

Official

**Escambia County Charter Commission
Meeting of November 4, 2003 at 5:30 p.m.
Pensacola Campus of Pensacola Junior College
Baroco Center – Room 2142
(Thirty - third Meeting)**

Members

Present: M. J. Menge, Chair
Rita A. Riffel, Vice Chairman
Charles F. Beall, Jr
Johnny W. Blackmon
LeRoy Boyd
BarbaraForehand“Bobbie”Brown
Jewel Cannada - Wynn
Laurel Dick
Denis McKinnon, Jr.
Frank Montenes
E. P. “Ted” Nickinson, Jr.
Lucy Rentz
Lamar Smith
Garrett W. Walton

Members

Absent: Elbert Jones, Jr., (schedule conflict)

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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. Montenes to approve the agenda with the following change: move item #9 Public Forum to item #5. Motion approved unanimously with the one modification.

3. Presentations by the County Officers

Mr. Chris Jones, Property Appraiser addressed the Commission first. A handout was provided to all of the Commission members by the Property Appraiser’s office. He is here tonight, not to discuss the merits of charter government but how the language currently drafted affects the office of Property Appraiser. He would like for all of the Commission members to have all of the information they need to make the appropriate decisions. Placing the Property Appraiser under the influence of the County Commission and the County Administrator is not only bad government but bad tax policy. The citizens of this community will not be served if the

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same people who have the ability to raise the tax rates also have influence over the tax values. They will have control over both knobs and he is not sure that is good policy. Mr. Jones referred the members to the breakout of the county budget in the handout. He pointed out that the BCC controls \$.75 of every dollar in the budget. The Property Appraiser's office is only 1.24% of the overall budget. There are several issues coming out in the charter that he believes will have an adverse effect to his office. The fact that making him a Charter Officer and subject to the provisions in the charter makes the election only on paper. The responsibility is solely on their shoulders, yet the authority to run his office in the areas of payroll, purchasing, and accounting are being stripped. It would be hard to answer to two masters. They can buy off the county contract now if it saves them money, most of the time it does not. They can buy off the state contract and sometimes that saves money. Right now, he can take advantage of sales at Office Depot, if he had to go through a centralized purchasing department, the sale would probably be over by the time he went through the layers of bureaucracy. This would probably cost the taxpayers money. He believes that 5 – 8 people would have to be added to take on a centralized purchasing endeavor. The people of his office voted to exit the Civil Service System. He has been able to go out and hire minorities, which he was unable to do before. The County would have to add people to manage the Constitutional Officer's Human Resources, again that is not saving the taxpayer any money. The payroll and accounting function is another means of control through the BCC. They do not work for just the county. The Property Appraiser works for the school board, the City of Century, the City of Pensacola, and the Northwest Management District. They do not work for just the county. It is misleading to say, 'it just goes to Tallahassee'. If their dollars are not spent, then it is returned to the BCC. He just wrote a check for \$466,000.00 to the BCC, which included money that his personnel made selling maps out of his office. In regards to recall, he feels as if he is recalled every four years. A recall election would cost the tax payer money, when the governor can recall him for the exact same reasons without any cost. He would like the Commission members to consider all of the information given to them. He also provided an Attorney General's opinion on what the Commission is looking at doing as well as the Commission's own legal advisory team's advice.

Mr. Beall inquired as to if Mr. Jones had any opposition to him utilizing a unified appeals board so that all employees had the use of the same appeals board and the usage of this board would be paid for on a per diem basis. In theory, Mr. Jones is not against it, if the employees chose to do it, then they could do it. There has been talk of inter-local agreements and that is a possibility that the employees can enter into one.

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Mr. Montenes inquired if Mr. Jones could find one benefit to him becoming a Charter Officer. Mr. Montenes stated that he himself is hard-pressed to find one overwhelming thing that would be a benefit, when in essence he sees no perceived problem with the Constitutional Officers. Mr. Jones does not believe that the perceived problem is with the Constitutional Officers and he can not think of a reason to become a Charter Officer. If they are made Charter Officers and strip the sovereign immunity then you dilute the system of checks and balances that is in place now in the County government.

Mr. Nickinson inquired as to the authority supporting Mr. Jones' statement that he had sovereign immunity? Mr. Jones stated that it is in the Constitution. The Constitution calls them a County Officer and Mr. Nickinson will provide a copy of that statement to Mr. Jones.

Mr. Blackmon inquired if the Property Appraiser has adhered to an Affirmative Action plan? The Property Appraiser's office has an EEO officer and Mr. Jones did state that they had difficulties with getting rosters with minorities on it and they have been successful in hiring minorities in the last year and half. He believes that they would not have found the folks they did if they had remained under the rigid system.

Ms. Bonnie Jones, Supervisor of Elections addressed the Commission next. Ms. Jones prefers to remain a Constitutional Officer and informed the Commission that only three out of the nineteen charters in the state include the Constitutional Officers. She does not believe that recall should be in the charter for the Constitutional Officers. In her years at the elections office, she does not remember ever receiving a call on how to recall a Constitutional Officer and stated that any elected official can easily be suspended by the governor. It is always how to recall a County Commissioner, a City Council member, or a Utilities Authority member. Special elections currently cost \$150,000 – \$175, 000. Many items in her budget are mandated by federal and state law and if the charter passes she could still appeal her budget through the court system. If her office was put under so much control of the County Commissioners then she would have had undue pressure put on her when she had to testify against the former County Commissioners and it was hard enough as it was. Her office already does what the charter would require the Constitutional Officers to do, but it is her choice because her office is small, she only has twenty-one employees. The Whitman Center study states to leave the Constitutional Officers alone and she believes that the 95 charter was defeated because of the Constitutional Officers. She does appreciate her office being made non-partisan as it should be. She reminded the Commission that she is retiring and she appeared this evening on her belief that the charter should leave the Constitutional Officers alone.

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Ms. Wanda McBrearty spoke on behalf of Ernie Lee Magaha, the Clerk of the Circuit Court. They have received the statement that the intent of the charter was not to change the responsibilities of the Constitutional Officers and that the purpose of the consolidation of certain services was to save money on behalf of the county. She believes that the Constitutional Officers will save money when the opportunity arises, but when it is mandated and gives them no alternative but to rely on the County Administration to perform critical functions as their purchasing and personnel, these offices then can be manipulated in a variety of ways. It can result from undue influence in certain occasions. Also, sheer inefficiency would result in departments that report to an appointed individual rather than to an elected individual who may not be responsive or willing to provide the services in a timely enough manner. The Constitutional Officers will then be trying to utilize services that they do not control. When the Clerks office chose to leave the Civil Service System, they did not incur any additional expense because they already had people performing Human Resource functions and therefore did not request any additional funding from the Board of County Commissioners. When looking at the county as a whole, the Clerk's office has a very small percentage of the county employees and they are able to internally handle the functions of human resources very well. They do rely on the Human Resources office for legal advice. The hiring, writing of criteria, and the recruiting process should be left within the Constitutional Officers hands. As an auditor, she believes that a separation of duties and checks and balances does help obtain a strong organization of any type. Moving some of the administrative functions to another branch of government gives the Executive Branch subtle control over the other branches that is not healthy. Mr. Magaha believes that the Constitutional Officers should remain elected positions, retain the authority to manage their offices in a responsible manner, and should be able to be accountable to the citizens of Escambia County. The best way for this to occur is for them to remain as Constitutional Officers. He would like for the Charter Commission to follow the recommendation of the Whitman Center.

Mr. Beall asked how she would square endorsing the financial restructuring plan and for it to be adopted by the Clerk it would have to be brought under the charter. The Clerk's office believes that the audit committee is a valid and good thing for the county, but they did not seek or ask for the additional authority of the accounting functions. They do endorse the audit committee. The Clerk could remain a Constitutional Officer, retain the audit responsibility that they currently have and an oversight committee established. In 1993 and 1994 there were not strong enough statutes to govern local government investing. As it exists today, there is an investment advisory committee as established by ordinance. Not

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only did the Comptroller's office fail Escambia County, the Board of County Commissioners failed also. There was a dual responsibility. There are three appointees from the community that has a financial background, the County Administrator, one of the BCC, and the Clerk. The committee drafts the policy and the BCC has to approve the policy that allows the Clerk's office to do investing for the county. The Clerk files monthly reports to the board, who meet quarterly.

Mr. McKinnon questioned which checks and balances would be lost under the current proposal. In a direct way, there would not be a loss. When you need supplies, do you want to get in a queue with fourteen other departments to get a check cut from a different department head. When that person does not have a vested interest in what goes on in your department, it could be a very slow process.

Mr. Montenes stated that the Charter Commission has not seen a cost analysis of the reports that were presented to them. If you go back, there is an audit function in work at the current time. There are good examples in some of the audit reports of how the government should be working together. Mr. Montenes believes that the people in office need to evolve the functionality of the government rather than try to get to the point of dictating who works full time or part time. The fiscal quarterly report is a good test of the effectiveness and integration of the budget and accounting process. How can you run a government without a quarterly fiscal report? It can not be done. The government we have needs to start working more closely than they are currently. The Commission is looking for better use of the funds we have now.

Mr. Blackmon desired to know where the Clerk's office stands on recall. Mr. Magaha is willing to answer to any actions that he has taken. But, from an expense standpoint, recall is an expensive item to write into the charter, when four years is not a long time. Mr. Beall desired to know if the Clerk's office would have opposition to using a unified appeals board. When the Clerk's office left the Civil Service System, they did ask to contract with them in order to utilize their appeals board. The Clerk's office does feel that it is important for the employees to have and gives the employees a sense of comfort.

Mr. Chris Jones requested to address the Commission again in regard to the copy of the Constitution that was given to him by Mr. Nickinson. Mr. Jones believes that the term 'Constitutional Officers' comes from their powers that are derived from the Constitution. The Constitutional Officers are guided by state law, not ordinance. Semantics are understood. The State of Florida set up political subdivisions called counties, thus each county and our power to elect those County Officers comes from the Constitution. The sovereign immunity runs up and down laterally to the

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state because they have to answer to the state. All of what he does is through state law. Mr. Menge clarified that sovereign immunity applies to political entities (the county and the state) and those who are acting on behalf of those particular entities, if in fact the county has sovereign immunity, the employees would have sovereign immunity.

Sheriff McNesby then addressed the Commission. The Sheriff stated that the county has tried to pass charter government in the past and it was unsuccessful. Reflecting back on the past two years, he does not believe that the Constitutional Officers have been the problem, the problem has been in the form of government. It has been squarely on the heels of those County Commissioners who are no longer in office. He is very concerned in having to answer to undue pressure; he experienced first hand people attempting to bribe him with raises for the deputy sheriffs for influences on a grand jury and state attorney. He remembers the opportunity to buy a piece of property for the sheriff that he never asked for. If he had had to answer to that influence, he would be in trouble today. The Florida Sheriff's Association faxed a letter to Mr. Menge and the entire Commission was provided with a copy. The Florida and National Sheriffs Association both oppose charter government. The Sheriff feels as if charter government would place the jail back into the hands of the Board of County Commissioners, who he feels assured does not want the headache. The Sheriff stated that the decisions being made by the Charter Commission does not affect the Sheriff's position alone, it affects everyone in Escambia County. He believes that as Sheriff, he is there to answer to the men and women who put him office. The county already has recall in the name of Jeb Bush, the governor has removed Sheriffs and other elected officials throughout the state of Florida. Another form of recall is the elections held every four years. His phone rings daily with people asking questions about the responsibilities of his office. He has a responsibility to all the voters of Escambia County. If you want to know where the money went in Escambia County, look at the property purchased by the county: soccer complex, Stalnaker dealership, Ordon's clothing store and the entire block, the equestrian center, the industrial park in Molino, and now the county is looking at property around the Naval Air Station. The Constitutional Officers have not been part of the problem. The system is set up in certain manner to have checks and balances. He is not supportive of this form of charter government. His problem is even larger than the other Constitutional Officers, because he has 1,116 employees, some of whom are Civil Service and some of whom are union. He could support a Civil Service System whether it is created by charter or the County. Liabilities are not always taken in a dollar amount sometimes it is in a dollar amount. He suggested to the Commission to draft a good charter, but he believes a

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mistake has been made by placing the Constitutional Officers under the charter and that mistake needs to be corrected. He sees a larger bureaucracy being made by the charter. Address the problems of the form of county government and get the Constitutional Officers on your side to help you solve those problems.

Mr. Beall inquired if the Sheriff would have any objection to utilizing a unified appeals board and how he would expect to handle it, for instance through inter-local agreements. The Sheriff responded that he would not have a problem with it, as long as the rules corresponded with the existing Civil Service rules for the protection of the employees. He also believes that Civil Service will sunset regardless of charter government. He also believes that the other elected officials that still have civil service and even those that do not, if their employees want Civil Service they will join with the county in establishing this Civil Service system. He believes in the system and he has been a product of the system since 1965.

Mr. Blackmon desired to know if the Sheriff was opposed to any one thing in regard to charter government. The Sheriff responded that he is opposed to any form of government that shows growth in bureaucracy. He does not believe that a Charter Officer can be a Constitutional Officer. They have certain guidelines to follow set forth by the state of Florida. He does not believe that it is fair to the voters or the Constitutional Officer to have to answer to five or ten men and women. Charter government has a place and the Commission needs to go back to the reason they were formed. The Constitutional Officers are not the broken part of the puzzle. Don't punish the entire county.

Ms. Janet Holley, Tax Collector then addressed the Commission. She has become more involved in the charter process over the last few weeks, attending meetings, listening to tapes, and reading the minutes. She was disturbed the most by the incomplete information and misinformation that she was hearing. She stated that she did have a conversation with Mr. Nickinson, who is charged with writing the verbiage on the budget process. She was able to walk him through the process that she is required to take for him to have a better understanding. She keeps hearing that the Commission is writing a better government with better efficiency and cost savings. She is not seeing that happen and is concerned that some of the decisions made in regard to the Constitutional Officers on the September 23, 2003 meeting can be changed. Some of the specifics she is concerned with are: centralized purchasing, which she does utilize the contracts through the county and the group of tax collectors. She was the first elected official to leave the Civil Service System. One example of the system not working is: a tax collector employee from another office was moving to Escambia County and she was unable to hire this experienced person because that

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roster would not have been available for another year. Morale is up, they have been able to promote, and Mr. Boyd aided them with successful minority recruiting. They were able to find wonderful, qualified people that would not have been found on a civil service roster. Her office has an employee manual and they have not incurred problems to this point. Most of the work in payroll is in the preparation. Another layer has been added and she sees no advantage to this. Her biggest areas of concern are accounting and budget, Mr. Adkins and Mr. Jackson made their recommendations without ever contacting her office. She was able to talk to them yesterday. She is wondering if they had taken the time to talk to her and the other offices, if they would have written a different report. Her office handles a cash flow of \$380 million. The money is distributed to different places, not just the Board of County Commissioners. That is the reason that her office is a state function. If it is placed under the Clerk's office, the money she is responsible for now would be placed under another elected official. She does not foresee them being responsive to her when she is personally responsible for every dollar that comes into her office. The logistics would be a crunch with five different offices. They have a state of the art software package for their accounting office. The money is accounted for, receipted and in the bank by 2 p.m. everyday. She cannot foresee anyone doing a better job. She is elected, responsive, and loves serving the public. She did call the budget office on some of the verbiage being presented and the budget office had not heard of the budget going to a County Commission. She is concerned with the panel being set up and the fact that the Constitutional Officers have input does not give it any weight. She believes that the Constitutional Officers need to be left out of the charter. Tax Collectors that have been brought under charter have stated that their state function suffers because the Board of County Commission is only interested in the tax revenue that comes from the tax roll. Miami-Dade residents pay an additional \$20-30 per tag because they have created private tag agencies to come in and run their tag agency. These are a few examples of what can happen when a charter is not a good one. There is no evidence that some of these things will save money and be more efficient. One thing that it does is remove them from the citizens they serve. It is scary to put so much power under one person. By dividing county government, the Constitution has established certain safe guards for the public. Each segment of county government is represented by a person elected by the citizens and every four years the citizens can make their case for the conduct and effectiveness of their elected representatives. This organization provides certain checks and balances that are essential to governing public affairs and utilizing public assets in the best interest of the citizens. Each Constitutional Officer represents a highly specialized and important part of

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government. She would like to encourage the Charter Commission to write the very best charter they can to fix the perceived problems of the Board of County Commissioners, leave the Constitutional Officers as they are (outside of the charter), set up centralized services, and involve them in the process. By inter-local agreement, they may choose to take advantage of those services. Once these are set up, it only makes sense that she will get involved. This way the checks and balances will remain in place and the perception of undue influence will be protected. On sovereign immunity, she would like to add that her attorney explained that it was when you distinguished her office from county government.

Mr. Beall inquired if she would have an objection to utilizing a unified appeals board. The Tax Collector responded that she would go back to the employees and would like to protect the office because she will not be in office forever. She would like to participate through inter-local agreement if the employees vote that way.

Mr. Blackmon desired clarification on Ms. Holley utilizing a central purchasing process already in place. The county initiates a contract and the county then in turn offers those prices to the Constitutional Officers. She does not want to be tied to a central purchasing center that is not her option. She has been with the county thirty years and back in the beginning there was centralized functions and it was always a nightmare because the Tax Collector was never the priority.

Mr. Menge desired to learn more about the status of the Tax Collector's employees. She agreed that all of her employees are at will employees. If an employee has the right to appeal under certain federal guidelines, they do have a Human Resource attorney to guide them if it ever happens. It is to her understanding that as long as her policy manual addresses those issues and written for the employee to see that her office is well-covered. An employee who is dismissed has no other right of appeal other than the Tax Collector herself. There is a process through their supervisor and to the director of administration who mediates, if it goes to the next level, and then she would make the final decision. Ms. Holley stated that when they withdrew from Civil Service, they maintained their classification and pay range. They stopped longevity and reward on merit base. There are annual performance reviews that are very specific. All of this is laid out in their policy manual. They still send someone to the Civil Service Board and do adopt the percentage of raises that is approved by the county. She is unclear how the bonus system works; it is something that she has not chosen to do. The Tax Collector's budget is submitted to the Department of Revenue by August 1 and a copy is given to the Board of County Commissioners at that time. Her fee is based on formula.

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Ms. Wanda McBrearty desired to clarify the bonus issue. The Civil Service Board establishes pay ranks; it does not necessarily eliminate the ability to give one's employees a higher or lower merit raise. There is statutory authority for the Clerk and certain other Constitutional Officers to give bonuses just as they did. There are other ways to provide employee awards. As well when the board adopts a merit of three percent, there is nothing under the Civil Service that would preclude one from giving their employees a higher merit. Just as long as the employee is within a range, there is nothing to stop someone from giving them a higher raise.

Ms. McBrearty does not believe that just because a Civil Service Board is created that that would create equity. There are many ways to compensate under the Civil Service System without doing it just by a pay raise.

4. Presentation by the County Administrator

Mr. George Touart, County Administrator then addressed the Commission: He is here this evening to comment on some of the issues that have arisen. He agrees with Ms. McBrearty on the set of checks and balances; the county does have that currently. Right now, he does not want any of her functions and does not want her to have any of his either, that is budget control. He would have preferred that Mr. Jackson had talked to him prior to writing his paragraph. Mr. Touart explained his reasoning on why budget control should remain under the county. Ms. Holley does call Mr. Touart to review her budget with him. This group of Constitutional Officers does not want to create any moral problems by giving their employees differing pay raises. He believes that the Board of County Commissioners could take over anything that they are directed to, but should they take over those things and could it be done cheaper is questionable. Currently, central purchasing is available to the Constitutional Officers or we can piggyback off of other counties, cities, or any form of government that has purchased anything in this state. The county does assist the Constitutional Officers with this service.

In regard to personnel, we have already met with the legislative delegation and feel strongly that we are going in the right direction. Civil Service is for the employees. It is there to protect the good ones and it should be a fair system. It is time for the BCC employees to have their own system with the protection that is afforded to them. The very makeup of the board with the majority of those members to be nominated is truly proof that we want a fair and equitable system. Last year we took it to the legislature and got nowhere. This year, we are prepared and have already submitted paperwork to the legislative delegation and will meet with them on November 10, 2003.

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We are hoping to meet with every county employee and have met with the two unions. We are working daily with the Sheriff. We asked that the legislature only deal with the BCC employees this year. The union has a grave concern about the Sheriff's Department and neither the Sheriff nor I can figure out the reason. Protecting the employees is an opportunity that any elected official has the opportunity to do under their system. They would be able to hop in or not.

In regard to the budget functions, the administrative process should emphatically stay under the BCC. As far as the Constitutional budgets, one thing he did when he was first on the job, he met with all five of them and they were responsive. This year in the Clerk's office, there is a unique situation under Article V that will begin next July 1 that will leave one quarter of that office unfunded. There was some money in the budget to go into the reserve fund to fund whatever functions might be affected by the cut. Chris Jones has telephoned him in regard to computers and fixing up a building. There is some budget control over the Constitutional Officers at this time. The information technology needs are getting worse because each office has their own individual needs. Outside audits are the Clerk's responsibility and they do contract out. If changes are recommended they meet, agree, and implement the ones that are agreed upon.

Mr. Touart is concerned with the idea of two commissioners from each of the districts for a total of ten commissioners. He is also concerned with the seven votes to hire a County Administrator and six to dismiss. He has no problem with seven votes to hire and seven votes to dismiss. Stability in government needs to be recognized. He can only recommend items to the BCC, but they are the ones that vote. The BCC votes and then everyone goes on to something else. He has been in the elected officials shoes and is well aware of what goes on on both sides of the fence. He believes that ten County Commissioners would be an impossible working relationship for a County Administrator. The growth in this county will be in district five and if you try to convince someone in Molino or Barrineau Park that the growth is coming their way, they are not happy with it. People that have moved to save on the taxation are unhappy that there are not more services in the county. Actually, currently the county provides door to door garbage twice a week, excellent police protection, fire protection, and water and sewer is provided by ECUA, but they demand more and more. There will be more pressure put on the county officials, but these people do not want to pay any more taxes to get those services. It will be an impossible situation for a County Administrator to be put in having to deal with two commissioners in one district that may or may not have differing view points. You will not be able to stop the public from calling their elected officials. Which commissioner would the people call? Both commissioners may have

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different opinions on the same subject. If a County Commissioner calls one of his department directors, he likes to know, because ultimately the question will come to him. Charter government affects the current and future employees of the county. It also affects the career of someone who could potentially run for office; someone would have to be crazy to run for office in this system of two commissioners per district. If ten single member districts could be found without diluting the minority population that would be great. If a way could be found to have seven, that would be great also. He feels as if the Charter is heading down a very bad path with ten commissioners.

Mr. Montenes wished to clarify if going to ten districts, do you see any net benefit to the county and making it a more efficient operation? Mr. Touart responded that you cannot elect honesty, you elect honest people. He believes that there has been a wake up call to the citizens of Escambia County. Since that time, the governor has made some excellent appointments and we now have stability. But, we will have three seats open in the election and he hopes that the people running run for the right reasons. 'We' is the only word he understands in his form of government. No one commissioner can get anything accomplished in any district without teamwork and the understanding of the needs of the county. He and his staff were charged with a five year strategic plan and it is finished in the road department. This county has right of way donated. Every road in the county was prioritized; the plan is based on need. He feels as if his hands will be tied in regard to doing an efficient job.

Mr. Blackmon requested an updated version of the Affirmative Action plan, as he has been unable to find one. With the unified human resources that is being proposed, how would EEO and EEO officers fit into the scheme of things? How much federal funding is received by this county? Mr. Touart replied we do not receive enough federal funds. Mr. Rod Powell is the EEOC officer. Mr. Powell brings with him a professional aspect on personnel and is re-writing or writing every plan that the county did not have. They have been able to establish the department and the Affirmative Action plan will be supplied.

Ms. Riffel stated that it was the public that desired more County Commissioners. She also desired clarification on the type of services that people are demanding. Mr. Touart replied that he did not think that the two commissioners came from the public it came from the Commission. He also stated that the people are demanding door to door garbage collection, water, sewer, street lighting, fire and police protection, everything single service that is in the City of Pensacola. We have seventeen of the best equipped fire stations in the state of Florida. Road paving in the north end of the county is

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a priority. The county is trying to provide the services that are demanded of them.

Ms. Cannada-Wynn inquired if the relationship with the Constitutional Officers would improve or hinder if placed under the Charter, and what are the cost savings, if any? Mr. Touart stated that he has a working relationship with the Constitutional Officers, as far as cost savings; the same functions will be done. If he took the Sheriff's departments functions over, everything that they have to buy from pistols to cars, and then they would have to have more people to do it. He sees no savings by taking people from the Sheriff's department and moving them under him. He can do everything that this Commission is asking him to do, but not for less money. More people would have to be hired to offer a personnel service. However, they are going to the legislature with the request that only BCC employees be allowed to establish their own system. If the Constitutional Officers want to come up with an inter-local agreement, certainly they can. Everyday, this county does everything they can to save money. In regards to buying and selling property, most of the bad property has been sold. The reason we are trying to buy property around the Naval Air Station is that \$.30 of every dollar we have in this county comes from military dollars. We are looking for federal and state funds to buy some of the property.

Ms. Brown inquired if there is room for all the new people that may have to be hired in the new courthouse. Mr. Touart stated that there is growth built into every department, but there are not ten offices for County Commissioners at this time. At this point in time, it is being designed for five County Commissioners and their five assistants. That is the direction that they have been given.

Mr. Montenes stated that he believed the Commission arrived at ten commissioners was due to the legal advisory team's advice on how to maintain the minority vote. That has been the driving factor.

Mr. Touart desired to give his opinion on some of the issues. He believes that the charter should contain a statement clearly establishing the fact that the County Administrator is to be held accountable to each and every Commissioner. It also needs to be added that he is also accountable to the citizens. He has mixed emotions about the establishment of an audit committee. The Clerk's office is doing an excellent job and they do contract out with Carney & Riggs. There is always room for checks and balances; he has no problem with another set of eyes on what he is doing. He believes that education and experience should be a part of the qualifications of a County Administrator. It creates stability if there is a super majority vote to hire and fire. If the law is broken he will be removed from the office anyway. Mr. Touart already has some citizenry provide opinions from the

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outside when a position is vacant. He would like the Charter Commission to consider what he has had to say this evening when drafting the charter.

Mr. Menge stated that one of the preliminary decisions by the Commission was that since the BCC is the governing body and has the responsibility of levying taxes it should also have ultimate control over the budget of the county including the budget of the County Officers. Instead of it being ultimately the state who decides what the BCC will budget for those County Officers that it should be the BCC. Mr. Touart stated that Article V is going to take care of part of the Clerk's budget, as far as the finance side, Ms. McBrearty and he will work on her budget. The BCC will have to fund it, they are funding it now. He has had nothing but cooperation from the Sheriff. There was very little increase in the Sheriff's budget this year and he did sit down and work with him and the county budget officers. This group of Constitutional Officers does address their budgets to him. Mr. Menge clarified that he was addressing structure, not individual personalities and desired to know if Mr. Touart had a problem with them appealing their budget to the state. Mr. Touart stated that the BCC should have control over the dollars; there is an appeal process in Tallahassee that he has not had to use. These folks could have a bad County Administrator or a bad BCC. It works both ways. Hopefully, the Constitutional Officers are mindful that it is the taxpayers of Escambia County that pays their salaries. The one time a year we are reminded of who we work for, is budget time. There is more access to the public now, than there has been in the past.

Ms. Brown desired clarification on the two issues that it sounded like Mr. Touart desired to rethink: 1) to have five county commissioners in five districts and 2) leave the Constitutional Officers alone. Mr. Touart replied that it is not his job to say how many county commissioners you can have, he will work for whoever is there. His contention is that having two commissioners from the same district will not work. The other issue on which he feels strongly is the vote required to hire and fire a County Administrator. A simple majority vote to fire a County Administrator will bring about instability in the job; it will keep him from being able to do his job properly. He also believes that there are identifiable cost savings that can be realized by allowing the County to establish its own personnel system. Don't require the Constitutional Officers to use the County's purchasing system based on the fact that it will save money, because he will be requested to show where the savings has occurred in a year and there will not be any.

Mr. Touart is also concerned with abiding by the Sunshine Law. He sees this as an impossibility if two commissioners are elected from the same district.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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5. Public Forum

Five people addressed the Commission and their statements are as follows:

- 1) Mr. Byron Kessler addressed the Commission: he stated it was difficult for him to understand the concern over the Constitutional Officers because they do not set policy, do not enact ordinances, they simply carry out their responsibilities in accordance with the state Constitution. Why make them subject to the influence to the BCC, the body itself most subject to pressure from special interest. The affect would weaken the democratic process. A goal of the Charter should be to make every elected office more independent and less political. He would see just the opposite if this proposal was carried out. He believes that increasing the number of commissioners makes it easier to obscure accountability.
- 2) Mr. Jerry McIntosh then stated he knows that the Commission is aware he is in opposition of the charter. He believes that probably most people would prefer for it to take three people for them to be fired. He believes that Charter should contain a Citizen's Review Board to oversee how law enforcement deals with people, especially African-Americans. The Sheriff owes it to the people to meet with them when they have concerns about how people are treated by law enforcement. There are a few bad ones out there and a few are too many. Black people are confronted with mistreatment everyday because they are black. Riots have caused the breakdown of society, because people would not sit down and listen to their needs.
- 3) Ron Jackson addressed the Commission on the report he wrote that has been referred to lately. They were asked to do a study and make a report. An audit committee was recommended with the BCC as a liaison and would have both an external and internal auditor. This quite possibly will be legislated in the future, if it is not included in the charter. Ms. McBrearty has agreed that it could be very useful. He reviewed his proposal that all the members have been provided a copy of and reviewed. When recommending a centralized purchasing system they were not recommending a transfer of control of elected officials to lose control of their ability to purchase. He has seen the drafts of the proposed language creating a central purchasing department and he does like the wording. The problem expressed is an elected official turning final control over to the BCC. No in depth study has been done to see what kinds of costs would be incurred or if a cost savings is to be

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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had. They were not recommending going back to the old civil service system. They recommended moving the maintenance of the county budget posting of amendments and preparing budget reports out of the Administrators office not the responsibility for establishing funding levels. The establishment of funding levels would remain with the County Administrator's office. The elected officials would retain the same budgetary controls with regard to setting funding priorities as they do at the present time. It is important to establish a Charter that will pass. The problems are not with the Constitutional Officers.

Mr. Blackmon stated that when things initially begin, it costs money, but in the end you really see a savings. Mr. Jackson replied that is a possibility.

Mr. Boyd inquired as to the reason of not having something in the charter that is in the best interest of the county. Mr. Jackson replied that he was suggesting to correct as much of the problem with Escambia County as we possibly can and move forward with that, there may be some things that we feel are philosophically good for the county yet may not be willing to sacrifice the entire charter for those items.

Ms. Brown desired clarification on the fact that a Ron Jackson is listed as treasurer for the Citizens for Charter government. Mr. Jackson did verify that he is the same Ron Jackson.

Mr. Montenes sees the recommendations as productive and fine tuning, not earth shattering. The county does have centralized purchasing; the difference is it is optional. Mr. Jackson recommends that the Commission consider the elected officials purchasing power and the ability to put the correct people in the correct positions. Allow some flexibility for them to maintain the efficiencies that they currently have gained.

- 4) Sharon Barnett addressed the Commission on the structure of government as it pertains to the Constitutional Officers. She believes that there is no reason to elect them, with the exception of the Sheriff to some degree. These Officers perform ministerial duties that are prescribed. It was specifically prescribed as to what the Comptroller could invest in. There was an elected Constitutional Officer who was not subject to any reasonable job qualifications. That person was then in control of the first significant funds that this county ever had. The price of the real properties purchased by the BCC does not come close to what that one Constitutional Officer lost. The real reason to not elect the Constitutional Officers and have them appointed and put

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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reasonable job qualifications in the charter is so that there is a professional in the position. Economies of scale would be achieved. He will have to hire some new people, but not to a duplication of effort. The undue influence argument was made. There was no discussion of undue influence that comes through the patronage system by directly electing a ministerial officer. Similarly, there could be too much constituent service, which comes as a result of a direct election. The members of the community that are concerned about charter per se, need to look at a county where there is racially polarized voting and that majority that has historically voted to block the will of the minority is electing the Sheriff. Why would they not want to professionalize that office? She encourages the Commission to look at the structure.

Mr. McKinnon desired to know how to reconcile a check and balance (Property Appraiser) if the Property Appraiser was put under the charter and it was an appointed position. The County Commission goes to him and states they need more tax money and he needs to raise the values of the property in the area and he responds to them no I can't do that. The BCC then says we will fire you or reduce your budget. How do you reconcile those types of situations and the checks and balances that will be lost by that? Ms. Barnett believes that it was an auspicious point about the checks and balances because these offices do not really have power, so there is no separation of power. The duties are prescribed and limited.

Mr. Montenes stated that the politics of the situation permeates down through the organization to a lower level and affects some of the professionals that you have mentioned and their ability to do their job. The fact that the Property Appraiser is independent of the BCC is a good thing. The political drive is there and he is accountable to the citizens. That is part of the checks and balances. We do not seem to have any one person that is worried about the county as a whole. That is why the County Chair form of government is attractive.

Ms. Cannada-Wynn wanted to address the racially polarized voting and what benefits the African-Americans could receive from supporting the charter. Ms. Barnett replied that if the Constitutional Officers were made Charter Officers and they were appointed, the concern of the minority interest would be somewhat alleviated because it would be professionalized and there would not be a majority block voting.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Mr. Boyd stated that African-Americans are not opposed to change but the change needs to meet their needs. He inquired if studies had been done on racial polarization in arrests and adjudication.

Ms. Barnett has not done studies on that topic.

Mr. Dick inquired that if she was stating that if you had a professional that they can not be a racist or bias. Ms. Barnett replied no, she was indicating that the person would have certain educational and work background, that the risk would be minimal in getting a bad situation. The brokers who victimized this county specifically identified this county and others by looking for places that did not have professional chief financial officers. Mr. Dick replied that an election gives a better chance at getting someone honest, because anyone can ask him questions, he has to face the people, and he could only lie so much before he is voted out.

- 5) Mike Adkins addressed the Commission on his report. He wanted to clarify that his study was not anymore than public input that they were requested to provide. He would hate to see the charter jeopardized over issues like centralized purchasing and centralized human resources. The objective was to provide consistency with the elected officials and the way the BCC does its job. The most important item that was recommended was the audit committee.

6. Approval of the minutes of the October 21, 2003 meeting.

The motion was made by Mr. McKinnon to approve the October 21, 2003 minutes and seconded by Mr. Montenes. The motion was unanimous.

7. Approval of the minutes of the October 30, 2003 meeting.

The October 30, 2003 minutes were not finished in time for the members to review. This item will be deferred until the next meeting.

8. Communications

- 1) Materials from Chris Jones, Property Appraiser
- 2) Third invoice to the Whitman Center with a letter to Mr. Touart.

The Motion was made to approve the invoice by Mr. McKinnon and seconded by Mr. Boyd. The motion was unanimous.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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- 3) Faxed copy from David Tucker on an Attorney General's opinion dated November 19, 1977.
- 4) Extracts of motions.
- 5) Copy of the Orange County language regarding the formation of their Citizen's Review Board.
- 6) Copies of letters sent to the County Officers inviting them to tonight's meeting.
- 7) Tax Collector handout
- 8) Sheriff's department handout

Mr. Menge announced to the Commission that there was a legislative delegation meeting in the PJC Hagler auditorium on Monday, November 10 and he intends to appear before them. He plans to inform them of what the Charter Commission is planning on doing and asking for the sunset of the Civil Service Board. His request to them is to let the charter go before the people and if the charter passes, then whatever is in that charter, they approve it in the next legislative session.

9. Committee Reports

Mr. McKinnon stated that in working on the administrator proposal that the Commission should reconsider what they have done. At any one point in time the Administrator will make half the council unhappy.

Mr. Menge desired clarification from the Commission on what they desired to accomplish this evening, because if they were to re-vote on everything that they have heard this evening, then everyone could be here until midnight.

Mr. Boyd felt if the Commission opened the door to address one issue that affects one person than we need to address all of the issues that were presented to them this evening. He has some concerns with some of things that are drafted about the Constitutional Officers. He felt like the Commission should adjourn for the evening.

Ms. Cannada-Wynn thought that the Constitutional Officers attended the meeting to offer clarity to the Commission and to encourage the Commission to reconsider its previous discussion making them Charter Officers and requiring them to use certain county services. If we adjourn, then we will have not resolved those issues.

Motion made by Mr. Montenes and seconded by Mr. Dick for the Commission to remain and deal with the key issues that were raised this evening. The motion passed 9 – 5.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

BREAK: 8:50 – 9:05 P.M.
Ms. Rentz left during the break.

Mr. Menge addressed some of the issues that were to be addressed again this evening. He reminded the Commission on what they have decided upon thus far and could be possibly lost by removing the Constitutional Officers from out under the charter. He also reviewed the establishment of a Centralized Purchasing and the Personnel Department. He then wanted to open the floor up to any member who desired to revisit an issue previously voted on by this Commission.

Mr. McKinnon desired to go back to his original concern of the differing voting requirements of hiring and firing the County Administrator.

Mr. Boyd stated that he had some concern with the voting issue, because the Commission does not know the outcome of whether the Commission was going to have a five member board or a ten member board, much of the concern made by Mr. Touart may not be pertinent if we go to a five member board.

Mr. Beall raised some of the concerns he is hearing from the Commission is that the Charter is taking too much power from the BCC and giving it to the Administrator. His concern about making it a super majority vote to remove the Administrator from office further insulates him and weakens the control of the elected Board over the Administrator. We voted six the first time because if he lost the confidence of five or six then he may not want the job anyway.

Mr. McKinnon stated that if the Administrator is not doing his job, it would be easy to get a unanimous decision to fire him. The other issues brought up by Mr. Boyd, the terms used are still super and simple majority. He also feels that we would be hard-pressed to find a professional to fill the position of County Administrator with the vote the way it is.

Mr. Boyd believes that the African-American vote would be handicapped and a super majority is not needed. We could be making a decision that does not allow the African-American vote to have any weight. He can not support the super majority vote to fire

Mr. Dick stated that the National Association of County Administrators prefers the seven votes to fire if there is a ten member board. The reason is to remove the fear of being fired. He has to have confidence in being able to hold onto his job and to make good decisions.

Mr. Blackmon stated his reason for requesting the Affirmative Action plan was not related to the issue of whether it should take a super majority or a simple majority vote to fire the Administrator. The Affirmative Action plan would prevent additional costs to the county because when certain instances come up, then the county is protected because there is a plan in place.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Motion made by Mr. McKinnon and seconded by Mr. Montenes that the charter require a super majority vote to terminate the services of the County Administrator. The motion passed 7 – 6 with Mr. Beall, Mr. Blackmon, Mr. Boyd, Ms. Cannada-Wynn, Mr. Menge, and Mr. Smith voting against.

Motion made by Mr. Boyd and seconded by Mr. Walton to reconsider the vote in making the Constitutional Officers Charter Officers. The motion passed 10 – 3 with Mr. Blackmon, Mr. Menge, and Mr. Smith voting against.

Mr. Boyd stated that the community as a whole believes that the Sheriff's position is not working; it is busted and is in need of oversight. The position should be an appointed position. There also needs to be a Citizen's Investigative Board.

Mr. Dick believes that all Constitutional Officers should be elected. Appointment leads to corruption.

Mr. McKinnon believes that the Constitutional Officers need to maintain their status as they are now, the checks and balances are there. He has not heard a negative comment regarding the ones there now.

Mr. Beall stated that his position has not changed and he believes in a perfect world some of these positions should be appointed. Escambia County has been very fortunate that people with qualifications have filled these positions. Politically there is no way we could do appointed positions. He voted the first time to keep them Constitutional Officers and he has heard nothing to change that decision.

Mr. Montenes believes that all five should be Constitutional Officers and should function as an integrated unit.

Mr. Smith stated that the Commission's mission is to put government in the hands of the people as best we can and our purpose is to write a charter that would bring about improvement to our government. He does believe that we need to change some of the things we have done. One is the appealing of the Constitutional Officers budget. Centralized Purchasing and Personnel are being given to the Constitutional Officers to write, they can make it work if they want to.

Ms. Riffel does not think the system is broken. She believes that Centralized Purchasing takes it one step away from the people they are having. The fact that you have to go through someone else to get what you want is ineffective. The Constitutional Officers have a system that works.

Mr. Menge desired to clarify that the list of the things we have discussed, we rip up the sheet, because if they stay Constitutional Officers, they are not subject to recall, no central purchasing office will be established for them

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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nor personnel system, no consolidation of finance and accounting functions, and no local control of the budgets. He has been persuaded by the Constitutional Officers that the prohibition of appealing their budgets to the state should be reconsidered. Whether or not consolidation of finance and accounting functions would be a good idea is questionable. Mr. Menge still favors a unified Personnel Administrative System with the County handling recruitment of employees and the establishment of a Personnel Appeals Board to hear all county employee grievances. Mr. Menge has not heard any arguments that cause him to believe that a centralized purchasing system and unified Personnel Administration System are not desirable features to include in the charter.

Mr. Montenes stated it is not so much that they are not desirable features. The driving factor at that time was that the BCC has the overall responsibility of the county budget then it should have something to say about the Constitutional Officers' budgets. We did not have near the information and insight that we have now on the Constitutional Officers' budgets and their relationships to the overall county budget. The truth of the matter is a lot of those items we have considered are already in process right now and will evolve. When someone structures something for a large organization to function, you have to be extremely careful to not over define in order to not take away the initiative and the creativity. We could have written a charter that is so specific that we have irritated everyone that wants to come under it that no one will want to work in it.

Mr. Boyd believes that there is too much power in the County Administrator's hands. We have four Constitutional Officers that have done an outstanding job and it makes good business sense to leave the ones we are voting on now in place.

Mr. Blackmon hoped that he was not hearing that everyone was backing down and all of the work that has been done up until this point in time has been for naught.

Ms. Brown thinks that we have talked to people and rethought the situation.

Motion made by Mr. Boyd and seconded by Mr. Walton that the Property Appraiser, Tax Collector, Supervisor of Elections, and the Clerk of the Circuit Court should remain as Constitutional Officers. The motion passed 10 – 3 with Mr. Boyd, Mr. Menge, and Mr. Smith voting against.

Mr. Boyd believes that Escambia County needs an appointed Sheriff. All we get is the same people from within the Sheriff's department. We need to give the people of Escambia County a greater sense of hope. The City of

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Pensacola has an appointed Chief of Police and he has done an outstanding job. Movement for Change voted for the Sheriff hoping things would have changed. Law enforcement failed to do its job and treat all citizens in the same manner. What we have in place now is busted. The Citizen's Investigative Board has no term limits and there are no consequences to actions.

Ms. Brown stated that Mr. Boyd has commented several times that he has supported the Sheriff last time, but he is going shopping for another Sheriff this time. He supported the Sheriff because he wanted something and she believes that Mr. Boyd is being unfair to the Sheriff.

Mr. Dick stated that the position of the Sheriff should be elected.

Mr. Beall stated that the larger question is: are we talking about the position or a personality? No matter what your position is on the current Sheriff, we are talking about an office and that is what decisions need to be based on.

Ms Cannada-Wynn takes the same stance as Mr. Beall, it is a Constitutional Office and she wants to vote for her Sheriff. She takes exception that everyone is corrupt because everybody in the Sheriff's department is not corrupt. The choice needs to be left up to the voters. The issues that are very important to the African-American community does not lie entirely with the entire community.

Mr. Menge stated that he is going to vote in favor of the motion because if the other four are going to stay Constitutional Officers, then the Sheriff ought to be also. He continues to believe that they all should be Charter Officers.

Motion made by Mr. Walton and seconded by Ms. Brown that the Sheriff be treated as a Constitutional Officer. The motion passed 12 – 1 with Mr. Boyd voting against.

Motion made by Mr. Walton and seconded by Mr. Smith that the Commission delegate to the committees that are dealing with personnel and purchasing issues to revise their language and ask the Constitutional Officers to participate in the study process in both of them and make it available to them at their choosing. The motion passed unanimously.

Mr. Blackmon feels that if the committee refers to the Civil Rights Act of 1964 that the language should suffice.

Mr. Menge handed out districting information on the racial makeup of District three. Ms. Jones did the division of going to ten single member districts and provided it to the Commission at an earlier date. One of the

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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concerns the Commission had before was to not upset the balance in the African – American community.

Mr. Beall brought up a concern raised in his committee that two members representing the same district would be inviting violation of the Sunshine Law.

Mr. Boyd believes it would we would be better served by five single member districts. He also has a problem with the percentages after the split.

Ms. Cannada-Wynn stated that when there are ten commissioners we are creating a bigger government and is curious as to the rationale of going to ten.

Mr. Beall responded that possibly one or two strong people only needed one other vote and three votes would get you what you wanted. It is harder to get six votes than it is to get three. This eliminates block voting. The five commissioner system was set up over one hundred years ago, when the county had a third of the population or less than what it has currently.

Ms. Cannada-Wynn has a problem with the County Commission because there is still no one looking out for the interest as a whole; everybody still looks out for the ir own particular interest.

Mr. Blackmon stated that 60,000 people represented by one person is almost impossible. He is curious if these percentages would satisfy the federal suit that we are operating under.

Mr. Menge and Mr. Beall believe that the numbers would satisfy the voting rights act.

Mr. Montenes reminded the Commission that he did submit a legal proposal in writing to the legal advisory group about going to seven commissioners. We still do not have a central person worrying about the county as a whole at the commissioner level. There are two other forms of government that would have given us that opportunity. The response from the legal advisory group was ‘maybe’ and we never had any discussion on it.

Motion made by Mr. Nickinson and seconded by Mr. Beall to change to ten single member districts for the County Commission. The motion passed 9 – 3 with Ms. Brown, Mr. Dick, and Ms. Riffel voting against and Mr. Boyd leaving prior to the vote being taken.

10. Unfinished Business

There was no unfinished business.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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11. Items added to the Agenda

There were no items added to the agenda.

12. Announcement regarding the next meeting

The next meeting will be held in the BCC on Thursday, November 13, 2003 at 5:30 p.m.

13. Adjournment

The meeting was adjourned at 10:25 p.m.

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE