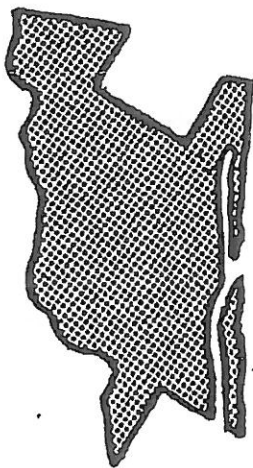


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THE
VOLUSIA COUNTY CHARTER
ANNOTATED

June 1, 1971



THE VOLUSIA COUNTY CHARTER, ANNOTATED

INTRODUCTION:

The language and provisions of the Volusia County Home-Rule Charter can be better understood by keeping in mind four basic guiding principles followed by the Charter and Study Commission in the drafting process. First, the attention of the Commission was not directed at finding solutions or answers to specific policy problems faced by Volusia County, such as ambulance service or mass transportation. Instead, the Charter was viewed as a means of establishing the basic structure of a local government capable of dealing with the problems of an increasingly urbanized county such as Volusia. The elected representatives of the people on the County Council, in turn, would have the responsibility of making decisions on specific policies through the passage of ordinances.

As a second consideration, the Commission avoided making the Charter a detailed manual for the operation of the County Government. Such matters as the detailed structuring of departments and the design of the merit system, it was felt, should await the adoption of the initial administrative code, to be prepared by the County Manager and amended, reviewed, and adopted by the County Council.

The third drafting principle followed by the Commission was to include in the Charter mainly those provisions *not* covered by the Constitution or the laws of the State of Florida. Thus, the governing rules in many areas, such as the procedures for the adoption of ordinances, are covered by general law. Finally, the Commission felt that the Charter should invest in the new government *all* of the home-rule powers allowed Art. VIII of the Constitution, including, in unincorporated areas, responsibility for both "county" and "municipal" purposes as defined in the Constitution and statutes.

Although all provisions of the Charter became effective as law January 1, 1971, charter government will not in fact exist until the County Manager is employed, the administrative code adopted, and the county begins operation under the first Charter Budget in 1971-1972.

Article I. Creation Of The Government.

SECTION 101. PURPOSE. We the people of Volusia County, State of Florida, in order to create a more responsible and efficient local government, do in accordance with the Constitution and Laws of the State of Florida, ordain and establish as our Charter and form of government this Charter of Volusia County, Florida.

SECTION 102. BODY CORPORATE AND POLITIC. Volusia County shall be a body corporate and politic and as such shall have all rights and powers of local self-government which at now, or hereafter may be, provided by the Constitution, Laws of Florida and this Charter.

SECTION 103. NAME AND BOUNDARIES. The corporate name shall be "the County of Volusia," hereafter referred to as the County, which shall be so designated in all actions and proceedings touching its rights, powers, properties and duties. Its seat and boundaries shall be those presently designated by law.

The purpose of Article I is to continue the corporate status of Volusia County after the adoption of the Charter and to change the designation of the government from the Board of County Commissioners to "the County of Volusia". All property of the former County Government, and that of any other agencies incorporated into the Charter Government, is vested in the name of the County.

Article II. Powers And Duties Of The County.

SECTION 201. GENERAL. The County, under this Charter, shall have all powers and duties prescribed by the Constitution, Laws of Florida and this Charter, and shall have all powers of local self-government.

The Constitution (Art. VIII, Sec. 1g) provides that "counties operating under county charters shall have all powers of local self government not inconsistent with general law, or with special law approved by the vote of the electors." Although both the Constitution and general laws take precedence over the Charter, the Constitution (Art. VIII, Sec. 6d) states that "local laws relating only to the unincorporated areas of the County on the effective date of this Article may be amended or repealed by county ordinance." Moreover the language of Art. VIII gives precedence to ordinances passed by the Charter Government over all special laws except those approved by a vote of the electors. The home-rule principle is safeguarded additionally by Art. VIII, Sec. 1c which says that "a County Government may be established by Charter which shall be adopted, amended or repealed only upon vote of the electors of the County in a special election called for that purpose."

SECTION 202. SPECIAL. The County, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

(1) The County shall have all necessary powers to accomplish municipal purposes within special districts. Property situated within municipalities shall not be subject to taxation for services rendered by the County exclusively for the benefit of the property or residents not within municipal boundaries, nor shall property situated in the County be subject to taxation for services provided by the County exclusively for the benefit of the property or residents within municipal boundaries. To this end, the County Council, hereafter referred to as the Council, may by ordinance create districts for the purpose of levying ad valorem taxes and special assessments to pay for the furnishing of municipal services, and the tax imposed shall be within the limits of millage set for municipal purposes. Should such services be furnished within a municipality, the total millage levied by the municipality and the county district levy for this municipal purpose shall not exceed the maximum millage set by law for municipal purposes.

(2) The County shall have the power to fix the salaries of all officers and employees, except as otherwise provided by this Charter.

In the first paragraph of Section 202 of the Charter, all of the powers and duties of the former Board of County Commissioners as stipulated in F. S. 69-125.01 and other general and special laws are transferred to the County Council. Where the former Board of County Commissioners called elections, for example, the County Council will now fill that role.

(1) The Constitution and statutes recognize two types of governmental services and purposes—"county" and "municipal." A precise definition of the difference between a county and a municipal service is not found in either the Constitution or the statutes, though from time to time the State Legislature has declared specific functions to be "county purposes", such as F.S. 69-125.441 which decrees that "the establishment, operation, and maintenance of ambulance service are declared to be county purposes."

The Constitution (Art. VII, Sec. 9) authorizes the County Council to levy a tax for special districts. It further provides that "a county furnishing municipal services may, to the extent authorized by law, levy additional taxes within the limits fixed for municipal purposes." F.S. 69-200.071 confirms the power of the county to make such a levy. Recent court decisions, such as *State ex. rel. Dade County v. Dickinson* (Fla. 23050 2d 139) have held that any purpose, when exercised on a county-wide basis, is deemed to be "a county purpose". The Charter Commission therefore concluded that there was an adequate statutory and constitutional basis to empower the County Council to establish special municipal service districts in unincorporated areas for the purpose of levying an ad valorem tax to pay for services such as street lighting, fire protection, and the maintenance and construction of streets and sidewalks. This, in the opinion of the Charter Commission, would not require a special referendum by the electors of the proposed service district.

The creation of "municipal service districts" appears to be necessary in order to comply with the stipulation in of the Constitution (Art. VIII, Sec. 1h) which says that "property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents in unincorporated areas". Likewise, this implies that the county may not tax residents of unincorporated areas exclusively for the benefit of the property or residents within municipal boundaries. The determination which must be made, of course, is when a service is being provided *exclusively* for the benefit of either a municipal or an unincorporated area.

(2) The Charter Commission was in strong agreement that the provisions allowing the County to set the salaries for all officers and employees of the County Government was essential to the home-rule concept. Section 304 of the Charter, however, provides that the salary of the members of the County Council may be changed only upon approval of the electors, and the County is restricted by the Constitution (Art. VIII, Sec. 8c) from changing the salary of the elected officials coming under the County Government during the remainder of their term. Specifically this applies to the Sheriff, Tax Collector, Supervisor of Elections, Tax Assessor, and the three former County Commissioners whose term of office carries over into 1972.

Section 202.1. Transfer of Powers. The Council shall by ordinance have the authority to assume and perform all functions and obligations now or hereinafter performed by any municipality, special district or agency whenever such municipality, special district or agency shall request the performance or transfer of the functions to the County.

Section 202.1 closely tracks the language of the Constitution (Art. VIII, Sec. 4) which states: "By law or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district may be transferred to or contracted to be performed by another county, municipality or special district, after approval by vote of the electors of the transferor and approval by vote of the electors of the transferee, or as otherwise provided by law." This section of the Charter does otherwise provide," so that no vote of the electors of either of the contracting parties is required. Although the language of the Constitution refers to a required vote by the electors of both the county and municipality, the Florida Legislature in 1969 enacted the Interlocal Cooperation Act (F. S. 69-163.01) which authorizes the performance of services through an interlocal agreement that may be negotiated by the governmental agencies involved.

Section 202.2. Security of Citizens' Property Rights. In order to secure to the citizens of the County protection against unlawful taxes, improper use of public property or taxing power; and abuse of the environment, the County shall have the duty to defend and enforce the following rights, and shall have the power to investigate violations of these rights within the County and by ordinance, or by civil or criminal legal action where appropriate, to prevent:

(1) **Imposition of Unlawful Taxes.** The County shall prevent the imposition of any tax within the County in excess of the limitations imposed by Article VII, Section 9, of the Florida Constitution or by the Laws of Florida.

(2) **Improper Use of Public Property or Taxing Power.** The County shall prevent the use of public property or taxing power for the benefit of private individuals, partnerships or corporations, in violation of the restrictions imposed by Article VII, Section 10, of the Florida Constitution, or by the Laws of Florida.

(3) **Abuse of the Environment.** The County shall prevent the development or use of land or the commission of other acts by persons, partnerships or corporations which will tend to destroy or have a substantially adverse effect on the environment of any established residential or business area within the County. Such destruction or adverse effects may include any or all of the following:

(a) Pollution of the air, land or water by foreign substances, including noxious liquids, gases or solid wastes.

(b) Pollution of the air, land or water, by the creation of potentially harmful conditions therein, including the creation of unnecessarily injurious heat, noise or odor.

The insertion of this section in the Charter came late in the drafting process, and was not the product of any specific recommendation of one of the four standing committees of the Charter Commission. It was more an outgrowth of the strong feeling within the Commission that the Charter should have in it a citizen's "Bill of Rights". Discussion on several occasions produced agreement that the Federal Constitution and the State Constitution contained sufficiently strong safeguards for civil liberties, but that there were several other gaps which could be remedied only by inclusions in the Volusia County Charter. Foremost among these concerns was protection from the abuse of the taxing power by governmental agencies and the protection of the right of the citizen to a quality environment. Concern was also expressed over the effect of the lease of county property, such as the lease to the (Daytona) International Speedway Corporation, when it exempts a private business from full taxation and extends to it a privilege not granted to other corporations. The county government is charged with the enforcement of the guarantee in the Constitution (Art. VII, Sec. 10) which states that "neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a joint owner with, or stockholder of, or give, lend or use its taxing power or credit to aid any corporation, association, partnership of person"

Some consideration was given to the creation of an "ombudsman" charged with protecting the rights of the citizen in his dealings with the government, but it was finally decided that the entire county government should be charged with this basic responsibility.

SECTION 203. DIVISION OF POWERS. This Charter hereby establishes the separation between legislative and administrative functions of this government. The establishment and adoption of policy shall be the responsibility of the Council and the execution of that policy shall be the responsibility of the County Manager.

The Charter Commission decided that the administrative and policy making functions of the county government should be separated. The various interviews with county officials and the study of county operations led to the conclusion that the continuation of the commission form of government would perpetuate the inefficiencies and inability of the county to deal with the problems of an urban nature confronting it. The job of the County Commission was both legislative and administrative in nature. The County Commission broke down into various committees, often including only one member, with the Commissioner acting both in the capacity of an administrator and policy maker. This allowed for no effective check, and very often the cumbersome nature of

the operation was both expensive and ineffective. The Charter Commission proposed that the Council should act strictly as a policy-making body, and not continue the dual role, as formerly was the case. The decision to change the name of the legislative body to the "County Council" was designed to underscore the delineation of legislative and administrative responsibilities.

* All other provisions of the Charter revolve around this fundamental feature. The Charter envisages that the Council will function without the necessity of frequent meetings, and with little necessity for the use of ad hoc committees except for the purpose of inquiry and fact finding.

SECTION 204. CONSTRUCTION. *The powers granted by this Charter shall be construed liberally in favor of the Charter Government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government, as stated in this Article. It is the intent of this Article to grant to the Charter Government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the Charter Government.*

This section on construction of the powers granted to the Charter Government was included to make as clear as possible the intention of the Charter to vest the Charter Government with all the power which could lawfully be transferred to the Charter Government pursuant to Constitution (Art. VIII, Sec. 1g) which grants to counties operating under county charter "all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors."

Article III. Legislative Branch — County Council

SECTION 301. COMPOSITION. *The Council shall be composed of seven (7) members. There shall be five (5) council districts. Each district shall elect one (1) council member and two (2) council members shall be elected at large except as provided by Article XV of this Charter.*

There was considerable discussion concerning both the size of the Council and whether members should be elected from districts or at-large. Consideration was given to continuing the principle of election whereby a candidate would qualify by district but would be elected at-large in the county. In examining charters throughout the United States, the Commission found councils having as many as forty members and as few as three. The guiding principle was that some system should be provided to grant the most equal representation for all the people. Several factors were taken into account, including geographic, ethnic, and racial considerations within the County. Because a district-elected council might tend to be too sectionally-oriented, and fail to represent the overall interest of the County, the Charter Commission decided against a Council based entirely on this principle. It was decided therefore to structure a council combining both the features of district and at-large elections.

SECTION 301.1. Council Districts. *Initial districts shall be as designated in Article XV of this Charter. After every decennial census and prior to the next ensuing general election, the Council shall prepare a plan for the reapportionment of the five (5) districts to insure division into contiguous areas as nearly equal in population as possible. The Council shall review and adopt the reapportionment plan as an ordinance by a two-thirds (2/3) vote of the full Council. If the Council is unable to complete the reapportionment of the council districts within six (6) months after the official publication of the census, the County Attorney upon authorization of the Council or petition of twenty-five (25) electors of the County shall petition the circuit court having jurisdiction in the County to make such reapportionment.*

At the time the Charter was being prepared the decennial census was underway in Volusia County. Since the census would not be official until 1971, it was determined that the Council districts could not be reapportioned by the Charter Commission. The

of time (six months after each decennial census) and provides a procedure for the Circuit Court to reapportion the districts in the event that the council fails to adopt a plan acceptable to a two-thirds majority of the full council.

SECTION 302. QUALIFICATIONS. Except as provided by Article XV of this Charter, members of this Council shall be qualified electors of the County, and shall have been residents of the County for two (2) years immediately preceding the date on which they qualify to run for office. The five (5) members elected from districts shall have resided within the district from which they are elected for at least six (6) months prior to the date on which they qualify to run for office. Any such Council member who shall remove his residency from the district from which he is elected shall thereupon become disqualified to represent said district as Council member and his office of Council member shall be deemed vacant.

The Charter Commission decided that the ultimate responsibility for determining the qualifications of candidates for the Council is necessarily vested in the electors who elect them to office. Therefore, the qualifications require only that the candidate be a qualified elector who has resided within the county for two years preceding the date on which he qualifies to run for office, and in the case of a district Councilman, to have resided within the district for six months prior to the date on which he qualifies to run for office.

SECTION 303. TERMS OF OFFICE.

Section 303.1. District Council Members. Each Council member elected from a district shall serve for two (2) years beginning on the first day of January after his election, and continuing after such term until his successor is elected and qualified. No Council member shall serve more than three (3) consecutive terms as a district Council member.

The decision to have the district Councilmen stand for election every two years was prompted by two considerations: (1) this was a way of bringing government "closer to the people"; (2) by running within a single district instead of countywide, the candidates would have less election expense, making frequent elections more feasible. The district council members were limited to three consecutive terms to guard against the possibility that a small clique could continually control the operations of county government. Moreover, a district Councilman who does a particularly effective job may run for an at-large seat at the end of this three consecutive terms. This acts as an additional check on the sectional tendencies of the district system by encouraging district Councilmen to take a countywide view on policy matters if they aim eventually to run for one of the at-large seats.

Section 303.2. At Large Council Members. Except as provided by Article XV of this Charter, each Council member elected at large shall serve for four (4) years, beginning on the first day of January after his election, and continuing after such term until his successor is elected and qualified. No Council member shall serve more than two (2) consecutive terms as an at-large Council member.

The Charter Commission was split over the exact number of at-large councilmen, some desiring two and others four. The debate centered around whether the number should be two or four. It was decided to have two at-large Councilmen initially, recognizing that the size of the policy-making body could be increased as the population increases. On the other hand, most members of the Commission did not favor increasing the size of the policy-making body greatly.

SECTION 304. COMPENSATION. Salaries of all Council members shall be four thousand and five hundred dollars (\$4,500) per year, and said salary shall constitute full compensation for all services and in-county expenses, except that out-of-county travel expenses, as permitted by law, shall be authorized provided that such out-of-county

travel shall have been approved by the Council prior to incurring the expense. The Council shall have the power to change the level of compensation provided such change shall not become effective until approved by the electors at the next general election.

There was initial agreement to set the annual salary for the Councilmen at \$3,600. But after reviewing many other charters and speaking with people in different sections of the county, the Charter Commission discovered that there was a trend to set the salary at a more reasonable figure in the area of \$5,000. The Charter Commission finally decided to set the salary at \$4,500, and to put a restriction in the Charter that Councilmen would not be entitled to receive in-county expenses. The major factor in reaching agreement on the \$4,500 salary figure is the fact that the School Board, a similar policy making body in the county, had just had its salary increased to \$4,500 in the two years prior to drafting the Charter. It was felt that \$4,500 was sufficient compensation for the time required of this part-time policy making position, including in-county expenses, and at the same time to encourage a person in any occupation to seek this office.

The Commission agreed that the Councilmen should not have the authority to revise the salaries for the present or future Council members, and for that reason the Charter provides that salary changes for Council members must be submitted to voters for their approval.

It is important to note that the salary was not placed at any higher level in order that no one would consider this a full time position since the intent of the Charter is to have the legislative body as part-time law makers.

SECTION 305. VACANCIES AND SUSPENSIONS. *Vacancies in any Council member's office or other elected office under this Charter Government, shall be filled in accordance with the Constitution of Florida. Suspensions from office for cause shall be in accordance with the Constitution of Florida.*

The Governor has the power under the Constitution (Art. IV, Sec. 1f) to fill by appointment any vacancy on the County Council. Under the Constitution (Art IV, Sec. 7d) the Governor may suspend from office on the grounds of "malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or the commission of a felony" any county officer—that is, any member of the County Council or any elected department head of the county government.

SECTION 306. MEETINGS AND ORGANIZATIONS. *Except as provided by Article XV of this Charter, the organizational meeting of the Council shall be held on the first Thursday after the first Monday of January. The Council shall provide for the manner, time and place for holding all regular Council meetings. Further, the Council at its organizational meeting shall elect a Chairman by a majority vote to serve for a period of one (1) year and shall each year thereafter elect from its membership, a Chairman who may not succeed himself.*

The Charter limits the chairmanship of the County Council to a one year term as an added safeguard to discourage conflict between the administrative and legislative leadership of the Charter government. This provision also emphasizes the fact that the Council, as a policy making body, is not expected to meet frequently, but is expected to have established meeting times, periodically, but on a scheduled, predictable basis. All regular meetings of the County Council must be held at the County Seat, as required by law, but the Council is empowered by resolution to establish the manner and time of holding regular meetings.

Section 306.1 Special Meetings. *Special meetings may be held on call of the Chairman or two (2) or more members of the Council. Upon call for a special meeting, the County Manager shall give adequate public notice of the time, place and purpose of the meeting in accordance with the procedures established in the Administrative Code. Action by the Council at a special meeting shall be limited to the purpose for which the special meeting was called.*

Although the Commission envisaged that the County Council would meet only once or twice monthly in a regular meeting, it was necessary to include a provision authorizing the convening of a special meeting in order to handle emergency matters which cannot wait until the next regular meeting. The detailed provisions for convening and holding special meetings are to be defined by the administrative code. Only that matter for which the meeting is called may be considered at a special meeting.

Section 306.2 Location Of Meetings. *The Council shall meet at the County Seat except that it may determine from time to time, the place or places within the County at which the Council shall meet for the purpose of conducting its business, provided that notice of the time and place shall be published in a daily newspaper of general circulation in the County at least one (1) week prior to the holding of any such meeting outside the County Seat. Such notice shall contain an agenda of all matters to be acted upon.*

This provision recognizes the desirability of holding special meetings in other areas of the county, at times, as provided by law (F.S. 89-125.01). The Charter Commission felt this provision for special meetings in other areas of the County would promote more citizen participation in government.

SECTION 307. POWERS. *The Council shall have all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and Laws of Florida provided that such powers shall be exercised in a manner consistent with this Charter. The Council, in addition to the powers and duties provided in this Charter, shall have the specific powers and duties to:*

- (1) Appoint by a two-thirds (2/3) vote of the full Council and remove by a majority vote of the full Council, the County Manager.*
- (2) Adopt such ordinances as may be necessary to carry out both County and municipal powers and purposes.*
- (3) Review the budgetary requests including salaries and make the final budgetary determinations and appropriations for all County governmental operations including, but not limited to County management, all administrative departments of the government, the judicial system, adjustment boards and special authorities and tax districts which request a portion of the millage levied for County purposes under the Constitution of Florida or such other millage as may be levied by the County for municipal service districts excepting the school system.*
- (4) Adopt, amend and repeal an Administrative Code by a two-thirds (2/3) vote of the full Council.*
- (5) In addition to the state audit provided by law, have the authority to cause an independent post-audit by a certified public accountant of any or all governmental operations of the Charter Government.*
- (6) Adopt and amend a merit system which shall include a salary schedule for all personnel in accordance with the provisions of this Charter.*
- (7) Adopt by a two-thirds (2/3) vote of the full Council such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the Council.*
- (8) The Council shall designate which officers and employees shall be bonded and shall fix the amount and approve the form of the bond.*

The County Charter gives Volusia County all of the home-rule powers granted by the Constitution (Art. VIII) and laws of Florida, including the residual powers of county government originally vested in the State of Florida, both corporate and proprietary. It was felt, however, that certain specific powers should be enumerated in detail without in any way intending to otherwise restrict the governmental powers of the county.

(1) It was considered necessary for the County Manager to have the overwhelming confidence of the Council, and for that reason it was decided that the vote of the Council should be different for hiring the Manager and firing him. The requirement for a two-thirds vote of the Council to hire the Manager will insure that the choice reflects not only the overwhelming majority of the Council, but also the wishes of all sections of the county.

In line with the theory of council-manager government, the manager can continue to operate effectively only if he maintains the confidence of a majority of his Council. Therefore the Charter stipulates that the Manager may be fired at any time by a majority of the Council.

(2) This is the basic, essential authority given to the Council to effect home-rule rather than requesting and waiting for special local application laws, as in the past, which had to be enacted by the Florida Legislature.

(3) This provision was included to give the County Council complete fiscal control of the operation of county government. It was intended that all agencies making a millage levy for county or municipal purposes are within the scope of the budgetary power of the County Council, except the school system which is not part of "county government" as defined in the Constitution (Art. VIII).

The Charter explicitly empowers the County Council not only to review, a budgetary power exercised by the former Board of County Commissioners under the laws of Florida (F.S. 89-129), but directs that the County Council make the final budgetary determination and appropriation.

Another significant change in budgetary procedure is the Charter provision which places the responsibility for the preparation of the budget with the County Manager, rather than the county's legislative body (County Council).

(4) The Charter leaves many details to be defined by the administrative code which is to be prepared by the County Manager. The initial administrative code is to be prepared by the County Manager within three months after his appointment (Sec. 1517), for submission to the County Council which must adopt the code (Sec. 604) within three months from the time it is submitted. The Council has the power to amend and repeal the administrative code, as changes in government may dictate, after adoption of the initial code.

(5) The County Council is given the authority and responsibility for initiating an independent post audit of any or all governmental operations of the Charter government as an added check on the operation of the administrative departments and divisions of county government. The law provides for a basic state audit of county government, but the Charter Commission felt this procedure alone is inadequate for two reasons: first, the state audit normally runs several years behind the current fiscal period, and second, the state audit is directed at verifying compliance only with state laws, failing to delve adequately into questions of efficiency and advisability of expenditures and procedures, and to suggest improvements, when and where needed, of management practices.

(6) Perhaps the least controversial of the provisions included in the Charter was the one establishing a merit system for county employees. Almost every department and employee in the county interviewed by the Charter Commission favored the inclusion of such a system. So important was this power that the Charter Commission saw fit in Art. X to outline in detail the structure and implementation of the personnel system as an integral part of the Charter Government. Sec. 1011 recognizes the critical timing of the adoption of the merit system, and directs the county manager to prepare and present to the council the initial plan for adoption prior to the adoption of the first budget by the Charter Government.

(7) As is customary for legislative bodies, the Charter directs the County Council to adopt rules of parliamentary procedures subject to certain specific limitations enumerated by the Charter itself. Since such rules of orderly procedure are essential to the operation of representative government, these rules should be codified and published so that they are available both to the Council and the public as provided for by Sec. 308.1.

(8) The State law (F.S. 89-137) requires that County Commissioners, among other county officials, must be bonded. However, with the separation of administrative and policy making duties, it would seem that the necessity for a surety bond is obviated by the fact that the County Councilmen will neither be in physical possession nor personally responsible (sign checks or handle money) for the property of the County. On the other hand, it was assumed that the County Council, as part of its responsibility, would wish to place under bond a number of persons within the administrative branch who had custody of county assets, including the County Manager and the various department heads.

SECTION 308. LEGISLATIVE PROCEDURES. *The Council may take official action only by the adoption of ordinances, resolutions or motions. Except as otherwise pro-*

vided by this Charter all ordinances, resolutions or motions shall be adopted by majority vote in accordance with the provisions of the Constitution and Laws of Florida. A majority of the full Council shall constitute a quorum and shall be required to adopt, amend or repeal any ordinance. A majority of those present shall be required to adopt, amend or repeal a resolution or motion under the terms of this provision. All members in attendance, including the Chairman or presiding officer, shall vote on all Council actions.

The actions of the County Council are taken in one of two general ways—by motion and resolution, or by ordinance. The procedure for the adoption of ordinances is more elaborate than that for adopting a resolution or motion, and is defined in detail by law (F.S. 69-125.66). The County Council at any regular or special meeting may enact or amend any ordinance as long as notice of intention to consider such an ordinance is given in public notice at least 15 days prior to the meeting, excluding both Sundays and legal holidays. Certified copies of these ordinances or amendments thereto shall be filed with the Department of State by the County Manager within ten days after enactment by the Council, and shall take effect upon receipt of official acknowledgment from that office that said ordinance has been filed. However, any ordinance may prescribe a later effective date. The emergency enactment of ordinances is also spelled out in this statute, and F.S. 69-125.67, F.S. 69-125.68, and F.S. 69-125.69 also make reference to subject matter and codification of ordinances, and penalties respectively. The adoption of an emergency ordinance requires a four-fifths vote of the full Council. In a nine-member Council, Sec. 1311 of the Charter would require an affirmative vote of eight members of the Council to pass the ordinance. In a seven-member Council it would require an affirmative vote of six.

A majority of the full council constitutes a quorum, and only a simple majority of the quorum of those present is required to adopt, amend, or repeal a resolution or motion. The Commission felt that the passage of ordinances was of extraordinary importance, and that the vote of a majority of the full council was necessary for their enactment. It was the unanimous feeling of the Commission that the Chairman, as well as every other Councilman present, must vote on all council actions.

Section 308.1. Code of Ordinances. *The Council shall provide for the authentication and recording in full, in a properly indexed book kept for the purpose, of all minutes of meetings, ordinances and resolutions adopted by the Council and the same shall, at all times, be a public record. The Council shall further maintain a current codification of all ordinances. Such codification shall be published and made available for distribution on a continuing basis.*

This section of the Charter tracks general law (F.S. 69-125.68) which obligates the county government to maintain a codified collection of all ordinances passed so that they are a matter of public record. The Charter also contemplates that the codification of ordinances shall be published and distributed on a regular and continuing basis similar to the manner in which the Florida Statutes are periodically recodified and published.

SECTION 309. INVESTIGATIONS. *Pursuant to powers granted by this Charter, the Council may make investigation into the affairs of the County governmental operations, and for this purpose the Council shall cause subpoenas to be issued for witnesses, administer oaths, take testimony and require the production of evidence before the Council in session. Any person who fails or refuses to obey such subpoena issued in the exercise of those powers by the Council, shall be guilty of a misdemeanor upon conviction and punished according to law.*

In order to perfect the legislative power vested in the County Council the power to conduct fact-finding investigations is granted. The investigatory power of the Council includes those measures which historically have been delegated to legislative groups performing that function.

ARTICLE IV. ADMINISTRATIVE BRANCH—COUNTY MANAGEMENT

SECTION 401. COUNTY MANAGER. *There shall be a County Manager who shall be appointed by the Council and who shall serve at the pleasure of the Council. The County Manager shall be chosen on the basis of his professional training, his executive and administrative experience and qualifications. He shall maintain residency within the County during his tenure of office and shall not engage in any other business or occupation.*

The decision to appoint the chief administrative officer of the County, rather than to have an elected county executive, or county mayor, was a basic one. The various charter governments examined by the Charter Commission fell into a rather distinct pattern. In larger counties there was a tendency toward a pattern of an elected executive head. On the other hand, in smaller county units the preferred approach nationally has been an appointed county manager, with an emphasis on administrative expertise rather than on the ability to bring to bear effective political leadership by an elected executive. The advantages and disadvantages of both systems for Volusia County were debated at length. One consideration was the numerical dominance within the County of the east coast, so that an elected executive very probably would have been chosen by that area. Contrasted with this, an appointed county manager would be a stranger to the County and would owe no allegiance to any section, with the hope that he could win the trust of both. The further argument that seemed persuasive to the Charter Commission was that in governments with an elected county executive there seemed always to be a position of chief administrative officer, an appointed official by the County executive. The Charter Commission thought that if the chief administrative officer, in fact, were going to perform most of the task of directing the administration, then he should be at the head of the government, thus avoiding the costly duplication and growth of county government at the top.

The Charter Commission also deliberated as to whether the Charter should spell out the qualifications required for the position of County Manager. Some members felt that it should be stated explicitly that the manager must have at least five years of experience and a Master's degree in business or governmental administration. It was finally concluded that the decision on qualifications would be left up to the County Council, but that they should be directed to make a selection on the basis of "professional training."

SECTION 402. COMPENSATION. *The Council shall establish the salary for the County Manager at a level which is commensurate with the requirements of the position and shall at least annually review the salary.*

Characteristically many charter commissions have written into the charter the first salary for the County Manager, but in these days of escalating costs and rising salaries it was decided that the County Council should be allowed to make this decision based on the experience and qualifications of the manager applicant.

SECTION 403. POWERS. *The County Manager shall be head of the administrative branch of County government, serve as Clerk to the Council and shall be responsible to the Council for the proper administration of all affairs of the County.*

The County Manager, in terms of power, is in a position somewhat analogous to that of a president of a corporation serving under a board of directors. He has full authority for the administration of county government, and that carries with it a responsibility to the Council which makes him answerable for the administration of all affairs of the County. The Charter Commission was explicit on this point in a number of places in the drafting of the Charter in an effort to set the record straight, and to avoid any confusion of the new governmental form with that of the former County Commission form which mixed administrative and policy-making roles. In the reference to the Manager as clerk of the council, the Charter Commission had in mind the responsibility formerly assigned to the clerk of the Circuit Court, who, according to the statutes, served as "ex-officio clerk of the board of County Commissioners." This responsibility is transferred by the Charter to the County Manager.

SECTION 404. NON-INTERFERENCE BY COUNTY COUNCIL. *Except for the purposes of inquiry and information, the Council and committees or members thereof are expressly prohibited from interfering with the performance of the duties of any employee of the County government who is under the direct or indirect supervision of the County Manager. Such action shall be malfeasance within the meaning of Article IV, Section 7 (a) of the Florida Constitution.*

The object of this section was to preserve the "separation of powers" established in the other parts of the Charter. This non-interference clause is found in nearly all constitutions and charters of governments where there is a separation of the administrative and legislative functions, whether the chief administrative officer be elected or appointed. This section in no way prevents the Councilmen from making every effort to become more fully aware of any operation of any department of the County, but it is instituted in order to remove political favor and pressure from the administrative sector of government. The Charter Commission realized that the enforcement of this provision will be difficult, but it believed that capable career service employees in the administrative branch should be protected from personal and political interference by members of the legislative branch.

SECTION 405. TEMPORARY ABSENCE. *The County Manager may, subject to the approval of the Council, appoint one of the other officers or department heads of the County government to serve as County Manager in his absence.*

Basic to the success of charter government is the presence within the county at all times of an administrative head of the government to exercise the prerogative of the County Manager when necessary. Provision of the Charter in this regard is standard and allows the County Manager, when he must be temporarily absent from the County, to designate an acting County Manager subject to the approval of the Council.

ARTICLE V. JUDICIAL SYSTEM.

SECTION 501. COURTS. *The judicial branch of the Charter Government shall be as provided by the Constitution and Laws of Florida and this Charter.*

One of the more difficult aspects of county government with which the Charter Commission grappled was the question of the relation of the courts to the government under the Charter. The courts are not included among the various units of government in Article VIII of the Constitution which may be reorganized and reformulated within the Charter. Apparently any substantive change in the court system is a matter of general law, under Article V of the Constitution, except in the case of constables and JP courts in which certain modifications of a local nature may be made by special law approved by vote of the electors. At the time the Charter was being formulated, there was pending a proposed constitutional amendment to substantially revise Article V of the State Constitution which details the organization of the State court system. Although this amendment was not adopted, a special act for Volusia County, was approved by the electors at the General Election of 1970, which shall reduce the number of JP districts from 12 to 5 in 1972.

SECTION 502. DUTIES OF THE COUNTY COUNCIL IN RESPECT TO COURTS. *The Council shall have the powers and duties with respect to the various courts of the County and their judges, clerks, constables and employees, which by law, the Board of County Commissioners of the County had prior to the effective date of this Charter except as may be otherwise provided by this Charter.*

Although the court system does not come within the purview of the Charter, the County Council does have jurisdiction over some facets of the functioning of the courts and of the various officers of the court, especially in the area of budget formation and control as outlined in Sec. 307 above. The purpose of Sec. 502 was to preserve for the

Council those powers and duties which the County had previously exercised with respect to the court system.

SECTION 503. JUDICIAL OFFICES. *The office of the Clerk of the Circuit Court and all other offices of the various courts of the County shall continue, and all laws applicable thereto shall continue in full force and effect except as herein expressly provided to the contrary. The Clerk shall qualify, be nominated, elected and serve as is provided by the Constitution and Laws of Florida.*

Article VIII of the Constitution, in referring to the duties of the Clerk of the Circuit Court, distinguishes between those functions assigned to the office which are of a judicial nature, and those functions which are connected with the administration of the county government. Article VIII of the Constitution empowers the transfer from the office of the Clerk of the Circuit Court of those administrative duties of the Clerk, but leaves intact the position of the Clerk of the Circuit Court in his judicial position. The Charter therefore provided that the Clerk would remain as the constitutional officer, and that the various judges of courts in Volusia County would continue to be elected and to operate in the manner prescribed by the Constitution and laws of Florida.

SECTION 504. COUNTY JUDGES COURT AND COURTS HAVING JURISDICTION OF MISDEMEANORS. *The County Judges court and other courts now having jurisdiction of misdemeanors initially shall have jurisdiction in all cases where persons have been charged with violation of an ordinance of the County. Thereafter, the County Council may vest by ordinance said jurisdiction in a court or courts designated to try misdemeanors or such magistrate courts as shall be created in Volusia County.*

The Charter provides that the violation of a county ordinance shall be a misdemeanor, with the handling of such misdemeanor cases in the County Judges' Court or the JP Courts—that is, in courts having jurisdiction over misdemeanors.

ARTICLE VI. ADMINISTRATIVE DEPARTMENTS OF THE GOVERNMENT

SECTION 601. INITIAL DEPARTMENTS. *The following initial departments are hereby established for the Charter Government:*

- (1) Department of Central Services.
- (2) Department of Finance.
- (3) Department of Public Safety.
- (4) Department of Public Works.
- (5) Department of Public Services.
- (6) Department of Social Services.
- (7) Department of Planning and Development.
- (8) Department of Assessments.
- (9) Department of Elections.
- (10) Department of Legal Services.

The enumeration of the departments of county government is not intended to be exclusive. For this reason they are referred to as initial departments, and they were at the time of the drafting of the Charter the existing departments of County government, as nearly as the services performed by the County Government could be logically and systematically divided into departments.

Article VIII, Sec. 1d of The Florida Constitution (Art. VIII, Sec. 1d) contemplates that a County Charter may abolish any County office, transferring all of the duties to another office. This power has been exercised by the Charter with respect to the offices of Sheriff, Supervisor of Elections, Tax Assessor, and Tax Collector as specifically appears in the enumerated sub-section of Sec. 601. The same Article and Section also contemplates that certain duties of the Clerk of the Circuit Court which have been assigned to him, in addition to his duties connected with the court system, may also be transferred by the County Charter.

The Charter determines that those functions of the Clerk of the Circuit Court as *ex officio* clerk of the Board of County Commissioners, auditor and custodian of County funds shall be transferred to the enumerated departments of County Government. The duties of the Clerk as recorder are purposely omitted from this transfer, and thus remain with the constitutional officer, Clerk of the Circuit Court. This specific determination was made in order that the recording function for deeds and similar instruments of record would be associated with the duties of Clerk in serving the court system of the County, with which these duties of recorder seem most closely aligned. At the time that the Charter was drafted the legislature had not arranged in clear categories the several general laws of the State of Florida relating to the duties of the Clerk in accordance with the terminology utilized in the Constitutional Article VIII. There are, therefore, many duties of the Clerk as *ex officio* clerk of the Board of County Commissioners, or words substantially to this effect, which must be performed by the Charter Government. The assignment of the exact method by which the Charter Government is to perform these functions must be made by the administrative code, as otherwise provided in the Charter.

Section 601.1. Functions and duties of departments receiving powers of former constitutional officers.

(1) Department of Finance: *The Department of Finance shall be responsible for the administration of all financial affairs of the Charter Government and such other duties provided by this Charter.*

(a) *The office of Tax Collector is hereby abolished and all functions and duties of that office now prescribed by the Constitution and the Laws of Florida are hereby transferred to the Department of Finance.*

(b) *All fiscal functions and duties now prescribed by the Constitution and Laws of Florida for the office of the Clerk of the Circuit Court which relate to the Clerk's duties as ex-officio Clerk to the Board of County Commissioners and auditor and custodian of all County funds are hereby transferred to the Department of Finance.*

Special mention should be made concerning the elimination of the elective office of Tax Collector since in effect each of the other constitutional officers were continued in altered form as county officers having command of the department of County Government with responsibilities similar generally to those which were assigned to them under the Constitution and Laws of Florida. The Charter Commission received favorably the strong recommendation of its Committee on Finance and Taxation that the office of Tax Collector must necessarily be combined with the Finance Department of the County Government because its functions are inseparably linked with the total functioning of the financial branch of county government in the collection, handling, and management of the tax funds. Additionally, in contrast to the other constitutional officers, it was found that the duties and responsibilities of the Tax Collector were essentially ministerial in nature and did not involve a large area of discretionary, or "political", decisions. Consequently, the former Tax Collector was continued as an employee of county government rather than as an elected official. The responsibilities relating to the tax collecting function were vested in the Treasurer, and the office of Treasurer was necessarily defined by the financial article of the Charter as being subordinate to the Finance Director, whom the County Council retained the power to appoint and dismiss. This would enable the County Council to exercise the full budgetary control contemplated by the Charter.

(2) Department of Public Safety: *The Department of Public Safety shall be responsible for the control, operation and administration of the duties of law enforcement and civil defense and such other duties provided by this Charter. All functions and duties now prescribed by the Constitution and Laws of Florida for the office of Sheriff are hereby transferred to the Department of Public Safety, and the constitutional office shall thereupon be terminated.*

Law enforcement in Volusia County is characterized by a maze of fragmented and overlapping jurisdictions, with twelve constables, separate municipal police departments, and the County Sheriff. Although many instances of cooperation between municipal police departments and with the Constables and Sheriff were cited, it appears that such cooperation has occurred mainly on an *ad hoc* basis.

The Sheriff apparently functions primarily to provide some degree of police protection in the unincorporated areas. Therefore, all the population of the County, including the population of the cities, is paying for law enforcement in the unincorporated areas. The Charter, in Sec. 202.1, does open the way to greater coordination in the future by allowing the transfer of functions, including law enforcement, between the County and the municipalities.

With the abolition of the Constitutional office of Sheriff and the transfer of all his constitutional and statutory duties to the Department of Public Safety headed by an elected Director, the Charter has sketched in the general framework for an efficient countywide law enforcement operation which can evolve in the future according to the wishes of the citizens of Volusia County. As an integral part of County governmental process, the Department of Public Safety will operate under the budgetary controls of the Department of Finance and will utilize the Department of Legal Services and the Department of Central Services.

(3) Department of Assessments: *The Department of Assessments shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and Laws of Florida for the office of Tax Assessor and all such functions and duties are hereby transferred to this Department and the constitutional office shall thereupon be terminated. In addition, the Department of Assessments shall perform a continuing review of the assessment and exemption of all real and personal property within the County sufficient to permit the annual presentation of a Tax Equalization Study and Report for the Board of Equalization. Further, the Department of Assessments shall perform such other functions as may be prescribed by this Charter or the Council.*

The first part of the second sentence of this sub-section relating to a continuing review of assessments and exemptions is believed to be a duty which is now already imposed upon tax assessors by Florida Law. The presentation of a Tax Equalization Study and Report for the Board of Equalization is new, but it is not believed to be in conflict with Florida Law. The purpose of the same is to inform the Board of Equalization as to which properties and/or taxpayers receive tax re-evaluation notice (increase and decreases and exemptions or removal of exemptions) with respect to payment of taxes. There is existing machinery of review in the law whereby the Board of Equalization hears complaints about the assessor relative to increases in assessments and removal of exemptions, but the Board of Equalization is seldom informed, if ever, with respect to decreases in assessments and granting of exemptions, or the extent to which the assessor has preserved the status quo. While the Board of Equalization may not possess the power to change the decisions of the Assessor in the latter respect where no taxpayer complaint is forthcoming it was the feeling of the Charter Draftsmen that the Board of Equalization should be thoroughly informed on all matters pertaining to assessment and exemptions so that through such reports to him, it might in turn choose to have a more informed electorate on the subject of taxation and might choose to request a more thorough review of assessment and exemption practice, in general or in particular, of the appropriate state governmental agency or department charged with such duty. In brief, the charter draftsmen were striving to provide a strengthening of the system of checks and balances.

(4) Department of Elections: *The Department of Elections shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and Laws of Florida for the office of Supervisor of Elections and all such functions and duties are hereby transferred to this Department and the constitutional office shall thereupon be terminated.*

The Charter Commission determined that this department was responsible for the propriety, fairness and constitutionality of all elective procedures in federal, state, county, and city elections. In order to guarantee the impartiality in the operation of this office and in an absence, to the degree possible, of the exercise of collateral political pressures the office of Supervisor of Elections should remain elective and directly responsible to the voters whose elections are supervised. The Commission also realized that this office had only recently been deemed so important by the voters of the State of Florida that it was made a separate constitutional office under the new Florida Constitution, and that therefore in transferring the powers of this office to the new County Government the head of this department should be retained as a separate elective county officer.

(5) Department of Central Services: The Department of Central Services shall be responsible for control and operation of personnel, motor pool, clerical and records, purchasing, data processing and building maintenance divisions and such other duties as provided by this Charter or the Council. All functions and duties now prescribed by the Constitution and Laws of Florida for the office of Clerk of the Circuit Court which relate to the duties as ex-officio Clerk to the Board of County Commissioners and keeper of the official minutes to the Board of County Commissioners, are hereby transferred to the Department of Central Services. All functions and services of the Department of Central Services shall be provided to all departments and operations of the Charter Government, and all departments and operations of the Charter Government shall be required to utilize the services provided by the Department of Central Services unless exceptions are specifically approved in each case by the County Managers.

One of the glaring inefficiencies discovered in the operation of the County Commission form of government was in the area of control of personnel, purchasing of supplies and materials, including large capital expenditures, and record keeping. Each department and agency was empowered to perform all of the above duties independently and without coordination although there were a number of attempts at cooperation between departments to save tax dollars. In keeping with sound business practice, which includes the coordination of all of the services such as personnel and purchasing, the Charter Commission decided to include a department of central services that would be mandatory for the use of all departments and agencies of the Charter Government. Recognizing the fact that there would be instances in which the use of the Department of Central Services might not be economical, and in fact, inefficient, the power was given to the County Manager to make exceptions where there could be cost saving.

All of the functions and duties that are prescribed by the Constitution and Laws of Florida for office of the Clerk of the Circuit Court which relate to his duties as ex officio Clerk of the Board of County Commissioners and keeper of the official minutes of the Board of County Commissioners, and which were not already transferred to another department, were delegated to the Department of Central Services.

Section 601.2. Department of Legal Services. The Department of Legal Services shall consist of an attorney licensed to practice law in Florida, who shall be Director of the Department of Legal Services and such other similarly licensed attorney assistants as may be required. All such attorneys shall devote their entire practice to the representation of the County Charter Government. They shall represent the County Charter Government, the County Council, the County Manager and the elected and appointed department heads as County Officers, all other departments and divisions of County government and all adjustment, regulatory and advisory boards in all legal matters affecting the County government. Special attorneys and experts shall be employed only when required in specific matters upon the recommendation of the Director of the Department and approved as a budgetary expenditure in the best interests of the County.

The Charter Commission discovered that the county government had extremely decentralized legal services, involving at least 19 separate attorneys acting as counsel for various offices and departments. According to best estimates the total cost of legal fees annually ran in excess of \$100,000. Concern was also expressed that on occasion attorneys representing the County on a part-time basis might encounter a situation bordering on conflict of interest. For these reasons it was decided that the county government should have a single legal department directed by a full-time attorney appointed by the County Manager and confirmed by the County Council. This would also guard against such eventualities as having different offices within the county government bringing suit against each other. All regulatory and advisory boards would be represented by the County Legal Department, and would no longer retain their separate independent attorneys.

SECTION 602. DEPARTMENT DIRECTORS. The director of each department shall be the principal officer of the department and responsible for all its operations and such division heads as may be necessary. Each director and division head except as otherwise

provided in this Charter shall be appointed by the County Manager subject to confirmation by the Council and shall serve at the pleasure of the County Manager.

This section creates a "strong" manager form of government. It is customarily found in charters where there is a division of powers. The distinguishing feature of the "strong" manager form of government found in this section is that the County Council confirms the appointment of the department heads made by the County Manager, but they serve at the pleasure of the County Manager just as he serves at the pleasure of the County Council.

Section 602.1. The directors of the following departments shall be elected every four (4) years at the general election.

- (1) The Sheriff, who shall serve as the Director of the Department of Public Safety.*
- (2) The Supervisor of Elections, who shall serve as the Director of the Department of Elections.*
- (3) The Assessor, who shall serve as the Director of the Department of Assessments.*

The general principle followed by the Charter Commission in determining which offices should be elected and which should be appointed was to determine whether or not the duties involved were of a ministerial nature, that is, whether the office required the use of discretionary judgment in the discharge of its function. Quite clearly the electorate of Volusia County regarded the Sheriff, the Supervisor of Elections, and the Assessors as individuals who exercised such an area of discretionary, almost quasi-judicial responsibility. In the case of the Supervisor of Elections the argument primarily was that to make the office appointive would be to subject the Supervisor of possibility of political pressure from the County Council and others. Evidence was presented which showed that in those counties where the Supervisor of Elections has not been independent the system of elections and registrations have been subject of unfortunate influences.

SECTION 603. CHANGES IN DEPARTMENTS. *Changes shall be made in departments headed by elected directors only by amendment of this Charter. In all other cases the County Council may by ordinance make changes in any or all department organizations including combinations, deletions and creation of departments or divisions or transfer of responsibility between departments and divisions.*

Because of the special status of the elected department heads, it was deemed necessary to allow substantive changes in the powers of those departments only through amendment of the Charter. In all other departments the power of making departmental change to improve the efficiency and economy of the government is vested in the County Council, and nothing in the Charter referring to the detailed organization of the initial departments prohibits the decision by the County Council to make necessary changes.

SECTION 604. ADMINISTRATIVE CODE. *The County Manager shall prepare the initial Administrative Code which shall set forth the department organization of the government and the nature and scope of each department together with all required rules and procedures for the operation of said departments. The Administrative Code shall then be submitted to the Council for review, amendment and adoption. The Council shall adopt the Code within three (3) months of the date submitted. If not adopted within three (3) months, the Code as originally prepared by the County Manager shall be considered approved and shall remain in force until such time as it may be formally amended by the Council.*

Recognizing the importance of the Administrative Code, the Charter (Sec. 1517) directs the County Manager to prepare the initial Administrative Code setting forth the manner of operation of the County Government, and instructs that the drafting of the Code be completed within three months after his appointment. During the initial period of the Charter, a time limit of three months was placed upon the Council in order to stress the urgency of the adoption of the Code prior to the adoption of the first budget by the charter government. The Charter Commission felt it would be essential that the personnel system, the merit system, and the administrative code should be prepared and adopted, and be available for the preparation and adoption of the first charter budget. If the Council has not acted

within three months, the Code that the manager presented would remain in force until it was formally amended and adopted by the Council. The detailed rules and procedures guiding the actions of the County Government are customarily not included within the Charter itself, but are developed in a separate body of administrative guidelines that can be changed more readily by the Council upon two-thirds vote. Inclusion of such detail in the Charter would otherwise necessitate a formal amendment and vote by the people in order to make the required change.

ARTICLE VII. ADJUSTMENT, REGULATORY AND ADVISORY BOARDS.

SECTION 701. INITIAL BOARDS. *The Council may create by ordinance, specifying the duties and membership thereof, such adjustment, regulatory and advisory boards as it finds necessary. Members of these boards shall serve without compensation, except for necessary expenses approved by the Council. All such boards shall be part of the Charter Government and shall utilize the services of the Department of Legal Services.*

All adjustments, regulatory, and advisory boards are responsible directly to the County Council, and may be created or abolished by county ordinance. Although these bodies are valuable adjuncts to the operation of the County Government, the Charter Commission was appalled by the number and expense of such agencies. The Commission therefore decided to bring all such bodies directly under the power of the County Council, and to provide that no compensation, except direct expenses, would be allowed to members of these boards. All such boards are required to make use of the Department of Central Services as well as the Department of Legal Services, something which was an additional expense to the former county government.

Although the Charter is silent on the subject of zoning regulation, a thorough study was carried out by a special advisory committee to the Charter Commission. With the exception of the zoning commission of South Peninsula, which was created by special legislation approved by a vote of the electors, and which includes territory both inside and outside of a municipality, it was found that under F.S. 69-133 the County Government has power to create any system of zoning regulation which it deems advisable. The County Council therefore is empowered to deal with the problem of zoning and to establish the degree of consolidation of the zoning function which it might deem wise and in the best interest of Volusia County.

ARTICLE VIII. SCHOOL SYSTEM.

SECTION 801. RELATION TO THE CHARTER GOVERNMENT. *All those functions now performed by the Board of County Commissioners, the Tax Assessor and Tax Collector for the district school board after the effective date of this Charter, shall be performed by the appropriate department or division of the Charter Government.*

Originally the Study Commission intended to make recommendations concerning the composition of the school board, and in the original draft of the Charter an appointed superintendent of schools was recommended and an expanded school board with a similar representation by district and at-large was included. After consultation with the Attorney General's office concerning Constitution (Art. VIII) the Commission was informed that under Art. IX of the Constitution the school system was now to be a district, not a county, school system and could not be included under Charter County Government. The Charter therefore in Sec. 801 merely transferred the services that were provided by the former elected officials of the old County Government to the corresponding departments of the Charter Government.

ARTICLE IX. ELECTIONS.

SECTION 901. COMMENCEMENT OF TERMS.

This section was originally placed in the outline of the Charter draft for the purpose of indicating the date when the term of office of members of the council would begin. The

provision on this point was subsequently transferred to another section, and therefore this section should be amended out of the Charter.

Section 901.1 Election Procedures.

(1) *Except as otherwise provided by this Charter, elections for County Council members shall be held at the time of the general election in every even year.*

(2) *Except as otherwise provided by this Charter, candidates for County offices shall qualify in accordance with the Laws of Florida.*

(3) *In the event that more than two candidates have qualified for any single seat under the Charter Government, a primary election shall be held at the time of the first state primary election prior to the general election and providing no candidate receives a majority of the votes cast, the two candidates receiving the highest vote shall be placed on the ballot for election at the time of the general election."*

Setting the election for the County Council at the time of the general election every two years was a matter that engendered some discussion. Different members of the Charter Commission considered that it might be better to hold the county elections at some other time than the general elections in order to focus public attention more thoroughly on the county candidates and on local issues. In the end the commission generally agreed that it would be not only more economical to hold the election at the time of the general election, but also that it would be more likely that a higher number of electors would participate than in a special election.

As originally drafted, the Charter envisages the conduct of Council elections under the laws and Constitution of the State of Florida which provide for partisan election. Sentiment on the Charter Commission was almost equally divided among those who felt that members of the Council should run under a party label and those who felt that the election should be non-partisan. In consultation with the legislative delegation from Volusia County, it was decided that an amendment should be included as a separate matter in the referendum presented to the people on June 30, 1970, in which the electors would determine whether to amend the Charter to insert a provision for non-partisan elections. To the surprise of many, the electors of Volusia County voted almost two-to-one to make this change. As adopted, the non-partisan formula means that if there are more than two candidates qualifying for the same seat, the candidates would appear on the ballot at the first primary election, if no candidate receives a majority of the votes cast, the two candidates receiving the highest vote would appear on the ballot at the general election.

SECTION 902. CANVASSING BOARD. *In all elections there shall be a Canvassing Board composed of the Supervisor of Elections, the Chairman of the County Council and the County Judge.*

This section tracks F.S. 89-102.141 which names the officials composing the Canvassing Board and allows for their substitute replacements.

SECTION 903. CONDUCT OF ELECTIONS. *All elections shall be held and conducted pursuant to the provisions of the Laws of Florida, except as otherwise provided in this Charter.*

Upon the advice of the Supervisor of Elections, it was decided that the Charter should not attempt to detail the entire procedure and law regulating elections, but rather should refer to the provisions of the general law of the State of Florida.

"SECTION 904. NON-PARTISAN ELECTIONS. *Elections for all offices shall be on a non-partisan basis. No candidates shall be required to pay any party assessment or be required to state the party of which they are a member or the manner in which they voted or will vote in any election. All candidates names shall be placed on the ballot without reference to political party affiliation."*

This section was amended to the Charter and it provides for the election of all officers of the Charter on a non-partisan basis; this includes Councilmen as well as the three elected

department heads. The statute goes on to say that none of the candidates will be required to pay the two per cent party assessment called for in F.S. 69-99.092, but that he will be required to pay the three per cent filing fee to the Clerk of the Circuit Court in his capacity as Clerk of the Board of County Commissioners (F.S. 69-99.061) and that it would not be necessary for the candidate to declare any party affiliation. Since this statute instructs the Clerk of the Circuit Court to remit to the Secretary of the State Executive Committee of the political party to which the candidate belongs the full amount of the filing fee and so designates that two-thirds of it to be used to promote the candidacy of the candidate for the county office and the members of the legislature, the Commission concluded that the three per cent fee paid to the clerk should be remitted to the general fund of the county for the purpose of defraying a portion of the cost of holding the election.

ARTICLE X. PERSONNEL ADMINISTRATION.

SECTION 1001. MERIT SYSTEM. *There shall be a merit system for the employees of the Charter Government. The Council shall enact such ordinances as may be necessary to fully implement the merit system.*

Prior to the Charter Government, Volusia County had no personnel director or personnel system providing protection for the employee against arbitrary action or guaranteeing equal work for equal pay. Interestingly enough, several states, including Maryland, have passed general legislation requiring charter counties to have a merit system. The state of Florida has no such requirement, and Sec. 1001 was necessary in order to implement the principle for Volusia County.

SECTION 1002. EMPLOYMENT POLICY. *The merit system shall provide for the qualifications and shall through the Personnel Department, under the direction of the Personnel Director, certify personnel for employment, promotion, demotion, transferral, dismissal and compensation, solely on the basis of merit and qualification without regard to religion, political affiliations, race, color, sex, national origin or any other circumstances other than merit and qualification with the exception that he or she must be a citizen of the United States of America.*

The heart of any merit system is the guarantee that ability and the quality of job performance are the sole bases for advancement and salary adjustment. The merit system must guard against the influence of arbitrary factors such as those enumerated in Sec. 1002.

SECTION 1003. PERSONNEL BOARD.

Section 1003.1. Appointment-Removal. *There shall be a Personnel Board consisting of five (5) members who shall be appointed by the Council. The Personnel Board shall designate its own Chairman and Vice-Chairman at least every two (2) years from the date of its first appointment. Members of the Personnel Board shall serve for a term of six (6) years, except that of the members first appointed, one (1) shall be appointed to serve for six (6) years and two (2) for four (4) years and two (2) for two (2) years. Vacancies in an unexpired term shall be filled by the Council by appointment for the remainder of the term. A member of the Personnel Board may be removed by the Council by a two-thirds (2/3) vote, only for cause and after being given a written statement of the charges against him and in a public hearing thereof if he so requests.*

Section 1003.2. Qualifications. *Each member of the Personnel Board shall be a qualified elector of the County, shall be known to be in sympathy with the merit principle as applied to the merit system, shall neither hold nor be a candidate for any public office or employment and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization.*

Section 1003.3. Powers and Duties. *The Personnel Board shall have all of the powers and duties as described in the merit system rules and regulations as adopted by the Council.*

The Charter Commission provided for a personnel board composed of five members who would be appointed by the County Council, to have all powers and duties as described in the merit system rules and regulations. One of the main functions of the personnel board is to hear grievances of employees so that the same branch of government could not sit in judgement on its own decisions. A rotational period of appointment was established in order to provide for continuity of membership on the board. A member of the personnel board could only be removed for cause by a two-thirds vote of the County Council. In the attempt to take politics out of this board none of the board members could be a candidate for or hold any public office, or be a member of a local, state, or national committee of a political party, or be an officer in any partisan political club or organization.

SECTION 1004. PERSONNEL DIRECTOR.

Section 1004.1. Qualifications. *The Personnel Director shall be chosen on the basis of his professional training and experience in personnel administration.*

Section 1004.2. Powers and Duties. *The Personnel Director shall have all of the powers and duties as described in the merit system rules and regulations as adopted by the Council.*

While the Charter does not establish any binding qualifications in the selection of the Personnel Director by the County Manager, it does envisage that the Personnel Director will have professional training in public personnel administration and experience in the same area.

SECTION 1005. UNCLASSIFIED AND CLASSIFIED SERVICE. *The merit system shall provide for the employment of qualified personnel and shall include all necessary provisions to insure protection to both employees and employer. Said system shall have two (2) basic divisions, those being:*

- (1) *The Unclassified Service shall comprise the following offices and positions:*
 - (a) *Elected officials and persons appointed to fill vacancies in elected offices.*
 - (b) *The County Manager.*
 - (c) *Aides to the County Manager, in the operation of his immediate office.*
 - (d) *The director of administrative departments appointed by the County Manager.*
 - (e) *One aide, appointed by the director, for each of the administrative departments.*
 - (f) *Members of advisory boards, commissions and committees appointed by the Council or County Manager.*
 - (g) *Persons employed in casual employment for brief periods, but not in excess of ninety (90) days because of temporary increase in volume of work or emergency conditions. The authority to extend a temporary period of employment shall be approved by the Personnel Board in increments of ninety (90) days.*
 - (h) *Persons under contract to conduct special studies or perform special surveys or services.*
 - (i) *Attorneys, physicians and dentists.*
- (2) *The Classified Service shall comprise all positions not specifically included by this Section.*
- (3) *The determination of the Personnel Board shall be final as to whether offices and positions are under Classified Service.*

The purpose of Sec. 1005 is to define those positions which are in the unclassified service—that is, those not covered by the job-security protection of the merit system. If the County Manager is to have the responsibility of carrying out the program of the County, the logic of leaving the top level members of the administrative staff in an unprotected position in terms of job security is that the County Manager must have a free hand to organize and structure the personnel directing the major departments in order to carry out the mandate which he has. Experience indicates that it is necessary for the top official of the county government to have the personal confidence of the Manager if they are to perform their duties effectively. Other categories of personnel enumerated in Sec. 1005 are excluded from the classified service if they fall either into specialized classes of professionals, such as attorneys, physicians and dentists or if their service in the county government is of a temporary nature or is on a sporadic basis. Obviously not all positions will fall readily into one or the other of the two categories of personnel, and thus it was deemed necessary to vest in the personnel board the final responsibility for making such a determination.

SECTION 1006. PERSONNEL REVIEW. *Any person covered by the merit system shall be entitled to request a review by the Personnel Board of any action taken by the administration of the Charter Government pertaining to his employment or employment rights established under the rules and regulations of the merit system.*

The individual employee under the Charter Government may at any time appeal any action taken by the Government in relation to his employment—that is, his promotion, salary, or various employee benefits. Because of the composition of the personnel board, it will be in a position to carry out its appellate function without the influence of any special or political interest.

SECTION 1007. EMPLOYEE REPRESENTATIVES. *Classified Service employees as provided in the Administrative Code may elect, annually, representatives who may attend the Personnel Board meetings to bring to the attention of the Personnel Board complaints, requests and considerations of the employees.*

Although some county charters designate one member of the personnel board as being a member of the classified service, the Volusia Charter provides that no member employed in the public service may sit on the personnel board. Sec. 1007, however, does create a channel whereby employees may elect representatives to attend the meetings of the personnel board annually to present complaints and to represent the interests of county employees.

SECTION 1008. OATHS. *For the purpose of the administration of the personnel provisions of this Act, any member of the Personnel Board shall have the power to administer oaths.*

The inclusion of this provision enables any member of the Personnel Board to take sworn testimony which might be necessary in a personnel review action. This is similar to the power given to any investigating body, such as a grand jury or civil service boards, and facilitates the investigations of the Personnel Board.

SECTION 1009. AMENDMENT TO RULES AND REGULATIONS. *A two-thirds (2/3) vote of the full Council shall be required to amend the rules and regulations of the merit system.*

Because the Rules and Regulations of the Merit System are extraordinary in nature and should not be changed except for strong reasons, the Charter requires a two-thirds vote of the full Council (6 votes of 9, or 5 votes of 7) to make changes.

SECTION 1010. RETIREMENT SYSTEM. *All officers and employees of the Charter Government shall be covered by the "State and County Officers Retirement System" as provided by law.*

The effect of Sec. 1010 is to place all county employees under the retirement program as outlined by law (F.S. 69-650). Heretofore county employees have participated in the State and County Officers Retirement System, and this participation is continued. In reference to Sec. 1010 a supplemental retirement act for retired county employees is referred to in F.S. 69-123.51 to 123.61.

SECTION 1011. ADOPTION OF MERIT SYSTEM. *The County Manager shall be responsible for the preparation and presentation to the Council of the proposed merit system complete with classification, pay plan or amendments thereto. The initial proposal shall be presented prior to the adoption of the first budget by the Charter Government.*

The County Manager (through the Personnel Director) is responsible for the preparation and presentation to the Council of the initial merit system, a step which must be taken prior to the adoption of the first budget. This is in order that a more accurate budget can be prepared without the necessity of delaying the implementation of a personnel system for another year.

ARTICLE XI. FINANCE.

SECTION 1101. FISCAL YEAR. *The fiscal year of the Charter Government shall begin on the first day of October of each year and shall end on the following thirtieth day of September.*

The Florida Statutes (69-129.04) prescribes that the fiscal year for counties shall commence from the first day of October, and the Charter tracks that provision.

SECTION 1102. GENERAL. *All County operations shall operate under a unified and uniform budget system. All fees collected by officers and employees of the County shall be deposited in the County Treasury and all officers and employees of the County shall be compensated by salaries, and no officer or employee of the County shall be compensated by fees.*

The Charter aims at creating a unified County Government, and the main tool for carrying this out is the budget process. The development of an overall County budget for presentation to the County Council is the responsibility of the County Manager, and all agencies of county government will submit budget estimates and justifications through that channel. In this connection the Charter Commission unanimously agree that the last vestiges of the free system in county government should be abolished. Thus an explicit provision was written into the Charter that all fees collected by offices of the county government should be deposited into the County Treasury and not used directly to pay the expenses or salaries of said offices or officers.

SECTION 1103. BUDGETS.

Section 1103.1. *Each County operation, pursuant to the budget call, shall submit to the Finance Department a detailed budget as may be required for the ensuing year's operation, plus such additional information as may be required by the Director of Finance.*

Section 1103.2. *The Director of Finance under the supervision of the County Manager shall prepare a budget call, compile all budget requests, prepare a tentative budget with comparative analysis from past years and submit the same to the Council for final determination and approval.*

Section 1103.3. *The Council shall review the tentative budget as submitted by the County Manager, together with the Manager's recommendations, and shall make such additions, deletions or changes as may be necessary to insure the proper funding of all operations of County government. The Council shall take action to insure that the total budget provides sufficient funds on an annual basis for all agencies and departments to carry out their duties and functions as provided by the Constitution and law and this Charter.*

Section 1103.4. *In the event that the Council shall determine that the millage to be levied for County purposes in any year will be such that said millage together with all special district millages subject to the millage limitation fixed by Article VII, Section 9, of the Florida Constitution for County purposes will exceed that limitation, then the Council shall have the power to reduce the millage requested by any or all of such districts after a public hearing so that the total shall not exceed the maximum millage for County purposes.*

The Finance and Taxation Committee of the Charter Commission, after detailed and exhaustive study, concluded that the process of budget preparation as outlined by F.S. 69-129 proved to be thoroughly inadequate for the layman in enabling him to understand where funds come from and exactly how they are to be disbursed. Therefore, the objective of the provisions of Sec. 1103 are to go beyond the minimal statutory requirements so as to enable a comprehensive and comprehensible view of county expenditures and county revenues by the citizen as well as by the County Council. One specific feature required by the Charter, the comparative analysis of the budget with expenditures and income from past years, was deemed to be particularly essential to a sound analysis of the budgetary picture. Though the County Manager has the responsibility for proposing the budget for consideration by the Council, the ultimate decision concerning the amount of appropriations, of

course, rest with the Council itself, subject to the limitations of the Constitution and general law.

Sub-section, 1103.4 tracks F.S. 89-129.05 which sets forth the procedure under which the County Commission (the County Council) fixes the millage for each of the taxing districts and funds (such as the fine and forfeiture fund). Specifically the County Council has complete jurisdiction over the allocation of the millage specified by general law of the Constitution (Art. VII, Sec. 9) for "county purposes". This power extends both to the review and adjustment of the millage levy proposed as well as to the budgetary expenditures requested by the agency concerned.

SECTION 1104. BONDS.

Section 1104.1. Outstanding Bonds. *All outstanding bonds issued by former governments including the Board of County Commissioners of Volusia County and all special districts or authorities abolished or altered by this Charter are obligations of the County Government; however, payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived from the same sources from which such payment would have been made had this Charter not become effective.*

Section 1104.2. Authority to Issue. *The Charter Government shall have the authority to issue any bonds, certificate of indebtedness or any form of tax anticipation certificates authorized by the Constitution which cities, counties or districts are empowered by law to issue.*

Section 1104.3. Sale of Bonds. *All bonds issued by the Council shall be sold at public sale and after being duly advertised shall be awarded to the bidder whose bid produces the lowest net interest cost for such bonds, calculated in the manner the Council may prescribe. The Council shall reserve the right to reject any and all bids.*

Section 1104.4. Bond Administration. *The Charter Government shall have the necessary authority to administer the collection of funds and the payments of amounts due on any bonds.*

Several guarantees are laid down by this section. First, the County assumes the obligation of all outstanding bonds issued by the agencies of the former Board of County Commissioners, but the responsibility for the payback rests with the particular area or former district within which said bonds had been issued. Sec. 1432 of the Charter, for example, continues the Turnbull Special Road and Bridge District for the singular purpose of fulfilling the contractual obligation of the district to the holders of bonds or certificate of indebtedness.

With reference to the authority of the Charter Government to issue bonds, the Constitution (Art. VII, Sec. 12) empowers the County to issue bonds payable from ad valorem taxation only "when authorized by law and only when approved by a vote of the electors who are owners of freeholds therein not wholly exempt from taxation."

The detailed specifications for the sale and administration of bond issues is set forth in Chapt. 130 of the Statutes of the State of Florida.

ARTICLE XII. CODE OF ETHICS.

The Code of Ethics as provided by general law shall have full effect on all employees and office holders under the Charter Government. Penalty for violation shall be provided by ordinance or as otherwise provided by general law.

The inspiration for the inclusion of a provision for a code of ethics was the passage by the State Legislature in 1969 of an inclusive act entitled "Standard of Conduct for Public Officers and Employees", as contained in F.S. 89-112.311-112.318. Several prohibitions in the law have special applicability to the Charter Government: first, no officer or employee of the County Government may accept any gift or favor that might reasonably tend to influence him in the discharge of his duties. Second, no officer or employees shall disclose confidential information gained by reason of his official position, nor shall he use this information for his personal gain or benefit. Third, no officer or employee shall accept

other employment which might impair his independence of judgment in the performance of his public duties. Fourth, no officer or employee shall transact any business in his official capacity with any business entity of which he is an officer, director, or agent, in which he owns a controlling interest.

In addition, F.S. 69-118, entitled "Powers and Duties of Officers", issues further directives concerning the nature of the conduct of officers of the County Government. For example, "any county officer who shall knowingly employ either directly or indirectly any person related within the fourth degree, either by consanguinity or by affinity, to such, the county officer shall be deemed guilty of misfeasance and malfeasance in office and subject to removal.

ARTICLE XIII. MISCELLANEOUS PROVISIONS.

SECTION 1301. EFFECTIVE DATE. *This Charter shall become law when approved by a majority of those electors voting on the matter in a special election to be held in the County under the provisions of the Constitution and Laws of Florida. The Charter Government shall assume all powers and duties provided by this Charter and not assumed under the provisions of Article XV of this Charter on the first day of January, 1971, the effective date of this Charter.*

Although the Charter became law on June 30, 1970, after its approval by the electorate in a referendum, and although certain provisions of the Charter became operative prior to January 1, 1971, the date of the institution of the first stages of Charter Government was not until January 1, 1971. Actually, not until after a two-year transition period will Charter Government be in full operation. Because of the complications relating to transition to the new government, the Charter Commission included a special article (Art. XV) which made special provision for the situations involving the transition itself.

SECTION 1302. AMENDMENT.

Section 1302.1. Amendment By Council. *The Council, by a two-thirds (2/3) vote of its full membership, shall have the authority to propose amendments to this Charter.*

Section 1302.2. Amendment By Petition. *Amendments to this Charter may be proposed by a petition signed by at least five (5) percent of the electors from each Council district of the County. Any such petition shall be filed with the County Manager and shall be executed and validated or invalidated by the Supervisor of Elections.*

Section 1302.3. Amendment Referendum. *Any such amendment as proposed in Section 1302.1 or 1302.2 shall be subject to referendum and notice of said referendum, together with the exact language of the proposed amendment, shall be published twice in a newspaper of general circulation in the County at least thirty (30) days prior to the referendum at the next general election. Passage of proposed amendments shall require approval of a majority of electors voting in said election.*

The procedure for amending the Charter to a large extent parallels the process in the amendment of the state Constitution—that is, the amendment would be proposed by a two-thirds vote of the Council (5 of 7 members, or 7 of 9 members) and then submitted to a vote of the electors. Recognizing that on occasion the Council may be hesitant to initiate an amendment for referendum, the Charter sets forth a means whereby an amendment may be proposed by petition. The petition, however, must be signed by at least five per cent of the electors from each of five council districts in the County. This means that an amendment initiated by petition could not come from one section of the county only. The adoption of an amendment can take place only by referendum on the proposed amendment, and the election must take place at the time of the regular general election.

SECTION 1303. CHARTER REVIEW. *The Charter Review Commission shall consist of the same number of persons and shall be appointed in the same manner as shall*

be provided by general law for the appointment of Charter Commissions in counties without Charters. The Commission shall be appointed at least once every ten (10) years to review the Charter and ordinances of the County. The Commission shall be appointed not more than eighteen (18) months prior to the next succeeding general election. The Commission shall be funded by the Council and shall be known as the "County Charter Review Commission." It shall, within one (1) year from the date of its first meeting, present to the Council any recommendations for amendment to the Charter. After receipt of the Charter Review Commission's recommendations, the Council shall conduct a series of not less than three (3) public hearings on the recommended changes to the Charter and shall thereafter schedule a referendum on the proposed Charter amendment at the next general election.

The operation of the Charter Review Commission was derived from the content of F.S. 69-125.61 — 125.64 which deals with the establishment of charter commission. This law defines the commission to be "a body of not less than 11 nor more than 15 and shall be appointed by the legislative delegation having jurisdiction in the Volusia County." No member of the legislature or the County Council may be a member of the Charter Review Commission.

The idea of building periodic charter review into the Charter itself is a standard practice in counties having charter government. Moreover the Constitution has a very similar provision built into it. Such a mechanism precludes the development of a situation similar to the one which the Charter and Study Commission faced—namely, the freezing of the structure of County Government around the model of the Constitution of 1885, without the possibility of any significant change or adaptation to modern problems and conditions. Quite clearly any body of elected officials may be expected to be resistant or reluctant to encourage the consideration of change, but Sec. 1303 guarantees that the recommendations of the Charter Review Commission shall be presented to the public for a vote as amendments to the Charter at the next general election following the submission of the recommended changes to the County Council.

SECTION 1304. EFFECT ON LOCAL LAWS. *All existing laws, ordinances, regulations and resolutions of the County shall remain operative except where inconsistent or in direct conflict with this Charter.*

This section is a standard "savings clause" preserving the existence of all valid local laws and ordinances passed by the County Commission prior to the effective date of the Charter. Literally hundreds of local laws have been passed over the years for the governance of Volusia County. One of the immediate tasks facing the County Council will be to sort through these local enactments to determine which should remain in effect and which should be repealed. It should be noted that the Constitution (Art. VIII, Sec. 8c) extends to the County Council the power to "amend or repeal by county ordinance local laws relating only to unincorporated areas of the county."

SECTION 1305. CONFLICT OF COUNTY ORDINANCES WITH MUNICIPAL ORDINANCES. *Notwithstanding any other provisions of this Charter, any County ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict, regardless of whether such municipal ordinance was adopted or enacted before or after the County ordinance provided that County ordinances shall prevail over municipal ordinances whenever the County shall set minimum standards protecting the environment by prohibiting or regulating air or water pollution or the destruction of the resources of the County belonging to the general public. In the event a County ordinance and a municipal ordinance shall cover the same subject matter, without conflict, then both the municipal ordinance and the County ordinance shall be effective, each being deemed supplemental to the other.*

Article VIII, Sec. 1(g) of the Constitution stipulates that "the Charter shall provide which shall prevail in the event of conflict between county and municipal ordinances." Predictably, the issue of the precedence of county ordinances was a touchy one with the fourteen municipalities within Volusia County. The Charter

Commission resolved the question by deciding that the Charter should not extend county powers into the area of municipalities except in the case of questions pertaining to air and water pollution and the destruction of natural resources of the county belonging to the public. In other words, the Charter preserved the existing boundaries between the powers of municipalities and the powers of the County. There was, however, general agreement among representatives and the municipalities and the County that in the many instances where municipal and county ordinances were similar, they should both be deemed effective and supplemental to each other, the reason being that mutual enforcement was then possible.

SECTION 1306. LEGAL ACTIONS INVOLVING THE COUNTY. *In any legal action by or against the County, its departments, or officers or employees of their office or employment for the County, the County as a Corporate Body shall be the party named and shall appear and participate in the cause on behalf of the department, officer or employee in such cause. Wherever the Tax Collector, Tax Assessor, Supervisor of Elections, Board of County Commissioners or Sheriff may or shall be parties to any legal action, the County shall be substituted as such defendant.*

Since the Charter Government consolidated the multiple departments of the former County Government, the Charter Commission concluded that it was best to have any legal action against the County or any of its departments or officers to be considered as a suit against the County. This was in keeping with the establishment of a Department of Legal Services, and it also grew out of the abolition of constitutional officers by the Charter and the creation of Departments of Government in their stead. For example, under the Constitution the office of Sheriff as a constitutional office was vested in the person of the Sheriff, but the Charter changes this by vesting the power of the office in a department of law enforcement headed by an elected department head, the Sheriff.

SECTION 1307. POLITICAL ACTIVITIES. *No officer or employee of the Charter Government or member of the Personnel Board (except elected officers and members of the adjustment, advisory and regulatory boards) shall take an active part in political campaigns. No leave of absence shall be granted to any person for the purpose of participating in any political campaign. All such persons shall retain the right to vote as they choose and to express their opinions on all political subjects and candidates.*

In keeping with Sec. 404 (Non-interference by County Council), Sec. 602 (Appointment of Department Directors), and Sec. 1003.2 (Qualifications of the Personnel Board), the Charter restricts all appointed officials and employees of the County Government from active participation in a campaign for political office. This section was intended to prevent the development of a political patronage system within County Government. Its intent is to place the same restrictions on political activity by county employees as those placed on employees in the merit system at the municipal, state and federal level.

SECTION 1308. CONSTRUCTION OF ACT. *If any part of this Act is held unconstitutional, the remainder thereof shall remain in full force and effect.*

This, in essence, is the separability clause which allows any part of the Charter to be questioned constitutionally without affecting any other section.

SECTION 1309. INELIGIBILITY TO HOLD OFFICE. *No member of the Volusia County Charter and Study Commission which formed this Charter shall be eligible to hold any office, position or employment created by this Charter which carries compensation until January 1, 1972.*

The Charter and Study Commission, in order to head off any question of conflict of interest or personal motives of its members, felt it wise to include a section making any one of them ineligible to hold any compensated office, position, or employment with the Charter Government for a period of one year.

SECTION 1310. INELIGIBILITY FOR APPOINTMENT. No Council member during the term for which he has been elected or appointed, or for one (1) year thereafter shall be eligible for appointment to any office, position or employment in the Charter Government which carries compensation.

In order to prevent political favoritism, the Charter prohibits any member of the County Council from being appointed to any position with the Charter Government that carries compensation either during his term of office or for one year following the conclusion of his term. Hypothetically, a council member who either retires or is defeated might possibly try to get a job in a department, and he might enjoy the support of sympathy of the members of the Council with whom he served. Such cronyism, however, is ruled out by this provision in the Charter.

SECTION 1311. The number of members, or votes necessary to satisfy any required fractional proportion of membership, or votes for the purpose of establishing a quorum, or taking any action of the Council or other board or body of County government, shall mean that whole number of members or votes which incorporates any fractional portion of a vote or members.

Because the size of the Council will vary during the first two years of the life of the Charter, beginning with nine members and then being reduced two years later to seven members, the Charter had to provide a formula for computing the numerical size of a vote. The meaning of the provision is that any fraction over a whole number will be the next higher number. For example, two-thirds of seven is 4.2; so a two-thirds vote on a Council with seven members would require five affirmative votes.

ARTICLE XIV. SPECIAL TAX DISTRICTS AND AUTHORITIES

SECTION 1401. EAST VOLUSIA NAVIGATION DISTRICT. The functions, responsibilities, duties and obligations of the East Volusia Navigation District as provided in Chapter 37-18967 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1402. HALIFAX AREA RESEARCH COMMISSION. The functions, responsibilities, duties and obligations of the Halifax Area Research Commission as provided in Chapter 59-1950 Laws of Florida as amended are hereby repealed.

SECTION 1403. HALIFAX DRAINAGE DISTRICT. The functions, responsibilities, duties and obligations of the Halifax Drainage District as provided in Chapter 19-7968 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1404. HALIFAX RIVER WATERWAYS IMPROVEMENT DISTRICT. The functions, responsibilities, duties and obligations of the Halifax River Waterways Improvement District as provided in Chapter 53-29596 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1405. LAKE ASHBY DRAINAGE DISTRICT. The functions, responsibilities, duties and obligations of the Lake Ashby Drainage District as provided in Chapter 18-7760 Laws of Florida are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1406. NEW SMYRNA INLET DISTRICT. The functions, responsibilities, duties and obligations of the New Smyrna Inlet District as provided in Chapter 25-10448 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1407. NORTH ORMOND DRAINAGE DISTRICT. *The functions, responsibilities, duties and obligations of the North Ormond Drainage District as provided in Chapter 27-12107 Laws of Florida are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1408. NORTHEAST VOLUSIA DEVELOPMENT AUTHORITY. *The functions, responsibilities, duties and obligations of the Northeast Volusia Development Authority as provided in Chapter 61-02977 Laws of Florida are hereby transferred and vested in the Charter Government and said Authority shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1409. SOUTH COUNTY DRAINAGE DISTRICT. *The functions, responsibilities, duties and obligations of the South County Drainage District as provided in Chapter 67-1022 Laws of Florida are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1410. TURNBULL HAMMOCK DRAINAGE DISTRICT. *The functions, responsibilities, duties and obligations of the Turnbull Hammock Drainage District as provided in Chapter 17-7611 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1411. VOLUSIA COUNTY SANITARY DISTRICT. *The functions, responsibilities, duties and obligations of the Volusia County Sanitary District as provided in Chapter 53-29587 Laws of Florida are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1412. VOLUSIA COUNTY WATER AND SEWER DISTRICT. *The functions, responsibilities, duties and obligations of the Volusia County Water and Sewer District as provided in Chapter 59-1951 are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1413. VOLUSIA COUNTY WATER DISTRICT. *The functions, responsibilities, duties and obligations of the Volusia County Water District as provided in Chapter 51-27960 Laws of Florida are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1414. WATER CONSERVATION AND CONTROL AUTHORITY. *The functions, responsibilities, duties and obligations of the Water Conservation and Control Authority as provided in Chapter 63-1019 Laws of Florida are hereby transferred and vested in the Charter Government and said Authority shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1415. DAYTONA BEACH SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Daytona Beach Special Road and Bridge District as provided in Chapter 25-11783 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.*

SECTION 1416. DELAND-LAKE HELEN SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the DeLand-Lake Helen Special Road and Bridge District as provided in Chapter 25-11275 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.*

SECTION 1417. DELEON SPRINGS-GLENWOOD SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the DeLeon Springs-Glenwood Special Road and Bridge District as provided in Chapter 27-13493*

Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1418. DELEON SPRINGS-SEVILLE SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the DeLeon Springs-Seville Special Road and Bridge District as provided in Chapter 21-8851 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.

SECTION 1419. HALIFAX-ST. JOHNS RIVER ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Halifax-St. Johns River Road and Bridge District as provided in Chapter 27-498 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1420. HALIFAX SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Halifax Special Road and Bridge District as provided in Chapter 27-13514 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.

SECTION 1421. LAKE HELEN-OSTEEN SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Lake Helen-Osteen Special Road and Bridge District as provided in Chapter 23-9654 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1422. NEW SMYRNA-CORONADO BEACH SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the New Smyrna-Coronado Beach Special Road and Bridge District as provided in Chapter 27-13497 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1423. NEW SMYRNA BEACH SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the New Smyrna Beach Special Road and Bridge District as provided in Chapter 19-8205 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1424. ORANGE CITY-ENTERPRISE SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Orange City-Enterprise Special Road and Bridge District as provided in Chapter 23-9653 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.

SECTION 1425. ORANGE CITY-LAKE HELEN SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Orange City-Lake Helen Special Road and Bridge District as provided in Chapter 27-13496 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on October 1, 1971, and said act is thereupon repealed.

SECTION 1426. OSTEE-ENTERPRISE SPECIAL ROAD AND BRIDGE DISTRICT. The functions, responsibilities, duties and obligations of the Osteen-Enterprise Special Road and Bridge District as provided in Chapter 29-14447 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.

SECTION 1427. OSTEEN-MAYTOWN, OAK HILL SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Osteen-Maytown, Oak Hill Special Road and Bridge District as provided in Chapter 27-13491 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1428. PORT ORANGE-INLET SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Port Orange-Inlet Special Road and Bridge District as provided in Chapter 27-13492 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1429. PORT ORANGE-SOUTH PENINSULA SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Port Orange-South Peninsula Special Road and Bridge District as provided in Chapter 49-26288 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1430. PORT ORANGE SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Port Orange Special Road and Bridge District as provided in Chapter 41-21057 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1431. SPECIAL ROAD AND BRIDGE DISTRICT. *The functions, responsibilities, duties and obligations of the Special Road and Bridge District as provided in Chapter 61-2973 Laws of Florida as amended are hereby transferred and vested in the Charter Government and said District shall cease to exist on the effective date of this Charter and said act is hereby repealed.*

SECTION 1432. TURNBULL SPECIAL ROAD AND BRIDGE DISTRICT. *The Turnbull Special Road and Bridge District, Chapter 23-9051 Laws of Florida as amended is hereby amended by adding a new Section to read: Section—. The Turnbull Special Road and Bridge District shall continue in effect with all necessary powers, including the power to levy taxes and special assessments, solely for the purpose of fulfilling the contractual obligations of the district to the holders of bonds or certificates of indebtedness and to the former State Road Department of Florida (now the Department of Transportation), including lease purchase agreements which exist on the effective date of this act or thereafter arise from such existing contracts, bonds, certificates or agreements. All other powers or duties and all real or personal property not included in the performance of such contracts, bonds, certificates or agreements are hereby transferred and vested in the Charter Government on October 1, 1971. From and after October 1, 1971, said district shall not levy any tax, special assessment or millage for any purpose except as hereinabove expressly authorized.*

The provisions in this article, abolishing special tax districts and authorities, probably are most responsible for the adoption of the Charter. Volusia County has been one of only two counties in Florida with separate special road and bridge district operations, a practice that divided the county into five separate road building operations with very little planning and coordination among the districts. Volusia County was the only county in the state which was allowed to tax homestead exempt property as a special benefit applied to the road and bridge districts. As a result, Volusia County produced more money for road and bridge construction than most counties in Florida during the past ten years, although some of the money was used for other purposes such as lifeguards.

The five separate road and bridge districts, created in the 1920's did not correspond to the County Commission districts they were supposed to serve, so the

funds collected were divided among the districts, according to the amount collected from each area. But the acts creating the districts dictated that they be operated separately, including the purchase of equipment and materials. The acts, as amended, permitted equipment and employees to be shared among the districts on a cost-reimbursement basis, but the road and bridge district operation remained on a separate basis operated by the individual district County Commissioner.

Further confusion was added to the situation with the creation of a sixth road and bridge district completely within one of the special road and bridge districts, but overlapping three of the five County Commission districts. This resulted in an unequal distribution of tax funds among the three districts, a condition which existed until the Charter study had begun and a County Commissioner called attention to the discrepancy.

Originally the municipalities along the Atlantic Ocean funded the operation of lifeguards within the city limits and the County took care of the lifeguard corps in the unincorporated areas. As the economic pinch became tighter on the municipalities, the County established a lifeguard corps in all of the areas of the county except in the cities of New Smyrna Beach and Ormond Beach where the County financed the lifeguard operation, but reimbursed the city for the operation.

The Study Commission was aware of the fact that the abolition of the six road and bridge districts would result in the loss of tax revenue because of the loss of tax upon the homestead-exempt property. Any attempt to amend the six road and bridge district acts to create a uniform system of road and bridge construction, however, would have made the special benefit of these tax districts unconstitutional. Because the road and bridge districts had actually resulted in the five separate operations, and in one of the largest expenditures for this operation within the State, and because Volusia County was the only county that taxed homestead property for road and bridge construction, the Commission decided to abolish the road and bridge districts and create a uniform road and bridge operation to initiate economy in operation and relieve the taxpayers of this added burden.

Three of the road bridge districts that were to be abolished had bonded indebtedness to the former State Road Department, so in order to prevent the transfer of this indebtedness to the whole county, two of these districts (Ormond Special Road and Bridge District and East Volusia Special Road and Bridge District) were left out of the Charter because they were in effect only for bonded indebtedness and were not operational districts. The other (Turnbull Road and Bridge District) was so amended as to continue it only for the purpose of levying a tax to pay back the bonded indebtedness, should the need arise. All of the other powers and operations relating to the road and bridge district were transferred to the Charter Government.

Since abolition of the road and bridge districts at the time of the Charter referendum would have resulted in chaos regarding taxable income for the county, the Commission decided to eliminate the road and bridge districts effective October 1, 1971. This allowed the County Commission to establish a budget in fiscal year 1970-71 on the basis of the existing districts. The first budget under the new Charter Government, however, would not reflect income on homestead exemption from the special road and bridge districts.

SECTION 1433. Upon the abolishment of each and every special road and bridge district by this Charter, all assets, rights-of-way of public roads and bridges and all agreements, including lease-purchase agreements between such district and the former State Road Department, now the Department of Transportation of Florida, shall automatically become vested in the County of Volusia and the County of Volusia shall become a party to all such agreements in lieu of said districts and shall be entitled to all of the benefits thereof and the County of Volusia shall perform all obligations of said districts under said agreements.

In order to be certain that all agreements made with the former State Road Department (now the Department of Transportation of Florida), would automatically be invested in the Charter Government of the County of Volusia upon the abolition of the special road and bridge districts, it was deemed advisable legally to include the language of Sec. 1433.

SECTION 1434. OTHER SPECIAL DISTRICTS AND AUTHORITIES. *The special acts of the Legislature related to Volusia County, listed below are hereby amended to add the following section: "In furtherance of the orderly exercise of the power of local government for the benefit of the people in Volusia County, the act creating this district may be amended by the legislative procedures and powers vested in the Charter Government of Volusia County and by the Constitution and Laws of Florida."*

(1) *East Volusia Mosquito Control District, Chapter 37-18963 Laws of Florida as amended.*

(2) *Ponce DeLeon Inlet and Port Authority, Chapter 65-2363 Laws of Florida as amended.*

(3) *Halifax Advertising Tax District, Chapter 49-28294 Laws of Florida as amended.*

The Charter Commission spent considerable time pondering the disposition of the three districts included in Sec. 1434 and the four hospital districts not included within the Charter. The Commission believed that the existence and operation of multiple districts within county government tended to fragment the operation and, most especially, the efficiency and economy of government. The mechanism of the utilization of the tax dollars and the manner in which they were invested, as well as in the way in which equipment was purchased, resulted in non-uniformity and obvious additional expenditures for these operations.

It was found that the Mosquito Control District, if it had been brought under the Charter government could have been operated more economically by utilizing the Department of Central Services, the Treasurer and the Department of Legal Services, thus producing an immediate annual saving in amounts expended for salaries of the three board members and the retainer fee of its special attorney. The annual income of the Mosquito Control District is approximately \$600,000.00, some of which is placed in Certificates of Deposits in small denominations producing a low rate of interest. By placing this money in the county treasury, investments could be made in larger amounts with a gain of two to two and one-half per cent in interest.

On the other hand, the Mosquito Control District was found to be one of the most efficient operations in the State of Florida, as far as actual mosquito control was concerned. It was noted that the operation was being extended on a cost basis to other areas outside the District, a courtesy which, in turn, not only aided the elimination of mosquitoes throughout the country, but within the district as well. Although its millage falls within the ten mills allowed for county services, in view of the efficiency of the operation and the fact that an elected three member board controlled the operation and expenditures, it was the decision of the Charter Commission, taking into consideration the new Charter Government would be faced with many decisions during its reorganization period, that the Mosquito Control District be left intact for the time being. However, it was felt the door should be left open for the purpose of placing the Mosquito Control District and its responsibilities under the Charter Government at a future time. It was, therefore, decided to vest in the Charter Government the power to amend the enabling act of the District, as well as the acts creating the Ponce DeLeon Inlet and Port Authority and the Halifax Advertising Tax District.

The Ponce DeLeon Inlet and Port Authority created in 1965 for the purpose of stabilizing the Ponce DeLeon Inlet was in the process of stabilizing the Inlet at the time of this study and under contractual agreement with the Corps of Army Engineers in addition to delicate negotiations with the Internal Improvement Funds of the State to acquire land for the development and operation of the Port Authority. Because the authority had not become operational and because of the critical proceedings mentioned above, it was decided to leave the Ponce DeLeon Inlet outside of the Charter operation at this time.

Although the Charter and Study Commission found some controversy in the Halifax Area over the need for the Halifax Advertising Tax District being based on ad valorem taxes the Commission did find that this operation was being extremely well handled and under fairly good budgetary review of the County Commission.

The four special hospital taxing districts were also considered to be a special case by the Charter Commission. The decision to leave them outside the framework of county government flowed mainly from the fact that a small fraction of the operational monies of the hospitals is derived from public tax funds. The main application of tax funds, other than to capital improvements, is to pay for indigent care. Moreover, the recent history of hospitals run by county administrations nation-wide has been very bad. In most places where consolidation of hospitals into local govern-

mental operations has occurred, there has been a movement back to separate administration. Coupled with the finding that the hospitals of Volusia County were on the whole managed efficiently, the Charter Commission decided to make no change in the existing status of the hospital districts.

ARTICLE XV. TRANSITION PROVISIONS.

SECTION 1501. REFERENDUM. *In accordance with the Constitution and Laws of Florida a special election shall be held in Volusia County on the fifth Tuesday in June 1970. Upon delivery to the Board of County Commissioners of Volusia County a copy of this law, that Board shall forthwith call such election for June 30, 1970, unless it shall be impossible to hold the election on that day, whereupon they shall call the election on the next succeeding day, on which the election may be held, and such election shall be held, supervised, canvassed and the results reported by the Board of County Commissioners and the Supervisor of Elections of Volusia County, Florida; as provided by Florida Law. The costs of the election shall be paid for by the Board of County Commissioners of Volusia County, Florida, from funds of Volusia County.*

The provisions in this section were considered essential to the timetable for the adoption and establishment of the Charter government within a reasonable period of time. This proved to be one of the more controversial points in the debate over the adoption of the Charter. Opponents maintained that additional time was needed to study and discuss the Charter before submitting it to the voters. However, the Charter Commission had considered that any delay in the Charter referendum would have created added problems. If the referendum had been scheduled in September, at the time of the primary elections, mass confusion would have resulted. Candidates would be open in the event the voters rejected the Charter. If the Charter referendum had been scheduled in September and was successful, separate special elections would have been necessary to qualify Charter candidates prior to the November general elections, and was successful, several special elections would have been required to elect the officers of the Charter government prior to January 1, 1971, or the effective date of the Charter would have been delayed unnecessarily for two years until January 1, 1973. Transitional experiences in other localities clearly indicated the desirability of a short transition period from the time the Charter is drafted until it is submitted to the electors and becomes effective. By prolonging these steps, there is a tendency for apathy and frustration to defeat the intent of the Charter. Prolonged transitional periods between the old and the new governments have resulted in frustrated incumbent officials creating conflicts, and adding extravagant expenditures for the new government to inherit, in attempting to scuttle the new government prior to its becoming effective or during the first year of its existence.

Section 1501.1. Question on Ballot. *The question to appear on the ballot to be used at said special election shall be as follows: Shall there be a Charter Government for Volusia County providing for a Council-Manager form of government, a unified system of fiscal administration and the conversion of constitutional officers to officers of the Charter Government pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and as provided by Chapter 89-1704 Laws of Florida?*
Yes _____ No _____

This section merely states the question which was intended to appear on the June 30, 1970, Charter referendum ballot. The reference to "Chapter 89-1704 Laws of Florida," was to the legislative act creating the Charter and Study Commission, and not to the legislative act containing the Charter document which was subject to approval in the June 30, 1970, referendum. The Board of County Commissioners initiated a court test in June, 1970, referring to this section, to determine whether or not the question on the ballot was sufficiently clear that the voters could understand that the referendum dealt with the particular Charter in question and not something else. The five judges of the circuit, sitting en banc, ruled unanimously that the challenge was a nullity. Nevertheless, it should be noted that the failure of Sec. 1501.1 to tie

the referendum to the legislative act containing the Charter document resulted in the legal challenge.

SECTION 1502. INITIAL COUNCIL DISTRICTS. *The district boundaries of the five County Commission districts as presently set forth shall be the district boundaries for the election of the first five (5) district Council members provided that the districts shall be reapportioned to districts of equal population pursuant to the 1970 census in accordance with Article III of this Charter.*

This provision recognizes that the Council districts could not be reapportioned until after the decennial census figures become official, and also serves as an added reminder that the initial Council is charged with the responsibility of redistricting in accordance with the procedure outlined in Sec. 301.1 of the Charter. A six-month time limit was placed on the completion of reapportionment to assure that it would be accomplished well in advance of the 1972 elections. This requirement is consistent with the Constitution (Art. VIII, Sec. 1e) which directs all counties in Florida to reapportion their districts decennially. The Constitution (Art. X, Sec. 8b) establishes a census effective date for this purpose.

SECTION 1503. INITIAL ELECTIONS. *Except as otherwise provided by this Charter, the initial elections for the following officials of the Charter Government shall be held at the time of the general election in November 1970:*

Five (5) district Council members.

One (1) at-large Council member.

"In the event that more than two (2) candidates have qualified for any of these offices of the Charter Government, a primary election shall be held at the time of the first state primary election prior to the general election and providing no candidate receives a majority of the votes cast, the two (2) candidates receiving the highest vote shall be placed on the ballot for election at the time of the general election."

This section merely specifies the intent of the Charter for the first Council to be elected in 1970, recognizing that the Charter referendum was scheduled June 30, 1970, and the qualifying period for candidates, as established by the Legislature, opened two weeks later on July 14, 1970.

SECTION 1504. ELECTION OF INTERIM COUNCIL. *The County Council to be elected for the first two (2) years shall be: Five (5) Council members nominated and elected within districts for a term of two (2) years and one (1) Council member nominated and elected at large for a term of four (4) years.*

Because the three County Commissioners whose terms of office ran to 1972 were to serve as members of the interim Council, and because of the need to have the election of the at-large members of the Council for staggered terms, it was decided that only one at-large Councilman would be selected in the initial election at the same time the five district Councilmen would be elected. Then in 1972 the five district Councilmen would be up for election, or reelection, and the second at-large Councilman would be elected, resulting in the seven member Council designated in Sec. 303.

SECTION 1505. COMPOSITION OF INTERIM COUNCIL. *The interim Council shall consist of nine (9) members, six (6) of whom shall be elected as provided in Section 1504 of this Charter and three (3) of whom shall become Council members upon termination of their offices as County Commissioners formerly elected at large from Districts One (1), Three (3) and Five (5) for terms which would otherwise end January 1, 1973. The office of these three (3) County Commissioners shall be abolished on January 1, 1971, and they shall assume office as interim members of the County Council to serve until January 1, 1973. Whereupon these County Council offices shall be abolished and in the general election in 1972 the electors of Volusia County shall elect one (1) additional Council member at large in accordance with the provisions of Article III of this Charter.*

This section specifies the interim Council arrangement to accommodate the three holdover Commissioners. This section also specifies that the five newly elected Councilmen are the district representatives on the Council for the five districts in the county, and the County Commissioners formerly elected at large from Districts One (1), Three (3) and Five (5) will serve as at-large Councilmen. This is consistent with the fact that they were elected countywide and that the electors of Volusia County will elect a second at-large Councilman in the general election in 1972 prior to the three holdover offices being abolished January 1, 1973. This also exempts the holdover Commissioners from the Sec. 302 which requires district Councilmen to be removed from office if they move their residency from the district in which they resided at the time of their election.

SECTION 1506. ADDITIONAL COMPENSATION OF FORMER COUNTY COMMISSIONERS. *The additional compensation of the three (3) County Commissioners from Districts One (1), Three (3) and Five (5) of the former government of Volusia County shall be seven thousand dollars (\$7,000) per year in addition to their salary of four thousand five hundred dollars (\$4,500) as members of the interim County Council. Such additional sum shall be compensation for the early termination of their offices as County Commissioners. Said additional compensation shall be paid in equal monthly installments while active service as Council members shall continue, and shall be terminated on January 1, 1973. All other provisions of Article III, Section 304, relating to compensation of Council members shall apply.*

This provision was necessary because the Charter Commission agreed that the three County Commissioners whose terms of office expired after the effective date of the Charter should be continued in office. This meant abolishing the offices. According to the Constitution (Art. VIII, Sec. 6c) if an office is abolished "the incumbent shall be paid adequate compensation, to be fixed by law, for the loss of emoluments for the remainder of the term." This meant paying the County Commissioners an amount equal to 24 months salary even if they were not continued and the former County Commissioners were entitled to \$11,500, this section recognizes that the three holdover Commissioners shall receive \$7,000 per year in additional compensation in equal monthly installments terminating on January 1, 1973.

SECTION 1507. OFFICERS CONTINUED. *Those officials, whose constitutional offices and duties have been transferred to departments of the Charter Government and whose elected offices as presently constituted shall cease on January 1, 1973, shall assume the following elected positions under the Charter Government until January 1, 1973, whereupon they will stand for election as provided by this Charter: The former office of Sheriff shall continue in full force under the Charter Government as Sheriff/Director of Department of Public Safety; The former office of Tax Assessor shall continue in full force under the Charter Government as Assessor/Director of Department of Assessment; The former office of Supervisor of Elections shall continue in full force under the Charter Government as Supervisor of Elections/Director of Department of Elections.*

The duties of the Tax Assessor, Tax Collector, Sheriff, and Supervisor of Elections were transferred by the Charter to specific departments of the Charter government and the offices as formerly constituted were abolished pursuant to the Constitution (Art. VIII, Sec. 1d).

SECTION 1508. OFFICE OF TAX COLLECTOR. *The office of Tax Collector as presently constituted shall continue in full force and effect until the effective date of this Charter whereupon the office shall be abolished in accordance with the provisions of this Charter.*

The Office of Tax Collector is treated separately here because the duties of the office were transferred to the Department of Finance and the office was abolished, pursuant to the Constitution (Art. VIII, Sec. 1d), upon the effective date of the Charter.

SECTION 1509. EARLY ASSUMPTION OF DUTIES. *The members of the County Council elected in the initial election shall take office on November 15, 1970. How-*

ever, their duties shall be limited until January 1, 1971, to the following: Holding organizational meetings for the purpose of selecting a temporary Chairman, who shall serve until January 1, 1971, initiating proceedings for the selection of a County Manager and attending meetings of the County Commission to familiarize themselves with the County's operations. Each officer or employee who assumes office prior to January 1, 1971, shall be compensated for his services from the date of taking office to January 1, 1971, at the rate set for that office by this Charter or by the County Council. Said compensation shall be paid by the Board of County Commissioners of Volusia County on December 31, 1970.

Most Charter governments give the newly elected Council an interim period during which members may familiarize themselves with the operation of government before officially taking office. The Charter grants a 45 day familiarization period for the newly elected Council to initiate proceedings for the selection of the first County Manager and to attend meetings of the County Commission. This provision was included with the knowledge that the three County Commissioners who would become members of the first County Council would not be able to function as interim Council members during this 45 day period. However, this was not considered as posing a problem because the interim Council would have no power and would not be able to make decisions on a policy nature. Because this section requires the newly elected Councilmen to begin functioning in an interim capacity, the provision also was included to authorize pro rata compensation for all the six Councilmen to cover this 45 day period prior to the effective date of the Charter.

SECTION 1510. COOPERATION OF FORMER GOVERNMENTS. Upon assumption to office by the County Council of the Charter Government on November 15, 1970, all officials and employees of the former governments including districts shall cooperate and assist the Council and employees of the Charter Government in planning for the orderly transfer of duties and responsibilities. The County Council and its employees shall be entitled to examine all records, files and data of the former government. To the extent possible, the Board of County Commissioners shall provide office space for the County Council.

This provision was included as a safe guard against even the remote possibility of a lack of cooperation in making the transition from the old to the new form of government. The Commission was aware of some bad experiences in this regard in other localities which adopted Charter governments.

SECTION 1511. OFFICES AND OFFICERS OF FORMER GOVERNMENTS. Unless otherwise provided by this Charter, all offices, officials, boards, commissions and agencies of former governments shall cease to exist on the effective date of this Charter and all powers, duties and functions thereof shall be transferred to and vested in the Charter Government. However, all offices, officials, boards, commissions and agencies shall continue to perform their respective duties and functions until their respective successors have been elected, appointed or otherwise provided for by the Charter Government. All such offices, officials, boards, commissions and agencies shall receive from the Charter Government compensation equal to that being received on the effective date of the Charter for the period of time they continue to serve. All offices, officials, boards, commissions and agencies shall, upon termination of their respective service, promptly account for and release to the Charter Government any and all property and funds for which they would have been accountable to any former government.

The need for continuity and orderliness in the transition from the old form of government to the new Charter government necessitated the inclusion of a section which retained all of the old boards, commissions, and agencies in operation and at the same salary but transferred all powers, duties, and functions of these divisions to the Charter government. The Charter Commission, however, assumed that this "limbo" period would be relatively short and that the officials, boards, commissions, and agencies that were to be retained under the Charter would be re-established under the provisions of Sec. 701 which means, among other things, that all salary provisions would be terminated for such agencies. Furthermore, all of these groups were to turn

over records and funds to the Charter Government in order that they could begin to utilize and benefit from the consolidated legal and central services operations.

SECTION 1512. OFFICIALS CONTINUED.

(1) The following officials of the former government shall continue to serve under the Charter Government in the capacities listed until and unless removed from office in accordance with this Charter: The former office of Deputy Clerk to the Board of County Commissioners shall continue in full force under the Charter Government as Acting County Manager; The former office of County Engineer shall continue in full force under the Charter Government as Director of Public Works; The former office of Deputy Auditor to the Board of County Commissioners shall continue in full force under the Charter Government as Director of Finance; The former office of Welfare Director shall continue in full force under the Charter Government as Director of Social Services; The former office of Tax Collector shall continue in full force under the Charter Government as Tax Collector/Treasurer; The former office of County Agent shall continue in full force under the Charter Government as County Agent; The former office of Civil Defense Director shall continue in full force under the Charter Government as Civil Defense Director; The former office of Attorney shall continue in full force under the Charter Government as County Attorney; The former office of Recreation Director shall continue in full force under the Charter Government as Supervisor of Recreation; The former office of Director of Volusia County Public Libraries shall continue in full force under the Charter Government as County Librarian; The former office of Airport Manager shall continue in full force under the Charter Government as Airport Manager; The former office of Safety Director shall continue in full force under the Charter Government as Motor Vehicle Inspection Supervisor; The former office of Veterans' Service Officer shall continue in full force under the Charter Government as Veterans' Service Officer; The office of County Health Officer shall continue in full force under the Charter Government as County Health Officer; The former office of Convict Warden shall continue in full force under the Charter Government as Convict Warden.

(2) Except as hereinafter provided, compensation for the above listed officials shall be continued at the same level as on the effective date of this Charter until changed in accordance with this Charter.

(3) The County Council shall provide appropriate additional compensation for the Acting County Manager and other officers in the Charter Government whose duties and responsibilities have been substantially increased.

Since the Charter continued all existing functions and operations of county government, although structured differently, it seemed important to specify the transitional intent for major officers under the County Commission government to the initial Charter government.

The Charter Commission did not feel that it could satisfactorily define salary levels and classify positions, but it was considered important to provide a guarantee that compensation would be continued at the same level for these officers. This section also gives the County Council specific authority to appropriate added compensation for those officers in the Charter government whose duties and responsibilities are greatly increased.

SECTION 1513. EMPLOYEES CONTINUED.

(1) All employees of the former governments or districts shall, on the effective date of this Charter, become employees of the Charter Government without any loss of benefits. Salaries of all employees shall be continued at the same level as on the effective date of this Charter.

(2) All present employees of the County except those occupying positions in the unclassified status as enumerated in Article X of this Charter who have served the County continuously for a period of six (6) months or more immediately preceding the effective date of this act shall be considered appointees in the classified service within the provisions of this act without competitive examinations. All other employees of the County except those occupying positions in the unclassified service, as enumerated in Article X of this Charter who have served the County continuously less than the period of six (6) months immediately preceding the effective date of this

act may be considered appointees in the classified service within the provisions of this act without competitive examination when such employee has been certified by the proper authorities.

(3) Employees of former governments or districts who become employees of the Charter Government on the effective date of this Charter can thereafter be dismissed only for cause prior to the adoption of the merit system and only in accordance with the merit system after its adoption.

The basic idea in developing the Charter was the need to improve the operating efficiency of the county government. However, the Commission wanted to insure that the desire for efficiency did not result in county employees being separated unnecessarily and unreasonably. Despite this provision guaranteeing job security—a provision found in nearly all charters examined by the Commission—rumors persisted in the county during the development of the Charter and its adoption that county employees would lose their jobs after the Charter government became effective. It was difficult to convince county employees and others even though the provision is explicit that the only reason for separation from employment by the county is failure of the employee to perform on the job satisfactorily. Sub-section two was included to limit the transitional job security to those employees on the job when the Charter was adopted. The Commission was aware that transitional governments in some localities had "packed" the transitional government with an excessive number of employees in an effort to undermine the efficiency and economy promised by the Charter in governmental operations. Therefore, any appointment to the government made in the last six months of 1970 could be included in the classified service under the merit system only where the employee was certified by the proper authorities after the effective date of the Charter.

SECTION 1514. DEFINITION OF CONTINUED EMPLOYEES. *Any person who is compensated for service to the County or its subdivisions, agencies or divisions by payment of fees or retainers or any employee not working in a full-time capacity shall be termed part-time employees by the County Manager and shall not be automatically continued in such position or office as contemplated by Sections 1511 and 1513 of Article XV of this Charter.*

Job security for county employees was considered an essential provision in the Charter, and for that reason it was considered equally important to the full time employee entitled to job security under the proposed merit system. Therefore, this provision was added to define part time employees and to specify that such employees would not be included in the merit system.

SECTION 1515. PROCEEDINGS CONTINUED. *All petitions, hearings and other proceedings pending before any officer, office, department or board of any of the former governments or districts shall remain in full force and effect. All such petitions, hearings or other proceedings shall be completed by the officer, office, department or board of the Charter Government succeeding to the rights, duties and obligations of former governments.*

To minimize the legal problems in the transition from the former government and to insure a continuity of all proceedings initiated under and during the previous government, this section was included as an encompassing clause to guarantee the legal standing of all parties in any contract or judicial proceedings involving the Board of County Commissioners.

SECTION 1516. FIRST COUNTY MANAGER. *The County Council immediately upon assumption of their duties as provided in Article XV, Section 1509, shall initiate the necessary procedures for employing a County Manager. It shall be the obligation of the County Council to employ the first County Manager within three (3) months of the date on which they take office.*

Recognizing that the proper functioning of the County government could not begin until a County Manager was hired, the Commission deliberated at length on the

time limit to be placed on hiring the Manager. Because the Charter granted the interim Council a six week pre-Charter period to begin advertising for candidates, it was decided that it would not be unreasonable to require the Council to employ a County Manager no later than three months following the effective date of the Charter. It was the intent of this provision to give the Council a reasonable amount of time to hire a qualified candidate, and at the same time insure that the first County Manager would have a reasonable amount of time after being hired to prepare the administrative code and the merit system prior to preparation of the first Charter budget.

SECTION 1517. ADMINISTRATIVE CODE. *The County Manager shall propose an Administrative Code within three (3) months after his appointment and submit it to the County Council for adoption.*

Because the efficient operation of government requires detailed directives of orderly procedures, a time limit was placed on the County Manager to prepare and to submit the initial administrative code to the County Council for adoption, as noted in annotations for Sec. 604. The Commission was convinced that the time restriction would not pose a severe hardship because it was aware that many of the details of administrative codes are standardized and skeletal administrative codes are available that can be readily adapted to the needs of Volusia County.

SECTION 1518. TERMINATION OF THIS ARTICLE. *The provisions of this Article XV shall cease to be a part of this Charter two (2) years after the effective date of this Charter.*

The Charter Commission included the transitional provisions of the Charter in a single transitional article which could be removed at the termination of their two year period of applicability.

SECTION 1519. EFFECTIVE DATE OF REFERENDUM PROVISIONS. *Sections 1501 and 1501.1 of this act shall take effect upon becoming a law.*

This section was legally necessary in order to put into effect the referendum clause of the Charter under Sec. 1501. This allowed the holding of a referendum on the adoption of the Charter without further legislative authorization.

The Volusia County Charter was adopted by the electorate of Volusia County on June 30, 1970, as proposed by the Volusia County Charter Study Committee which was created by a special act, F. S. 69-1704.

The final act of the Charter Commission prior to its dissolution on March 13, 1971, was to authorize the publication of the annotations to the charter. The annotations, which set forth the background and rationale of the various sections of the charter, were derived from a careful examination of all of the material available to the Commission including minutes and tape recordings of meetings, public hearings, testimony of county officials and employees, study reports, and documents from other study commissions and chartered counties.