

Official

**Escambia County Charter Commission
Minutes of October 7, 2003 at 5:30 p.m.
Pensacola Campus of Pensacola Junior College
Baroco Center – Room 2142
(Twenty-Ninth Meeting)
(5:35 p.m. – 8:25 p.m.)**

Members

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

Members Absent: Lucy Rentz (schedule conflict)
LeRoy Boyd (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 Ms. riffel to approve the agenda. The motion carried 11 – 0 with Mr. Blackmon arriving late.

3. Approval of the minutes of the October 2, 2003 meeting.

Motion made by Mr. Nickinson and seconded by Mr. Dick to approve the minutes of the October 2, 2003 meeting. The motion carried unanimously.

4. Communications
 - 1) Official minutes of the September 23, 2003 meeting.
 - 2) Description of duties of the Escambia County Attorney.
 - 3) Description of duties of the County Administrator.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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5. Committee Reports

Mr. Smith's committee will meet on the following Mondays - October 13, October 20, October 27, and November 3 at 226 Palafox Place in Seville Tower, 9th floor, commencing at 11 a.m.

6. Discussion of Issues

Mr. Menge desired to begin the discussion of issues by encouraging the members to express their views and thoughts on the Santa Rosa Island Authority (SRIA). Mr. Menge offered some information on the background of the SRIA. The Florida Legislature created the SRIA in 1947 by Special Act. Among the SRIA's responsibilities were: to handle the leasing of land, administer the leases, and maintain the land under its jurisdiction. The board initially consisted of five individuals who were chosen by the BCC with each Commissioner being allowed to nominate someone for membership on the board. A sixth member was added later who was chosen in a non-partisan election by the residents of the beach. The SRIA currently has approximately 1,500 acres under its jurisdiction of which over 60% is set aside for public use. It collects about \$5 million in lease payments annually. The SRIA expends about \$800,000 annually in marketing and \$2 million in maintenance and repair. A land use plan has been developed and can only be changed with the approval of the BCC. The member of the BCC who nominated a SRIA board member retains the right to dismiss that member without cause and furthermore a majority of the members of the SRIA can dismiss a board member of the SRIA even if the BCC member who appointed him disagrees. Any major changes to the leases have to be approved by the BCC.

Mr. Beall prefers to get rid of the SRIA. It runs fine in spite of and not because of the SRIA board. It is one step away from a representative government and the duties and responsibilities of the SRIA can be more efficiently handled by the county. Ms. Brown agrees with Mr. Beall.

Mr. Dick stated that over 80% of the visitors to Pensacola are here because of the beach. The beach supports over 18,000 jobs and generated close to \$300 million in local sales. They are responsible for over \$99 million in wages. The SRIA can do a better job than the county because the members live on the island itself. They can respond to situations on the beach more effectively, efficiently, and quicker because they are located there. They have the experience of management and control of the island. The board represents all of Escambia County. If the county took over the beach, the residents and businesses would have to wait for a work crew from the county to arrive when services are needed.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Mr. Menge stated that the state legislative delegation had voted to sunset the SRIA but decided against such action after the former county commissioners were indicted. Mr. Menge stated that there were several studies, including the Frank Westmark Study of 1991 and a 1999 study completed by the BCC, that concluded the SRIA is a vital entity and should not be abolished. A separate governmental agency is needed to govern the beach as the beach is vital to the economy of Escambia County. There are three reasons it ought to remain a separate entity: 1) tourism, 2) need for regulation of development, and 3) administration of leases. Pensacola gets its identity from its beaches. The public areas need to be maintained for the locals and tourists alike. The SRIA has done a better job than the county has done in cleaning and maintaining its recreational parks. Pensacola Beach is different because the land is leased land. The personnel can be transferred to the county but the duties being performed by the volunteer SRIA board will still need to be performed by some entity. A lot of the development on the beach is redevelopment. Springhill Suites and Hilton hotels were recently constructed on the beach. The developers of those properties determined that Pensacola Beach was a desirable location for their buildings. A survey was completed on the beach within the last two years that indicated a majority of residents and business owners would prefer to keep the SRIA. The SRIA also responds quickly to the needs of the beach residents and businesses after hurricanes.

