

Repurposing Citizen Advisory Bodies in a Ninth Model City Charter

BY MARGARET STOUT

It has been more than a decade since the eighth *Model City Charter (Model)* was published by the National Civic League. This article argues that it may be time for a ninth edition of the *Model* to reinstate language for establishing citizen advisory bodies (CABs)—boards, commissions, and other committees. CABs provide policy recommendations to the quasi-judicial and legislative governing body made up of the mayor and city council as well as operational recommendations to the executive city manager and administrative department heads. As defined here, CABs do not include other types of bodies that are delegated legislative or quasi-judicial authority.

The normative discussion around the purpose and role of CABs in local governance began with the development of the first model charter, called the *Municipal Program*, which recommended a strong elected executive but also, as it states in the preface of the eighth edition of the *Model City Charter*, “strong movements to interpose boards or commissions between the executive and the operating department heads to provide protective cover for many services. . . . The desire was to prevent scandal” (p. 13). From the beginning of the *Model*, the value of CABs was linked to democratic legitimacy in a manner that is perpetuated in contemporary recommendations, but also to instrumental outcomes such as efficiency and effectiveness.

Since structural guidance is one of the primary purposes of the *Model*, it would be prudent to reconsider how best to shape and purpose CABs to achieve the democratic and instrumental objectives they were originally designed to achieve. The following sections provide a historical account of the development of CABs in relation to the *Model City Charter* and make a call to action that includes draft language and commentary to be considered in future editions of the *Model*.

Historical Development of CABs

The National Civic League (NCL) was founded in 1894 as the National Municipal League by Progressive era reformers, including Theodore Roosevelt, Louis Brandeis, Frederick Law Olmstead, and Mary Mumford. Their efforts were designed to improve both democratic legitimacy and instrumental competence in city government. In response to the turmoil of the late 1890s, the Progressives sought to reform government through a combination of direct democracy, administrative responsibility, and expanded social legislation. When the League adopted the first model charter, or *Municipal Program*, in 1898 (published in 1900), it included a provision to give more power and autonomy to local officials through home rule, a unicameral city council with nonpartisan elections, and a hands-on executive mayor to appoint and remove department heads. Furthermore, citizen advisory bodies were placed between the mayor and departments to curb executive authority.

From the initial *Municipal Program*, an ongoing question facing each revision committee has been whether self-government should be enhanced through structural changes to the representative roles of mayor and council, popular vote options, or structures that enable deliberative democracy. Furthermore, there is an ongoing question of how to make direct democratic institutions broadly inclusive. A historical review of the seven subsequent iterations provides some insight into how proponents of excellence in local government have grappled with these issues over time. In 1910, Richard Childs developed a plan for Pittsburgh that included a five-member city council selected at large in nonpartisan elections with a weak mayor elected by the council members themselves. A professional manager would be appointed by the council as the chief executive but would serve at its pleasure. This arrangement would come to be known as the council-manager

form of local government. While the council would make all policy decisions, day-to-day management decisions would be made by the city manager.

The Childs plan became the reference point for the second edition of what was renamed the *Model City Charter* in 1915. In the second edition of the *Model*, executive functions were removed from both legislative and citizen involvement and given to a professional city manager, while policy making by a city council was augmented by citizen input via both voting procedures (initiative, referendum, and recall) as well as through knowledgeable citizens advising the city council. As suggested by the most recent *Model* commission, the earlier positioning of CABs between the elected executive and administrative departments was thought to “diffuse responsibility.” Therefore, the revised *Model City Charter* published in 1916 did not place CABs between the council and administration in general, nor did it interpose them between the appointed executive and department heads.

Thus, CABs were reconstituted in the second *Model* with a dual objective to increase democratic legitimacy through popular influence and to help produce better policy and outcomes through knowledgeable legislative guidance. By engaging more citizens in the policy-making process and publicly considering their recommendations, elected officials could prove to citizens that peer voices were heard in decision making. However, the citizens engaged in this way would be, for the most part, informed, ethical, civic and business leaders receiving training from sources like the Municipal Research Bureaus and the Maxwell School of Citizenship at Syracuse University.

In his book *Bowling Alone*, Robert Putnam points out that while the ostensible purpose was to provide a popular countervailing force to the political parties of the time, in reality these citizens tended to further enhance the professionalization of governance. Indeed, CABs were dominated by middle-class professionals who were expected to align themselves with administrative experts against the partisan political machines. Thus, “instead of the deliberative democracy advocated by some Progressives, we ended up instead with the direct,

plebiscitary democracy pushed successfully by others” (p. 399)—initiative, referendum, and recall—alongside professionalization through both management and CABs.

This emphasis on professionalization is clear in the developmental path taken by subsequent editions of the *Model*. For example, the second edition calls for the formation of a Civil Service Commission appointed by the council to oversee personnel issues and function in a legislative and quasi-judicial manner similar to the council. Over time, personnel functions became professional staff functions.

A similar pattern is evident in CABs and authorities charged with planning-related functions. The second edition calls for the creation of a city planning board that would include citizens chosen by virtue of their knowledge of city planning who would advise the city council, while the city manager would oversee the planning department and the engineer that staffed the planning board. This structure would become the model for CABs as defined herein—advisory to the policy makers, neither legislative nor quasi-judicial in authority, and not in an oversight position over functions or administrative staff. However, by the seventh edition of the *Model*, planning was described as a staff function, with all legislative and quasi-judicial responsibilities reverting back to the council. In sum, the contemporary preference is to entrust administrative staff with planning.

As a result of this trend toward professionalization, guidance for forming and operating citizen advisory boards (as opposed to authorities) has been eliminated from the last two editions of the *Model City Charter*. Yet many municipalities retain CABs and other appointed authorities, sometimes due to state legislative mandates. In fact, Carl Gabrini notes in an article in the *State and Local Government Review* that CABs are now far more prevalent than initiative, referenda, and recall elections. Indeed, CABs are virtually ubiquitous as an institution of local government. George Dougherty and Jennifer Easton, in a contribution to the *American Review of Public Administration*, found that 75 percent of municipalities have CABs with an average of four per town.

Even the seventh edition of the *Model City Charter* describes the role of the mayor in “appointing, with the advice and consent of the council, members of citizen advisory boards and commissions” (p. 8), indicating the assumption that they would be part of the governmental structure. In short, they are standard operating procedure, whether a city is run by a council-mayor, strong mayor, council-manager, or even town meeting form of government.

Citizen Advisory Bodies and Public Engagement

The prevalence of CABs raises the question of why they persist, despite the lack of attention they have enjoyed in recent editions of the *Model*. A recent study for the Kettering Foundation by George Dougherty, Larkin Dudley, and me found that they generate both democratic and instrumental value through direct public engagement. In terms of democratic legitimacy, adequate representation is always a challenge, as noted by William Bennet Munro in his commentary on the second edition of the *Model* (and quoted in the eighth edition):

... there should be a place in the municipal framework for a body which will be avowedly deliberative, supervisory, and policy-determining, which will be wieldy enough to perform these functions properly and yet large enough to be truly representative of the community’s options. (p. 24)

With city council sizes of about nine members to support effective operations, the challenge of providing adequate democratic representation remains. The primary solutions to this conundrum have been present in most editions of the *Model* since the first—provisions for initiative, referendum, and recall procedures. Yet these ballot-box procedures do not allow the *deliberative* quality prescribed by Munro. For this type of participation, a different form of public engagement is required.

In publications beyond the *Model*, the NCL argues that in today’s political and economic context, more expansive expectations for public engagement than traditional opportunities for public comment and public hearings are appropriate. What is required is “citizen democracy”—an approach that engages

government, business, nonprofits, and residents in collaborative problem solving, decision making, and action.

According to both policy advocates and scholars, public engagement is the right thing to do and the smart thing to do.

The NCL is not alone in such advocacy. For example, the International City/County Management Association bestows awards on municipalities for excellence in citizen involvement and community facilitation. Similarly, the National League of Cities draws from a variety of scholarly fields for recommendations on how to facilitate deliberative public engagement. More broadly, public administration scholars such as J. V. Denhardt, R. B. Denhardt, H. George Frederickson, David Osborne, and Ted Gaebler have continuously called for greater public participation in administrative processes over the past forty years. According to both policy advocates and scholars, public engagement is the right thing to do and the smart thing to do.

While a plethora of innovative approaches to public engagement can be found, CABs provide existing institutional opportunities for broad engagement of citizens in the policy-making and implementation process—one that is neither administrative nor legislative in nature, but rather advisory to both. As advisory bodies without legislative or quasi-judicial authority, they are not held to the formal requirements of legislative or quasi-judicial decision-making bodies, and their composition could easily include a variety of interested community members supported by administrative staff and a city council liaison. Although CABs without authority may have functioned in a highly formalized manner in the past, they can provide a logical venue for more informal citizen engagement today.

CABs should be considered in this new light. It may be legal and relatively simple to repurpose CABs as a venue for broadly inclusive, participatory engagement of the public in policy deliberation. Institutionalizing this third structure as a venue for citizen engagement in governance stands to make

a substantive contribution to the *Model's* “complementary and cooperative relationships between officials who reflect democratic accountability (council members) and administrative professionalism (the manager),” as James Svava suggested in a *National Civic Review (NCR)* article in 1989 (p. 339). CABs would increase this complementarity because they operate early in the decision-making process during issue framing and deliberation, unlike the initiatives, referenda, and recall elections that occur in response to fully framed choices and decision making.

A Call to Action

CABs are readily available and provide a better option for public engagement than other alternatives. For example, when city councils hold public hearings and less restrictive forums like town halls, they are limited in what they can do because of their legislative and quasi-judicial capacity as convened quorums. Without changes to open meeting laws, more deliberative processes are not possible. When administrators convene similar participatory processes, however, they are often less than eager to consider propositions that conflict with their expert opinions or known political will, thus shutting down creative dialogue.

As peer groups, CABs can provide a more intimate setting for citizens to learn about policy issues, share ideas, discuss, deliberate, and form opinions, preferences, and recommendations to be forwarded to policy makers.

The current *Model City Charter* affirms the value of “citizen participation,” and citizen involvement in “official and unofficial advisory bodies” is noted in passing, but it does not provide guidance for the inclusion of CABs in local governance. Instead, it simply “endorses the use of advisory bodies, with no operating powers but with significant duties, which can utilize the talents of citizens to assess the implications of future programs” (p. 18). As a carryover from the previous edition, the commentary notes:

As the body charged with making municipal policy, the council can create permanent or *ad hoc* mechanisms to assist in that process. For example, it can create planning and recreation boards

or study committees. Likewise it can create agencies with quasi-legislative or quasi-judicial status, such as a human rights commission or a zoning appeals board.

The *Model* makes no provision for specific instrumentalities designed to provide input at the neighborhood level for policy-making or service delivery evaluation. Nor does it list as charter agencies any advisory boards and commissions. The council has the power to establish such agencies. (p. 25)

However, the purpose of the *Model* is to offer guidance on how to institutionalize best practices in local governance and to offer commentary on why the approach is beneficial. Therefore, it seems peculiar to remain silent on these institutional structures, particularly given their persistent and pervasive use.

Unfortunately, missing from the reforms in the last model is the issue of how to respond to increasing public demand for direct engagement in the policy-making and implementation process. Yet this could be arguably one of the top-priority issues in local governance, particularly in the last two decades. Local governments are increasingly held to a new standard of effective participation. In short, the meaning of “public engagement” has evolved from the citizen’s right to witness policy deliberations and make comments, to the citizen’s expectation of being involved in deliberations and action.

James Svava argues in a 2001 article in the *NCR* that “a model charter is intended to reflect a choice of practices that are likely to do more to advance principles of sound democratic governance than the alternatives” (p. 31). Based on a literature review and exploratory study of CABs in three states for the Kettering Foundation, my coauthors and I concluded that CABs should: (1) provide information on their substantive arena to community members; (2) convene participatory processes and otherwise check the pulse of the community on issues related to their substantive arena prior to deliberations; and (3) translate community sentiments into policy recommendations through deliberation. Furthermore, they should be given sufficient training, development, and administrative support to fulfill these duties.

Suggested Changes for a Ninth Charter

A general provision for the establishment of CABs reinserted into the *Model City Charter* as an institutional component of local government would foster this renewed and revitalized role. Toward that end, the following initial language is proposed for consideration by a revision committee.

Constitution

Citizen Advisory Bodies shall be formed according to guidance in this charter through municipal ordinance enacted by the governing body.

Commentary: For the purpose of a model, the most common approach is to constitute the CAB through ordinance. The ordinance should follow generic guidance in regard to the operations of a CAB in terms of authority, scope, and purpose but must be custom-tailored to the unique substantive area of concern.

Powers and Duties

Citizen Advisory Bodies shall be authorized to distribute information to the public in delegated issues of concern, convene, deliberate, and make recommendations as directed by the governing body and on their own volition. Deliberations shall be made publicly to meet the goal of transparency in governance, but not according to provisions required of legislative or quasi-judicial bodies. Deliberations shall include the public in open-ended discussion as well as formal public hearing. Community sentiments shall be translated by the advisory body into policy recommendations for consideration by the governing body.

Commentary: Likely due to the historic pattern of deemphasizing CABs as an institution of government, they have become increasingly reactive, often only responding to issues referred to them by the mayor, council, or administrative staff. CABs also are typically operated like corporate boards of directors or city councils, employing Robert's Rules of Order and formal public hearing procedures. These particular methods of deliberation limit innovation and issue naming and framing.

To maximize potential benefits, CABs should employ contemporary techniques of public engagement as described by organizations such as the International Association for Public Participation (IAP2). They could be ideal forums for deliberative democratic practices that can better mirror the organic processes of citizen-driven collective action. To enable this expanded role in public engagement, CABs must be limited in authority to advice as opposed to final governing decisions about regulation or policy. However, to be most effective in collaborative governance, members of legislative or quasi-judicial bodies should be allowed to participate in dialogue and deliberation, even if in quorum, without breaking open meeting laws and other transparency rules. This should be possible if they are not actually making the decisions about which recommendations to forward to the governing body.

Functions

Citizen Advisory Bodies shall provide comment and recommendations on any function of government in which public engagement is considered of value.

Commentary: While functions such as water, sewer, utilities, ports, affordable housing, and civil service oversight often may be delegated to quasi-judicial authorities that must operate according to standard formal procedure and transparency laws, many other functions can benefit from the advice of interested, deliberating community members. Common areas of concern include planning, development review, historic preservation, budgeting and capital improvement programs, parks and recreation, transportation, human rights and diversity, arts and culture, economic development, and neighborhoods. It is important not to create boards that have authority over operational functions, as this would conflict with the executive function, whether held by a city manager or by a mayor.

Appointments and Removals

Appointments to and removals from Citizen Advisory Bodies shall be made by the mayor with council advice and consent. Consideration shall be given

to geographic and demographic diversity, in addition to knowledge of the substantive area of concern. Qualifications shall be judged by the mayor and council with recommendations from administrative staff.

A member of the administrative staff and a member of the council may be appointed as a liaison to a Citizen Advisory Board, but will serve in an ex-officio capacity.

Commentary: To ensure representative composition and to meet the functional purpose of each CAB, eligibility for service, the application and appointment process, and removal procedures generally are detailed in CAB handbooks and by-laws. To garner the greatest benefits to democratic legitimacy, inclusion should be broad. To garner the greatest instrumental benefit, expertise and experience are desirable. Therefore, selection processes often employ criteria that seek broad representation across a variety of dimensions, such as geographic location, income, age, gender, and race or ethnicity.

Furthermore, CAB members often are highly involved community members and act as informal liaisons to other groups (e.g., chambers of commerce, civic organizations, faith-based groups, and parent-teacher associations). Indeed, the seventh edition of the *Model* notes this benefit: “Mayoral appointment of boards and commissions with council advice and consent creates the opportunity for purposeful balanced representation and can be used to forge coalitions and tap into networks of community activity” (p. 20).

To generate the benefits of all three governance roles—elected representative, expert administrator, and citizen—separation of roles is advisable. Indeed, where there has been friction, it is generally due to unclear boundaries of authority between CABs or between the CAB and council.

Administrative Support

Citizen Advisory Bodies shall be provided adequate administrative support to fulfill assigned duties and functions, including meeting space, clerical support,

recordkeeping, orientation and training, and technical assistance.

Commentary: The range of issues to be covered can be taken from CAB handbooks. Of particular concern is the need for orientation and training on the basics of formal duties.

Facilitation Support

Citizen Advisory Bodies shall be provided adequate facilitation support to fulfill assigned duties and functions, potentially including a full range of public engagement techniques.

Commentary: Above and beyond the basics of formal operations, expert facilitation is necessary. The National Coalition for Dialogue and Deliberation (NCDD) and the IAP2 can offer guidance.

Conclusions

William Barnes and Bonnie Mann noted in their 2010 publication, “Making Local Democracy Work,” that most municipal officials already consider CABs to be methods of public engagement. Since their establishment during the Progressive reform era, CABs have played an important role in the ongoing effort to professionalize while deepening democratic practices at the local level of government, even if limited to citizen elites and formal public hearings. CABs provide a democratizing force that is complementary to the administrative professionalism of the council-manager form of government and can bring volunteer expertise to the policy-making and implementation process.

But to reap maximum democratic and instrumental benefits, CABs must be restructured in a manner that enables translation and transference between the informal operations and community knowledge of citizens and the formal operations and expert knowledge of administrators and elected representatives. As neither administrative nor policy structures, they provide a unique venue through which to accomplish this feat.

In a 2004 *NCR* article, Abby Williamson and Archon Fung identify six key dimensions of effective deliberation: inclusiveness and diversity of participation, openness and expansiveness of deliberation, education of both citizens and officials, responsiveness and accountability of officials, social and economic justice, and ongoing sustainability of participatory practices. Based on the argument presented herein, it would seem that CABs can be structured to foster all of these characteristics and outcomes. Providing guidance on how to do so in the *Model City Charter* would be an excellent first step.

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