is scheduled for Tuesday, January 20th at 1:00PM in the BCC Chambers.

11. Adjournment

The meeting was adjourned at 9:50 P.M.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE