

**CHARTER REVIEW COMMISSION  
AGENDA  
Tuesday, January 6, 1997**

1. Robert M. Wilson, County Manager **(Guest)**
  
2. Bill Green, Human Resource Director/County Coordinator **(Guest)**
  
3. Discussion/comments of documents mailed out to members
  - a. Clay County Organizational Chart
  - b. Department Head Salary List
  - c. Commissioner District Chart
  - d. Administrative Code
  - e. Florida State Constitution
  - f. Definition of "General Law" from County Attorney, Mark Scruby
  - g. Grand Jury Report of 1989
  - h. Information regarding charter governments furnished by Dr. Rayner
  
4. Review of previous Clay County Charter meetings **(Nancy Keating)**
  
5. Discussion/review of other county charters **(Clive Rayner)**
  
6. Discussion of proposed budget
  
7. Public Comments
  
8. Commission concerns/comments
  
9. Establish date of next meeting

**CHARTER REVIEW COMMISSION MINUTES**  
**January 6, 1998**

The Charter Review Commission met on Tuesday, January 6, 1998, 6:30 p.m., MR-1, County Administration Building. Those in attendance are listed on the attached sign-in log. Those not in attendance were: Max Williams, Kenneth Ackis, Paul Hagen, William Jameson, and Marvin Wilhite.

Introductions of guests, County Manager Bob Wilson, Human Resources Director/Coordinator Bill Green and County Attorney Mark Scruby was made by Chairman McDermaid.

Mr. Wilson explained to the Commission that the County Manager serves at the pleasure of the Board of County Commissioners and may be dismissed at their discretion, with or without cause. He further explained that Clay County's staff per capita is second lowest in the state of Florida, and because of the quality of our personnel, our work is done with less staff. The 1997 County Manager Report was passed out to each member for their review, as it describes what each department is responsible for and what their accomplishments have been for the year.

Chairman McDermaid asked Mr. Wilson if he felt there was a need for an Assistant County Manager. Mr. Wilson expressed his opinion that this position would not be cost effective, nor does he feel it is necessary to have an Assistant County Manager. County Attorney Mark Scruby explained to the Commission that the County Manager and the Human Resources Director/County Coordinator does an excellent job, and as late as 1981 there was not an administrative form of government in Clay County. The elected officials had the reins of authority and Mr. Wilson has been the recipient of many hard lessons learned in the process of the elected officials handing over their reins of authority. Through the years, growth in the evolutionary process has matured and grown in his administration.

Chairman McDermaid asked Mr. Wilson if he foresees any changes in planning and forecasting. Mr. Wilson explained to the Commission that the Planning Department is currently understaffed with seven employees, who are all very talented and present to the public the history of what they find out. Every month he provides to the Board a report of the permits pulled by each commissioner district in the county.

John Schneider inquired about the transition of duties from the Commission to the County Manager during the past several years, and if there are other administrative duties he felt should be addressed. Mr. Wilson replied on how difficult it was to run the county business without all of the financial budgeting necessary to do so. Further, the Finance Department is included in our budget and the Board wishes to have the department under them.

O'Dann Richardson questioned the difficulty of transferring the responsibilities of the financial duties of the Clerk over to the County Commission's structure, incorporating them into ours. Mr. Wilson stated, "If you are asking the simplest and most cost effective way to do this, it would simply be to move the Finance over the County Manager. We are paying for it anyway, they are included in our budget and we pay for a lot of their bills. Further, Mr. Green and I have no

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problem with Finance moving over if that is what the public decides to do. Their computer system will be a large undertaking to move."

John Schneider inquired if Finance should be created with a department head. Would this person be appointed by Mr. Wilson or the Board? Would this be an elected position and would their qualifications need to be stipulated in the charter?

Mr. Wilson responded that an elected position for a Financial Director would bring the county back to the same situation we are in now, we do not need an elected Finance Director. The Finance Department could be under the County Commission in whatever form the Commission would want it to be, either under the County Manager or in a department by itself.

Mark Scruby, County Attorney stated that Dr. Clive Rayner requested a memo he had written to the Board a few months ago outlining to the Board some of the issues concerning the move of the finance department. A packet was sent to the Commission, however a particular memo was not included in the packet. The memo had information about other charter counties and the way that he saw the other charter counties handling this financial situation. There were three ways of doing so.

1. Create a free standing elective - Separate elective.  
Escambia County just did that and repealed it recently.
2. Some counties had the separate County Comptroller appointed by the Board.  
County Manager, County Attorney and the County Auditor reported to the Board.
3. Brevard County - In-house financial officer who was appointed by and reported directly to the County Manager or whoever their chief executive officer was. Florida does not require as public standard accounting to have a free standing, in-house auditor who is not accountable to the board of directors. This is not normally seen in the publicly held corporation and yet all of the financial staff in the corporation report directly or indirectly to the CEO of the corporation. The control is in the external audit that is done.

Florida Statutes Chapter 11.45, requires the hiring of an independent auditor. There are financial audits, performance and compliance audits and may be used for a host of things, i.e., using the statistics for applying for grants, etc. Chairman McDermid stated that as the Commission's education increases, the information is beyond the scope of their knowledge. County Attorney Mark Scruby encouraged the Commission to call those counties and inquire about their experiences with the Charter and how they feel the process is working.

Human Resources Director/County Coordinator, Bill Green further explained to the Commission the importance of having Internal Auditors and how they serve for a purpose in a way the public does not see. Example: Auditors will randomly pull 20 records from the personnel files and audit them to ensure everything is documented that is required by law and payroll deductions are in the file. The auditors will also travel with the paychecks to ensure the employee on the paycheck is valid and there are no bogus employees on the payroll. This is a protection for the county and is a very important function that the auditors perform and is welcomed. Mr. Green

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further explained that as a civilian and not as an employee, he believes that one of the fears of moving the financial functions over is oversight, and it is his recommendation, having been on the inside, that all functions of the Finance Department should come or we will be back to where we are now. Further, Mr. Green explained to the Commission that the purchasing department has two employees that do only purchase orders and functions of paying bills that are sent to the Finance Department to be reviewed again with the Finance Department disbursing the funds. These functions could be combined if the finance department was under the County Manager.

County Attorney Mark Scruby stated that a pre-audit is necessary as defined by the Supreme Court as a function of the Clerk and is done in three components of inquiry before an expenditure is made. Both the Finance Department and the Purchasing Department are doing this.

1. Look to be sure the funds that have been incumbered for the expenditure are in the budget so they are not overspent.
2. Determine that the policies of the County in terms of a particular expenditure have been followed, such as a bid or written quotes and was an authorized expenditure.
3. Determine the expenditure serves a public purpose. If the comptroller determines the expenditure does not serve a public purpose then it is rejected.

Further, Mr. Scruby stated that when he was asked to review the Charter that was approved by the voters to determine what was going to happen with the new arrangement and the duties of the County Manager, he believes that there was some misunderstanding on part of the members of the last Charter Commission, in that they believed some of the Finance Department would be coming over to the County Administration. What did transpire is that purchasing did come under the County and was clearly made part of the County Manager's function. Some viewed this as a duplication of operation. The Clerk was asked, "Would you please carve out the staff that you are using to handle purchasing and take them out of your budget and put it in ours so we can fund them?" The Clerk responded he couldn't do that because he was the Comptroller and the Pre-Auditor and needed the same people to look at the same purchase orders that comes from the new purchasing department, following the same operation to pay the bills. The budget was adopted October 1st and in January when the Charter took effect, the county commission had to determine how to fund the new purchasing positions, allocate space for them, etc. There was some misunderstanding among people if what they accomplished is what they intended to do.

Tigger Megonegal asked for an explanation as to who would do the pre-audit if the finance comes over.

Mr. Green stated that the Commission should decide that factor. There is a concern that with the function under the County Manager he will have too much power. The power is in the audit and to diffuse that concern with the population, is to put everything under the County Manager except for that auditing portion and let the Board do that direct, like the County Attorney. If Finance does come over, all functions must come with it. Example: When the Charter took effect, the Human Resources Department was established and all personnel records were sent over and had to be updated from scratch. No personnel came with the responsibilities of

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overseeing these records. All insurance was in Finance before the Charter and those responsibilities were inherited as well. A Risk Manager was hired to handle all of the insurance issues. Duplication has been a problem. Consolidation will hopefully be a cost savings for the county.

County Attorney Mark Scruby informed the Commission that the Clerk wears various hats as described by the Constitution.

Functions for the Board

1. Auditor - all of those items concerned with the pre-audit.
2. Custodian of funds - Comptroller function of paying the bills.
3. Clerk of the Board - Keeper of the minutes and records of the Board.

Functions for the Clerk

4. Clerk of the Court
5. Recording department

O'Dann Richardson inquired that if Finance came under the County Manager, would there be someone already in place to do the job or would this person need to be hired. Mr. Green replied that this would depend on what the Commission decided to do and what parameters they wanted in a Finance Director. Further, the Human Resource Department would need substantial time to address all of the issues involved with the transition. Job descriptions will have to be written for every person coming over, their annual and sick leave addressed because they work under the Clerk's personnel policies and are paid differently. Pay scales, pay grades, ADA requirements and Board approvals are just some of the issues that must be addressed to ensure a smooth transition.

Mr. Green stated that if this issue is voted on it will take effect January 1, 1999. Chairman McDermaid wanted to know if this became a law on January 1, 1999, was there a way to change the effective date.

County Attorney Mark Scruby explained to the Commission that any move to alter the arrangement that is currently in effect with the Finance Department would result in a collision between the effective date and the budget cycle. All amendments must be done according to the Charter, and put on the general election ballot. A primary election with one party dominating the election ballot would not reach all of the voters.

Dr. Clive Rayner inquired how to get this process moving forward. Mr. Scruby suggested that the Commission begin fact finding, do a feasibility study, and begin to research for information that would help them to make decisions.

Danny Hamilton referred to the Grand Jury Report of 1982 and suggested that the Commission move in the direction of their recommendations to separate the duties of the Comptroller from the Clerk.

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Mr. Scruby informed the Commission they were at the mercy of other people to do the detail work for them in many respects. The Board has indicated their staff will support the Charter Review Commission to the extent that it can, as well as outside needs if necessary. The Commission can collectively make a request to the County Manager and to the Clerk, to evaluate the separation, give a time table, and outline tasks to be done.

**After discussion, motion made by Dr. Clive Rayner, as part of the Commission's consideration and discussion of issues relating to the Charter, a resolution to investigate the possibilities of separating the duties of the Clerk of Court and Comptroller into two functions, and in that regard, requests the Clerk and County Manager provide the Charter Review Commission with a feasibility study describing budget information and how it would be divided. Seconded by Tigger Megonegal, and carried 10-0.**

**Dr. Clive Rayner made a motion to request the County Manager and the Clerk of the Court to provide the Charter Review Commission with relevant information as to the costs involved with transferring the functions of budgetary items that would need to be transferred, the personnel functions that would need to be transferred, and time table necessary to do it. Seconded by Nancy Keaton, and carried 10-0.**

**Dr. Clive Rayner made a motion giving Chairman McDermaid the authority to create a letter for the Clerk of the Court and County Manager, with regards to the above motion made with in transferring of functions of the Clerk. Seconded by Ron Coleman, and carried 10-0.**

County Attorney Mark Scruby stated that if the Commission decides to create an appointed or elected position, the salary may be an issue that should be reviewed. The Clerk of the Circuit Court as an elected official has an emolument in salary and receives it from two different budgets. One portion of the salary is presented to the Board for their approval which is the Controller's budget and the other portion is strictly court related, not presented to the Board and is funded from other sources. The present Clerk of Court has elected to be a fee officer by his choice and operates his entire office from fees. The salary budgeted by the County is approximately \$28,000 and the remainder of the Clerk's salary (\$60,000.00 - \$62,000.00) is dictated by Legislature. If the change is made for a new position, the current Clerk will be entitled to receive all of his expected salary for the remainder of his term.

County Attorney Mark Scruby was asked to define "general law" and "special law", in regards to these terms appearing in the Charter in several areas. Mr. Scruby explained that before the 1968 Constitution in the State of Florida, the only power the local government had was that which was specifically granted by Legislature. Local governments did not have the power to enact zoning ordinances, etc., and had to seek permission from Legislature to adopt a special act for a local entity, giving them the authority to adopt a zoning regulation. This process was very tedious because there are 450 or more separate governmental entities in the State of Florida. Legislature now provides that by "general law", which says that all counties and cities have the

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authority to enact regulations affecting zoning and here are some guidelines that must be followed, etc. This is "general law" and has application all over the State of Florida for every local government entity. Further explaining that "Special Law" referred to local application. Example: Hospital Authority, Clay County Utility Authority, a law created by a special act of Legislature and does not need to be a "general law". All municipal charters are enacted by special charter acts created by act of the Legislature. Mr. Scruby informed the Commission that he would be available to attend a Commission meeting to answer any further questions they may have individually or as a group.

**Discussion and comments were made of the listed documents**

- a) Clay County Organizational Chart - Specifically relating to the County Manager's function. Possibly request the Clerk to provide the Commission with his organizational chart for review.
- b) Department Head Salary List - OK
- c) Commissioner District Chart - Mark Scruby informed the Commission that every 10 years, in unison with the Census, the County is required to re-district their districts. The next redistricting is 2001.
- d) Administrative Code - OK
- e) Florida State Constitution - OK
- f) General Law and Special Law - OK
- g) Grand Jury Report of 1982 - OK
- h) Information of charter governments - OK

Nancy Keating stated that the Commission should be proud of Clay County and the Home Rule Charter that was created by the last Commission, giving them the foundation to move forward. Issues the previous Charter Commission discussed are now cornerstone issues and our job now is to make our Charter Review Commission as productive as the last one. Issues and topics are just looking us in the face and we don't have to search for issues as the past Charter Commission had to do. We have a wonderful opportunity and live in a great time in Clay County.

Dr. Clive Rayner has provided the Commission with information received from Tallahassee regarding charters in other counties.

Chairman McDermaid stated that Mr. Wilson has informed him Ann Mitchell is being compensated for her secretarial duties, funds encompassed in the business of the County Manager's administration.

**Commission Concerns and Comments:**

Chairman McDermaid suggested the Commission continue to review the Charter as part of the agenda each meeting and work through unresolved concerns and issues. Further, he suggested the Commission invite the Supervisor of Elections to answer questions and concerns that arose from the review of the Charter.

The next meeting will be Tuesday, January 20, 1998, 6:30 p.m. MR1.

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A meeting will be tentatively scheduled Monday, February 2, 1998.

County Attorney Mark Scruby explained to the Commission that every three or four years the Board of County Commissioners goes through the process of selecting an external auditor. A comprehensive request for Proposals and Qualifications, is sent out. The applicants are interviewed and selected by the Board under a contract. The selected auditors spend several months a year auditing the records as stipulated by the contract.

Chairman McDermaid requested volunteers to contact the administrator or county manager of Volusia and Osceola counties to collect feedback to be an agenda discussion at the next Commission meeting.

There being no further business, the meeting adjourned at 8:50 p.m.

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**Steven McDermaid, Chairman**

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**Ann Mitchell, Recording Secretary**