

Official

**Escambia County Charter Commission
Minutes of July 22, 2003 Meeting
Pensacola Campus of Pensacola Junior College
Baroco Center – Room 2142
(Twenty-first Meeting)
(5:35 P.M. – 9:00 P.M.)**

Members

Present: M. J. Menge, Chair
Charles F. Beall, Jr.
Johnny W. Blackmon
LeRoy Boyd
BarbaraForehand“Bobbie”Brown
Laurel Dick
Denis McKinnon, Jr

Frank Montenes
E. P. “Ted” Nickinson, Jr. .
Lucy Rentz
Phyllis D. Sims
Lamar Smith
Garrett W. Walton

Members

Absent: Rita A. Riffel, Vice Chairman (schedule conflict)
Elbert Jones, Jr. (schedule conflict)

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1. Call to order - Chairman Menge at 5:35p.m.
2. Approval of the Agenda.

Motion made by Mr. Boyd and seconded by Mr. Blackmon to approve the agenda carried 10 – 0 with Mr. Beall, Mr. McKinnon, and Mr. Nickinson arriving late and Ms. Riffel and Mr. Jones absent.

3. Presentation by the Civil Service Board, Escambia County, the Constitutional Officers and the ECUA on their views of a civil service system or systems for Escambia County.

Mr. Menge welcomed the staff from the various county agencies who attended this evening’s meeting in order to present updated information to the Charter Commission members. He informed all present the format of tonight’s meeting.

The two primary issues that the Charter Commission is looking at are whether a unitary Civil Service System would best serve Escambia County and

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secondly, if so, should that system be administered as it is now, by a board appointed by the Governor or should it be administered under the county through the Department of Human Resources and with an Appeals Board to hear employee grievances that would be made up of representatives of the appointing authorities and representatives of employees covered by that system. From what the Commission has heard in the past, a large portion of governmental expenditures is for personnel. The delivery of efficient and effective services is highly dependent upon good employee morale. A system that would bring about efficient and effective governmental services and a well satisfied governmental group seems beneficial to the citizens of Escambia County.

Keith Wells, attorney for the Civil Service Board, addressed some of the concerns that Mr. Menge mentioned and touched upon some topics briefly since everyone has already heard his presentation. All members of the Charter Commission have been given a copy of the proposed rules and changes to be made by the Civil Service Board. These are the rules they have been working on for two years due to changes in the civil service system. The system is not new; it has been in this county for over fifty years, however, there have been times when the civil service system has not met the needs of its users. There have been instances in the past when there was not a proactive board. We do have a proactive board at the current time. He believes there should be a unified system for many reasons. Opting out has created a number of awkward situations regarding bonuses, pay issues, longevity, and appeals issues. A number of things can come up that create problems, not just for those in the system but for those out of the system. There are a number of perceived inequities that can occur in those situations.

A civil service system provides a system of balances. When there are appointing authorities or elected officials that are not part of the system, then you lose some of the checks and balances. When there was a unitary system, the Civil Service Board maintained an equitable pay scale for all county employees. Those Constitutional Officers who have opted out of the system have established their own pay scales, even though they are not taxing authorities. The only taxing authorities are the BCC and ECUA. The Constitutional Officers depend upon the BCC to fund their employees' pay. It creates an unusual situation when you tip the scales and take out the balancing of the civil service system. When this happens, you lose one of the checks.

One of the great benefits of the civil service system is the protection of the employees while balancing the interest of the appointing authorities. If someone thinks they are working outside of a classification or performing a job that they think they should not be doing, there is a process one can go through and if not satisfied one can go to the Civil Service Board. This then brings up the question, should the Board be appointed by the governor? The present Board has local community minded people on it. If people file a grievance, they will get a

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fair hearing, and the people who go before the Board know they will get a fair hearing because they do not have to worry about it being political. Perception is as important as the system itself. The people need to understand that they will get a fair hearing.

The charter document needs to provide a unified system and an appellate board so that the people will feel confident that whatever they do they will get a fair hearing. Everyone has been invited to participate in the rule making process. Anything can happen when you get a system that is not unified; people who have been elected change their unclassified employees and replace them with classified employees. If one gets on the wrong side of the election and supports the wrong person, you might find yourself without a job or you might find yourself on bicycle patrol in the north end of the county.

Board members are interested in doing the right thing and continuing to work to make the system the best it can be. If the Commission decides to change the Civil Service Board, Mr. Wells encouraged the Commission to establish the Board in such a way that it takes the politics out of it.

