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Detroit City Charter Revision

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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.

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FORM OF CITY GOVERNMENT: SEPARATION AND BALANCE OF POWERS BETWEEN THE MAYOR AND THE CITY COUNCIL

The 1974 Detroit charter established a strong mayor-council form of government with clearly defined executive and Legislative branches and incorporated the system of checks and balances inherent in that structure. Strong leadership and diplomacy is necessary to smooth the operation of a government machine that is founded on the principle of checks and balance; there is a joint responsibility to make the system work. In Detroit, the tension and competition between the branches has been demonstrated by numerous Lawsuits filed by one branch against the other, proposed charter revisions to strengthen one branch or the other, printed budgets that do not reflect the council approved budgets, and refusal to share information. In this competition, the executive seems to have developed a dominant role. Conflict between mayor and council or too dominant a role for one or the other branch of government can undermine the necessary checks and balances and adversely affect city government operations.

The basic strength of the legislative and executive branches is determined by the charter, although legal decisions and practices affect the relative strength as well. The charter should not withhold the authority from either branch that is essential to effective government, but it is possible to retain the strong mayor form while changing the balance of power between the executive and legislative branches.

One critical charter issue is the separation and balance of powers between the legislative branch, headed by the city council, and the executive branch, headed by the mayor. The doctrine of separation of powers was developed in the 17th century as a means to prevent public officeholders from exercising their powers to their own advantage and to the disadvantage of society. This protection of the public good was built into the institutional arrangement of government by splitting authority among branches that had specific, limited powers. In Michigan, the powers and organization of the executive and legislative branches of cities are established by locally adopted charters within the constraints of state law, while those of the judicial branch are established by the state.

The 1974 Detroit charter contained little change in the roles or the relative authority of the mayor and council. Evaluation of the balance of powers between the council and the mayor is complicated by the presence in the mayor's position of the same individual for the full time that the 1974 charter has been in effect. It is sometimes difficult to distinguish between basic charter powers and the powers that an individual has accrued through political means over 20 years in the office. Consistent with the perceived relative power of the mayor, the city council's role in budget making and oversight in practice at times appears to be weaker than would be expected from a reading of the charter.

Charter amendments can be placed on the ballot

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by a three-fifths vote of the city council or by initiative petition. Since 1974, there have been eight proposed charter amendments that addressed the relationship between the city council and the mayor. All of these council-proposed amendments would have strengthened the city council. Four of these eight proposed amendments were approved by the voters.

Forms of City Government

City governments in large U.S. and Michigan cities are either the strong mayor-council or the council-manager form. These forms embody different relationships between the executive and legislative branches.

The strong mayor-council form, with the head of the executive branch directly elected by the people, most resembles the U.S. government model with its system of separation of powers and checks and balances. In the strong mayor-council form, the elected city council makes appropriations, ordinances, and policy, and exercises oversight of the executive branch. The elected mayor has executive responsibility for appointing and supervising city department heads, proposing the budget to the council and administering the budget, and has authority to veto acts of the council. There is a distinct separation of powers between the mayor (executive) and council (legislative), which frequently results in dissension between the two branches. There are variations within the strong mayor form which allocate more or less authority and responsibility to either the executive or the legislative branch.

In the council-manager form, all powers of the city are vested in the council. The city council has control of city finances, ordinances, and policy, and appoints, supervises, and may remove the city manager, who has executive responsibility for supervising and directing city department heads. The mayor is a member of the council.

A less common form of government in large cities is the weak mayor-council form, in which authority and responsibility are diffused. The mayor may be elected, but typically would not have veto power, and only limited appointment and budget powers. Several executive department heads may be directly elected. In addition, authority may also be shared with administrative boards whose members are elected or appointed for overlapping terms.

The table on page 6 presents data on city organization for the largest U.S. cities and the largest Michigan cities. The mayor-council form is used in 15 of the 20 largest U.S. cities, and in 14 of those cities the mayor has veto powers. Mayors in the largest mayor-council cities have (or share) budget authority and appointment powers. The 20 largest Michigan cities are fairly evenly split between mayor-council and council-manager forms. In the nine largest Michigan cities that have mayor-council forms, the mayor has veto powers, budget responsibility, and appointment authority.

Detroit Governmental Structure

As noted, city charters in Michigan establish the form of city government, the relationship between the executive and the legislative branches, and the checks and balances between the two branches. Under Michigan law, the form of city government can be changed only through a charter revision and not through the amendment process.

Both the 1918 and the 1974 Detroit City Charters provided for the strong mayor form. The problem of establishing a responsible and effective local chief executive is fundamental. If council exerts too strong control over the executive, he or she cannot take decisive action and government may become ineffective due to lack of leadership. If council exerts too little control, government may be unresponsive and unrepresentative.

The Executive The mayor is the chief executive officer of the city and controls the executive branch, which implements the services, programs, and activities of the city government. The mayor appoints the mayoral staff (the mayor designates one of the mayoral staff or the director of an executive branch department as deputy mayor) and appoints most of the heads, directors, or commissions of executive branch departments exempt from civil service and without council confirmation.

City Council The Detroit City Council is composed of nine members elected at large. It is a full-time, fully paid council which meets every business day during ten months of the year. city council may appoint a staff exempt from civil service. Staff include administrative assistants; secretaries; research and analysis staff; financial specialists; and other advisory and administrative personnel. Council appoints the Ombudsman, who may investigate any official act of any agency except elected officers which aggrieves anyone; the Auditor General, whose office audits the financial transactions of all city agencies and investigates and reports on the administration and operation of any city agency; and the Planning Commission, which advises the city council on development matters. A 1976 charter amendment permits council to sit as a board of review or to appoint a board of review for hearing property assessment appeals.

The Detroit charter provides that the city clerk, who is the chief elections officer of the city and is charged with keeping the records of the city council, is directly elected by the voters.

Executive Organization Plan The charter defines and assigns basic duties to various line and staff and departments and gives the mayor responsibility for preparing an executive organization plan that shows the programs, services, and activities assigned to each agency. Staff departments created in the charter may not be combined, but the mayor may, with certain ex-

ceptions, assign functions of an operating agency to a staff department, transfer functions among operating departments, or combine operating departments. Council may disapprove the mayor's organization plan by a two-thirds majority. The number of executive departments is generally limited to 35, but city council may pass an ordinance allowing the creation of more than 35 executive departments. Only the mayor may propose amendments to the executive organization plan.

City Budget The city budget in large measure determines policy: what services the city government will provide, the quantity that will be produced, and what resources will be used to pay for those services.

The mayor is responsible for submitting a proposed budget to the city council. Council may request supporting data for each proposed budget appropriation submitted by the mayor. A 1976 charter amendment strengthened the councils role in budget formulation by specifying that council may amend the mayor's proposed budget by deleting, adding, or substituting specific programs, services, or activates. The mayor may veto amendments made by the city council to the proposed budget. Council may override mayoral vetoes: the original 1974 charter required seven council votes to override a budget veto, but a 1988 amendment strengthened the legislative role by reducing the number of votes needed to override a budget veto to two-thirds (six) of the council members serving. If the council fails to override the mayor's veto, the mayor's original recommended budget item and amount become the appropriation. The mayor may advise the council during the fiscal year that there are additional revenues available for appropriation, and may request that council transfer funds from one program to another.

The Detroit Charter states: "All appropriations to each agency shall be made in the form of lump sums to the agency's specific programs

services or activities or to additional classes as the mayor may recommend in the proposed budget....” Adoption of a “program” rather than a “line item” budget limits council authority to approval of a maximum amount to be spent for defined programs. Transfers between accounts within programs can be made without council approval; transfers of funds between programs require council approval. Programs in the 1992-93 budget ranged in size from \$2,500 to over \$97 million.

The charter directs the mayor to submit a proposed five-year capital agenda to the council each year. Council may require the appearance of any agency head to assist in the process of evaluating the proposed capital agenda submitted by the mayor and may modify that agenda before approval .

Master Plan The 1974 charter mandates that the mayor propose to the council a master plan of policies for the social, economic and physical development and conservation of the city. He or she may also propose amendments to keep the plan current. Council may modify the master plan or any amendments submitted by the mayor before approval of that plan. A master plan wasn’t submitted to the council until 1985; revisions were submitted in 1987 and 1989. The plan was finally adopted by the Detroit City Council on August 5, 1992, 19 years after the charter mandate.

Ordinances and Resolutions The city council passes ordinances, which are municipal regulations, by majority vote; a two-thirds majority may give immediate effect to any ordinance. Council also passes resolutions, which are formal expressions of will, opinion, or intent. The Detroit City Charter requires that both ordinances and resolutions passed by the Detroit City Council be presented to the mayor. The mayor can return ordinances and resolutions to the city clerk with or without approval or with a veto and a written explanation. The interpreta-

tion of the possible mayoral responses to council actions has been the subject of two proposed charter amendments. The 1976 amendment passed by the voters specifies that if the mayor approves an ordinance, it is enacted; if the mayor returns an ordinance without either approving or vetoing its that ordinance is deemed enacted upon receipt by the city clerk; if the mayor does not return an ordinance to the city clerk within the required seven days, that ordinance is deemed enacted. If the mayor vetoes an ordinance or resolution, a two-thirds majority of council members serving may override the veto. A similar ballot proposal in 1989 applied to resolutions; it was defeated by the voters.

Purchase and Disposal of Property Requests for the purchase or disposal of city property originate in the executive branch. City council approval is required for the city to sell or dispose of property. A 1976 charter amendment required council approval of all purchases or procurements of property or the services of independent contractors except as otherwise provided by ordinance.

Legislative Oversight The city charter provides for the traditional oversight role of the legislative branch by providing that the council “may make investigations into the affairs of the city and the conduct of any city agency.” The charter specifically restrains council from direct involvement in executive branch operations by prohibiting council from giving orders to executive branch employees: “Except for purposes of inquiries and investigations, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision of the mayor solely through the mayor, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately.” The distinction between oversight and interference has been one of the main areas of contention between the mayor and council.

Changing the Balance of Powers

While separation and balance of powers are fundamental to the mayor-council form, there are varying degrees of authority that the charter may bestow on the executive and legislative branches.

The city council could be strengthened by requiring council approval of mayoral appointments; having council appoint the city clerk; allowing council greater access to executive branch department directors and staff; allowing council to hire outside legal counsel; requiring more frequent, more complete reports of financial and operational conditions by the executive to the council; allowing council to propose changes in the budget and executive organization plan; redefining programs from the appropriation level to the cost center level; or adopting a line item budget and requiring council approval of line item changes. Since the master plan is a policy instrument, the responsibility for both developing and adopting the master plan could be assigned to the city council.

The chief executive could be strengthened by further limiting council access to mayoral appointees and executive branch employees; limiting the number of council staff; redefining programs from the appropriation level to the departmental level; limiting the changes council can make in the proposed budget; eliminating council review and approval of the executive organization plan; eliminating commissions and providing for direct mayoral appointment of all executive branch department directors and deputies or further expanding the number of mayoral appointees. A very effective limit on the legislative branch would be imposed if the city council were made part-time and salaries for council members were reduced to a modest level.

In Conclusion The mayor, by virtue of his or her position, speaks for the city. Nearly 30 years ago, when the 1918 charter was still in effect, and before the current incumbent mayor was elected, author Edward C. Banfield commented on the mayor of Detroit in Big City Politics:

In fact as well as in law the mayor is the mainspring of Detroit city government. He has very little patronage to bestow: about thirty-five salaried jobs and 250 unpaid but more or less-prestigious commissions. He gets most of his informal influence from his ability to form and give expression to public opinion. His views and doings are always news, and this enables him to dominate the discussion of any issue. Detroit mayors have so much power and receive so much attention that they tend, some say, to develop Napoleonic complexes.

While the mayor may be expected to receive the lion's share of attention, the role of the city council is critical. The council decides what the city government will do, and the mayor decides how to do it, within the limitations of law and accepted principles.

In the ends it is the responsibility of the people to elect leaders who will exercise their rightful authority while not abusing their power. It is the responsibility of the officials elected by the voters to positions of leadership in the executive and legislative branches to use fully the authority granted in the charter in the interest of the citizens. The challenge is to establish a system that will allow the people of the city to fix accountability and to hold their officials responsible for the way they use their authority.

**COMPARISON OF FORM OF GOVERNMENT MD MAYORAL POWERS
FOR THE 20 LARGEST U.S. CITIES MD THE 20 LARGEST MICHIGAN CITIES**

LARGE U.S. CITIES

| Name | Form of Government | Mayor-Full/ Part-time | Mayor Veto Power | Budget Responsibility | Appointment Authority |
|---------------|---------------------------|----------------------------------|-----------------------------|----------------------------------|----------------------------------|
| New York | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Los Angeles | Mayor-Council | Full-time | Yes | Mayor/CAO | Mayor |
| Chicago | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Houston | Mayor-Council | Full-time | No | Mayor | Mayor |
| Philadelphia | Mayor-Council | Full-time | Yes | Mayor | Mayor/CAO |
| San Diego | Council-Manager | Full-time | No | CAO | CAO |
| Detroit | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Dallas | Council-Manager | Part-time | No | CAO | CAO |
| San Antonio | Council-Manager | Part-time | No | CAO | CAO |
| Phoenix | Council-Manager | Part-time | No | CAO | CAO |
| San Jose | Council-Manager | Full-time | No | Mayor/CAO | CAO |
| Baltimore | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Indianapolis | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| San Francisco | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Jacksonville | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Columbus | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Milwaukee | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Memphis | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Washington DC | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Boston | Mayor-Council | Full-time | Yes | Mayor | Mayor |

LARGE MICHIGAN CITIES

| | | | | | |
|------------------|-----------------|-----------|-----|-----------|-----------|
| Detroit | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Grand Rapids | Council-Manager | Part-time | No | CAO | CAO |
| Warren | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Flint | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Lansing | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Sterling Heights | Council-Manager | Part-time | No | CAO | CAO |
| Ann Arbor | Council-Manager | Part-time | Yes | CAO | CAO |
| Livonia | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Dearborn | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Westland | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Kalamazoo | Council-Manager | Part-time | No | CAO | CAO |
| Southfield | Council-Manager | Part-time | Yes | Mayor/CAO | Mayor/CAO |
| Farmington Hills | Council-Manager | Part-time | No | CAO | CAO |
| Troy | Council-Manager | Part-time | No | CAO | CAO |
| Pontiac | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Taylor | Mayor-Council | Full-time | Yes | Mayor | Mayor |
| Saginaw | Council-Manager | Part-time | No | CAO | CAO |
| St. Clair Shores | Council-Manager | Part-time | No | CAO | CAO |
| Royal Oak | Council-Manager | Part-time | No | CAO | Mayor/CAO |
| Wyoming | Council-Manager | Part-time | No | CAO | CAO |

Sources: 1991 Form of Government Survey, International City Managers Association; CRC direct inquiries.