

Official

**Escambia County Charter Commission
Minutes of November 25, 2003 meeting
Pensacola Campus of Pensacola Junior College
Baroco Center – Room 2142
(Thirty – sixth Meeting)
(5:35 P.M. – 10:50 P.M.)**

Members

Present:	M.J. Menge, Chairman	Laurel Dick
	Charles F. Beall, Jr.	Elbert Jones, Jr.
	Johnny W. Blackmon	Frank Montenes
	LeRoy Boyd	E.P. “Ted” Nickinson, Jr.
	Barbara Forehand “Bobbie” Brown	Lamar Smith
	Jewel Cannada – Wynn	Garrett W. Walton

Members

Absent: Rita Riffel, Vice Chairman
Denis McKinnon
Lucy Rentz

AGENDA NUMBER:

1. Call to Order - Chairman Menge at 5:35 P.M.

2. Approval of the Agenda

Motion made by Mr. Dick and seconded by Mr. Boyd to approve the agenda. Motion passed unanimously.

3. Approval of the November 13, 2003 minutes.

The Chair explained that the minutes of November 13th have not been prepared yet. Those minutes will be addressed at the first public hearing on December 4th as well as any committee minutes that need to be approved.

4. Communications

- 1) Copy of the citizen complaint form utilized by the Sheriff’s Department and CLELG.
- 2) Copy of the CLELG Mission Statement and Procedures.
- 3) Printout of the Miami and Las Vegas website describing their civilian panel review committees.

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Mr. Menge stated that the newspaper had decided to publish the Charter. If any changes are made tonight they will hopefully get incorporated first thing in the morning. It will be published before the public hearing to be held on December 4th.

5. Discussion on Citizen's Investigative Board (CIB)

Mr. Beall stated that it is not a question of whether there is a problem, but if the CIB is the solution. He felt that the CIB did not belong in the Charter, and thought it should be created by ordinance if the BCC believed it was needed. Therefore, he said he would be voting against the CIB to be included in the charter tonight.

Mr. Blackmon stated, based on what he has heard so far, and the fact that the current board has only heard three cases in a year, he would be voting yes on inclusion of the CIB in the Charter.

Mr. Boyd stated that the Sheriff's Office is broken, and that he felt it would take more than the CIB to fix it. However, the CIB is a step in the right direction. He stated that what is in place now is ineffective on solving the issues. Therefore, he requests the support of the commission in establishing a CIB with subpoena powers.

Ms. Canada-Wynn stated that because of the ineffectiveness of the current system, she feels the county needs to support a CIB. Therefore, she supports the establishment of a CIB.

Mr. Menge stated that there is no doubt that in any society any allegations of police abuse are of the utmost concern. However, he felt there were a number of boards and other authorities that are charged with the responsibility to investigate these types of complaints. The Justice Department, Office of Civil Rights, State Attorney's Office, FDLE, and even the Citizens Law Enforcement Liaison Group (CLELG) which is mandated by Chapter 112 are some of the investigative bodies. He said that CLELG may not be properly formed or operating properly, but, in his opinion, that is a political matter. He stated he was concerned that if there is a Charter mandated CIB, and it and the CLELG investigate the same complaint, there will be confusion generated among the public. He said it was hard for him to believe that if the facts backed up the complaints discussed last week, that there wouldn't be at least one hundred attorneys offering to take on the cases on a contingency fee basis. He understands the concern, but does not feel the issue should be addressed in the Charter. Therefore, he would be opposing the motion.

Mr. Dick explained that he had discussed the complaints in Century with a Mr. Caldwell. He was told that there isn't a problem with the Sheriff; it is a problem with certain individuals. Therefore, he felt that starting another system would not be the answer. He agreed with Mr. Beall that the creation of a CIB should be addressed as an ordinance. Based on his conversations with Mr. Caldwell, and the fact that the Sheriff fixed problems brought to his attention, he will vote against the motion.

Ms. Brown responded "No."

Mr. Jones stated he still supports having a review board. He took the discussion beyond the Sheriff. This is a systemic problem, not one related to one person. He said there is obviously a problem, and the commission is being asked to address it somehow. He stated there are a

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substantial number of important citizens that are asking us to provide some redress for a problem they have been faced with for a long time. He felt they may not be talking about establishing a CIB, but maybe just changing the system as it is now. He felt this issue was a well kept secret. He therefore is in favor of including the Citizens Review Board in the Charter.

Mr. Montenes didn't feel that the question was just about including this in the Charter. He said the issue has been addressed to the current system and it has not worked. It is his opinion that a short statement under Article III would go a long way in solving this problem. This is a method to help unite the citizens. Therefore he supports putting something in the charter.

Mr. Nickinson said that based on what inputs he has heard, he prepared a short paper on points of discussion which he read. He gave a breakdown of the agencies responsible for investigating the complaints being discussed. Because of his findings, he respectfully declines on including a CIB in the proposed Charter.

Mr. Smith agreed there are issues to be addressed. He doesn't know why the appropriate agencies are not investigating these issues. However, this commission has voted to leave the Sheriff out of the Charter, and for that reason he is going to vote against including the CIB in the Charter.

Mr. Walton stated he agreed with much of what Mr. Nickinson had stated. He doesn't feel this belongs in the Charter. He felt there were legal remedies with the CLELG that are not expensive. If it doesn't work, seek higher assistance.

