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**Escambia County Charter Commission
Minutes of December 18, 2003 at 7 p.m.
Perdido Bay United Methodist Church
(Thirty – eighth Meeting)**

Second Public Hearing

Members

Present: M. J. Menge, Chair
Charles F. Beall, Jr
LeRoy Boyd
BarbaraForehand“Bobbie”Brown
Jewel Cannada - Wynn
Elbert Jones, Jr.
Denis McKinnon, Jr.
Frank Montenes
E. P. “Ted” Nickinson, Jr.
Lamar Smith
Garrett W. Walton

Members

Absent: Rita A. Riffel, Vice Chairman (schedule conflict)
Laurel Dick (schedule conflict)
Johnny W. Blackmon (schedule conflict)
Lucy Rentz (schedule conflict)

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1. Call to Order - Chairman Menge at 7:05 p.m.
2. Approval of the Agenda

Motion was made by Mr. McKinnon and seconded by Mr. Nickinson to approve the agenda with one modification. Item #6 will be the approval of the December 4, 2003 minutes instead of the November 18, 2003 minutes. The motion passed unanimously.

3. Presentation of the Charter

Mr. Menge offered background on the development of charter government in the State of Florida. The concept of charter government came about as a result of the adoption of the 1968 Florida Constitution. The 1968 Florida Constitution allowed Florida counties to adopt their own form of government. Since 1968, nineteen counties in Florida have adopted charter governments; these counties, for the most part, are the more populous counties in the state. The charters differ widely in certain aspects, for instance the Miami-Dade charter is a metropolitan charter where the municipalities have been retained and have an umbrella

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government superimposed over those and Jacksonville-Duval is a consolidation charter in which they merged the municipal government of Jacksonville with the county government of Duval. Those two charters are drastically different from the county charter that is allowed under Chapter 125 of the Florida Statutes; the other seventeen counties have adopted county charters. These charters are tailored to meet the needs of those counties. Eighty percent of the residents in the state of Florida now reside in counties that have adopted charters.

Mr. Menge gave a brief history of the work of the Charter Commission over the past thirteen months. The fifteen member Commission began meeting in November 2002 in order to fulfill the task of drafting a charter for Escambia County. The Commission first began with a comprehensive study of local county government to determine whether the structure and operational methods needed reorganization and/or improvement. The County officials spoke before the Commission on various occasions in order to aid the Commission members in learning their responsibilities. The Constitutional Officers, the County Administrator, the SRIA, the ECUA, and other boards and agencies appeared before the Commission. The Commission then went through a series of nine public hearings in order to receive input on what the public wanted to see in the charter. The Commission then drafted the charter based on that study and the public input it received. The Commission has drafted a charter which it believes will improve local government.

There is a change in the meeting schedule: the January 22 BCC meeting has been changed to January 20 and it will be proposed that the Charter Commission meeting be moved to January 20 in order to coincide with the BCC schedule. Under the law, the Board of County Commissioners is required to put the proposed charter on the ballot for a referendum election no less than forty-five and no more than ninety days from the date it receives the document from the Charter Commission. The Board of County Commissioners is not allowed to make any changes to the charter document after it receives it; the Board is required to place it on the ballot the way it is proposed and allow the voters to either approve it or disapprove it. The March 9th Presidential primary is the goal for the charter referendum in order to avoid the costs of a special election.

Mr. Menge then presented a synopsis of what can be found in the proposed document through the aid of power point. There are three basic forms of government found in state statute. The first type is the County Executive form which allows the chief executive to be elected on a county wide basis. The County Executive would not sit on the BCC, but would be allowed to veto legislation or ordinances by the County Commission; this is very similar to the form of government adopted by Jacksonville-Duval. The County Executive also selects the County Administrator subject to the approval of the BCC. Escambia County's School District has a similar form of government in that both the School Board and Superintendent are elected directly by the voters. The second type is

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the County Chairman form which provides for the County Chairman to be elected on a county wide basis. The Chairman sits on the County Commission and is able to vote. The County Chairman would be in charge of selecting the County Administrator subject to the approval of the County Commission. The third form is the County Manager form which is what we have today in Escambia County. Under that form the members of the BCC are elected by the voters and the County Administrator is appointed by the BCC. The County Administrator is the chief administrative officer responsible for carrying out the policies of the BCC and making sure they are implemented. This is the form of government proposed in the Charter.

The Legislative Branch would be a Board of County Commissioners made up of ten members elected from ten single member districts. Bonnie Jones, Supervisor of Elections, has provided a preliminary map of the proposed changes in districts for the public's review. The BCC is expected to be the visionary leader of the county and to place greater priority on policy making. Salaries would be cut in half and adequate support staff and meeting space will be provided, however, no commissioner would be provided with a personal office or personal secretary. Emphasis will be placed on the development and implementation of a five year strategic plan. Non-agenda items are discouraged and are only allowed to be acted upon in case of an emergency. Administrative Code is a compilation of existing rules, regulations, and procedures that show what the administrative details are for the county. There will be a non-interference clause which provides that County Commissioners are not to interfere with county employees in the performance of their duties. Questioning county employees for information gathering is not restricted. A County Commissioner will continue to be able to have the County Administrator address the concerns of his constituents. Candidates for the County Commission must have been a resident of the county for two years and a resident of the district for one year. Vacancies will be filled by the remaining members of the BCC until the next general election. County Commissioners may be recalled pursuant to general law.

The County Administrator was made a Charter Officer. It will take a super majority vote of seven to hire and fire the County Administrator. He will be granted the authority to hire and fire department heads. The BCC will provide the County Administrator with an annual written performance review.

There will be no change in the powers, duties and responsibilities of the elected Constitutional County Offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections. The Supervisor of Elections will be elected on a non-partisan basis.

The Constitutional County Officers will have Centralized Purchasing and the Personnel Administration System available to them if they determine the services would benefit their offices. Vacancies will be filled by the BCC until the next general election.

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The Legislative Delegation has indicated that it intends to abolish the County's Civil Service System effective as of October 1, 2005. The Personnel Administration System will retain the merit system for the County. Classified and unclassified systems will be established. There will be limitations on unclassified positions; it is recommended that no more than 10% of the county positions be unclassified. A Personnel Appeals Board will be established which will have jurisdiction over county and ECUA employees. The Board will consist of representatives from both the employees and management.

In budget and finance, the taxing authority of the BCC is limited. It is specifically stated that the BCC will not be allowed to levy any taxes other than those a non-chartered county could levy. A balanced budget is required and also a financial plan that will support the strategic plan. An audit committee will be created that will have the responsibility to oversee an independent audit of the county. The audit committee is made up of a Commissioner, the Clerk of the Circuit Court and five other individuals who are appointed by each of the Constitutional County Officers. The people appointed have to be CPA's or CFP's with experience. A recent study by the University of West Florida reviewed the taxes levied in fourteen counties having populations between 200,000 and 500,000 over the past ten years. Seven of those counties were non-charter and seven had adopted charters. The study revealed there was no significant difference between the total taxes levied by Charter and non-Charter counties, but the study showed those counties that had adopted Charters had lowered their taxes after Charter adoption. Further, the study found that Escambia County was one of the most heavily taxed counties in Florida considering its population and per capita income.

The ECUA will be retained as a separate charter agency with a five member board. Their members will be subject to recall. The ECUA will be allowed to establish a Personnel Administration System and their employees would be able to utilize the Personnel Appeals Board. Vacancies on the board will be filled by the remaining members on the board.

The SRIA will be retained as a separate charter agency with five members selected by the BCC and a sixth member of the SRIA Board being elected by the resident leaseholders on Pensacola Beach. Any appointed SRIA Board member will be subject to removal by the BCC. SRIA members will be required to be electors of Escambia County. Term limits were placed on the board members. No member of the board will serve more than eight years.

Other provisions are: code of ethics, charter amendments, and a voter initiative to adopt, amend or repeal county ordinances. The transition provisions will be: eight new commissioners to be elected in 2004, Commissioners Banjanin and Dickson will be allowed to complete their terms, and the County's Personnel Administration System will go into effect October 1, 2005, the date the Civil Service Board will be sunset. Amendments to the Charter may be proposed by:

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1) The BCC through a super majority vote, 2) The voters of Escambia County through a petition signed by 15% of the qualified voters in the last general election, and 3) A Charter Review Commission to be formed by the BCC not sooner than three years or later than five years from the effective date of the Charter, and every ten years thereafter. All proposed Charter amendments are subject to approval by the voters of Escambia County.

Mr. Menge then desired to address some of the questions that have been raised and the first is in the expansion of the Board of County Commissioners to ten members. The BCC has consisted of five members for over one hundred years and from time to time it has been evident that a strong willed Commissioner can take over the County. With the small number of five Commissioners, there are some Commissioners that are willing to run the risk of violating the Sunshine Law. Staying with the present system is unacceptable.

Many people would have preferred to have gone to seven Commissioners with two of those being at-large (elected county-wide). However, the Legal Advisory Team has informed the Charter Commission that any at-large members would dilute the minority vote and violate the Federal Voting Rights Act. In order to retain the twenty percent minority representation on the BCC, the county will have to go with even multiples of five. The Charter Commission did not want to go beyond ten and that is the reason that ten was decided upon. A strong-willed Commissioner would find it much harder to work his will with ten than with five and members will think twice before they violate the Sunshine Law. Also, ten members will bring broader ranges of experience and viewpoints which will be good for Escambia County and its government.

Commissioner's pay is another item that has been brought to his attention on numerous occasions. The per capita income in Escambia County in the last census was \$21,557.00. The \$34,000.00 is comparable to what the school board members are paid currently. With the reduction in pay the position is opened up to more qualified candidates. People that are employed full time will think twice about giving up a full time position to run for the BCC, but if the BCC acts more like a business board of directors that sets policy, then more leaders may decide to keep their full time employment but also give the time necessary to serve on the BCC. One question that needs to be answered is, does Escambia County desire only full time politicians to represent them?

With regard to the non-interference clause in the Charter, this County has a notorious record of County Commissioners interfering with the working schedules of County employees. It is not an efficient system when the employees are subject to conflicting instructions from several bosses, meaning the County Administrator and the people who sit on the Board of County Commissioners. An efficient government is one which has accountability and responsibility. The Charter is not seeking to take away any authority of the BCC.

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The non-partisan election of the Supervisor of Elections has also been questioned. By the very nature of that position it should be non-partisan. There should not be anything partisan about registering voters, setting up the election machinery, or conducting elections. The current Supervisor of Elections (Bonnie Jones) has requested that her position be made non-partisan. A number of other Supervisor of Elections positions in chartered counties have moved or are moving in the same direction.

The most opposition comes in regard to the County Administrator. It has been said that the position is being made into a super County Administrator, which is false. Electing ten Commissioners does not give the County Administrator more power, it gives him more responsibility. The decision to hire and fire with a super majority vote, gives more stability to the position; it takes a super majority to hire and fire the County Administrator at the current time.

Mr. Menge then opened up the discussion for the Charter members to express their opinions on the content of the charter and asked if they had any additional comments.

Mr. Montenes desired the public to know that these public hearings are very important because the Charter Commission has not yet voted on the document as a whole. No one should assume that the drafted Charter is the final product. He would like to avoid the misconceptions of the past.

Mr. Nickinson desired to discuss two items; one in regard to the audit committee, none of the people that are appointed by the Constitutional County Officers will be allowed to be employed by the County, directly or indirectly, nor shall they provide or be eligible to provide any services to the audit committee. There will be no foxes in the hen house. The other is the non-interference clause, there is nothing in the charter that prohibits any citizen from contacting the Commissioner that he or she has voted for.

4. Public Forum

1) Jeff Marker - The last public hearing is on the night that the vote is taken and he questions if something important is brought up, how would that be done and the charter delivered on time? He is a proponent of the charter concept, but does have some questions on some of the contents in the currently proposed charter. In regard to Section 302 - he cannot support a ten member commission, the cut in pay, and the removal of staff and offices. This change would result in a more cumbersome, less effective, and less responsive BCC. He continues to question if the ten proposed districts can be structured by the Supervisor of Elections in a fair and equitable manor. It appears that there is an all too powerful County Administrator. This charter has just transferred the power from one side of the spectrum to the other. The charter has placed the BCC back into the administrative side of government by eliminating their office and staff. The ten

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commissioners will be constantly at risk of violating the Sunshine Law. How would one contact a county commissioner when they are not there? The citizens will be forced to go through the County Administrator's office, thereby eliminating some of the confidentiality that we are currently afforded. Suppose the complaint is about the Administrator or his staff, it would be uncomfortable and unfair to force a constituent to navigate through the administrative staff to register a complaint with the legislative staff. Avoidance of at-large commissioners because of a threat of a lawsuit is not reason enough to leave out this option; it has served other charter counties well. It is an often used and successful feature. All of these other counties had to write a charter to satisfy a diverse group of individuals and have been successful in implementing their charters with at-large members.

In regards to Section 1402 - he questions why the percentage is 15% for the public to propose an amendment, when recall is 5%. Section 401 in regards to the super majority vote to hire and fire, stability should only be an issue if the Administrator is doing a good job. Section 1409 - in regards to special acts, what is the reason for excluding the SRIA? Section 1202 in regards to the SRIA, it needs reform and he questions why the appointed members serve four year terms and the elected member only serves two.

Mr. Menge responded to some of the issues raised by Mr. Marker. In regards to the staff and space of the BCC, the BCC will make the determination of what is adequate for them, not the County Administrator. For instance, in Santa Rosa County, there is a five member BCC that has two assistants.

2) Thomas Campenella - He is confused as to the language that the SRIA continues to operate as is, but will be under the charter government. He would recommend that the elected member of the SRIA be changed to a four year term and the reason for that is it takes time to understand how a government works, know the staff, understand and implement policy, and to become an effective member of an organization. All members should serve the same terms in order to put the elected person on the same par as the appointed person. He does agree with the term limits.

3) Bill Davidson - He stated that this charter is better than the ones proposed in the past. He is concerned with the concept of County Administrator; he is the only person in the County that is guaranteed to be at the table in all governmental discussions. He can be the author of inter-local agreements and crowned the county's budget officer. How can one guy write a budget, when there is five Constitutional Officers? Our nation began our struggle for freedom because of a monarch's tyranny. The BCC has been assigned only two responsibilities: 1) to put the rubber stamp on the County Administrator monarch and 2) policy making. Revising the BCC's salaries was a good thing but the County Officer's salaries were left alone, as well as the golden parachutes they are provided with when they

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leave the county. Every charter county in this state is a municipality and is therefore given more taxing authority.

4) Denis McKinnon - He desired to give some views of some of the major businesses in the area. He has never seen a time when there has been a more positive attitude among the business community than there is now. It is a wonderful feeling to know that there is such a positive attitude about the opportunity to make some changes to our community. He believes there is a desire on the part of many voters to have at large representation on the BCC.

5) Harry Evans - He believes the county is in for advancement and what is being presented here this evening is a major reorganization for Escambia County. Not everyone is going to like everything that happens, but you cannot have people going in all different directions. People should aspire to be visionary leaders like the SRIA in 1948. Let the County Administrator be the head of the group to direct the visionary leaders of the county, not tell them how to do their job. Change things that need to be changed.

6) Gary Holt - There has been a few tough years in Escambia County, district one has been hit hard. He feels as if the system has worked over the past one hundred years and it is a good system. He believes that ten commissioners dilute his one vote. He also believes that the current County Administrator is good one. He thought it interesting that the words 'just' and 'equal' were put there for taxes; he has taxes on a Perdido Key condo that is three to four times as much as taxes levied on Pensacola Beach condos.

Mr. Menge informed the audience that the BCC determines the membership of the planning board and board of adjustments now and will determine them after the charter is passed. As far as representation is concerned, right now a county commissioner is expected to represent 60,000 people and under the charter a citizen would have better access to his or her county commissioner. He does not see any difference in the County Administrator being the county budget officer as he is right now or for him to be the budget officer under the charter. The County Administrator will not be given any more powers than is granted in Chapter 125 of the Florida Statutes. Under general law, certain charter amendments and ordinances may not be proposed through the voter initiative and referendum process.

Mr. Beall stated that some of the complaints that have been heard about the charter is that certain things are not allowed to happen, for example changing the budget by ordinance, without the charter you do not have that right at all. State law can not be changed by charter; more right is being given to the people.

Mr. Marker desired to discuss the 15% required for a petition, when other charters are at lower numbers (7-10%). He only looked at five other charters and none of those charters was above 10%.

Mr. Menge responded that no other charter to his knowledge has a requirement of over 10%. Some of them have 4% in each district, different

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numbers and requirements have been used. The thought going into the decision for the number was that policy ought to be set by the BCC. We did not want to go to government by referendum on every issue, but there are some issues that the public will feel strongly enough about that they want to have their voice heard. The Trillium vote in the City of Pensacola is a good example.

Mr. Walton stated that personally he was concerned and had an interest in a higher percentage because he does not want a bullet train in Escambia County. We have a bullet train in Florida because the people of south Florida voted it in. He does not want a clique in the City to force something on the north end of the county that they will not like.

Mr. Menge brought up the subject of recall. A petition signed by 5% of the electors' is required to initiate the recall, which petition must give the grounds on why the Commissioner should be recalled in 200 words or less, then the Commissioner has the right to answer the petition in 200 words or less. To put it on the ballot 15% of the voters have to sign a petition to recall that particular Commissioner, which petition states the grounds for the recall and the Commissioner's response to the petition.

BREAK: 8:50 - 9:05 P.M.

5. Approval of the minutes of the November 13, 2003 meeting

Motion was made by Mr. Jones and seconded by Mr. McKinnon to approve the minutes of the November 13, 2003 meeting. The motion passed unanimously.

6. Approval of the minutes of the December 4, 2003 meeting

Motion was made by Mr. Motenes and seconded by Mr. Jones to approve the minutes of the December 4, 2003 meeting. The motion passed unanimously.

7. Approval of any Committee meeting minutes

Mr. Bealls's committee has approved their minutes in their entirety.

Mr. Smith's committee needs to complete their approval of their minutes.

Motion was made by Mr. Jones and seconded by Mr. Menge to approve the minutes of the November 1, 2003 meeting. The motion passed unanimously. Motion was made by Mr. Menge and seconded by Mr. Jones to approve the minutes of the November 10, 2003 meeting. The motion passed unanimously.

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Mr. Walton stated that his committee has six sets of unapproved minutes. September 22, September 29, October 29, November 7, November 13, and November 17 all need approval.

Motion was made by Mr. McKinnon to approve the minutes in their entirety and seconded by Mr. Nickinson. The motion passed unanimously.

8. Communications

- 1) Written remarks from Bill Rayburn
- 2) Letter from Bobbie Brown
- 3) Official minutes of the November 4, 2003 meeting
- 4) Letter to the Legal Advisory Team dated November 18, 2003
- 5) Letter to the Legal Advisory Team dated December 1, 2003
- 6) Response from the Legal Advisory Team dated December 10, 2003
- 7) Copy of memo from Bonnie Jones
- 8) Copy of the 1977 AG's opinion
- 9) Section 1508 proposed language
- 10) Copy of speech Mr. Menge has been and will be giving to various civic clubs.

Mr. Menge informed the Commission members that the BCC meeting of Thursday, January 22, 2004 has been changed to Tuesday, January 20, 2004. The Charter Commission agreed to change its scheduled meeting for January 22nd to January 20th at 1 P.M.

Mr. Walton questioned whether the Commission could have more than three public hearings on the proposed Charter. He suggested that the January 6th meeting not be a public hearing. The last public hearing would be held on January 20th. He reviewed the requirements of the statutes that govern the public hearings on the charter to be held by the Commission.

Mr. Menge stated he intended to call a special meeting of the Commission to consider the changes that everyone would like to incorporate into the proposed charter. His idea is to have all of the changes incorporated into the document between the 6th and 13th of January.

Mr. Montenes stated that the primary purpose of the January 6th meeting is to hear from the public.

Motion made by Mr. Montenes and seconded by Mr. McKinnon to remain with the plan previously outlined by Mr. Menge; January 6th – third public hearing, January 13th – charter meeting, and January 20th – presentation of the charter to BCC. The motion passed 10 – 1 with Mr. Walton voting against.

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9. Discussion of issues raised at public hearings

Mr. Beall stated that his major issue was the super majority vote to remove the County Administrator. He believes that it is a mistake and there is a perception that the County Administrator is more powerful and that perception needs to be changed. He would like more background on the possibility of having the elected member of the SRIA serve a four-year term.

Mr. Boyd stated that he received feedback from the meeting of December 4th and that the vote to hire and fire the County Administrator needs to be a super majority. His second issue is the ten single member district, it will definitely dilute the minority vote and the Commission needs to go back to five single member districts.

Ms. Brown prefers five Commissioners from single member districts and two at-large. The SRIA has out served its usefulness and the Supervisor of Elections needs to be elected on a partisan basis.

Ms. Cannada-Wynn supports the re-visiting of the super majority vote of the hiring and firing of the County Administrator; it needs to be made clear that the BCC has control over the County Administrator. She would like to see more control over the SRIA. She agrees with the four year term for the elected member of the SRIA. She expressed concern over the latest statistics on the majority minority districts. This needs to be in line in order for her to support the charter.

Mr. Jones is concerned with the ten districts and he does not believe the numbers will work. He is not in agreement with the super majority vote for the hiring and firing of the County Administrator.

Mr. Walton desired to know more about the legalities of making the Supervisor of Elections non-partisan and the logic behind the elected member of the SRIA serving a four year term instead of a two year term.

Mr. Smith stated that he was concerned about the super majority vote and the sanctions of the non-interference clause.

Mr. Nickinson stated he is pleased with the way things are now.

Mr. Montenes he is not comfortable with the ten commissioners and feels like other forms of government were not adequately considered that would accomplish the same objective we want but make the charter more attractive to the citizens. There is a perception that we are taking away the rights of the Commissioners. He thinks that the re-districting appears to be gerrymandering. He believes that the transition plan is very ambitious and we may be facing a potential conflict up front. He would like to know if the 1977 AG opinion is still applicable today.

Mr. McKinnon stated that the four year term for the elected member of the SRIA member is a good idea and would like to know more about it. He is disheartened with not hearing more from people that are for charter; he believes the document drafted is a good one. He believes that at-large members of the

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BCC is the way to go but understands the problems by going in that direction.

Mr. Menge reviewed some housekeeping issues that he has caught in the charter. He suggested renumbering some of the sections in Article XIV to make them subdivisions. He requested Mr. Beall look into the four year term of the elected member of the SRIA and the renumbering of Article XIV that his committee drafted. In 1410 (5), he would like to strike the words 'or amend this Charter.' The Commission agreed that Mr. Menge would have the go ahead to review the document with Dr. Teasley in order to check for proper grammatical usage and spelling. The Legal Advisory Team recommended that the charter be made gender neutral. Rod Powell has suggested some language to insert into the Personnel Administration Article of the charter that will be provided to all the members of the Commission in writing for their review. There are several recommended language changes that have come from the county and Mr. Menge will get that language to the Commission members for their review prior to the next meeting.

10. Items added to the Agenda

There were no items added to the agenda.

11. Unfinished Business

There was no unfinished business.

12. Announcement regarding the next meeting

The next meeting will be Tuesday, January 6, 2004 at 7 P.M. at the Greater Union Baptist Church on Guillemard Street.

13. Adjournment

The meeting was adjourned at 10:20 p.m.

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE

