

Getting Started

by Sinclair Powell

Outline of Presentation

The Charter Commission Begins its work

1. Taking initial organizational steps after the swearing-in
 - A. election of officers
 - B. adoption of rules governing procedures
 - C. providing for keeping a journal (record of proceedings)
 - D. determining frequency of meetings
 - E. other items
2. Consideration of alternative approaches
 - A. major revision of form of government vs. updating
 - B. strengths and weaknesses of alternate forms
 - C. decision on approach and its effect
3. Development of a budget
 - A. help and advice from various sources (other commissions, etc.)
 - B. general factors
 - C. funding sources – non-public
4. Obtaining of professional help
 - A. consulting
 - B. legal
 - C. sources and cost
5. Establishment of goals and objectives, plus an overall timetable
 - A. fixing time for submission of proposed charter to electors (key factors involved)
 - B. allocation of blocks of time for completion of essential activities
6. Fact-gathering process
 - A. interviews – local officials and staff
 - B. local citizen comments

- C. invited speakers and their value
 - D. model charters: charters of other cities; articles in journals
7. Charter preparation period
- A. agendas for meetings
 - B. using outside assistance
 - C. subcommittees
 - D. decision-making
8. Keeping the public informed
- A. importance
 - B. brief look at approaches
 - C. town meetings
9. Summing up
- A. keeping on schedule
 - B. allowing time for Attorney General review, publication, etc.
 - C. periodic written reports covering accomplishments
 - D. final report

Getting Started

In looking at a charter commission's initial efforts, assume that you have been elected as members of the charter revision commission for X City, and you're anxious to get started. What are the steps that you're going to take as you move ahead with your work? First of all, the initial meeting by law must be convened on the second Tuesday following the date of your election. At this meeting, the city clerk will preside briefly and will swear you in. You then will elect your officers, adopt rules governing procedures and arrange to keep a journal of your meetings. The term "keep a journal" means that you will keep written minutes of your meetings as you proceed. I want to emphasize that a good set of minutes will be valuable as you continue your activities over the months ahead and need to check back and see what you've done and why you've done it.

If there is a challenge to the election of any commissioner, you as a body will adjudicate or determine that challenge. If at any time during your activities there is a vacancy due to a member resigning, moving out of the city, etc. – and nearly every charter commission I have worked with has had at least one such occurrence – you have the authority to fill the vacancy. You will establish by law, the time of submission of the proposed charter to the voters.

Next, let's take a look quickly at this body to which you have been elected – the nine-member charter revision commission. In many ways it is very different from a school board or a city council. Yours is a single-purpose body with just one job, not a continuing operation and your life is limited to a maximum of three years. Because of these factors you're really quite different from the other two bodies that I mentioned. A school board or a city council following an election also usually has several members who are carry-overs from previous years. They know the ropes, and through them the new people coming in normally are indoctrinated fairly quickly into what the body is doing. They also have a set of rules and regulations and operating procedures that have been developed over many years, and as a result we can expect a fairly smooth-flowing operation when the body reorganized after an election.

You are very different – you are nine all new people. In the various charter commissions I have worked with, I have not yet seen a single commissioner who served on an earlier charter commission. So in effect you're brand new at the game, and you have to recognize that as you move ahead. Consequently, a good deal of attention needs to be

paid to organization and to the way you're going to operate. What do you do to get started? What kind of decisions are you going to make and how are you going to make them? I think the key initial question that you must deal with as a brand new charter commission is to define the scope of your work. Is your plan, as you see it in the beginning, to merely update, stream-line and improve the existing operation of your city, or will you go beyond that and take a searching look at the present form of government and perhaps change it? I think this is a very important question and the way you resolve it will, as we will see later, determine to quite an extent the scope of your work and the length of time that it may take you to develop a charter.

If you decide that the present form of government may well need changing in the city, what options might you want to consider? Here we should take a moment to look at the history of American cities. In earlier times back in the latter half of the 1800's and the early years of this century, we note that American city government was somewhat disorganized by present day standards. Invariably they were made up of a collection of boards, commissions and other agencies often established by legislative mandates, that performed a great deal of the work of the city government. Usually there was a mayor, but this official often found himself or herself hamstrung by the fact that power was diffused, there was no clear cut organization, and such bodies as police boards, public works boards, public utility boards, and others really exercised much of the authority of the city government. So you did not have a really strong executive in charge but rather a collection of semi-independent boards attempting to operate a city. As the city became larger and its functions expanded it became pretty clear that this was not working too well. So, following World War II, and down to the present time, charter commissions in looking at forms of government more and more have opted for one of two choices, either the strong mayor-council form or the council-manager form. These two in effect, provided certain key items that reformers felt were needed in local government. They featured fairly clear cut meetings of policy determination, and they provided an executive or administrator with authority over just about all city departments.

We may wish to look at this in chart form. In any system of city government, you will have the voters at the top and in a strong mayor-council option, you have the voters electing a mayor and members of the city council. Under the mayor, you have essentially all city operating departments. That individual will be responsible for appointing with or without the consent of council department heads to manage the city operations. Through

these key appointees, the mayor will be responsible for insuring that the activities of the city government are run effectively. The city council will also have a number of functions. First, it will be an oversight body for administration. This means that it can require that the various department heads come in, explain what they are doing and why they are doing it, and the council can comment thereon, or make suggestions to them. The city council also shares policy leadership with the mayor. Council can enact ordinances governing city operations which the mayor may at times choose to veto. The veto may be overridden, usually by an extraordinary majority. The city council will adopt the budget, but the mayor and his staff also have a role here – they will prepare a recommended budget for the council to consider. There are other features which might be discussed, but I think this outlines the general operation of the so-called strong mayor-council form.

The mayor-council form thus is one of the two options. The second would be the council-manager form. In this form the voters elect a body consisting of a mayor and a number of council members. This body collectively appoints a city manager. The manager in turn will be responsible for supervising work of the various city departments. In this type of operation the city manager will develop a proposed budget, and this will be submitted to the council for its consideration. The council then will adopt this budget with or without modifications, and from that set a tax rate for the city. The city manager, having the various departments under his or her control, will be responsible to the council for running an efficient operation.

This is a very quick overview of the two leading forms. There are other options and let me comment very briefly on them. You may have heard of the New England town meeting. I thought it was completely out of the picture but it is not. I spoke recently to a chap who served several years in a New England community as a municipal manager, and in his community the town meeting is held every year and any citizen may attend. The town meeting hears from the manager; if there is a board of selectmen or city council it hears from them; and it can vote on a number of issues. It's a form of direct citizen democracy. The particular chap that I know said that it is a unique experience to have to report in person to several hundred taxpayers of the city! He said he enjoyed it for the several years he was there; he didn't know if he wanted to continue with it for 30-40 years. By and large it has not been adopted across the nation and even in New

England it is tending toward disuse. The big problem is the unwieldiness and problems of a related nature.

There are still other forms. The weak mayor plan continues in use in many American cities. Here you have a mayor who has authority over certain departments; you have other elected officials heading offices who have considerable authority; and as a result, you have some diffusion of responsibility and authority. The weak mayor form probably is on its way out; while it still is in existence in a number of cities, fewer and fewer charter commissions are considering it as a viable option.

Another form which has lost favor is the old commission plan where the voters elected several commissioners and each commissioner headed a municipal department. You'd have a commissioner of police, a commissioner of the treasury, a commissioner of public works, etc. That approach, strong at one time, now has pretty well disappeared from the American scene.

So in effect most charter commissions will consider either the strong mayor-council, or the council-manager forms of government. Let's take a very quick look at the strengths and weaknesses of each of these. With the council-manager form, the advocates will point to the fact that the manager is a professional administrator, usually with prior experience in other cities, who could be expected to produce maximum efficiency and effectiveness from the municipal operations which he or she would direct. I think that has been the strongest argument of that plan.

The critics will say, that's fine, but who in this entire operation is going to provide individual policy leadership? The manager answers to a collective group of people, a city council, since the mayor often is simply one of the council members elected in his or her office by the others. The critics will note sarcastically that under this system numerous people are expected to provide policy leadership, which often means that no one is going to do it. I think that is a valid concern.

The proponents of the council-manager form have attempted to answer this criticism by pointing to the fact that under this system you can have a directly elected mayor rather than have the council elect the mayor from its own body. Under such a slight deviation from the form you do have a mayor who can serve as the spokesperson of the entire city and can propose policies and activities, perhaps independently of the council as a

whole. Critics of the strong mayor-council form will complain that policy leadership is divided under this system between the mayor and the city council, resulting in a real possibility of friction between the two. Each may well feel that since it is directly elected and responsible to the public, it should have a major role in determining overall city policy. The net result may be sharp disputes between the two and sometimes the sabotaging of a program which one may want and the other not. A key argument in favor of the strong mayor-council form is that it does give the public a single person to look to in order to determine whether city government is operating effectively or not. And some will say that having that single strong elected official is good, particularly in a community where politics are played in a vigorous fashion and the community is split among numerous economic and cultural groups.

Let me comment very briefly on a problem common to both forms, the strong mayor and the council-manager, that sometimes tends to inhibit the effective operation of each. One of the questions you invariably will have to face in drafting a charter is this: Since there will be major departments in any city, should the manager or the strong mayor have the authority to appoint department heads without city council approval? I think the general trend at the present time is to answer this in the affirmative; yes, the mayor or manager should have that kind of power. Some will ask, why so? In the federal government, when the President appoints a member of the cabinet, it is subject to the advice and consent of the U.S. Senate. I would like to state that in my judgment this is not the same as city government. The vast policy powers enjoyed by a secretary of state or a secretary of defense in the federal government are very different from the authority exercised by a director of public works or a director of public utilities at the local level. I don't think you can draw a comparison there. At the local level the argument for the letting the executive or the administrator appoint the department heads without the requirement of the council confirmation is very strong. This authority may well be indispensable to effective local government.

That is a birds-eye view of some of the aspects of the two forms that most of you will be reviewing as you move ahead with your work. Now I want to mention again that making the decision on what you will do, whether you will actually change the form or whether you choose merely to streamline an existing method of operations, will affect almost every action you take from there on in. There are a number of specific steps that I want to run through.

You will need to develop a budget to underwrite your activity. The statute is not totally clear in that area. It does speak of the governing body of the municipality providing funds for the charter commission, thus indicating an intent to provide funds even before the election of charter commissioners. Seldom is this step taken. Generally speaking the charter commissions that I have worked with in Michigan and elsewhere early on have had to develop budgets for their activities. What should be included? The budget would need to include, if the commission is to be compensated per meeting attended, funds for payment of the commission members. It must include money for printing and publishing the charter at the end of the commission work. If you plan to utilize consulting and legal help from outside the city government, that clearly will have to be paid for. There may well be other expenses. If you have a secretary doing work for the commission, taking minutes, typing and that sort of thing, independent of the city clerk, you will have to find funds for paying for that service. Basically, in nearly every jurisdiction the cost of the charter commission's work will have to be funded from the municipal budget. In a few large cities there have been cases where foundations interested in seeing a major city develop a more effective form of government, have made funds available, but in the typical smaller city you're not going to find such a source of revenue for your activities. What about civic groups, chambers of commerce, etc.? Might they help fund a charter commission? I have seen very little of this happening in the typical jurisdiction, and I think the typical charter commission would want to be careful in accepting money from any local group that in any way might be considered to have a special interest in the end result.

Early on you're also going to have to deal with the question of obtaining professional help to advise you and work with you in your activities. In practical terms this would mean consulting assistance to aid in looking at the options available and helping draft sections of the proposed charter, plus legal help to make certain that the document meets the various legal requirements of the State of Michigan and any requirements that might come from federal laws as well.

How do you go about this? Essentially I think the typical charter commission, if it is going to hire this kind of help from outside the city, will want to inquire around to determine who has been working with charter commissions throughout the State and what kind of job they have done. The commission then might call in two or three people, interview them, and find out who would best meet their needs. The Michigan Municipal League,

the Citizens Research Council of Michigan, and others have recommended people from time to time for this kind of activity.

I also should mention that charter commissions which are not going to propose a change in the form of government often have found that they can get by with local help. I talked on the telephone recently to two charter commissions that completed their work without making major revisions in their charters – they just streamlined and adjusted a few things – and they were able to get by with help from the local city attorney's office.

One of the key things that I think you must confront early on as a charter commission is the setting of goals and objectives, particularly within a timeframe. I think this is of extreme importance. Perhaps we can briefly sketch the procedure on a chart. If we use a starting point here as the date that you're sworn in and begin operations, and a finishing point when a referendum is held on the charter that you have drafted, we can work between those two points. Let's say you decide that within a year and a quarter or a year and a half after you begin, you would like to schedule an election. You then need to start from the point of the election or referendum and work backward, allowing time for Attorney General review, publication of the charter and that type of thing. You then need to go further back and allow a substantial block of time for the actual development of the charter itself. Then going back even further, you will need another block of time to do your fact finding, your research and meetings with people who can help you.

At this point, I would like to briefly mention the importance of the fact-finding period. You may well find that early in your work you will wish to bring in people who can help you. I'm speaking of persons apart from your consultant and attorney – people who may have served on other charter commissions, people with experience or expertise in city government, who would be willing to come and discuss their views on city government. They may mention things they have found to be important, items they feel ought to be considered for inclusion in a charter. This kind of help can be most valuable. I have urged charter commissions I have worked with to try to use such an approach as much as possible. I once worked with a charter commission chairman who subsequently became an elected mayor. He had invaluable insights into the decisions taken by his charter commission and later how these worked in actual city government. He was very willing to share this information with charter bodies. In addition, I think you certainly will want to invite key people in your local government to come in and be heard as you

undertake your fact-finding activities. They too can think of things of value to tell you; if they are willing to be frank, they can explain what is good about the city government in which they work and what is not so good about it. They can discuss the departmental structure, the reporting of the department heads to the top level; how that is working or how it isn't working. They may have concerns about such aspects of the government as financial controls, whether these are operating smoothly or not operating at all. I think all of this can be of value.

I think also there should be a general invitation of the citizens of the community to come in during this fact-finding period and express any comments they choose to make. You thus are getting a viewpoint of the taxpayers of the city and this can be of real help in your whole operation.

I would want to express a note of caution at this point. I think that it is very important for charter commissions to recognize their function is not to expect to totally reform or revolutionize a city government. Their function basically is to develop a structure of government that can work effectively and help the city attain a smooth running operation. A charter commission is not in any way involved with who gets elected, and that kind of thing – this is not a charter commission concern. You are not there to attempt to reform everything. The voters will play a big role in the process once your charter is adopted. Your function essentially is to provide the best framework of government that can be developed for your community, and leave the rest to the voters.

I'll touch very lightly on the charter preparation period. Obviously there are important steps which can be taken to keep your operation running smoothly. I think the typical charter commission would be well advised to have an agenda for meetings. In this way you can keep your work a little more focused, and evaluate what has and has not been done at each meeting. I have seen an occasion charter commission utilize an ad-hoc subcommittee to study a particular thing and then report back. Generally speaking though, I think it better that practically all the work be done by the full commission at its general meetings. I am not a strong subcommittee person. As you move ahead with your actual development of the charter, it is important that the public be kept informed. This subject is developed much more thoroughly in another section, but I want to mention that it is of real importance and you must keep it in mind at all times. The best charter in the world is of very little value if people in the community don't know what you're doing or

why you are doing it. I think holding town meetings to discuss what you're doing, frequent newspaper articles, and other types of reports are all of importance in letting the public know what you, as their representatives, are up to.

I'd like to sum up very quickly by urging you to try to follow a specific timeframe. You then can check to see whether you are keeping on schedule in your information gathering period, and also if you are on schedule in terms of actual charter development. I think it is important that you make certain that you are moving along in a manner that will get you to where you want to be at the end of a specific time. The function you are carrying on is an important one and one that the public and the community will appreciate.

I have not dealt with another other type of activity which occurs, and that is a charter review committee. There is no specific statutory mandate for this activity so such a body has a quite free scope in terms of what they undertake. Usually the review group is set up by city council, a number of people are appointed to it, and it is authorized to look at a charter and determine what changes it would recommend to the governing body be made. It also drafts language for amendments and this kind of thing. I have not worked with one of these bodies and therefore I only relate to you what the chairpersons of a couple of them have described to me. Their budgets, if they even have one, vary all over the lot. In some instances they are given professional help, and in other cases they do the work entirely through their own body. They can be an effective force in analyzing charters and determining what individual changes might be needed in them.

Discussion

Question: Do you have any specific time period for these three phases?

Answer: Generally speaking, I would say the typical charter commission should seek to get from the beginning to the submission date in a year and a quarter or a year and a half. I would allow three to four months for the final period of getting necessary Attorney General approval, publication and that type of thing. Probably a minimum of eight months will be needed for the drafting period, and several months more for the fact gathering stage.

Question: You mention a year and half for the overall process. You also stated that there is a 90-day period for charter revision commissions. Are the 90-days limited to their being paid, but not the life of the commission?

Answer: I should make it clear that the charter commission can continue for as much as three years. It can only be paid for ninety meetings held within that overall time.

Question: You mention a point of the charter commission members not being concerned about the elected officials in a reviewed charter, or about city personnel. What about the other side of the coin, the charter revision commission having to deal with elected officials who will be affected by the charter revision?

Answer: You are going to be involved with concerns on the part of elected officials, pro and con, relative to what you are doing. There can be no question of that. Once you get into the form of government issue, if you're considering a major change, local elected officials at times may become vocal on the point. Let me just comment briefly on your possible response. I urge you not to get into a fight with local elected officials. I think you should set forth your point of view, and do so vigorously and thoroughly, at public hearings, and in press releases, or otherwise. I would try to avoid any kind of person-to-person argument with a local elected official on that particular point. I just do not think it is productive. If the criticism is sharp, you will need to respond stating your recommendations, and why you are going in a specific direction. But I would do that in neutral language, not in a partisan or bitter fashion. I think you are going to have to deal with it that way. It is not going to be easy at times.

Question: Did I hear you say that the budget for this commission would come from the city budget?

Answer: The budget for the charter commission in the final analysis would be part of a city budget. Its money would have to come from city funds. Essentially a charter commission, if no provision has been made earlier for funding, has to develop a budget. I think it needs to do so very carefully at the beginning of the activities, get this submitted to the city and obtain approval from the mayor and council. There are problems that can develop. Occasionally a charter commission is going to find that it is spending more than it expected. Can it go back and seek more money? I think it can, yes. There may be objection again on the part of some for the elected officials for granting supplemental

funding, but I do feel a careful explanation of why it is needed should in most cases produce the additional revenue.

Question: You mentioned the charter commission that is not changing the form of government. Why couldn't this be done not by a charter commission but by the city council? Do those commissions continue over the long haul? How often do they or should they meet?

Answer: Essentially, the first point is one that perhaps I didn't cover. The city council can propose amendments to an existing city charter, and thus make changes to it, subject to voter approval. How often should your charter commission meet to be effective? I have worked with charter commissions that met every week. I have worked with others that met every month. My feeling is that an optimum frequency of meetings is every two weeks. This gives an opportunity to get work done in between the meetings. Now let me again make it clear, the charter commission members in this case would be paid only for one meeting each two weeks. So you're not speaking of payment for every day, the first 90 days, etc. The typical charter commission doesn't hold 90 meetings during the life of its activity. It will not be paid for anything more than the meetings actually held.

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