Mr. Menge stated that the Commission has previously listened to the public speak on this issue in public forum, but the issue will be opened up again tonight. However, he requested that the speakers not repeat what they have previously told the Commission. If anyone has anything to add he will recognize them, but will ask that remarks be limited to three minutes.

6. Public Forum

1) Donna Gallegos provided a copy of some internet research she has done. She said that the system in place is a milk toast attempt to look like there is concern about citizens' complaints. Based on the limited complaints processed, it is a closed complaint process that needs to be improved. She then reviewed the material handed out to the commission. She then provided her recommendations on what should be done to improve the complaint process. She stated that there is a crisis of confidence in Escambia County's Sheriff's department, and felt citizens overseeing law enforcement is the only way to alleviate this crisis. Therefore, a CIB should be established by inclusion in the Charter.

2) Katy Porter explained how she had worked with law enforcement, and that part of her job was to meet with citizens' investigative boards. She stated that these boards worked with both the Sheriff's department and the County Commissioners to provide equitable decisions on complaints. She then discussed the conditions within the jail for juveniles and adults. In her opinion, CLELG is run by the Sheriff's Office.

3) Mr. Bravewolf explained that he was a former inmate and knows about the conditions

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in the jail. He stated that there is mistreatment of juveniles and adults. He gave some examples of the abuse that occurs.

4)Patrice Cashwell stated she was a criminal defense attorney, but was speaking as a citizen to the Commission. She explained how the complaint process worked from her experiences. She explained how things are missing from some of the files on officers and internal affairs files. She stated that the people being abused are the poor, the ignorant, and the disenfranchised. She gave additional examples of clients she had worked with and their types of abuse.

5)Cindy Carter discussed her relationship with law enforcement, and stated that there is a dire need to do something about the abuse complaints discussed earlier. She explained how if the commission doesn't take appropriate action then they are failing their constituents. She provided a personal example of abuse within her family and among friends. She feels the Escambia County Jail is completely out of control. She discussed the polarization of white and black inmates and the problems this causes.

Ms. Brown asked Ms. Carter if she thought they had put her child in lock-down for his protection, and who was providing the medications.

Ms. Carter responded he was not put in lock-down for his protection and that the jail psychiatrist was providing the medications. She said it was a common thing for inmates to get a drug cocktail to keep them subdued. Because he is charged as an adult, she has no access to his care and treatment.

6)Tanya McFadyen discussed the medical and medication problems within the jail. She said that if the county kept the CLELG as it was, it would only perpetuate the problems currently being experienced. She addressed a previous statement by the Chairman concerning attorneys taking on these cases. She talked to several attorneys and they told her that if they wanted to continue to make money, they couldn't take on these types of cases. She discussed what she called the "good ole boy network" among the lawyers in Pensacola. She warned that if the proper authorities did not take on this issue, the Federal Government would. She hoped the commission would stand up and take charge of remedying this critical issue.

7)Walter Lambert said he was there as a representative of NAMI – the National Alliance for the Mentally Ill. He explained circumstances where the mentally ill, especially children, might come in contact with law enforcement. He stated that police are not set up to handle mental illness. He stated statistics show that one in five people have a brain disorder. He feels that a citizen's review board is needed, but is not the total answer. He feels the legislature should be approached. He said that there is a law that does not allow the Jail staff to give out any information when it concerns a mentally ill inmate. Therefore, he stated the citizens' review board would be a step in the right direction.

8)Elvin McCorvey explained his experience involving the death and burial of a jail inmate he had known for many years. The inmate was mentally ill. His death raises many questions which have gone unanswered. He stated that is the reason he was back again to address the commission. He intends on getting answers, and will call the Justice

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Department. He stated that if something wasn't done by the commission, the people will do something.

9) Alton Merkerson stated he has been a member of the Citizens' Liaison Group (CLELG) for the last eight years, and was currently serving as Chairman. He explained that the Group's hands were tied. Citizens come through the Group because they are afraid to go through the Sheriff's Office or Police department. Most complaints received are for racial profiling, excessive force, verbal abuse, etc. He stated his surprise with the number of juveniles that have had run-ins with the law. He then gave examples of complaints received. He wanted to let everyone know that the committee was not a "yes" organization, and that they don't work for the Sheriff or Police Chief. He explained that once a report is received an investigative team is formed to investigate the report. If it is determined that the arrest was justifiable – which happens in most cases – the case goes to court and it is out of the Group's hands. All that can be done is to report to the Sheriff or Police Chief what the Group recommends should be done if a person was wronged. He gave an example of a complaint, and the actions taken. There have been a lot of actions taken against officers that the public is not aware of. However, the Group does not have the authority to go to the Sheriff's Office or the Police Chief's office and investigate the officers there. He explained the role of Internal Affairs. He feels most of the problem lies internally. He outlined the fact that in most cases, the people who are complaining are already in court, and that takes the issue out of the Group's hands. He feels there is a need for a committee that can go in and investigate the Sheriff's department. The Group consists of 15 members including 4 non-voting members – 2 from the Sheriff's office and 2 from the Police Department – who act as liaison to law enforcement, the rest of the members act as investigators.

Mr. Jones asked what happened to the Group's recommendations.

Mr. Merkerson stated that is where the Group stops involvement. He said that they receive a response to the recommendations, and usually it is in favor of the recommendation.

Mr. Jones asked how they get their complaints. The commission has heard that there are a lot of complaints that do not get to CLELG.

Mr. Merkerson reviewed some past history. He explained how he provides information at local churches etc. He again explained how some of the complaints are received. He again stressed that most of the problem is internal.

