

Official

**Escambia County Charter Commission
Minutes of October 30, 2003 meeting at 5:30 p.m.
Escambia County Courthouse – Third Floor
(Thirty – Second Meeting)
(5:37 p.m. – 8:45 p.m.)**

Members

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

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

Absent:

AGENDA NUMBER

1. Call to Order – Chairman Menge 5:37 p.m.
2. Approval of the Agenda

Motion made by Mr. Boyd and seconded by Mr. McKinnon to approve the agenda. The motion carried 13 – 0 with Ms. Cannada-Wynn arriving late.

3. Presentation regarding whether the Charter should provide for the formation of a Citizen’s Investigative Board.

Mr. Menge reminded the Commission and the people attending that the ACLU presented the Commission with the idea of forming a Citizen’s Investigative Board at the August 5th meeting. The Commission desired to hear more about this idea from the ACLU, their supporters and their opposition on the formation of the Citizen’s Investigative Board. The ACLU, NAACP, Movement for Change and the Escambia County Sheriff’s Department have representatives here this evening and will present their views regarding this issue to the Commission.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Ms. Susan Watson, representative of the Panhandle Chapter of the American Civil Liberties Union addressed the Commission first: Ms. Watson provided the same handouts that were handed out at the August 5th meeting to everyone in attendance and a copy of the language providing for the formation of a Citizen's Investigative Board in Orange County, Florida. The Citizens' Investigative Board is designed to accomplish three goals: 1) Provide for civilian oversight of Escambia County Sheriff deputies through the creation of an independent, unbiased and broadly representative panel that can investigate complaints of misconduct, review police policies and practices, and make recommendations to the Sheriff, 2) Create an unbiased forum for citizens to file complaints about alleged police misconduct and for deputies to report misconduct by fellow officers, 3) Strengthen the community's confidence in the men and women sworn to protect them and promote community involvement. This board is needed in Escambia County due to the history of shootings, nineteen over a ten year period. Are they all justified or unjustified? When looking back, the majority of the cases are absolutely justified. In some of the cases, they need to be looked at again in a review of policy. This board is to provide oversight and provide the community with the absolute best Sheriff's department possible. There can not be accountability without civilian oversight. An inherent conflict of interest arises when officers police themselves. It makes it difficult for the investigators to overcome the pressure of protecting fellow officers. The only way to make officers accountable is to overhaul the complaint process and create an independent civilian review board. Eighty percent of the largest cities in America, serving more than one third of the population already have independent civilian review boards. One hundred police departments in the U.S. have civilian run boards to police the police, of these twenty-five have subpoena powers to hear testimonies from witnesses and review documents pertaining to the investigation. Oversight and review of policy are important. It is important that the men and women of the community have a voice in this oversight. She wants the best for this community.

Mr. Jerry McIntosh spoke on behalf of the Movement for Change. He believes that there is a need for a Citizen's Review Board. He believes that there is no faith in the community with law enforcement, especially in the African-American community. Many of the young people continue to have problems and they do understand that it is not all at the fault of law enforcement. Law enforcement is not doing enough to weed the individuals out that continue to cause mayhem and brutality to those in the community. Some individuals end up in jail for minor stuff that probably should have never been elevated to the point of being arrested. It has been difficult to bring police officers to trial for their crimes of police brutality, misconduct, obstruction of justice, and conspiracy of preventing the truth being made public. These individuals need to be brought to justice, so they will not be a part of the

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

problems that exist in this community. The review board would have jurisdiction over any allegations of any misconduct, including, but not limited to excessive use of force, discrimination, harassment, improper discharge of firearms, illegal search and seizures, false reporting of crime and conduct unbecoming to an officer. The review board would be a screening panel that an individual can make a complaint to. The board would then decide if the complaint should move forward or not. The Civilian Review Board would be a help to the police and sheriff departments by bringing faith back to the community. The Movement for Change believes that there has been a breakdown of law and order, not only locally but throughout the country because of an anger that continues to build. They looked at a million or so African-American men in jail, and without DNA testing, many of them would end up in the electric chair, some here in Florida and about nineteen in Illinois. Design the board so that the County Commissioners appoint so many people to the board and the Sheriff appoints so many. There should be oversight to find the people that should not be in law enforcement.

Mr. Charles D. Thornton spoke on behalf of the NAACP. There is a perception that there is a disconnect within the African-American community spanning through economics and job levels. He does not want to lay all of this at the foot of the Sheriff. The Sheriff's duties require him to deal with the unions, progressive discipline, and the perception of the people. The prospective board would assist the Sheriff because his hands are tied by so many different entities. The perception is not to second guess the Sheriff, but to assist and come together. The board should be accountable to someone and have some type of subpoena power. The county and the city should back the board for it to do any good. The NAACP does want to see a Citizen's Review Board. We do not need to go through the same issues every time a new Sheriff is elected. The board should be funded, a regular meeting place provided, and access to office equipment and supplies.

Clarification from the Commission was requested as to what the presenters were requesting because both 'review' and 'investigative' were utilized to describe what was desired. They stated that they were not concerned with the wording, they were looking for a board with subpoena powers and the ability to make recommendations.

Sheriff Ron McNesby stated that this evening was the first time he has seen the document provided by the ACLU. He agrees that under Florida Statute 112 that a Citizen Review/Advisement Board is required by law. This county does have a board that started with his predecessor. The teeth of that committee is the Sheriff. With regard to what is found and what he does with the information that is provided, that is the Sheriff's responsibility. The committee does work and the procedures with it. Most of the problems presented before the Commission this evening happened prior to three years ago; since he has

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

been the Sheriff, the county has not had those problems. The law is complied with in regard to the board. The FDLE and State Attorney's office did not appear this evening because they do not fall under authority of the Board of County Commissioners or the Charter Commission. How would the board enforce the issue of a subpoena? A law enforcement officer under Ch. 112 in the policeman's bill of rights does not have to respond. Until the case is closed, the Sheriff's department cannot disclose any information in regards to that case. He believes that they have an oversight committee and a Sheriff that answers to 300,000 people. The record will show that the Sheriff does his job. If there are people guilty of misconduct, they are demoted and punished. He stated that the community is not afraid of the deputies, but he is aware that there are bad ones out there. The Citizen's Law Enforcement Group is made up of people in the community. It is utilized by the Pensacola Police Department as well as the Escambia Sheriff's office. He believes that the Sheriff's office is one that the citizens can be proud of and that the problem has been addressed. If this committee had to answer to the BCC, what would the BCC have the authority under the law to do if they found some misconduct? The Sheriff is charged with that responsibility. He believes in people being accountable for their wrongdoing. Every single case in the use of force has to be investigated. The jail and the law enforcement recently became accredited and the medical facility at the jail will be accredited in several weeks. This is the policing of the industry by industry standards. If you allow strong leadership to run the agency, it will be a lot better. It is neither prudent nor cost effective to enact a committee that is already in existence in accordance with the law that has a track record of doing the things it is supposed to do. When he took office the committee was meeting on a regular basis to handle all of the complaints presented to them. There are so few complaints today that they have to call the members for special meetings. He has heard many complaints and so has the Captain that is in charge of that process. He believes that the integrity of the people sitting on the committee are being questioned. There are tales of brutal things happening in America, but they have not happened in Escambia County.

Mr. Menge clarified that Ch. 112 mandates the formation of the committee. Sheriff McNesby responded that the board began during the previous administration and is comprised of a cross section of the people in Escambia County. The complaints go through Captain Bobby Jackson's office. If a citizen has a complaint of law enforcement abuse the first avenue is to call it to the attention to the agency that employees that particular person. The agency is required by law to investigate the allegation. If the citizen is not happy with the outcome of the investigation/ruling he can then go to the court directly, file a petition, make the complaint, and bring it before a judge. The Sheriff has to abide by the policeman's bill of rights when making any decision, so would any new board, as well as the BCC. It has to be determined if it is a complaint of

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

misconduct or of criminal conduct. If it is criminal conduct, then a regular criminal investigation is conducted. The information is then turned over to the State Attorney because they are the prosecutors in a case of this type. If there is another board created the process would have to be absolutely the same and he believes what is being suggested is already in place and has a track record of working.

Mr. Menge stated that he wanted to clarify that Ch. 112 outlines the power of the board and recognizes the policeman's bill of rights. Sheriff McNesby stated that the power of subpoena is not listed in there. If you have the power of subpoena, you must have an enforcement clause. There are two parts to every rule or law. The law enforcement does not have to answer to that subpoena power. There are fourteen people on the board and it has to be of the community. The board is called 'Citizen's Law Enforcement Group' because it does not suggest investigative or review. It is part of the checks and balances within the Sheriff's department. The Sheriff did not see anything called for this evening that would improve the efficiency of what is currently in place. The shootings have stopped and the misconduct has slowed down. The Sheriff does appoint the law enforcement personnel to the board. There are representatives from both the Pensacola Police Department and the Sheriff's Department on the committee that do not have voting power. The committee poses no extra expense to the taxpayers. There are no particular qualifications required of the people that sit on the committee.

Mr. Nickinson desired to know the length of term the people serve that sit on the committee. There is a term of one year and the people are eligible for reappointment. The Sheriff believes that the people already serving on the committee appoint the replacements as necessary. He believes the committee is working due to the fact that there are less complaints being received by the Sheriff's department. The committee has a scheduled meeting every three months and will only meet if there is a complaint to be reviewed.

Mr. Jones desired clarification on the terms of the committee members. Captain Jackson stated that the members serve indefinitely. The board Chair and Co-Chair are elected to one year terms. Captain Jackson clarified that there have been three complaints in the past four years. The committee was originally set up by the former Sheriff and he picked the members, thereafter if there is a vacancy, the members select the replacement. The reason that there are four law enforcement advisors is: there is always someone ready to assist incase someone is sick or out of town. The law enforcement advisors arrange interviews with the officers that will talk to the board and gather the necessary paperwork that the board needs to review the action/complaint. The board is independent from the Sheriff's department.

Ms. Cannanda-Wynn stated that there is a perception in the public that the board is ineffective. There are some issues that the citizens are not comfortable

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

with bringing to the Sheriff's department. She stated that in some instances like the housing projects that the officers and residents are close to each other and if there is a complaint made against an officer that the officer will retaliate. Ms. Cannada-Wynn was unaware that the committee was still a functioning committee and believes that other citizens feel the same way as she does. The Sheriff stated that the Sheriff's office has a responsibility to eliminate that perception, but so do the organizations that are represented here this evening. The Sheriff's department works with the churches, neighborhoods, and the school resource programs. Education changes the perception and that change is accomplished through the Sheriff's office, churches, and local committees and groups that work with children on a daily basis working together.

Mr. Montenes stated that there seemed to be a perception that the Commission is creating a central controlling power that the citizens can not get at readily. The Sheriff stated that perception is in the eye of the beholder. The Sheriff brought up that less than a week after the incident in Ensley, the Sheriff's department held a program in conjunction with the Florida Sheriff's Association and the Youth Ranches called 'Harmony in the Streets' less than two blocks away from where the unfortunate incident took place. The parents in that community dropped their children off in the care of the Sheriff's department.

Ms. Susan Watson desired to address the Commission again following the Sheriff, even though the Sheriff was unable to stay for the remainder of the meeting. She stated that the ACLU has requested meetings with Captain Jackson and their request has not been met. Someone has to look at what is good for the entire community. She stated that she is the first person who wants to be safe, but you can have civilian oversight at the same time. The ACLU is tracking the complaints and there are way more than four. She clarified that the Movement for Change, ACLU, and the citizens of Century brought the problems in Century to the Sheriff's attention. She believes that if the previous Sheriff picked the board that it is not made up of critics. There is a licensed psychologist in the reserve unit that is not utilized. Other people can be called in to assist with the mentally ill. The ACLU wants the best law enforcement possible and they want to be a part of the team. She did clarify that the Miami oversight board is written into their charter and she will find out which other boards are written into charters.

Mr. Montenes requested clarification on the complaints received by Ms. Watson and the ACLU. She received about twenty complaints and turned them over to the Sheriff's office. Mr. Montenes stated that both the Sheriff and the ACLU have indicated their willingness to work with the community. He suggested that she lock on to her list of twenty and trace the transmittal and see if the system is working. He believes that this community needs more balance and leaders, not just supreme critics.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Thornton also desired to address the Commission again. The NAACP is the oldest civil rights group. They have met with the Sheriff, but they are not getting closure to a lot of issues. They are concerned with the way people are treated.

Mr. Menge then welcomed the new member of the Commission, Ms. Jewel Cannada-Wynn. The Commission went around and introduced themselves and welcomed her to the Commission.

Mr. Boyd desired to respond to the presentations. He stated that the problems in Century were moved forward by Movement for Change. He believes that the Sheriff's department is broken when it comes to giving the citizens the same treatment and due accountability. He does not believe that everything has to happen because it is a statute; can't the people have something that is not required by law? He questions the reason Movement for Change and the ACLU are continuing to receive complaints, but the board is not. He agrees with the need for a Citizen's Investigative Board and is not comfortable with anything less than a Citizen's Investigative Board.

4. Approval of the minutes of the October 21, 2003 meeting

The approval of the minutes was deferred until the next meeting because the members were not able to review them in a sufficient manner.

5. Communications

1) Handout from the ACLU on the need for a Citizen's Investigative Board.

6. Committee Reports

Mr. Smith's committee provided revision paperwork on the County Attorney to the Commission. Mr. Menge reviewed the changes that were made by the committee that the Commission had requested.

Mr. Montenes was looking for the integrated language that ties some of the sections back to his committee and Mr. Menge replied that he thought it best to wait until the document is complete and then if the Commission desired it could word it 'except as hereinafter provided in Section ____'. Mr. Beall stated that in regard to integration he desired to make sure that the language is the same that the Commission would be adopting. Mr. Beall also stated that it makes sense to put vacancies, elections, recall, and terms of office within each individual provision. This makes the document more proficient and reads better.

Mr. Beall stated that his committee had raised concerns about the language 'general law' and they might want to cite specific provisions in order to be more

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

exact. The feedback he has received is that ‘general law’ may be too confusing even though that language does track the constitution. Mr. Menge stated that the language tracks the constitution and is also a demarcation from special law. Mr. Nickinson desired to bring up the point that general law can be amended from one legislative term to the next and it still applies.

Mr. Walton was of the understanding that the committees would work on the comments made by the Commission and Mr. Menge was trying to insure that the Commission agrees that the committee has done what it is supposed to do up until this point and if not, the draft is to go back to committee. Mr. Walton preferred a no further comment procedure for committee work.

Ms. Brown stated that she attended Mr. Walton’s committee meeting and she relayed that Chris Jones was not happy with what was said in the meeting. Mr. Jones stated that he had been assured that his job would not change and he had problems with what had been written. Mr. Menge stated that he plans to invite the Constitutional Officers to appear before the Commission, but can assure everyone that their voices are being heard due to the fact that the Constitutional Officers are attending the committee meetings. Mr. Menge stated that Constitutional Officers are stating the same things as they had previously when they appeared before the Commission. Mr. Montenes stated that this is a controversial issue and that the Commission might want to reconsider their decisions after they hear more input and receive more data.

Mr. Menge believes that the committees need to go forth with their task of drafting the charter language and if in fact the Commission desired to do something different than what it had agreed to do before, then it is the Commission’s prerogative because nothing is in concrete until the final vote is taken. Mr. Jones agreed with Ms. Brown that the Constitutional Officers had serious concerns with the language being drafted and they are concerned that the changes would be more costly to the county government than the system that is currently in place. Mr. Beall felt like the Commission should move forward.

Mr. Menge then covered the recommended language for the County Attorney. There were no further comments at this time.

Mr. Nickinson raised concerns that the County representatives had revised copies of some of the draft language that the rest of the Commission did not have. Mr. Menge clarified that the new draft had the approved changes made by the Commission written into it. The new draft was not something that the Commission had not been informed about. Mr. Nickinson did not disagree with the revisions; he did not care for the elected officers to have paperwork prior to him. Mr. Menge stated that he believes that if someone attends the committee meetings and an item is being discussed that the paperwork should be made available to those in attendance.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

Mr. Walton was concerned with some of the procedural issues. He did explain to the Constitutional Officers in attendance at his committee meeting that he is powerless to change any of the decisions that had been made in this regard. Mr. Walton advised the Constitutional Officers that they should address their concerns before the Commission in its entirety. He also believes that if the Commission was going to change any of the decisions that it has made that it needs to be done sooner than later. Mr. Menge expressed that he is flexible to what the Commission desires, but he has not heard anything different than what he has heard before. He prefers to move forward and write the charter that this Commission has approved. Mr. Walton prefers to hear the comments now instead of at the November 18th meeting. Mr. Beall feels as if the information that he has been receiving is much more valuable in a smaller setting of the committees. Mr. Smith clarified that his committee had asked the Constitutional Officers to help write the language that specifically deals with them. Ms. Cannada-Wynn desired to see some written, concrete points instead of general statements by the Constitutional Officers. Mr. Montenes referred to a letter that Chris Jones provided to his committee that states an opinion from the Attorney General that no matter what form of government they are under they will still submit their budget to the state. Mr. Montenes is also concerned that all of the power is being put under the County Administrator.

Motion made by Mr. Walton and seconded by Mr. Jones that the Charter Commission invite the Constitutional Officers and the County Administrator to the next meeting on November 4, 2003. The motion passed 9 – 5.

Mr. Menge also offered to invite Ron Jackson and Mike Adkins to next week's meeting. Mr. Nickinson stated that he felt like his committee had flexibility on the finance issue and he is collecting additional information that will be kicked around in his committee. Mr. Boyd stated that the Commission had talked about bringing about a document with the changes that were voted on and at what point do we stop revisiting the issues? Or do we revisit all of it because there is something in it that everyone disagrees upon.

Mr. Walton stated that his committee started chronologically with Articles II & III and went through about 80%. He feels as if a very good first draft was started and by next Friday hopefully part of it will be refined. They will then continue on with Article III, IV, VI, and IX. Part of IX was brought up on behalf of the Constitutional Officers. Their next meeting is Friday, November 7, 2003, noon, at the JME/Coldwell office located at 227 S. Palafox.

Mr. Beall's committee has met twice and completed Articles I & X. They have tentatively approved language on the SRIA and elections. There were three issues that were brought up for discussion that he believes need a commission vote: 1) The ECUA is a partisan election, should they be partisan or non-partisan?, 2) The SRIA is a non-partisan election, should they be partisan or

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

non-partisan?, 3) Should there be a non-interference clause in regards to the ECUA board in respect to the administration. Mr. Blackmon desires to adhere to the Affirmative Action plan and the Civil Rights Act of 1964 in drafting the language on personnel. He has been unable to find a copy of the county's Affirmative Action plan and believes it is not being adhered to. The next meeting of Mr. Beall's committee will be on Thursday, November 6, 2003, at 4 p.m. in the Suntrust Bank.

7. Public Forum

1) Ms. Brenda Trimmel addressed the Commission and is concerned with some of the things said this evening. She suggested that the Commission review the budget of Chris Jones because he has two different responsibilities and that a portion of it goes back to the state and a portion is approved by the BCC. The other item is that as a start-up, a centralized system will be expensive, but in the long run it will save money. The county also is required to update their Affirmative Action plan each year.

8. Unfinished Business

Mr. Menge reviewed the locations that have been added to the schedule. The public input sites were diversified in order to visit the various areas of the county. The January 23, 2004 meeting is not set in stone because the BCC has not adopted their 2004 schedule yet.

Mr. Blackmon suggested using Greater Union Baptist Church again because that is where the Commission had its greatest turnout during the initial public input phase.

Motion made by Mr. Nickinson and seconded by Mr. Jones to adopt the proposed meeting schedule with Greater Union Baptist Church for the location of the January 6, 2003 meeting. The motion passed unanimously.

9. Items added to the Agenda

There were no items added to the agenda.

10. Announcement regarding the next meeting

The next meeting will be held at PJC in the Baroco Center, Rm. # 2142 on November 4, 2003 at 5:30 p.m.

MINUTES OF THE CHARTER COMMISSION MEETING – Continued

AGENDA NUMBER-Continued

11. Adjournment

The meeting was adjourned at 8:45 p.m.

Action Items:

- 1) Sheriff's department to provide the standard operating procedure utilized by the Citizen's Law Enforcement Group and a list of the people currently serving on the board.**
- 2) The Whitman Center will obtain a copy of Ch. 112.531-112.535 and provide it to the members of the Commission.**
- 3) The Whitman Center to obtain a copy of the Affirmative Action plan utilized by Escambia County.**

APPROVED BY:

THE CHARTER COMMISSION

PREPARED BY:

UNIVERSITY OF WEST FLORIDA WHITMAN CENTER FOR PUBLIC SERVICE