

Official

**Escambia County Charter Commission  
Minutes of October 2, 2003 at 5:30 p.m.  
Pensacola Campus of Pensacola Junior College  
Baroco Center – Room 2142  
(Twenty-Eighth Meeting)**

Members

Present: M. J. Menge, Chair  
Charles F. Beall, Jr  
Johnny W. Blackmon  
LeRoy Boyd  
BarbaraForehand“Bobbie”Brown  
Laurel Dick  
Elbert Jones, Jr.  
Denis McKinnon, Jr.  
Frank Montenes  
E. P. “Ted” Nickinson, Jr.  
Lucy Rentz  
Lamar Smith  
Garrett W. Walton

Members Rita A. Riffel, Vice Chairman (schedule conflict)

Absent: Phyllis D. Sims (schedule conflict)

**AGENDA NUMBER**

1. Call to Order – Chairman Menge 5:35 p.m.

2. Approval of the Agenda

**Motion made by Mr. Dick and seconded by Mr. Jones to approve the agenda. The motion carried 9 – 0 with Mr. Beall, Ms. Brown, Mr. Nickinson, and Mr. Walton arriving late.**

3. Approval of the minutes of the September 23, 2003 meeting.

**Motion made by Mr. Montenes and seconded by Mr. Blackmon to approve the minutes of the September 23, 2003 meeting. The motion carried unanimously.**

4. Communications

1) Copy of final draft of the proposed 1988 charter for Escambia County.

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2) Updated index from Mr. Walton's committee.

Mr. Menge informed the Commission that he has invited the Sheriff or a representative of the Sheriff's department to appear before the Commission on October 30, 2003 and will also invite the FDLE, State Attorney's office, Susan Watson from the ACLU, NAACP, and the Movement for Change to have representatives at the October 30<sup>th</sup> meeting. These various agencies and groups will inform the Commission on what is currently being done about citizen's complaints regarding law enforcement and the need for the creation of a Citizen's Investigative Board.

Mr. Menge read the resignation letter from Ms. Sims, stating the reason for her resignation was her inability to meet the time obligations. Mr. Menge requested that Lamar Smith take over the Chairmanship of the Personnel & Civil Service, Constitutional Officers, and County Attorney Committee. Mr. Menge will remove himself from Mr. Beall's committee and move to Mr. Smith's committee. Whomever Commissioner Young appoints to replace Ms. Sims will be placed on Mr. Beall's committee.

5. Committee Reports

Mr. Nickinson spoke on behalf of the Mr. Walton's committee. They have met twice and with various people going out-of-town, they have changed their schedule as follows: cancelled Oct. 6, and re-scheduled to Oct. 29, and Nov. 7, both meetings will again be held in the JME/Caldwell offices and begin at noon. By the beginning of November, the committee will have something substantial to submit to the Commission for review.

Mr. Walton stated that he is still concerned with the quorum and voting requirement issues and would like to address these issues this evening. He also passed out an updated index with color codes for each committee's assignments.

6. Discussion of Issues

Mr. Menge stated that although he desired to vote on each of the issues listed in the section on Personnel and Civil Service, he believed it would be helpful to first take an overall view of the county's civil service system and any changes the Charter Commission desired to make to the system. If the Commission is in favor of abolishing Civil Service, it needs to have a replacement plan in mind.

Mr. Menge reviewed the history of Escambia County's Civil Service Act. The county's civil service system was created in 1951 by a special act of the Florida Legislature. Initially, the Civil Service Act covered all of the

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county's employees, including the employees of the Constitutional Officers, and the employees of the School District, except teachers. The Act has been amended approximately forty-five times. An amendment in 2001 allowed some of the Constitutional Officers and the School District to withdraw. As a result of the amendment, the School District, the Clerk of the Court, the Tax Collector and Property Appraiser withdrew from the civil service system. Within recent years the BCC, Sheriff's Department, and the ECUA have all expressed a desire to withdraw from the civil service system. The present financial situation of the Civil Service is precarious at best, the appointing authorities whose employees are still covered by the Civil Service Act state they can do a better job for less money.

The Escambia County Civil Service System is one of three Civil Service Systems in Florida created by Special Acts. Hillsborough County is the only other county that has a civil service system similar to Escambia's. The Whitman Center's study on Civil Service did a good job analyzing the two systems. All of the other counties in Florida have developed and administer their own personnel systems. Escambia County's Civil Service Act was primarily enacted to address the "spoils system," which allowed many relatives and political supporters of successful candidates for public office to be hired as county employees. Since 1951, several federal and state laws have been adopted which provide greater protections of applicants for governmental and private employment positions.

It would be a disservice to Escambia County to not address the civil service system in the charter. Financial support for the Civil Service Board needs to be increased if the appointing authorities are forced to remain in the system. The Civil Service Board has attempted to do a good job, but for whatever reason the relationship between the appointing authorities and the board is fractured and cannot be cured by the Charter Commission. If it had not been for the indictments of the former County Commissioners and the creation of this Commission the board would have been sunsetted.

A plan needs to be designed that is equally fair to the employees, employers and the taxpayers. The employment, retention and promotion of employees needs to be based on merit, not politics. The pay of the employees needs to be competitive and the system needs to instill a sense of confidence and fairness among the employees. Periodic surveys need to be conducted to determine that salaries are fair and competitive. A single pay plan that includes all employees in the county and ranges of pay for like work should be adopted. Exempt positions should be strictly controlled. An appeals board to hear employee grievances in the event of disciplinary actions will need to be created.

The previous charters of '79' and '95' provide good guidance on how this Commission might address the situation. Mr. Menge's recommendations

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are that the County should establish a merit system and he is not sure if the Charter Officers should be mandated to participate in this system. The Commission has been told there could be savings in that area. The ECUA should be allowed to establish their own merit system. The BCC levies taxes and produces revenue, so they should be responsible to the citizens on how they spend those taxes. The Civil Service Board currently determines how much county employees are paid; the BCC should determine the salaries of the county employees. The ECUA ought to be separate because they are responsible for the revenues they raise and they answer to their own elective board on how they spend their funds.

There needs to be a transition period. The current Civil Service Board should remain active for one year and during that period the county and the ECUA will establish their personnel systems. Within 60 days from the effective date of the charter a panel will be formed by the BCC consisting of representatives from the County Administrator's office and from each of the Charter Officers to develop the rules and procedures of the merit system to be established for the county. Those recommendations will be presented to the BCC within six months from the date of the panel's formation and within 60 days from the receipt of the panel's recommendations, the BCC will adopt a set of rules and procedures for operation and administration of the county's personnel system, which rules and procedures will become part of the county's administrative code.

Mr. Beall agrees with Mr. Menge, but does have some concerns about getting too specific in the charter on personnel matters. The charter should not be seen as a referendum on the Civil Service System. The Civil Service cannot continue as is, with some departments using it and some not. The Constitutional Officers informed this Commission that they needed autonomy in the hiring and promotion process without going through a lot of steps to hire and fire. The Officers need to be able to maintain their own personnel offices but a standard pay scale should be used by everyone. He is opposed to more bureaucracy and is for uniformity. There needs to be a unified appeals board, much the way it is now. The Charter Officers need to appoint members to the appeals board and the employees need to be a part of the system.

Mr. Menge clarified who he would like to see as part of the proposed appeals board. One person selected by the County Administrator, one person selected by the Charter Officers, one person appointed by the ECUA, one person elected by the classified employees of the Departments from within the County offices, one elected by the classified employees of the Charter Officers, and one elected by the employees of the ECUA. Those six members would then elect a seventh member to serve as chairman; if

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they could not agree on that seventh person, the Chief Administrative Judge of the Circuit would appoint that person.

Mr. Blackmon agreed that there are obvious problems with the existing civil service system. The appointments to the appeals board need to reflect a broad representation. The Civil Service protects the employees as well as the county. It needs to be carefully structured on what the duties of the appeals board are.

Mr. Boyd stated that the uniformity needs to be there. One of things that works so well today is the redress system. The existing Civil Service Board does an excellent job. He does not agree with the ECUA having a separate system. If the county's personnel system is acceptable to the other officers then it should be acceptable to the ECUA. This is a duplication of efforts. He does not believe that the existing Civil Service Board is so broken that it cannot be fixed. Since, most of the jobs in this area are non-unionized there needs to be the best system of redress that can be put in place.

Ms. Brown stated that the existing Civil Service System laws should not be incorporated into the Charter without changes and that the existing Civil Service System should be abolished and the new system should be uniform throughout the county. All of the Charter Officers need to abide by the same rules.

Mr. Dick stated that the Civil Service System is not running as smoothly as it was intended. If it is to be fair across the board, then everyone needs to participate and the employees need to believe in the system.

Mr. Jones stated that the Civil Service System is mortally wounded and agrees with a lot of what has been said. The structure of the appeals process needs to be maintained. He was not impressed with the HRO presentation and is concerned with the transition plan. He believes that a system can be structured by the Charter without micromanagement. The ECUA and the Charter Officers should be required to participate and not be allowed to opt out. The employees currently in place need to be transitioned into the new organization.

Mr. McKinnon stated that he is in favor of doing away with the current system. He does not believe that the charter needs to get into the weeds of trying to figure this out within a charter. Set up a commission to look at the proposed changes.

Mr. Montenes agrees with everyone so far, but wants to give another perspective. He enjoyed it when HR was called 'Personnel'. The charter needs to be careful on how it addresses this octopus. He is not impressed with either side and the people who have opted out have not worked within the guidelines when they could have changed how the system is run. He is concerned with the general trend on everything going back to the County Administrator. The Tax Collector wants to run her department as a business

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and this is agreeable to him. Mr. Montenes stated that the Commission has not heard from the employees. The plan should be outlined with the duties and timeframes and let the committee do what it is supposed to do. He believes that the legislative delegation has already decided to sunset the current Civil Service Act in 2005. The county was very aggressive to begin with, but its final plan is a mirror image of what it first proposed.

Mr. Nickinson stated that after hearing so many thoughts that were the same, he is beginning to conceive of an idea of establishing a mechanism in the charter. Two distinct groups should be mandated by the charter, one that does all of the recruitment, testing, and classification and the other group would be the appeals and review board. Article VII of the 95 charter provides a good outline to follow. The people who have to live with it need to work out the details in the administrative code and the charter should provide a broad outline of what we expect of the civil service system. He believes that the Seminole County administrative code covers this topic well. Another fact we need to consider is a charter amendment requires the vote of the people. The Administrative Code can be changed by the BCC. He does not believe the charter ought to go into a great deal of detail on this subject.

Ms. Rentz concurs with a lot of what has been said and is concerned with the transition period. Volusia County's charter could be used as an example and she is in favor of a broader statement dealing with this issue.

Mr. Smith agrees with Mr. Boyd and Mr. Menge. The situation needs to be addressed and there needs to be one HR department. One standard set of salaries for the county. The hiring needs to be established for each Charter Officer. The details could be worked out afterwards if the charter addresses this issue. Let the governor appoint the appeals board and keep the appeals process like it is now.

Mr. Walton stated that he is concerned with the Clerk's office giving its employees bonuses and the sense of unfairness that it created within the county's employees. He is impressed that the Civil Service Board is trying to fix the Civil Service System but, it needs to be brought under the County Administrator. ECUA is its own source of revenue and in that sense they have their own board that is elected by the citizens for oversight. We need to respect the career employees and their status. The Charter Officers need to be brought into the system. Some of them made some compelling points about the reasons they opted out. He believes that the one year time frame to complete the transition is ambitious. The Charter Officers need to be afforded some time for transition and need to be given the opportunity to opt out of the system if the BCC agrees to let them opt out.

Mr. Montenes stated that the Civil Service seems to take the classification of a clerk and standardize and maintain their process where that clerk can

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move between government agencies and maintain the same pay scale. The Charter Officers state that a clerk in the county may not have the same value as what is needed for the ECUA. He has no question about forming the panel we previously discussed and then the panel could write the administrative code.

Mr. Menge stated that the 95 charter addressed the issue in a broad outline. The ECUA was excluded from the county's system because they generate their own revenue.

Mr. Beall proposed that the Commission table the discussion on whether the ECUA should develop and administer its own civil service system or be covered by the county's system.

The first issue for discussion was #1, page 6 - Should the existing Civil Service System laws be incorporated in the Charter without any changes?

**Motion made by Mr. Walton and seconded by Mr. Nickinson that the existing Civil Service System laws should not be incorporated in the Charter. The motion passed unanimously.**

The second issue for discussion was #2, page 6 - Should the existing Civil Service System be abolished?

**Motion made by Mr. McKinnon and seconded by Mr. Montenes that the existing Civil Service System be abolished. The motion passed 12 – 1 with Mr. Boyd voting against.**

The third issue for discussion was #3, page 6 - Should the charter provide for the County to create its own recruitment and merit retention system for personnel?

Clarification that the BCC is what is meant when stating 'the county.'

**Motion was made by Mr. Dick and seconded by Mr. Boyd that the charter provide for the BCC to assume responsibility for development and implementation of its own recruitment and merit system for personnel. The motion passed unanimously.**

The fourth issue for discussion was #4, page 6 - If the County is required to create such a personnel system, should it be mandated that the Charter Officers' employees be covered by the system?

**Motion was made by Mr. McKinnon and seconded by Mr. Montenes that the employees of the Charter Officers should be covered by the county's civil service system, but that a panel consisting of representatives from the County Administrator's office, the Charter Officers, and the classified employees is to be created which will make**

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**recommendations to the BCC on the rules and procedures to be adopted for administration of the system. The motion passed unanimously.** This issue was referred to Mr. Smith's committee for further consideration and recommendations.

The fifth issue for discussion was #5, page 6 - Should the charter, in its transition provisions, provide for a transition from the existing Civil Service System to the County's system, if the Charter requires the County to create its own personnel system?

**Motion was made by Mr. Boyd and seconded by Mr. Blackmon that the charter provide a transition period for the phasing out of the Civil Service Board and the implementation of the county's civil service system, and that the Transition Article in the charter provide for the creation and activation of the panel approved by the Charter Commission in its previous motion. The motion passed unanimously.** This issue was also referred to Mr. Smith's committee for further consideration and recommendations.

The sixth issue for discussion was #6, page 6 - If the existing Civil Service System is maintained, should those Charter Officers who have opted out of the system be required to rejoin the system? This issue was declared moot based on the Commission's adoption of the previous motions.

The seventh issue for discussion was #7, page 6 - Should the ECUA be allowed to create and maintain a separate recruitment and merit retention system?

**Motion made by Mr. Beall and seconded by Mr. Walton that this issue be tabled and dealt with when the Commission considers the issues relating to the ECUA. The motion passed unanimously.**

The eighth issue for discussion was #8, page 6 – How specific should the Charter be in addressing personnel issues?

**Motion made by Mr. Walton and seconded by Mr. McKinnon that the charter deal with the personnel issues in broad brushed terms. The motion passed unanimously.**

The ninth issue for discussion was #9, page 6 - Should the County, Charter Officers and ECUA be allowed to create, maintain and operate separate personnel systems?

**Motion made by Mr. Boyd and seconded by Mr. Jones that the Charter Officers not be allowed to create, maintain and operate**

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**separate civil service type systems in conflict with the County's system. The motion passed unanimously.** The Commission agreed that each Charter Officer would need to have separate Human Resources or Personnel departments responsible for personnel management.

The tenth issue for discussion was #10, page 6, - If the County, Charter Officers and ECUA have separate personnel systems, should the charter create an Appeals Board that would hear employee grievances of all county employees? This issue was declared moot based on the Commission's adoption of the previous motion.

The eleventh issue for discussion was #11, page 6 - If an Appeals Board is created, how should the members of the Appeals Board be selected? Should they be compensated?

Charles Beall – agrees with the creation of an appeals board, broad representation, reasonable per diem rate, serve specified terms of office

Johnny Blackmon – agrees with the need, members should be compensated, concurs with Mr. Boyd.

LeRoy Boyd – agrees with an appeals board, members to be compensated, take into account the best interest of the employees

Bobbie Brown – agrees with Mr. McKinnon

Laurel Dick – yes, up to the panel to create it

Elbert Jones – does not want the governor to continue to appoint, compensation for out of pocket expenses, small per diem

Denis McKinnon – create an appeals board, but not outlined or mandated in the charter

M.J. Menge – favors charter creating an appeals board; transition panel formed to recommend rules and procedures for civil service system could also recommend manner in which representatives for appeals board are to be chosen.

Frank Montenes – develop a criteria for service on the appeals board (labor relations expert), compensated for expenses

Ted Nickinson, Jr. – compensation on a per diem basis, if they have cases they get paid, someone in HR arena outside of the county should be on the board.

Lucy Rentz – no strong opinion on the topic

Lamar Smith – keep it like it is, it does not appear to be broken, the members need to be compensated.

Garrett Walton – broad based to include representatives from the employee groups.

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**Motion made by Mr. Beall and seconded by Mr. Blackmon that the charter will create an Appeals Board, the manner in which the members will be selected and compensated will be referred to Mr. Smith's committee. The motion passed unanimously.**

Legal Services - County Attorney:

The twelfth issue for discussion was item #1, page 6 - Should the position of County Attorney be established by Charter?

Charles Beall – yes  
Johnny Blackmon – yes  
LeRoy Boyd – yes  
Bobbie Brown – yes  
Laurel Dick – yes  
Elbert Jones – yes  
Denis McKinnon – yes  
M.J. Menge – yes  
Frank Montenes – yes  
Ted Nickinson, Jr. – yes  
Lucy Rentz – yes  
Lamar Smith – yes  
Garrett Walton – yes

**Motion made by Mr. Nickinson and seconded by Mr. Montenes that the position of the County Attorney will be established by the charter. The motion passed unanimously.**

The thirteenth issue for discussion was item # 2, page 6 - How should the County Attorney be selected? By the County Commission? By the Administrator?

**Motion made by Mr. Jones and seconded by Mr. Dick that the County Commission select the County Attorney. The motion passed unanimously.**

The fourteenth issue for discussion was item #3, page 6 - If the County Attorney is selected by the BCC, should the selection be by majority or super majority vote?

Charles Beall – majority  
Johnny Blackmon – majority  
LeRoy Boyd – majority  
Bobbie Brown – super majority  
Laurel Dick – majority

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Elbert Jones – majority  
Denis McKinnon – super majority  
M.J. Menge – majority  
Frank Montenes – super majority  
Ted Nickinson, Jr. – majority  
Lucy Rentz – majority  
Lamar Smith – majority  
Garrett Walton – majority

**Motion made by Mr. Dick and seconded by Mr. Boyd that the County Attorney will be selected by a simple majority vote of the BCC. The motion passed 10 – 3 with Ms. Brown, Mr. McKinnon, and Mr. Montenes voting against.**

The fifteenth issue for discussion was item # 4, page 6 - If the employment of the County Attorney is terminated, should the termination be by simple majority or super majority vote of the BCC?

Charles Beall – simple  
Johnny Blackmon – simple  
LeRoy Boyd – simple  
Bobbie Brown – super  
Laurel Dick – simple  
Elbert Jones – simple  
Denis McKinnon – super  
M.J. Menge – simple  
Frank Montenes – simple  
Ted Nickinson, Jr. – simple  
Lucy Rentz – simple  
Lamar Smith – simple  
Garrett Walton – super

**Motion made by Mr. Boyd and seconded by Mr. Blackmon that if the employment of the County Attorney is terminated, the termination will be by simple majority vote of the BCC. The motion passed 10 – 3 with Ms. Brown, Mr. McKinnon, and Mr. Walton voting against.**

The sixteenth issue for discussion was #5, page 6 - Should the Charter provide for minimum qualifications for the office of County Attorney?

Charles Beall – in good standing; minimum of five years experience  
Johnny Blackmon – MQ's, good standing with Fl bar  
LeRoy Boyd – agrees with Mr. Montenes

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Bobbie Brown – agrees with Mr. Menge

Laurel Dick – member in good standing

Elbert Jones – agrees with Mr. Menge

Denis McKinnon – BCC is held responsible for hiring and the MQ's need to be set at the time of hire

M.J. Menge – member of the Fl bar, BCC to set other MQ's

Frank Montenes – yes, experience in land use, MQ's set for other county employees - should be set for the attorney, BCC to set the criteria.

Ted Nickinson, Jr. – yes, and a member of the Fl. bar

Lucy Rentz – no

Lamar Smith – no

Garrett Walton – no

**Motion made by Mr. Dick and seconded by Mr. Blackmon that the only minimum qualifications for the County Attorney is for the attorney to be in good standing with the Florida Bar. The motion passed 9 – 4 with Mr. Beall, Mr. Boyd, Mr. Montenes, and Ms. Rentz voting against.**

**Motion made by Mr. McKinnon and seconded by Mr. Montenes that the charter would state that the BCC would establish any other qualifications for the County Attorney. The motion passed unanimously.**

The seventeenth issue for discussion was # 6, page 6 - Should the duties and responsibilities of the County Attorney be specified in the Charter?

**Motion made by Mr. McKinnon and seconded by Mr. Blackmon that the duties and responsibilities of the County Attorney not be specified in the Charter.**

**Motion made by Mr. Walton and seconded by Mr. Boyd to amend the motion to have the charter state that the County Attorney is responsible directly to the BCC and secondarily provides support to the County Administrator and other County Officials. The amendment to the motion passed 11 – 2 with Mr. Montenes and Mr. Nickinson voting against. The main motion, as amended, passed 8 – 5 with Mr. Beall, Mr. Boyd, Ms. Brown, Mr. Dick and Mr. Menge voting against.**

The eighteenth issue for discussion was # 7, page 6 - Should the Charter Officers be required to use the legal services provided by the office of the County Attorney?

Charles Beall – agrees with Mr. Menge

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Johnny Blackmon – no, agrees with Mr. Menge  
LeRoy Boyd – yes  
Bobbie Brown – no  
Laurel Dick – no  
Elbert Jones – no  
Denis McKinnon – no  
M.J. Menge – available but not required  
Frank Montenes – no, certain areas may not be qualified  
Ted Nickinson, Jr. – use unless a conflict of interest is present  
Lucy Rentz – not sure  
Lamar Smith – foresee conflicts  
Garrett Walton – no

**Motion made by Mr. McKinnon and seconded by Mr. Montenes that the Charter Officers not be required to use the legal services of the County Attorney, but the services will be made available. The motion passed 12 – 1, with Mr. Boyd voting against.**

The Commission then took up the issue of how many members of the County Commission should be required to constitute a quorum and whether it would take a simple majority vote of the members of the BCC who were present at a meeting to enact an ordinance or other business or whether a greater specified number of votes should be required.

**Motion made by Mr. Walton and seconded by Mr. McKinnon that it will take six members of the BCC to constitute a quorum. The motion passed unanimously.**

**Motion made by Mr. Walton and seconded by Mr. Jones that it will take six affirmative votes for the BCC to take any action. The motion passed 11 – 2 with Mr. Beall and Mr. Smith voting against.**

**Motion made by Mr. Walton and seconded by Mr. Jones that a super majority shall be defined as seven affirmative votes by the BCC, unless otherwise specified in the charter. The motion passed 12 – 1 with Mr. Blackmon voting against.**

7. Public Forum

- 1) Jennifer Miles - Ms. Miles spoke on behalf of Tax Collector, Janet Holley. Ms. Holley was inquiring as to the reason she was not invited to the meetings where the issues relating to the Constitutional Officers were discussed.

Mr. Menge responded that all of the Constitutional Officers had been

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invited to speak before the Commission; the Commission then conducted a series of nine public hearings at which the issues to be considered by the Charter Commission, including those relating to the Constitutional Officers, were discussed; the Charter Commission is now in the process of weighing what it has heard and learned and determining the provisions to be placed in the charter. All of the Commission meetings have been advertised and are open to the public.

8. Unfinished Business

The Whitman Center contacted the Clerk's office for a list of inter-local agreements between the different government entities of Escambia County and was informed that no such list existed.

9. Items added to the Agenda

There were no items added to the agenda.

10. Announcement regarding the next meeting

**The next meeting will be held at Pensacola Junior College, Baroco Center, Room 2142 on Tuesday, October 7, 2003 at 5:30 p.m.**

11. Adjournment

The meeting was adjourned at 8:50 p.m.

**Action Items:**

- 1) Whitman Center to find out how many county employees, including employees of the Constitutional Officers and ECUA, are non-classified, or exempt from the classified system. The criteria on which the employees have been exempted should be reported to the Commission.**
- 2) Whitman Center to obtain the job descriptions of the County Attorney and County Administrator.**

**APPROVED BY:**

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**THE CHARTER COMMISSION**

**PREPARED BY:**

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**UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE**