

Unofficial

**MINUTES OF THE ESCAMBIA COUNTY CHARTER COMMISSION
MEETING
HELD MARCH 27, 2003 – 5:30 p.m.
Escambia County Courthouse – Third Floor
(5:30 p.m. – 8:30 p.m.)
(Tenth Meeting)**

Members

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

Members LeRoy Boyd (Illness)
Absent: Rita A. Riffel, Vice Chairman

Others Present:
Wayne Peacock, Former County Administrator
George Touart, County Administrator
Legal Advisory Team

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1. Call to order – Chairman Menge at 5:30pm.
2. Approval of the Agenda.

Motion made by Mr. Dick and seconded by Mr. Jones to approve the agenda. Mr. Montenes requested that the agenda be modified to add a brief discussion of the product to be produced by the Commission under Item 11. Chairman Menge also advised the Commission that Mr. Rod Kendig would not be addressing the Commission. The motion was modified to incorporate the suggested changes. The motion to approve the agenda as modified carried 10-0, with Mr. Beall, Ms. Brown and Mr. Smith arriving late, and with Ms. Riffel and Mr. Boyd being absent.

3. Presentation by Wayne Peacock, former County Administrator.
Mr. Peacock was Assistant County Administrator from 1985-1988 and County Administrator from 1988-1991. During his prepared remarks and

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in response to questions asked by the Commission, Mr. Peacock made the following points:

- A. The Civil Service Board performed a valuable function. It insulated him from Commissioners and others requesting that he find jobs for their family members or supporters.
- B. A non-interference clause may be helpful but he doubted it would prevent Commissioners from continuing to contact county employees directly.
- C. He had a policy of allowing direct contact between Commissioners and county employees but both the Commissioners and county employees knew that he was to be kept informed and no changes in work schedules were to be made without his approval.
- D. The position of County Administrator should be an appointed position. It should not be a position dependent upon popularity; it should be dependent upon professional managerial skills.
- E. He feels strongly that the Board of County Commissioners should be a policy making body. Commissioners who assert they are “full time” most often tend to interfere with the day-to-day operations of the county. He stated, “The last thing this county needs is full time Commissioners.”
- F. Questioned about the difference between the demands made by constituents on City Councilmen and on County Commissioners, Mr. Peacock stated the primary difference was in governmental structure and culture. The City has had a structure in place for several years to deal with citizen demands and a culture has built up that the best way for a citizen to resolve a concern is to contact city staff directly rather than a City Councilman. In the County, until recently, the staff structure was not sufficient to respond to citizen concerns, and the culture was, and still is, that if a citizen has a concern his or her first contact is with a Commissioner, not county staff. Furthermore, most County Commissioners have encouraged the continuation of that culture. Often times, the Commissioners become bogged down in day-to-day operations and start making promises to their constituents that they cannot keep because of budget constraints.
- G. He believes that having at large representatives on the County Commission would be beneficial. He explained that Commissioners elected within districts find it politically necessary to focus on district benefits as opposed to countywide benefits.

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- H. Mr. Peacock does not believe the Sunshine Law provides the benefits it was intended to provide. He stated it was a difficult piece of legislation that needed to be modified or repealed. County officials find ways to communicate their positions to other officials covered by the law.
 - I. Questioned about whether expanding the number of Commissioners would improve the Board, Mr. Peacock stated that expansion would bring a broader perspective to the Board, but he personally preferred a smaller Board. He said the County Administrator has to spend a considerable amount of time with the Commissioners keeping them abreast of county operations and issues and the greater the number of Commissioners the more time is required to keep the Commissioners informed.
 - J. He did not desire to respond to the question whether the transfer of the record keeping, finance and accounting functions administered by the Clerk of the Court should be transferred to the County Administrator.
 - K. Mr. Peacock did feel strongly that the Board of County Commissioners should have ultimate control over the budgets of the Constitutional Officers.
 - L. With regard to the salaries paid to County Commissioners, Mr. Peacock reiterated that he believed Commissioners should be part time and the salaries they are paid should reflect the time and effort expected of them.
 - M. Mr. Peacock had no position on whether the election of Commissioners should be on a partisan or non-partisan basis.
4. Presentation by Rod Kendig, former County Administrator
Chairman Menge advised the Commission that Mr. Kendig decided that his current employment might constitute a conflict of interest, and requested that he be relieved of his commitment to make a presentation to the Commission. Chairman Menge had granted his request.
5. Presentation by George Touart, current County Administrator.
Mr. Touart received his BA degree from Southern Mississippi and a Master's degree in Public Administration from Troy State. His governmental experience includes working with the Pascagoula Planning Commission, serving as an elected City Councilman in Pascagoula, and being County Administrator in both Jackson and Madison Counties in Mississippi. He has been County Administrator in Escambia County for approximately one year.

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In response to questions asked by the Commission, Mr. Touart made the following points:

- A. He favors an appointed County Administrator because of the professionalism that an appointed County Administrator and professional staff provide the county.
- B. The present Civil Service System is archaic. It does not meet the needs of the County. His office is preparing a replacement plan for the civil service system and as soon as the plan has been circulated among the employees, he will furnish a copy of the plan to the Commission.
- C. He had no opinion on whether an expanded Board of County Commissioners would be an improvement. He said he was working well with the present five-person Commission. An expanded Board would offer better job security for a County Administrator.
- D. “Full time” County Commissioners present problems.
- E. In response to a question as to whether at large or in district representation on the County Commission was preferable, Mr. Touart stated that in Pascagoula all of the Commissioners were elected at large whereas all Commissioners in Escambia County are elected in district. Both systems work well, but at large representation does bring a broader perspective.
- F. When questioned as to whether the county’s proposed civil service system would include the employees of the Constitutional Officers, Mr. Touart responded he preferred one system but it would be up to the Constitutional Officers whether they elected to have their employees covered by the plan.
- G. He stated he worked well with the Clerk’s office on matters of budget and finance and voiced no opinion on whether the transfer of those functions would result in greater efficiency.
- H. Mr. Touart stated that the County Commission should have control over the Constitutional Officers’ budgets; they should not be allowed to appeal their budgets to the State. He said, “There are budget shortfalls coming and if the state doesn’t fund certain programs, the funds will come out of the County Commission budget not the Constitutional Officers’ budgets.”

6. Report from the Legal Advisory Team.

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All the members of the Legal Advisory Team, with the exception of Mary Jane Thies, were present. Don Partington, Chairman, assisted by David Tucker, presented the report of the Legal Advisory Team.

A written report of the Team’s legal opinions was furnished to the Commission and Mr. Partington’s verbal presentation followed the written report. Legal opinions were restricted to the questions posed to the Team by the Commission.

The following is a summary of the opinions presented by the Legal Advisory Team:

- A. The Commission is not authorized to draft a “Consolidation Charter” for submission to the electorate.
- B. Any expansion of the County Commission which would reduce the percentage of “safe” minority seats that presently exist would probably violate the federal Voting Rights Act.
- C. The Charter Commission may change the existing district boundaries so long as the redistricting does not result in voter dilution.
- D. As the law is presently written, the Charter Commission can modify the salaries paid to Commissioners remaining in office beyond the effective date of the Charter.
- E. The duties and responsibilities presently performed by Constitutional Officers may be modified by the Charter provided the Charter also indicates that all the duties and responsibilities will be performed by designated offices.
- F. The Charter cannot place term limits on County Commissioners or Constitutional Officers.
- G. A chartered county can levy any taxes that a municipality may levy.
- H. The Charter Commission may not restructure, reorganize or abolish any agency created by special act which agency’s responsibilities extend beyond the unincorporated areas of the county or which agency was created subsequent to 1968. Furthermore, any amendments to a special act enacted subsequent to 1968 would take precedence over the Charter regarding such agencies.

In response to questions posed by the Commission, Mr. Partington stated:

- A. The Charter can provide for any Constitutional Officer to be elected on a non-partisan basis.
- B. The only document the Commission is requested to produce is a Charter; it is not required to write a separate report.

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Various members of the Commission indicated they desired to have the Legal Advisory Team provide some additional legal opinions.

7. Approval of the minutes of the March 13, 2003 meeting.

Motion to approve the minutes was made by Mr. Dick, seconded by Mr. McKinnon and carried 13-0.

8. Approval of the minutes of the March 18, 2003 meeting.

Motion to approve the minutes was made by Mr. McKinnon, seconded by Mr. Dick, and carried 13-0.

9. Communications

The following items were provided to members of the Commission:

- A. The Tax Collector's Employees' Handbook
- B. The Property Appraisers' Deputy Handbook
- C. Copy of the Seminole County Administrative Code
- D. The Agenda for the Commission's April 1, 2003 meeting
- E. An invoice from the County Administrator for charges incurred for copies and services rendered by the County in the amount of \$4,436.88.

Chairman Menge advised the Commission that he had also received a copy of the City of Pensacola's charter and related Special Acts. He proposed furnishing copies of the City's Charter to the members of the Commission with the Whitman Center to maintain custody of the Special Acts. There were no objections to the proposal.

On motion duly made, seconded and carried unanimously, the Commission approved the invoice from the County Administrator in the amount of \$4,436.88.

Chairman Menge stated he had spoken with both Bob Koncar and Barry Evans, former County Administrators, and they had agreed to come to Pensacola and address the Commission if the Commission paid their expenses. The Commission indicated that it did not believe any further testimony from former County Administrators was necessary. Upon motion made, seconded and carried unanimously, the Commission voted

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to withdraw any invitation to Bob Koncar or Barry Evans to address the Commission.

Chairman Menge advised the Commission that he had ordered notebooks for each of the members of the Commission in which the Whitman Center would insert copies of the Agenda and Official Minutes.

10. Unfinished Business

None

11. Items Added to the Agenda

Mr. Montenes stated the item he desired to have added to the Agenda had been addressed during the meeting and there was no need for further discussion.

12. Announcement regarding the next meeting date, place and topics for discussion.

The next meeting will be in BCC Chambers on Tuesday, April 1, 2003, at 4P.M. The topics will be a report from the County's Human Resources Officer and a report from The Whitman Center.

13. Public Forum

Jerry McIntosh advised the Commission he was opposed to Charter Government.

Rita Jones would like the public to be able to pose questions to the people presenting to the Charter Commission. She would also like clarification about which Constitutional Officers will be under the charter and how their salaries will be decided for them and the Board of County Commissioners.

14. Any Commission Response

None

15. Adjournment

The meeting adjourned at 8 P.M.

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ACTION ITEMS:

- 1) Chairman Menge will be following up with Don Partington on questions that the Commission indicated it desired to have answered by the legal advisory team.**

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE