michigan municipal league

MAMA
MICHIGAN ASSOCIATION OF MUNICIPAL ATTORNEYS

CHARTER COMMISSIONERS

HANDBOOK

Michigan Municipal League
1675 Green Road, Ann Arbor, MI 48105

Preface

This handbook is the product of the efforts of a committee of the Michigan Association of Municipal Attorneys (MAMA) in cooperation with staff of the Michigan Municipal League and has involved many individuals who have been active in charter revision work through the years. The material for this handbook was drawn from a workshop for charter commissioners held jointly by MAMA and the League in 1991. The process of charter revision is governed by the Home Rule City Act, and little has changed since 1991. Material has been updated where appropriate (e.g., amendments to Michigan Election law).

When this seminar was offered in 1991, Michigan municipalities were in a period of charter activism, driven by aging charters which were perhaps not wholly adequate to the times and circumstances at the close of the 20th and near the 21st century. Approximately 40 cities and villages since 1989 have been through or were at some stage in their charter revision process when this Handbook was first prepared. Since then, 70 additional charters have been revised or new charters written for villages incorporating as cities.

Charter revision must consider the accumulated changes in state legislation and intervening court decisions which have made many charter provisions, once valid in their time, invalid or unenforceable. Many newly elected members of municipal governing bodies, and citizens, have wondered about these "dead letter" charter provisions which seem to be so much excess verbiage. In addition, fundamental economic and population changes in many communities have suggested the need for a fresh look at fundamental governmental arrangements in home rule cities.

Charter revision has reduced the number of cities governed by the Fourth Class Cities Act (Act 215, P.A. 1895, as amended) as those communities opt for home rule charters. The Legislature probably accelerated this trend when it amended the Fourth Class Cities Act in 1976 to declare them all home rule cities (MCL 81.1(c), effective January 1, 1980. The number of cities governed by the Fourth Class Cities Act as the local charter now stands at four.

Another reason for charter activity has been the long-term trends in village government in Michigan: movement from village to city status, and from general law to home rule village status. Until 1998, when the Village of Lake Isabella was incorporated, the number of home rule villages had not changed in a quarter of a century. However, many home rule villages have reincorporated as cities, the Village of Caseville (2010) being the most recent example. Many general law villages have opted for their own charters under the Home Rule Village Act (Act 278, P.A. 1908, as amended), and since 1961, 111 villages have reincorporated as home rule cities with home rule city charters.

We hope that this handbook will be a useful general resource for those now serving as elected charter commissioners, as appointed members of charter study groups, and who one day may find themselves on such bodies.

Special recognition and thanks are due to the members of a focus group of charter consultants, municipal attorneys, academicians, charter commissioners, and charter study committee members who contributed no small part to the events, materials, and thinking that went into this handbook.

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The Charter Commissioners Handbook was developed from a joint MAMA/MML workshop.

The presentations have been transcribed as Chapters 1–8 and edited for clarity.

Welcome

Daniel C. Matson, Moderator

I want to welcome you to what we believe is a Michigan first—a workshop for charter commissioners—a novel event in our state. The origin of this workshop stems from the joint effort of the Michigan Association of Municipal Attorneys (MAMA)and the staff of the Michigan Municipal League. The Municipal Attorneys Association is a chartered section of the League.

There are a number of Michigan communities which are now in the process of revising their charters. By assisting such communities in sharing information about the nature and creation of their fundamental governing documents, the sponsoring organizations are also attempting to fulfill their own purposes.

This workshop is a perception of the future of our communities as viewed through municipal charters. In the 20th century Michigan had the experience of two Constitutions and the Home Rule Cities Act. This legal framework presents dramatic opportunities for municipalities to thrive through self-government, principally by the device of the home rule charter.

We ask you to continually reflect upon how your work as charter commissioners will enhance government in your community in the next century. In your deliberations, please consider what may be essential to good government that may not yet be implemented in your municipality. There will be need for improvement in certain areas which may not have been previously addressed in your existing charters, such as planning for change, continuing education of officials and staff, ethics, out-of-court conflict resolution methods, intergovernmental relations, cultural enhancement, including promotion of the arts, keeping the public informed, and future charter revisions. How creative will you be in this process? What else may your community not presently address that you envision as a present or future need? Should certain of the mentioned items be mandated in the municipal charter? Should they be referred to in a preface or preamble to your charter? Should their benefits be reserved for more casual treatment by future officials?

Your commitment as charter commissioners is evidenced by your sacrifice of much time and sharing of talent, both of which will produce benefits for untold numbers of citizens within your communities. You are not alone in this process.

The participants in this workshop represent much experience. Your presenters today include learned university professors, charter consultants, experienced charter commissioners, municipal attorneys, specialists from the Attorney General's office, Michigan Municipal League staff, and the substantial resources of the League. The materials that you will receive constitute a unique handbook containing the statutory framework for charters, treatises on Michigan home rule government, various implementing procedures, and a checklist of what must appear in municipal charters. In addition, the League developed a charter database. All of this effort is for your benefit as you engage in the charter adventure.

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Author Bios

W. Peter Doren has been a practicing attorney since 1977. He regularly represents parties in zoning litigation and administrative hearings. He is the village attorney for Kalkaska, the general counsel for the Traverse City Light and Power Department and was city attorney for Traverse City for 30 years. He was instrumental in creating the Traverse City Downtown Development Authority, Traverse Area District Library, Historic Districts Commission and many other organizations performing governmental functions.

George M. Elworth graduated from the University of Michigan Law School. He retired from the Department of Attorney General in 2025, concluding a 51-year career in public service. He began his career at the Atlanta Legal Aid Society then spent four years as an associate at Lord, Bissell, and Brook in Chicago. He was a lieutenant on active duty in the U.S. Army Reserve (Quartermaster Corps) from 1964 to 1966 and was assigned to Army bases in South Korea and Colorado Springs, Colorado.

Thomas Dudenhofer chaired the Stanton Charter Commission. He is the senior pastor of the First Baptist Church in Stanton.

In Memoriam

Thomas M. Donnellan (1940–2021) served as judge and chief judge of the 68th District Court in Flint, and as an instructor in the paralegal program at Mott Community College. When in private practice, he drafted new charters for the cities of Flint and Lansing. Prior to private practice, he served as executive director and attorney for the Genesee County legal services program. He is a graduate of Queens College of the City University of New York and Fordham University School of Law.

Milton I. Firestone (1927–2010) graduated from Wayne State University Law School and was admitted to practice in 1953. His professional work included private practice in municipal law and in the Livonia City Attorney's office. He joined the State Attorney General's office as assistant attorney general in 1965 and served with distinction as a Michigan Assistant Attorney General for more than 32 years. He also served as adjunct professor of municipal finance at Cooley Law School.

Daniel C. Matson (1941–2023**)** graduated from Wayne State University Law School. He served as president of the Clinton County Bar Association, president of the Michigan Association of Municipal Attorneys (MAMA), and president of the Michigan Municipal League Legal Defense Fund. He has also served as chairperson of the MAMA Charter Focus Group and the public corporations law section for the State Bar of Michigan. He was the DeWitt city attorney for 45 years.

Sinclair Powell (1922–2017) received his undergraduate degree from Michigan State University and his law degree from Cornell. He served as city manager in two municipalities and as urban development director in two others. He was a legal and administrative consultant to city and state governments and nonprofit agencies and taught public administration and urban affairs at several universities. He served as an advisor and consultant to a number of charter commissions.

Robert L. Queller (1929–2010) served as vice president, president, and executive director of the Citizens Research Council of Michigan. A graduate of DePaul University and Wayne State University, he was active in the Governmental Research Association and the American Society for Public Administration. He studied the problems of local government and county home rule extensively and served on the staff of the Governor's Study Commission on County Home Rule.

Kenneth VerBurg (1933–2015) retired from the Department of Resource Development at Michigan State University in 2000. He specialized in state and local government and regularly conducted educational programs for local officials and citizens. Mr. VerBurg is known for his companion publications on county and township governments, *Managing the Modern Michigan Township* and *Guide to Michigan County Government*. He chaired the State Boundary Commission from 1991–2011.

Home Rule in Michigan

The doctrine of self-determination more commonly referred to as “Home Rule” may be defined as the constitutionally granted prerogative of political subdivisions of the State to have control over and to have full responsibility for governmental matters of purely local concern without interference by the State.

The people of the State of Michigan through the Constitutional Convention of 1908, have conferred such powers on the cities and villages of Michigan. The 45th Legislature of the State of Michigan, and subsequent legislatures, in keeping with the spirit of the Constitution, have adopted enabling legislation which has made possible the practical application of "Home Rule." The Constitution of 1963 reaffirms and strengthens the principle of home rule for cities and villages.

Cities and villages of Michigan have fully accepted the responsibilities under such grant of power, and the existence of the doctrine of self-determination has been the largest single factor in bringing about the high standards which prevail today in municipal government in Michigan.

*Excerpt from Statement of Policy on Home Rule in Michigan, Michigan Municipal League, 1972-73.

Constitution of the State of Michigan 1963 Article VII.

Sec 22 Local Government

Charters, Resolutions, Ordinances; Enumeration of Powers

§22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village theretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Chapter 1

Structure of Local Government in Michigan

by MML Membership Engagement Department

The present status of cities and villages in Michigan is the result of historical tradition, of the home rule provisions of the Constitutions of 1908 and 1963, of the home rule acts of 1907, and the initiative of individual communities.

During the nineteenth century, the state legislature recognized the need to incorporate the densely settled communities within the basic pattern of counties and townships. The system of local government written into Michigan's 1908 and 1963 constitutions recognized the continuing existence of counties and townships, with the voluntary incorporation of the more densely settled areas as cities and villages. An innovation in the 1908 constitution was a provision for city and village home rule charters—a change which was to have many repercussions.

Villages

The basic difference between a city and a village is that whenever and wherever an area is incorporated as a village, it stays within the township. The villagers participate in township affairs and pay township taxes in addition to having their own village government. Incorporation as a city, however, removes an area from township government. City dwellers take part in county elections and pay county taxes, as do villagers—but are removed from township units.

Villages in Michigan are organized primarily to establish local regulatory ordinances and to provide local services such as fire and police protection, public works and utilities. Certain of the local duties required by the state are not demanded of the village but are performed by the embracing township including assessing property; collecting taxes for counties and school districts; and administering county, state and national elections.

Most of the villages (206 of 252) are still governed under the General Law Village Act, 1895 PA 3 as amended. Charters for villages are the exception, although any village may adopt a home rule document under 1909 PA 278, the Home Rule Village Act.

Cities

A city, being withdrawn from the township, must perform the basic, state-required duties as well as its own services. In addition to being responsible for assessing property and collecting taxes for county and school purposes, the city also becomes solely responsible for registration of voters and conduct of all elections within its boundaries.

The greater independence of the city, in maintaining local regulations and functions and state-imposed duties in one integrated unit, accounts for the creation of many small cities in Michigan during recent decades. The trend has also developed in villages to seek incorporation as cities whereby they achieve a separation of jurisdiction from the township.

As of 2025, Michigan had 281 incorporated cities and 252 incorporated villages—a total of 533 municipalities. Of this total number, 323 had adopted home rule charters.

In 1895, adoption of the Fourth Class City Act created two types of cities: those of 3,000 to 10,000 population, which came under the act, and all others which remained "special charter" cities. As 2025, all but one of the "special charter" cities have reincorporated as home rule cities. As of January 1, 1980 all fourth class cities became home rule cities by virtue of 1976 PA 334 (see also OAG 5525, 7/13/1979), which continued the Fourth Class City Act as the charter for each former fourth class city until it elects to revise its charter. As of 2025, four cities continue to be governed by the Fourth Class City Act.

Standards of Incorporation
For incorporation of a home rule village, a population of 150 is the minimum, but there must be a minimum density of 100 to the square mile. There is no statutory requirement that a village must become a city when it experiences a rapid growth in population. Once incorporated, villages may seek reincorporation as fifth class home rule cities, providing their population is between 750 and 2,000. Alternatively, they may seek reincorporation as home rule cities if their population exceeds 2,000 with a density of 500 per square mile. For years, the Home Rule City Act required 2,000 population and density of 500 per square mile for city incorporation. A 1931 amendment permitted fifth class city incorporation at 750 to 2,000 population with the same 500 per square mile density requirement, but authorized villages within this range to reincorporate as cities regardless of density.

There is no basic difference between a fifth class home rule city and a home rule city, except the population differential and the statutory requirements that fifth class home rule cities hold their elections on an at-large basis. If all the territory of an organized township is included within the boundaries of a village or villages, the village or villages, without boundary changes, may be incorporated as a city or cities as provided in 1982 PA 457.

Unincorporated territory may be incorporated as a fifth class home rule city provided the population ranges from 750 to 2,000 and there is a density of 500 persons per square mile. The same density rule applies to the incorporation of territory as a home rule city if the area has a population of more than 2,000. There are no other methods of city incorporation today. A new city must be incorporated under the Home Rule City Act.

State Boundary Commission
Under 1968 PA 191, the State Boundary Commission must approve all petitions for city and village incorporation. The Boundary Commission is composed of three members appointed by the governor. When the commission sits in any county, the three members are joined by two county representatives (one from a township and one from a city), appointed by the probate judge.

In reviewing petitions for incorporation, the Boundary Commission is guided by certain statutory criteria: population; density; land area and uses; valuation; topography and drainage basins; urban growth factors; and business, commercial and industrial development. Additional factors are the need for governmental services; present status of services in the area to be incorporated; future needs; practicability of supplying such services by incorporation; probable effect on the local governmental units remaining; relation of tax increases to benefits; and the financial capability of the proposed municipality (city or village). In other words, the Boundary Commission review centers on the feasibility of the proposed city or village.

After reviewing based on criteria, the Boundary Commission may deny or affirm the petition. (Affirmative action may include revision of the proposed boundaries on the commission's initiative.) Once the Boundary Commission has issued an order approving incorporation, a petition may be filed for a referendum on the proposal. The referendum permits the voters to accept or reject the incorporation. If incorporation is approved by the voters, the incorporation may be finally accomplished only through the existing process of drafting and adopting a city or village charter.

Home Rule
Home rule generally refers to the authority of a city or village under a state's constitution and laws to draft and adopt a charter for its own government. This contrasts with legislative establishment of local charters by special act, which results in mandated charters from state capitals. Home rule frees cities and villages to devise forms of government and exercise powers of local self-government under locally prepared charters adopted by local referendum.

Constitutional home rule is self-executing in some states and not so in others. Non-self-executing home rule, which Michigan leaders wrote into the 1908 Constitution, leaves it up to the state legislature to implement the home rule powers. Michigan's legislature did this by enacting the Home Rule City Act and the Home Rule Village Act, both of 1909.

In turning to home rule when it did, Michigan became the seventh state to join in a movement which now includes 37 states. It was more than a national trend which motivated the Michigan Constitutional Convention early in this century. Under the special act system of the nineteenth century, Michigan cities were, according to one observer writing closer to the time, “afflicted by their charters with an assortment of governmental antiquities.” *Robert T. Crane, Municipal Home Rule in Michigan, Proceedings of the Fourth Annual Convention of the Illinois Municipal League (Urbana, 1917), pp.62-65.*

The Legislature, under Article VII (Sections 21-22) of the 1963 Michigan Constitution, must provide for the incorporation of cities and villages by general law. Such general laws of incorporation must limit their rate of taxation and restrict their borrowing of money and their contracting of debt. The voters of each city and village have power to frame, adopt and amend charters in accordance with these general laws.

Through regularly constituted authority, namely their established representative government, they may pass laws and ordinances pertaining to municipal concerns subject to the constitution and general laws. By January 2003, 264 cities and 48 villages had adopted home rule charters. The total of 312 charters so adopted makes Michigan one of the leading home rule states in the nation.

Charters

The Michigan Municipal League, versed in the needs of cities and villages, renders informational assistance through its charter inquiry service. A few Michigan attorneys have become specialists in drafting charters. The quality of city and village charters has improved steadily. No longer is it necessary for elected home rule charter commissioners to search for model charters elsewhere, since many good charters exist in Michigan.

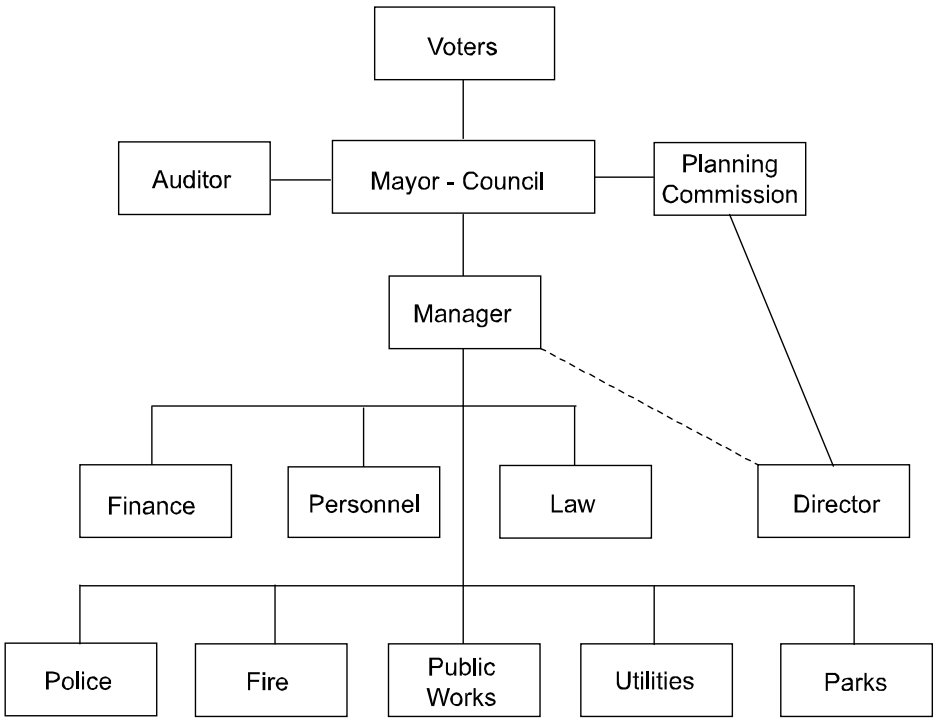
With some exceptions, Michigan charters have been influenced by nationwide trends in municipal practices such as the short ballot, the small council, election of councilmembers at-large, nonpartisan nominations and election of councilmembers. Chief executives of either the appointed kind (a manager) or the elected type (a mayor) are favored. Localities have shown their ingenuity in searching for what is most appropriate to their needs. No longer is the Legislature burdened with enacting individual charters. The responsibility lies with locally elected charter commissioners, subject to legal review by the governor under statutory requirements. Since charters must be adopted only by local referendum, the voters themselves make the final determination about the design of their government.

In the process of charter drafting and in the local referendum, civic energies are released. Charter commissioners, elected by their fellow citizens, show themselves to be progressive yet careful when carrying out their trust.