Mr. Dick stressed that the majority of individuals providing input to the commission had stated they had no idea of how to get hold of the Group; however, he made one phone call and obtained the names of the Chairman and Vice-Chairman. He wondered why these people are having such a problem.

Mr. Merkerson said they are probably correct because he is Roy Jones trainer, and he is on the road a lot. Any time a situation comes up they can always reach other members.

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Mr. Dick asked if there were any additional responsibilities that should be added to the Group's tasks.

Mr. Merkerson said it would be the ability to help the people that need it in the community. Again, once a person is in the court system, the Group's responsibility ends. He stated that in the past eight years there have probably been only 6 complaints that proved legitimate. Not every case was handled the way the Group thought it should be. He feels that if the citizens think this is a big problem, someone from the outside needs to be brought in.

Ms. Cannada-Wynn asked if a person went to the Sheriff's Office with a complaint, would the Office give the person the option of having Internal Affairs or CLELG handle the complaint?

Mr. Merkerson said that the non-voting members get the complaints and refer them to the Group if necessary. He again reviewed the process. He also explained how the Group revisits these cases to ensure the officer hasn't relapsed.

Ms. Cannada-Wynn asked if Mr. Merkerson knew how many complaints go to the Internal Affairs department. He responded he didn't know. She asked if he knew if the Sheriff's department had held on to complaints or not processed complaints that should have gone to the Group for investigation. He responded he had no idea. She asked Mr. Merkerson if his group was given subpoena powers would it help. He couldn't say whether it would help or not because someone would still have to make a decision. She asked if the group was able to contact the officer personally to get their side of the story. He said that was something they don't do, but he thinks it would be good. She then asked how many times Mr. Merkerson gave feedback to the Sheriff or Police Chief when he speaks in the community. He responded that he did this every time he receives negative feedback.

Mr. Merkerson said he would be more than happy to listen to constructive criticism.

Mr. Blackmon stated the Sheriff had told the commission that he had only three complaints this year. Is that all of the complaints? Also, the commission only received minutes from one of the meetings, and not the other two.

Mr. Merkerson stated that it was his recollection that in the other cases, the officer had probable cause to do what he or she did in the opinion of the Group. He provided an example.

Mr. Blackmon stated he understood, but there should have been minutes of the meetings.

Mr. Menge stated that it was his recollection that the one set of minutes was given to the commission so they could get the names of the Group's members. He asked Captain Jackson of the Sheriff's Office if that was the case. Captain Jackson agreed that was the case.

Captain Jackson provided the sequence of how complaints are tracked at the Sheriff's Office. He explained how a complaint from a number of individuals would only be assigned a single tracking number. He explained that if a complaint alleging criminal

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activity by an officer is filed with the Sheriff's Office, it is not passed to the committee for processing.

Mr. Menge asked if a person lodged a complaint against an officer through the Sheriff's Office, could they also file with the citizens' group.

Captain Jackson stated yes, but they enter into a grey area of state law. If it is a policy offense, it goes to the citizens' group. If it is a criminal act, it goes to Internal Affairs.

Mr. Montenes reviewed the process as he understood it based on the testimony. He asked if there is a comprehensive complaint manual that is used to train everyone involved.

Captain Jackson said there wasn't a manual like that, but there is a policy manual that all Florida law enforcement trains on to ensure uniform procedures.

Mr. Montenes asked how the citizen would know where to go within the Sheriff's organization to make a complaint – Internal Affairs?

Captain Jackson stated no. The Sheriff is the only one that can assign an investigation to Internal Affairs. If a citizen has a complaint, only a supervisor can take a complaint against an officer. He then explained the chain of events until it reaches the Chief Deputy. He wanted to know just what type of complaint they were talking about – Civil Rights or Barking Dog.

Mr. Merkerson said his committee members are diverse. They work like a jury.

Mr. Menge asked Captain Jackson if the complaint form the commission was provided is the one referred to in the procedures statement for the CLELG, and was the form available at the Sheriff's Office for a citizen to obtain. Captain Jackson responded that this is the same form referred to in the procedures statement and the form could be obtained from the Sheriff's office.

Mr. Beall noted that Mr. Merkerson had stated several times that the CLELG's hands were tied. He asked who Mr. Merkerson thought was tying the Group's hands – the Sheriff, state law, the court system or what?

Mr. Merkerson responded he felt it was a combination of all these. Once the committee recommends – there is nothing else we can do.

Mr. Beall asked if he had heard anything that would make him believe that the CIB would do a more efficient job than his current board does with the restrictions it has.

Mr. Merkerson stated that by law the CLELG is already in place. The state or federal justice system would step in if there was a rash of misconduct by local law enforcement. He felt if the chain of command is used, and each responsible party does his job, the system will work well.

Captain Jackson discussed how hard it is to determine the truth about an incident when the only people involved are the citizen with the complaint and the officer who is being reported on. It is one person's word against another and both have rights.

Mr. Merkerson stated that is where his Group would come in. If no witnesses are found, then it is a closed case.

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10) Ms. Healy explained that as a teacher she had concern for the juveniles in jail. She gave a personal example of one of her students. She is also a member of NAMI. She then used a local case of medical neglect by jail personnel to show her reasons for concern. She explained how people with special needs require attention from outside resources, and that she supports the establishment of an oversight group.

11) Ms. Stanberry stated she was the Vice-Chairman of CLELG. She wanted to respond to Mr. Dick's question about why people can't locate the group. She explained how the Sheriff had conducted meetings with local leaders and organizations such as Movement for Change, to inform them of current issues in law enforcement. CLELG had representatives at those meetings, and provided an outline of what their purpose is. She explained the process which an individual should use to report complaints. She explained that an adversarial relationship does not exist between law enforcement and CLELG. She was not aware that people were having difficulty contacting the group. That situation will be fixed. She stated that CLELG is not a closed group. Anyone wanting to get involved is welcome to apply. She explained that law enforcement is paid to serve and protect, and if some of their powers are stripped, they could no longer perform as needed.

Mr. Dick stated that based on what he has heard, CLELG could serve someone better than an attorney in the first couple of days of a complaint.

Ms. Stanberry agreed. She said that most of the time it is a misunderstanding between the parties. Also, in most cases the complainant has prior history with law enforcement.

Ms. Cannada-Wynn asked if she felt that having a separate CIB board which may include subpoena power would be more effective than CLELG?

Ms. Stanberry stated that if it was meant to subpoena an officer, it would usurp the State's authority. CLELG gets the police report immediately. The officer is advised not to give any additional information. Having subpoena power to some extent would possibly work, but again, when you usurp their authority why should they put their lives on the line when anytime some citizen complains they have to go under a review. She does feel there should be a broader base of members on CLELG, but applications are not being made. No one can be forced to be involved. She gave an example of an incident that showed misunderstanding between an officer and a detained complainant. She told everyone that if they are interested, the next meeting of CLELG is December 9th at 4PM. The location will be publicized by the Police Department.

Mr. Nickinson stated he felt there was a great deal of misunderstanding here on the part of both sides. To imply that commission members are not conscionable is a mis-statement. There is a difference in what the solution is. It is not the commission's responsibility to investigate these allegations. He agrees that where there is smoke there must be fire. He said he is not convinced that setting up a body that would basically be the same as the one that exists is going to solve the problem. The County Commission is not in the law business, and the Charter Commission has agreed to leave the Sheriff out of the Charter.

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Mr. Montenes stated he did not support creating a new group, but as he stated earlier, the County Commission could work with the Sheriff's Office to make the current system more effective. He said that some statement by this commission could be made to the Board.

Mr. Jones said he would like to see a statement like that. He stated that at no time did anyone make a statement about taking away powers from the Sheriff or forming a new committee. The point is to improve accessibility to this group.

Mr. Dick stated after hearing from CLELG Chair and Vice-Chair, it is apparent that they have the best interests of the community at heart. They are very qualified to perform their duties.

Mr. Boyd stated the conditions these people have to exist in must be rectified. Also, he said the tools in place to assist citizens have failed them: 1) who are they, 2) where they are located, and 3) their meetings are held in law enforcement buildings. For us to not listen to the citizens and fail to act would be a detriment to the community. He feels that CLELG is not getting the type of complaints they should. He said one of the reasons they don't reach this group is lack of confidence. He then discussed the number of complaints handled by civil rights organizations in Escambia County. There is a crisis in the County. He questioned why the qualifications to investigate complaints have not been mentioned. The CIB requires qualifications, and a paid staff to provide true liaison to the community. The current committee does not do this effectively.

To formally consider the issue, **Mr. Walton moved to remove the motion made by Mr. Boyd at the last meeting from the table. The motion to remove Mr. Boyd's motion from the table was seconded by Nr. Nickinson and passed unanimously.** Mr. Menge restated Mr. Boyd's motion which was that a CIB Board be established under the Charter with subpoena powers.

Mr. Montenes offered a substitute motion that Charter would provide for a CIB with his suggested language that he read to the Commission. The motion was seconded by Mr. Jones.

Mr. Beall asked where it would be placed in the Charter – Article III? Mr. Montenes suggested it be placed under Article VIII.

Mr. Nickinson stated Mr. Montenes' idea was the same as his except he took it one step farther. He would not put the CIB in the Charter. He recommended the Commission communicate with the Chief Administrative Judge of the Circuit Court express our concerns about the allegations that have been made and ask him to convene a Grand Jury to look into these charges. The law is very restrictive on what can come out of the complaint hearings. He feels an independent body should investigate these, and come back with one of three findings: 1) the system is ok, 2) the system isn't and needs to be overhauled, or 3) there is a compromise solution.

Mr. Nickinson stated he feels there is a problem. However, some of the allegations are not true – especially concerning juveniles in jail. He feels a Grand Jury can get to the bottom of these allegations.

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Mr. Boyd stated he has a hard time with the substitute motion. He said he couldn't support the substitute motion because it does not come close to saying what the citizens are asking for.

Mr. Montenes stated he was trying to strike a reasonable compromise. He explained how his motion would work. He doesn't agree with the convening of a Grand Jury.

Mr. Menge stated he couldn't agree with the substitute motion because the Charter Commission would be asking the County Commission to do something it may not be able to legally do. Under Chapter 112, the Sheriff is charged with forming the Citizen Review Committee and any provision in the Charter granting the BCC the authority to direct the Sheriff to take certain actions would probably be invalid. He doesn't feel anyone sitting on this commission hasn't heard some stories they are appalled about if they are factually based. This commission, however, is charged with the task of studying the structure of county government. He understands the Chairman of CLELG is willing to have any citizen come before the Group and talk to them about changes. People should be talking to the elected County Commission regarding these issues. If this Charter passes, there will be a completely different commission. He does not feel that the BCC can direct the Sheriff to take any action. He feels it would be a mistake to pass the substitute motion for that reason.

The substitute motion failed 3 – 9. Without further discussion, the Commission then voted on Mr. Boyd's motion that a Citizens' Investigative Board be established under the Charter with subpoena powers. The motion failed 3 – 9.

BREAK: 8 P.M. – 8:15 P.M.

5. Review of proposed Charter.

Mr. Menge stated that all of the motions have been incorporated into the draft and two items in the draft appeared contrary to the motions that were approved by the Commission. First, the draft provides for the creation of a Department of Central Purchasing and Department of Human Resources but the commission had voted not to require the creation or retention of any departments. Secondly, the commission had voted not to require the Chairman to provide a State of the County address, but the drafted Charter does require the Chairman to give a State of the County address. Mr. Menge asked if any members oppose having these provisions in the Charter. Hearing no objections, he moved on to allow any commissioner to voice any comments or concerns they have and act on them as we go along.

Mr. Walton asked about Section 102 on consolidation. Does that clause go beyond general law?

Mr. Menge stated that the Constitution requires that for consolidation to be considered, it has to be proposed by a special law.

In response to Mr. Walton's concerns, Mr. Menge offered substitute language to clarify the provision and the members agreed to the change.

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Mr. Walton stated that in Section 202 the term “agency” needs explanation and definition. He recommended that the members review the proposed Charter page by page. The Chair and members agreed.

The Chair reviewed the Charter as follows:

<u>Page</u>	<u>Comments</u>
1	None
2	Enclose the term “agency” in parenthesis (Mr. Beall)
3	Mr. Menge took out the last sentence concerning responsibilities of the people because it made it appear that the Charter was lecturing the people. Mr. Nickinson stated only things that are enforceable should be included in the Charter, and questioned the necessity for some of the language. Mr. Walton explained the reasoning behind including this language. Mr. Montenes stated the Commission should be careful when deleting things from the document. The citizens want to see what is in it for them. He thinks it reads good the way it is written. Ms. Canada-Wynn asked if there could be an introduction that explains to the citizens why the Charter is being proposed. Mr. Beall compared the document with others passed throughout the state, and again stated that it is too long. It should be under thirty pages if possible so citizens will read it. Mr. Montenes recommended that the Commission members comment on what is written but not delete any material at this point. That could be done during a second pass. The Chair agreed, and stated when finished he would entertain any motions anyone wished to make to delete or modify any provisions.
4	Mr. Walton addressed Section 301.1 – Visionary Leadership. Mr. Menge explained the language change, and stated the Board would be the Visionary Leader of the County.
5	Mr. Walton addressed Section 301.2.3 – Strategic Plan. He felt the modified language changed the substance of the section. He provided alternate language for consideration. The Chair found no problem with the changes suggested by Mr. Walton. Next, he addressed Section 301.3.2 – Administrative Code. He questioned the meaning of “agency.” The inclusion of SRIA and ECUA in the County organization was discussed. The decision was made to address the term “agency” when the review is concluded because it appears several times in the Charter.

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6	<p>Mr. Beall stated he didn't understand this section as written. He questioned the use of the "Comprehensive Plan" in the organizational definition.</p> <p>Mr. Menge offered alternative language to clarify the meaning of the section. He said he would take members' inputs and draft new language.</p> <p>Mr. Nickinson addressed the last paragraph in Section 301.2. He offered alternative language to expand the section. Mr. Walton explained how what he wanted done was already in the Charter's language.</p> <p>Mr. Walton addressed the term "agency." At this point in the Charter, the term should not include ECUA. He asked if SRIA should be included in the County's Administrative Code. The Chair said it would be. Mr. Walton next addressed inter-local agreements.</p> <p>The Chair went back to page 5 – Section 301.3 - Administrative Code. The discussion will take place when they reach Article VII.</p> <p>Mr. Walton addressed Section 303 – Vacancies. He discussed his concern with the residency requirement, and if there is a statute addressing vacancies in office. He then described his concern with redistricting, and the ability for grand fathering an incumbent. He was also concerned that disability of an elected officer was not addressed. Does that person lose his or her office? He then moved to page seven.</p>
7	<p>The Chair asked Mr. Walton to redraft Section 303. Mr. Walton agreed to do so. The Chair asked what was meant by disability. An agreement on definition was not reached. Mr. Walton agreed to prepare recommended language defining "disability."</p> <p>Mr. Walton used examples to highlight the need for additional language to address vacancies. Discussion ensued on how the Charter will accommodate the vacancy of a commissioner. Mr. Walton corrected the referenced statute in Section 304 to 100.361 – Recall provision.</p>
8	<p>Mr. Walton addressed Section 307 – all other county agencies. He felt it should read "all county bodies."</p>
9	<p>Mr. Walton addressed the non-interference clause – Section 309.</p> <p>Mr. Menge stated that it should not be interpreted as a Commissioner being prevented from making reasonable inquiries – he didn't see anything that could be violated in that paragraph. He felt the only violation would be a violation of the non-interference provision. Alternative language for paragraph one was discussed. The members agreed on including "any violations of this section by a County Commissioner."</p> <p>Ms. Maher asked about Section 310 – Reporting, Printing, and Codification. The Clerk's Office currently maintains the minutes for the Board. Will this remain a responsibility for the Clerk?</p>

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Comments

Mr. Walton explained the language used, and said there would be no change in the Clerk's responsibilities by statute.

Mr. Beall stated his concern from a legal standpoint. The Clerk is the officer responsible for all records by statute. He could foresee a power struggle based on the language in the first sentence. It is not the Board's duty to maintain minutes. In response to a question by Mr. Beall, Ms. Maher said the Clerk did handle ordinances. In response to the Chair, she said the Clerk does keep a book of ordinances.

Mr. Beall stated because most of this is covered under the Public Records Law, he would recommend that the Section be deleted.

Mr. Walton did not agree, and gave examples of how documents like maps and land planning charts can not be obtained, and that is why this is included in the Charter.

Mr. Menge asked why ordinances could be obtained from the city, but not the county.

Ms. Maher explained how the ordinances were maintained by Municode, which codifies everything for them. It is also on the Clerk's web page. Previously, the Clerk had published the ordinances and made them available for a fee. The County Attorney's office changed that procedure.

Mr. Walton next addressed Section 401 second paragraph concerning the salary and benefits of the County Administrator. The decision was to state that he would receive only such salary and benefits as are written and set forth in an employment agreement.

10 Mr. Walton addressed Section 403 and asked that the entire third paragraph be deleted due to duplication and incorrect assignment as the emergency officer. It was decided to strike the reference to emergency officer and deal with the budget officer in Article IX.

Mr. Beall discussed the listing of duties and powers of the County Administrator and the relationship to the statutes. He feels that because they are in the statutes, the list could be eliminated and save two pages without an impact.

Mr. Montenes felt it should stay so the citizens can see what powers are given to the County Administrator as well as the commissioners.

Mr. Menge stated the commission had asked that the powers and duties of County Commissioners and the County Administrator be listed. He felt, however, the Charter gave the perception that a lot more power was being given to the County Administrator and power was being taken away from the County Commission. Based on the way the Charter is laid out with minimal powers listed for the commissioners and a long list for the County Administrator, it now gives him some concerns. However, all that is being done is listing the powers listed in

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	Chapter 125.74 of the Florida Statutes. Mr. Montenes stated he was sympathetic to what the Chair was saying. He feels it helps the citizens understand the division of powers.
	Mr. Nickinson said he thought any citizen as interested as Mr. Montenes would know how to find Chapter 125. He then stated his concern with Section 401, last sentence. He believes it is offensive. Several members agreed.
11	Mr. Menge stated that if they do not eliminate all the specific powers and duties of the County Administrator, paragraphs eleven and twelve need to be modified because under the Charter the County Attorney is selected directly by the Board and the County Attorney selects his or her deputy and assistant attorneys. The County Administrator does not have the right to select or discharge an assistant County Attorney. The suggested modifications were agreed upon. Mr. Walton again referred to the term “agency,” and discussed his concerns about who that actually included.
12	Mr. Walton identified two places where the term “agency” is used. It was duly noted by the Chair. Mr. Nickinson stated he had a problem with the wording in paragraph 17B. It should be simplified, and he offered alternative language. Mr. Montenes explained that in the past ten years, the Commissioners have not received a comprehensive financial report.
13	Mr. Walton said there were two concerns about the County Attorney’s Office: 1) the lawyers in town think that the County Attorney’s Office has no idea what conflict of interest means. He gave an example. 2) why are they going to Tallahassee. He stated that Sarasota County had dealt with these things in their Charter, and read the language. The Chair stated he understood the concern, but felt he was digging. He said if they got into those types of details, he thinks it will create problems. Mr. Nickinson asked if there was a problem with the selection of special assistants subject to budget approval. He gave an example. Mr. Menge stated that the way the Charter is drafted now the County Attorney is going to make a decision of what he needs in the way of a deputy county attorney, assistant county attorneys, and special county attorneys as long as he has the money to fund it. If the County Commission does not approve the budget to fund it, he is not going to hire them. He then said he had added something to Section 501. It involved including an annual written performance review of the County Attorney by the County Commission.

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	Mr. Walton asked about the use of County Officers in Section 505, and stated they haven't been defined yet. He wanted to know if it was consistent with the later definition. After discussion, he withdrew his question.
	Mr. Menge said that after Constitutional County Officers they would insert in parenthesis "herein referred to as County Officer or County Officers."
14	Mr. Beall said that in Section 602, the language should be changed so people understood Partisan v Non-Partisan elections.
	Mr. Menge explained that the original language included that, but a motion had passed to remove it.
	Mr. Walton said there were vacancy issues in Section 603. The Chair asked him to rewrite Sections 603 and 303.
15	Mr. Beall pointed out in Section 701.1 – Department of Human Resources – the language is redundant because this is included in other sections; he feels it isn't needed and should be removed. Because of the redundancy, he will provide the Chairman with what he feels should be the language included in this section.
	Mr. Walton stated he would like to eliminate Sections 701, 702, and 703. It was intended for those sections to be included in the Administrative Code. He explained his reasoning and gave examples of why it should be in the Administrative Code.
	Mr. Menge stated he respectfully disagrees. He thinks that what is being said is that these are two departments that are going to be established. The Administrative Code brings together resolutions, rules and regulations, that are promulgated by the departments. The reasoning behind having this language is that if in fact the County Officers or the ECUA wish to be included, they can be. The commission was told by Mr. Touart that the SRIA will be included in the Personnel Administration System, and that is spelled out.
	Mr. Walton described further inconsistencies in Sections 702 and 703. Discussion ensued concerning the use of resolution v ordinance.
	Mr. Menge stated that if the Charter is passed with this language, the County Administrator will have to include these two departments in his organization. It has been included because of the linkage it has with the County, ECUA and the County Officers.
16	Mr. Beall addressed ECUA and SRIA issues concerning Personnel Administration and offered the Chair substitute language.
17-19	None.
20.	Mr. Beall recommended the Personnel Appeals Board paragraph be broken up because of its excessive length. He suggested how it could be divided. He also highlighted the redundancy of identifying ECUA in two places.

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21	<p>Mr. Menge stated he was going to come back to some of the comments he had received and something Mr. Walton had addressed concerning legal representation. The Personnel Appeals Board needs to have their own legal counsel because many times when there is a hearing before the Appeals Board, the County Attorney is representing the County or agency. He proposed that a new paragraph four be added so that the Personnel Appeals Board is authorized to obtain legal counsel for advice and to assist it in the conduct of any hearings and any mediation that may be required by the Personnel Appeals Board. In the next paragraph, he outlined how the funding would be provided to support this. Mr. Walton found problems with this procedure. He explained by example. He stated this is not right to do it for employees and not for citizens. Mr. Menge explained that the County Attorney’s Office will not involve itself in conflict of interest situations. He asked Mr. Walton to come up with some language that would alleviate this issue.</p>
22	<p>The issue of including ECUA and SRIA budgets was discussed.</p>
23	<p>Mr. Walton stated that Section 1005 should read ‘Audit Committee’. The Chair recommended that the language in Section 1005.2 be rearranged so the language listing the duties of the Audit Committee would precede the language regarding the functions of the Audit Selection Committee.</p>
24	<p>Mr. Menge stated that in Section 1005.3 – Audit Committee Constituency – he understands that the Audit Committee is going to oversee the audit of more than the County – will they be overseeing the audit of the County Officers as well? Mr. Walton explained what is included in the external audit. County Officers were included. The Chair referred to 1005.2, and asked if the County accounts and records also include the County Officers. The response was that they were. He then asked if the County Officers were responsible to the Audit Committee like the County Administrator. Mr. Walton responded that they weren’t. They will have a representative on the committee if comments are made about the County Officers. Mr. Menge offered an alternative list of membership on the Audit Committee. Mr. Walton explained the reasoning behind the membership as listed in the Charter, and provided the references used to decide on who would be on the committee. The end result was that the membership is made up of a majority of independent members. Mr. Montenes stated there was a considerable amount of research put in this section. He explained the background of the audit process. Mr. Walton asked the Chair what the rationale was for changing ECUA’s name. Mr. Menge explained that the legislative delegation had indicated at a recent public hearing that it intended to introduce legislation changing the ECUA’s name</p>

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	to Emerald Coast Utilities Authority. It was his understanding that the legislation would become effective in November 2004.
25	Mr. Beall addressed Section 1103.2 and wanted to insert additional language on residency requirement.
26	Mr. Beall stated that Section 1105 subsection 2 and 3, should be retained and earlier reference be removed.
27	Mr. Menge asked Mr. Walton to look at Section 1107 concerning vacancies.
28	None.
29 - 31	None.
32	The Chair asked Mr. Beall for clarification on the language concerning Charter Amendments and the use of a form provided by the Supervisor of Elections. He then asked if 180 days was excessive in the petition process. Mr. Beall explained why that time period was used. Mr. Beall also explained that 15% is a high threshold. This is especially true when initiating an ordinance, but this is the percentage the Commission agreed to.
33	Mr. Beall asked about the language in the ballot sample. Mr. Menge stated that he used the Columbia and Leon County ballot language as guides in drafting the language.
34	Mr. Walton addressed Section 1504. He questioned the legality of using a district clause as written. Mr. Menge explained that color cannot be the primary factor when considering districting. But, there is a difference between the districting line cases and voting rights cases. Mr. Beall said he had used that language for political reasons so that people would not think that minority representation on the BCC would be diluted. He suggested that the provisions for Charter amendments should be placed in a separate Article.
35-36	None.

Mr. Menge stated that if it was the intention of the Commission to get the Charter published in the News Journal prior to the first public hearing on December 4th, he believes that with the Commission's permission, Mr. Walton and he can make the changes and email it to the members.

Mr. Beall moved to strike Section 203.1. – Powers of the People and the motion was seconded by Ms. Cannada-Wynn. The motion failed 1 -9.

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Mr. Beall moved to strike Section 203.3 – Responsibilities of the People and the motion was seconded by Ms. Cannada-Wynn. The motion failed 3 – 7.

Mr. Beall moved to strike Section 301.1 – Visionary Leaders and the motion was seconded by Mr. Smith. The motion failed 2 – 8.

Mr. Beall addressed Section 310 – Recording, Printing, and Codification. Mr. Beall moved to revise the language in Section 310 to clarify that the Clerk – not the Board – was responsible for maintaining the public records referred to in that Section, but that the Board could be required to ensure that copies are made available to the public. The motion was seconded by Mr. Blackmon. The motion passed unanimously.

Mr. Walton made a motion to retain the language in Section 403 as written. Mr. Montenes seconded the motion. The motion failed 4 – 6.

Mr. Beall stated that as written, Section 403 gives the perception that the County Administrator is being given more powers than he previously had. Therefore it should be modified.

Mr. Beall moved to strike the listing of specified powers and duties of the County Administrator from Section 403, with the exception of paragraph 17, which would be addressed in a separate section. The motion was seconded by Mr. Blackmon, and passed unanimously.

Mr. Menge stated that the language would be replaced with the reference to the powers and duties of the County Administrator listed in the Florida Statutes – Mr. Walton provided the Chair with alternative language.