Rod Powell, Director of Escambia County Human Resources Department spoke next and utilized a power point for his presentation. Mr. Powell reviewed his work experience and qualifications for his position. He then reviewed his plan for the Adoption of the Merit System Protection Board (MPSB). He gave an overview of his draft sent to the Charter Commission in May.

The Human Resources Implementation Plan is gathering viewpoints from managers, employees, and unions on challenges and/or dissatisfaction. They are looking at 2004 and possibly 2005 for the transition to take place. Mr. Powell has filled three key positions since he last met with the Charter Commission; they are an Equal Employment Opportunity Officer, an Employment Specialist, and a Human Resource Information System Officer. The new merit system board would have seven members on it, all for two year terms and the appointments would be as follows: three members appointed by the BCC, two members appointed by the elected officers, and two members would be appointed by the employees who utilize the system. Some of the key objectives are: eliminate or correct justifiable causes of employee complaints, provide a systematic and orderly method for resolving grievances between employees and management, ensure all employees are afforded fair and equitable and expeditious review of grievances without fear of coercion or discrimination, ensure all employees are free from retaliation when using the appeal process, ensure an employee's job status will not be threatened or changed because of the initiation of a grievance or an appeal, and set forth the procedure governing presentation of charges during the right to appeal process. The duties and responsibilities for objective and fair reviews, protection for all classified employees, and authority to decide grievances would lie within the new system. They would have the power to direct investigations. Mr. Powell agrees with Mr. Wells on the need for a unified

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personnel system. There are plans for an executive secretary to handle mediation and grievances and appeals. An enhanced employment process with an always current applicant list is also planned.

A one stop Human Resources department, from recruitment to retirement is planned. The current HR department is missing the responsibility of the recruitment and classification side, which is a fractured system. Custom tailored HR systems with special qualifications on jobs as needed for unique positions to fit the needs of the employer, extensive training for management on how to conduct an effective interview within the law is needed, and developing a strong HR/Management partnership would all be part of the planned HR system.

Benefits for the general public are: complete HR department will save taxpayers money; unified employee services will improve efficiency and expedite all personnel transactions. The new system would offer structured services, not centralized control.

For the appointing authorities, it would offer consistency in application and personnel policies and practices. A merit system would equip the appointing authorities with a state of the art 21st century HR system. Unify the goal of compensating the employees for performance, giving due regard for morale.

The current cost of HR is \$311,000 and the proposed system would cost \$249,142 for a savings of \$61,858. The more systems that are added under HR would mean more savings due to the elimination of duplication of services. The BCC costs for the MSPB would be \$68,600.

Administrative Captain, Eric Enquist spoke on behalf of Sheriff McNesby who had a meeting with the Attorney General. The Sheriff is an elected official who supervises 1,116 employees. Approximately 25 employees are under the protection of the Civil Service. They are in the position they are today by the fault of the old civil service system which was antiquated. Civil Service has not progressed as it should. During the past several years the Civil Service Board has brought them into the 21st century. The Sheriff wants his employees to have some level of protection. A number of the Constitutional Officers have become frustrated with the system. The March 1978 case of Murphy vs. Mac concerned whether or not a deputy sheriff was a public employee. The case was resolved in Jan. 2003 and a deputy sheriff now is considered a public employee who does have the right to collectively bargain.

Wanda McBrearty and Kim Davis represented the Clerk of the Circuit Court. The Clerk of the Circuit Court withdrew effective May 1, 2002 from the civil service. Their positions are posted in house first, turnover rate is 4%, and there are not many applicants from outside because they are able to fill positions internally.

The concerns with being under the Civil Service Board previously are: it is more difficult to rely on an outside agency to recruit and retain for you, outside people grading your positions is not in the best interest of your agency; if an

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outside agency decides to substitute qualifications without input they are not making the best decisions for that agency. The Clerks office did ask to be part of the appeal board, but it was not made available to them. Civil Service could not and did not perform all personnel functions of any county department, the Clerk's office has always had human resource personnel, and they did not help with completing the recording. One issue is help in filling the EEO roster; hiring off a blind roster did not assist them in completing their EEO requirements.

Property Appraiser, Chris Jones made the following observations about why he chose to withdraw from the civil service system. He and his staff voted to exit from the civil service system several years ago. There were many cumbersome problems and the business of saving the taxpayers money is a moot point. All of his staff wear many hats and perform dual roles. They are more efficient and can recruit better without the civil service. Morale is better without the civil service system.

