

The Case for Changing Rochester's Charter

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Introduction

The state granted Rochester its first charter in 1834. Over the next 150 years, Rochesterians regularly debated and updated the document, occasionally voting on charter referendums at the polls.

When voters approved moving from a city manager to a strong mayor system in 1984, the robust discussion about our charter that had taken place throughout Rochester history essentially stopped.

Thirty-six years later, it's time to revisit the city charter.

This paper examines the historical debate about the city charter and compares the city's governmental design to other cities. I will also discuss problems with the current structure.

I conclude that when it comes to representation and oversight, Rochester's government is an outlier among cities in New York State. We can fix the imbalance by eliminating at-large seats in favor of district seats and electing a comptroller.

How to Change the Charter

First, let's take a look at how the charter can be changed. There are several ways to modify the charter, under state law.¹ Any charter amendments changing the structure and powers of elected officers must be approved by voters in a referendum.

1. City Council can create a charter commission or ask voters to approve the creation of a commission. The law creating the commission must specify the number of members and whether they are elected or appointed. Once a commission has been created, it will review the charter and propose changes to be placed on the ballot at the next general or special election.
2. The mayor can create a charter commission of between nine and 15 residents.
3. Citizens can petition to create a charter commission by securing a number of signatures of registered city voters equal to 15 percent of the number of voters in the

¹ New York State Municipal Home Rule Law Section 36.

previous gubernatorial election in the city. The petitions would be presented to the city clerk for certification.

4. The charter can be changed by initiative and referendum. Citizens can draft charter amendments and petition to get the measures on the ballot. They have to collect signatures from registered voters equal to 10 percent of the number of voters in the previous gubernatorial election. For example, if 50,000 city residents vote this November for governor, the petition would have to contain at least 5,000 signatures. If City Council fails to agree to put the initiatives on the ballot within two months, then they have to collect more signatures equal to 5 percent of the number of voters in the previous gubernatorial election. If the petitions are certified, the measures go on the next general election ballot.²

Brief History of Major Rochester City Charter Changes 1900-1984

Over the last century, attempts to change the city charter reflect efforts to balance bureaucracy and democracy, politics and administration, efficiency and equality, and representation and results. These tensions have existed throughout the study of public administration.

In 1898, New York State adopted a uniform charter for “cities of second class.” The new charter abolished Rochester’s “Executive Board” model of government in favor of a strong mayor system. Checks on the mayor came from a Common Council made up of 20 aldermen

² New York State Municipal Home Rule Law Section 37.

from each of the city's wards, an elected comptroller and an elected treasurer. The mayor had the authority to appoint department heads.³

The uniform charter was adopted during the heyday of the George Aldridge era of local politics. He was a classic machine-style Republican party boss and former mayor who wielded considerable control over the levers of power.⁴

A bipartisan group of citizens called the Good Government Club formed to combat Aldridge and his patronage machine. There were Good Government clubs in every ward and a central committee of 65 men. The group ran its first slate of candidates in 1895.⁵ The "goo goos" eventually compromised with Aldridge on some candidates and issues, but they were often at odds. The Good Government Club's biggest win was securing an independent school board.

As these political wars raged, the city could not figure out garbage collection, the east side and west side battled over where a new high school should be built, and interests from Front and Scio streets argued over the location of a sorely-needed public market.⁶ Rochester government was not functioning at a high level.

In response to machine politics and rampant corruption across the country, the municipal reform movement was born. The Classical Approach of public administration, associated with

³ Blake McKelvey, "His Honor, The Mayor of Rochester 1900-1928," *Rochester History* 31 No. 1 (January 1969), 1

⁴ Blake McKelvey, "Rochester Political Trends An Historical Review," *Rochester History* 16 No. 2 (April 1952), 11-22.

⁵ McKelvey, "Rochester Political Trends An Historical Review," 12-13.

⁶ Blake McKelvey, "Rochester at the Turn of the Century," *Rochester History* 7 No. 1 (January 1950), 11-12.

Woodrow Wilson, advanced the separation of administration from politics. Under this philosophy, administration was a science, and government could be run as efficiently as private entities.⁷

In 1915, George Eastman founded the Bureau of Municipal Research (now Center for Governmental Research) to advocate for more efficient government. “Like many growing cities, Rochester was a machine-dominated town. The party machine was successful, dirty, and headed by a boss battling reform groups inside and outside the party. Eastman Kodak’s founder wanted better management and more efficient government as the city faced pressing demands linked to growth, infrastructure, service delivery, and taxes,” notes a CGR organizational history.⁸

In 1925, the Bureau of Municipal Research recommended amending the city charter to move to a city manager system of government. City Council would choose a ceremonial mayor from among its ranks and a city manager, who would be the chief administrator. The 24-member City Council, which had one member for each of the 24 wards, would be replaced by a nine-member council, with four district and five at-large seats. Aldridge and the Good Government Club had faded, but their successors lined up to do battle. Voters would have to approve structural changes to government.⁹

⁷ Fry, B. R., and J. C. N. Raadschelders. 2008. [“Introduction.”](#) In *Mastering Public Administration: From Max Weber to Dwight Waldo*, 1–18.

⁸ “CGR at 100: A Remarkable Story,” *Center for Governmental Research*, 2015, <https://www.cgr.org/cmsb/uploads/cgr100years.pdf>.

⁹ Blake McKelvey, “Rochester in Retrospect and Prospect,” *Rochester History* 23 No. 3 (July 1961), 22.

SEP 21

Sixteen Good Reasons Why You Should Vote for The Charter Amendments

THEY PROVIDE:

1. For a council of nine members.
2. For the centralization of legislative powers and responsibility in the council.
3. For the non-partisan election of council members.
4. For a city manager appointed by the council.
5. For the appointment of department heads by the manager.
6. For the recall of councilmen.
7. For the Initiative and the Referendum.
8. For Non-partisan elections.
9. For the co-ordination of all financial functions in one department.
10. For the design, construction, maintenance and operation of all public works under one department.
11. For a definite financial policy.
12. For equitable assessments.
13. For a centralized purchasing system.
14. For the separation of city business from politics.
15. For an independent audit of the city's accounts.
16. For a city planning commission with power to secure results.

BE AN INFORMED VOTER!

Read the Proposed Charter

Printed Copies may be obtained at the Headquarters of

The City Manager League

49 STATE STREET

A Summary of the Proposed Charter Amendments



CITY MANAGER LEAGUE

Main 6530

49 STATE STREET

ROCHESTER, N. Y.

8

A 1925 pamphlet distributed to voters by the City Manager League listed reasons to support the charter changes. Most focused on bureaucratic efficiency and professionalization of government. One of the reasons was the "separation of city business from politics." Voters approved the measure. The structure of four district and five at-large seats is in place today.

The new charter mandated nonpartisan elections. Republicans, however, had control of the new nine-member council and the nonpartisan provision was struck down in court.¹⁰ Any pretense of nonpartisan elections went out the window a few years after the implementation of the city-manager system. The city manager system was referred to as a “troika,” historian Blake McKelvey wrote in 1970, with the mayor as the symbolic head, the city manager as the administrative head and the party chairman as political chief.¹¹

McKelvey believed that while the city manager system did not entirely remove politics from administration, it did improve government efficiency. Mark Hare and Lou Buttino noted in 1984’s *The Remaking of the City* that a succession of city managers had a great deal of administrative expertise, and patronage at City Hall appeared to be a thing of the past.¹²

By mid-century, there were challenges to the Classical Approach in the field of public administration. The Administration-as-Politics Approach rejected the notion that politics can be separated from governance. It called for public participation, and it called on administrators to represent the interests of citizens, including minorities and the poor.¹³ Democracy was more important than bureaucracy under this way of thinking. The decision-making process mattered as much as outcomes. Politics and governance could not – and should not – be separated.

¹⁰ McKelvey, “Rochester Political Trends An Historical Review,” 24.

¹¹ Blake McKelvey, “The Last Eleven Mayors The First Eleven City Managers and Twenty County Chairmen,” *Rochester History* 32 No. 2 (April 1970), 28.

¹² Mark Hare and Lou Buttino, *The Remaking of a City: Rochester, New York, 1964-1984* (Kendall Hunt Pub Co, 1984), 358.

¹³ Fry and Raadschelders. *Mastering Public Administration: From Max Weber to Dwight Waldo*, 1–18.

Around this time, Rochester was becoming more diverse, as white residents were leaving for the suburbs and African Americans and Latinos moved in seeking opportunity. Poverty and blight plagued neighborhoods. Minorities encountered a governmental system that was – by design -- unresponsive and difficult to quickly change. Electing a new majority on a staggered-term council could take two or three election cycles. The 1964 race riots in Rochester brought these tensions to the forefront.

Hare and Buttino point out a city manager system works well in a homogenous population. In the pluralistic city, however, there was no voter consensus. City Council members didn't run campaigns together on a common agenda. Only a popular election for mayor could establish citywide priorities.¹⁴

Democratic leader and attorney John F. Noonan proposed in 1953 to popularly elect the mayor and vice-mayor. He pointed out Buffalo and Syracuse had a strong mayor system. Noonan said the charter should be revisited every 20 years. Noonan suggested Eastman would understand the charter had changed from his original intent in two key ways: nonpartisan elections were now allowed and city workers could engage in politics.¹⁵ The following year, the city clerk refused to accept Noonan's petitions containing nearly 14,000 signatures on the advice of the city attorney, and the council voted on a resolution opposing the initiative.¹⁶ A state supreme court judge and appellate judge ruled the petitions were flawed because Noonan failed to spell out how to pay for

¹⁴ Hare and Buttino, *The Remaking of a City*, 358-359.

¹⁵ Malone, Joseph R., "Democrats study plan for change in city's government," *Democrat and Chronicle*, November 17, 1953.

¹⁶ "Council votes to kill elected-mayor proposal," *Democrat and Chronicle*, July 7, 1954.

the mayor and vice-mayor positions, a requirement of state law governing charter referendums.¹⁷ In 1957, state law was changed to remove that requirement, a direct result of Noonan's case.¹⁸

The strong mayor issue didn't surface again until 1971, when City Council approved the creation of the Rochester City Charter Commission. Among other things, the charter commission would examine the strong mayor model.

Republican Vice-Mayor John Parrinello didn't want to wait for the commission to finish its work. He spearheaded a petition drive for a strong mayor referendum in 1972. A pamphlet distributed to voters said, "Historically, the present system was adopted as a non-partisan, professional form of government. It has never been non-partisan and rarely, truly professional...the manager's survival has depended upon a delicate balance of power that has retarded decision-making." Parrinello's measure allowed the mayor to appoint a deputy mayor and department heads, recommend legislation, veto council decisions and prepare the budget. Parrinello argued a strong mayor would be more responsive to neighborhood groups, and a return to a patronage system would be prevented by civil service laws.

Democrats attacked Parrinello's plan, claiming the Rochester Charter Commission should be allowed to complete its review. Democrats also accused Parrinello of engineering the referendum so he could run for the strong mayor position the following year. The initiative was defeated by voters in November by a two to one margin despite Parrinello's ad campaign, which

¹⁷ "Noonan concedes defeat this year for vote on plan," *Democrat and Chronicle*, September 1, 1954.

¹⁸ "New law aids foes of city manager plan," *Democrat and Chronicle*, April 30, 1957.

included television commercials.¹⁹ Parrinello blamed Democrats for scaring the public. Opponents said voters wanted a neutral commission to review the charter and recommend changes.

... MAKING ROCHESTER A BETTER PLACE ? ? ?

On Tuesday, November 7th, make sure Our City gets an Elected Mayor, rather than a mayor in name only.

—An Elected Mayor who will be **SENSITIVE** to the needs and **RESPONSIVE** to the wishes of the community because he will be **ACCOUNTABLE** only to the People of Rochester.

—An Elected Mayor who will be able to **MAKE DECISIONS**, provide the **LEADERSHIP** and give **DIRECTION** to City Government.

Only An Elected Strong Mayor Can Be

- **SENSITIVE** • **RESPONSIVE** • **ACCOUNTABLE**
- **PROVIDE THE LEADERSHIP**
- **MAKE THE DECISIONS**
- **GIVE THE DIRECTION THAT OUR CITY SO BADLY NEEDS NOW!**

YES

CHARTER OF THE CITY OF ROCHESTER

Shall Local Law No. 9 of 1972 entitled "A Local Law to amend chapter seven hundred fifty-five of the laws of nineteen hundred seven, entitled "An act constituting the charter of the city of Rochester in relation to the election, powers, and duties of the officers of the City of Rochester" which provides for the abolition of the city manager and for the establishment of a "strong mayor" form of government be approved?

PULL DOWN LEVER 9 – TOP ROW

VOTE "YES" STRONG MAYOR

Tuesday, November 7th

The Rochester Charter Commission continued its deliberations. It hotly debated the structure of City Council. Commissioner Wyoma Best wanted 12 smaller council districts and argued that at-large districts disenfranchised poor neighborhoods and minorities.²⁰ The Center for Governmental Research agreed, saying in a report prepared for the commission that at-large and

¹⁹ Hare and Buttino, *The Remaking of a City*, 337-339.

²⁰ Hare and Buttino, *The Remaking of a City*, 341-343.

district seats on city council did not represent minority or geographic interests. CGR recommended two alternatives: all-district council seats with nine to 15 districts or a mix of district and at-large council seats, with eight district and three at-large seats. CGR said all-district seats are a better option under a strong mayor system. CGR recommended drawing districts based on the preceding federal census, taking care to draw contiguous districts and to not disenfranchise any populations.²¹

Opponents of an all-district council believed council members would be too parochial and residents would not have the benefit of having multiple representatives to serve their interests.

In 1973, the Rochester Charter Commission ultimately recommended eight district council seats and three at-large seats.²² The commission noted citizens have the “perception that councilmen are remote, partly because of the size of the districts represented by district councilmen and partly because there is no clear distinction between district and at-large councilmen.”²³

The commission also recommended an elected mayor, who would appoint a chief administrative assistant and department heads. The mayor would be able to veto legislation and council could override. There would be a salary commission and stronger ethics oversight.

²¹ “Rochester Charter Commission,” *Center for Governmental Research*, 1973.

²² Hare and Buttino, *The Remaking of a City*, 341-343.

²³ Recommendations, Rochester Charter Commission, 1973.

The commission placed the entire package of reforms on the 1973 ballot as one measure for an up or down vote. The *Times Union* and *Democrat and Chronicle* editorial boards endorsed the charter revisions, as did the Chamber of Commerce, the League of Women Voters and several neighborhood organizations.²⁴ Yet City Council would not approve money for a media campaign.

The measure lost by only 968 votes out of the nearly 40,000 cast. A *Times Union* reporter said the 1973 initiative failed because it was at the end of the ballot, after “obtuse” statewide initiatives. Many people didn’t understand “the complex document on a jam-packed ballot.”²⁵

There was another push to reform the charter in 1980. A bipartisan group of leaders, including the mayor, county legislature president, and Democratic, Republican and Conservative party chairmen, began an effort to change the city and county charters to have an elected mayor and county executive. The county legislature and city council hired a group of political scientists to conduct a three-month study of the issue.²⁶

The study recommended a popular election for city mayor and county executive.²⁷ “The popularly elected executive, who must think often and deeply about making and keeping a majority in the next election, is, we believe, more likely than are appointed executives to develop imaginative and effective programs and to administer them with vigor and enthusiasm,” the group wrote. They recommended no changes to the council structure.

²⁴ Hare and Buttino, *The Remaking of a City*, 343-344.

²⁵ Hare and Buttino, *The Remaking of a City*, 346.

²⁶ Hare and Buttino, *The Remaking of a City*, 346.

²⁷ Sarah Liebschutz, “An elected mayor for Rochester,” 1980, 4.

Opponents of the strong mayor proposal argued the measure would cost taxpayers in the form of legislative staff. They worried Republicans could take over City Hall by pumping money into elections. They feared a return to patronage politics, granting too much power to one person. Neighborhood groups felt they were left out of the charter review process, and they liked working within the current system.

Proponents of the strong mayor proposal argued citizens would have more direct involvement and there would be more accountability. Some African American leaders said the only way they would be able to elect one of their own as mayor was through direct elections. Supporters of a strong mayor criticized the current system as difficult for citizens to navigate if they had concerns. The strong mayor backers said a return to patronage was unlikely because of civil service reforms. In addition, they argued a strong mayor would have more sway at the federal and state levels.

A *Times Union* poll of city voters in 1980 found overwhelming support for a strong mayor system - 83 percent to 9 percent, with the rest undecided.²⁸

City Council, however, voted against putting the measure on the November 1980 ballot. Councilman Paul Haney was the swing vote. He feared being duped by Republicans, who may not put the companion initiative for a strong county executive on the ballot. "I won't be suckered twice," he said.²⁹ The County Legislature followed through, however, and the measure was approved by countywide voters two-to-one.

²⁸ Hare and Buttino, *The Remaking of a City*, 346-350.

²⁹ Richard Popely and Chris Scharf, "Issue dead, but who killed it?" *Democrat and Chronicle*, August 12, 1980.

Under threat of a petition drive by supporters of a strong mayor system to put the measure on the 1981 ballot, City Council formed a 15-member charter commission charged with analyzing the entire document by September 1981.

The 1981 charter commission recommended a strong mayor. But in September, the commission recommended against putting the strong mayor on the ballot, arguing:³⁰

1. There is no evidence a strong mayor system affects the delivery of services, citizen apathy or dwindling resources.
2. There is a potential for loss of professionalism at City Hall.
3. There are dangers of a council-mayor deadlock and adversarial decision-making.
4. Strong mayors may be vulnerable to special interests.

The timing of the report left no time for a petition drive to get the strong mayor proposal on the 1981 ballot.

The commission did, however, recommend expanding council, with seven district and four at-large seats. The commission suggested term limits of three consecutive four-year terms. The rationale was the new model would balance parochial interests and communal citywide interests. Furthermore, citizens would have access to both district and at-large members to petition with their grievances.

³⁰ "Final Report: City Charter Commission," September 3, 1981.

The commission decided to keep the two-year city residency and one-year council district residency requirement, but a minority of members questioned its constitutionality as city residents can be transient.

The expanded council measure was placed on the 1981 ballot and failed by a wide margin.

The following year, citizens submitted petitions to the city clerk to get the strong mayor proposal on the ballot. A judge, however, agreed with the city clerk that a number of signatures were invalid on technical grounds.³¹ Meantime, City Council voted 5 to 4 against putting an elected mayor proposal up for a vote on the 1982 ballot.

The makeup of City Council changed in 1984, paving the way for a 5 to 4 to put a strong mayor proposal on the ballot. The proposal would allow voters to elect the mayor, and it would replace the city manager position with an appointed deputy mayor.

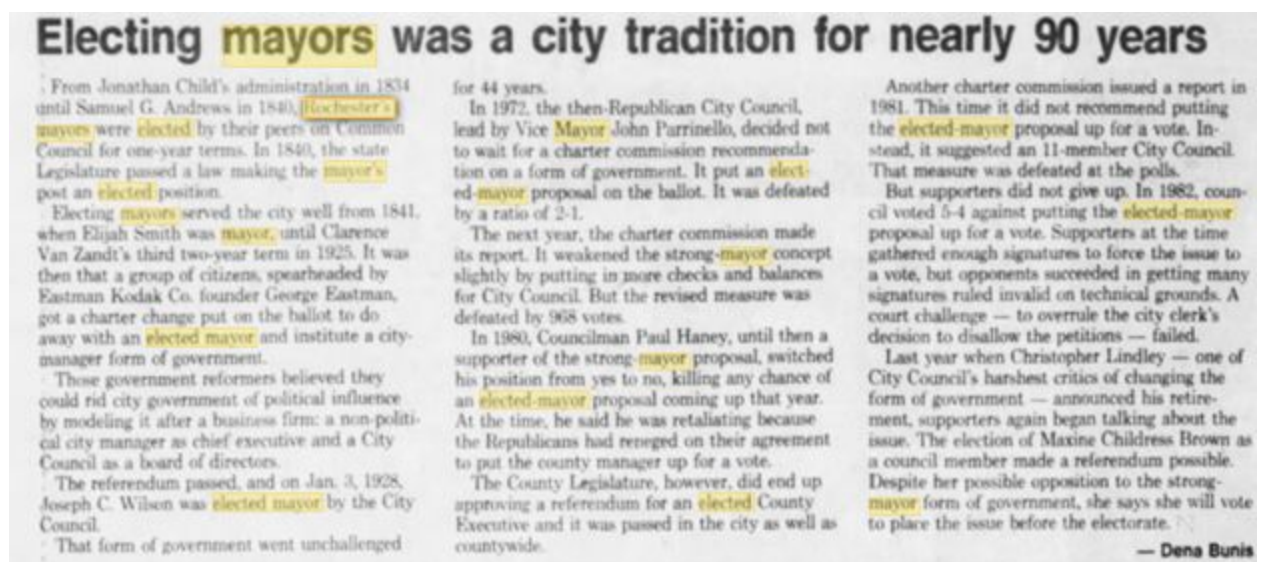
An ad hoc coalition, Citizens for an Elected Mayor, launched its public push for the measure on the steps of City Hall. The group included Mayor Thomas Ryan, County Executive Lucien Morin, Democratic Party Chairman Nathan Robfogel, Republican Party Chairman Ronald Starkweather and Conservative Party Chairman Tom Cook.

On the other side, Keep Effective Efficient Progressive Government in Rochester formed to oppose the measure.³² They believed, “If it ain’t broke, don’t fix it.” Councilman Haney,

³¹ Dena Bunis, “Electing mayors was a city tradition for 90 years,” *Democrat and Chronicle*, April 22, 1984.

³² “New group wants voters, not council, to choose mayor,” *Democrat and Chronicle*, October 17, 1984.

whose swing vote stopped the strong mayor from appearing on the ballot in 1980, remained adamantly opposed, believing council's role would become diluted, City Hall would be politicized, and neighborhood groups disempowered. Haney also worried about Republicans winning the mayor's office. "If they nominated an attractive, articulate candidate...they could easily pull together \$200,000 and spend it on a high class media campaign and he'd win the election."³³



Prominent African American leaders spoke out in favor of the strong mayor system, saying they felt left out of the city manager selection. "Do you think six white people are going to select one of three blacks?" James McCuller of Concerned Citizens Committee asked. Urban League head William Johnson said the odds of electing a black mayor would improve. He

³³ Dena Bunis, "November referendum on elected mayor likely," *Democrat and Chronicle*, April 22, 1984.

speculated African Americans and Hispanics would one day be the majority in the city. (Johnson became the city's first black mayor less than a decade later!)"³⁴

The *Democrat and Chronicle* editorial board endorsed the initiative. "Electing a mayor won't be electing a political boss. The City Council will be there as a check and could override with a veto decisions made by the mayor." ³⁵

The *New York Times* reported Rochester was the largest city in the Northeast to have a city manager.³⁶ After a spirited campaign from both sides – including a televised debate -- voters overwhelmingly approved the initiative. The mayor would be popularly elected in 1985 for the first time since the 1920s. The following year, Ryan was elected mayor.

There has been no public discussion about the city charter since the 1984 referendum.

Where We are Today

Rochester has experienced two very different forms of government over the last 100 years.

Good government groups of the 1920s believed government should be run like a business, which meant distancing citizens and minimizing the messy parts of democracy. They pushed through a city manager system that deprived voters from having a say in who became mayor. They implemented a council with an at-large majority because they wanted to prevent

³⁴ "Black leader calls for elected mayor," *Democrat and Chronicle*, November 4, 1984.

³⁵ "Let Rochester voters elect their own mayor," *Democrat and Chronicle*, October 26, 1984.

³⁶ "Strong-Mayor System Returning in Rochester," *New York Times*, November 11, 1984, <https://www.nytimes.com/1984/11/11/nyregion/strong-mayor-system-returning-in-rochester.html>.

turf wars, which also prevented certain ethnic or economic groups from getting elected. We ended up with a system that was elitist and out of touch with a population that was becoming increasingly diverse.

Later, the area's power brokers argued that residents would become more enfranchised if they elected the mayor. Although they argued a strong mayor would be more accountable to people, we will see in the remainder of this paper that they didn't provide for adequate oversight. The elites of the 1980s simply managed to consolidate and protect their power.

Nearly four decades later, it's clear we need more accountability, citizen engagement and equity in representation. We can get there by eliminating at-large City Council seats and electing a City Comptroller.

Eliminating At-Large City Council Seats

There are two categories of City Council seats. District seats represent a geographic area, and only voters in those areas can participate in the election. At-large seats represent the entire city, and the election is citywide.

Since 1925, Rochester has had four single-member district seats and five at-large seats. The National League of Cities found that at-large council seats are more common in smaller or more affluent cities. Cities with populations of 200,000 or more, which would include Rochester, use at-large only systems 16.4 percent of the time, mixed systems are used in 38.2 percent of cities and district-only systems are used in 45.5 percent of cities.³⁷

³⁷ <https://www.nlc.org/municipal-elections>

Breakdown of Council Seat Makeup in New York's Cities

City	Council Configuration	Length of Term	Term Limits
New York City	51 District Seats	4 years	2 terms
Buffalo	9 District Seats	4 Years	None
Syracuse	5 District Seats	2 Years	None
	4 At-Large Seats	4 Years	
Albany	15 District Seats At-Large President	4 Years	None
Utica	6 District Seats At-Large President	4 Years	2 Terms
Yonkers	6 District Seats At-Large President	4 Years	2 Terms
Rochester	4 District Seats 5 At-Large Seats	4 Years	None

No other city gives at-large seats as much weight as Rochester.

The rationale for at-large seats is council members are more impartial, less likely to vote-trade, be less parochial, and attract a larger pool of candidates. The argument for district seats is that they are more responsive to smaller problems, provide representation for smaller geographic and demographic groups and increase citizen participation.

At-large seats have long been criticized for disenfranchising demographic, geographic and political interests. When the majority picks the councilors, the councilors tend to reflect the majority of the population. For this reason, at-large seats have been successfully challenged in court and are opposed by the NAACP.³⁸

Various studies have recommended changing the configuration of Rochester's City Council. Recommendations to increase district representation acknowledged the disenfranchisement of geographic and demographic groups.

³⁸ "At-large voting: Frequently Asked Questions," Legal Defense Fund, NAACP
http://www.naacpldf.org/files/case_issue/At-Large%20Voting%20Frequently%20Asked%20Questions.pdf

Summary of Studies of Rochester City Council Configuration

Year	Study and Recommendation
1973	Center for Governmental Research recommended two alternatives: 1) All-district council seats with 9 to 15 districts 2) Mix of district and at-large council seats, with 8 district and 3 at-large seats.
1973	Rochester Charter Commission recommended 8 district council seats and 3 at-large seats. Measure failed as part of a larger package of reforms.
1980	Political scientists hired by City Council recommended no change to council, except adding support staff to serve as check on a strong mayor.
1981	Rochester Charter Commission recommended 7 district and 4 at-large seats, term limits of three consecutive four-year terms. The commission decided to keep the 2-year city residency and 1-year council district residency requirement, but a minority of members felt it could be unconstitutional and city residents are mobile. The measure was placed on the ballot by itself and failed by a large margin.

The continued use of at-large seats in Rochester is problematic in several ways.

First, at-large seats are difficult for everyday citizens to win. When the at-large system was enacted in the 1920's, we had a functioning two-party system and the backers intended council elections to be nonpartisan. Today, electoral contests in the city are decided in the primary, given the enormous enrollment advantage of Democrats. The district seats, as currently configured, are large enough not to disrupt that dynamic. This gives party leaders, including the mayor, and special interests undue influence over who is elected in citywide contests. This dynamic makes it difficult for grassroots candidates to be successful. Candidates backed by the party machine and mayor are less likely to exercise robust oversight.

Second, the geographic representation of at-large members is skewed. Of the nine council members, there are three council members in the southeast quadrant, three in the southwest quadrant, two in the northwest and one in the northeast. The northeast section of the city has some of the most impoverished residents in Rochester - and not one at-large member lives in that quadrant.

Third, there is confusion among citizens about where to turn for assistance. It is common when residents bring a concern to an at-large member, the member refers them to their district member, thus avoiding the issue at hand. Each district represents roughly 50,000 residents. Nine districts would allow each council member to represent about 23,000 people. Council members,

who each have a part-time assistant, would have a closer and more manageable relationship with their constituents.

This adds up to a system that disenfranchises neighborhoods, confuses citizens and is less likely to hold the city administration accountable for its decisions.

Elected Comptroller

The state-mandated charter of 1898 put in place a uniform charter for cities the size of Rochester. It imposed a strong mayor system, but also a council of 20 men representing each ward, an elected comptroller and an elected treasurer.³⁹

What does a comptroller do? According to New York State Law, “The comptroller shall superintend the fiscal affairs of the city and manage the same pursuant to law and ordinance of the common council.”⁴⁰

When Rochester reverted to a strong mayor system in 1984, it did not include an elected comptroller. The 1980 charter report commissioned by Council did not see a need, citing increased professionalism, state and federal requirements, and annual independent audits. They recommended a finance director appointed by the mayor. They felt a separate comptroller would be wasteful and duplicative, considering internal financial controls and reporting requirements.⁴¹

³⁹ Blake McKelvey, “His Honor, The Mayor of Rochester 1900-1928,” *Rochester History* 31 No. 1 (January 1969), 1

⁴⁰ New York Consolidated Laws, Second Class Cities Law - SCC § 63. Duties of comptroller

⁴¹ Sarah Liebschutz, “An elected mayor for Rochester,” 1980, 19-20.

However, the city charter acknowledges the finance director has the same duties conferred on a comptroller under state law. Finance department duties would fall under an elected comptroller's office. There would be no duplication, because the finance director would automatically be abolished under an elected comptroller, who would pick up the duties.⁴²

Rochester's Finance Director is not independent from the mayor, as are elected comptrollers. The mayor appoints the Finance Director, who oversees treasury, accounting, parking and purchasing. The city charter reads, "The Director of Finance shall be the chief financial officer of the City and shall have supervision and control of the administration of the financial affairs of the City which fall within the responsibilities and jurisdiction of the Department of Finance and its several subdivisions."⁴³

All contracts must be approved by the Finance Director, per the city charter.⁴⁴

The Department of Finance also issues an annual financial report, called the Comprehensive Annual Financial Review. This review contains an independent audit of the city's financial statements, which is limited to an overall review of the statement's accuracy and the city's accounting policies. The audit does not look at the effectiveness of the city's policies or delve into spending decisions.⁴⁵

⁴² Charter of the City of Rochester **§6-2 Director of Finance**

⁴³ Ibid.

⁴⁴ Charter of the City of Rochester **§6-19 Director of Finance**

⁴⁵ Charles A. Benincasa and Rosalind R. Brooks-Harris, "City of Rochester, New York Comprehensive Annual Financial Report Year Ended June 30, 2017," <http://www.cityofrochester.gov/cafr/>

The internal auditing function was removed from the Finance Department in 2007 with the creation of the Office of Public Integrity (OPI). In cities with an elected comptroller, audits fall under that office's responsibilities. Rochester's OPI director is appointed by the mayor. The charter reads, "Under the supervision of the Mayor, he or she shall articulate the standards of business conduct for the City and shall coordinate the analysis, investigation and resolution of concerns and complaints involving City government operations. The Director shall oversee the Manager of Internal Audit and the internal audit staff, which shall develop and conduct an internal audit program on a timely basis. Such program shall examine the financial records and procedures of all City departments, bureaus and their subdivisions in accordance with accepted auditing principles and practices."⁴⁶

Public integrity offices, also known as inspectors general, have varying degrees of autonomy. It's imperative that watchdog agencies operate independently and free from political influence to be effective.⁴⁷ The success of a public integrity office depends on the political environment and the leadership of the unit.⁴⁸

The City of Rochester's Office of Public Integrity fails to meet best practices when it comes to independence, autonomy and partisanship.

⁴⁶ Charter of the City of Rochester **§3-13 Director of the Office of Public Integrity**

⁴⁷ Segal, Lydia. "Independence from Political Influence—A Shaky Shield." *Journal of Public Integrity*, 12:4, 2010. 297-314. Accessed on August 18, 2019. <https://doi.org/10.2753/PIN1099-9922120401>.

⁴⁸ Anechiarico, Frank and Segal, Lydia. "Public Integrity Networks." *Journal of Public Integrity*, vol. 12 No. 4. 325-344 Accessed on August 18, 2019. <https://doi.org/10.2753/PIN1099-9922120403>.

Peer reviews of the Office of Public Integrity have noted the lack of independence of the office. A January 2018 review found, “Functionally, OPI and the Internal Audit Activity report directly to the Mayor. Because the Director of OPI is appointed by the Mayor, and the department reports directly to the Mayor, this reporting structure could result in a conflict of interest for OPI, in the event the Mayor's activities are under scrutiny. Therefore, an issue of independence of the Internal Audit Activity is apparent.” The review said any work performed by OPI that involved the mayor must be contracted out. One could reasonably argue all audits involve the mayor, as she appoints all department heads. The review recommended working with City Council to change the structure of the office to ensure independence.⁴⁹

The current OPI director, Timothy Weir, acknowledged the lack of independence in a *Democrat and Chronicle* article:

On this question of independence, Weir said it's a balance.

"On a day-to-day basis, I do my job independently. But obviously I work for the mayor," he said during an interview at City Hall arranged by Warren's communications staff and attended by the city's lawyer. "The mayor hired me, and the mayor can fire me. From that perspective, do I care what she may think? Sure. Like anyone would care what their boss thinks."⁵⁰

The *Democrat and Chronicle* noted that OPI focuses more on audits, and leaves questions of ethics to the seven-member Board of Ethics. The Board of Ethics, however, has its own challenges related to independence. The charter allows the mayor to appoint a department

⁴⁹ Hungerford Vinton LLC, “External Peer Review of the City of Rochester Office of Public Integrity Internal Audit Activity,” January 18, 2018, <http://www.cityofrochester.gov/opi/>.

⁵⁰ [49] Brian Sharp, “Angry employee or loss of integrity? Investigator said city told him to alter findings,” *Democrat and Chronicle*, July 14, 2018.

<https://www.democratandchronicle.com/story/news/2018/07/14/rochester-city-office-public-integrity-opi-statistics-drop-fraud-investigations-lovely-warren-weir/678750002/>

head to serve as secretary, which means this position is beholden to the mayor. (It is currently director of OPI.) A member of City Council also has a seat on the board, a questionable practice since some complaints involve the council. The city attorney is the legal advisor to the board, and is beholden to mayor for his job. The board is not obligated to take complaints from citizens.

⁵¹ The *Democrat and Chronicle* has reported that several ethics board members have given campaign contributions to the mayor, as have the OPI director and city attorney.⁵²

The structure of city government leaves potential whistleblowers in a bind. There is nowhere within City Hall they can turn without bumping into appointees of the powerful mayor. We cannot assume employees are willing to blow the whistle when they see problems. Whistleblowing is more likely when people believe they will be protected from harm. They must feel psychologically and physically safe. Employees must feel their complaints will be dealt with effectively. Workers are also more likely to report misconduct if they feel they will be supported.

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Rochester, which has a budget of \$529.7 million, lacks the checks and balances found in other New York State cities.

⁵¹ Charter of the City of Rochester **§2-18 Code of Ethics**

⁵² David Andreatta, "City ethics board has an optics challenge on Uber," *Democrat and Chronicle*, June 15, 2017.
<https://www.democratandchronicle.com/story/news/local/columnists/andreatta/2017/06/15/andre-atta-city-ethics-board-kangaroo-court/399074001/>

⁵³ Klass, Brian, Olson-Buchanan, Julie B. and Ward, Anna-Katherine. "The Determinants of Alternate Forms of Workplace Voice: An Integrative Perspective." *Journal of Management*, Vol. 38 No. 1, January 2012. p 314-345.

Finance and Accountability Structure in New York's Cities

City	Elected Comptroller	Duties	Board of Ethics
New York City \$92.8 Billion	Yes 4-year term 3-year term limit	• Conducting performance and financial audits of all City agencies. • Serving as a fiduciary to the City's five public pension funds totaling nearly \$160 billion in assets. • Providing comprehensive oversight of the City's budget and fiscal condition. • Reviewing City contracts for integrity, accountability and fiscal compliance. • Resolving claims both on behalf of and against the City. • Ensuring transparency and accountability in setting prevailing wage and vigorously enforcing prevailing wage and living wage laws.	• 5 members appointed by the mayor. • No member can be elected official, a public employee of any jurisdiction, political party office holder. • Board appoints its own counsel. • Any citizen can file a complaint.

⁵⁵ New York City Charter, Chapter 68,
<https://www1.nyc.gov/site/coib/the-law/chapter-68-of-the-new-york-city-charter.page>

		Promoting policies that enhance the City government's commitment to efficiency, integrity and performance.⁵⁴	
Buffalo \$519 Million	Yes 4-year term	"The Comptroller is the City of Buffalo's top fiscal watchdog, responsible for ensuring that your tax dollars are spent wisely, efficiently, and in ways that make your neighborhood a better place to live. This Department is responsible for all accounting services for the City of Buffalo, in addition to conducting audits to eliminate waste, fraud, and mismanagement in city government. It also is responsible for managing the City of Buffalo's investments and selling its municipal bonds."[54] - Has power to audit any agency at which	- Seven members, City Clerk and City Attorney, five members appointed by mayor. - No elected officials. - There is a nominating committee for the board. The Mayor, Comptroller, President of the Common Council, Chief Judge of the Buffalo City Court and Dean of the Law School of the State University at Buffalo shall each appoint one member of the nominating committee, to

⁵⁴ Website of New York City Comptroller, "About" Section, <https://comptroller.nyc.gov/about/duties-of-the-comptroller/>

		city officials appoint majority of board members or the agency gets at least half of revenues from the city. • Must give assent to all contracts.⁵⁶	serve at his or her pleasure. • Anyone can file complaints.⁵⁷
Syracuse \$252.5M	Yes – City Auditor 4-year-term 2-term limit	• Annually audit every officer, department, school district and Housing Authority. • Conduct special audits when ordered by mayor or council. • Make recommendations to improve administration.⁵⁸	Code of Ethics refers to Board of Ethics, but no information online or in city charter about the board.⁵⁹
Albany \$181 Million	Yes – Chief City Auditor 4-year term	• “The Office of Audit and Control provides independent oversight of the City’s operations. It is our mission to provide the citizens of Albany, the Common Council, and the City’s	• 7 members • No member can work for the city. • No more than three members can be of the same political party.

⁵⁶ Website of Buffalo City Comptroller, <https://www.buffalony.gov/363/Comptroller>

⁵⁷ Buffalo City Charter, Chapter 12, Code of Ethics

⁵⁸ Syracuse City Charter, §5-501.

⁵⁹ Syracuse Code of Ethics,

<http://www.syr.gov.net/uploadedFiles/Departments/Personnel/Code%20of%20Ethics.pdf>.

		Administration with the ability to ensure that City government is transparent, efficient, and effective. • “The City Charter establishes the Office of Audit and Control to conduct performance audits of all City offices, to audit the City’s investments, and to certify the validity of accounts payable. Additionally, the Common Council may direct the Office of Audit and Control to prepare and present reports that are consistent with the duties of the Office.”⁶⁰ • Fraud and Abuse hotline.	• No office holder in a political party.⁶¹
Yonkers \$1.24 Billion	No - Inspector General appointed by mayor	• “The Inspector General is authorized and empowered to make any investigation or	7 members

⁶¹ [59] City of Albany Charter, Chapter 54,
https://www.albanyny.gov/_files/40%2031%2010%20-%20ethics%20and%20financial%20disclosure.pdf

⁶⁰ Albany, Office of Audit and Control Website,
<https://www.albanyny.gov/Government/Departments/OfficeofAuditandControl.aspx>

		review which in his or her opinion is necessary to uncover any wrongdoing in City government. For such purpose, the Inspector General may investigate the affairs function, accounts, methods, and personnel of any agency.”⁶² ● Finance Department in charge of auditing, purchasing, assessment, accountancy.⁶³ ● Board of Contract and Supply shall consist of the Mayor, as Chair, the City Council President, City Engineer and Controller. ● “all non-competitively bid contracts governed by General Municipal Law § 104-b, including but not limited to all contracts for professional and/or legal services for the government of the City of Yonkers, or	● One member allowed to be a city employee not classified as exempt. ● No more than three members can be of the same political party. ● No office holder in a political party. ● Can’t hold elected office or run for office or participate in campaigns. ● Ethic Board Appointment Committee used: mayor, city court judge, city council president. ● City attorney advises the ethics board. ● Any citizen can make a complaint.
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⁶² Yonkers City Charter, Article VII.

⁶³ Yonkers City Charter, §C6.

		any part thereof, shall be awarded by the Board of Contract and Supply.” ⁶⁴	
Rochester	\$529.7 million	Chief Financial Officer appointed by mayor oversees treasury, accounting, parking and purchasing, and approves all contracts. CFO does an annual audit, but does not examine efficiency or effectiveness of programs or spending decisions. Office of Public Integrity conducts audits. Director appointed by mayor.	• Seven member Board of Ethics, one City Councilmember appointed by council, one City department head appointed by the mayor, five other members, only three of whom can belong to the same political party. • City Corporation Counsel advises the board. • Director of OPI serves on the Board of Ethics. • Only city employees can make complaints. The board can take up other matters on its own initiative.

⁶⁴ Yonkers City Charter, §C24-9, §C24-10.

Rochester is an outlier compared to similarly-sized cities in New York. The structure of Rochester's government doesn't provide for the same assurance of transparency, accountability and efficiency. Those choices were deliberate, from the creation of the powerful Finance Department to the Office of Public Integrity – both controlled by the mayor. Compared to other cities, Rochester's charter has far less language about the prevention and investigation of malfeasance, as well the evaluation of current operations.

Rochester has undertaken huge projects, such as the Midtown demolition, port infrastructure, Public Market revitalization and more. There is no local structure to critically evaluate spending or contracts for purchasing and construction. Rochester has also paid out significant settlements for police misconduct that have been largely kept under wraps.⁶⁵

An elected comptroller is an appropriate remedy that would have either no impact or a positive impact on the budget, as the comptroller's office would replace the Finance Department and the Office of Public Integrity.

Summary

Rochester is an outlier compared to its peer cities in New York State when it comes to representation and oversight. Our structure of government impacts public trust, important civic decisions, fiscal accountability and even the outcome of elections.

⁶⁵ Rochesterforall.com

When Eastman's good government group pushed for at-large council seats, the city was far more homogenous. Majority-rule citywide elections likely did reflect most citizens. Our city is now far more diverse, and neighborhoods have widely-varied interests.

When Morin and Ryan went to the strong mayor and county executive systems, they didn't implement key checks and balances. That was probably no accident, as these men were widely-respected giants of their time who believed in themselves and their ability to properly govern. We have seen, however, the need for more accountability and transparency.

This paper deliberately did not delve into specific incidents that warrant these changes, but there are many, including the fast ferry debacle and corruption at the Rochester Housing Authority. Scandals can lead to change, but change should be based on a solid case for reform, no matter who is in office.

Electing district representatives and a comptroller would strengthen democracy. After 36 years, it is time to revisit the charter and bring it up to date.