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Detroit Charter Revision—6

## NEW DIRECTIONS IN THE PROPOSED DETROIT CHARTER

The *Discussion Draft of the New Charter for the City of Detroit*, as revised by the Charter Revision Commission and submitted to the governor for review on July 7, 1972, contains a number of innovative concepts and proposals, which could have a far reaching impact on the character of city government in Detroit. Some of the more important new provisions in the proposed charter include:

- The introduction of the “responsible city” concept in the charter under which the city would be charged with the responsibility for taking aggressive action to promote the general welfare of its citizens.
- Creation of an office of ombudsman with authority to investigate any administrative act by a city official.
- Creation of a decentralization commission to prepare a plan for community government which establishes at least eight community councils throughout the city. The city council may, by ordinance appropriate funds and delegate responsibilities to the community councils.
- Creation of an independent professional standards department within the executive branch to investigate and adjudicate cases of alleged police misconduct.
- Creation of a consumer affairs department with authority to enforce laws and ordinances governing business practices, to grant and revoke business licenses and permits, and to investigate citizen complaints.
- Creation of an environmental protection department empowered to enforce environmental ordinances of the city and “as far as practicable, insure that agencies of the city are operating in a manner least harmful to the environment.”

### The “Responsible City” Concept

The charter revision commission has included in the proposed charter several provisions which are designed to make city government more responsive to the needs of

the people. The proposed charter accepts the understanding of the function of city government usually referred to as the “responsible city” concept.<sup>1</sup> Whereas “the traditional understanding of the role of city government was the performance of basic services and housekeeping functions (police and fire protection, sanitation, etc.), the proposed charter broadens the city’s responsibilities to include nearly every area of public concern. As expressed in the “preamble and declaration of rights” section of the proposed charter, the responsible city concept holds that the city, as the unit of government closest to the people, should assume primary responsibility for the general welfare of its residents. The first right enumerated in the proposed charter states that:

“The people of the city have the right to expect aggressive action by the city’s officers in seeking to provide residents with decent housing; excellence in education; job opportunities; clear air, clean waterways, and a sanitary city; proper care for all physical or mental health problems; reliable, convenient, and comfortable transportation; recreational facilities and organized programs of recreational activities; and cultural enrichment by means such as libraries and art and historical museums.”

The proposed charter provides that the city may enforce the “declaration of rights” by ordinance.

### The Ombudsman

The proposed charter provides for a new office of ombudsman. The ombudsman will be appointed by a two-thirds vote of the city council to a ten-year term of office, subject to removal only for cause. The ombudsman will not be eligible for reappointment to a second term. He is also prohibited from holding any other position in city government for a two-year period after leaving office. In the proposed charter, the ombudsman, and any assistants appointed by the ombudsman, are exempt from the requirements of civil service.

The proposed charter empowers the ombudsman to investigate any administrative act by an agency of city government, either on his own initiative or on the basis of a complaint filed by a citizen. The ombudsman is given authority to examine all departmental records and is also empowered to “subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, and establish rules of procedures.”

While the present charter establishes a bureau of information and complaints in the city clerk’s office, it serves as a central clearinghouse for citizen complaints rather

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<sup>1</sup> For a full discussion of this concept see John E. Bebout, Decentralization and the City Charter, Citizens Research Council of Michigan, Memorandum No. 219, August 1971.

than an independent investigatory agency. The bureau is authorized to act on the basis of citizen complaints, but not on its own initiative.

### Decentralization in the Proposed Charter

The proposed charter provides that the mayor shall, with the consent of the city council, appoint a nine-member decentralization commission within one month after the new charter takes effect. The commission is given one year to prepare a comprehensive plan for community government which divides the city into at least eight communities and provides for the election of community councils with at least five members. The mayor, after making any revisions which he deems advisable, shall submit the plan to the city council in the form of a proposed ordinance. In reviewing the proposed legislation, the council is also permitted to make any modifications which it believes to be desirable. If, however, the council rejects the proposed ordinance (or fails to act on it within three months), the proposed charter provides that the original plan prepared by the decentralization commission shall be submitted to the voters as a referendum at the next regular election.

The proposed charter provides that the city may, by ordinance, delegate advisory or substantive authority to the community councils. The community councils are also empowered to “act as advocate, on the basis of ongoing research and study, for the needs of the community before the city council.” The proposed charter provides that annual appropriations shall be made to the community councils to carry out their delegated responsibilities. As provided by ordinance, the community councils may be permitted to hire employees exempt from the requirements of civil service.

### The Professional Standards Department

One of the most controversial issues which confronted the charter revision commission was whether to retain the present intra-departmental system for investigating and adjudicating cases of alleged police misconduct or to introduce some type of civilian review board. The proposed charter relieves the police department of responsibility for handling cases of alleged misconduct, and creates a professional standards department to investigate complaints and an arbitration mechanism to adjudicate cases.

The proposed professional standards department will be headed by a professional standards director. Both the director and the deputy director will be appointed by, and serve at the pleasure of the mayor. The professional standards department is empowered to investigate complaints against, and recommendations for commendation of, police department employees. Their jurisdiction may be increased, however, by ordinance to include other city employees. In conducting an investigation, the professional standards director may “subpoena witnesses, administer oaths, take testimony, require the production of evidence, and establish departmental rules of procedure.” If the professional standards department finds that the complaint warrants disciplinary action, the case will be submitted to an arbitrator who is mutu-

ally agreeable to the professional standards director and the defendant. If they are unable to agree, the arbitrator will be selected from a list of five names submitted by a recognized arbitration association. The decision of the arbitrator and the discipline imposed, if any, will be final.

Under existing police departmental regulations, complaints of alleged police misconduct are investigated by the internal affairs division of the police department. If the evidence warrants a disciplinary hearing, either a commissioner's hearing or a police trial board is convened to adjudicate the case. Procedures governing a police trial board hearing are established in the present charter, which provides that a trial board shall consist of "the commissioner or deputy commissioner of police, who shall be chairman, the chief of detectives, or such assistant as he may appoint, and the chief inspector of police."

### The Consumer Affairs Department

The proposed charter creates a consumer affairs department with authority to conduct research and develop programs for consumer education and protection, enforce laws and ordinances governing business practices, grant and revoke business licenses and permits, and investigate citizen complaints. The director of the department will be appointed by, and serve at the pleasure of, the mayor. He is empowered to "subpoena witnesses, administer oaths, take testimony, require the production of evidence," and make rules governing departmental procedures. The proposed charter also creates a twelve-member consumers council to advise the department. Members of the consumers council will serve three-year overlapping terms of office. They will be appointed by, and serve at the pleasure of, the mayor.

### The Environmental Protection Department

The proposed charter creates, an environmental protection department with authority to recommend proposed ordinances to improve the quality of the environment, enforce the environmental ordinances of the city, and "as far as practicable, insure that all agencies of the city are operating in the manner least harmful to the environment." The director of the department will be appointed by, and serve at the pleasure of, the mayor. The proposed charter also creates an advisory commission for environmental protection to be comprised of at least five members. While present charter provisions do not provide for any comparable agency, the environmental health division of the department of health is presently responsible for conducting environmental health programs for the city.