The Florida statutes allow the Property Appraiser to pay certified employees an extra \$2,000. For two years he requested assistance from the Civil Service Board and he was resisted. It was not until Keith Wells was enlisted to assist that he was able to give these bonuses.

Jennifer Myles, director of administration in the Tax Collector's office spoke on behalf of Ms. Janet Holley who is out of town. The Tax Collector's office opted out of civil service effective June 2001. There was a poor recruitment process and inadequate pools of applicants to interview. They implemented their own application process many years ago: they checked references and completed background checks. This created duplication and redundancy, but was necessary to hire and retain the very best employees. Opting out created no additional cost for their office, but they did eliminate frustration. They were also able to improve their minority recruitment. The employees have a personnel policy manual, employee representation program, and a performance appraisal system. Management and staff are quite satisfied with the current personnel system. Ms. Holley does not support a unified civil service system, this would be cumbersome and another level of bureaucracy that would prohibit the efficient and cost effective delivery of human resources.

Mr. Steve Sorrell, Executive Director of the Escambia County Utilities Service for over ten months favors some sort of civil service system, but not an archaic, rigid one. The employees need to be provided with the ability to appeal to an independent board. It is not the employees of the civil service system, but the restrictive rules that present a problem. It is not the Board either. Their rules are rigid and archaic and managers need flexibility to manage their organization. The civil service does not fit the needs of the ECUA. He favors a local board and does not object to the board that is there now. The employee classification is one concern he has; ECUA employees require a great deal of training and certification

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because of water safety and health concerns. ECUA employees have to be licensed to be waste water operators.

The civil service is cumbersome and general because it has to be. The recruitment can be done much better by the ECUA itself; it needs to be very specific, it takes ninety days or more to get a list in order to fill a position. He probably would advertise in trade magazines to get people with the licenses and certifications he needs. The list he was given had 800 names on it and was out-of-date; the ECUA could do it better and quicker. They would also be able to keep an accurate log for the future. They have their own human resources department at ECUA at the current time. Technical recruitment is not sufficient, may not get any applicants for a position. The rate of compensation needs to be controlled by individual agencies.

There are several things that are real problems for the ECUA, one is the 10% rule, another is you have to hire an employee at the bottom of the pay range, no matter what certification or training they may have. The rules do not allow for the moving of employees around the department as needed. ECUA board should have control over compensation.

Cost of the civil service to the ECUA is \$177,000 per year. The cost is too high, especially since the ECUA has a HR department. The classifications of jobs within the ECUA need to be looked at every 2-3 years in order to stay competitive.

Prior to 1992, ECUA did it all, the recruitment, classification, and testing. The ECUA has the authority to set their own benefits and they are different than what exists in other government entities in the area. The paperwork is intensive and duplicative the way it exists today. Civil Service rules as they exist today are problematic. The ECUA has its own HR manual.

There needs to be an independent appeals board for the employees. The current board is fair and doing a good job. The ECUA could do a much better job than what is being done now, if given the authority. The ECUA Board will serve the people well or they will not get re-elected.

4. General discussion among presenters and members of the Charter Commission regarding a civil service system or systems for Escambia County.

Keith Wells made himself available for questions from the audience and Charter Commission. He addressed Mr. Sorrell and stated that he was not aware of some of the problems the ECUA was experiencing and he believes that communication is a problem. Other elected officials and appointing authorities want the 10% rule in there. The Civil Service Board has been trying to draw up a new set of rules for the past two years. They will continue to work on the issues that were brought up tonight. If they are not providing \$177,000 worth of service, then they need to be told.

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Mr. Wells complimented Mr. Powell's power point presentation. All of the objectives that he had, civil service provides them. A one stop shop could not be done without more money. In trying not to have centralized control, one can not get around the fact that you will have a County Administrator that will oversee everything. Cost wise it is expensive, if you add in the cost of the appellate board. There is a possibility of splitting the cost. Right now you would probably find very few people to complain about how this particular board works.

The Sheriff's department brought up the lawsuit, what type of appellate board can the deputies go before, can they go before a board that is appointed by county commissioners? Is that something that is allowed under the lawsuit?

Mr. Wells understands that the Clerk's office had a lot of problems in the past and he understands that their problems have been alleviated. They have been out of the system for over two years and he is not familiar with their current needs.

The Property Appraiser's office was right; the employees were warranted the money. The civil service system or any employment system should be there to benefit their employees. One big thing they can't and won't do is to give them control of their own departments. It is not going to happen in a unified system.

