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CHARTER REFORM

WAYS TO THINK ABOUT IT

Form-of-government initiatives can be challenging because the underlying differences between the council-manager and mayor-council forms—and all the variations in between—often are misunderstood or distorted. The impetus for those advocating the mayor-council form of government is often twofold: a need for strong leadership, and the hope that a single, elected individual can rise above the challenges of local political culture and the inevitable conflict in policy debates to make a difference.

The impetus for those advocating the council-manager form of government is, in contrast, the desire to deliver services throughout an entire community in the most efficient, effective, and equitable way possible. Regardless of form, it is the combination of strong political, policy, and managerial leadership that most consistently ensures a community's success.

What often goes unexamined are the ramifications of a form of government. The mayor-council form separates legislative and executive powers, and the council-manager form unites them. These diametric differences imply differing outcomes. In this article, we offer an examination of the different features of these forms, including their benefits and shortcomings.

Initially, we must make a point [original said several points but where is the second point?]. First, a charter is the equivalent of a constitution in that it establishes the framework for the basic relationships between governmental functions such as the legislative, executive, and judicial functions. Because a charter performs as a constitution, one should be cautious about changing it.

The Founders made it difficult to change the U.S. Constitution for a reason. It is the foundation for developing roles, responsibilities, and relationships. Its purpose is enduring. It grows out of norms and expectations and then it influences them for subsequent generations. It provides stability in governance.

When citizens view a charter as a guide to organizational structure, however, they assume it should be flexible. The organizational structure of a jurisdiction today is not the same as it was yesterday because that structure should enhance problem solving. As the problems change, the structure needs to adapt.

When a community is considering a change in structure or charter, it's a mistake for citizens to assume that a charter change is the solution. First they must consider such questions as:

- What problems or opportunities are change proponents trying to address?
- What is not working as well as it should?
- What is the evidence that changing the organization's structure or jurisdiction's charter would fix the problem or open up a new opportunity?

The goals of any local government charter should be to:

- Include provisions that provide for the adequate representation of citizens in governing bodies and processes.
- Focus policy leadership and accountability for execution of the law, policy implementation, and service delivery.
- Provide for a professional, highly trained staff who are protected from inappropriate political influence so that employees will feel free to say what needs to be said without considering political ramifications.[1]

Here's where it gets interesting: It is not possible to maximize all three of these goals at the same time. More representation makes it more difficult to focus leadership; more policy leadership and influence for the mayor's office may politicize employees and diminish the value of the council. More protection for employees may create obstacles to policy leadership and accountability. Charter reform—like creating and amending all constitutions--is about compromising, not optimizing. Looking at these three goals in more depth provides valuable perspective.

Representation Issues

Representation issues are captured in the following types of questions:

- How many council districts or seats should there be?
- How will representatives be elected—by district or ward, at large, or through a combination district and at-large system?
- What will be the authority of the council, especially in relation to the mayor and regarding personnel issues?

The more diverse a community, the more important are issues of representation. If the community wants all citizens to feel invested in the public good, the community is best served by a council elected by districts. Community leaders cannot expect people to commit to a greater good if they do not feel that they are cared about. In some ways, representation reflects caring. Whom does the community care about? Once that question is decided, a community can work on the representation formula.

We know from experience, however, that with more districts it becomes more difficult for the council to consider the city as a whole. Here we confront the first question for which there is no correct answer. We can make many districts to reflect diverse interests but at the cost of diminishing the focus on the entire community.

In a contrasting system, we can elect all representatives at large and lose the value of the differences that exist within the community. Which is optimal? No one knows, and that is the crux of charter reform: no one really knows the correct answer because there is no single correct answer. The answer must be developed consensually to meet a community's needs.

Policy Leadership

The second issue has to do with policy leadership. This is an issue that tends to focus on the role of the mayor, especially in the mayor's relation to large or diverse councils. The more power granted to the mayor, the more likely that political leadership and accountability will be focused in the mayor's office. The less power granted to the mayor, the more power and responsibility the council has.

Where councils consistently cannot work together effectively, leadership and accountability suffer, and people naturally look to the mayor's office to pick up the slack. In council-manager government, which lacks extensive mayoral powers, this may be hard to do unless the mayor is a particularly skilled individual.

The rule of thumb for a community is that it should set up an organizational structure, personnel system, and culture that encourage professional staff to tell the council what it needs to know, not just what it wants to hear.

The more powerful the mayor's office, usually the more reactive the council will become. The more power the mayor has, the more likely the council will focus on ratification, scrutiny, and constituent services and will define its role in relation to the mayor's role rather than focus on policy initiation and development. These expectations and roles are inherent in the decisions that are made about the mayor's role.

Also, the more that policy leadership resides formally in the mayor's office, the more likely it is that the mayor will have to court supporters on the council and use appointments, contracts, budgetary allocations, and constituent services as a way of consolidating power.

In addition, the more power in the mayor's office, the more likely it is that a talented individual can make a significant difference in a community. We have examples of heroic mayors—Stephen Goldsmith of Indianapolis, and Rudy Giuliani of New York City. But do we want to create a form of government that depends primarily on the chance that the mayor will be exceptionally talented?

One of the coauthors of this article served as a mayor in a pure council-manager form and was arguably reelected with more votes than anyone had garnered up to that time. But even with such a strong mandate, a mayor can wield only limited political power within the framework of a council-manager form—that is the design. Council-manager government is designed to promote partnership between the mayor and council, and the mayor's role becomes facilitative.

Administrative Effectiveness

The third variable is the need for a politically neutral and competent civil service. Political neutrality and staff competence can be enhanced or foiled depending on the relationship between personnel hired on the basis of merit and the council and the mayor.

Credibility of government in large measure depends on efficient, equitable service delivery and policy implementation. Does the charter provide for a chief administrative officer, selected on the basis of competence and experience? If so, to whom does the CAO report? Who appoints the CAO?

The more that employees are isolated from political influence, the more likely they will be to act in politically neutral ways that are responsive to the authoritative acts of a governing body, managerial direction, and the ethical standards of their profession. We would expect public works decisions, for example, to be grounded in commitments to engineering principles as well as the authoritative direction of a governing body.

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The more protections from politics that staff members have, the more cumbersome personnel management becomes. The classic tension in human resources management comes from juxtaposing functions that can challenge each other.

On the one hand, personnel systems are designed to regulate managerial and political behavior to avoid favoritism and capricious decisions. On the other hand, personnel systems are suppose to facilitate mission accomplishment. The more emphasis placed on the regulatory function, the easier it is to crowd out the facilitative function.

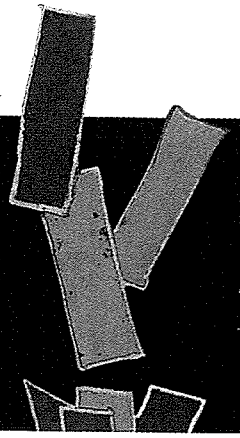
A professional chief administrative officer, hired on the basis of competence, can add significant value to efficient and equitable policy development, implementation, and service delivery as well as a citywide, long-term perspective on municipal needs. ICMA, the International City/County Management Association, engaged in a two-year project beginning in 2004 to determine the value that professional managers add to their jurisdictions. This examination showed that a trained CAO can excel in a community culture and a form of government that fosters professionalism.2

Each of these functions—representation, executive leadership, and administrative effectiveness—has an impact on the other, and maximizing one can have a negative impact on another. If, for example, a community seeks to enhance representation by increasing the number of districts, it can create obstacles to developing a citywide policy perspective.

The more districts, the more important the mayor's role becomes in trying to focus political energy on a vision. But the more powerful the mayor's role, the less relevant the council's role and the more potential threats there are to maintaining a politically neutral city staff.

Separate vs. Unified Power

We suggest that the fundamental decision to be made about how to represent



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the community, focus policy leadership, and create an effective and efficient civil service is whether to separate legislative and executive powers or to unify them.[3]

If a community chooses a council-manager government or a variation of that form, it likely will sacrifice heroic political leadership. This is not a given, though, and there are boundless examples of high-quality political leadership in council-manager government. Henry Cisneros was mayor of a council-manager city, San Antonio, Texas, and he fits the bill of a charismatic, heroic mayor.

But the intent of council-manager government is that political leadership comes from the entire governing body and not a single, charismatic individual. To repeat, the mayor's role is "facilitative" in council-manager government.[4]

The term "governing body" makes sense in council-manager government because the form of government is designed with the expectation that elected officials will work together with a professional staff to produce quality policy direction and implementation.

State governments and the federal government are constitutionally designed to separate executive and legislative functions into discrete branches of government. The mayor-council design falls within this rubric of power separation even though the scope of governing institutions is smaller. Thus, depending on the mix, the more power a mayor has, the more we can expect conflict between mayor and council, just as we do between Congress and the president. Again, within any particular jurisdiction, these likelihoods may not occur, but the probabilities are built into the system itself.

Because the dynamics between the mayor and council are so important and conflict can be expected, it is possible for partisanship to play a role in coordinating mayoral and council power, how things get done, and who gets what. The greater the role partisanship plays in coordinating the politics in a community, the more professionalism suffers.

One critical, additional observation is necessary. Although it is possible today to find pure forms of council-manager government and mayor-council government, it is more common to find hybrids. In communities with pure council-manager government, the mayor is elected from among the council to ensure that the mayor has the council's respect. In the United States currently, however, voters in more than 67 percent of council-manager governments directly elect their mayors. Also, based on our experience, we believe it is increasingly likely that officials working in mayor-council governments will value professional managers or administrators.

We believe that council-manager government (and its variations) is superior to mayor-council government because the council-manager structure at the local level makes possible a partnership between political and administrative spheres to a degree not likely to be achieved in a mayor-council form of government.

Making the connection between what is politically acceptable and administratively feasible is the fundamental goal of government. As long as the partnership between politics and administration is the primary goal, variations on council-manager government are preferable.

If, however, the representation of diverse segments of a community trumps other considerations and dictates that citizens elect a large governing body whose members are elected by district, then a strong political and policy leader may be required.

When a community is considering the form of government it wants to adopt, it would do well to start by identifying the problems it is trying to fix and articulating goals. Ask what evidence suggests that a change in form of government will fix those problems or advance community goals. Finally, ask whether problems in the community are due to the individuals who are being elected or appointed or are due to the system itself. PM

ENDNOTES

1 Herbert Kaufman, "Emerging Conflicts in the Doctrines of Public Administration," American Political Science Review 5 (December 1956): 1057–1073.

2 James Keene, John Nalbandian, Robert O'Neill, and Shannon Portillo, "How Professionals Can Add Value to Their Communities and Organizations," Public Management, March 2007.

3 The most complete statement is Official Leadership in the City: Patterns of Conflict and Cooperation. NY: Oxford University Press, 1990. Chapter 2. The argument in broader comparative terms is in Poul Erik Mouritzen and James Svara, Leadership at the Apex: Politicians and Administrators in Western Local Governments. Pittsburgh: University of Pittsburgh Press, 2002, ch. 3.

4 James H. Svara, The Facilitative Leader in City Hall (Boca Raton, Fla.: CRC Press, 2009).

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