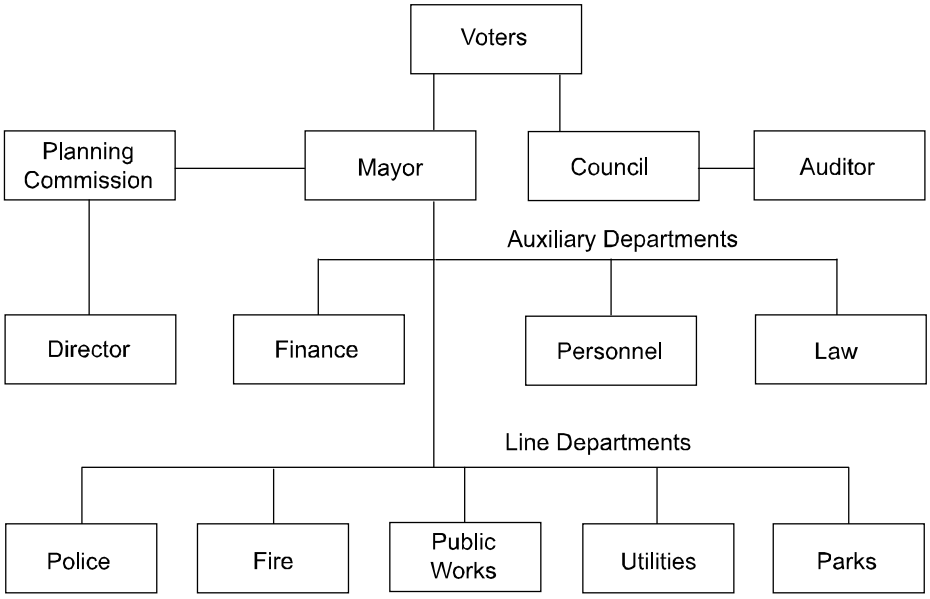
Form of Government: Cities

Council–Manager Form

Among Michigan home rule cities, more than 175 use the council–manager form, in which the elected council appoints a professionally trained and experienced manager to administer the day-to-day operations of the city, and to make recommendations to the city council. The council makes all policy decisions, including review, revision and final approval of the proposed annual budget. The council may dismiss the manager (sometimes called city administrator or superintendent) if duties are not being performed satisfactorily.



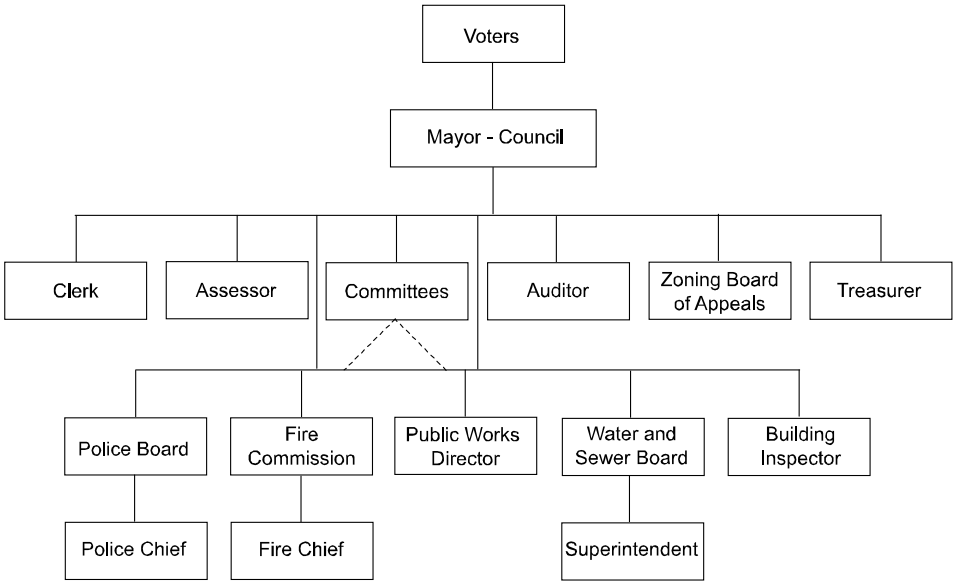
Mayor–Council Form
Two forms of the mayor–council plan are used by a number of Michigan home rule cities: **The "strong" mayor form** is most often found in larger cities where the directly elected mayor, who is not a member of the governing body, appoints and removes the key administrative officials (those who, by charter, report directly to and assist the mayor); often has variations of veto power over council decisions; is usually salaried; and is expected to devote full-time to mayoral duties.



The "weak" mayor form is found generally in smaller cities and villages. The mayor or president is a member of the governing body, chairs council meetings, and normally is the municipality's chief policy and ceremonial official by virtue of the position of mayor rather than through any specific authority extending

beyond that of the councilmembers. The mayor also serves as chief administrative official, although department heads often operate more or less independently with only general coordination.

Under the weak mayor form there is no central administrator by formal title such as city manager. Some smaller cities are fortunate to have key long-serving staff who sense the overall cooperation needed to carry out the city's programs and informally proceed for the city's betterment.



Election/Selection of Mayor
Mayors in about half of Michigan's home rule cities are chosen directly by the people, in at-large, city-wide elections (including all strong mayor communities). In the remaining cities the councilmembers typically choose the mayor from among their ranks to serve a one- or two-year term. A trend to call the members of a city's governing body councilmembers rather than commissioners is at least partially to avoid citizen confusion with county commissioners.

City councilmembers and village trustees typically are elected for two-year or four-year terms, about half at each election, to preserve continuity of personnel, experience, and perhaps policy. Often a charter calls for election of half of the council at each election, plus the mayor for a term half as long as the councilmembers, preserving continuity but making possible a shift of majority at any election.

Most Michigan cities have at-large elections for councilmembers, rather than ward elections where voters in each ward (geographic section of the city) elect a councilmember or members. Only a few Michigan cities have partisan elections where major political party labels on the ballot identify candidates.

Selection of Administrative Officials
The trend in Michigan home rule charters is to appoint, rather than elect, administrative officials who must have technical competence. In council-manager cities and villages, the manager appoints and removes department heads, sometimes with—but more often without—council approval, depending on charter requirements. In the weak mayor form, council approval of appointments is generally required.

Form of Government: Villages
Of the 261 villages in Michigan, 48 have home rule charters, and 213 are governed under the General Law Village Act (1895 PA 3). Under that Act, all existing villages in Michigan were reincorporated and standards were set for future incorporations. The general law village—still the most common by far—has the typical weak mayor–council form of government.

Village presidents in the 213 general law villages are elected at-large, village-wide. The statewide act governing general law villages, Act 3 of 1895, was amended in 1973 to provide for two-year terms for the president and made the village president a full voting member of the village council. In 1974, the act was amended to provide for four-year terms for the six trustees—three of whom are elected biennially, unless a village exempted itself prior to January 1, 1974. General Law Village elections are held on the second Monday in March, in even-numbered years.

The most recent amendments to the General Law Village Act were passed in 1998. These included the ability to reduce council from seven to five members, allowed for the appointment of a clerk and treasurer, and allowed for nonpartisan elections.

The Home Rule Village Act requires that every village so incorporated provide for the election of a president, clerk, and legislative body, and for the election or appointment of such other officers and boards as may be essential. However, the president and clerk need not be directly elected by the people but may be elected by the village council.

The home rule village form of government offers flexibility that is not found in the 1895 General Law Village Act. Home rule village charters in Michigan are as diverse as the communities that adopt them.

Interesting Municipal Facts:

Who's the oldest? Who's the newest?

- Sault Ste. Marie is the oldest community, founded in 1641. However, Detroit was the first incorporated "town" in 1802 and then as a city in 1815; followed by Monroe in 1837 and Grand Rapids in 1850.
- Grosse Pointe Farms is the only municipality incorporated from a detached territory (from Grosse Pointe Village in 1893).
- Village of Lake Isabella is the most recent incorporation from an unincorporated area, in 1998.
- The most recent incorporation as a city from a village is Manchester, in 2023.
- Whittemore changed from a Fourth Class City to a Home Rule City in 2005.
- Mackinac Island is the only special charter city.
- Remaining Fourth Class cities (population)
    - Harrisville (437)
    - Omer (274)
    - Sandusky (2,709)
    - Yale (1,903)
- The only city/city/village consolidation in Michigan occurred in 2000 when Iron River, Stambaugh, and Mineral Hills merged.

Cities Incorporated from Townships

- Auburn Hills, 1983
- Burton, 1971
- Farmington Hills, 1972 (also included the villages of Quakertown and Woodcreek Farms)
- Livonia, 1950
- Norton Shores, 1967
- Portage, 1963
- Rochester Hills, 1984
- Romulus, 1968
- Southgate, 1958
- Sterling Heights, 1966
- Taylor, 1966
- Warren, 1955 (was a village plus incorporated Warren Township when it became a city)
- Westland, 1964

Michigan Population Facts

1820: 8,767 (in the Michigan Territory, which included much of Ohio and Indiana)
1837: Michigan admitted to the Union as 26th state

1840: 212,267
2000: 9,938,444
2020: 10,077,331

Michigan Form of Government Facts
83 Counties
1,115 General law townships
127 Charter townships
281 Home rule cities
4 Fourth Class cities
1 Special charter city
206 General law villages
46 Home rule villages

Most and Least
• Tuscola County has the most villages with 10
• Wayne County has the most cities with 33
• Oakland County has the most cities and villages with 39
• Keweenaw, Luce, Montmorency, Ontonagon, and Roscommon Counties each have one incorporated area, a village
• Crawford, Schoolcraft, and Alpena counties each have one incorporated area, a city

Chapter 2

The Role of a Charter Commission: An Overview

by Kenneth VerBurg

The official purpose and role of the charter commission is to prepare the first city or village charter or to revise an existing one. Over time, communities change. Issues change. Needs change. Consequently, your charter may need to be revised. It is your job to gather ideas and information from people in your municipality, and to put a charter together and to present it to the citizens for a vote.

Your informal responsibilities are somewhat more difficult. First, you have the obligation to identify community values regarding the issues that can be addressed by municipal government. Not all these issues, of course, can be subjected to controls or influenced by the charter. On the other hand, many of them can. So, what you need to do as you begin your deliberations, is to think about values—basically what the community agrees on and what it wants from its government. Those are not necessarily easy to sort out, because what is likely to occur is that those who have a particular axe to grind are probably the most vocal and the most articulate about what they want from the charter.

The charter is something like the state constitution. A particular interest group which is able to cement in the new document its values, its point of view, or its preferences will be advantaged for several decades. Chances are, that charter will be in place for some time. It's not easily revised, and the city or village is going to have to abide by its provisions. Thus, getting a particular position implanted in a state constitution or municipal charter has long-lasting value. So, the challenge is to try to strike a balance between what the community does agree upon and what it does not agree upon. One of your first tasks is to sort out the values and then determine what the community agrees upon and what it does not agree upon in terms of what the community wants.