Mr. Walton stated that the word “written” needed to be included in Section 401 in referring to the annual performance reviews of the County Administrator to be conducted. The Commission agreed.

Mr. Jones moved to strike the last sentence in the first paragraph of Section 401 stating that: “An unsatisfactory performance review shall constitute grounds for termination of the County Administrator’s employment with the County.” The motion was seconded by Mr. Beall and was passed by a vote of 8 – 2.

Mr. Beall made a motion to change the language in Section 602 back to its original draft. The original draft provided that all the County Officers, with the exception of the Supervisor of Elections, would be elected in partisan elections. The motion was then seconded by Mr. Jones and passed by a vote of 6 – 4.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Mr. Beall made a motion that the language in Section 701.1 (1) be modified to remove the redundant verbiage. The motion was seconded by Mr. Jones. The motion passed 8 - 2.

Mr. Menge then reviewed the changes that had been made to Article X – Budget and Finance.

Ms. Cannada-Wynn moved that language be added to the section creating the Personnel Appeals Board that would allow the Appeals Board to retain its own legal counsel. The motion was seconded by Mr. Smith and passed unanimously.

Next the Chair addressed several changes that needed to be made under Miscellaneous Provisions starting on page 29. There were no objections to the suggested changes. He then asked with the understanding that those changes agreed upon will be made, and certain cosmetic changes that do not change the substance will be made, is the commission ready to commence public hearings on the Charter?

Mr. Walton stated he understood the urgency to complete the Charter, but felt there are two months with three public hearings before the deadline.

Mr. Menge responded that he felt the commission could take the public's concerns up at the public hearings, and that they had plenty of time to amend it. He reminded members that anyone can suggest changes at the public hearings. He informed the Commission that the time table still calls for the first public hearing to be conducted on December 4th. However, a change to the date of the last meeting could occur. He reviewed the public hearing schedule, and proposed that the meeting scheduled for January 23rd be rescheduled for January 22nd at 1:00PM, because the BCC is scheduled to meet that day. The Charter Commission will meet at 1:00PM and be prepared to present the Charter to the County Commission at their meeting at 5:30PM. He informed the Commission they had from January 6th to January 22nd to make all the necessary changes.

Mr. Montenes asked the Chair if the commission was still scheduled to have a meeting with the County Officers. He then asked what had happened to the meeting they were going to have with the County Officers when the document was done.

Mr. Menge stated he had sent a copy to the County Administrator for the County Commissioners and to all the County Officers. His intention is to also hand deliver a copy to each Commissioner personally during the next week.

Mr. Walton asked about changes that the members want to make between January 6th and January 22nd. He also recommended that the legal team look at the document before any copies are provided. He then provided a list of who he thought should receive a copy ASAP.

The Chair said the members' changes would be addressed, and that he planned on doing those things Mr. Walton had recommended. He then provided the members with a list of people he intends on meeting with.

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Ms. Brown suggested that before they go to the January 22nd meeting, the commission meet to review the draft and make any corrections so a final document can be presented to the Board without the need for any further changes.

Mr. Beall discussed his concern with having a public hearing just before the Board's meeting. The public may perceive that the commission would not be receptive to their comments because they would miss the dead line. He recommended meeting the week before.

The Chair reviewed the wording in the statutes regarding the delivery of the Charter to the BCC. It says that at the final public hearing, the commission shall make any final amendments and deliver the Charter to the Board. There will be three public hearings before the last one. It would be wise if the public would make their inputs at those meetings, because at the final meeting, the time will be used to vote on the Charter and deliver it.

Mr. Montenes asked about incorporating the public's input at the end of each meeting. He also asked if announcements would be in the paper prior to the first meeting to give the citizens a heads up on what is taking place.

The Chair explained how the process would work, and who was responsible for each aspect of the public hearings. There will be a Power Point presentation developed to use at the meetings.

Mr. Walton felt that at the January 22nd meeting, the Commission will not be able to make changes and still get the Charter to the County Commission. He recommended dropping the fourth meeting to avoid this dilemma.

Mr. Menge agreed with his first statement, and emphasized that the only reason they are doing it this way is because of the language in the statute. He reminded members that if amendments to the Charter are received between January 6th and 22nd, there is time to incorporate them and have the final draft ready for approval on the 22nd.

Mr. Montenes asked if it was possible that the Charter could be submitted on the 15th. He expressed his concern with having a meeting on the 22nd and still being able to deliver the Charter at the 5:30PM Commission meeting.

Mr. Menge stated that the County Commission does not have a meeting on the 15th, and felt the whole idea was to present the Charter at a BCC meeting. Several recommendations were made by members on how to address the timing issue. The Chair stated there could be another meeting of this commission without it being a public hearing. Then the meeting on the 22nd could be advertised as a meeting to approve the Charter for presentation to the BCC.

Mr. Menge stated that the statute provides at the final public hearing the commission has to incorporate any amendments in the Charter, vote on it, and deliver it to the BCC. He said he wanted to entertain a motion to approve this draft of the Charter, publish it, and go to public hearing with the changes voted on tonight.

A motion was made by Mr. Beall and seconded by Mr. Jones to approve this draft of the charter for presentation at the scheduled public hearings. The motion passed 9 – 1 with Mr. Dick voting against the motion.

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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 December 4th at Molino Elementary School at 7P.M.

11. Adjournment

The meeting was adjourned at 10:50 P.M.

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE