

September 28, 1992

Understanding the Proposed Charter

Ballot Question

On November 3, 1992, the voters of Worcester will be asked the following non-binding question:

"Do you support a change in the charter of the city government of Worcester which will provide as follows:

- for an elected mayor as chief executive officer in place of an appointed City manager; and
- for term limits of eight (8) consecutive years for the office of mayor, city councilor and school committee member; and
- for city council confirmation, by majority vote, of the mayor's appointments to all city boards, commissions and committees; and
- for a school committee to consist of seven (7) members, elected at-large, with the member receiving the highest number of votes serving as chairperson."

Since the City is not required to disseminate copies of the proposed city charter to Worcester's registered voters under the special act charter procedure, which the city council has chosen to pursue, the Research Bureau is issuing this paper to discuss the new provisions of the proposed charter. The Research Bureau, which takes no position for or against charter change, seeks to explain the differences between the current city charter and the proposed one. This paper also elaborates the differences between a "strong mayor" as traditionally understood in Massachusetts and the provisions of the proposed charter, since at last November's election, the voters were asked whether they supported a change to an "elected strong mayor."

Background

In November, 1991, 51.6% of the people who voted in Worcester¹ approved a non-binding referendum question supporting a change in the charter of City government to provide for an elected strong mayor in place of the city manager, and 67.9% supported a non-binding question to limit the number of consecutive terms in office which may be served by School Committee members and City Council members. Early in 1992, the Legislative Affairs Committee of the City Council held hearings around the City on these questions and other aspects of the city charter. Subsequent to those hearings, the Legislative Affairs Committee and the City Council developed a set of proposals for a new charter, and after additional public hearings, the council approved the form of the proposed charter and requested permission from the State Legislature to have the charter placed on the November ballot as a non-binding advisory question. (It must be non-binding because under the special act method of changing a charter, only the State Legislature can make the charter binding by enacting a special act.) The State Legislature approved the City's request. If the new charter is approved by the voters, it will not take effect until it is approved by the State Legislature as a special act charter. It is possible that the State Legislature will also require the voters to approve the special act as a binding question, at a local election, as a condition of instituting the new charter.

Proposed Charter

A. Mayor

1. Under the proposed charter, an elected mayor replaces an appointed city manager as the chief executive officer of the City. The mayor is required to devote full time to the office; he cannot hold any other elective public office or engage in any other business or occupation while serving as mayor.

2. The proposed charter establishes a four-year term of office for the mayor, and a limit of two consecutive terms or eight consecutive years for holding the office. The current charter does not include any term limits for elected officials. However, term limits are not inconsistent with any provisions of the Massachusetts General Laws. The home rule charter of the City of Newton, for example, establishes term limits of four consecutive two-year terms for members of the Newton School Committee.

¹ 42.9% voted no; 5.5% left their ballots blank.

3. Under the proposed charter, every order, ordinance, resolution or vote adopted or passed by the city council relative to the affairs of the City must be approved by the mayor before taking effect. If he disapproves of a measure, he may veto it. The council, however, may override his veto by a two-thirds vote of all the members. The veto power is consistent with the strong mayor form of government. Under the current charter, the city manager has neither approval nor veto power over measures passed by the council. The council's authority is final.

4. Under the proposed charter, the mayor has authority over the appointment and removal of heads of departments (except in the case of the Airport Commission and the Board of Trustees of the Vocational Schools, which serve as the heads of those departments, but, as a commission and board respectively, would fall under the provision regarding appointments to boards and commissions explained below). The mayor's power of appointment and removal of department heads is consistent with the strong mayor form of government, which requires the mayor to be accountable for the performance of his administration. (Under the current charter, the city manager has the sole authority to appoint and remove all department heads.)

5. Under the proposed charter, the mayor's appointments to, and removals from, all boards and commissions are subject to approval, by majority vote, of the city council. This provision weakens the power of the mayor compared to the strong mayor form of government (as defined in Chapter 43 of the Massachusetts General Laws), since his subordinates are not simply accountable to him; they are also answerable to the city council which confirmed them and which must concur in their removal from office. This power of the council extends to the Airport Commission and the Board of Trustees of the Vocational Schools, which are actually the heads of executive departments for which the city's chief executive officer is responsible according to City ordinance and State statute.

This provision for council approval of appointments differs from the current charter, which requires council approval only for advisory boards such as the Cable Television Advisory Committee or the Community Development Advisory Committee. It does not require Council approval of appointments for regulatory boards such as the Planning Board and the Conservation Commission, which are responsible for regulation and adjudication, or for executive boards like the Health Board, and the Human Rights Commission, which are responsible for policy formation and implementation. Under the current charter, the city manager may remove the members of any board or commission without council approval.

6. Under the proposed charter, in the absence of the mayor, his duties will be performed by the chairman of the City Council. This provision is consistent with the mayoral form of government

throughout the Commonwealth. Since there is no election of a vice mayor, the mayor's duties fall to the next highest elected official. (Under the present charter, the city manager appoints one of his assistants to act as chief executive officer in his absence.)

7. The compensation of the mayor under the proposed charter will be set by the City Council by an ordinance adopted after approval of the Charter. The Legislative Affairs Committee of the Council recommended that the mayor be paid \$65,000. Under the present charter, the City Manager is paid \$92,200 plus additional benefits. Currently the City Councilors each receive \$15,750 per year except for the Mayor who receives \$18,000. Each School Committee member receives \$7,875 per year.

B. City Council

1. Under the proposed charter, the composition of the city council will remain the same: six councilors elected at-large and five from districts.

2. Under the proposed charter, the councilor-at-large with the highest number of votes in the municipal election becomes chairman of the city council, and the councilor with the second highest votes becomes vice chairman. According to the Commonwealth's Executive Office of Communities and Development, there are no communities in Massachusetts that choose the chairman and vice chairman of the city council or school committee in this manner. The most common approach is for the council or school committee, once it takes office, to elect its chairman and vice chairman. This allows the members of each body to select someone who they think is well equipped to lead, and with whom they can work well. The justification for having the people elect the chairman of the city council is to avoid any "back room deals" through which councilors might trade favors in exchange for a vote to be chairman or vice chairman. But direct election of the council chairman and vice chairman may not be the best means of filling those offices with persons who are adept at organizing and leading a diverse body. Moreover, a chairman elected in this manner may view himself as more than "first among equals," and may compete with the mayor for authority. (Under the present charter, the individual elected as mayor from those at-large councilors choosing to run for that office serves as chairman of the council. The second highest vote-getter in the mayoral contest serves as vice chairman.)

3. The proposed charter establishes a two-year term for city councilors, and a limit of four consecutive terms or eight consecutive years for holding the office. Under the current charter, councilors are elected for two-year terms, and there are no term limits.

C. School Committee

1. Under the proposed charter, the school committee consists of seven members elected at-large. Under the present charter, the school committee consists of six members elected at-large plus the mayor. A review of 30 out of the 39 cities in Massachusetts, conducted by the Executive Office of Communities and Development, found only eight that do not have the mayor serve as a member of the school committee. One reason for having the mayor as a member of the school committee is to ensure his accountability for the school system along with all other municipal departments. Since the mayor appoints the heads of all other departments, but has no authority over selecting school committee members or the superintendent, the mayor's membership on the school committee serves as a link between the chief executive officer and this largest municipal department. This is especially important under Proposition 2-1/2, which has somewhat reduced school committees' fiscal autonomy.² The justification for removing the mayor from the school committee is that he would otherwise improperly be combining his executive authority with legislative authority by participating in school committee votes on the allocation of the School Department budget, which he had originally formulated for ratification by the city council. Without the mayor's involvement, however, the School Department is divorced from the rest of municipal operations, and the mayor cannot be held accountable for its operations. The School Department, unlike the other departments, will lack a spokesman in the executive branch.

2. Under the proposed charter, the candidate with the highest votes among those running for school committee would serve as chairman of this body, and the candidate with the second highest votes would serve as vice chairman. Under the present charter, the mayor serves as chairman and the school committee elects its own vice chairman once the body is duly constituted. Advantages and disadvantages similar to those noted above regarding the council election of chairman and vice chairman exist with this provision as well. The chairman of the school committee may view his "highest-vote-getter" status as justification for competing with the superintendent, who is not elected independently like the mayor but is selected by the school committee.

² The school committee still has limited fiscal autonomy. Neither the chief executive nor the city council can cut individual accounts of the school committee budget. They can only reduce the total budget. In addition, the school committee can transfer funds within accounts without the approval of the chief executive and the city council.

3. The proposed charter establishes a two-year term for school committee members, and a limit of four consecutive terms or eight consecutive years for holding the office. Under the current charter, school committee members are elected for two-year terms, and there are no term limits.

Summary

The powers of the mayor in the proposed charter for Worcester fall somewhere between those found under Plan A and Plan B (Chapter 43 of the Massachusetts General Laws), traditionally called "strong mayor" and "weak mayor" forms respectively. These are the two standard forms of mayoral government that are available for communities to adopt. The Home Rule Amendment to the Massachusetts Constitution, adopted in 1966, allows communities to adopt variations of the basic plans. Under Plan A, the mayor, who is elected for a two-year term, makes all appointments without the approval of the city council. The council consists of nine members elected at-large. Under Plan B, the mayor, who is also elected for two years, must receive the approval of a majority of the city council for all his appointments as well as for his removals from office. The Plan B city council consists of 15 members, 7 from districts and 8 elected at-large. Under both plans, the mayor serves as chairman of the school committee.

Because the mayor, under the proposed charter, has a term of four years, he may be considered stronger, in this respect, than a Plan A mayor, who must campaign for office every two years. Under Plan A, the mayor has the power to appoint and remove department heads without council approval. Under the proposed charter, the mayor has the power to appoint and remove department heads without council approval, except for the Airport Commission and the Board of Trustees of the Vocational Schools. The mayor, under the proposed charter, is similar to a Plan B mayor with respect to his appointments to and removals from boards and commissions, both of which require council approval.

It is also necessary to compare the powers of the proposed mayor with those currently held by the city manager in Worcester. The mayor under the proposed charter would be, in a certain respect, stronger than the current city manager, because the mayor is elected directly by the voters, and therefore would have a base of power for developing policies independently of the city council. The mayor would also be able to veto measures approved by the city council, which the city manager cannot do. Since the manager is appointed and removed by the city council, his agenda must accord with the wishes of the legislative body. However, because he is only indirectly accountable to the voters, the city manager is in a position to propose long-term measures which may be beneficial to the city, but which elected officials may find difficult to advocate.

Conclusion

The Research Bureau hopes that this analysis will clarify some of the issues concerning the proposed charter. The Research Bureau's identification of some difficulties in the details of the proposed charter should not be construed as an argument against the proposed charter or in support of the current charter. Following the results of the vote on the non-binding advisory question, the city council will have an opportunity to review the form of the charter prior to authorizing the filing of the special act legislation with the State Legislature. In addition, the State Legislature may amend the charter legislation once it is filed. We hope that the issues we have raised in this paper will be taken into consideration by those two legislative bodies in their deliberations regarding the final form that the charter should take.