



THE MILLBURN CHARTER COMMISSION REPORT

AUGUST 1972

TABLE OF CONTENTS

LETTER OF TRANSMITTAL		Page
PART I	OUR TASK	4
PART II	DISTINCTIVE AND COMPARABLE FEATURES OF MILLBURN TOWNSHIP	5
PART III	STRENGTHS AND WEAKNESSES OF THE TOWNSHIP COMMITTEE FORM OF GOVERNMENT	10
PART IV	ALTERNATIVES CONSIDERED BUT NOT RECOMMENDED	13
PART V	THE RECOMMENDATION FOR CHANGE	18
PART VI	TRANSITION TO COUNCIL-MANAGER PLAN B	20
APPENDIX		22

To The People of Millburn Township:

The undersigned, when elected by the voters of Millburn Township in November, 1971, became a Charter Commission under the provisions of the Optional Municipal Charter Law, popularly known as the Faulkner Act, with the following charge:

"It shall be the function and duty of the charter commission to study the form of government of the municipality, to compare it with other available forms under the laws of this State, to determine whether or not in its judgment the government of the municipality could be strengthened, made more clearly responsive or accountable to the people, or whether its operation could become economical or efficient, under a changed form of government."

The Faulkner Act further provides that the Charter Commission shall report its findings and recommendations to the people within nine months of its election. The accompanying report fulfills this obligation.

This report, prepared by the Charter Commission, concludes that the people of Millburn Township will be better served if the form of government is changed from the present Township Committee form to Council-Manager Plan B of the Faulkner Act, which is more fully described in this report.

In accordance with the provisions of the Faulkner Act, a recommendation for the adoption of a form of government set forth in the Act must be submitted in referendum form to the voters. We therefore recommend that the following question be placed on the ballot at the General Election scheduled for November 7, 1972:


SHALL COUNCIL-MANAGER PLAN B OF THE OPTIONAL MUNICIPAL CHARTER LAW, PROVIDING FOR FIVE COUNCILMEN TO BE ELECTED AT LARGE, BE ADOPTED BY THE TOWNSHIP OF MILLBURN?

In the course of gathering information which provided a basis for its conclusion, the Charter Commission interviewed many individuals and wishes to acknowledge and thank those persons for their assistance. However, the Charter Commission alone is responsible for the conclusions reached in this report.

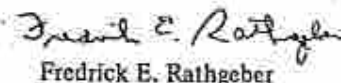
Your Charter Commission presents its unanimous recommendation with the sincere conviction that change in the form of government will better enable Millburn to meet the challenges of the future and retain its character as New Jersey's finest residential community

Respectfully submitted,


Daniel J. Moore, Chairman


Peter A. Hager


Earl W. Cryer


Fredrick E. Rathgeber


Selma M. Rosen

August 2, 1972

PART I

OUR TASK

On November 2, 1971 the voters of Millburn Township approved a charter study referendum and elected five Commissioners, thereby initiating a nine month study of our local government which has culminated in this report. The purpose of the Faulkner Act, the New Jersey law which authorizes this study, is to stimulate citizen interest in the character of local government and to afford citizens an opportunity to improve local government structure.

Proceeding under the authority of the Faulkner Act, the Millburn Charter Commission organized and adopted a budget which allocated funds to distribute this report and to retain Dr. Ernest C. Reock, Jr., director of the Rutgers University Bureau of Government Research, as its consultant. Since then, the Commission has held more than fifty meetings. All of the elected Township Committeemen were interviewed, as were chairmen of all appointed and elected Township boards and commissions, all municipal department heads, representatives from several New Jersey municipalities operating under different forms of government, members of Charter Commissions who have served in other towns, and many former Township Committeemen. The period during which these Township Committeemen have served spans a whole generation in the political life of this community and reaches back to the thirties.

The views of all Township residents were solicited at both public and private meetings and many availed themselves of the opportunity to be heard. Five public meetings devoted to explaining the workings of both our own form of government and of other Faulkner Act optional forms available to Millburn were held. Guest speakers addressed these forums and answered questions from the floor.

The fundamental precept which the Charter Commission has followed in approaching its task is that the form of government ultimately selected should suit Millburn's requirements, not the political theories of the Commissioners or, for that matter, any other elected officials. In its deliberations the Charter Commission has sought to direct its inquiries and develop information in answer to five basic questions which we conceive to be the essence of the task. These questions, which the balance of this report will hopefully serve to answer, are as follows:

1. What community characteristics and features of Millburn are important in evaluating the political experiences of other communities and in selecting the appropriate form of government for us?
2. What are the strengths and weaknesses of our township form of government?
3. Can our present form of government be strengthened without basic structural change?
4. Will the weaknesses of the present form be more readily corrected under one of the Faulkner Act forms?
5. Is the degree of improvement which can be anticipated worth the effort and cost of change?

PART II

DISTINCTIVE AND COMPARABLE FEATURES OF MILLBURN TOWNSHIP

This chapter deals with your Commission's findings in three areas. It attempts to identify those characteristics which make Millburn unique and those which are general enough in nature to serve as a basis for the selection of comparable communities. It identifies certain comparable communities and examines their experience with the Faulkner Act. Finally, it attempts to assess the relative economy and efficiency of Millburn and the comparable communities and to draw some tentative conclusions regarding the correlation between these factors and the form of government.

MILLBURN'S DISTINGUISHING CHARACTERISTICS

Affluence. - Millburn Township's reputation as a well-to-do community transcends state boundaries. For a number of years our community has ranked well within the top ten in the United States in terms of "disposable household income" as measured by *Sales Management* magazine, a distinction enjoyed by no other New Jersey community. In terms of the total valuation of its taxable real estate, Millburn ranks seventeenth in the State of New Jersey, ahead of such populous cities as Atlantic City, Camden, and Trenton.

Unlike other wealthy suburban communities, such as Greenwich, Princeton or Glen Cove, Millburn has until now managed to escape the encroachments of urban blight: welfare payments were made to fewer than 10 persons in 1971; the 1960 Housing Census judged only 3% of the Township's dwelling units to be sub-standard; only 14 children out of a total junior and senior high school population of 2,176 qualified for the federal free lunch program during the current school year.

Nevertheless, while there is little statistical evidence of any significant number of poor in the community, our well-advertised community affluence may not accurately reflect the financial strain endured by many who live here. For the elderly whose prime occupational income has ceased, for the temporarily jobless, for the families whose educational costs have reached their peak, for the municipal employee evaluating whether he can afford to live in the town he serves - for these groups in particular, and perhaps for all others, statistical averages proving our community affluence offer little comfort and constantly rising municipal government costs are the reality.

Substantially Completed Development. If the need for change were predicated solely on probable future growth, your Commission's task would be a relatively simple one - for the fact is that Millburn has grown very slowly in recent years, and there is little evidence to suggest that the growth rate will increase in the foreseeable future.

Between 1960 and 1970 the Township population increased from 18,779 to 21,307 - a compounded annual increase of only 1%. New construction has increased the township's property tax ratables at about the same rate in the past five years.

The continuation of this low growth rate is to some extent assured by the relative scarcity of undeveloped land. Although 3.7 of Millburn's 10.0 square miles is still technically undeveloped, 40% of that land is part of the Essex County park system, and will probably always remain undeveloped; 45% consists of acreage which is part of two water systems - Commonwealth Water's and East Orange's - only portions of which are susceptible to development; and only 15% consists of property such as the Canoe Brook Country Club, the Short Hills Country Day School, and the Blanchard estate which could in fact be developed in their entirety. Regarded in this light, the undeveloped acreage which is actually available for future development probably constitutes less than 15% of the total acreage in the community and relatively little of that is likely to be developed in the immediate future.

Any significant amount of future growth in population and ratables is more likely to result from zoning restriction adjustments permitting more apartment construction than from the development of presently vacant land.

Balanced Development. Although Millburn is a predominantly residential community, commercial and industrial taxpayers (including apartments) provide a very significant one-fifth of the Township's tax base. Industrial ratables represent less than 5% of the total and are predominantly offices employing white collar personnel. The four facilities in the community at which manufacturing is carried on represent less than 1% of all ratables.

No communities studied by your Commission are solely residential in character, and in fact it is difficult to envision a community of any consequence which could afford to exclude all commercial activity. Few communities enjoy as high a combination of industrial and commercial ratables as Millburn, however, without having sacrificed a greater measure of their residential character.

A Mobile Commuting Population. While statistics on how many residents work in the community and immediately adjacent communities are not obtainable, subjective evidence suggests that they represent a relatively small minority. Commuters to Newark and New York, most of whom travel by rail but many of whom drive, undoubtedly account for the substantial majority of the Township working population, now estimated at 8,500. As business has moved both manufacturing and office facilities westward and to the south in New Jersey, commuting from Millburn to Morristown, Parsippany, New Brunswick and Bound Brook has become more common. The community's access to the Interstate highway system could be an important factor in enabling it to maintain its primacy as a commuting town.

The mobility of the population can be measured by the turnover in dwelling units, which is currently running at an annual rate of 5%. Turnover varies considerably in different sections of town, and residents in certain sections tend to relocate in other areas of Millburn in addition to migrating to other communities and states. While it is improper to cumulate turnover statistics and conclude that the majority of Millburn's population changes every ten years, it is probably true that a significant portion of the population does change in that period of time.

To the extent that Millburn has a fairly mobile commuting population, the Township's political institutions are susceptible to citizen indifference. The family on the move from one section of the country to the next rarely becomes deeply committed to local issues, while the commuter's loyalties may be claimed by his place of work, rather than his place of residence. The energies of these groups are more likely to be expended on community concerns which directly and continually affect the family — the condition and quality of the public schools, for example — than on such less visible matters as long-range land use planning, waste disposal problems, or capital construction.

Conservatism. One commendable characteristic of conservatism in Millburn is the conviction that politics at the local level should be the duty of gentlemen amateurs willing to serve without pay or for nominal fees. This may be the principal reason for Millburn's record of government untainted by scandal or even the public hint of irregularity.

The Township's essentially conservative character manifests itself most strongly in the hope, which is shared by the vast majority of citizens, that Millburn will avoid the encroachments of the city and retain forever its "village" flavor. Anxiety to preserve the status quo, however, can result in inertia in dealing with pressing municipal problems.

Governmental Interdependence. Virtually all of the functions for which local government is responsible involve some measure of cooperation or coordination with the governments of other communities, the county, the state, or the federal government. For example:

1. We can no longer expect to solve our sewage disposal problems on anything other than a regional basis; the Joint Meeting is a first step in that direction. It is probably only a matter of time before we reach a similar conclusion with respect to solid waste disposal.
2. A major area within the community which could create a land-use problem for Millburn, the undeveloped watershed land, cannot be planned without the cooperation of East Orange.
3. Virtually any measure affecting traffic flow within the community — including the establishment of speed limits, traffic signals and controls, and one-way flow — must be approved by the State of New Jersey. Since many key arteries are county roads, involvement of a third level of government is frequent.

While the list could be extended, it could hardly be completed, since no one can foresee all the ramifications of changes which are only now taking form. Governor Cahill has stated that tax reform is inevitable, and whatever limitations

are eventually placed on local taxing power will inevitably affect the scope of municipal government. The "Botter" decision, now on appeal to the State Supreme Court, requires the State Legislature to devise a new method of financing public education which will reduce dependence on local real estate property taxes, further altering the relationships between state and local governments. Two conclusions are inescapable: local government will never again be as simple as it has been, and future community problems will no longer be soluble solely within the community.

COMPARABLE COMMUNITIES

While the particular combination of six distinctive features just outlined distinguishes our community from all others, some of New Jersey's 567 communities are similar in many ways to Millburn. An important task of the Commission consisted of defining and isolating those factors which establish comparability.

Millburn is neither a village nor a city, and the experience of communities which are substantially smaller and more rural, on the one hand, or substantially larger and more urban, on the other, is not necessarily germane to our own. With this basic thought in mind, your Commission restricted its search for comparable communities to those which had a population of 15,000 to 35,000, and which also met at least four of the following five additional criteria as of 1970:

1. The true property value of the community on a per capita basis was at least \$9,000. (Our comparable figure was \$18,857.)
2. Population density, measured by the number of people per square mile, ranged from 2,000 to 5,000. (Ours was 2,131, or about 3,500 if county parkland and watershed land is omitted.)
3. The residential portion of the tax base was not less than 65% nor more than 90% of the total. (Ours was 76%.)
4. The commercial portion of the tax base was not less than 10% nor more than 20% of the total. (Ours was 15%.)
5. The industrial portion of the tax base was less than 10% of the total. (Ours was 4%.)

Of the 78 communities which fell within the population range selected, only 17 met at least four of the criteria. Although selected on the basis of objective considerations only, the survivors are, with two or three possible exceptions, suburban communities of a general character similar to Millburn. They are:

Bergen County	Ramsey Ridgewood Westwood Wyckoff
Burlington County	Maple Shade
Essex County	Livingston Maplewood South Orange
Monmouth County	Hazlet
Morris County	Madison Borough Roxbury
Ocean County	Point Pleasant
Union County	Cranford Scotch Plains Springfield Summit Westfield

Faulkner Act Experience. Ten of the 17 comparable communities have taken some action under the Faulkner Act, in contrast to the overall statewide experience of only 21%. This is certainly encouraging affirmation of the timeliness of our own decision to review and study our form of government.

Ramsey, the first community to respond to the new Act, decided to retain the Borough form of government but hire a borough administrator. Livingston adopted its Commission's recommendation of a Council-Manager Plan in 1955. Springfield's voters rejected the identical plan (Plan E) in 1958. Mayor-Council plans recommended by Charter Commissions were defeated by voters in Maplewood in 1963 and in Madison Borough in 1969. Westfield, after rejecting a Mayor-Council plan in 1961, petitioned the State Legislature for a special charter, under which it has been operating since 1967. Ridgewood's adoption of Council-Manager Plan B after direct petition in 1969, following defeat of the same proposition by the voters nine years earlier, and Scotch Plains' adoption of Council-Manager Plan E in 1971 are the two most recent actions.

Of the eight communities whose Charter Commissions have completed their labors, four ultimately changed the form of government and four have so far elected to retain the existing form. Both Cranford and Roxbury have studies underway at this time, bringing to ten the number of comparable communities which have taken some Faulkner Act action.

In its examination of the various alternative forms available to Millburn, your Commission was fortunate to have had the opportunity to question at length Herbert Bennett, Jr., the present Mayor in Ridgewood. Mayor Bennett, who admitted that he had initially been opposed to the Council-Manager form of government, felt that its adoption had been generally beneficial to Ridgewood, particularly in expediting long-deferred community parking programs, in freeing Council members to concentrate their energies on appointments to civic boards and commissions, and in promoting greater responsiveness and the two-way flow of information between the governing body and the people.

Robert Harp, the Township Manager in Livingston from the inception of that community's Council-Manager plan, who was also interviewed, delineated the actual day-to-day activities of a Manager, pointed out economies which had been achieved, and specifically brought to the Commission's attention the accountability involved in the publication of an annual report by the Township Manager. It was obvious to the Commission that Mr. Harp's personal sense of dedication contributes significantly to his success as a Manager.

MEASURING EFFICIENCY AND ECONOMY

Determining the level of efficiency and economy in government is a difficult task in a single community. The task becomes an enormous undertaking if the assignment is broadened to include a comparative analysis of 18 communities, since each community provides different services to its citizens, each must cope with different problems, and each has peculiar conditions which require special attention. Because of these variables, overall cost comparisons cannot be regarded as conclusive evidence of efficiency and economy, but they are useful in determining whether more intensive probing might be warranted.

The following table summarizes our findings with respect to these overall costs: the first column sets forth the equalized property valuation per capita of the respective communities in 1970; the second and third columns show the over-all municipal government expenditures per capita in 1960 and 1970; the fourth and fifth columns show the number of full-time employees or their equivalent (i.e., with part-time employees reduced to the corresponding number of full-time equivalents) per 10,000 citizens in each of the communities as of 1962 and 1967. Millburn apparently did

not respond to the 1967 Census of Governments.

Community	State Equalized Property Valuation (True Value) Per Capita	Municipal Government* Expenditures Per Capita		Equivalent Full-Time Municipal* Employees Per 10,000 Population	
	1970	1960	1970	1962	1967
Millburn	\$18,857	\$117.12	\$234.51	104.7	N.A.
Summit	13,058	116.92	210.82	79.0	87.5
Wyckoff	12,953	52.88	108.41	30.4	26.7
Springfield	12,397	77.63	154.93	62.5	60.0
Ridgewood	12,222	84.18	153.36	82.1	85.1
Livingston	11,460	73.99	119.77	43.2	45.3
Ramsey	11,316	63.28	131.85	N.A.	N.A.
Westfield	10,790	81.29	147.87	54.9	N.A.
South Orange	10,662	107.68	219.36	99.8	N.A.
Roxbury	10,161	51.92	108.92	N.A.	N.A.
Scotch Plains	9,966	76.96	190.82	35.3	37.8
Westwood	9,445	78.34	131.97	N.A.	N.A.
Madison Borough	9,414	80.19	175.75	68.7	N.A.
Maplewood	9,369	83.71	171.80	81.9	71.8
Cranford	9,318	64.09	118.22	46.6	55.3
Point Pleasant	7,367	50.69	81.73	37.0	33.0
Hazlet	5,307	35.03	61.02	19.1	18.8
Maple Shade	4,502	48.03	70.43	45.4	37.0
State Average	5,090	85.88	152.69	81.3	81.2

*School expenditures and employees not included.

N.A. = Not Available

Source: 33rd Annual Report of the Division of Local Finance 1970, Department of Community Affairs, State of New Jersey.

The table clearly shows that Millburn stands at the top of every category – that it has the highest property values and the highest level of municipal spending per capita, as well as the highest number of municipal employees per 10,000 population.

More significantly, the table shows that the *absolute increase* in the per capita spending for municipal purposes between 1960 and 1970 in Millburn – +\$117.39 – was greater than the corresponding increase in any other community. Not only, would it appear, are we the high cost leaders, we are also in danger of running away with the race.

Moreover, the table, which does not cover the period after 1970, does *not* show that our township budget has risen from just under \$5,000,000 to over \$6,000,000, a rise of *over 20%* in the two years since 1970.

Only the fact that Millburn is enormously wealthy in terms of taxable property enables it to maintain a low tax rate while spending at a level which exceeds that in every comparable community. It remains enough for us to suggest that a government which is ignorant of the comparative data presented here is one whose efficiency and responsiveness are open to question, while a government which is knowledgeable of that data but takes no remedial action is one whose accountability to the people is no longer adequate.

PART III

STRENGTHS AND WEAKNESSES OF THE TOWNSHIP COMMITTEE FORM OF GOVERNMENT

Millburn, since its incorporation in 1857, has functioned under the Township Committee form of government. The basic structure of this form is provided by State laws enacted in the 19th century, but the manner in which the Township Committee operates varies from place to place according to local custom. The following characteristics apply to all townships the size of Millburn which have retained the Township Committee form:

1. There are five Township Committeemen elected at large, by all of the voters of the township, rather than from wards or sections of the community.
2. Elections for the Township Committee are held on a partisan basis; that is, candidates are nominated by their political parties in the primary elections and run for office in the November general election, at the same time as candidates for national, state, and county offices.
3. Township Committeemen serve 3-year terms of office on a staggered, over-lapping basis, so that there is an election for at least one of the five Committee seats every year.
4. The Mayor is selected by the Township Committee from their own membership on January 1 of each year. He serves as chairman, presides at meetings, and represents the Township at public and ceremonial functions. Otherwise, he has almost no significant powers under State laws.
5. The Township Committeemen, as a group, are responsible for all legislative and administrative functions of the Township government.

Local practice, developed over a long period of time in Millburn, has provided some additional ground-rules for the operation of the Township Committee:

6. Upon his selection in January, the Mayor appoints each committeeman to serve as a one-man standing committee of the Township Committee, with the responsibility for a particular function or department of the Township government:

Committee on Finance and Charities
Committee on Engineering and Public Works
Committee on Fire Protection and Water Supply
Committee on Police
Committee on Buildings and Lights.

7. The Mayor has the power to remove Committeemen from standing committees, but only with the approval of the full Township Committee.
8. Petitions, resolutions, and ordinances are referred by the Mayor to the appropriate standing committee for action.

The Charter Commission conducted many interviews and devoted many hours in an effort to gain an understanding of our Township Committee form of government. In addition, we studied the State and local documents from which this form of government derives its structure, its powers, and its limitations. We felt very strongly that this background information was necessary for us to be able to evaluate the strengths and weaknesses of the Township Committee form before we could compare it with other available plans of government.

STRENGTHS OF THE TOWNSHIP COMMITTEE FORM

Independence. One of the strongest arguments in favor of the present Township Committee form of government in Millburn is its apparent freedom from special interest pressure groups. Committeemen have held themselves above partisan demands and have tried very hard and quite successfully, we think, to represent the entire community. It is noteworthy that no hint of a Township Committeeman's submitting to improper influence came to the attention of the Charter Commission during the nine months of its study. Those who serve and have served as Township Committeemen have maintained the highest standards of personal integrity and dedication to the ideals of public service, and have contributed significantly to Millburn's admirable public image.

Experienced Service. The custom of extended service on the Township Committee has proved to be another strength of the form of government as it is practiced in Millburn. New Committeemen gain valuable experience, particularly in the administrative aspects of their jobs, during their first three-year term in office. Since assignments to standing committees have generally changed only infrequently after the first couple of years of a Committeeman's tenure, this on-the-job experience can become increasingly valuable during the successive terms of a Committeeman's service. An experienced Committeeman can, of course, be of considerable assistance to the full-time, salaried official who runs a municipal department on a day-to-day basis.

Operation as a Committee of the Whole. From our many interviews with elected Township officials it became clear that, despite the division into standing committees, the Township Committee in Millburn acts on most important matters as a committee of the whole. This procedure generally assures that there will be ample discussion and deliberation among the Committee members prior to the public vote on a proposal. It discourages rash or premature decisions, and minimizes the possibility that an ordinance will be "railroaded" through the Township Committee. To the extent that this procedure has prevented some actions inimical to the interests of the community, it can be regarded as a strength of our form of government.

WEAKNESSES OF THE TOWNSHIP COMMITTEE FORM

The Charter Commission also found significant weaknesses in our present form of government, almost all of them flowing from the basic concept of a part-time Township Committee which is charged with both legislative and administrative responsibilities.

No Overall Administrator. A major deficiency of the Township Committee form of government is the lack of a professional administrator fully empowered to carry on the day-to-day supervision of Township affairs. We do have a Business Administrator who handles many operating details and attempts to carry out duties of a coordinating nature. But he has no authority over the police department, the fire department, the recreation department, the library, or the public works department, which make up a substantial portion of the Township work force, and his powers in other areas are limited. He has little authority to require compliance from department heads but must rely primarily on the support of the Township Committee and the voluntary cooperation of other Township personnel. Moreover, the Administrator has been given the additional jobs of township clerk, township treasurer, secretary to the board of health, and registrar of vital statistics, all of which may require detailed attention and distract him from any supervisory or leadership role.

Incomplete Long-Range Planning. Millburn has devoted inadequate attention to long-range planning, except in certain specific areas such as sewage disposal, zoning and roads. No administrative official has the responsibility to recommend to the Committee a program of legislation or an overall plan for the future. Planning does require leadership, and the Township Committee form of government, with its heavy emphasis on shared responsibility, discourages the emergence of leaders.

Possible Mismatch of Man and Assignment. Another area of weakness in the Township Committee form of government lies in the fact that it may involve an imperfect matching of the man and the job. A Township Committeeman with little interest in or qualification for a particular activity of local government may find himself thrust into a role of responsibility for that function by the Mayor. Moreover, as has happened in Millburn, a candidate's appeal to the voters may be heavily based on specific prior experience, and yet there can be no assurance that such a man, if elected, will ever serve in the capacity which may have been the prime reason for his election.

Overemphasis on Routine Administration. A fourth broad area of weakness inherent in the Township Committee form, already alluded to above, is the inertia to act on controversial matters, particularly those which do not clearly fall within the administrative concern of a particular Committeeman. The handling of the Brookhaven tract, the library improvement and attempts to improve downtown parking are all examples of the truth of this contention. Your Commission believes that the reason for this inertia and avoidance of the controversial lies not so much in the reluctance of the Township Committee to get involved, but rather in the fact that Committeemen consider their principal functions to be those which relate to the administration of "their" departments, and devote a disproportionate amount of time to administrative details as opposed to concentrating on broader, long-range issues.

Scarcity of Candidates. Finally, and perhaps most importantly, your Commission is concerned that the present form of government will not continue to attract the calibre of candidate who has proved willing to serve the community in the past. As the burden of administrative detail continues to mount, and as the frustrations of dealing with problems which must increasingly be remanded to Newark or Trenton grows, the task of finding part-time, public-spirited citizens who will make the necessary sacrifices which Township Committee service demands will become more and more difficult.

The Charter Commission concludes that the Township Committee form of government has been reasonably adequate for Millburn's needs in the past, but the weaknesses inherent in that form are such that its continued adequacy can no longer be taken for granted. Millburn would be better served by the adoption of an alternative form without those inherent weaknesses.

PART IV

ALTERNATIVES CONSIDERED BUT NOT RECOMMENDED

The Faulkner Act gives to the Charter Commission a choice of four possible overall recommendations. These four choices are as follows:

1. that the form of government of the municipality shall remain unchanged;
2. that the governing body shall petition the Legislature for the enactment of a special charter, or for one or more specific amendments of or to the charter of the municipality;
3. that the question of adopting one of the optional plans of government authorized by the Faulkner Act be submitted to the voters of the municipality by referendum;
4. that the Commission recommend such other action as it may deem advisable consistent with its functions as described in the Act.

The purpose of this part of the report is to describe those alternatives which were considered by the Charter Commission, but which it does *not* recommend for adoption. The reason for the Charter Commission's decision in each instance will be given and we hope thereby to provide a background for the following part which will contain the alternative which is recommended for adoption.

CONTINUATION OF THE PRESENT FORM OF GOVERNMENT

This alternative was given lengthy and detailed consideration by the Commission. All of the members of the Commission approached their assignment with the thought that the present form of government should be preserved unless very strong evidence was produced that a change should be made. However, in the course of its study, the Commission found a number of major weaknesses which have been set forth in the preceding part and which have led the Commission to the conclusion that a change in the form of government is advisable.

PETITION FOR A SPECIAL CHARTER OR OTHER ACTION DEEMED ADVISABLE BY THE COMMISSION

While these alternatives are available, consideration of them was brief because the Commission found that the variety of options available under the Faulkner Act provide ample selection of choices. It is clear from the analysis of our present form of government that many improvements could be made, either through action by the Township Committee or through a special charter granted by the Legislature. If some of these improvements were made by a sympathetic Township Committee, the form of government could be a much more satisfactory one. However, a future Township Committee with less interest in the improvements might allow the present weaknesses to reappear.

Codifying all desirable changes into a special charter would provide more permanence, but your Commission believes that a special charter incorporating all desirable changes would be essentially the same as one of the optional plans available under the Faulkner Act. The Commission, therefore, has rejected the custom-made special charter in favor of a quite adequate ready-made plan.

A REFERENDUM FOR ADOPTION OF AN OPTIONAL FORM

The Faulkner Act provides a number of possible choices which can be summarized as follows:

A Mayor-Council or Council-Manager Form of Government.

Staggered or concurrent terms. Under the Faulkner Act, the term of office of Councilmen is always four years. The choice, then, is whether all should be elected every four years or whether the terms should be staggered, with approximately half the Council being elected every two years.

At-large or ward representation. All members of the Council may be elected on an at-large basis or there can be various combinations of at-large and ward representation.

The number of Councilmen. In our size community it is possible to have a Council consisting of 5, 7, or 9 members.

Non-partisan or partisan elections. The Councilmen may be elected at a non-partisan regular municipal election in May, with terms beginning on the first of July next following that election. In this instance, the political parties are not involved. In effect, the election procedure is very similar to that of our Board of Education except in some cases there may be need for a run-off election. This will be discussed in a later part. The alternative is the continuation of our present system of election in which candidates are nominated by parties in a primary election, followed by the general election in November.

The Mayor-Council Form. Under this form, the Mayor is elected by the voters. He has considerable executive power including appointment of Department Heads and designation of a Business Administrator. He also has a veto power over ordinances which could be overridden only by a two-thirds vote of the Council. The Council is, in effect, a legislative body, but it has certain additional powers to provide checks and balances on the Mayor. This form has a number of attractive features and was seriously considered by the Commission, but was finally rejected for the following reasons:

The balance of power between the Mayor and Council certainly has some advantages, but it can also polarize disagreements into political feuds and slow up much-needed action. For example, department heads may be appointed by the Mayor, but the appointments must be approved by the Council. This can lead to delays if the Mayor and Council do not see eye-to-eye. In similar situations, actions proposed by the Mayor can be indefinitely delayed by a recalcitrant Council.

The full-time professional Business Administrator is, of course, subordinated to the elected Mayor, since he is appointed by the Mayor and can be dismissed by him. There is the possibility, then, that the professional Administrator might be prevented from most effectively performing his duties if the Mayor, who might be unqualified for such matters, decides to insert himself into operational matters. A split could arise between the Mayor and the Administrator which would hamper operations and would probably be solved by the Mayor dismissing the Administrator and appointing a new one. Very possibly, the town would lose a good Administrator in this process.

Defeat of an incumbent Mayor in a bid for re-election would probably mean that the Administrator would depart the scene also. In this event, the town would be losing two experienced key people at the same time. While this might be desirable under some circumstances, it would provide a big gap in the operational control until the new officials had taken over.

This form of government appeared to the Charter Commission to be more suitable for large cities or other communities where a heterogeneous population places a premium on strong individual political leadership.

Concurrent Terms. Under this provision all Council members run for election simultaneously. While this offers the advantage of having municipal elections only once every four years, with the opportunity to completely replace the incumbents if the voters so desire, the Charter Commission rejected this alternative for the following reasons:

If the electorate is dissatisfied with the incumbent Council, four years is a long time to wait to take action at the polls. (It is true that the recall procedure is available to remove an elected official after he has served at least one year. However, the recall petition must be signed by at least 25% of the registered voters. As a result, the recall procedure is rarely used.) Under a staggered-term system, the voters can show their feelings every two years although only about half the Council seats are up for election.

If a complete new slate is elected under the concurrent term alternative, all continuity in the governing body is lost.

Ward Representation. The Faulkner Act provides that the Council may be chosen completely on an at-large basis or there can be a combination of ward and at-large representation. For example, if the Council is made up of five members and ward representation is desired, there can be two or three ward representatives with the balance being elected at-large. The Charter Commission rejected the ward representation choice for the following reason:

The ideal Council member should be dealing with the Township's problems on an overall basis. Ward representation tends to make a Council member more acutely aware of the problems of his own ward and may cause him to take action which is not in the best interests of the Township as a whole. Moreover, since wards must have equal population, neighborhood representation would not necessarily occur.

Number of Council Members. For a Township our size the alternatives available are for Councils made up of five, seven, or nine members. The Charter Commission rejected the seven and nine member alternatives for the following reasons:

All of the past and present Committeemen interviewed felt that five was an adequate number to perform the duties necessary of a governing body in our type of municipality. Some expressed the opinion that a larger membership would lead to longer meetings and more discussion without any great improvement in the services rendered.

Under the recommended form of government, the Council will be a planning and policy-making group, and they will not be required to spend time on the day-to-day operation of the Township affairs. For this type of responsibility, there seems to be no need to increase the size of the Council above five members.

Partisan Elections. The question of whether to recommend partisan or non-partisan elections was one of the most difficult problems faced by the Charter Commission. After considerable study and debate, the Commission concluded that it would recommend against the partisan form of election for the following reasons:

Under the present system a voter must disclose party affiliation in order to cast a meaningful vote since, for all practical purposes, the elections are decided at the primaries. Those who choose to vote in the primaries must adhere to a single party. Thus, a Democrat who wished to express a preference for a Presidential candidate in the most recent primary was barred from expressing a choice on the three candidates running for the Township Committee. This is a form of de facto disenfranchisement.

The Charter Commission, as well as many of those interviewed, felt that party politics serve no useful purpose at the local level, especially in a community with a population as homogeneous as that of Millburn. The issues concerning our Township are matters which involve budgets, facilities, future plans and the like. None of these are concerned with national, state or county politics, and it is our view that it is a mistake, therefore, to tie our Township elections to these broader political organizations.

Under our present system the voters of Millburn Township have little choice in the selection of members of the Township Committee. At present, nomination by the Republican Party is tantamount to election. This means that Democrats and independents have virtually no opportunity to serve or to be represented by someone of similar persuasion unless the elections were changed to a ward system or some form of proportional representation. The Charter Commission rejects both of these alternatives because it feels that a better way to accomplish the same result would be to offer the voter the opportunity to vote for a Town Council through non-partisan elections.

Closely allied to the preceding argument is the belief of the Charter Commission that some highly qualified people in our community do not seek candidacy for the Township Committee simply because they do not wish to identify themselves with a political party just to run for local office. This, of course, cannot be proven without some type of confidential survey which the Charter Commission was not equipped to perform. Certainly it is reasonable to assume that there are Democrats in our Township who would be well qualified to serve, but who would not wish to face the choice of running as a Democrat with defeat certain or switching to the Republican Party to run for an office that is purely local. There undoubtedly are other well-qualified citizens who do not present themselves for consideration because they do not wish to become involved with the political party organization.

Non-partisan elections have been criticized as being faulty in several respects. The Charter Commission examined each of these alleged faults and concluded that none can be substantiated by the facts.

- a. The criticism that the number of candidates running for office is too low.

Our research showed that, for five council-manager communities which held non-partisan elections from 1955 through May 1972, the general pattern seems to be for a relatively large ratio of candidates to seats in the first election, with the ratio then declining somewhat. Franklin Township is an exception:

	First Election			All Elections			
	Seats	Candidates	Ratio	Number of Elections	Total Seats	Total Candidates	Ratio
Cedar Grove	5	12	2.40	7	20	47	2.35
Newton	5	11	2.20	8	22	44	2.00
Sparta	5	12	2.40	6	17	35	2.06
Franklin	9	13	1.44	7	36	84	2.33
Ocean Twp.	5	15	3.00	2	10	25	2.50
		Median	2.40				2.33

- b. The criticism that run-off elections are often necessary in non-partisan elections because of too large a number of candidates.

Here we found that the pattern of run-off elections varies from community to community. In the five municipalities for which we have data, run-offs were required on 11 occasions out of 29 elections checked, for a 38% average. However, six of these 11 run-offs were in Franklin Township, and three of them involved only one or two wards, rather than the full township. The experience in the other four communities, all of which have at-large elections, shows a much smaller incidence of run-offs.

	Number of Elections	Number of Run-Offs	Percentage of Run-Off Elections
Cedar Grove	8	2	25%
Newton	6	1	17
Sparta	6	1	17
Franklin	7	6*	86
Ocean Twp.	2	1	50
		Median	25%

*3 were in wards, rather than full township.

c. The criticism that voter turnout for non-partisan elections is low.

Our analysis showed that voter turnout varies widely from community to community and from election to election, depending upon the intensity of the campaign. In comparing non-partisan voter turnout with general election turnout, the nature of the general election becomes important. Large turnouts occur in gubernatorial years, lower turnouts when the top of the ticket is a congressional candidate, and the lowest turnout when the State legislative candidates lead the ticket. Shown below is the average turnout for each community, both in non-partisan elections and, as measured by the vote for Congress or the General Assembly, in the general elections from 1960 through 1967 inclusive - a double cycle of general elections.

	Non-Partisan Elections				General Elections			
	Number of Elections	Per Cent Turnout			Pres. Years 60-64	Gov. Years 61-65	Cong. Years 62-66	Leg. Years 63-67
		High	Low	Median				
Cedar Grove	7	63%	40%	46%	97%	76%	69%	64%
Newton	7	50	17	42	95	80	72	65
Sparta	6	52	13	39	98	73	64	56
Franklin	7	59	37	47	89	66	65	59
Ocean Twp.	2	72	70	71	96	79	76	67
State Average					90%	73%	70%	67%

Most significant, in our opinion, was the fact that the number of Millburn voters who went to the polls in the last school board election was greater than the number who voted in the Republican primary in the spring of 1972. This tends to prove that the size of the vote in a non-partisan election need not be small or insignificant.

Finally, we found that many voters in general elections tend to ignore the candidates for local office. For example, in the 1970 general election 8,688 Millburn residents cast ballots, but only 80% of them voted for local candidates. Partisan elections of national interest produce large turnouts, but local issues may, in fact, be obscured.

We find these four arguments in favor of non-partisan elections and the dismissal of three criticisms against non-partisan elections to be compelling evidence in favor of recommending a plan of government based on May elections over one which is tied to the partisan general election in November.

PART V

THE RECOMMENDATION FOR CHANGE

The recommendation of the Charter Commission is for a change to the optional form of government set forth in Article 10 of the Optional Municipal Charter Law (New Jersey Statute 40:69A-99), known as "Council-Manager Plan B." This Plan in many respects is similar to our present form of government. However, it establishes a clear division of the administrative and legislative functions of government and provides for a qualified Manager to administer the activities of the Township. Employees of Millburn who have tenure in office or Civil Service status are protected in their jobs by the Charter Law. The enabling statutory provisions are set forth in the Appendix to this report. An explanation and an analysis of the Plan with some comparison with our present form follows:

THE COUNCIL

Composition of the Council. The Council is comprised of five members selected from the Township at large for terms of four years. The terms of office of the members overlap with elections every other year to select either three or two members of the Council (except for the first election, when all five seats would be filled).

Responsibilities. The Council is the governing body of the municipality with the responsibility to determine and implement municipal policy. It establishes the framework of government by continuing existing municipal departments, realigning departments, or creating new departments as it deems appropriate. It has the power and responsibility to create commissions and advisory committees and to provide for the manner in which these commissions and committees are formed. It reviews the budget prepared by the Manager and, upon approval, adopts the budget and levies the necessary taxes. Finally, it has the right to appoint and remove the Manager, with the obvious corollary of supervising or overseeing him in the performance of his duties as Manager. However, the Council is specifically prohibited from dealing with administrative officials and employees of the Township except through the Manager.

Selection of Mayor. The Council selects one of its members to act as Mayor of the municipality. The Mayor presides at all meetings of the Council and executes all written obligations on behalf of the municipality.

Elections. Elections of candidates for the Council under this form of government are conducted in a municipal election held on the second Tuesday in May. The election is conducted on a politically non-partisan basis. After the first election no runoff election is required under this Plan if one candidate receives a majority of the votes cast. In the event that no candidate receives a majority of the votes cast in an election, then a runoff election would be necessitated among those who obtained the most votes in the original election. The number of candidates in a runoff is limited to twice the number of vacancies on the Council.

THE MANAGER

Appointment and Removal. The Manager is selected by the members of the Council to hold office for an indefinite term and, thus, serves at the will of the Council. He may be suspended by the Council at any time, and may be removed by a majority vote of the Council upon thirty day's notice, but has the right to a public hearing if he requests one.

Administrative Function. The Manager is the chief administrative and executive official of the municipality. He has the authority to appoint and remove all department heads and other subordinates within the administrative framework of the municipality and the provisions of Civil Service. It is his obligation to carry into effect all the laws and the ordinances of the municipality and to recommend to the Council any such measures as he believes necessary or expedient. The Manager by specific statutory provision must prepare the municipal budget on the basis of information submitted to him by department heads. He is required to hold public hearings on the requests of the various departments. Thereafter he is required to submit the budget to the Council for approval and adoption by it.

Relation to Council. The Manager is required to attend meetings of the Council and may participate in discussions, but is not entitled to vote. In addition he performs such other duties as may be assigned to him by the Council.

Relation to Public. On a day-to-day basis, the Manager is the person to whom the public may look and upon whom they may call for problems relating to the operations of the municipality. At least once a year, the Manager must make a report of his work to the Council and to the public.

OTHER PROVISIONS OF THE OPTIONAL MUNICIPAL CHARTER LAW

The Faulkner Act contains certain provisions common to all of the optional forms of government. Our study indicates sparing use of these features.

Recall. Upon petition of the voters in the community, an elected official who has served at least one year may be removed for cause connected with his office by a majority of those voting on the question of removal.

Initiative. Upon petition, the voters of the community may propose any ordinance and may adopt or reject the ordinance at the polls.

Referendum. The voters have the power to approve or reject any ordinance submitted to them by the Council. In addition, the voters by a timely petition may require certain ordinances to be submitted to the public for approval before they become operative.

A SPECIAL CONCERN OF THIS COMMISSION

Two subjects which have risen in public discussion and in our deliberations have been the expense of hiring a manager and the fact that some communities have experienced frequent changes of managers.

The concept of a professionally trained executive charged with the responsibility of acting as the administrative head of the municipal government has appeal. The appeal is understandably lost if the position cannot be filled on a reasonably permanent basis and at a realistic cost.

Not every community is sufficiently mature from the political and growth standpoint to function with a Manager. Many communities with limited budgets have hired a Manager only to have him move on to a higher paying community. Other communities have approached the hiring of a Manager in a haphazard manner, so that their selection was inappropriate from the time of hiring. Several New Jersey communities that are volatile from a political standpoint have had poor success because the position of Manager became a political issue.

We have been advised by our consultant that Millburn is a desirable career opportunity for a Manager. We have sought the opinion of a company which assists in the hiring of Managers. This company has turned down engagements to do a "search" where it believes the community is politically volatile or otherwise not ready for a Manager. That company has also indicated that our community presents an excellent career opportunity.

In short, we have concluded that this community could expect to attract and retain as Manager individuals possessing the highest professional qualifications for the job. While we should expect to pay such an individual \$25,000 to \$30,000, the incremental cost in an annual budget of \$6,000,000 is relatively minor, and could be recovered in economies amounting to one-half of 1% of the monies now being spent.

PART VI

TRANSITION TO COUNCIL-MANAGER PLAN B

If the voters of Millburn Township approve the change to the form of government recommended by this Commission, the timetable for elections and details of succession in government are specifically contained in the Optional Municipal Charter Law set forth in the Appendix. A summary of these provisions, as well as certain recommendations of the Commission with respect to transition, follow:

Elections. Election of the five member Council would take place on May 8, 1973. If fewer than two candidates receive a majority of the votes cast, a runoff election would be held on June 12, 1973. The system of staggered terms would be made operative by limiting the term of three members of the initial Council to a two-year period.

Plan Becomes Effective. The optional plan would take effect on Sunday, July 1, 1973, at twelve o'clock noon, at which time the Township Committee form of government would be superseded.

Township Employees Not Affected. Since Millburn Township presently operates under statutory provisions relating to Civil Service, those employees who have acquired Civil Service status are entitled to tenure protection. In addition, any officer of the Township protected by tenure of office must be continued. Since our present Township Clerk has acquired tenure of office, he would become the first Municipal Clerk under the Council-Manager plan.

Elective and Appointive Offices Abolished. The terms of office of all elected and appointed Township officials (with the exception of the library trustees) terminate when the optional plan takes effect. Our courts have interpreted this as disclosing the intent of the Legislature to give the newly-formed government the widest possible authority unhampered by a variety of holdover boards and departments.

Existing Ordinances. All existing ordinances and resolutions of the Township would remain in full force and effect until modified or repealed, provided they are not inconsistent with the provisions of the Council-Manager Plan.

Stopgap Provisions. The new Council would have 53 days (18 days if a runoff were necessary) between their election and taking office. Since the time period may be too short to completely formulate all their organizational plans, the Council after taking office is authorized to adopt temporary measures by resolution for a period not to exceed 30 days.

RECOMMENDATIONS FOR TRANSITION

The following recommendations regarding the transition to the Council-Manager form of government are advisory only and have no binding effect. They do, however, reflect the feelings of the Commission with respect to attitudes and approaches to the transition.

It is our recommendation and hope that the Township Committee will undertake positive leadership in the process of finding a Manager. Since the Council itself is the only body that can legally hire a Manager, the ultimate decision, of necessity, rests with that group. Some communities have endeavored to lay the groundwork for the selection of a Manager, however, by the formation of a non-partisan committee for that purpose. In other instances, the selection process was started by the group of candidates for Council. Subsequent to the election, the group was reduced to those still in contention or definitely elected. Based on the spirit of cooperation that exists in our community, this Commission feels that substantial progress could be made towards the selection of the Manager prior to the swearing in of the new Council.

We also believe it would be desirable to have the individual who is to assume the position of Manager available for consultation when the Council undertakes the task of formulating an Administrative Code which would establish the

departmental organization of the Township government, define the duties of all officials, and establish regular operating procedures. Accordingly, we recommend that some effort be made to work with the prospective Manager toward this end including, if necessary, placing him on the payroll in some administrative capacity prior to his officially assuming his duties as Manager.

CONCLUSIONS OF THE COMMISSION

The decision of the Charter Commission to recommend a change in the form of government was reached only after we had considered that recommendations to improve the present form of government would not ensure those changes we believe are necessary. We have concluded that a change in form is the only sound way to improve the structure of our government.

We are aware of the recommendations made by a Joint Committee of Civic Associations in their report of March, 1956 following a study of our local government. That report expressed concern for the amount of detail involved in the performance of duties as a Township Committeeman and the difficulty in obtaining capable men to run for office because of their inability or unwillingness to assume such a workload. This 1956 report urged the Township Committee to take prompt action to rid themselves of detailed administrative duties and recommended, among other things, the creation of a new administrative post and a realignment and clarification of departmental responsibility. Since the passage of sixteen years has brought about no lessening in the problems of our government, we believe it would be unproductive to merely repeat those recommendations. We have concluded that only a change in form mandated by the voters will accomplish the needed improvements.

We have pointed out in Part II of this report some areas that will require cooperation with other branches of government and with other communities. Since we do not foresee that the need for cooperation will diminish in the future, we believe that the day-to-day administration of our municipal government will become more complex. The need for a full-time, professional Manager who, by training and background, has acquired expertise in the field of government will become even greater. The complex problems of dealing with adjoining municipalities and the county government, as well as the state and federal government, will require more than a dedicated, civic-minded but part-time Township Committeeman can afford to give.

The form of government which this Commission recommends provides for a clear separation of the administrative and legislative functions of government. Our elected officials will be freed from the responsibility and burden of administration. We believe that their ability to concentrate on overall policy for the present and future will be substantially enhanced and the citizens of the community will be assured that the talents of their elected officials will be put to better use. We also believe that the position as a member of the Council will attract a greater number of capable candidates.

We conclude that the benefits that the Township will derive from a change in the form of government will outweigh any problems that might be connected with a transition to a new form of government. The employees of our Township are protected in their jobs so that the day-to-day mechanics of government should proceed without interruption. While the Manager has authority over department heads and their subordinates, it is difficult for us to conceive that the elected representatives of this community would hire a Manager who would approach his new assignment with a heavy hand and immediately embark on a shuffling of personnel.

We are likewise of the opinion that the new Council will not undertake radical changes in the composition or duties of appointive boards. The Council may well change the form in which these groups operate, but the experience of other communities indicates that the services of the individuals on these commissions and boards are frequently continued.

We have concluded that the advantages to our community, both present and future, of undertaking a change in the form of government will substantially outweigh any difficulties which might be encountered in transition and that the results will more than justify the effort and costs involved in this transition.