

October 25, 1991

## Understanding the City Charter Question

On November 5, 1991, the registered voters of Worcester will be asked the following non-binding question:

Do you support a change in the charter of City government to provide for an elected strong mayor in place of the city manager?

The Research Bureau, which takes no position for or against charter change, has compiled some basic information on procedures which may be used to adopt or change local charters, and the kinds of charters available to cities and towns in Massachusetts. The information comes from the Office of the Secretary of State, the Executive Office of Communities and Development, and Chapter 43 of the Massachusetts General Laws.

### What is a local charter?

The term "charter" refers to the basic provisions which set up the form, structure, and organization of government, including the powers and duties of important City officials. A charter is a city's "constitution;" it is the fundamental document by which the people of a city govern themselves. Worcester is governed by a charter establishing a Council/Manager form of government. Any ordinances or by-laws which are passed by the City Council must be consistent with the charter. However, ordinances or by-laws cannot be used to change the composition, mode of election or appointment, or terms of office of the City Council, the Mayor, or the City Manager. These arrangements can be changed only by modifying the charter. The non-binding question being put before the voters refers to changing the form of the chief executive officer; it does not refer to the City Council, the form of which can only be altered through the charter as well.

### What does "strong mayor" mean?

In Massachusetts, the term "strong mayor" usually refers to the definition provided in Plan A government, one of the "plan charters" made available to communities under Chapter 43 of the Massachusetts General Laws. (The other plans will be discussed below.) According to this Plan, the Mayor is elected by the

voters of the city to serve as the chief executive officer and the chairman of the School Committee. All department heads and members of municipal boards, except for the School Committee, the school superintendent, and officials appointed by the Governor, are appointed and removed by the Mayor without confirmation by the City Council. All orders, ordinances, resolutions, and votes relative to the affairs of the City passed by the City Council must be approved by the Mayor. If he disapproves, the City Council can override his veto only by a two-thirds vote of all of its members. Although the non-binding question on the 1991 ballot does not refer to the City Council, the powers of the City Council would have to complement those of the strong mayor.

### How can a charter be changed?

A charter can be adopted or changed by two methods: Home Rule Charter method and Special Act Charter method.

1. Home Rule Charter Method: Since the Home Rule Amendment to the State Constitution was adopted in 1966, cities and towns have been able to formulate Home Rule Charters by adoption or revision, or by amendment. The adoption or revision procedure may be used either to adopt a new charter or to change a current charter. The amendment procedure can be used only to change a current charter. The amendment procedure may not be used to change the compensation, mode of election or appointment, or terms of office of the City Council, the Mayor, or the City Manager.

#### A. Adoption or Revision Procedure

The Home Rule Charter method permits greater local autonomy than requesting a Special Act of the legislature (which is discussed below). However, the Home Rule Charter method takes about two years to complete. It requires a petition to place the question on the ballot by collecting signatures from 15% of the City's registered voters. The question that would then appear on the ballot in Worcester is: "Shall a commission be elected to revise the charter of Worcester?" At the same election during which the question was voted on, the voters would elect a nine-member Charter Commission (to take office only if the question passed), which would then be responsible for preparing a charter revision. The charter they drafted would then be voted on by the local voters at a subsequent election. The final report of the Charter Commission must be submitted to the City Council within 18 months after the Commission's election. (The voters of Worcester elected a Charter Commission in November, 1983, which held hearings and developed a charter that was approved by the voters in November, 1985.)

#### B. Amendment Procedure

An amendment to an existing charter must be proposed by a two-

thirds vote of the City Council. (Although the amendment must be proposed by the City Council, the law allows it to be suggested to that body by the City Manager, by any City Councilor, or by a petition signed by 200 citizens, the same number required to sign a charter commission nomination paper in Worcester). The proposed amendment must be filed with the state Executive Office of Communities and Development and the Attorney General, who must render an opinion on its legality. If it is approved by the Attorney General, the amendment must be submitted to the voters for their approval.

## 2. Special Act Charter Method

A charter may also be adopted or changed by requesting the State legislature to pass a special law. To do so, at least two steps are required:

A. Local approval by the City Council. If the City Council does not approve the request to change the charter, the question may be placed before the voters by the local initiative petition process. If an initiative petition is signed by 15% of the registered voters, the City Council must call a special election at which the proposed change is submitted to the voters. If it is signed by at least 8% of the registered voters, the change is submitted to the voters at the next regular municipal election.

The Worcester City Council vote to place the non-binding question on the ballot does not constitute its endorsement of a change in the form of government. Whether or not the majority of voters vote "yes" on the non-binding question, if the City Council wished to take action, it would still have to vote to request the State legislature to change the charter. Unlike the Home Rule Charter method, the Massachusetts General Laws do not spell out a procedure for a city to develop a charter through the Special Act process. The City Council may determine the procedures for developing the charter as well as its content.

B. State legislative act. Once a proposed charter has received local approval, it can be filed as a bill by a member of the State legislature. The bill is usually assigned to the Joint Committee on Local Affairs, which studies it and reports its recommendations to the full legislature. If it passes both Houses and is signed by the Governor, it becomes law. While local acceptance is not constitutionally required, traditionally, a Special Act Charter is put before the voters for their approval. The special act sometimes provides that it will not go into effect until the local voters have voted to accept it. Since the question being put before the voters November 5 is non-binding, and it asks only about the "strong mayor" form, any other changes to be made in the current charter would not have come before the voters.

## What are "Plan" City Charters?

Before 1966, some cities, like Worcester, accepted one of the "plan" city charters which the state legislature made available under Chapter 43 of the Massachusetts General Laws. Now these charters may be adopted or changed only by the methods discussed above: local charter commissions or state legislative action. From 1950 to 1985, Worcester was governed by the Plan E Charter. As noted before, in 1983, a Charter Commission was elected which produced a Home Rule Charter that modified the Plan E Charter. The Home Rule Charter was adopted by the voters in November, 1985.

The "Plan" City Charters are as follows:

### PLAN A

As noted previously, this is traditionally referred to as "strong mayor" government. In addition to a Mayor elected to be the chief executive officer of a city, who has appointment and removal power of all department heads, and the other powers noted under the section of this report defining "strong mayor," Plan A calls for a nine-member City Council elected at-large in non-partisan elections.

### PLAN B

This is traditionally referred to as "weak mayor" government. It consists of a Mayor and City Council elected by districts and at-large. The majority of councilors are elected by district. Cities, like Worcester, having more than seven wards would have a fifteen-member council, one from each ward and the rest elected at-large.

The Mayor is elected as the City's chief executive officer with general supervision over all departments. The key difference from the mayoral functions under Plan A is that appointment and removal of subordinate employees are not inherent in the Mayor's power of supervision. Instead, appointments of all department heads and municipal boards (excluding School Committee, school superintendent, and Governor-appointed officials) are subject to Council confirmation. The Mayor may remove department heads with Council majority approval, though the person being removed may contest removal using legal representation before a Council hearing.

### PLAN E

Plan E, which Worcester had until 1985, is Council/Manager government where the nine-member City Council is elected at-large by proportional representation in non-partisan elections. (The voters of Worcester eliminated proportional representation in

1960.) Plan E centralizes power and responsibility in the City Council except for authority specified for the City Manager, School Committee, City Clerk, Auditor, and Governor-appointed officials.

The Mayor is elected by the Council from its members. His powers include chairing City Council and School Committee meetings with the power to vote, but not to veto. The Mayor also performs ceremonial duties in accordance with the office and those imposed by the City Council.

The City Manager, who need not be a resident of the city, is appointed by the City Council. He is chief administrative officer and is responsible for supervising all departments, commissions, boards and offices of the city, except those of City Clerk, Auditor, and Governor-appointed officials. His compensation is fixed by ordinance. No council member may be appointed City Manager during his term in office, nor elected (during membership on the Council or within a period of two years after departure from the Council) to any public position in the city or county in which the city is located. The City Manager may be removed by a majority vote of the council membership. The powers and duties of the City Manger include: keeping the City Council fully advised of the city's financial condition and future needs; preparing and submitting budgets; and making appointments and removals to departments, boards, and commissions under his authority.

No city operates under Chapter 43 of the Massachusetts General Laws Plan C (Commissioner government), Plan D (Council/Manager government which requires two-thirds of the Council to remove the City Manager), or Plan F (strong mayor government where the Mayor and the City Council are nominated by party primaries and elected in partisan elections). All Home Rule Charters and Special Act Charters are variations on Plans A, B, or E.

Summary of Charters Adopted by Cities in Massachusetts:

KEY: HRC - Home Rule Charter (adopted under provisions of  
M.G.L., c 43B  
A, B, E - plans of city government provided by M.G.L., c 43  
SPA - special act of the legislature; also referred to as  
Special Act Charters

Mayor-Council Form

<u>Municipality</u>	<u>How Established</u>	<u>Size of Council</u>
Agawam	SPA	11
Attleboro	HRC	9
Beverly	SPA	9
Boston	SPA	13
Brockton	B	11
Chelsea	SPA	9
Everett	SPA	7/18 (bicameral)
Fall River	A	9
Fitchburg	B	11
Gardner	SPA	11
Gloucester	HRC	9
Haverhill	A	9
Holyoke	SPA	15
Lawrence	SPA	9
Leominster	HRC	9
Lynn	HRC	11
Malden	SPA	11
Marlborough	B	11
Medford	SPA	7
Melrose	SPA	11
New Bedford	B	11
Newburyport	B	11
Newton	HRC	24
North Adams	B	9
Northampton	SPA	9
Peabody	SPA	11
Pittsfield	SPA	11
Quincy	A	9
Revere	B	11
Salem	B	11
Somerville	SPA	11
Springfield	A	9
Taunton	SPA	9
Waltham	SPA	15
Westfield	SPA	11
Woburn	SPA	9

Council-Manager form

<u>Municipality</u>	<u>How Established</u>	<u>Size of Council</u>
Barnstable	HRC	18
Cambridge	E	9
Franklin	HRC	15
Lowell	E	9
Methuen	HRC	9
Southbridge	HRC	13
Watertown	HRC	9
Worcester	HRC	11

Source: Executive Office of Communities and Development

The Worcester Municipal Research Bureau is a privately-funded, non-profit corporation. No public monies have been expended on the research or publication of this paper.