Establish a process for citizen education, for stimulating public interest, for generating public participation, and then to create a forum for public comment. Part of your job is to get people to think about the issues facing your community for the next 15–20 years. Identifying these issues and then stimulating the community to think about these issues is particularly important. People with a particular and direct stake in the community's government will be heard from. But there are others who will not be heard from unless something stimulates them to get actively involved in the process. So, you need to find ways to encourage the public, to get them to think about the issues and to decide how they would like you to resolve the issues.

In many of our municipalities, we're lucky to have 25 percent of eligible voters participating in a general election where a strong campaign and strong candidates running for office stimulate participation. On a charter issue, especially if it is a special election, participation might drop to ten percent. Therefore, the people who want something from the charter election will vote. That large mass that isn't really tuned in will not get its points across and is not likely to be thinking about the kinds of issues that need to be thought about. So, you need to find ways to educate and stimulate citizen feedback, and to get people to think about their charter.

Here are some strategies you might consider:

- Talk to service clubs, businesses, and community groups about the importance of the charter and of the questions that will be issues, and the duration of those decisions that ultimately will shape the charter.
- Involve the media. Make sure that the reporters, radio stations, television stations—if you have a TV station that reports on your community—and newspapers understand your basic approach and the kinds of issues that will arise. Give them plenty of opportunity to write or produce stories about your activity.
- Consider conducting some kind of opinion survey, not only for feedback from people, but also as another story for the media to write about. Report the results of the opinion survey back to the

people and share with the community what people are thinking about, at least as we see it. Ask: Is that right? Come and talk to us at public hearings.
- Hold public hearings in a variety of settings, depending upon the size of the community. Hold the hearings at your regular meeting place, but also with neighborhood groups and perhaps with organizations to help you make these decisions.

You have a significant task in stimulating interest and thought, and in educating people. However difficult a battle in stimulating interest is, it is something you need to put on your agenda and develop a strategy in your community.

Another set of questions you must deal with is to clarify the reasons for revising the municipal charter. Getting those ideas clear and concise is essential so you can figure out how you want to address those major questions. First, sort out the major issues facing your community. Some of those will have been identified in the campaign for the charter revision commission. Others will be identified by city or village council and perhaps by organizations, such as the League of Women Voters who may talk about an outdated charter, and the need to modernize it. Then you have to identify how many people care about a particular issue.

I would guess that most modest sized communities will be dealing with questions like, should we go back to, or should we go to a strong mayor model or what's wrong with your city or village manager government? Are we able to recruit effective managers? Or why do we have a divided council that is continually indecisive? Those kinds of questions need to be sorted out. Then you need to think about how to propose a system and a process for making community decisions. I'd like to suggest that, if you have a strong consensus in your community, much of the decision making can be delegated to the professionals in your city or village government and the council. If you have that broad-based consensus, then the city or village manager and the other professionals can advise you how to achieve what it is you want to achieve, and the best way to do it.

If, on the other hand, your community is contentious, then I think you need a different set of rules and a different set of processes for dealing with the contention and the division in the community. That brings you to form of government issues, such as mayor versus the city manager. A city or village manager is most effective in a situation where the community agrees and concurs on what needs to be done. If the community is political and contentious, then it seems to me you need not necessarily go to a mayoral system, but you must find a way for that community to process the political forces. That may mean your community policies are somewhat erratic as various groups gain power and implement their ideas. Such devices as shorter terms give voters more frequent opportunities to elect those who people think will represent them better. You might want voters to elect the mayor or president at-large, rather than the council. The mayor/president elected at-large can process the politics of that community into policy decisions until the next election. These kinds of questions revolve around the issue of whether your community has a consensus or whether it's contentious about what the community needs.

The roles of the charter commission member

There are a few officers or positions that you must fill. Identify your chairperson. That person is going to take a key role in not only making presentations but providing leadership. It will take a lot of time. So, you'll need to think carefully about whom to select for that position.

You can establish subcommittees or committees to focus on various aspects of the process—to make sure, for example, that there is somebody thinking about public relations, and the political dimensions. The city/village clerk will probably serve as the secretary for your commission. There may be other kinds of duties that you will identify.

Finally, set up a schedule for your work. Cities have 90 meeting days [home rule villages have 60]. You have more calendar days than 90, but also you will find that your time will slip away from you unless you set out at the front end of your schedule how much time you're going to allow for feedback. You then need to decide how much time to allow to bring the charter into final form. Finally, you need to decide on

the style of presentation of the charter. You get three chances for voter approval of the charter over a three-year period.

People have asked me questions about their own communities. The City of Niles used to be a fourth-class city. Basically, that meant that a general statute constituted its charter. It is not like a township government, but it's similar in several respects. That system—for the people who are there—fits like an old shoe. It just feels good. Now you come in with a city manager, you bring in a professional, who begins to articulate needs that you haven't thought about, perhaps, and solutions that you haven't thought about. That doesn't feel quite as good as before. So, you have that kind of old-time structure of government versus a city manager type. When the City of Grand Ledge started to get newcomers into the community, they had different ideas and different expectations about what community government ought to do for them, as opposed to the long-time residents. These were white-collar professional types moving in, and saying, “We want our community government to do something a little different. We think differently about how a government ought to run and be run.” Those kinds of values, I think, are some of the things you need to sort through. You may want to bring in people from neighboring communities to help you identify those issues. You might ask them to come to a public hearing and talk about their experiences. These presentations will help to educate the commission about values and to identify some of the ways of addressing those differing values.

When you go in a particular direction, you may be reducing the power and clout of some of the old-timer residents. They may sit back and say, "Wonderful, let me know how it turns out." That's not quite what you want. You want them to get into the harness with you and help bring your city or village along in its structure and its policies, to the point where it can address current and contemporary issues, rather than keeping it the way they always had it. What was once workable maybe doesn't work anymore. Don't load the agenda with speakers on one side or the other. Take a genuine educational approach and invite people to come in and talk to you from different perspectives on this issue.

If you're going to hold public hearings in communities where the interest is very low, commissioners might have to recruit three or four people to attend those first public hearings to jump-start the process. Chances are, if you hold a public hearing, only one person, or worse yet, nobody may show up. So, make sure that you recruit an audience to get the juices flowing for dialogue and discussion of the issues.

Chapter 3

Making the Most of Charter Commission Meetings

by Robert L. Queller

You are committing a portion of your life to serving as a charter commissioner. Leaving hearth and home and family and leisure pursuits night after night will become a real chore if you don't find the meetings to be a rewarding experience. The experience can be informative, enjoyable, and satisfying, or it can be boring, aggravating, and disappointing. It will depend on you and your fellow commissioners.

First, probably none of you have ever served on a charter commission before, and most of you will not have served in an elective body before. Second, many of you will not know each other when you are first elected, much less have worked together in a collaborative effort. And third, you likely will not have a common knowledge or understanding of your community and its needs or the role the charter can play in meeting these needs.

There are several essential elements in establishing an effective and productive charter commission. First you need to know upfront what the role of the charter commission is and, equally important, what the role is not. I will emphasize what the role is, not because others have talked about what your role is, which is to draft a proposed charter for the city or village. But it is not your role to second guess the mayor and council in managing the day-to-day affairs of the city or village. You are not responsible for the decisions the city must continue to make during your deliberations. You're interested, concerned citizens or you wouldn't have run for the charter commission, but your role as a charter commissioner is to focus on the charter. Don't try to tell the mayor and council how to run the city or village and don't let them tell you how to run the charter. That doesn't mean you shouldn't solicit their suggestions and listen to their advice along with suggestions and advice from the host of other individuals. But don't let them tell you what to put in the charter and don't you tell them what to do about running the city. Stay out of their business and keep them out of yours.

If you're going to make the most of your meetings, you first must have a clear and common view of what your mission is. Second, you need to know how to function as a collegial body that is going to go through a rather lengthy process to arrive at decisions as to what you as a body believe is in the best, long-term interest of the community and that you're willing to recommend to your fellow citizens for their approval. You have to learn to work together, to listen to each other, to respect each other’s thoughts and feelings, to evaluate carefully each other’s ideas, and when necessary, to disagree without being disagreeable.

An article in the *National Civic Review* (published by the same organization that writes the model city charter) on collaborative decision-making states that in groups generally, "I" knowledge plus "you" knowledge does not constitute "we" knowledge. Groups act effectively only on "we" knowledge—knowledge obtained together. This accounts for why groups of very capable people can make very bad decisions or why groups with relatively uneducated or poorly trained people can make excellent decisions. The ability to obtain a basic combined understanding through good communication with especially careful listening to each other, can lead to effectiveness without sacrificing individual opinion or criticism. The leadership you select can play an important role in your functioning effectively as a group. An effective chairperson can keep you on the track both as to the subject and the time schedules. The chairperson can provide leadership which can be critically important in developing a consensus on the issues.

Don't rush into decisions. Allow plenty of time for hearings, for discussions among yourselves. On the early decisions you make, make them tentative decisions because you may change your mind as the process goes along. You should try to come to resolution on issues as you deal with them in the substantive process but keep an open mind that you may want to change your minds later and just make these tentative.

After you organize, I think the most important thing to do is to retain a consultant to the commission. This is not a "do it yourself" project. Those things are better done by people who are experts .

I would spend several meetings simply trying to understand the role of the charter commission, the nature of the charter, the state home rule act. It's important to get an understanding of the charter process: how to get from here to where you want to be at the end. It's important that you keep that timetable in mind and think through the steps from how to get from today to election day whenever that appears to be feasible.

Develop an understanding of the scope of your work: what areas you're going to have to review, what decisions you're going to have to make. Your consultant can help with this. There are checklists available. I am sure that out of this process, there will be more checklists available. But that would be very helpful to you, to know what it is that you are going to have to decide. If it's something that you don't have to decide, if you want to talk it over more, fine, but try to keep focused on "what decisions do we have to make?" Discussing the new city or village budget is very interesting, but it's irrelevant to your function as a charter commission.

You must develop an understanding of your present city or village and its strengths and weaknesses with respect to the charter. Hearings can help you accomplish that goal, but again, you must focus on the relevance of the charter, to whatever the problem might be. If the mayor and council in the strong mayor system are frequently at odds, is that a personality problem, or is it something in the system of checks and balances in the charter that leads to confrontation, and is there something that should be done about it?

Lay out the sequence of tackling the job. What subjects do you want to cover first when you get down to substantive issues? You might want to start with non-controversial issues first to get accustomed to a collegial decision-making process. Maybe you don't want to first decide on the form of your government because that may be the most controversial. Maybe looking at the election provisions might be less controversial, since much of that is governed by state law anyway. But I think if you start with some easy decisions and get used to working together and making decisions, you'll find that you'll be better able to make the hard decisions that come later. One of the most significant of those clearly is the question of the form of government because many other provisions hinge on whether you have a mayor or a manager form.

As you discuss specific areas of the charter, hold hearings so that interested parties can participate. When you discuss elections, invite the city clerk and the school district if school elections piggyback on city elections (township clerk for village elections). If you're talking about pensions, be sure to invite the city actuary, the pension board, the finance director, representatives of the employee groups, and retirees.

Establish target dates for completing substantive provisions of the charter. But the schedule must be flexible. Don't just let it slide, though. Amend it. If you're not meeting the target date, then just amend your schedule so that you have a new target date to complete it.

Allow adequate time for your decision-making, for the consultant to draft the charter provisions, for review by the Attorney General's office, for any necessary revisions and public hearings on both the proposed and final versions of the charter. You may want to write a brief address to the people, or a commentary to accompany the proposed charter, to have people understand why you did what it is you did. Don't be overwhelmed by the process. Many people have completed it successfully.

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 charger, 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 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.

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.

Chapter 5

Relations with Other Actors

by W. Peter Doren

The people who elected you don't realize the sacrifices along the way. We do—because we are in the business of municipal government. Sometimes I think it needs to be publicly said that it shows a tremendous amount of drive and public spirit for you people to show up here on a Saturday.

I am a lawyer. There are some lawyers in the audience. I will only quote one case. The quotation that I am going to mention is very brief, but I think it has applicability. I was the attorney for the city when we went through our charter revision, and I wrote this down on the inside of my dog-eared copy of Traverse City's charter. This is Justice Campbell writing in 1881 in *Torant v. Muskegon*, 47 Mich 115. He said, "Verbose charters create mischief by their prolixity." The briefer the better is the general rule. Obviously, the charter revision commission does not act alone. There are relationships the charter commissioners must have or should have with other municipal officials and other people. I am not going to talk about the media because others will cover that. But I do want to talk about the other players you have to deal with in your goal to revise the charter.

City/Village Clerk

The clerk by statute presides at the first meeting, administers the oath of office to members elected and acts as clerk of the commission. The clerk may be a very political individual in relationship to the charter and have specific ideas about what the charter should say and should not say. Such a person could wisely step down and have another appointed as a special deputy clerk. I just mention that to show that there is some flexibility. You can have a deputy clerk, or you can have special deputy clerks. You can be as creative as you'd like or as the charter revision commission and your clerk can agree. If you're in a situation where you have a clerk who wants more involvement with the charter revision commission, you can define in the commission rules the degree of involvement of the clerk as clerk of the commission.

One important thing that the city or village clerk can do is to identify the past city/village charters and the history and origins of these older charter provisions. This can be very enlightening. For example, the current charter of Traverse City describes the jurisdiction of the city by metes, bounds, section lines, etc., extending one statute mile from the shores to Grand Traverse Bay, so that the jurisdiction as defined by the city charter extends out into the water one statute mile. Research traced that back to the original state legislation creating the City of Traverse City in 1895. You could say that the Legislature delegated that authority over the waters to the city, and, since governors have approved all the revisions of the charter, we could arguably claim jurisdiction over a part of the bay based on that history. We certainly would not want to delete that provision, and indeed we kept it in the proposed revised charter. So, the city clerk can helpfully identify the history of our various charter provisions.

City/Village Council

The council by statute has some involvement. The council must fix the budget and establish the meeting place in advance of the election. While I suspect that it may happen in some cases, it is in my experience a rare occurrence. It is more likely than not that you're going to seek funds from the council after the formation of the charter revision commission, especially funding for hiring experts. Remind the council when you do that, that the charter revision process is mandated by the people who have elected the commission. It is a process started directly by the voters. Use that argument to persuade the council to provide budget support so that you can get the expert advice you need.

The statute wisely provides that other city officials are not eligible to serve on the charter revision commission (the Home Rule Village statute is silent). In Traverse City, we had a mayor and a city commissioner run for charter commission and resign when they were elected so that they could take office as charter commissioners. However, even though the other city officials cannot serve on the revision commission, the commission is almost entirely dependent upon those individuals for information

on what the city is doing, how it could be doing it better, and what obstacles might exist to improving city operations in the charter. Despite this basic information dependency, you must keep independence. That is designed into the statute by preventing other city officials from being on the charter revision commission. You must make sure that independence is maintained at all costs.

Attorney General's Office
The attorney general's office is a key player, one of the major components in the whole revision process. The attorney general's office should be consulted even before the election for charter revision commissioners. The attorney who is representing the municipality should make specific contact with the Municipal Affairs Division to let them know what is going on and be in constant communication throughout the evolution of the charter language. This takes advantage of the expertise in that office as well as revealing what concerns that office has. My experience has been that the attorney general's office appreciates the continual contact—as opposed to suddenly being sent a document which then must be reviewed and analyzed from the very beginning. The attorney general really reviews the charter for the governor. The statute requires the governor's approval, but the governor's office relies entirely on the attorney general's office. When you read in the statute that the governor's approval is necessary, that means the attorney general's approval, and you should seek that early and often.

Municipal Attorney
The relationships I described previously are all contained to some degree in statute. The other relationships I describe are simply ones that I think you should note. The relationship of the municipal attorney to the charter revision commission is also very important. I have served both as the city attorney and as the attorney for the charter revision commission simultaneously. That does not have to be the case. We are in a more northern area where there are many attorneys, but attorneys involved in different specialties are less available than in other areas of the state. So, I served the charter revision commission and hired other attorneys to do some of the general city work that I was unable to do because of the additional duties. The municipal attorney can smoke out problems in the existing charter and can be advantageous to the city or village if he or she drafts the revised charter when some of those charter provisions are later attacked. It is a good idea to have him or her involved.

City/Village manager
The manager also needs to be involved if you have the council–manager form of government. But it depends on the manager's personality and how the manager interprets his or her subscription to the manager's code of ethics which forbids the manager's involvement in any political or quasi-political activities. The city manager may be very stoic about what is occurring with the charter revision commission—accepting whatever comes about—or he or she may be energetic about what is occurring and try to influence how the charter is drafted. But the charter revision commission officers must be sensitive to the city manager and involve the manager and develop their own working relationship because the commission is information-dependent upon department heads who are generally all responsible to the manager.

Auditor
The municipal auditor or the firm that does the auditing of city or village finances should also be consulted, paid a fee, and be asked for advice. The auditors have looked at your charter and at how it affects the ability to manage and invest money. I found our auditor to be an excellent source of advice.

Other commissions, boards, and officials of the city or village may also be involved to some degree, especially if they are authorized in the current charter. Some officers and boards are based upon charter provision, and some are not. If charter-based, of course, they will generally want to be involved, and you will need to accommodate them in some fashion.

The last group to be mentioned which deserves a lot of thought are the municipal employee groups. If the goal of the charter revision commission is to make the city or village more efficient and able to provide more cost-effective municipal services, that will impact employee groups. They may also be the most interested group at the public hearings and influential when the time comes for the election to vote on the

charter. So, they must be acknowledged, and consensus must be sought. Try to achieve consensus in a way that does not put you in a negotiating posture, because it is not the charter commission's role to negotiate with employee groups regarding wages, hours, and conditions of employment. That is the role of the city or village manager and the administration. If you adopt a new charter provision affecting bargainable matters, it may have to be negotiated later. But if the employee groups, through their elected officers or bargaining agents, are brought into the charter revision process, with some involvement in the drafting stages, that will help achieve consensus.

And consensus is, after all, what you are trying to achieve throughout this whole process. You're trying to achieve consensus because no matter how good the charter, if it doesn't pass, then nothing has been changed for the good. I am speaking from experience. The City of Traverse City went through the revision process, put the charter the first time to the people and it was rejected. We modified it, put it to the people a second time and it was rejected. We modified it again and put it to the people who rejected it a third time. We had excellent help through the various advisers we had retained and excellent cooperation from the attorney general's office. Nevertheless, we had not given any thought to consensus building, to involving any of these groups in the drafting process. When they were involved through the election process, they looked at it as an opportunity for them to reject it and did so.

Of course, while you are busy building consensus, you cannot expect to have perfection in the final product. We have to revisit the fundamental rights, because the wisdom of our constitutional authors is worth looking at. When you are involved in the local charter process you are doing exactly what they did in 1787, and you are faced with exactly the same problems. You can read James Madison in the Federalist Papers and see that he faced the same problems that we faced in Traverse City with our little municipal charter. Alexander Hamilton said, "I never expected to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound as well as the errors and prejudices as of the good sense and wisdom of the individuals of whom they are composed. The compacts which are to embrace 13 distinct states in a common bond of amity and union must necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?" Don't expect too much. Try to get the best product that you can.

Chapter 6

Publicizing the Work of the Charter Commission

by Thomas M. Donnellan

Each home rule city or village should put together a charter that reflects the unique needs of that community—otherwise home rule is not working as it was intended. The charter commission cannot do its job without the suggestions of its citizens, and the citizens cannot make suggestions unless they are kept informed of the proposals the commission has under consideration. This means two-way communication. Citizen comment must be allowed at each meeting. This does not slow down the work of the charter commission; this is the work of the charter commission. I recommend, in addition, involving as many citizens on advisory committees as possible.

Here are some suggested sub-committees and issues to think about:

Media Committee
Is the chair of the commission the spokesperson for the commission?
Should a commissioner be designated as press person?
Should you send out copies of minutes or prepare news releases with ready-made quotes?
Will the media give you the coverage you need?

We must not overlook _____

Publications Committee
Should you print and distribute drafts of proposals?
At what stage in the process? How many copies and to whom?
Do you print and distribute summaries of proposed changes?
How do you "publish" the proposed charter before adoption?

We must not overlook _____

Liaison with Interested Groups Committee
How do you approach these groups?
How can you mine their fund of knowledge of what the problems are?
How do you gain their support?

We must not overlook _____

Citizen Input Committee
How do you get ordinary citizens to make suggestions?
What about opinion polls? What about reaction panels?
Is the commission obligated to accept the majority opinion of the citizen group?
What type of background material should be supplied so that the citizen group can make an informed decision?

We must not overlook _____

A Final Note
Like all public bodies in Michigan, the charter commission must comply with the Open Meetings Act and let the public know what it is doing. To be successful, the charter commission must let the public know what it is thinking of doing. In 1787, about 55 people got together in Philadelphia to draft a constitution for the United States. They put it together in about four months and during that time, they kept complete secrecy, with one exception. There was a rumor that was being circulated that they were preparing to offer the throne, the kingship, to one of the members of the royal family in England. The constitutional

convention did authorize a statement denouncing that rumor. But that was the only publication of the deliberations of the constitutional convention until the completion of the work. Even at that, the actual proceedings of the convention were not publicized until some 40 years later.

Now, I use that as an example of what we cannot do in today's society. Let me grant you this—that I could accept an argument that we should do that if you can put together a charter commission made up of George Washington, Alexander Hamilton, James Madison, George Mason, and James Wilson, but I don't think you can do that. I think that we're going to have to deal with our present society the way it is and start with the assumption that it would not be an acceptable way to deal with the process of developing a charter in the 21st century.

If any of you do not believe that in our present society that we live in public life in a fishbowl, then obviously you did not watch the confirmation hearings of any of our Supreme Court Justices. I want to talk about a two-way information plan and pick up from the concept of "we" knowledge, which was a phrase that I hadn't come across before. This starts with the election itself, the election of the charter commissioners. For example, there is no particular violation of the Open Meetings Act if the people who are elected and who have not yet taken office meet together and talk about whatever they want to talk about, because at that time, they are not yet public officials. But I think it is a very, very bad idea. It's not illegal; it's just a bad idea.

Right from the very beginning, you want to make sure that you have a contract with the public at large, your community, that they are going to be involved in your proceedings. That means that all the meetings are open to the public and the news media with very limited exceptions, and there is public comment at every meeting of the commission. There should be coverage of the meetings of the committees and subcommittees by what we generally refer to as media, although I hate the word. By that, we mean the cable access stations, the local newspapers, and online media sites. All those organizations should be supplied with some form of information. The type of information they should be supplied with depends upon what it is they want and what they want to publish. Anything they are willing to publish of yours, you should try to get them to publish.

The principal daily newspaper is extremely important. We were fortunate in Flint in 1974 that the *Flint Journal* assigned a full-time reporter to the charter commission. This was not because the charter commission was big news, but because the newspaper had decided that it was important to them to have a high degree of publicity for the charter commission. The paper was eager to see the city adopt a new charter.

The reporter assigned to it was a law student who did an excellent job of reporting on the work of the charter commission. In fact, his first story was a story criticizing the hiring of the attorney for the charter commission—me—which I respected because he had a number of questions he didn't get answered the way he thought they should be answered. I point that out simply to show that he was not a tame reporter. The fact that he was providing extra effort and tried to make sure that there was a lot of coverage in the paper about the work of the charter commission did not make him someone who was under the control of the charter commission. He did an independent job as a news reporter, but he covered it in detail because the newspaper wanted him to cover it in detail.

To gain that type of coverage, you're going to have to meet with the local paper and try to work out some understanding. Use whatever influence you can have on the newspaper, because the simple fact that someone is assigned to cover a particular activity does not mean that person either has an interest or a background in what they are going to cover. Quite frankly, if they don't have those things, then the type of coverage and the type of story might become more of an embarrassment than a help to the commission in trying to explain its work to the public.

In addition, it is your responsibility to contact neighborhood groups. Have meetings in different parts of the community. There should be an agenda for those meetings in which there would be presentation of proposals that the charter commission is considering. But what you really want out of that meeting is the

public input—the public getting up and stating something as to what they think they want from their city government. Try to get them to commit themselves in some way. Have a short evaluation form for people to fill out. These are people who simply drift in off the street, so the type of evaluation that they would be willing to fill out should be short. I am going to cover something similar to that in a few minutes, but this is a simplified evaluation simply to get people to express an opinion. Because I can tell you if people express an opinion at all, it's easier for you to get them to swing around to support whatever different proposition, if it is different, that the charter commission comes up with, than it is to get them to move to a position when they never expressed anything at all before. Committing themselves and thinking about it and saying something means that at least they are involved. Just like the salesman who will say anything to get your interest, and once he has your interest, then he can start negotiating. But until he has your interest, there is just a wall between the salesman and the customer. And you are selling something.

People don't necessarily show up to deal with governmental questions. But they will respond to a kind of a draft—if they are drafted by people who they feel some obligation to. You should try to get every public official to nominate one, two, three, four, five citizens to serve on a charter advisory committee. Every public interest group that has interest or involvement should be required or told they have to nominate several people. The charter commissioners themselves should recruit influential citizens and put together a total group of about 100–150 people so that you can put together a panel which will eventually turn out to number something in the range of 75. You have to expect at least half the people who agree to serve will find some reason not to be available on whatever date you set.

This—of course—is in addition to the other suggestion that was made for contacting certain people in the drafting process. People who are told that they are being involved or asked about the proposed language of a certain section are going to feel more involved than if they just get it presented to them together with 75 other people. What you want the group to do when they get together as a reaction panel is to make decisions on proposals.

There was a mention of opinion polling. I am not a particular fan of opinion polling in something like this, because, once again, you have to go out of your way to get people to think about the topic and to give their opinion. The subject has what the pollsters call soft opinions; very susceptible to change, very susceptible to the way it is presented, so mere opinion polling of a particular charter section or form of government by itself may not give you useful information. It also gives the impression to the public that you are only interested in finding out which way the wind blows and then preparing the charter to conform to that. You can also put these forms in the newspapers and solicit people to fill them out and show their belief. Once again, this is not opinion polling. These are people coming in and writing something down, and making a detailed analysis, trying to tell you what they think of the particular proposals. Whatever it is that you put together, whatever it is that you send out, you should follow the rule that is called KISS: Keep It Simple, Stupid. It is necessary to any presentation to try to make sure that the people are not bogged down with extraneous material and can focus on the material that you want to present to them. You do want to have vigorous debate at actual live sessions, because they're the most useful when people persuade themselves and start coming together with that "we" knowledge that we were talking about. Certainly, you do want to encourage people, if they can't be present, to fill out one of these forms and to give their opinion in writing.

At some point you're going to have at least partial drafts for distribution to various interested people including the charter advisory committees. After you rework those drafts, you're going to present a final charter and you're going to send it to the governor.

I believe that you should print handouts containing the entire charter equal to about one-third or slightly more of the likely voters. That's quite a few charters. But the statute, section 23 of the Home Rule City Act, does indicate that the issue of publication is up to the charter commission, and I think those documents are very useful in promoting the charter.

During the period of time that you are waiting for the action of the attorney general's office, it would be a good idea to use that time in planning for the future and also in preparing a running commentary to

describe how the charter will work. There are many things that people want to see in writing that probably are not a good idea to put in the charter. Some of those things can be accomplished by putting them in some form of commentary.

The people who put together this program did a very good thing in distinguishing between the material that I would cover and the question of the campaign activity. Let me just mention in terms of the campaign activity that the campaign people should be separate from the charter commission, although obviously the people who have put together the charter will be interested in the campaign. But the purpose of having an independent campaign committee would be to have an objective view on what's necessary to sell the charter.

Let me go back over what we covered from my summary. This is a form of planning guide. First, you would define the problem. Second, you would state what outcome you want. Third, you'd have to list the activities that would have to take place to do that, and you'd have to assign responsibilities. At this point I'd like to make a recommendation to do something that not too many charter commissions do. Right from the beginning, assign someone the responsibility of being a public information officer of some kind. You don't have to use that phrase. But as I have described to you in my outline, that is the activity that you want to accomplish. You want to have a two-way communication with the people, and to do that, you want to have somebody who is responsible for that, no matter what you call that person.

The fourth is some type of feedback system. I mentioned the charter advisory committee. You could have whatever system you want, but you must have some type of feedback system other than getting voted down at the polls. Finally, you'll have to have some type of policy statement describing to the public what it is you are doing. Anytime you are communicating with the public, you should state in writing in a clear form what it is you are trying to do.

In summary, develop a two-way information plan. Plan to integrate all the publicity with the actual work of the commission. Budget for it. Have somebody who is some type of public information officer, no matter what you call that person.

1. Do everything in public and try to get the maximum coverage of what you do.
2. Reach out and appear to reach out to every group and individual in the community.
3. Form some type of impact panel. I suggest calling it a "charter advisory committee." It sounds good. I have seen that title come up repeatedly. People I have never heard of have come up in public office, and—I see on their resume—they were on the Flint Charter Advisory Committee.
4. Provide copies of the charter.
5. Campaign committee should be a separate activity and should be run independently of the charter commission.

Discussion
Q: How have you seen in practice the advocacy process in terms of this charter advisory committee, particularly regarding people like elected officials?

A: Elected officials tend to shy away from being just a member of the charter advisory committee. Some will. Some people like to express themselves.

But you will not have the entire city council participating. They want to be removed and have you come to them as the city council. One or two of them might show up, but they would be willing to designate their supporters and people who feel the same way they do, to participate, and to bring those ideas out. It does work very well because by having such large numbers, you reduce the chances of anybody being overwhelmed by one influential or persuasive person. If anybody can swing 75 people, then maybe they have good ideas. With a smaller group, then the prestige and influence of the person who is doing the talking might be greater. Of course, that person doesn't necessarily reflect the interest of the whole electorate. You're lessening the impact of individuals and increasing the chances that you're hearing the voice of the voters themselves. There's no guarantee of that because most voters are simply not interested at all.

Q: What if you have a serious objection to a part of the revised charter that might jeopardize the whole thing? Has anybody experienced where there might be alternative proposals on the charter revision ballot, so that you have a basic charter revision but with some alternative proposals for the voters to choose from?

A: Yes, Detroit tried it on two issues, including the question of the make-up of the city council. The charter as a whole was defeated. But they took the majority view when they went back. They took the majority view on that position and did not give alternatives the second time. They figured that the majority view was the one that would still be the majority view on the second vote on the charter revision. It has been tried. It does create uncertainty and that's the only drawback I would see. It would have to be a strong issue to have a separate vote on it, because any confusion like that draws down the entire charter.

Q: We have had in the past a proposal on the ballot for a two-year/four-year term. The four-year term was always defeated. In our revision process now, we're getting back to the four-year term in the charter. If that is a weak point, is a separate proposal for two-year or four-year term (which would not alter the whole charter) in the charter revision a good idea?

A: The question was, do we give an option in the charter for a two-year term or a four-year term? I'd be very hesitant, because the people who don't like politicians staying in for a full four years would vote against the entire charter just in case that passes. You must decide in advance how powerful that sentiment is and whether it countervails your desire to have a more stable government. It's a dangerous thing to do.

Q: Are you aware of any charters with term limit provisions that have legal impediments to it?

A: I'm not aware of any legal impediments to term limits. I think there are some charters with term limits. I just can't think of any.

C: In Marquette, if you serve two full terms, you must be out for two years before you can run again.

Q: What percentage of proposed charters pass on the first time around?

A: I think more charters pass the first time, than pass the second or third time. If it doesn't pass the first time, there is a very good chance that it won't pass the other times, either.

Sinclair Powell: About two-thirds to three-quarters of charters submitted to the voters pass on the first go-round. I would agree that if it doesn't pass, then the chances are cut way, way down on the next.

Q: If it doesn't pass on the first try, you have to wait two years?

A: No. That is the limit on charter amendments. You have three shots in three years, whichever comes first. If you use up the three years and don't take the three shots, you're finished, and if you take three shots in less than three years, you're finished, if it doesn't pass. If it does pass, you're finished anyway.

The Attorney General's Role in Charter Review and Approval

by Milton I. Firestone and George M. Elworth

State review of proposed charters

1. Requirement for gubernatorial approval
   A. Home Rule City Act, Sec 22, MCL 117.22
   B. Home Rule Village Act, Sec 18, MCL 78.18

2. Referral of proposed charters to Attorney General's Office by the Governor's Office.
   A. Certified copy of charter as adopted by Charter Commission
   B. Certified resolution of adoption by Charter Commission
   C. Certified copy of current charter

3. Allowance of time for review (90 days)
   A. Election on proposed charter is scheduled by Charter Commission. MCL 117.20
   B. Consider discussing issues with Attorney General's Office during drafting
   C. State charters, if any, being used as models for proposed charter

4. Review process
   A. Consultation with Elections Bureau, Michigan Department of State
   B. Consultation with other divisions in the Michigan Department of Attorney General
   C. Letter to Governor

5. Determination by Governor of approval or disapproval
   A. Governor's Legal Counsel
   B. Letter from Governor
1. Conditional approval
2. Unconditional approval

6. "Subject to" items in proposed charter on which conditional recommendation of approval may be based:
   A. Mandatory charter provisions. HRCA, Sec 3, MCL 117.3
   B. Prohibited charter provisions. HRCA, Sec 5, MCL 117.5
   C. Conflicts with state law. HRCA, Sec 36, MCL 117.36

7. Follow-up revisions by Charter Commission
   A. Certified revision
   B. Certified resolution of adoption
   C. Marked copy showing additions and deletions

8. Topics of concern
   A. Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 et seq and HRCA, Sec 3(1), MCL 117.3(1)
   B. Freedom of Information Act, 1976 PA 422, as amended, MCL 15.231 et seq; and HRCA, Sec 3(1), MCL 117.3(1)
   C. Odd-year election law, 1970 PA 239, MCL 168.644a et seq
   D. Publication of all ordinances before becoming effective. HRCA, Sec 3(k)
   E. Budgeting, accounting and auditing. HRCA, Sec 3(n), MCL 117.3(n); and MCL 141.421 et seq

9. Ballot language
   A. Attorney General review of ballot language. HRCA, Secs 21 and 23, MCL 117.31 and 117.23
   B. Sample ballot question for charter revision is set forth in HRCA, Sec 23, MCL 117.23

Milt Firestone:
We are extremely pleased to be able to discuss with you the role of the attorney general in this process. We think we have a very user-friendly approach to the question of dealing with charter revisions. Our role is partly dictated by statute and partly dictated by the fact the governor refers matters to us. When you present a charter to the governor for review under the statute, that review is carried out primarily by our office, addressing the legal issues that may exist. The governor may discuss the political issues. But my experience in state government has been that the governor refrains from dealing with political issues and does address the legal issues. My understanding is that it is true through most of the history of the state with most of the review that has taken place.

What do we look for in a charter that comes in? We are essentially looking for its compliance with any constitutional concept, with any statutory requirement, and with its effect on other bodies of the law. As you know, the Home Rule City Act, Section 36, says that no provision of any city charter shall conflict with, or contravene, the provision of any general law of the state. It is therefore important that we look at the problems so that when you do have the charter in effect, you are less likely to run into the problems of conflict with state law. The constitution really leaves to the Legislature the direction for city charters, the formation of city charters and the powers of cities to act. The Home Rule City Act is in place and its intent is to make sure that, as to local issues, the city charter will prevail and, as to matters in which the state legislature has dealt with the problem, that the charter will not conflict with those provisions.

Essentially when we receive the charter, we look at whether or not it complies with the mandatory provisions of the Home Rule City Act and whether there is some provision that is prohibited by the Act. Section 3 of the Home Rule City Act says, “Each city charter must include these items…,” and then it lists them. In this section, there is a checklist that is pretty much the checklist that we use in the attorney general’s office to ascertain that all the mandatory provisions of the Home Rule City Act have been complied with. In addition, we look at Section 5 of the Home Rule City Act, which deals with the things that are prohibited. That section says, “No city shall…,” and then it lists a variety of things that are prohibited to the city. Section 4 consists of a number of subsections of state law which authorizes permissible activities by cities.

The proposed local charter cannot conflict with such state law as the election law, municipal finance, budgeting and accounting, open meetings, freedom of information, taxation, and a whole host of other state statutes. Basically, the charter should be consistent with these laws. Charter provisions may be amended or nullified by state law, but essentially, we attempt to address these questions and reduce the problems that you will encounter as you move toward implementing the charter.

How do proposed charters come to us? They come to us either because the statue says the governor shall review, or they come to us because we are told that the attorney general should look at a question involving a proposed charter. George Elworth, who is the first assistant in my division, handles this assignment. He is quite open to discussing issues with you. I don’t know that we can always give a direct answer, and certainly we have the duty that we have to the governor in representing what the law is. But basically, if we can understand your concept, we can deal with or suggest to you how to address the issue. I’d like to turn it over to my colleague, George Elworth, to discuss the detailed problems that we have encountered.

George Elworth:
The question was raised a little earlier as to the volume of activity in this area. In preparation for a meeting on this topic earlier this year, I collected some statistics on the number of charter revision and new charters that have been reviewed by the office over the last few years. On average, the attorney general’s office reviews 10 charters per year.

Process of Review
The initial step is for the proposed charter to be submitted to the governor. It has been the governor’s practice to send the proposed charter to the attorney general for review and recommendation. That review takes place principally in the Division of Municipal and Military Affairs. As part of that review, we work very closely with the election bureau of the Michigan Department of State because of its expertise in

election law. I would suggest that the elections provision of the charter is one of the most technically complicated areas that need to be coordinated with other units of government, including the elections division. The odd-year election law is a statute that we continually refer to and try to re-educate ourselves on, which I would suggest you review as you go through the charter revision process, as to what the experience has been in your municipality under that legislation. You may find it helpful to consult with the elections division in that area, and you may also find it helpful to consult with other divisions of state government, such as the Department of Treasury on accounting and auditing issues and on questions involving municipal finance and the issuing of bonds and notes.

Once the review has been completed, the next step would be to submit a recommendation to the governor to approve the charter or reject it or that the governor approve it subject to certain changes or clarification being made in the charter. We may also make certain suggestions that the charter commission may wish to take into account.

The governor reviews the recommendation of the attorney general's office and then communicates a determination to the local charter commission. If the charter has been approved, the charter commission at that point would take the necessary steps to arrange for the election.

If the commission is advised by the governor that the governor is approving the proposed charter subject to certain changes or clarifications, at that point the charter commission would consider the requirements of the governor and take whatever action that was indicated. In that context, it is very helpful to us, upon resubmission of the charter, that we receive not only the certified copies of the proposed charter, but also a marked copy which indicates where the changes have been made, so that we can expedite our review.

It would also be helpful for us, at the outset, to have from the city a copy of the current charter, so that we can see what changes are being made, and what provisions are being retained. We would also suggest that careful attention be paid to scheduling issues. Most charters will provide for a transition schedule, which may be particularly important in terms of the terms of office. As you know, or as you learn, there is a requirement that a charter cannot lengthen or shorten the terms of existing offices. It is also helpful to consider whether you want to specify an effective date for a new charter or simply leave it to the statute to provide that.

Discussion
Q: What is the most important issue in your review of the charter?

A: I think that the biggest problem that we have are instances where the mandatory provisions of section 3 of the Home Rule City Act have not been addressed. Charters which have made no provision for nominations for officers, or which have made no specific declarations as to the open meeting and public information requirements—things of that sort.

Q: Currently, what is the length of time that can be expected between submission to the governor's office and a response back to the commission?

A: To my knowledge, we have been able to accommodate the timing requirements of municipalities. If you have an election scheduled somewhere down the road and we know that, we will make every effort to accommodate that. In terms of planning, we would suggest that you allow from 60 to 90 days for that review process to take place at the state level, and then perhaps some additional time, depending on what your expectations would be for additional changes or modifications in the charter before it is submitted to the voters.

Q: Are cities free to experiment with charter revision, i.e., is it better to invent the wheel, or re-spoke the old wheel from the standpoint of the attorney general's office, in dealing with a charter revision?

A: Generally, yes. Cities are free to experiment as much as statutes will let them, with regard to local government. We try very diligently not to inject our feelings into new ideas. What we are looking for is that

there be no conflict between the proposed charter and existing statutes.

Q: Could you comment on the idea of options in charter revisions where you have alternative provisions?

A: I think that came about by an amendment that we legislated when Detroit made its last charter revision. The Detroit charter commission wanted to present alternatives, but at the time, the statute did not permit it. The Home Rule City Act was amended to authorize alternative provisions to be presented to the voters so that, if there is strong feeling within the community going in both directions, you can pose alternative provisions to the electorate. If you do that, it would seem to me that you could clearly identify an issue that can go either way in the proposed charter, so that when the election is held to adopt the charter, the charter doesn't have to be revised and voted on again to provide the alternative to the provision that the voters rejected.

Q: If the attorney general's office finds a provision in the proposed charter to be objectionable, would they identify the issue, what the problem is, and give the commission a chance to correct it; or does the attorney general send the whole package back and the commission has to start all over again, from scratch?

A: Essentially, we do send a letter to the governor, with copies to the clerk of the municipality involved, indicating what our review discloses and what recommendations we made to the governor. Most of the time, municipalities will adjust before the governor issues a response to the municipality. Many times, because attorneys or consultants or members of the commission contact our office, we can indicate to them what might be done to correct an issue, it is something that we can simply tell them very quickly. On the other hand, many times, because of the complexity of the documents and the importance of timing, we do it through letter, which lets everybody know. Depending upon the timing, you can schedule the election when you want it, if you allow sufficient time.

I don't know of any charter commission which has proceeded to make changes without waiting for the formal letter from the governor. (We may have given to the municipality some of the reactions we have had and some of the ideas, and some of the indications we have had as to what we could recommend.)

We have no pre-clearance procedure. Our practice is to look at the certified copy of whatever is adopted and rule on that. But that doesn't mean that we can't be consulted informally from time to time. The attorney general's office is not in a position to be an advisor to a charter commission or to a city. I think the city attorney or the attorney for the charter commission is in the best position to give that kind of advice. But we are available to discuss the issues. We are available to give you ideas based upon what we have seen over the years, and we're glad to share that experience.

Q: In the beginning of your presentation, you indicated that usually it is on the basis of the legal issues that the governor may reject the new or revised charter. Seldom will the governor reject a charter because of political issues. But in the statute, MCL 117.22, the charter commission by a two-thirds vote has the right to overrule the governor's objection. It would seem to me that it would be foolish for any charter commission to exercise that authority if the issue is legal and non-political. In reality, if it is not the norm for the governor to deal with political issues of a proposed charter, why would a charter revision commission override the governor's objections?

A: Generally, we do not find municipalities acting inconsistently with the governor's recommendation. They have the right to do so. By and large, municipalities want to have something that is strong for their charter and for their government. We want something strong for them as well. So that what is done in fact is to bring it into compliance. Or it may be that they would have an idea that had not been considered, and they would raise that question. There are a very few instances, I think, over the years in my experience, that municipalities have acted inconsistently with the recommendations of the governor.

In many of our letters you will find a comment to the governor that, while there may be a legal objection, the law is such that it must be put on the ballot.

Chapter 8

What Do You Do When the Draft is Done? The Politics of Selling the Charter and the Campaign for Approval

by Thomas Dudenhofer, Chair, Stanton Charter Commission, and W. Peter Doren, City Attorney, Traverse City

Thomas Dudenhofer
Stanton is a very small community and very resistive to change. I should maybe say—*somewhat* resistive to change. There are outspoken individuals in a community our size that have a great sense of the negative and we failed at a charter revision in 1975. Perhaps that doesn't sound recent to many of you, but in our community, 1975 is recent. So, there had been a lot of hesitation to even start the process again. After hearing a number of people complain that our city was forced to govern under the Fourth Class City Act because we had no locally adopted charter, a few of us got together and agreed to begin to work on the commission.

I think that the process of seeing something like this pass begins early on. The following are important to the process of passage. First, be able to clearly state the need for the new charter. Work at writing out statements that are uncomplicated and address the needs felt by the community. I don't want to offend any attorneys, but there was a tendency on the part of attorneys to not communicate with people who are not attorneys. I think it is good for other people to be there to say, "Now how could we say that again?" I had one gentleman who took what we would write down to the restaurant; there was a table at the restaurant where people came for breakfast at various times. He would read that to that bunch once in a while. You'd hear all kinds of very strange things, and he would bring back a few of those comments. That would give us a sense of how people were reacting to the phrases we were using. We continued to ask for feedback to understand how people were thinking about this whole process. Remember—they were suspicious of it to begin with.

Second, invite the media to cover the process at least once. In our area we felt privileged to have the media cover our process. We did find one reporter was interested, and we tried to communicate with him about what we were doing. He could come in and talk, ask questions, and that helped us a lot.

Third, we asked for areas of disagreement. This is where I saw a lot of hesitation from our commission. One of you was talking about a questionnaire where you would identify areas where people strongly disagreed. That is something that—if you have the courage to do it—is one of the best things to do early on. You kind of hesitate to do that, so ask, "What don't you like?" Then hold back, listen, and sure enough, people speak out. You have to address those issues right up front and in a non-confrontational way. Try not to call them a jerk and things like that, because it does tend to alienate people when it comes time to vote on the charter. Sometimes those comments come out at meetings, or even off the cuff—and usually, there is a reporter around to hear what you say.

Fourth, we constantly publicized the steps that we were to follow, including the steps for acceptance after we had the document written. We had to submit our charter twice to the attorney general to resolve problems of clarification. Each time we did that, I called the newspaper reporter and said, "We just got a letter back from the attorney general's office and we've got to do such-and-such." He asked me to explain to him what it was. I tried, and he would write out what I said, and then we would watch for the reaction on that. When it came time, we emphasized voting. We even bought some ads that said, "Just get out and vote." It seemed to raise the level of credibility with a lot of people in the community.

You also suggested that you designate a separate committee for the campaign. There weren't that many of us. That is, our charter commission, after the charter was accepted, asked whether we could do a little of this promotional work ourselves, and we were advised that we could, and we did. We undertook this campaign role mostly because we felt we were so close to the issue that we could address some of the questions.

We also did the other things that are the regular things you would do for any campaign. Writing letters to the editor, or whatever communicates to the largest number of voters in your community. I really think the one thing that went the furthest in our community was the restaurants. We got people to go into these restaurants and sit down and have breakfast and listen to the talk and bring up the charter. We were able to do a lot that way.

W. Peter Doren
I think the experience in Traverse City was fairly typical in the sense that there was a study committee first appointed to look at the existing city charter to determine whether it should be amended or should be revised. That ad hoc committee of citizens recommended numerous changes in the charter—not specific language to be enacted, but numerous problem areas in the existing city charter were identified. Because there were so many amendments that were needed, the committee recommended the charter be revised, to develop one document of one style, and without possibly conflicting provisions if some amendments were enacted and some were not. The vote to revise the charter was overwhelmingly favorable. The charter commissioners were elected, if I recall correctly, at the same election. They began their work.

There had been many complaints over the years about the city charter. There were boards in the charter with no function, such as the library board, which had been replaced by a district library. Many sections which had been repealed by state law prompted people to continually ask why we weren't following. And we'd have to say it was superseded by the state law.

The accounting practices were being ignored in some cases, such as a ceiling of $5,000 on the emergency reserve fund for utilities. We were just in constant violation of the city charter. It came to a head when a constable, a former police officer, was elected under an old charter provision and marched into City Hall demanding that the city buy him a gun, and started driving around town with "constable" on the side of his car, closely pursued by plaintiffs' attorneys waving civil rights complaints that they were ready to file for wrongful arrest, etc. The committee was formed and identified a lot wrong with the charter. Everything seemed to be going very successfully. There was no public relations effort. There was no survey. Both are excellent ideas.

The proposed new charter was exactly the high road that the charter commission wanted. There was no compromise in it. It had everything that the commission felt was the best. It was defeated and then another election was held on a revised charger with compromises, but that one was defeated. Then essentially, the same revised charter was submitted the third time at a November election, when more people would be voting to increase the possibility that it would be passed, but it was defeated a third time. So, I am here to confirm the wisdom of some of the things that have been said about the value of public relations, of the surveys, and other matters during the course of your charter proceedings.

Q: Was it defeated because of the lack of public relations, or was it defeated because of the political nature of the city? Speaking from my standpoint, and we have already been threatened by the mayor, we've already been threatened by the city clerk, by the chairman of the commission, and a few others who don't like certain things in the charter. Is that the reason for your defeat?

A: Certainly, the first time it was. I think that's normally what you'd attribute it to. But after all the changes were made, so that those provisions which had provoked opposition were eliminated or modified to a great degree, it still lost and it's very difficult for me to say why. But I think it's clear that when opposition died down, the revised charter had become "dirtied" in the eyes of the electorate. Although there was nothing in it for anyone to question, there was nothing in it to excite anyone to really grab on to and say, yes, this is why we should adopt it. So, there was no energy and no enthusiasm for trying to get it passed, and a lot of that negative sentiment just followed it throughout the whole process. We have since that time gone the amendment route and every amendment passed, except one, in probably the last four elections. There were at least two and sometimes three amendments on the ballot in those elections. All but one passed. That one that didn't pass was an interfund transfer proposal which was really of no consequence. It's hard for me to say why that one did not pass.

Charter Commissioners Handbook

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