

Council Comments

Citizens Research Council of Michigan

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A DIGEST OF THE PROPOSED CHARTER FOR THE CITY OF DETROIT

INTRODUCTION

On November 7, 1972, the voters of the City of Detroit will be asked to ratify or reject the proposed city charter prepared by the Charter Revision Commission.

Three separate proposals will be presented to the voters:

PROPOSAL H

Shall the Charter prepared by the Detroit Charter Revision Commission, together with the alternate proposals as approved by the voters in alternate proposals "I" and "J", take effect in the city of Detroit?

Yes _____

No _____

ALTERNATE PROPOSAL I

If the new Charter is approved shall it provide for:

(a) 9 City Council members elected at large; or

(b) 15 City Council members—7 elected at large and 1 from each of 8 districts?

(a) _____

(b) _____

ALTERNATE PROPOSAL J

If the new Charter is approved shall it provide for:

(a) Partisan elections; or

(b) Nonpartisan elections?

(a) _____

(b) _____

Proposal H asks the voters to decide whether the main body of the proposed charter should be adopted or rejected. Proposals I and J will permit the voters to choose between alternative kinds of representation on the city council (I) and between alternative methods of electing city officials (J). However, in the event that Proposal H is defeated, the vote on proposals I and J would be nullified and the present charter (which provides for nonpartisan elections and a nine-member city council elected at large) would remain in effect.

-- BOARD OF DIRECTORS --

Under the Michigan constitution of 1963 and the state home rule act, the citizens of Michigan cities have the right to establish their own governmental structure by framing and adopting a city charter. Within the limits imposed by law, the charter establishes the structure of city government, the format for city elections, and the powers and duties of city officials. The home rule act also provides that the residents of a city may change their charter either by amending it or by electing a charter commission to draft a new charter for their consideration.

In November, 1970, the voters of the city of Detroit elected a charter revision commission and the submission of the proposed charter culminates nearly two years of work. The commission has held 100 regular meetings, including several series of public hearings to elicit comments and suggestions from governmental officials and private citizens. The commission has spent approximately \$300,000 in preparing the proposed charter.

Early in their deliberations, the commission decided to completely redraft the present charter rather than merely revise and update it. Thus, while the proposed charter retains some features of the present charter, it is basically a new document.

The purpose of this memorandum is to summarize the principal features of the proposed charter in an attempt to give the voter a means for formulating his own decision on this important question. Additional information on the major issues which confronted the commission is available in a series of memoranda and Council Comments published by the Research Council. The proposed charter will be published in the Detroit News of October 15, the Michigan Chronicle of October 28, and the Detroit Free Press of October 29. Copies are also available from the commission offices, 510 Veterans Building, Detroit, Michigan 48226.

NEW DIRECTIONS IN CITY GOVERNMENT

Since the signing of the Magna Charta, written constitutions have been primarily concerned with delineating the rights of citizens versus the powers and duties of governmental authorities. Though less common in municipal charters, the commission included a "declaration of rights" in the first section of the proposed charter. While a declaration of rights usually guarantees rights to the people against possible governmental infringement, the declaration of rights in the proposed charter emphasizes the responsibilities of government rather than the limits on governmental power.

Included in the declaration of rights are provisions which state:

- "The city shall provide for the public peace and health and for the safety of persons and property in the city."
- "The city has an affirmative duty to secure the equal protection of the law for each person and to insure equality of opportunity for all persons."

Two innovative and potentially far reaching themes underlie the rights and responsibilities enumerated in the proposed charter. The first is the "responsible city" concept, which appears to greatly enlarge the responsibilities of city government. The second is embodied in

a number of measures designed to make city government more responsive and accessible to the people.

The “Responsible City” Concept

Among other things, the declaration of rights in the proposed charter provides that:

City government is a service institution.

...

The people have a right to expect aggressive action by the city’s officers in seeking to provide residents with decent housing; excellence in education; job opportunities; clean 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, including libraries and art and historical museums.

This understanding of the, role of city government is usually referred to as “the responsible city” concept. Whereas the traditional understanding of the role of city government was the performance of basic services and housekeeping functions 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.

Two of the new departments established in the charter exemplify this thrust:

- A consumer affairs department with subpoena power is given authority to enforce laws and ordinances governing business practices, to grant and revoke business licenses and permits, and to investigate citizen complaints.
- An environmental protection department is empowered to propose new ordinances to improve the quality of the environment, to enforce environmental ordinances and “as far as practicable, insure that agencies of the city are operating in a manner least harmful to the environment.”

The acceptance of the responsible city concept does not necessarily mean that the city will begin to perform new functions which are presently provided by other units of government. However, the concept does vest city officials with the responsibility for insuring that the residents of the city have access to and get whatever services are available by whatever unit of government offered. In short, the responsible city concept calls on city government to assume a new and expanded role in the American federal system.

Opening City Government To The People

The second theme embodied in the declaration of rights and in the body of the charter emphasizes making city government more responsive and accessible to the people. To help achieve this objective, the people are assured “reasonable access to all files and records of the city which relate to ... (their) ... rights or duties” and are also given “the right to know the rules and regulations governing dealings between the city and the public and to a means for the review of administrative decisions.”

Some of the major charter proposals designed to make city government more responsive and accessible include:

The Office of Ombudsman. An ombudsman will be appointed by the city council for a ten-year term of office. He is empowered 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, and to issue reports to the council and the public. The ombudsman is given authority to examine all departmental records and to “subpoena witnesses, administer oaths, take testimony, require the production of evidence relevant to a matter under investigation, and establish rules of procedure.”

Community Government. A decentralization commission is established 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. As provided by ordinance, the community councils may be given advisory or substantive authority in areas such as “urban renewal, relocation, public housing, planning and zoning actions, and other physical development programs; crime prevention and juvenile delinquency programs; health services; code inspection; recreation; education; and manpower training.” The community councils will receive annual appropriations to carry out delegated powers and functions. If a decentralization ordinance is not adopted by the city council within seventeen months following the effective date of the charter, the proposal of the decentralization commission must be submitted to the voters as a referendum at the next general election.

Human Rights Department. A human rights department and an eleven-member human rights commission are established to replace the existing ordinance-created commission on community relations the human rights department will have broader investigatory and enforcement powers in the area of civil rights than the present commission on community relations, including the subpoena power and the power to issue “cease and desist” orders.

Professional Standards Department. An independent professional standards department within the executive branch is created to investigate and adjudicate cases of alleged police misconduct. Under the present charter, cases of alleged police misconduct are handled by internal procedures within the police department. The proposed charter also provides that the jurisdiction of the professional standards department may be increased by ordinance to include other city employees.

THE FRAMEWORK OF CITY GOVERNMENT

Traditionally, the most important purpose of a city charter is to establish the framework of government under which the city operates. This framework provides the mechanism for performing two basic and vital functions—the political or policy leadership function and the administrative or operating function.

The form and structure of government as provided by the charter must make it possible for the representatives of the people to agree on policies generally acceptable to the public, and then provide the structure for implementing these policies by the performance of functions and the provision of services.

Though the proposed charter makes a number of important changes, the present basic structure of city government is retained, with general executive and administrative authority vested in the mayor and general legislative authority vested in the city council.

The Mayor

Both the present and proposed charters provide for what is commonly known as the strong mayor-council form of government. Under this plan, the mayor is not only given broad administrative authority and responsibility, but is also given an important role in municipal policymaking.

In an effort to further strengthen the mayor's role as chief administrator and policy leader, the proposed charter retains the mayor's present powers and increases his authority in several important areas:

Appointive Powers. With only a few exceptions, the proposed charter provides that the directors of city departments shall be appointed by the mayor and serve at his pleasure. Under the present charter, a number of directors of charter-created departments are classified employees under civil service and are appointed by a board or commission. The proposed charter also provides for the appointment of deputy directors exempt from civil service requirements. In most cases, deputies will be appointed by the department director with the approval of the mayor, though in some departments both the director and deputy director will be appointed by, and serve at the pleasure of, the mayor.

The Budgeting Process. The mayor's role in the budgeting process is strengthened in two respects. First, the budget director, who is now under civil service, will be appointed by and serve at the pleasure of the mayor. Second, the proposed charter requires the council to make lump sum appropriations to specific programs and activities as defined by the mayor. This will give the mayor greater flexibility in the expenditure of appropriated funds and reduce council control over appropriations.

Administrative Organization. The proposed charter gives the mayor general authority to reorganize the executive branch of government, subject to veto by a two-thirds vote of the council. The present charter permits reorganization only by ordinance or charter amendment.

Deputy Mayor. The proposed charter authorizes the mayor to name one of his appointees “deputy mayor.” Though the council president would continue to succeed the mayor in the event of his death or permanent disability, the deputy mayor would be empowered to serve as acting mayor when the chief executive is out of town or temporarily disabled.

The City Council

Some of the major proposed changes relating to the organization and operations of the council are:

- The proposed charter requires the council to establish by ordinance appellate bodies to perform a number of quasi-judicial functions presently delegated to the council.
- Elimination of the requirement that the council meet every weekday. The proposed charter requires that the council meet at least once a week.
- The proposed charter requires that the council hold eight evening meetings per year in various neighborhoods of the city. There is no similar provision in the present charter.
- Retention of the office of auditor general to serve as an independent watchdog over the city’s fiscal affairs. As in the present charter, the auditor general will be appointed by the council to a ten-year term of office.
- The proposed charter provides that the council president be elected by the council. Under the present charter, the president is the councilman who received the most votes.
- The proposed charter explicitly permits the council to hire staff assistants. While the present charter does not prohibit this action, the absence of explicit authorization in the charter is generally believed to have made the council reluctant to hire staff assistants.

Administrative Organization

The proposed charter provides that the mayor shall prepare an “executive organization plan” establishing the number of agencies in the executive branch and assigning authorized programs, services and activities to each agency. The plan and any amendments to it must originate with the mayor and will automatically take effect unless vetoed by a two-thirds vote of the council. However, the plan may not establish more than 35 administrative departments (excluding those created by state statute) unless authorized to do so by ordinance.

Though the commission's objective was to establish a flexible framework which would readily permit reorganization of the executive branch, 19 departments are created by the proposed charter, as shown below in Table 1.

Table 1

Administrative Departments Created in Proposed Charter

- | | |
|-----------------------------|-----------------------------|
| 1. Finance* | 11. Human Rights* |
| 2. Budget* | 12. Police* |
| 3. Planning* | 13. Professional Standards* |
| 4. Law* | 14. Public Lighting |
| 5. Personnel* | 15. Real Property |
| 6. Arts* | 16. Recreation |
| 7. Consumer Affairs | 17. Transportation |
| 8. Environmental Protection | 18. Water and Sewerage* |
| 9. Fire | 19. Zoological* |
| 10. Historical* | |

* The proposed charter prohibits the mayor from merging or reassigning the functions assigned to these departments.

The proposed charter creates some new departments (e.g., 2, 7, 8 and 13); merges some existing departments (e.g., 1, 5, 15 and 17); and continues some present departments with varying degrees of change (e.g., 3, 4, 6, 9, 10, 11, 12, 14, 16, 18 and 19). Some departments created in the present charter are omitted in the proposed charter (e.g., department of public works, civic center commission, house of correction commission and department of health). The proposed charter provides that these agencies will be retained as presently constituted until changed or modified in accordance with the executive organization plan.

The provisions of the proposed charter establishing the police and professional standards departments, the finance department, the personnel department and the planning department are of particular interest:

The Police Department

As expressed in the declaration of rights, one of the major goals of the charter commission in the area of public safety was to insure that "the police forces of the city shall in all cases and at all times be in strict subordination to the civil power." Three major changes are designed to help achieve this objective:

Greater Mayoral Control. In the proposed charter the mayor appoints the police commissioner and a deputy police commissioner, both of whom serve at his pleasure. The police commissioner appoints four or more assistant police commissioners subject to the approval of the mayor. Under the present charter, the commissioner is appointed by the mayor, but deputy police commissioners and other top ranking police personnel are appointed by the commissioner.

The Professional Standards Department. The proposed charter replaces the present intra-departmental method of investigating and adjudicating cases of alleged police misconduct with a separate professional standards department 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 mutually 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.

Recruitment and Advancement. The proposed charter provides that the recruitment and promotion of police officers will be subject to the civil service procedures established by the personnel department. Under the present charter, police officers are exempt from civil service, but are covered by a separate merit system administered by the police department.

The Finance Department

The proposed charter makes a number of major changes in the general area of financial administration and fiscal management.

A Consolidated Finance Department. The proposed charter consolidates all financial activities, except budgeting, into a single department. The proposed finance department, which will replace the present office of city controller, will be headed by a finance director appointed by the mayor. The finance department will have four divisions: accounts, assessments, purchasing and supplies, and treasury. With the consent of the mayor, the finance director will appoint the heads of the accounts, purchasing and supplies, and treasury divisions. Under the present charter, the city’s accounting director is a classified employee covered by civil service, purchasing and supplies is a separate department headed by a commissioner appointed by the mayor, and the city treasurer is an elective position. There will continue to be a board of assessors but with three rather than four members. As at present, members of the board would be appointed by the mayor to staggered terms of office subject to removal only for cause.

The City Budget. The proposed charter makes several important changes in the budgeting process and the organization of the budget department. These include:

- The budget department, which is now a division within the city controller’s office, will be a separate department in the executive branch.
- The budget director, who is presently a classified employee covered by civil service, will be appointed by and serve at the pleasure of the mayor.

- The proposed charter explicitly provides that the city's annual budget, as submitted by the mayor and adopted by the council, be in balance—"proposed expenditures shall not exceed the total of estimated revenues." While the present charter does not contain a comparable provision, city officials have usually assumed that the present charter requires a balanced budget.
- The proposed charter requires that appropriations to city agencies be in the form of lump sum allocations to specific functions and activities. Though the present charter does not specify the format for appropriations, allocations are usually made on the basis of a detailed line item budget.
- The proposed charter provides that the mayor annually submit a five-year capital agenda to the council for approval. Under the present charter, there is no requirement for formally outlining proposed capital expenditures.

Retirement Systems. The proposed charter eliminates all of the detailed provisions regarding the city's retirement systems included in the present charter. Existing pension plans will continue in force, but any subsequent changes or modifications will be by ordinance, rather than by a vote of the people.

Taxation. The proposed charter retains the present two percent (20 mill) city property tax limit, but also authorizes such other maximum limits as permitted by law. A new provision in the proposed charter permits the city to give a tax credit to individuals or firms who make a financial investment in the city which is "of vital importance in relieving or preventing conditions of unemployment or underemployment." There is no comparable provision in the present charter.

Purchasing. While both the present and proposed charters require that purchases be made on a competitive basis, the proposed charter provides that the lowest bidder may be defined by ordinance in terms of "lowest overall cost to the city."

The Personnel Department

Though the proposed charter retains the concept of the merit system, it makes some basic changes in the area of personnel administration.

Two of the most important issues which confronted the commission with respect to personnel administration were:

1. Whether the administration of the personnel function should be under a director directly responsible to the mayor or under an "independent" civil service commission as is provided in the present charter; and,
2. What the relationship should be between civil service and the collective bargaining function, which is currently performed by a separate labor relations bureau established by ordinance.

The proposed charter provides for a hybrid solution to both of these issues. The city will continue to have an “independent” civil service commission, but its role will be limited to appointing the personnel director, reviewing his proposed rules and handling employee grievances and appeals. A separate personnel department would be established, headed by a director appointed by the civil service commission with the approval of the mayor, and serving at the pleasure of the civil service commission. The personnel department would be responsible for the administration of all aspects of the centralized personnel function, including collective bargaining. However, the division of collective bargaining within the personnel department could be headed at the discretion of the mayor by either the personnel director or by a direct appointee of the mayor. Thus, the proposed charter provides for a quasi-independent status of the personnel function and leaves to the discretion of the mayor the extent to which the collective bargaining function will be integrated into the overall personnel function.

Planning Department

A planning department, headed by a planning director, is created to replace the present city plan commission. The planning director will be appointed by, and serve at the pleasure of, the mayor. Under the present charter, members of the city plan commission are appointed by the mayor, but the administrative head of the agency is appointed by the commission subject to the requirement of civil service.

An executive planning council is established to help advise the mayor and the planning department. Members of the council will include the director of planning, city department heads with responsibilities relating to planning and development, and other persons appointed by the mayor.

The proposed charter also requires the city council to appoint a nine-member body termed the city planning commission to advise them in the area of planning and development.

CITY ELECTIONS

Because elections play a vital role in the democratic process, the section of the proposed charter which establishes the framework for city elections has been the subject of considerable interest and controversy.

The proposed charter retains with relatively minor changes the following provisions of the present charter:

- The mayor, the city clerk, and the members of the city council will continue to be elected by the people to four-year terms of office
- General city elections will continue to be held in November of the year following presidential elections, but the time of elections may be changed by ordinance to correspond with gubernatorial elections in the event that the present statutory prohibition against such a change is amended or repealed.

- The elections commission will continue to have general supervision over elections and the city clerk will continue to serve as the chief elections officer of the city.

The proposed charter makes the following major changes in the present charter provisions pertaining to elections and elected officials:

- The present elective office of city treasurer is made an appointive position.
- Primary candidates can have their name placed on the ballot only by filing petitions signed by a specified number of city voters. Under present charter provisions, prospective candidates must pay a filing fee.
- Candidates for elective office must be at least 18 years old and a resident of the city at the time of filing for office. Under the present charter, candidates for mayor must be at least 30 years old and candidates for mayor and city council must have resided in the city for at least three years prior to seeking office.
- The proposed charter establishes the mayor's salary as 90 percent of the governor's salary. Salaries for councilmen and the city clerk would be 60 percent of the mayor's salary.

Two of the most controversial issues which confronted the commission were: (1) whether city elections should be nonpartisan (as at present) or partisan; and (2) whether the city council should be a nine-member body elected at large (as at present) or a fifteen-member body with seven councilmen elected at large and eight councilmen elected from districts of the city. A majority of the commission favored partisan elections and retention of the nine-member council elected at large, but, because of the sharp division of opinion within the community over these issues, the commission decided to submit them to the voters as separate propositions.

Partisan versus Nonpartisan Elections

Arguments in favor of retaining nonpartisan elections usually emphasize four major points:

- Local issues are not "political" in the partisan sense in which state and national issues are viewed. "There is no Democratic way to fight a fire and no Republican way to lay a sewer."
- Nonpartisan elections raise the calibre of candidates recruited for office. Independents, members of minority parties, and other qualified persons who do not wish to engage in partisan politics can run for office in a nonpartisan election, but are excluded from partisan contests.
- The intrusion of partisan politics into municipal affairs creates artificial divisions between city officials thereby undermining efficient, business-like administration.

- Nonpartisanship removes partisan considerations that are irrelevant in local elections.

Four counter arguments are frequently used in defense of partisanship:

- Political parties facilitate citizen control of government by fostering a sense of collective responsibility among members of the party in power.
- Partisanship raises the calibre of candidates recruited for office because parties screen out unqualified candidates who might discredit the party's long-term reputation.
- Partisanship results in more intelligent voting because the voter is presented with alternatives systematically arranged on the basis of party label. In nonpartisan elections the voter is confronted with a list of unidentified names and may vote on the basis of irrelevant considerations such as a familiar name.
- Partisanship at the local level strengthens the two-party system and improves relations between local officials and state and national officials.

The Question of Representation

Arguments for retaining Detroit's present nine-member city council elected at large usually focus on three major contentions:

- Councilmen elected at large are interested in the general welfare of the entire city rather than the special interests of one part of the city.
- A smaller council elected at large can deliberate effectively without an extensive committee structure.
- The practice of "log rolling" and "vote swapping" is eliminated. It is not necessary for one councilman to get something for his district by promising a vote for something in another's district.

Counter arguments in defense of a combined system in which some councilmen are elected at large and some from districts are:

- Electing some councilmen, from districts insures the representation of geographical sections of the city makes it more likely that racial and ethnic minorities will be represented, and permits less affluent candidates who cannot afford a city-wide campaign to run for office.
- Councilmen elected from districts will be able to maintain closer relations with their constituents.
- The system of electing some councilmen at large and some councilmen from districts combines the advantages of both methods of election.