

Chapter 4

Getting Started

by Sinclair Powell

Charter revision commissions are very different from city or village councils. Yours is a single-purpose body with just one job, limited to a maximum of three years' duration. Following an election, a city/village council 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 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 [city] and five all new people [village]. In the various charter commissions I have worked with, I have not seen a single commissioner who served on an earlier charter commission. 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? The 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, to merely update, streamline, and improve the existing operation of your city or village, 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 determine the scope of your work and the length of time that it may take you to develop a charter.

Meetings

By law, the initial meeting must be convened on the second Tuesday following the date of your election.

- 1) the city/village clerk will preside briefly and swear you in;
- 2) elect officers;
- 3) adopt rules of procedures; and
- 4) arrange to keep a journal (i.e., minutes) of your meetings.

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 or village, 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.

Pick a regular time and day of the week for your meetings and the frequency. These are things you have to decide on. If you hire a consultant, you have to allow sufficient time between meetings for the consultant to do what you're paying him to do, which is to draft your ideas into issues that you can debate. If you meet too frequently, there simply isn't time for the consultant to do that.

Establish a schedule well in advance. Try to keep your meetings to no more than two to three hours long. Stick to the adjournment time. If the meeting is going to run from 7:30 p.m. to 10:00 p.m., adjourn at 10:00 p.m. and no later. Meetings to 1 a.m. won't impress anybody.

Open Meetings Act

You are subject to the Open Meetings Act and are required to have public sessions. Five of you cannot get together at one of your houses and talk about what to put in the charter [three for a village charter commission]. That's a clear violation of the Open Meetings Act. It doesn't mean that the chairperson can't go around one by one and visit with the members and solicit their opinions on an important issue. And certainly a quorum of you cannot meet together outside a public meeting.

Agenda

You should have an agenda for each meeting. It should be mailed in advance. The agenda can be prepared by the chairman or perhaps you want a three-person committee to help prepare the agenda. You could allow a few minutes at the end of each meeting to discuss what's to be on the agenda for the following meeting. But it is important that you have an agenda so that you can stay on track, so that you can notify the public on what's going to be discussed, so that you can invite the appropriate people to appear who are interested in a particular area that you're going to take up.

Committees

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.

Budget

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 early on have had to develop budgets for their activities. 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 or village 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 or village clerk, you will have to find funds for paying for that service.

Charter Consultant

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? 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 has a list of charter consultants.

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 city attorney's office.

* The county prosecutor is required by statute to advise village charter commissions. MCL 78.18

Goals/Objectives/Timeline

One of the key things you must confront early on is the setting of goals and objectives, particularly within a timeframe. This is of extreme importance. 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.

Fact Finding

You may 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 become 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 to residents 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 and this can be of real help in your whole operation.

A note of caution: 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—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.

Discussion

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

A: 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.

Q: 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?

A: 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.

Q: You mention a point of the charter commission members not being concerned about the elected officials 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?

A: You are going to be involved with concerns on the part of elected officials, pro and con, relative to what you are doing. 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. 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. 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.

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

A: 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 of 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.

Q: 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?

A: 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.