

Citizens Research Council of Michigan

625 SHELBY STREET, SUITE 1B, DETROIT, MI 48226-3220 • (313) 961-5377 • FAX (313) 9614)648
1502 MICHIGAN NATIONAL TOWER, LANSING, MI 48933-1738 • (517) 485-9444 • FAX (547) 485-0423

Detroit City Charter Revision

CITIZENS RESEARCH COUNCIL OF MICHIGAN IS A 501(C)(3) TAX EXEMPT ORGANIZATION

On November 2, 1993, as provided in the 1974 charter, voters of the City of Detroit will determine whether a charter commission will be established to revise the current charter. This series is being financed in part by grants from Community Foundation for Southeastern Michigan, Hudson-Webber Foundation, and Matilda R. Wilson Fund, and NBD Bank.

REPORT NO. 310-01

First in a special series on Detroit City Charter Revision Issues

JULY 1993

DEMOCRATIC PRINCIPLES AND HOME RULE CHARTERS

By

Susan B. Hannah

School of Public Affairs and Administration

Western Michigan University

A Home Rule Charter is like a local government constitution. It describes the structure and powers of the city government, establishes its officers, their responsibilities, how they are selected, their terms, and their limitations. In Michigan, the Home Rule Cities Act lays out the process for electing a charter commission to write a charter. It lists what the charter can and cannot include, and tells how the charter is put on the ballot for voters to adopt or reject. Even though the charter has to stay within the provisions of the state constitution and state laws, the power to develop, adopt, revise, or amend the city charter is broad and important. As one charter commissioner stated, "Everyone should have the chance to write their own government."

A good place to start thinking about "writing your own government" is with the basic democratic principles on which our American political system was founded. These principles form the basis for our entire governmental system--national, state, and local. We have just recently celebrated the 200th birthday of our national Constitution. Reminding ourselves of the principles on which it was written helps put the task of charter-writing in perspective and provides a set of standards to guide discussions about our

own local "charter-constitutions."

Six of these principles are particularly relevant to local government: popular sovereignty, individual rights, representation, majority rule, limited government/divided power, and accountability. Each principle has built-in tensions and our understanding about how to strike a balance among them has changed with our history. Most of the critical political issues of today can be expressed in terms of these fundamental values. They also set the standards for evaluating the consequences of one form of local government or another, one election system or another, one set of eligibility requirements or another, and other critical choices for city charter writers.

1. Popular Sovereignty. In the American political system, sovereignty—the authority to take life and property and make enforceable laws—is vested solely in the people. "We the people," begins the U.S. Constitution; "We, the people of the State of Michigan," begins the state constitution. We the people join together and decide how to organize our sovereign power into a government and write down our rules for governing in a constitution. So the government only has the power we give it. And what we put in the constitution,

BOARD OF DIRECTORS

DANIEL J. KELLY, President
ALFRED R. GLANCY, Vice President
GEORGE N. BASHARA, JR.
BEVERLY A. BELTAIRE
LOUIS BETANZOS
J. JAMES BROAAO
JOHN W. CLARK

MALCOLM G. DADE, JR.
GEORGE C. EADS
MICHAEL M. GLUSAC
ALICE GUSTAFSON
JOHN J. HOLTON
HARRY KALAJIAN
SUSAN L. KELLY

DAVID B. KENNEDY
PATRICK J. LEDWIDGE
ROBERT F. MAGILL
ROGER L. MARTIN
PAUL H. MARTZOWKA
MICHAEL E. MASLYN
DAVID N. McCAMMON

DONALD R. PARFET
IRVING ROSE
WILL SCOTT
HOWARD F. SIMS
A. ROBERT STEVENSON
RICHARD WEBB

ROBERT L. QUELLER, Vice President-Executive Director

we can change. In Michigan, we put in the state constitution that citizens can create and then modify their local government through a city charter. But behind the home rule charter, the Michigan Constitution, and the U.S. Constitution, stand the only real rulers--the citizens themselves. What we create, we can change. As Thomas Jefferson, author of the Declaration of Independence, argued, "Laws and institutions must go hand in hand with the progress of the human mind." The tension between what was and what can be gives us room to create our own future.

2. Individual Rights. Not only do we believe that the real power is vested in the people, we believe it is vested first and foremost in individuals. In the Declaration of Independence, Jefferson wrote that individuals are endowed with certain inalienable rights, among them life, liberty and the pursuit of happiness. And when state conventions were voting whether or not to adopt the U.S. Constitution, many would not vote yes until it was agreed to add a Bill of Rights protecting those individual rights. The freedom for each individual to become whatever she or he wants to be is the very highest of our American ideals. This basic principle of individual rights has created many tensions in our history. One concerns equality, another the community. In the beginning, only men were property-owners, then only men who were white were really equal under the U.S. Constitution. Gradually we expanded our understanding, and now all individuals regardless of races sex, creeds or ethnic origin have equal rights and equal protection under the law. Vested with these individual rights, however, we sometimes bump up against each other or against the larger community. When do my rights stop and yours, or ours as a community, begin? Deciding where that balance lies is what most policy debates are about--letting a city regulate business or noise chooses the community over the individual, but we worry about where to draw the line. How much regulation? How much noise?

3. Representation. In the U.S. Constitution, we agreed to be a republic, that is, we agreed to express our sovereignty in the voting booth and elect representatives to carry out the tasks of governing following particular decision-making rules. The issue of the direct vote and representation was what the American Revolution was all about and is why we redraw our state legislative and congressional districts every ten years. Representation brings other tensions. One is that we want to be assured that our vote counts since it is the truest expression of popular sovereignty. We want election systems that protect that right. Another is that we tend to see the legislature as the institution most directly related to our vote, thus the most democratic, and thus perhaps the most important. Particularly relevant to local government, we still like the democratic ideal developed during the presidency of Andrew Jackson, 1828-1836, that to provide the best control over government, we should elect everybody in authority. Consequently, we have many local governments that still elect a long list of officers. But, the more folks we elect, the harder it is to see who to credit or who to blame. The most representative does not necessarily mean the most effective, or the most ethical.

4. Majority Rule. In our republic, we wrote in the constitution that majority rule is the best expression of the popular will. The tensions between the majority and the minority and the majority and the individual are parts of the principle itself. Because we value the individual, we also value the minority. By even writing a constitution (or a charter), however, we also value the community as expressed by the majority. Majority rule, minority rights, the individual, and the community--local government looks for a balance among these values in the way it selects city officers and in the rules it establishes for passing ordinances and conducting city business. We establish special voting rules for special situations. Occasionally, for example, we require an extraordinary majority--two-

thirds or three-fourths—for really important decisions like selling property (which actually belongs to us the citizens) at the local level or amending the constitution (at the state or national level).

5. Limited Government/Divided Power. Because we begin from principles of popular sovereignty and individual rights, government only has the powers we give it. The rest belongs to us. Based on our colonial experience and on a belief in the inalienable rights of the individual, we really do not like or trust government very much, and we are even more afraid of centralized power. We want to limit what government can do, so we split up the decision-making process into different parts, each with its own rules, but all having to agree to take action. Thus we divide government into federal and state, and then into local levels each having only the powers we write down in the constitution. And then we divide it again, into executive, legislative, and judicial branches, each selected differently and each with the power to “check and balance” the other. In local government, we check the power of the mayor or the city manager by requiring council confirmation of appointments or ratification of decisions. With limited powers and divided authority, however, the danger is that when so many have to agree, little gets done. The values of limited government and divided power conflict with the value of effectiveness implied by majority rule.

6. Accountability. Concerned about protecting our individual rights and our vote, we have divided up the process into so many parts and elected so many different officers that sometimes government cannot act even when we want it to. Over the years, we have learned that the key to effective local government is to balance responsibility and accountability. To be effective, we should give local officials, particularly the mayor or the city manager, enough authority to carry out their responsibilities, not divide up the power among so many elected

officers that little can be accomplished. Then, however, we should make these officers accountable for that authority, through the vote in the case of a mayor, or through a representative city council in the case of a city manager. Writing in defense of a single executive in the U.S. Constitution (many at the 1787 Convention wanted a committee), Alexander Hamilton argued eloquently that fixing responsibility in one place would make that position “more narrowly watched and readily suspected.” We would know who to vote for or against. We should build in accountability for other officers as well. Charters can assure popular control through provisions specifying called meetings, publication of minutes and ordinances, and access to city records.

The principle of accountability brings us back to the ultimate source of authority and responsibility for effective local government. We the people are the real sovereigns, and thus we must hold ourselves accountable to create and oversee an effective governance structure. That is what democratic citizenship means. Montesquieu, a French philosopher whose writings about democratic government were important to the first American constitution-writers, argued that the virtue of a democracy depended in the end on the virtue of its citizens.

“Writing your own government” in a home rule charter provides a powerful opportunity for citizens to express that virtue by getting involved in shaping their city government. Our democratic principles of popular sovereignty, individual rights, representation, majority rule, limited government/divided powers, and accountability—with tensions—provide all their a guide and a continuing challenge. More than 100 years ago at Gettysburg, President Abraham Lincoln spoke to the great dedication such a challenge demands. We have declared that “government of the people, by the people, and for the people” is our right; it is also our responsibility.