The Tax Collector's rosters were horrendous. There is no reason not to maintain an open roster if there is a needed position. He is still a proponent of a unified system that would save taxpayers money. Certainly an autonomous appellate board, so those employees know that they have a place to go where they are not subject to political pressure is necessary.

Rod Powell responded next and he stated that it seemed that the overall theme was a desire for flexibility and to have some sort of third party for appeals. The issue he was addressing was the flexibility in personnel; the rigidity in the system is based on the old philosophy from HR management in the 40's and 50's. Laws and regulations are what protect the employee today and they are uniform across the country. Most of the litigation today is the violation of the employment laws and litigation costs a lot of money. A good third party objective board would save money. An autonomous third party board is critical. The cost of the board would be \$68,000 on a pro-rated basis.

Eric Endquist responded to comments. Sheriff McNesby wants to make sure employees retain their current protection. The current civil service board has been very responsive to their requests the past several years. They will do anything to streamline the process. They do have eight employees in HR and a full time recruiter. He challenges the Charter Commission to go to different agencies to see how many people do have their own HR staff. Sheriff's department does have a number of staff attorneys available to them both locally and in Tallahassee that are available to him if the need arises.

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The representative from the Clerk of the Circuit Court, Kim Davis responded with these statements: when they did opt out of civil service, it was at no additional cost to the Clerk's office. They have only one class of employees, Clerk's office employees. The people voted in Mr. Magaha and gave him the authority to be responsive and he needs to be able to make the decisions to stay in compliance with procedures. They do keep a skill and education bank of the current employees with a list of education and certifications

Property Appraiser, Chris Jones responded after the Clerk's office. It was the employees who voted by a margin of 70% to come out of the civil service system. He did away with longevity pay and made it up with work efficiency raises. He hears that governments need to run more like a private company and he does not see appellate boards in the private sector. He is very happy with the current situation. He understands that everyone will make mistakes and he will give them another chance.

The presenters then entertained questions from the charter members. Keith Wells agrees with some sort of appellate board for the employees. Civil Service is not particularly tasked with the EEO, recruitment is left up to HR and the departments have to maintain their own EEO's. The way the law is written now; if the Constitutional Officer that has chosen to opt out wants to opt back in, he or she may choose to do so. All of the Constitutional Officers have been given a chance to participate in the crafting of the civil service system rules.

Mr. Powell stated that the appellate board would have the final say in an employee's grievance proceedings. He did try to clarify the hiring system, it is up to the hiring authority to pick the person who best suits their needs after his office did rank them as highly qualified or not. The person to be hired has to be on the list.

The Clerk's office stated that when they chose to opt out of the civil service system, the managers went to each employee informally and asked about concerns and opinions a person may have. They first attempt to fill a position from within before they go outside to advertise.

Property Appraiser, Chris Jones polled his employees by a secret ballot when deciding to opt out of civil service. The department heads do two employee evaluations per year to show where the employee is at a current time and also where improvement is needed. In December, there is a pot of money available and they decide the percentages from that amount. When they opted out of civil service they did not go out and hire two new people. Staff in the office was already handling the HR aspect.

The employees in the Tax Collector's office were addressed in small groups by Ms. Holley and she informed them of her plan and they were given the opportunity to express their concerns. They improved minority recruitment by placing ads in Pensacola Voice and distributed posters to minority churches.

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The ECUA does not have the authority to recruit employees at the current time. They can use the existing civil service board as the appeals board and there is also legislation in effect that establishes their own appeals board.

Mr. Wells stated that the Civil Service Board is very consistent in their rulings. Classification is developed by the civil service staff, positions are then recruited, and when there is a vacancy a request for a roster of qualified applicants is then sent. There is no delay and the roster is good for up to sixty days. If there is a roster already established for the vacant position, it is sent over by e-mail. It would be highly unlikely to have 800 applicants on a skilled list. There are a number of classes that are recruited on a continuous basis. The clerk series is one because there is a very high turnover.

At the present time the method for employees to appeal is to mediate the matter first, if it is unsuccessful it will go to the board. The ECUA and the Sheriff's office have an internal review process that makes recommendations. The rules that are being complained about are in the process of being re-written. The board ran eight different public meetings to go over the rules. It could become as flexible as it needs to be as long as it does not break the law. Rules and procedures are tailored for what that authority needs that the state law does not address.

Mr. Powell stated his plan is different because it is a locally selected board where employees would have direct buy in to the decisions, authority of the board would be very similar. A member of the board would report back to the employees.

The MSPB board would be paid for by the BCC. The members would only be paid when they have a meeting. There would be seven people on the board and an attorney will also be in attendance with them to give them ongoing employment law advice. The attorney would not be voting.

Due to the cost of training, most training will be in-house for the HR staff. The new EEO officer will go off to training. A lot of the information needed today is available online if you know how to use the material, so people do not have to be sent off for training. The implementation of the HRO's would best be exemplified by the new policies generated and implemented across the board, trainings, procedural guidance, and be compliant with the law and provide consistency where needed. His system is flexible to adjust to the needs of the employees, if more agencies signed on then they would get a representative on the board. HR would become staff to the board. A common core of standard operating procedures will be developed and then satellites for the Sheriff's department and ECUA will be designed specific to that agency. There will be informative meetings, mail outs, and write-ins, to solicit employee input.

Captain Enquist responded to questions following Mr. Powell. He clarified that the deputies do have the right to the collective bargaining process for

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terms and conditions of employment. Deputies are also allowed to go before an appeals board.

Clerk of the Circuit Court representatives took questions from the charter members. Wanda MacBrearty stated that they have approximately twenty-five different classifications of employment in their offices and ten pay grades that cover forty different positions and over two hundred employees.

Property Appraiser, Chris Jones responded to questions from the charter members. He clarified that they did not create any new positions when they opted out of civil service. His office retains a private law firm which he can use for employment law advice if they are in need of counsel. They have only eighty-one employees and do not feel that paying into a pool for an attorney that is not utilized is a good use of funds.

BREAK: 8:25 P.M. – 8:35P.M.

5. Approval of the minutes of the July 10, 2003 meeting.

Motion made by Mr. Beall and seconded by Mr. McKinnon to approve the minutes of the July 10, 2003 meeting. Motion carried 10 – 0 with Ms. Rentz, Ms. Sims, and Mr. Walton leaving early and Ms. Riffel and Mr. Jones absent.

6. Communications

- 1) Review of the Escambia and the Hillsborough Civil Service Boards with the Escambia County Human Resources Proposed Merit System Protection Board prepared by the Whitman Center.
- 2) Selected Escambia County/City of Pensacola Public Official Pay Scale prepared by the Whitman Center.
- 3) Compilation of Florida Statutes and other materials relating to the Compensation of County Officials prepared by the Whitman Center.
- 4) Proposed By-Laws of the Escambia County Charter Commission.
- 5) Copy of the Viewpoint article.
- 6) Re-write of June 19, 2003 minutes
- 7) July 10, 2003 minutes

7. Unfinished Business

The proposed By-Laws for the Commission, which were patterned on the By-Laws adopted by the Columbia County Charter Commission were discussed.

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Mr. Montenes stated he was concerned that some of the charter members had missed a number of meetings. He also believes that a two-thirds vote is needed for the charter document. He believes the commission needs to get behind what is done. Robert's Rules of Order do not cover By-Laws. Mr. Lamar Smith commented that at this point he sees no need to adopt any By-Laws. Mr. Menge stated he preferred to delay the vote on the By-Laws until the August 5th meeting when there are more members present. This will give everyone an opportunity to express concerns over the vote required to approve the proposed charter. There was no objection to delaying the vote on the proposed By-Laws until August 5th.

Motion made to rescind the approval of June 19, 2003 minutes made by Mr. Nickinson and seconded by Mr. McKinnon. Motion carried 10 – 0 with Ms. Rentz, Ms. Sims, and Mr. Walton leaving early and Ms. Riffel and Mr. Jones absent.

Motion made to approve the re-write of the June 19, 2003 minutes made by Mr. Dick and seconded by Mr. Nickinson. Motion carried 10 – 0 with Ms. Rentz, Ms. Sims, and Mr. Walton leaving early and Ms. Riffel and Mr. Jones absent.

Motion made to approve the viewpoint article by Mr. Montenes and seconded by Mr. Beall. Motion carried 10 – 0 with the proposed modifications made by members to be made before the article is submitted for print with Ms. Rentz, Ms. Sims, and Mr. Walton leaving early and Ms. Riffel and Mr. Jones absent.

8. Items added to the Agenda

Mr. Dick informed the members that he is planning on inviting the BCC administrative assistant staff to the August 5 town hall meeting.

9. Public Forum

No one spoke during the public forum.

10. Announcement regarding the next meeting of the Charter Commission.

The next meeting will be the town hall meeting at Greater Union Baptist Church. It will begin at 7 P.M. on Tuesday, August 5, 2003.

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11. Adjournment

The meeting was adjourned at 9:00 P.M.

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE