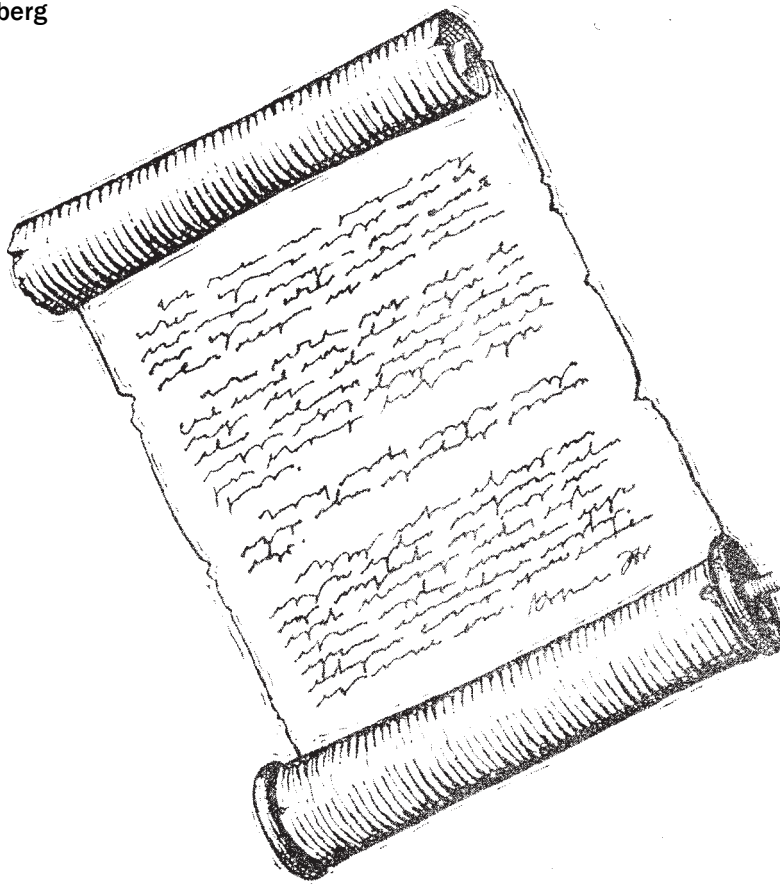


WAYNE COUNTY CHARTER ISSUES . . .

COUNTY SERVICES

By Kenneth VerBurg
and John C. Wolenberg



CITIZENS RESEARCH COUNCIL OF MICHIGAN

1666 City National Bank Building
Detroit, Michigan 48226

Report No. 274

909 Michigan National Tower
Lansing, Michigan 48933

April, 1981

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by

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INTRODUCTION

Several provisions in the County Charter Act address the matter of providing services and issuing regulations under a charter county government. In this paper we address those matters relating to services and regulations that the county charter commission should consider. Our purpose is not to discuss organization and structure of the charter county government although necessarily, on occasion, we will touch upon those concerns.

Provisions for services and regulations

Several sections in the County Charter Act deal with the exercise of functions and the provision of services.

Required services and functions. Section [14(d)ii] of the County Charter Act requires the charter commission to provide for a three-member county road commission to administer road programs. The section states that the charter shall “specify duties and procedures to assure that administrative decisions made for road construction shall be coordinated with administrative decisions made for other programs which relate to roads.” Section [14(d)ii] continues on to define what is meant by “road construction.”

Two other parts of the County Charter Act deal with the latitude that the charter commission has regarding service and regulatory functions.

Section [14(d)] provides for the continuation, discontinuation, and specification of the duties of all existing “county offices, boards, commissions, and departments whether established by law or by action of the board of county commissioners (BCC).” Excepted from the broad coverage of this section, of course, are the elected county officers and certain requirements office the county road commission.

The second of the pertinent sections [14(g)] states that the provisions of general statutes and local acts of this state regarding counties and county officers will continue in effect unless the County Charter Act permits the charter to make other provisions, and that the charter does indeed make such provisions. We view this provision as a “fail safe” measure intended to protect state interests. Any changes from state statutes and local acts will have to be addressed directly or be clearly implied by what is stated. A general charter provision exempting the county from the statutes will not suffice.

What we find then, is that the county charter commission can make any changes in the definitions of powers and duties of county agencies it determines appropriate if permitted by the County Charter Act, except that there are limitations in respect to the elected county officials and the county road commission. However, if the county charter fails to make changes or fails to provide authority for making changes the general and local statutes will be governing.

General authorization for services. Section [15(c)] permits the charter to provide police protection, fire protection, planning, zoning, education, health care, welfare, recreation, water, sewer, waste disposal, transportation, abatement of air and water pollution, civil defense, and any other function or service necessary or beneficial to the public health, safety, and general welfare of the county.

The County Charter Act places an important limitation on the county's authority to provide these services. The act states that those powers "granted solely by the charter may not be exercised by the charter county in a local unit of government which is exercising a similar power without the consent of the local legislative body." Costs for such services may be charged to the local unit on a negotiated basis. The costs may be paid from the general fund of the county only if the service is rendered on a county-wide basis.

In the event of a transfer of a service function from the local unit to the county, the county must reimburse the local unit for the capital assets and assume the outstanding indebtedness. The amounts to be paid are to be fixed in a negotiated agreement.

These provisions, we believe, will affect the ability of the charter county to function as a "metropolitan" county government. We will return to this question later.

Section [15(d)] permits the county to establish and maintain—either within or outside the county boundaries—roads, parks, cemeteries, hospitals, medical facilities, sewage transmission and disposal systems, all public works, or other types of facilities necessary to preserve and provide effectively for the public health, safety, and general welfare of the county.

Finally, there is a provision that relates indirectly to the service and regulatory functions; section [11a(8)(c)] gives the county executive/ manager the authority to "appoint, supervise, and at pleasure remove heads of departments (except elected officials) and all boards and commissions." It may be a close argument but this language may leave room for a provision for executive/manager appointment but only upon confirmation by the BCC. We think it especially important for the BCC to have confirming authority—perhaps within very limited time periods—over appointments to county boards and commissions. The charter commission may agree and prefer to extend the confirmation authority to the appointments of many, if not all, of the department heads as well. As we discuss the various services and functions, we will raise the issue of appointment and whether confirmation may be desirable.

Establishment of functions by ordinance. In the discussion on the following pages we also suggest on numerous occasions that the charter should authorize or direct the BCC to establish a service program or regulation (sometimes by implication, an agency as well) by ordinance. In many instances, perhaps most, the state has already enacted a general statute to cover the matter. County ordinances covering such subjects then would be a county enactment of the state statute.

Such a practice may appear to be an unnecessary or undesirable redundancy. Our view, though, is that the practice is essential for several reasons.

First, the charter county should establish and assert its distance from the state legislature.

Second, the county ordinance procedure should be the legal basis for as many county programs and services as possible. Such a procedure will add to the stature of the legislative process and it will also preserve the critical dynamics between the legislative body and the executive/manager.

Third, the charter will be subject to frequent amendment and revision if the charter itself addresses too many service and regulatory functions. This shortcoming is overcome by authorizing the BCC and the executive/manager to put the details in place by ordinance.

Finally, we are always quite willing—even though we are not always pleased by the outcome—to leave to the political process the definition of what the government will or will not do and how the organization will be arranged. Not all will agree but we remind others and ourselves that the “political worm” has a way of turning in unexpected ways and at unanticipated times.

We do not promise that this approach will be free of legal battles regarding the authority of the BCC to establish such rules by ordinance. A wise BCC will move cautiously and make few digressions from the provisions of current general statutes. To do otherwise would be to invite legal disputes even before the charter county has opportunity to establish itself. In due course, we believe all parties concerned will find this the preferred approach for establishing an effective charter county within the Michigan tradition and legal framework.

In the balance of this paper we will address a wide variety of functions and services in which the county is presently engaged or in which the charter county may become involved. We do so under seven main headings:

- I. County involvement in municipal services and regulations
- II. Central administrative functions and services
- III. Certain state-required functions and services
- IV. Law enforcement services and functions
- V. Human service programs and functions
- VI. Physical development and economic functions
- VII. Judicial services and functions

In each instance our principal purpose will be to raise and answer the question, “What should the charter provide concerning... ?”

I. THE ROLE OF THE COUNTY IN MUNICIPAL SERVICES AND REGULATIONS

Many charter counties and those “reorganized” counties or city-county consolidations in other states play a considerable role in providing municipal services. The conditions preceding a reorganization, and ways in which a reorganization was achieved, vary widely, both between and within states.

Several factors account for the variations. Traditional roles of the county are important. As we noted in an earlier paper^{*}, some states do not have townships, and in those states counties commonly provide municipal services to the unincorporated areas.

The nature of the problem citizens and officials were seeking to deal with is also important. Frequently, the urban areas were experiencing some kind of a crisis that called for an unusual solution. Such was the case, for example, in the Nashville-Davidson County (Tennessee) consolidation. It was also the situation in Miami-Dade County and the Jacksonville-Duval County mergers in Florida. Seldom, we think, were the provision of new services the primary motivation.

In other instances, such as the Indianapolis-Marion County (Indiana) case, the political focus in the state, city, and county converged in one of those rare instances where all were able to bargain out a new arrangement for the major population area of the state. But in this case, as well as in others, the traditional relationship of the state to the local units was important—the state legislature had no authority to enact a “local” act subject to voter approval in a referendum. Moreover, the Indiana state constitution does not grant home rule powers to local units.

Michigan citizens may look yearningly at what they consider to be major accomplishments in local government reorganization of other states. But we, like the citizens of other states, must live with our own traditions and with the legal and constitutional constraints of Michigan.

County-municipal relations

Citizens and officials of local governments guard closely the service and regulatory functions of their local units. Though academicians and other idealists over the years have criticized what they call a “hodge-podge” of governments with their redundancy and complexity of services and regulations, very few have been able to persuade citizens and officials that bigger is better. So far as we know, Michigan has had only two municipal consolidations.

^{*} Kenneth VerBurg, The Historic and Present Role of Count Government in Michigan, Citizens Research Council of Michigan, February, 1981.

Researchers traditionally have examined proposed municipal mergers from an economy and efficiency point of view. But rarely have they been able to establish to the satisfaction of voters and officials that municipal costs would be lower under a consolidated government. Moreover, the researchers have often overlooked the other “costs” that concern citizens—namely control over and access to decision makers.

These values continue as important and significant barriers to any major revision in the municipal service role for the proposed Wayne County charter government. Inter-municipal or county-local cooperation will be the approved mode only when a local unit is not able to provide a service for itself at a “reasonable” cost or under circumstances of severe crisis where program changes are unavoidable. And even then, we are likely to find present investments and outstanding obligations anchoring officials to former arrangements.

Regardless of the problems and potential problems, we still see a meaningful future role for the Wayne County charter government in municipal services and regulations. Below we discuss one approach.

An approach to county-local services

As we noted above, local control and access to decision makers are important values in the structuring of municipalities. Also important is the idea of variety in service levels, the so-called “market approach.” One community, for example, may want or need a broad range of services at a very high level (municipal sidewalk snow removal, back door refuse pickup, etc.). Another community may be satisfied with very few municipal services—no sidewalks, no streetlights, and curb pickup refuse service. Some observers suggest such a variety of choice is also an important value, a value that might be threatened by a large-scale governmental system that, at least in theory, seeks uniformity of municipal services and regulations.

What role then should the county look forward to with respect to municipal services and regulations? The customary approach to service and regulatory functions is that a service or a function should be assigned exclusively to either the county level or the municipal. Rarely do we question if a service or function can be divided so that one level administers certain aspects of a service or function and another level other aspects or responsibilities.

This question certainly should be asked with respect to most municipal functions. We believe that in most cases the response will be affirmative, and will cast the county in the role of generating or making basic services possible while the municipalities function in the capacity of delivering and adapting the services to their respective communities. To use another analogy, the county should become a “wholesaler” of services and the municipalities, the “retailers.”

The approach, of course, is not new. The practice is being followed all over the state. It's just that we do not think about municipal services and functions in precisely that way.

Administration of the property tax provides one example. Typically local units employ their own property assessors while the county equalization department provides sales data, technical assistance on difficult-to-assess properties, and administration of state regulations to enforce a general level of uniformity. The county department may also print the tax bills while the local treasurers administer current collections and distribution of receipts. And the county treasurers administer delinquent collections and tax sales. (The practice in Wayne County differs somewhat from this general description.)

Applying the approach to fire protection we can imagine a future role for the county. As we build more high rise buildings and spread them around the county, local units will find it costly to purchase and operate equipment capable of dealing with high rise fires. Under the approach we describe, the county might purchase the necessary rescue equipment and make it available to groups of municipalities, instead of each having its own equipment or doing without. (Inter-municipal agreements, of course, could also deal with such a problem.) In addition, the county could provide an expert team of arson investigators, fire prevention materials and programs, a uniform fire code, and perhaps a firefighter training facility.

We are not suggesting, of course, that the county ought to perform these particular functions; we merely illustrate the approach for a costly and common service concern. Fundamental to the approach is a determination of those functions that the municipalities cannot provide themselves or cannot provide as economically as the county could. Those aspects of service and regulatory functions become candidates for consideration by the county.

The approach, we believe, takes into account the important values we discussed above—economy, efficiency, control, access, and choice. At the same time it gives recognition to the fact that the residents of Wayne County do have some common concerns and a common interest in minimum standards for health, safety, and well-being.

We see this approach as an extension of rather than a major digression from the way that services and regulatory functions are now being arranged in Wayne County and elsewhere. It also represents the kind of approach that this charter county could develop over time within the constraints of the Charter County Act and the future financial resources of the county.

The approach will not be fully applicable to all functions, of course, if only because some services—such as water supply by the city of Detroit or public transportation by SEMTA—are already in place, and because some services

must necessarily be multi-county in scope. Moreover, there may be insufficient reason to modify the current method of providing some functions.

What we see as the future role of the county, then, is a two-fold function. We see the county government functioning as an “arm of state government” as we discussed in an earlier paper. In this role the charter county will carry out those state mandated functions—those that state policy has determined essential to the general health, safety, and well being of citizens throughout the state.

In the second capacity, the charter county government will function to assist the townships, villages and cities within the county in carrying out their service and regulatory responsibilities. In this role, the charter county will seek to enable local units to do what they cannot do alone or what they cannot do as economically or effectively alone as they can working in concert with the county.

Charter concerns. We do not know that the charter commission needs to address this matter in the charter. It rightfully is an approach that future county executives and county commissions could consider under circumstances and conditions as they experience them. Should the charter commission desire to express its preference for such a county role, however, it could do so in a section dealing with the role of the county in municipal services and regulatory functions.

II. CENTRAL ADMINISTRATIVE FUNCTIONS

What should the charter provide concerning the duties of the board of auditors?

THE BOARD OF AUDITORS

—The board of auditors was created by Act 63 of 1889. The principal reason for its creation was to relieve the part-time BCC from the responsibilities of county administration. The act made this three-person board responsible for auditing county claims and bills and for auditing county financial records. In addition it had the duty to oversee the county's purchasing operations. Additional duties were assigned to this board over the intervening years by the BCC.

—Wayne County budget for 1980-81 lists four major functions performed by the board of auditors.

ACCOUNT, ADMINISTER, CONTROL AND GUIDE THE COUNTY'S FINANCES

Those functions constitute the essence of financial administration. It seems likely that the charter commission will prefer to establish a department of finance to administer those duties. The current Wayne County budget lists 11 major activities for which the board of auditors is responsible.

— Auditing and paying of legal claims and bills against the county

In most counties, county commissioners approve claims for payment. This is a rather perfunctory chore. Pre-audit of bills and claims of course is essential, but with appropriate budget, purchasing, and other expenditure policies and rules together with frequent reporting and performance auditing, a specific BCC claims process is probably unnecessary.

— Establish accounting systems and procedures

A properly designed accounting system is essential to the successful reporting of financial affairs. The responsibility for accounting systems is an inherent part of the financial administration function. The charter should assign this duty to, the county executive/manager or to the department of finance.

— Maintain financial records for all functions and activities

This is required by the state constitution and state statutes. The charter needs only to address this activity in connection with the broader directive in financial administration. The extent to which financial record keeping is centralized or decentralized is a matter the county executive/manager should determine.

— Issue periodic financial reports

The charter commission may wish to indicate that financial reports are to be issued on a timely basis as required by the BCC. Tardy reports hinder successful management and diminish the effectiveness of the oversight responsibilities of the BCC. The County Charter Act, Section [11a(8)(a)] establishes the minimum frequency as every three months. This may not be sufficient for effective legislative oversight.

— Audit the books and records of elected county officials, departments, and institutions

The enabling legislation requires the county to contract with an independent auditor for an annual audit of county finances. The legislation also permits the charter to establish an office of auditor general. The auditor general department could be a division of the BCC and constitute part of its staff.

— Designate the depositories of county funds

This seemingly simple activity is extremely important. To avoid any appearance of impropriety, the selection process should be a matter of public record. The charter commission may wish to direct the county executive/manager to name county depositories subject to BCC approval.

— Invest available county funds

In most Michigan counties, county treasurers exercise this function. In light of the enabling legislation requirement that the county treasurer's office be retained, it seems reasonable for the charter to assign this duty to the treasurer. The charter should require that the treasurer conduct county investments with the cooperation of the county executive or the executive's designee. Given the potential scale of investable county funds and the potential benefits to be derived from effective cash management, the office of county treasurer should not be assigned other duties except those already assigned by statute.

— Prepare and submit annually a detailed budget to the county commission

The County Charter Act requires the county executive/ manager to prepare and submit a detailed budget to the BCC for approval, Section [11a(8)(d)]. The charter commission may wish to direct the BCC to establish the budget procedures by ordinance.

— Administer the annual budget

The County Charter Act, Section [11a(8)(d)] requires the county executive/manager to administer the budget in accordance with board appropriations. This responsibility should be covered under the duties of the executive/manager.

— Approve official bonds, surety bonds and insurance on buildings and grounds

General state statutes address the matter of appropriate sureties. The charter commission may prefer to direct the BCC to provide for bonds, sureties and insurance by ordinance.

— Advise on county finance

This responsibility can be assigned to the county executive/manager.

PURCHASING ADMINISTRATION

A large complex organization should have a centralized purchasing department. This department should have specific procedures and guidelines to follow in the execution of its duties. The charter should assign the responsibility to the county executive/manager. The charter should require the BCC to establish purchasing procedures including the use of sealed bids by ordinance. Some charters specify dollar amounts above which sealed bid procedures must be used.

BUILDING MAINTENANCE

The county executive/manager should be assigned this function.

REPRODUCTION AND STORAGE OF RECORDS

General statutes direct various county officials to maintain certain records. The BCC should assign record storage and reproduction by ordinance.

What should the charter provide concerning the functions of the bureau of taxation?

BUREAU OF
TAXATION
FUNCTIONS

—The principal duty of the bureau of taxation is to assist the BCC in the equalization process. The bureau conducts various studies of property assessments in each municipality of the county. Using the results of these studies the bureau formulates its own determinations as to what the total assessed valuation of each municipality should be. It advises the BCC how to equalize, based upon the bureau's own calculations and those of each municipality.

—In addition to the equalization function the bureau of taxation provides several optional services to the municipalities of the county. Perhaps the most significant of these optional services is the assessment of individual properties on a contract basis for many of the county’s municipalities. The bureau also provides, on a fee basis, the processing of tax rolls and property tax bills for some local units in the county. This arrangement fits rather well the model described earlier.

—The state constitution (Article 9 Section 3) and state statutes (MCL 211.34) require equalization of property assessments. The state statute also requires that each county establish and maintain a department to assist the BCC with the equalization process. Regarding this function the charter may need only to direct the BCC to assign the equalization processes to an executive agency and authorize the BCC to approve the equalization report.

—Charter commissioners may wish to address the optional services the bureau of taxation presently provides. The charter might direct the commissioners to establish a procedure for engaging in optional services and to give the BCC the authority to approve contracts that arise from optional services provided by the bureau. The charter might also require that all direct and indirect costs incurred by the bureau in connection with an optional service be recovered through the contract.

What should the charter provide regarding services administered by the BCC?

—The BCC is presently responsible for the administration of several county services program development, emergency preparedness, human relations and equal opportunity programs, corporation counsel, and programs for older persons.

PROGRAM
DEVELOPMENT
AND EMERGENCY
PREPAREDNESS

—BCC administration of programs affects its ability to exercise the oversight function effectively. This duty casts the legislative body in the almost impossible role of being critic of its own functions.

—The office of intergovernmental affairs is under the direct control of the BCC. It has assumed the responsibility for program development and emergency preparedness.

— Among the services included in this office’s activities are the following: research and design of grants applications, grants administration, liaison activities with both federal and state funding agencies, program review and evaluation services, lobbying lawmakers at the federal and state level on behalf of the county, emergency preparedness and port development.

- The charter commission, no doubt, will view these functions as desirable and necessary. The charter should direct the BCC to assign the duties to the executive/manager. Liaison with federal and state agencies should be assigned by charter to the executive branch although we can expect the BCC members to engage in these duties on their own as well. The charter may assign the emergency preparedness function to the county sheriff or direct the BCC to assign it by ordinance
- The charter should require BCC approval for all grant proposals. The charter should also authorize the BCC to require information regarding cost implications and financial obligations during periods following expiration of the grants.

HUMAN
RELATIONS

—The office of human relations is also under the direct control of the BCC. It monitors and reviews county employment for compliance with federal and state regulations regarding affirmative action and equal opportunity. It also works with the county's contractors to ensure that they meet the guidelines when engaged in work for the county. It also administers the county's small and minority business contract opportunity program

- These duties fall largely within the scope of personnel resource management. Most agencies, however, have had to have pressure applied from outside monitors. The charter commission may wish to include in the charter a statement of policy regarding fair employment practices and to authorize the BCC to establish a separate office in the executive office.

CORPORATION
COUNSEL

—The office of corporation counsel reports directly to the BCC. It provides legal advice and opinions to the BCC and also acts as civil counsel to other county departments. It assists the labor contract negotiations and represents the county in labor arbitration and mediation hearings. It also represents the county in hearings on mental incompetency, defends the county in negligence, and medical malpractice cases.

- The county prosecutor is also authorized by statute to provide civil counsel but usually has little responsibility for civil cases in counties that also have an established office of corporation counsel.
- A great many legal questions will arise during the first few years of charter county government. Some of these disputes will involve county officials on both sides and may lead to demands for individual legal counsel. Similar problems exist at the state level

where staff of the department of attorney general provide representation for each side. The staff of the corporation counsel could act in a similar manner. The BCC could also employ special counsel for some disputes.

—The office on aging is under the direct control of the BCC. It has been funded primarily through federal grants. The following services were included among its activities: Senior citizen multi-purpose center, a senior day-center, senior bus trips, a weatherization program, a senior newsletter, a senior citizens meals program, a prescription drug program.

SERVICES
TO OLDER
PERSONS

- The charter commission will probably prefer to see these programs transferred to the executive branch. It should direct the BCC to place the programs in some executive department agency by ordinance and require the funds for the programs to be appropriated and the funds expended in accordance with established budget and expenditure procedures.

What should the charter provide concerning personnel administration?

—In this section we discuss three aspects of personnel administration; the county civil service system, collective bargaining processes, and the county retirement system.

CIVIL
SERVICE
SYSTEM
FUNCTIONS*

- The County Charter Act Section [14(g)] requires the county to continue the civil service system and to preserve the rights of those employees presently included in the system. However, the act does permit the charter to provide for future modifications of the system.
- This department, headed by a three-person commission appointed by the BCC, is responsible for employee recruitment, employment examinations, and certification of registers of eligible applicants for county jobs. In addition, it administers the employee classification plans and employee benefit programs, regulates working conditions, and hours. It maintains employee service records, and determines compensation levels for employee groups outside of collective bargaining agreements. It also conducts hearings on employee appeals of disciplinary action.
- The charter commission should provide for BCC confirmation of civil service commissioner appointments. The charter commission may also wish to give the BCC veto authority over some civil ser-

*In addition, see Wilbur C. Rich, Personnel Management, Citizens Research Council of Michigan, March 1981.

vice commission actions, especially new civil service rules, adjustments in benefit programs, compensation schedules* and major revisions of the classification plan.

- Major provisions of civil service authority, together with a general policy statement, should be made a part of the charter itself.

COLLECTIVE BARGAINING PROCESS*

—Collective bargaining by public employees is permitted under state statutes (MCLA 423.201 - 423.231). The County Charter Act makes no specific mention of collective bargaining, but present contracts and bargaining group representation must be honored by the new charter county government.

- Collective bargaining is administered by the county labor relations board. The board consists of five county commissioners and another person chosen by the court system. In addition, the board has a fiscal advisor and a legal advisor from the office of corporation counsel.
- The board negotiates labor contracts with county employee organizations on behalf of the county. It handles employee grievances and assists in the preparation for any labor-mediation or arbitration actions. The board also administers the employee bargaining group recognition process.
- Under a charter county government, labor contract bargaining should be viewed as an executive function. The charter should direct the BCC to assign the bargaining responsibility to an agency of the executive branch by ordinance.
- The charter should also provide for BCC approval of all proposed employee contracts on recommendation by the executive/manager.

RETIREMENT SYSTEMS

—The County Charter Act Section [14(e)] requires the charter to continue the retirement system(s) for county employees and to preserve the rights of those presently covered by the system. The charter may provide for future modifications of the system(s) however.

—An eight-member board establishes the retirement system policies. Members of the board include the county treasurer, and the chairpersons of the BCC and the board of auditors. The other members include four county employees and one retired county employee.

* In addition, see Ernst Benjamin, Labor Relations Management, Citizens Research Council of Michigan, March 1981.

- The Wayne County retirement program is a contributory plan. The retirement system invests these contributions and administers the payment of retirement benefits. It administers the county's responsibility for social security contributions and several retiree plans such as life, health, and optical insurance. The retirement board also administers the active employee's life insurance programs.
- The charter commission likely will prefer to continue the employees' retirement system board in some form. If so it can provide for the board in the charter or direct the BCC to provide for such a board and to state its powers, duties and responsibilities by ordinance.
- The charter commission may wish to direct the BCC to assign the administrative duties with respect to benefit programs to the personnel and finance departments and have the board function in any advisory capacity.
 - The charter should give the BCC authority to approve retirement rules and to confirm appointments to the retirement board.
 - In addition the charter should require a periodic actuarial study of the retirement system and its obligations.

III. CERTAIN STATE-REQUIRED SERVICES AND FUNCTIONS

What should the charter provide concerning the functions of the office of county clerk?

THE
COUNTY
CLERK
FUNCTIONS

—The enabling statute requires the office of county clerk to be continued as an elected office [Sec. 14(c)]. The statute also seems to limit the charter commission's authority regarding the duties of the office [Sec. 14(d)].

- The statute requires the charter commission to grant the BCC the authority to combine the offices of clerk and register of deeds.
- Many of the duties of the office of clerk are covered by general statutes, most of them of very long standing. Moreover, many are duties that the charter commission and the BCC will likely agree belong in that office.
- The charter commission should note, however, that several statutes define some of these responsibilities and that there has been some conflict regarding the statutes establishing the office of county controller. In a recent case, the Michigan Court of Appeals upheld a circuit court judge who ruled that the county controller acted improperly by removing the accounting records from the office of the clerk. There were some extenuating circumstances in this case, but the opinion nonetheless defined the powers and duties of the county controller much more narrowly than many county controllers and county commissioners thought it would.*

—The charter commission may find it important to give the BCC the authority to assign by ordinance the functions that the office of county clerk is to administer. This approach asserts the board's authority to make such determinations on these and possibly new future responsibilities that the legislature may assign by general statute. Unless the BCC digresses too far from the customary county clerk's responsibilities, serious disputes are not likely to arise. And if the duties are assigned by ordinance, the disputes that do arise will likely be resolved in the ordinance adoption process.

- The BCC will likely agree that the office of county clerk should continue to register birth and death certificates, articles of incorporation, assumed (business) names, and to issue marriage licenses. The office of clerk would also be likely to continue to exercise the state-assigned duties regarding elections administration and to serve as clerk of the tax allocation board (if one continues to exist), the board of canvassers, elections commission, concealed weapons

* Gogebic Count Clerk v. Gogebic Board of Commissioners, 102 Mich App 251(1980). It is our understanding that the decision will not be appealed to the Supreme Court.

licensing board and the reapportionment commission. It may also wish to continue the clerk's membership on the county plat board.

—The Michigan Constitution specifies that the clerk of each county organized for judicial purposes or other office performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county.* (emphasis added).

— Public Act 438, 1980, the Wayne County Court Reorganization Act specified that the “court clerk services shall be provided by employees of the county of Wayne who are under the supervision and control of the county clerk of the circuit court in the third judicial circuit.” (Section 592(7) of the enrolled act.) Subsection (8) specifies that “the requirements of subsection (7) and (8) shall not. . . infringe upon the constitutional responsibility of the county clerk to supervise the employees of the county providing the court clerk services.

— The constitution seems to permit a county charter to establish a separate office for the provision of court clerk services. The County Charter Act and the Wayne County Court Reorganization Act seem not to have taken into account the constitutional provision. If the charter commission believes strongly that such a separate office should be established, it could authorize or direct the board of county commissioners to do so. Any legal battles would then center on subsequent board actions.

What should the charter provide concerning the functions of the office of county register of deeds?

—The office of register of deeds is required unless the office is combined with that of the county clerk. The register of deeds is to be elected to a four-year term on a partisan basis if the office exists.

REGISTER
OF DEEDS
FUNCTIONS

- The register of deeds serves primarily the legal and business communities as well as owners of real and personal property.
- The office receives, files, and releases various commercial and legal documents such as liens, mortgages, land contracts, lis pendens and other instruments affecting the ownership of property.
- The office also, by statutory mandate, provides a tract indexing system. In Wayne County the office also provides an abstracting service that in some counties is provided by private companies.
- The register of deeds by statute is a member of the county plat board.

* Michigan Constitution, Article 6, Section 14.

—Aside from the action regarding combination of the clerk and register, the charter commission may wish to direct the BCC to define the duties of the office by ordinance.

How should the charter address the question of consolidating the office of clerk and register of deeds?

—The County Charter Act requires the charter to give the BCC the authority to combine the two offices. The state constitution also gives the county boards this authority (Article 7, Section 4).

- No general statutes cover the combining of the two offices. But the wording in the County Charter Act probably indicates that the guidelines of prior court and attorney general’s rulings must be followed.
- Essentially, those rules are that the consolidation must take place any time before the primary election filing deadlines if the combining action is to become effective upon the expiration of a current term. In other words, the candidates for the office(s) cannot be kept guessing. Nor can the combining action serve to remove an incumbent.
- Not many counties have chosen to combine the offices, perhaps fewer than twenty-five.

—If the county charter commission feels strongly about this matter it could direct the board of county commissioners to combine the offices and also give them the authority to do so. In counties with high volumes of activity, anticipated efficiencies and expected savings may not be realized. Combining the offices does serve to reduce the length of the ballot by one office.

What should the charter provide concerning the functions of the office of county treasurer?

—The County Charter Act requires the continuation of the office of county treasurer on an elected basis.

—According to the statutory mandates, the county treasurer

- takes custody of all money belonging to the county;
- issues tax collection warrants to local units;
- collects county revenues;
- disburses county funds;
- maintains a record of county receipts and disbursements;

COUNTY
TREASURER
FUNCTIONS

- collects delinquent taxes and administers delinquent tax property sales (except for the city of Detroit);
 - certifies tax liens on instruments of title;
 - inventories securities, deposits, and other assets of deceased persons.
- Discretionary services include the administration of the delinquent tax revolving fund established by the BCC.
- Except for the investment of the delinquent tax revolving fund assets, the treasurer in Wayne County does not manage the investments of “idle cash,” although county treasurers usually perform this function.
- We suggested earlier that the general investment functions, now managed by the board of auditors, be assigned to the office of county treasurer and the county’s finance department.
 - We are not aware of any services the county treasurer provides the local units of government other than those related to the above statutory and discretionary responsibilities. In line with the model we discussed earlier the county charter could authorize the treasurer to establish an investment program to assist smaller local units in the county realize larger returns on their “idle cash.”
 - Except for possibly the investment function, it does not appear likely that the duties of the county treasurer under charter county government will be changed substantially. Nonetheless, it seems appropriate for the charter commission to direct the BCC to define, by ordinance, the statutory and discretionary duties of the office.

What should the charter provide concerning the board of canvassers, the election commission, the tax allocation board?

—The board of canvassers consists of four persons who are chosen by the BCC from a list of six persons provided by the two political parties in the county, three from each. The term of office is four years. The county clerk is clerk to the board.

BOARD OF
CANVASSERS

- The duties of the board include the review of elections returns, certification of the returns, and the administration of recounts.

—The board of election commissioners consists of the senior probate judge, the county clerk, and the county treasurer.

BOARD OF
ELECTION
COMMISSIONERS

- The duties of the election commissioners involve the review of ballots preparation prior to an election.

TAX
ALLOCATION
BOARD

—The tax allocation board (TAB) consists of eight or nine persons who are named by certain taxing units within the county. The county representatives on the TAB are the county treasurer and the chair of the board of auditors. (In counties having no board of auditors, the chair of the county board's finance committee represents the county.)

- The principal duty of the TAB is to allocate the 15 mills authorized to be levied without voter approval. These mills must be allocated among townships, school districts, and the county (and in Wayne County, the community college). The decisions are made in the spring of each year on the basis of budgets presented.
- TABs do not function in counties that have adopted the fixed millage alternative.

—It seems likely that the charter commission will agree that these duties must continue to be carried out. The general statutes covering these matters and the County Charter Act, which gives the executive/manager the authority to appoint members to all boards and commissions, however, are in conflict.

- Regarding the county board of canvassers, it seems that the charter could provide for the appointment of the members by the executive/manager from a list of three from each political party. The charter may or may not permit the BCC to exercise confirmation powers.
- In respect to the Board of Election Commissioners the problem is a little more complex since the members are named by general statute. The charter commission could direct the county executive/manager to appoint these officers to the election commission, and could authorize the executive/manager to appoint other persons should one or more of the statutory representatives respectfully decline. Such appointees might or might not be subject to BCC confirmation.
- For the TAB, the problem is also legally entangled especially because the TAB, strictly speaking, is not a county government body. If the county charter does not provide for the continuation of the board of auditors, the position under statute would fall to the BCC finance committee chair. The charter commission may wish to provide that the executive/ manager appoint to the TAB a person from the executive branch and one from the legislative branch to look after the county's interests.

IV. LAW ENFORCEMENT SERVICES AND FUNCTIONS

What should the charter provide concerning the functions of the office of county prosecutor?

COUNTY PROSECUTOR FUNCTIONS

- The County Charter Act requires the continuation of the office of county prosecutor on a partisan elected basis.
 - The county prosecutor is an executive (not judicial) officer.
 - The county prosecutor is the chief law enforcement officer of the county, having the responsibility to approve charges and to prosecute alleged violations of state laws and county ordinances in that county. The attorney general may also direct the prosecutor to serve as assistant attorney general on charges brought by the state.
 - In general, county prosecutors do not prosecute charges on violation of city, village, and township ordinances. Local units have been reducing their own prosecuting costs, however, by bringing charges on violation of state law rather than local ordinances covering the same subject.
 - County prosecutors in most counties must also serve as the civil counsel to county officers and the BCC. Wayne County, like some of the other large counties, has established an office of corporation counsel that provides legal advice and handles the civil cases against the county and its officials.
- The charter commission has several basic options regarding legal services.
 - The charter could establish the office of prosecutor as an officer independent of the county executive/manager, subject only to limited administrative and financial procedures. Because of the power associated with the office arguments for and against the independence of the officer can be given.
 - The charter could direct the BCC to establish a legal department covering both prosecutorial and civil functions which would be headed by the elected prosecutor.
 - The charter could require that the two divisions of legal services be continued essentially as they are under the present arrangements.
 - The charter could be non-directive and permit the BCC to make its own determination.

—If the charter commission chooses to direct the BCC to define by ordinance the powers and duties of the elected officials, it should make the same provision for the office of prosecuting attorney.

—County prosecutors in some counties through the use of federal and state grants have developed other law enforcement programs or special task forces on organized crime, “white collar” crime, controlled substances, and other law enforcement areas. Some of these involve local, state, and county police departments. We do not know whether such projects are currently under way in Wayne County or will be under way at the time the charter takes effect.

- Such projects are appropriate law enforcement activities, but they do have financial and policy implications. The charter commission may want to include special provisions in the charter for approval and oversight by the county executive/manager and the board of commissioners in respect to such special and discretionary law enforcement activities.

What should the charter provide concerning the functions of the office of county sheriff?

COUNTY
SHERIFF
FUNCTIONS

—The County Charter Act requires the continuation of the office of county sheriff on an elected basis.

- The duties and responsibilities of the county sheriffs are numerous and scattered through a large number of statutes. Two of the fundamental duties of the office of sheriff are the operation and maintenance of the county jail and the provision of security and process service to the courts.

- Many of the county sheriffs provide a much broader range of services, such as primary and secondary road patrol, investigations, and other general police duties. In general, these services are provided to those municipal jurisdictions that do not have their own police departments. Typically, of course, sheriffs offer backup and emergency assistance to units with their own police departments under formal or informal mutual aid agreements.

- County sheriffs also provide additional services (even “branch police departments”) on a contract basis with townships in the counties.

—The general statutes give county sheriffs a substantial degree of latitude over the expenditure of county appropriations. The BCC may state the number of deputies the sheriff is empowered to appoint and may set the amount of the annual appropriations. But when funds prove to be inadequate, the BCCs have had great difficulty in dealing with demands for additional funding.

- We should note, though, that many of the costs of the department of county sheriff are not entirely controllable by the sheriff; e.g., the number of prisoners assigned to the county jail, the overtime compensation for appearance of officers in court proceedings or for court security, and the like.

- The charter commission may want to address specifically the executive/manager and BCC powers over the budget of the sheriff department – especially important, we think, is the authority to assign appropriations to specific divisions of the department, and to place limits on the sheriff’s authority to shift resources from one division to the other without executive or perhaps board approval.

- The practice of townships, cities, and villages to contract with the county sheriff department for supplemental road patrol and other police services generally fits the model we described earlier office county/local relationships and service delivery. Our view is that the charter county government should encourage the practice.
 - The principal duties of the county sheriff, as with the other elected officials, should be defined by the BCC by ordinance with special emphasis on those duties that the sheriff department is to provide with county funding.
 - Such an ordinance should permit the sheriff department to contract with townships, cities, and villages to provide supplemental services. The ordinance should also spell out the methods for determining the costs. Agreements for the service should be subject to approval by the BCC.

- Some county sheriff departments provide emergency medical services. We are not aware that the Wayne County sheriff department has an EMS program. The charter could authorize the BCC to establish such a service by ordinance.

What should the charter provide concerning the functions of the office of medical examiner?

—The office of medical examiner replaced the former office of coroner. The medical examiner is an appointed officer and usually requires a physician-specialist in pathology. Other practicing physicians in a county may be deputized to act in behalf of the medical examiner—these may or may not be pathologists.

COUNTY
MEDICAL
EXAMINER

- The medical examiner’s principal responsibility is to investigate the cause of death for persons who have died under suspicious circumstances or unexplained circumstances.

—The charter commission likely will agree that the functions of this office must be continued in accordance with the general statutes although from an organizational perspective it may wish to have the office of medical examiner become part of a broader investigative or health division.

—The charter commission perhaps should direct the BCC to provide for the appointment of the medical examiner by the executive/manager, with or without BCC confirmation, and for the duties and responsibilities of the county medical examiner by ordinance. It may be desirable also to direct the county executive/manager to make recommendations in respect to these functions.

V. HUMAN SERVICES PROGRAMS AND FUNCTIONS

What should the charter state regarding the functions of the department of health?

—As we noted in an earlier paper, operation of public health services has become a joint state-county responsibility; the state is committed to funding one-half of the state-approved local programs.

PUBLIC
HEALTH
SERVICES

- The recently enacted (1978) state health code makes public health services a county program. The city of Detroit, exercising a provision in the code, operates its own department independent of the county. The county department primarily provides public health services to the balance of Wayne County.
- Though some may have preferred other arrangements, the fact of two departments does not provide an insurmountable difficulty with respect to the County Charter Act. The act provides that those programs authorized a by charter must be rendered countywide if they are to be funded from the general fund. Because health programs are authorized by general statute, the fact of two health departments does not present a problem regarding the use of the county's general fund revenues for this function.

—The charter should direct the BCC to define the health programs and services in the county, some of which may provide for cooperative arrangements with the Detroit health department and the elimination of some unnecessarily redundant but central health functions.

—The charter should also address the question of whether public health programs will continue to be headed by a citizens board, and if so, how such board is to be chosen by the county executive/manager with concurrence by the BCC or without BCC confirmation. The ordinance should also state the powers and duties of the health board if it is to be continued.

What should the charter provide concerning the functions of the county community mental health department?

—Funding arrangements for mental health services have also undergone a recent revision. In this area the state has pledged itself to funding 90 percent of state-approved local budget programs. The state has not yet attained this level of funding.

MENTAL
HEALTH
SERVICES

- The state mental health code was adopted in 1974 and established county government as the primary agent for community mental health programs.

—The charter should direct the BCC to provide by ordinance for the provision of mental health services. The ordinance should deal with the question of the citizens advisory board for mental health and define its powers, duties, and responsibilities, as well as the method for selecting members.

- The charter should require that the ordinance deal with the duties and responsibilities of the county department of mental health or a successor agency, as well as with the relationship of the mental health programs to the county executive/manager.
- In addition, the charter should require the ordinance to define the relationship of the department to the BCC with respect to budget, acceptance of grants and gifts, and setting of fees and charges.

What should the charter provide concerning hospital services?

COUNTY
HOSPITAL
SERVICES

—Wayne County operates the Wayne County General Hospital, an acute medical care facility.

- The hospital facility, is headed by the board of county institutions, a five-person board, three of whom are appointed by the BCC and two by the board of auditors.
- Costs of the facilities are financed both from fees and from general county revenues.

—The County Charter Act presents no problems with respect to the continued operation of the facility since it is authorized by general statute and the facility is generally available to residents of the entire county. On the other hand, there may be those who wonder if the county should continue to own and operate the hospital. The charter commission does not have time to study this question and thus should authorize the executive/manager and the BCC to dispose of the facility after proper review and public hearings if they so decide. At a minimum the charter commission should take care that the charter does not require continued operation of the facility

- Other jurisdictions—special authorities and municipalities—also operate hospitals in the county and metropolitan area. Coordination of the services provided by such facilities falls outside the scope of county government; state- and federal-assisted agencies exercise coordinating responsibilities.

—The principal concern with respect to the county charter is the nature of the governing board of the hospital: whether it is to be continued and if so, whether the BCC is to confirm executive/manager appointments, and how it will be linked to executive and legislative agencies. The charter commission should direct the BCC to address these concerns by ordinance.

What should the charter provide concerning the functions of the county library?

COUNTY
LIBRARY
SERVICES

- The county library function is a discretionary county program. The Wayne County library system operates in cooperation with local community libraries, providing them with books and other materials for circulation. The county system also cooperates with the Wayne-Oakland Federation of Library Systems. The present county library system operates rather closely to the wholesale/retail model for county and municipal relations that we discussed earlier.
- In accordance with general state statutes, the county library system is headed by a citizens' library board of five members appointed by the BCC for five-year terms.
- The county system is also involved in providing some direct services, primarily to those citizens housed in institutions where they are either unable or not allowed to obtain services from community library service outlets.
- Funding for services provided to community libraries is reimbursed by participating local governments. Fines assessed for the violation of state Laws are also used to finance county library operations.
- The charter commission may wish to direct the BCC to provide for a county library system and to define its responsibilities and service programs by ordinance.
 - The ordinance should outline the scope of the library services to be provided by the county system, the nature of the contractual services to be provided, and the requirement for the BCC to approve the method for determining the costs of services to local units and to approve the contracts for the services.
 - The ordinance should also determine whether a system will be headed by a board of citizens, and if so, the nature of the powers, duties, and responsibilities of the board. The ordinance should also outline the relationship of the director to the board and to the county executive/manager.

What should the charter provide concerning the functions of the soldiers relief commission?

SOLDIERS
RELIEF
COMMISSION

- The principal duties of the soldiers relief commission is to administer financial assistance programs available for certain veterans. The main benefit available under the program is payment of funds for the burial of deceased veterans although some counties, including Wayne County, also provide some other financial assistance services.

- Many counties now handle such benefits under an agency called the veterans affairs committee, members of which are appointed by the BCC.
 - Funding for the program comes largely from the state’s Veterans Trust Fund but counties may also pay some of the cost from general funds appropriations.
- The charter commission likely will want to provide for the continuation of the service. If so, the charter should direct the BCC to provide by ordinance for its continuation and with it to provide governing policies, administrative approval channels, and whether the BCC is to confirm executive/manager appointments to the veterans commission. The statute requires that the committee consist of a representation of veterans groups.
- From an organizational standpoint, these functions might be better administered in connection with other financial assistance programs that may remain in the county.
- The services of the soldiers relief commission or a reorganized veteran affairs committee generally do not come into conflict with the local governments. We note, however, that a general statute does permit township supervisors to make payments of up to \$10 to destitute veterans, reimbursement to be made by the county. We are not aware that this practice is any longer followed, but the charter commission may wish to remind the BCC that it may want to cover this matter in its ordinance.

What should the charter provide concerning the functions of the Cooperative Extension Service?

COOPERATIVE
EXTENSION
SERVICE

- The Cooperative Extension Service is funded from federal funds, state appropriations (through Michigan State University), and county general revenues.
- CES programs include programs for youth and adults in family living, agriculture, and public affairs.
 - General direction for the activities is provided through the MSU Cooperative Extension Service on the MSU campus and a county director who is selected by the University and the BCC.
 - The charter commission could direct the BCC to provided for CES functions and services by ordinance, outlining organizational arrangements and executive and legislative linkages.

VI. PHYSICAL DEVELOPMENT AND ECONOMIC FUNCTIONS

What should the charter provide concerning the functions of the county drain commissioner?

—The office of county drain commissioner is not a constitutional office. Under present arrangements the drain commissioner is elected on a partisan basis to a four-year term.

DRAIN
COMMISSIONER
FUNCTIONS

— The Charter County Act does not require the continuation of the office.

—General statutes, in a rather substantial body of law—the drain code, outline the responsibilities and procedures for the commissioner of drains. We would expect the charter commission to agree that the charter county should continue to administer these functions.

— County drains construction and maintenance and the customary methods of funding them—special assessments and often the general funds of county or local governments—corresponds rather well to the model discussed earlier.

—Should the charter commission determine not to continue a county drain commissioner as an elected official, it will need to provide for the assignment of the function to some other department such as a department of public works or perhaps a division of the county road commission. The charter commission may wish to give the executive/manager and the BCC the authority to make this decision and to define the duties and functions by ordinance.

What should the charter provide concerning encouragement of economic development?

—Wayne County has established an economic development commission, and in the past has provided it financial support. No doubt, a number of the local units within the county also have their own independent, or perhaps cooperative, economic development commissions.

ECONOMIC
DEVELOPMENT
FUNCTIONS

— Economic development commissions are almost an essential ingredient for those local units seeking to compete successfully for new or expanded development.

— The role of the county in this function should be to assist those local EDCs in becoming more effective by assembling site information, workforce data, financial assistance packages, potential contacts, and other information.

—The charter commission likely will seek a continuation of these types of effort on the part of the county. If so, the charter should authorize the BCC to provide by ordinance for a county economic development effort to work cooperatively with the local units. The charter commission should also determine whether executive appointments to the EDC are to be subject to confirmation by the BCC.

- Since EDCs are permitted by general statute, county financial assistance could be appropriated from the general fund even though not all units in the county have an EDC.

What should the charter provide concerning the function of building code enforcement?

CONSTRUCTION
CODE
ENFORCEMENT

—In 1973 the state enacted legislation providing a uniform state construction code. The statute permits cities, villages, and townships to adopt the state code as their own and permits them to enforce it. If a local unit chooses not to administer the code, the act requires the county to do so.

- In general, those units that have had sufficient construction activity and therefore building permit revenues, or that have been able to employ a code enforcer (building inspector) on a cooperative basis with other units, have chosen to administer the act.
- The county presently does not administer the state construction code although the state statute requires the county to do so for any municipality that does not exercise this responsibility itself.
- Enactment of the state code by the county and administration of it for some of the local units correspond with the general model of county-local relations regarding some functions.
- The charter commission may wish to authorize the BCC to adopt and enforce the state construction code on a contractual basis with local units or on the basis of permit fees. If so, the charter should authorize the BCC to adopt an ordinance establishing the service and to assign the function to an appropriate division or department of the county government.

What should the charter provide concerning the function of planning and zoning by the county?

PLANNING
AND ZONING
FUNCTIONS

—Cities, townships, villages, and counties are each permitted to establish a planning commission and a zoning commission. The relevant statutes also permit the governing bodies to assign the zoning function to the planning commission.

- The local units have the authority to exempt themselves from county zoning where it exists by adopting a local zoning ordinance. A few counties have countywide zoning; most do not, since land use decision-making is a responsibility over which citizens prefer to keep rather close control.
- Wayne County has established a county planning commission. It does not exercise the zoning function. The principal duties concern review of federal grant proposals and planning for economic development and solid waste management.

—It does not appear likely to us that county government will be allowed to adopt and enforce a comprehensive countywide zoning ordinance in the foreseeable future. Moreover, we are not convinced that such an approach would be desirable. Certain aspects of the zoning function, however, at some future time, could be assigned to a county zoning commission along the lines of the model we discussed at the outset of this paper. Thus, we think it advisable for the charter to authorize the BCC to create and adopt a county zoning ordinance subject to the limitations of state statutes and perhaps a referendum.

—It also seems appropriate for the charter commission to authorize the BCC to establish by ordinance a county planning commission and to define the duties and responsibilities of the planning commission (possibly including the review of proposed road construction and reconstruction by the county road commission and state agencies). The County Charter Act does not directly address such a review and approval process regarding roads. The authority to adopt such an ordinance should also include a provision whether the appointment of the planning commissioners is to be subject to confirmation by the BCC.

What should the charter provide concerning the county road commission?

- The County Charter Act includes a number of provisions regarding the county road services. See Section [14 (9d) (ii)].
 - The Act continues a three-person board.
 - Members represent Detroit, smaller cities, and townships. They are chosen by the executive/manager with BCC confirmation within a 60-day period.
 - The charter may provide for a three-year term but must permit the executive/manager to remove the commissioners “at pleasure.”
 - “The charter shall specify duties and procedures to assure that administrative decisions made for road construction shall be coordinated with... other programs.”

COUNTY
ROAD
FUNCTIONS

—County road commissions, funded as they are from gas and weight taxes, have generally been independent of the BCC. Revenue shortfalls in road funds have encouraged closer relationships as road commissions seek general fund support for some projects.

—The charter commission, picking up on the authority in the Charter County Act, may want to instruct the BCC to implement the coordinating responsibilities by ordinance. But it could include some specific details such as:

- BCC approval of county road commission budget and long-term capital improvement plans.
- BCC specification of purchasing and contract procedures.
- BCC approval of contracts with local units in the county regarding “over and above” services.
- Conditions for improvements on secondary roads and streets within cities and townships.

—Alternatively the charter commission could instruct the executive/manager to develop rules of procedures subject to BCC approval.

What should the charter provide concerning the airport function?

AIRPORT
FUNCTIONS

—The Wayne County Road Commission is the governing board for the Detroit Metropolitan Airport. In some other counties, a BCC committee serves in this capacity. In at least one other, a special authority with a limited taxing power is the governing board.

- The DMA operates as a self-financing operation.

—The County Charter Act does not address specifically the organizational arrangements for the DMA.

- There may be a division over the question of whether the road commission or some other board should be the governing advisory body for the airport operations or whether it should have a governing board at all.
- If the charter commission can reach agreement on this question it should indicate in the charter provisions to carry out its conclusion.
- Alternatively the charter commission could authorize the BCC to enact a change by ordinance at some future time.

- If there is to be an airport board, the charter should state whether appointments are to be subject to BCC approval. The charter should also describe the powers and duties of the board, its relationship to the executive/manager and the BCC, especially in respect to budget, purchasing procedures, personnel management, contracts, and other related procedures. The charter could also direct the BCC to provide for resolutions of these matters by ordinance.

What should the charter provide concerning the operation and maintenance of public works functions?

- Two statutes permit counties to become involved in public works.
 - One creates a board of public works, the other permits the BCC to designate the drain commissioner or the road commission to act as “agent” for public works programming.
 - The most common purpose of these approaches by the county has been financial—the county borrows funds to assist local units in providing water and sewer services. The bonds are repaid by local unit fees while the county faith and credit is pledged as fund security. In a few instances, the county has become the owner and operator of the systems.
- The Wayne County Public Works Department operates four sanitary treatment plants, owns and operates the main sanitary interceptors to which community sewerage systems are connected. The department provides services to most, if not all, of Wayne County other than the city of Detroit. Some of its facilities also extend to parts of Macomb and Oakland counties.
 - The department now operates under a Board of Public Works. It was formerly a division of the county road commission.
 - The public works department corresponds closely to the model of county-community relations that we described earlier in this paper.
 - Financing of capital and operating expenses is primarily from city, village, and township contracts for services.
- The charter commission, undoubtedly, will provide for the continuation of this county function. But it will need to decide whether there should be a Board of Public Works. If such a board is to continue, then the charter commission will have to address other related questions such as whether the BCC is to confirm appointments to the board, the board’s powers and duties, and the policy administrative linkages to the executive/manager and BCC.

PUBLIC
WORKS
AND
SERVICES

—The Wayne County department operates only sanitary sewer systems. The public works statute, however, also authorizes boards of public works to provide water systems, solid waste disposal systems, and to make inland lake improvements. The charter commission may want to authorize the BCC to include such functions in the ordinance governing public works activities.

What should the charter provide concerning parks and recreation services?

PARKS AND
RECREATION
PROGRAMS

—General state statutes provide several basic approaches for parks and recreation programs. A 1965 statute permits the creation of a 10-person board. The chairpersons of the county road and planning commissions, the drain commissioner, and up to three county commissioners are members. Another statute permits the BCC to designate the county road commission to function also as a parks commission. Another statute also permits counties to be members of regional park and recreation commissions.

- The county road commission manages and operates the Wayne County park system.
- The department also schedules park facilities for use by community groups.

—Many communities also provide parks and facilities and coordinate recreational programs, including leagues for various sports.

—The parks system in Wayne County also involves those facilities provided by Huron-Clinton authority and by the state.

—The charter commission will likely want to continue the county's role in park and recreation programming.

- If so, it should direct the BCC to adopt an ordinance providing for the function.
- The charter commission may want to include some direction regarding the organization structure. If the commission prefers a parks and recreation commission separate from the road commission, it should so state in the charter and direct the BCC to include in its ordinance provisions for a new parks and recreation commission, if one is to exist, and whether the BCC is to have confirmation authority over executive/manager appointments.
- The charter commission may also want to include a general statement regarding the purpose and role of the county in parks and recreation programming.

VII. JUDICIAL SERVICES AND FUNCTIONS

What should the charter provide concerning the trial court systems in Wayne County?

- In general the state is moving in the direction of reorganizing the major trial courts to bring them under the closer supervision of the state supreme court. The presumption is that this reorganization will ultimately include state funding of the court system, if not in total, then in major proportions.
 - The first major step in this direction occurred in 1980, when the state legislature began merging the Wayne County Circuit Court and the Detroit Recorder’s Court and made a “state judicial council” the employer for certain court employees who will be paid from state appropriations. The transfer includes the Friend of the Court.
 - Those employees of the county who provide “court clerk services”—generally those employees of the county clerk responsible for “processing of or record keeping in a case”—will remain county employees. The state agrees to reimburse the county for the personnel costs of such employees.
 - The county will remain responsible for the costs of court facilities, utilities, courtroom security, assigned counsel, costs to jurors, witness fees, assigned judges, judicial-ordered transcripts, probation department, most medical or psychiatric examinations, grand jury costs, and deputy sheriff fees. Some of these, of course, will be offset by reimbursements.
- As we indicate below in connection with the probate court, charter provisions office the relationship of the executive/manager and the board of commissioners to the major trial courts involve a delicate issue.
- The charter should authorize the BCC to appropriate the funds for the judicial expenses for which the county remains responsible. The appropriations should follow the approved procedures for budgeting and appropriations and the procedures for the expenditure of such appropriations

CIRCUIT
COURT AND
RECORDERS
COURT
SERVICES

What should the charter provide concerning the functions of the probate court?

- Each county, by constitutional mandate, is required to have a probate court. The specific arrangements of the probate system are left to statute. The state constitution also states that there shall be a single court in the state.
- According to the state constitution the judicial power of the state is vested in a single court of justice (with divisions) under the superintending control of the state supreme court.

PROBATE
COURT
SERVICES

— The Wayne County Probate Court system was not involved directly in the overall reorganization of the Wayne County Circuit Court and the Detroit Recorder's Court.

—The probate court consists of two major divisions; one dealing with the administration of estates of deceased persons and those persons needing custodial care, the other dealing with juveniles who come under the court's jurisdiction either for protective or criminal reasons.

— The juvenile division operates an extensive system of programs related to the care, correction, and custody of youth coming within the court's jurisdiction.

—The County Charter Act does not address the issue of probate courts or any other courts. This is consistent with the general idea of a single state court system under the supervision of the state supreme court. It is inconsistent with reality, however, to the extent that the county is involved in providing the courts with space, personnel, and funds for other aspects of the probate court's programs. The BCC also may set the salary of probate judges, at least to the extent that the salary exceeds the state-prescribed minimum for probate judges.

— Charter provisions regarding the probate court services constitute a very delicate matter. The general trend in Michigan is for the court system to be asserting ever more forcefully its own independence from other branches of state or local governments. But at the same time, the extra-judicial functions of the probate court, such as the administration of the care and custody of youths, should, be addressed.

— It does not seem prudent for the charter commission to direct the BCC to assert itself as having governing responsibilities or the authority over the direct judicial functions of the probate court. In respect to the general support functions, however, it seems to us that operation of detention and foster home programs are properly considered as executive functions. The charter commission should authorize the BCC to provide for these programs by ordinance.

—In addition, it is proper for the charter commission to authorize the BCC to appropriate funds for the probate court in accordance with the county budget and appropriations procedures, and for the expenditure of county funds in accordance with established county procedures. Disputes might arise nonetheless. Without any charter provisions regarding the BCC role in funding, the BCC will have little legal base other than that provided in general state statutes to deal with the probate court system.

A CONCLUDING STATEMENT

In the foregoing sections, we have reviewed those functions that the county government is presently exercising. These, we think, the charter commission must deal with specifically and directly.

A broad service and regulatory authorization

We did not discuss many other duties that some counties carry out nor that broad sweep of potential services and regulations that the County Charter Act would permit. Examples of such services are animal control, housing, cable television licensing, “911” dispatching services, and hazardous substances management. The list could go on at length and we would still not be able to list all those functions that future technology is bringing upon our government and will continue to do in the future.

In this connection we believe the charter commission should include in the charter a broad statement similar to the one contained in the Charter County Act—a statement that allows for charter county action in respect to any service or function that may be necessary for the general health, safety, and well-being of the citizens of the county.

As we indicated earlier, we are confident that the political processes of the county, through the intersections of the county executive/manager and the legislative body, will keep the county government in reasonable check. In addition, of course, the taxing authority, the over-arching hand of state government, and the courts will serve to keep the reorganized county from straying too far from what citizens and local officials will consider reasonable.

An effective legislative body

In our foregoing suggestions, we have outlined a full agenda for the BCC. We have suggested an approach to limit or eliminate the BCC’s, administrative role. Instead, through requiring the adoption of ordinances, exercise of legislative veto power, approval of intergovernmental contracts, and confirmation of many executive appointments, we have proposed an active, involved, and strong legislative body—one that we think will provide an adequate balance to the executive/manager. Together, we think, they will offset the traditional power of the “permanent” force in county government—the employed bureaucracy.

In order to balance the political forces of the charter county government, we believe it is essential that—

The BCC be directed, or in some cases be given the authority, to enact by ordinance the powers, duties, and responsibilities of the agencies of county government.

The county executive/manager be required to submit for BCC confirmation of most appointments to boards, commissions, and department heads prior to appointees taking office.

The BCC be given the duty to approve all intergovernmental contracts, labor agreements, and other major contracts to which the county is party. The BCC will approve all land purchases and sales, and grant applications and acceptances.

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