Ms. Riffel stated she lived on the beach for twenty years. She dealt with the SRIA on a daily basis. She believes she was treated fairly and the staff is very knowledgeable. She does not believe that Escambia County should be micromanaging anything and would like to see the SRIA kept intact.

Mr. Jones believes that the SRIA serves an important function. If he lived on the beach, he would much rather have the SRIA take care of his needs instead of the BCC. He would like more clarification on how tax dollars support the insurance rates on the beach. He is in favor of keeping the SRIA with some modifications.

Mr. McKinnon would like to see the SRIA remain as is and he agrees with Mr. Menge's statements.

Mr. Montenes stated that the data presented to the Charter Commission does not indicate that there is anything broken out on the island, so nothing needs to be fixed. He does not believe the SRIA contributes that much to the county and is not representative of the residents of Escambia County. He believes that the people of Escambia County are lured into a sense of false economy by the beach and he is not impressed with the SRIA's balanced budget method. There is no contribution to the general fund. The biggest complaint by the residents of Perdido Key is they do not get any of their tax dollars back, so there is a sense of unfairness. Let the beach

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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incorporate and let them maintain it. He does not believe, however, that the charter should touch the SRIA.

Mr. Nickinson stated he believes the island is being overdeveloped and there are problems with the road capacity, but he is for keeping the SRIA.

Mr. Smith stated he would like to keep the SRIA.

Mr. Walton stated that the SRIA needs to be left alone.

Mr. Beall preferred to change his vote in favor of keeping the SRIA after hearing all of the member's views. Are we going to keep it as a special act in the charter? Don't abolish the function of the board; the beach needs its own organizational structure.

Mr. McKinnon believes that the SRIA board structure needs to be looked at because the charter has changed the structure of the BCC.

Mr. Menge envisions that the two BCC members from each of the five commissioners districts would agree upon and nominate one person to serve on the SRIA board; if they do not agree then the chief administrative judge would appoint someone. Term limits and other reforms need to be looked at. He has spoken to both Representative Benson and Representative Murzin and believes that if the charter is adopted by the people; our legislative delegation will introduce legislation during the 2004 legislative session to sunset the SRIA, Civil Service Act, and the ECUA to let what is in the charter regarding those entities survive.

Motion made by Mr. Walton and seconded by Mr. Montenes that the SRIA be incorporated into the charter without any substantive changes. The motion passed 11 – 1 with Ms. Brown voting against.

Motion made by Mr. Walton and seconded by Mr. Nickinson that there will be five SRIA board members nominated by the representatives of the five districts in Escambia County and if any two representatives from a district cannot agree on who to nominate, the nomination will be made by the BCC. The sixth member of the SRIA board will continue to be elected by the beach residents. The motion passed unanimously.

Ms. Riffel had to leave the meeting to teach a class and was not present for the remainder of the meeting.

Issue #2, page 7 - Should the SRIA be incorporated into the Charter without any substantive changes? and issue #3, page 7 - Should the SRIA be abolished and the duties and functions it is presently administering transferred to a department reporting to the County Administrator? were both declared moot, based on the previous motion.

Sandy Johnston, President of the Pensacola Beach Chamber of Commerce stated that she believes that the board members of the SRIA need to reside on the beach. This is to insure that the decisions made by the board are

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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made in the best interest of the island. It works so well now because the rules that are made are made by people that have to live by them. The businesses on the beach have a tough time with the lease fees they have to pay that are based on their revenue. The more they make the more they pay. People can not come in and make a rule without the background knowledge. The Jubilee complex pays more than 2 – 3 times in lease fees than what Seville Quarter pays in property taxes. Businesses are required to be open ten months out of the year even though the money only comes in 3-4 months out of the year. Two out of the six board members are not residents of the beach.

Mr. Montenes stated that if all of the people are from the same area of the county that it would only provide a narrow point of view. There needs to be a broad brush perspective of people representing the county.

Motion made by Mr. Smith and seconded by Mr. Montenes that the representatives appointed to the SRIA would be from each of the five separate districts of Escambia County. The motion failed 4 – 7 with Mr. Beall, Mr. Dick, Mr. Jones, Mr. McKinnon, Mr. Menge, Mr. Nickinson, and Mr. Walton voting against.

ECUA and other regulatory agencies was the next topic for discussion and Mr. Menge wanted to offer some background on the topic. The ECUA was created by a special act of the legislature in 1981 and the act has been amended sixteen times. A lot of the amendments had to do with structure and powers. Initially, there were seven members with two County Commissioners, two City Council members, one member appointed by the BCC, one member appointed by the City Council, and the seventh member was appointed by the other six members. Initially they had three year terms, but were eligible for reappointment. Originally members received \$200 per month with \$100 for expenses and then in 1989, an amendment allowed them to set their own rate of compensation with the restriction that the amount could not exceed what is paid to a member of the school board. They established their own personnel system and appeals board. An amendment in 1983 allowed for five members to be elected to the board in non-partisan elections. An amendment in 1984 changed the elections to partisan and increased the term to four years. An amendment in 1989 provided that vacancies would be filled by the governor. An amendment in 1991 brought the employees under the Escambia County Civil Service System and another amendment that same year abolished the ECUA. In 1992, before the prior legislation was implemented, the legislature recreated the ECUA and repealed all prior laws relating to it and established five governing members elected in partisan elections with the compensation as it stands currently. Mr. Menge believes the Charter Commission ought to

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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address a lot of the issues that were addressed with the BCC. Those being - number of members on the board, compensation of board, powers and duties of the board, term limits, personnel system, manner in which the Executive Director is hired and fired, and the filling of vacancies on the board.

Mr. Walton believes that the ECUA is more controversial than the SRIA and is inclined to leave it alone. He has been impressed with them over the years.

Mr. Smith prefers to keep them and thinks it is too big to put back under the county.

Mr. Nickinson does not see a lot that needs changing. It needs to be incorporated into the charter. He has seen some areas where they are not functioning very well; a lot of politics goes on with this issue. It needs to be tweaked here and there. There needs to be coordination between the county and the ECUA's growth. ECUA has a responsibility to the county.

Mr. Montenes stated that he has mixed emotions on this issue. The ECUA is a stand alone governmental agency. The SRIA is an extension of the BCC. He is impressed with the ECUA's executive director, but has a problem with the board; some members have been there too long. Leave ECUA as is and require inter-local agreements mandatory in the county between these groups to start to pull them into an integrated plan.

Mr. McKinnon believes that the ECUA should be maintained as is without any substantive changes.

Mr. Jones agrees with Mr. McKinnon.

Mr. Menge stated that it needs to be brought under the charter, but retained as a separate authority. ECUA is a major governing body of future infrastructure of this county and there needs to be coordination between the county and ECUA in that regard. The board needs to be retained at five members from the five existing districts. The Executive Director ought to be hired and fired by a simple majority vote. The compensation of the directors needs to be lowered to ¼ or 1/3 of what the state mandates for compensation of a county commissioner. Powers and duties of the board to be similar to what is in the act as presently stated. Vacancies on the board need to be filled by the other members of the ECUA board. The director's term of office needs to remain at four years and he is in favor of term limits to be no more than eight years.

Mr. Dick stated that the ECUA needs to be incorporated into the charter with slight modifications.

Ms. Brown stated that the salaries can be cut in half and the ECUA needs to be incorporated into the charter with slight modifications.

Mr. Blackmon is in agreement with the two previous statements and is impressed with the Executive Director.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Mr. Beall prefers to not touch the ECUA. It is a stand alone body, a business that raises its own revenue. He agrees with inter-local agreements for the county to make its services available to the ECUA.

Motion made by Mr. Walton and seconded by Mr. Montenes that the ECUA be incorporated into the charter without any substantive changes other than what is decided upon hereafter. The motion passed 10 – 1 with Mr. Beall voting against.

Issues #2, page 7 - Should the ECUA be abolished and the duties and functions it is presently administering transferred to a department reporting to the County Administrator? and #3 - Should the ECUA be retained as an Authority expressly authorized in the Charter, but with some modifications? were declared moot by the previous motion.

The next issue discussed was the issue of ECUA having its own personnel system administered by ECUA or should ECUA's employees be covered by the county's personnel system?

Charles Beall – use the same appeals board

Johnny Blackmon – appeals system should be universal

Bobbie Brown – under the civil service system

Laurel Dick – likes the idea that they are self-sufficient and they need more control over their employees and own personnel system

Elbert Jones – agrees with Mr. Menge

Denis McKinnon – option of using what system is better

M.J. Menge – should have their own system of recruitment and testing, appeals board established for the county needs to cover the ECUA employees.

Frank Montenes – in favor of them running like a business and having their own personnel system and a common appeals board

Ted Nickinson, Jr. – this needs to be written into an administrative code with each agency to have its input to the code and the BCC to approve, in favor of ECUA being more closely tied to the County government than operating completely as a separate entity.

Lamar Smith – ECUA employees should be covered by the county's personnel system.

Garrett Walton – in favor of ECUA having a separate system

Motion made by Mr. Walton and seconded by Mr. McKinnon that the

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ECUA be allowed to establish its own personnel system with the exception of an appeals board, and that the appeals board will cover all employees of the county including those of the ECUA and furthermore if the ECUA desires to do so, it may avail itself of the county system and put its employees under the county system through some payment to be agreed upon by the county and the ECUA with the understanding that ECUA will set up a merit system similar to that of the county. The motion passed 8 – 3 with Ms. Brown, Mr. Montenes, and Mr. Smith voting against.

The next issue for discussion was item # 4, page 7 - If the Charter reduces the salaries paid to County Commissioners, should the salaries paid to Board members of the ECUA be adjusted?

Charles Beall – do not touch it, if they can stand it politically and financially then it needs to be left alone.

Johnny Blackmon – not more than the school board

Bobbie Brown – ½ of current salary

Laurel Dick – a reduction

Elbert Jones – do not touch it

Denis McKinnon – 1/3 of the amount approved by the state for county commissioner salaries.

M.J. Menge – 1/3, responsibilities do not equal that of the school board

Frank Montenes – 1/4 of state approved amount for commissioners.

Ted Nickinson, Jr. – ¼ or 1/3 of state amount.

Lamar Smith – ¼ or 1/3 of state amount.

Garrett Walton – leave it as is

Three different votes were taken: 1) those in favor of leaving the compensation of the board as is, were: Mr. Beall, Mr. Blackmon, Mr. Dick, Mr. Jones, Mr. Montenes, Mr. Nickinson, and Mr. Walton. 2) those in favor of reducing it to 1/3 of what the state approves for county commissioner salaries were: Mr. McKinnon, Mr. Menge, and Mr. Smith, 3) those in favor of reducing it to ¼ of what the state approves for county commissioner was: Ms. Brown.

The salaries of the board of directors of the ECUA will remain as is.

BREAK: 7:25 – 7:35

Motion made by Mr. Walton and seconded by Mr. Jones that the vacancies of the ECUA board be filled by that board until the next general election. The motion passed unanimously.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Item # 5, page 7 - Are there any other regulatory agencies or boards that need to be expressly authorized in the Charter? was referred to Mr. Beall's committee to review the list of other regulatory agencies and boards in the county and determine whether any of them need to be dealt with separately in the charter.

General Powers and Miscellaneous Provisions:

The first issue for discussion under this topic was item #1, page 7 - If there is a conflict between a county and municipal ordinance, which ordinance should prevail within the municipality?

Charles Beall – municipal ordinance, smaller body ought to be able to prevail

Johnny Blackmon – municipal ordinance, smaller body ought to be able to prevail

Bobbie Brown – municipal ordinance, smaller body ought to be able to prevail

Laurel Dick – municipal ordinance, smaller body ought to be able to prevail

Elbert Jones – agrees with Mr. Menge

Denis McKinnon – agrees with Mr. Menge

M.J. Menge – municipal ordinance, smaller body ought to be able to prevail and add the language that was in the 95 charter.

Frank Montenes – agrees with Mr. Menge

Ted Nickinson, Jr. – concerned with enforcement

Lamar Smith – agrees with Mr. Menge

Garrett Walton – concerned with enforcement

Motion made by Mr. Beall and seconded by Mr. Montenes that in the event of a conflict between a county ordinance and a municipal ordinance that the municipal ordinance shall prevail within the boundaries of the municipality. The motion passed unanimously.

Motion made by Mr. Nickinson and seconded by Mr. McKinnon that there would be a proviso that the county ordinance shall prevail over municipal ordinances whenever the county shall set more restrictive standards protecting the environment or prohibiting air or water pollution or destruction of the resources belonging to the general public. The motion passed 10 – 1 with Mr. Beall voting against.

The next issue, item # 2, page 7 - If city ordinances are generally to prevail within corporate limits, are there any exceptions? was declared moot by the previous motion.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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The next issue for discussion was item #3, page 7 - If the county sets minimal policy in certain areas, may the municipality provide for more stringent regulations?

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

Motion made by Mr. Beall and seconded by Mr. Jones that if the county sets minimal policy in certain areas the municipality may provide for more stringent regulations. The motion passed unanimously.

The next issues for discussion was item #4, page 7 - What provisions should be contained in the Charter regarding current special acts of the Legislature?

Motion made by Mr. Walton and seconded by Mr. Dick to refer this to Mr. Beall's committee to review the special acts and make sure that the language in the 1995 charter regarding special acts would be acceptable language for the Commission to consider, or to recommend other language to the Commission. The motion passed unanimously.

The last issue for discussion was item #5, page 7 - Should the Charter contain a Recall provision? To whom should the Recall provision apply?

Charles Beall – yes
Johnny Blackmon – yes
Bobbie Brown – yes
Laurel Dick – yes
Elbert Jones – yes
Denis McKinnon – yes
M.J. Menge – yes
Frank Montenes – has a problem with it
Ted Nickinson, Jr. – yes

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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Lamar Smith –

Garrett Walton – yes to BCC

Motion made by Mr. Dick and seconded by Mr. Blackmon that the charter will contain a recall provision allowing County Commissioners to be recalled as allowed by general law. The motion passed 9 – 2 with Mr. Montenes and Mr. Smith voting against.

Motion made by Mr. McKinnon and seconded by Mr. Nickinson that any member of the board of directors of the ECUA shall be subject to recall in accordance with general law. The motion passed 8 – 3 with Mr. Dick, Mr. Montenes, and Mr. Smith voting against.

Motion made by Mr. Walton and seconded by Mr. Dick that the charter express the sentiment found in Section 1408 of the 95 charter, but that, Mr. Beall’s committee will draft the specific language to be recommended to the Commission. The motion passed 8 – 3 with Mr. Beall, Mr. McKinnon, and Mr. Montenes voting against.

Mr. Menge stated that he believes that the Commission will be completed with the list of issues by the next meeting. The October 21st meeting date can be used for a committee meeting or can be canceled. The October 30th meeting agenda has been set with people invited to appear. There will then be a break of the Commission as a whole and that time will be used for the committees to draft their language. Members will be given the language drafted by all committees for their review.

Mr. Walton expressed concern over the timing for the referendum on the charter. Mr. Menge stated this issue would be placed on the next meeting’s agenda for discussion.

7. Public Forum

No one addressed the commission.

8. Unfinished Business

There was no unfinished business.

9. Items added to the Agenda

There were no items added to the agenda.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

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10. Announcement regarding the next meeting

The next meeting will be held at Pensacola Junior College, Baroco Center, Room 2142 on Thursday, October 16, 2003 at 5:30 p.m.

11. Adjournment

The meeting was adjourned at 8:25 p.m.

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE