

**MINUTES OF A COUNCIL CAUCUS**  
**Tuesday, July 6, 2010 at 8:00 p.m.**  
**Mayfield Village Civic Hall**  
**Mayfield Village Civic Center**

The Council of Mayfield Village met in Caucus Session on Tuesday, July 6, 2010 immediately following the Special Meeting of Council. Council President Bill Buckholtz presided, calling the meeting to order at 8:11 p.m.

ROLL CALL: Present: Mr. Buckholtz, Mr. Marquardt, Mr. Marrie,  
Mrs. Mills, Dr. Parker and Mrs. Cinco

Absent: Mr. Saponaro

Also Present: Mayor Rinker, Mr. Wynne, Mr. Diemert, Chief Dearden,  
Mr. Metzung, Chief Mohr, Mr. Thomas, Mr. Dinardo,  
Mr. Esborn, Mrs. Kalina and Mrs. Betsa

**IN COMMITTEE (STATUS)**

. **Safety and Service Committee**

Mrs. Cinco reported that Safety and Service met this evening. Both items were taken care of during the Special Meeting of Council which took place prior to this meeting.

**BUILDING DEPARTMENT**

. **Carpeting Replacement in Civic Center Main Foyer**

Council President Buckholtz asked if there was any discussion. There was none. This item will be forwarded to Finance for their consideration.

**MAYOR**

Mayor Rinker stated, that hopefully everyone was able to make the July 4<sup>th</sup> Celebration on July 3<sup>rd</sup>. We had a ton of people. The fireworks were great. The weather was great. It was great all the way around. We received a lot of good feedback already.

Mayor Rinker continued with additional good news. QED received a \$1 million grant for Third Frontier Dollars. So did Phillips in Highland Heights. Both were received for MRI work. Case Western Reserve and QED have partnered with us over the last several years in biotech business.

It's nice to see. The same night that that was announced, Dr. Fujita received the Ernst & Young Entrepreneur of the Year Award in the technology field. There were five finalists. One of the other finalists was Mayfran. There were four in all, so two out of four were Mayfield Village businesses. It is clear that at least this administration in Columbus is pegging the vote in November on promoting these bio-enterprise and Third Frontier initiatives. Cuyahoga County is doing pretty well. It's nice to be part of that gravy train.

## **FINANCE**

### **. Annual Allocation to Mayfield City Schools (\$100,000)**

Mr. Wynne reported at the last meeting this expenditure was on the agenda for consideration by Council. It is the final payment to the Mayfield City Schools of the money due as a result of a tax abatement we had given Progressive with Campus I. We decided to defer this item because they had not provided us with a report of what those funds are used for to be in compliance with the agreement. That report has now been provided to us and was copied in Council packets.

### **. Renewal of General Obligation Notes**

Mr. Wynne reported that these Notes are renewed on an annual basis. They are currently at \$3,600,000. They mature on September 2<sup>nd</sup>. Historically we have paid down \$100,000 on these Notes each year. We will be paying down \$200,000 this year so they will be renewing at \$3,400,000 and then going forward and based upon the increase in tax revenue and budget projections, we will be paying \$300,000 a year down on these Notes.

Council President Buckholtz stated these items can be sent to Finance.

## **POLICE DEPARTMENT**

Chief Dearden reported that the building continues to be on schedule and within budget. Everything is moving well.

## **FIRE DEPARTMENT**

Chief Mohr stated, the Mayor mentioned that the fireworks went off without a hitch. He agrees. It was a tremendous show.

Mayor Rinker added, Fire is kind of in the catbird seat. It's like being on the infield at a stadium. They can hear the cheering all the way around Beta.

**SERVICE DEPARTMENT**

. **Wiley Park 319 Grant**

Mr. Metzger put this back on the agenda to see if there are any more questions since Council should have received the additional information.

Council President Buckholtz asked if there were any questions on this item. There were none.

. **Street Striping 2010**

This item was taken care of during the Special Meeting of Council. We will be going out to bid.

**PLANNING DEPARTMENT**

. **Demolition of the Parsonage – 6602 Wilson Mills Road (Midtown Remodeling & Demolition - \$7,200.00)**

Mr. Esborn reported that he and Dave Hartt have been looking at long-term planning for Town Center. They have put together a couple different alternatives, but in the short intermediate term, they are looking at a greenspace plan that ties together both sides of Wilson Mills. The demolition of the parsonage is part of that. They have been consulting with the Service and Building Departments on that.

Mr. Esborn reported that we have received our \$50,000 grant from NOPEC, the Powering Our Communities Grant for solar panels for the police station. We got our grant award packet. Mr. Esborn is working with the Law Department on the Grant Agreement. We are trying to have it before Council at the end of this month.

Finally, the Mayor mentioned that Cuyahoga County has been involved in what we have done on Beta Drive. As of this week we received our final payment of \$75,000 which is part of the Innovation Zone Grant. This completes the County's investment in Beta Drive. We spent a total of \$170,000. We are moving forward with the fiber ring projects.

Council President Buckholtz asked if there were any questions or comments. There were none.

**PARKS & RECREATION**

. **Facility charge for Sports-N-More Camp (Mayfield City Schools - \$3,000.00)**

Mr. Thomas stated he is going to hold off on paying this. He wants to see where he stands financially with Sports-N-More. The schools have already worked with him on another camp that we did for lacrosse. They helped us out. At this point he has it down on the agenda, but he is not going to work on it right now.

Council President Buckholtz asked, so we don't need it on Finance? Mr. Thomas replied, at this point no. They are not really pushing us. He told the Business Manager he would like to see where he stands. We are down a little bit in enrollment. He based his budget on 150 campers. We are doing okay. He actually thinks we are going to make some money, but he still has to see the final expenditure amount.

Also, Mr. Thomas stated, it is amazing what a difference a year makes. If you recall, last year at this time they had the coldest rainiest July in the history of Mayfield Village. We are really doing well attendance-wise because the month of July has been totally different than what it was last year with ninety degree temperatures. It seems to be a very promising summer.

## **LAW DIRECTOR**

### **. Charter Review Commission Legislation**

Mr. Diemert refreshed Council's memory on the Charter. There is a provision that requires that the Charter be revisited every 5 years by a Commission appointed by the Administration and Council. That Commission goes through and looks at our Charter, making sure that it represents today's standards and needs for our community and that antiquated things are taken away and new things put in that are needed.

Since your original Charter in the '60's, it's been amended every 5 years thereafter. Sometimes you can amend it as well in between the Charter Review Commissions by Council itself putting an issue on the ballot. As you know, only the voters can change your Charter. Thus, whatever the Charter Review Commission recommends or whatever this Council chooses to put in the way of an amendment on the Charter, only the people of Mayfield Village can amend your Charter which is your Constitution.

The requirements are pretty specific in the Ohio Constitution as well as your Charter that you have to do certain things. Once the Commission got together in February they had 5 months within which to make their recommendations. They diligently invited every department, members of Council, every Commission, to come forward and give whatever their recommendations were on the day-to-day operations of the Charter in their department.

The Commission itself very diligently went through page by page, word by word, every sentence in the Charter, to determine whether or not it made sense, whether or not it needed changes, whether or not it could be clarified. Eventually in May they came up with what they thought were 7 basic recommendations that they felt could be done to our Charter to make it more relevant, more current, and clearer.

The General Election is November 2<sup>nd</sup>. That's when it will go on the ballot, whatever recommendations this Council chooses to accept and pass on. The deadline for getting it to the Board of Elections is 60 days before that, or September 3<sup>rd</sup>. That's the last day on which we can get the recommendations to the Board of Elections. They cannot go to the Board of Elections

without Council adopting the ordinance forwarding these questions to our voters by ordinance form which Mr. Diemert has drafted and given to you to pass on and consider.

Thirty days before the election, or on or about October 1<sup>st</sup>, there has to be a full copy of every recommendation that is going to be on the ballot sent to the residents.

Two publications have to occur in a local newspaper more than 15 days before the election. We are recommending in the local papers October 4<sup>th</sup> and October 11<sup>th</sup> the advertisement as to the changes that are being proposed and that will be on the ballot.

That's the timeline for going forward. The Charter itself has many things in it that are confusing but have to be that way, but there are others that maybe don't need to be that confusing. The final recommendations that the Charter Review Commission came to Council with have been reviewed by the Law Department. Some were advised not to go forward because the changes wouldn't be appropriate or constitutional for that matter, but most of their recommendations with our help have been clarified to the point where we can safely say they are okay for your voters to accept and for your administration to enforce after the voters adopt them if they do. Mr. Diemert will go through each of them just generally.

The first amendment is mainly gender and grammar changes. There are a multiplicity of "he" "she" type of things throughout the Charter that could be corrected by just a general question to the voters - Is it okay to amend the Charter to make it gender-neutral and that way we can go through and change all the "he's" and "she's" and "fireman" and "policeman" to gender neutral type of words? There were some grammatical mistakes, nothing of substance in this particular amendment. It's just either grammar or actual gender changes that are going to be included in it. They did ask that in this section we somehow include a definition of "qualified elector" and "municipality" which they thought needed some clarification so you will see in the Ordinance that there are some changes to define better what a qualified elector is and what municipality means.

The second amendment is Council vacancy. This is a more dramatic recommendation but not an unfair one. In your Charter now there is a complicated process. After an election if someone were to resign or move out of the Village and a vacancy occurs in their Council seat within the first two years, Council would appoint within 30 days and if they don't then the Mayor appoints and then we have a mid-term election at the two-year mark for somebody to be elected for the balance of the two years. In the appointment process it suggests that the person to be put in the spot would be the last election nominees, whoever ran for the office and got the next highest number of votes would take that seat. The Commission felt as though these should be changed number one to merely have Council make the decision rather than be mandating the appointment of someone who ran and was rejected by the voters.

Mr. Diemert has seen these cleaned up in other communities for the reason that at one point someone who ran for an office and was a perpetual candidate was very much disliked by the voters but the Charter required them to be put in the job because the guy quit or died within the first year of his taking office. You probably can avoid those kinds of circumstances by just leaving those who were elected the responsibility of appointing the successor to the vacancy and

not have any mid-year election because that seems to be a waste of money to have another election two years later just because a vacancy occurs. It maybe takes less out of the hands of the voters but rationally it is giving the voters who they did elect the opportunity to make the decision as to who should be the successor to a vacant seat.

The third amendment was the referendum zoning. As you know for a couple decades you had referendum zoning which means the voters have to approve rezoning and things material to your zoning code. That came about as a general consensus throughout the country where referendum zoning was being adopted in many communities just as voter reaction to grab control of the reins for changing of zoning. Your community did it probably as a result of some of the height changes at the first Progressive building where the neighborhoods got upset and vigilantly went about making it so that they have to approve every zoning change in the future.

Those times have passed. Most communities are finding referendum zoning to be cumbersome. The voters are not educated as to what's best for the community in the way of zoning, commercial base or tax base. They are not familiar with the most advanced techniques of building and zoning issues so it's thought that it's better to let the voters wield their wrath on those who make those decisions incorrectly in the future rather than letting them make on a case-by-case basis a decision on every zoning question. Particularly now when you have the inspiration to try and develop your undeveloped unleased areas in Beta and certain parts of the community it's probably not a bad idea to help institute your 2020 Vision with your control rather than the voters who may not be familiar with what those goals are.

Those were their recommendations to take away the referendum zoning as it is. However, we did put something in there to kind of ease it a little bit. We clarified the number of Council members needed for a successful vote to rezone. Mr. Diemert took the sentence out and instead made the Ordinance adopted by Council binding unless it is referred to the voters by Council. The option is there that if Council in its sole discretion feels as though this is a hot topic and it should be decided by the voters and it's something that the voters can be capable of understanding and making the decision on, Council can make that decision to refer it to the ballot box and let the voters decide that way. That seemed to be a good compromise where we are not totally taking away referendum but now making it optional for Council.

Amendment number 4, the Mayor's absence from the community - Again this is something that really isn't an issue but given the times and how they've changed with cellphones and faxes and e-mailing, it just didn't make sense to use the language that you had in your Charter which basically said that any time the Mayor is absent from the Village or unable to perform his duties, then the President of Council takes over as Mayor. If your Mayor happened to work in the City of Cleveland, technically according to your Charter he's absent from the Village and you have to have somebody else do it. Your President of Council also is absent from the Village so you can see where the words just didn't make sense. We changed it to merely say that the Mayor has to be unable to perform his duties and that would be the determining factor as to a succession of power. So, only when the Mayor is unable to perform the duties of his office, Council can always make that decision by a majority vote if the Mayor is gone and didn't declare himself absent or unable to perform his duties, Council can make that decision under this language. It's more workable under today's common sense approach in communications between everyone.

Amendment number 5 - the Commission requested clarification of Article VII, Section 5 relating to what Ordinances will be subject to referendum vote. There were a number of things in there that were eliminated from the ability for folks to do a referendum on. We just clarified that language and made it much more simple, taking away all the confusing language.

Initiative petitions and referendums are two different animals. If folks want to do a referendum petition for instance, we used the example of the police station. We have had dozens of Ordinances relating to the construction of the police station and if someone were to come along now when you just wanted to make the amendment for the solar panels or for other things and they did a referendum on it, the job's already under construction and halfway through, you don't want people to do referendum on subsequent ordinances. So we clarified that only the first Ordinance on a capital improvement or a public improvement is the only one that can be subject to referendum. If the referendum doesn't take place, then it just isn't going to be able to take place later on. The reason being you have got contracts already, you have got expenditures of monies already. It just clarifies that and makes it more common sense.

That's it in a nutshell. Mr. Diemert touched on these very briefly, so there may be a lot more questions. We do have a very thick file of their Minutes. There was a lot of discussions and debate. The Chairman is here tonight to answer any questions as well.

Council President Buckholtz opened the floor for discussion and questions on the individual items.

On the topic of referendum zoning, Mr. Marquardt would think that keeping with the 2020 objective of a residential character in the community that residential zoning should remain under referendum zoning as a minimum on this proposal.

Mr. Caticchio asked Mr. Marquardt to repeat his comment.

Mr. Marquardt stated, in keeping with the 2020 objective of keeping the residential character of the community, he should think that the proposal would specify that residential zoning remain under referendum in this proposal. You are saying that all zoning classes are being taken from referendum zoning. Mr. Marquardt would think that the residential zoning should remain under referendum in keeping with the objective of maintaining a residential character in the community.

Mr. Caticchio is trying to think of a case where someone would want to change something into residential.

Mr. Marquardt clarified, out of residential into commercial is probably more likely.

Mr. Caticchio stated, if someone comes in here and requests that their residential land be rezoned to commercial.

Mr. Marquardt thinks there are a number of instances where that might occur.

Mr. Caticchio stated that is one of the reasons we left with Council the right to send it to the voters.

Mr. Diemert clarified, or turn it down. They can turn it down too.

Mr. Marquardt stated it's more easily challenged under the proposal that you make.

Mr. Caticchio asked, is it more easily challenged?

Mr. Marquardt replied, yes, he believes so. If it is mandated in the Charter that it must be referendum, it's much less likely to be challenged.

Mr. Caticchio is not so sure that that's true.

Mr. Marquardt asked, that was the objective of why you wanted to change it from referendum zoning in the first place, wasn't it?

Mr. Jochum replied, no. We have been talking about referendum zoning and maybe why it might better work if Council had the ability to change zoning rather than sending every issue to the voters for referendum. We looked at it, the biggest example is Beta, and what needs to be done there. With Pat's experience in development and other people on the Committee that understand when a developer sees that a community has referendum zoning they may look for another community before they decide to do something here.

Mr. Marquardt stated, that's his point about referendum zoning or residential.

Dr. Parker stated, exactly. Beta Drive is the right example to use here because it's not residential. He's not going to talk about the outskirts where the homes are there, but a lot of it is zoned a certain type of commercial and if you want to change it, we may need to go into a referendum, correct? To a different type of zoning.

Mr. Jochum stated, under our current Charter, it's referendum.

Dr. Parker stated, Bill's comment is if something's going from some form of commercial to a different form of commercial, office or laboratory or whatever, that's different than a residential going to a commercial. Perhaps this change is too encompassing. Maybe there should be still some limitations on what residential can be done as opposed to how we change commercial zoning of different types.

Mr. Caticchio stated, you have two avenues to stop them. The first avenue is that they have to come into Council for rezoning from residential to commercial. Council turns it down, going through the Planning and Zoning routine, et cetera. The second one is that now you can send, if you really feel that the public should have a vote on it, then you will vote to send the rezoning to the voters.

Dr. Parker stated, the problem isn't when the Council turns it down or the Council sends it for referendum voting, the problem is when Council decides perhaps and obviously they can stand up to the voters at the next election perhaps if they make the wrong mistake, but the problem is when Council makes the decision that maybe wouldn't be in most residential people's ideas as the right way to go. This has some kind of containment for that. That's been the problem in the past where people have not been happy with how the Council or government has made decisions and changes in zoning and perhaps the people then had to live with it and maybe they voted those people out of office subsequently but you can't go backwards then. This provides for some form of a stop gap. Those things in the past is the reason why we have referendum voting so they don't happen again.

Mr. Jochum's arguments were based on the fact that he thinks that it's necessary to move things forward in the community. How best to do that but the process?

Mr. Marquardt asked, did you look at all zoning classes though when you were considering this? It sounds like you looked at Beta, but did you consider residential specifically?

Mr. Jochum replied, we looked at all of them in general. He does not think we had any discussions about residential. Right now everything goes to referendum.

Mr. Marquardt is not arguing completely against it. He's saying that he believes it would be more effective if you left the residential zoning under referendum as a safeguard for those properties we might not want to see go commercial under any circumstance.

Mr. Jochum replied, we would have to defer to Joe to find out if Joe thought that this situation would make us any more liable. He does not know that the evidence would support that.

Mr. Diemert replied, you could go partial. You could do it just for commercial properties, eliminate the referendum, but it still doesn't take away the other issues that maybe zoning even in the residential areas may want to be modified in the future without taking six months to a year process. That's really what the Commission was saying, that this is a laborious process and if the Council decides they want to make a zoning change, it shouldn't have to take six months to a year and an election but the Planning Commission hearings, their recommendations and Council public hearings, notifications are pretty abundant otherwise as well.

Mr. Jochum's feeling is that as a resident, he has to have trust in those he has elected and those that are sitting on Council. They are going to look at the situation and make the decision of what's best for the community. As a resident, he does not have any problem at all with giving that power to those he has elected to make the decision. Hopefully it will move the community forward. He understands that there are people on that Council that may not want that responsibility, but if they don't want the responsibility, maybe they shouldn't sit in the chair.

Mr. Marquardt stated he thinks you are reading something into it that was not part of his intention.

Mr. Jochum is saying that there are some people that prefer the voters to have that decision because they don't want to make the decision.

Mr. Marquardt stated, he's only making one point, that you have an objective in the 2020 Vision to keep the residential character of the Village. It would seem in keeping with that that you retain the referendum zoning on residential property. In your Minutes, you discussed the fact that it was more difficult for developers to go after and they would avoid going after changes because they know that it has to go through referendum. That's a very appropriate thing to be doing for residential properties. There are some in this Village, residential properties, that would be very vulnerable to developers wanting to go after and trying to make their case that it's best use. This would protect those residential properties.

Mr. Caticchio does not see how it would protect it any more than your ability to send it to them whether they did it upfront or they did it towards the end, what's the difference? He sees no difference. Speaking from personal experience with zoning issues that have come up, in most Villages, cities, etc. the zoning laws are totally bizarre. He says that from real experience. The City of Solon is an excellent example of that. This is a much more consistent way of doing things. The Council has the right to change it if they want to. If they don't want to, they send it back to the people.

Mr. Diemert stated, or turn it down.

Mr. Caticchio feels the same way as Eric does that we should have faith in our Councilpeople, the people that rule the city. He would frankly say that in some matters where the citizens vote it usually is a bad situation. Members of Council have the Planning Commission which reviews the entire zoning issues. Then it comes to the Council. That's the way it should be. In our discussions with Joe he thought, and it was the best idea, that we should give you the option to send it back to the voters if they wanted to. But you have to be consistent. When someone comes to the Village and wants to rezone a residential piece of land they know what they have to do. They have to go through Planning Commission, they have to go through Council and then they know that if Council wants to give it to the people, they can. It's all there. He does not see that it would have more force or more effect if in fact it's in the zoning code. Eric can speak more on the 2020 issues because he's been involved with it for a long time, but Mr. Caticchio still says that the people just never get all of the information and all of the feel of zoning. You can't take an entire Village and educate the entire Village. That's impossible. Secondly, let's face it, people vote for what concerns them or they don't vote if it doesn't concern them at all.

Dr. Parker thinks the Village does have a great record of educating the people and having the desired effect of making them knowledgeable on a number of issues, even the last issue with the tax increase. That was a prime example. To say that the people of our community aren't knowledgeable enough or can't be made knowledgeable enough to make good decisions, he doesn't agree with that.

Mr. Marquardt added, if people truly do trust people on Council, if the proposal to change zoning was put in front of them and they believed what Council was proposing, they would make the change. It cuts both ways. The compromise would be to keep the residential under referendum.

Mr. Diemert stated one of the members during one of the meeting said, well this question itself to our intelligent voters is a decision for them to make whether they want to be bothered with zoning questions in the future so why don't we let them decide whether they want referendum zoning or not by adopting this. If our voters truly understand things, they'll look at this and say, well we do trust our Council and our administration. We haven't had any glaring problems, so let's get it off our back and it's their choice. They could vote no.

Mr. Caticchio stated, that was the position that we had taken that this is the way it should be written and then let the voters vote on it because that's why this is going to the voters. If they vote for it, fine.

Dr. Parker stated, but Bill's alternative allows Council to make important decisions in areas as in Beta Drive that need to be made on a quicker basis whereas if we restrict it away from residential it allows time for certain things to work themselves out. Sometimes time has a way of passing us by when we are making decisions. It gives the voters and the electorate a chance to really deal with these issues. In the case of something commercial, in a commercially-zoned classification where we want to change the zoning, that's great. We can make those decisions. We can make the other ones too. He's not saying we can't, but it allows for a layer of insulation for some major changes that could occur pending a change in the Council make-up or pending a decision of the Council make-up. We don't always agree on everything, but in general we have tried to work together, but this protects changes that may occur in Council over time where you won't have that type of decision-making.

Council President Buckholtz asked, Mr. Diemert stated that historically you have had it for a couple of decades or several decades?

Mr. Diemert replied, in 1984 you adopted the referendum zoning. You never had it before that. Council President Buckholtz asked, so there wasn't a referendum before that?

Mr. Diemert replied, no.

Mayor Rinker replied, that was before Progressive.

Council President Buckholtz would almost guess it was the urban sprawl or the reaction to maybe the development in Mayfield. He's just trying to cut through this with another moderate compromise.

Mayor Rinker thinks that was the time of the first *Weisberg* and *LaConte* cases in 1984.

Council President Buckholtz asked when that all started in Mayfield Heights with the Costco land.

Mayor Rinker replied, 1992.

Mr. Diemert stated in the late '70's, early '80's, Solon was making a lot of headlines with referendum zoning.

Mayor Rinker stated, they adopted theirs in 1988.

Mr. Diemert stated they required local precinct approval as well.

Mayor Rinker stated, they got a tail wagging the dog.

Mr. Jochum stated, we talked about this five years ago at Charter Review. We had long discussions then.

Mayor Rinker stated, Strongsville has residential-specific referendum zoning.

Council President Buckholtz asked what other communities are doing. With development grinding to a halt, we are all in agreement that with commercial, the time is here from our perspective, and again, let's keep this in the context of it's still the voters that get to decide this issue but in placing it out there nobody's arguing the commercial side. What's really the harm in the residential side?

Mr. Marquardt replied, it precludes people from going after them. As was discussed, if they know there's referendum zoning, they are not likely to go after zoning changes.

As a point of clarification, Mayor Rinker stated it may be true if Council were to suspend the rules on any vote, but his understanding is if Council were to go to three full reads before adopting such legislation, let's assume Council voted a zoning change, then that's subject to initiative petition under State law and our Charter would have to conform with that component. So if there were a referendum movement on a particular matter that Council voted, it could do so. Council would have to suspend its rules. It would need a two-thirds vote to suspend the rules in order to waive the three reads. Otherwise you go to three full readings and then you wait 30 days for that to be adopted and in that period of time an initiative petition could be circulated and presented for any legislation, whether its zoning or not. If there were an issue that voters really felt that Council was being squirrely, that would be it. Where it couldn't would be on a two-thirds vote. If you suspended the rules, that would be the way that Council truly could trump the voters but that would probably be pretty extreme. Regardless if it's residential or any kind.

Mr. Diemert stated, the Mayor's making a good point. For rezoning in here, he doesn't think you can suspend the rules so in effect what the Mayor's saying is Council can't suspend the rules therefore it can't pass as an emergency any rezoning. It would have to be subject to the voters' referendum. Referendum is when you want to overturn something Council passed, so within 30 days of you adopting a rezoning of residential land, the voters could circulate a petition. If they get enough signatures, it stops the implementation of the new Ordinance until there is a vote of the people. The voters still have a mechanism by which to challenge an Ordinance.

Mr. Marquardt stated, but the onus is on them. That's what he doesn't want to see. He doesn't think that's going to be effective.

Dr. Parker stated, there is a difference between letting this go to the vote in this format versus maybe massaging it and putting it in the format that Bill is proposing because one is more likely perhaps to pass. Maybe we don't want to see this go down. Maybe it would go down. Maybe we would rather see something that was a little bit more friendly to the voters pass as opposed to something that could end up being not so friendly once the people start hearing this.

Mayor Rinker stated when this came up the first time, he remembers his reaction was, you have to be crazy because it's so provocative. Part of the problem with our Charter Review process is it is time-driven. This time rather than take the full five months you tried to get it in a lot sooner in order to have more time for discussion for the very kinds of things that have been raised tonight. Mayor Rinker is suggesting two things tonight, one is Council and one the administration, we can do both. There should be some kind of a well-advertised public hearing so that the discussion and probably the pros and cons can be stated by whoever wants to address them much as they are tonight. The whole idea on getting this on the Caucus agenda was to make sure that Council got invested in this discussion earlier rather than later. Nobody likes to get painted into a corner or feel like they are getting sandbagged.

From the standpoint of administration, Mayor Rinker has talked about having a couple of Town Hall meetings on the budget, but given the deadline for September 3<sup>rd</sup>, we could have in addition to or we can choreograph a Town Hall meeting. If we give voters two opportunities to come to these, then Council can basically say we have certain legislation pending, this is what the Charter Review Commission has presented. Council either presents the same thing or suggests an amendment, get some kind of feedback and then you still have the opportunity, at some point Council can say we do want to make the change regardless and that's what we want to submit to the voters. It hits procedurally the concern of those that don't want to see this unamended. At the same time, it gives the people who want to see this go through more of a chance to have a voice about it. This is a Caucus meeting, but he is suggesting it's a way for us to educate our constituents in a functional way within the timeframe of what we have and yet still give Council the option of weighing in and whatever it refers to the Board of Elections have that opportunity to amend it. For point of process, it's something we ought to try to do, regardless of the merits.

Council President Buckholtz stated, that's an excellent suggestion. Bring the public in on this decision.

Mayor Rinker stated we will put this on the website. We are pointing out in the VOV that's there's information. We are cueing up people through the VOV to look on the website. We can take any number of suggestions and try to advertise it. The more people know what's coming down the pike, the less suspicious they are. At least once, maybe twice. If they don't show up, they don't show up. At least we can say we gave that option and then Council can make its final vote.

Mr. Marquardt suggested that in the limited amount of time if you don't provide one solution or one proposal, if there's a debate on it and people don't understand it, they are not going to vote

for it at all. He doesn't think you have enough time to make the case and then come together on a single solution with a large group. The group is too large.

Mayor Rinker doesn't think we are going to get a vote or a consensus. He doesn't disagree, on the other hand, he doesn't know of a better alternative given the time constraints that our Charter imposes on this process.

Mr. Marquardt realizes that. But you are going to have to come up with one solution to present to people. If you have a debate on the thing, your chances will go down.

Mayor Rinker disagreed. You are challenging people to get more engaged in it and try to understand the distinction. Articulating it is a challenge. He doesn't disagree with that.

Mr. Diemert asked, so the discussion at the meetings would be whether or not to put this question on the ballot?

Mayor Rinker replied, what goes to the ballot, what if, because that option remains with Council, but then also, assuming something is going to go forward, historically we have generally just been a pass-through, but it's not designed where Council has to be a pass-through. It's an opportunity to say what should or shouldn't go through to voters both in terms of the number of amendments and then the content of those amendments. For example, you would have an argument or some discussion about removing the referendum zoning regardless of zoning classification versus do it selectively and preserve the residential and require residential to be sacrosanct in a way. That's just his suggestion. It gives people a chance to weigh in on it.

Council President Buckholtz agrees a little more with Dr. Parker that we have proven that we can educate the public. We really can. People come out for issues that are important. Some people will come out for certain issues, for example the issue with gas wells. You were talking about when they don't like a decision a public official make, they will just get rid of the public official. We saw what happened with gas wells. People filled the room. If we would try to do a zoning change without a referendum vote that was dangerous to the character of the Village or unpopular, the room would fill up and we would have some discussion right here. You are bringing up some interesting things about shooting ourselves in the foot. What you did say about the voters and development slowing the process down and discouraging developers coming in, it's almost the same as, he's not saying we don't have a Town Hall meeting and we don't invite people to discuss it, but Bill's point of debating it in a public forum almost rocks the boat or potentially rocks the boat.

Mayor Rinker thinks if you think it is going to be notorious, you make it notorious.

Council President Buckholtz asked if we would have more time to discuss it than just tonight.

Mayor Rinker stated, you have a July Council meeting, an August Council meeting, he would assume you would have to have a special meeting to accommodate any further discussion with some kind of public forum, like a public hearing. Council could schedule its August meeting to be the public hearing portion. You would probably have to have a special meeting to get a third,

the opportunity subsequent to a public hearing to be able to get it to the Board of Elections by September 3<sup>rd</sup>.

Council President Buckholtz stated, without doing anything really radical, with the economy in general, that's why he is asking questions about our neighboring communities, nationally what is going on, things have ground to such a halt in so many areas. He's trying to understand, we are not going to turn into a Willoughby Hills or Mayfield Heights with the big box stores. That was always the big bad wolf or that SOM Center was going to become like Mayfield Road. We have proven something in the five to ten years that we have sat here. We have enlarged SOM Center and done all these things. All the horror stories didn't come true. You are saying things that are obviously rational in the sense of moderate change in a slow way and keeping a mandated protection of residential. He's not sure that still isn't discouraging some creative development that we are going to need. Describing how easy it is for us ourselves to block something from within here by needing the three reads and the two-thirds vote.

Mayor Rinker clarified, you wouldn't need a two-thirds, you would need a majority, but you would need it on three reads. He meant the two-thirds if you had suspension.

Council President Buckholtz continued, getting the word out to the public, encouraging them to come in here on anything that's the least bit, you know how one neighborhood doesn't come out when another neighborhood has an issue, such as gas wells, sewers, traffic problems. The nature of "until it's in your own backyard", you are not that concerned. The time to open ourselves to moving the plan along, just the drawing we had up on the board for so long that showed creating a little town within a town in Beta or the fringes of the Town Center where we may go to a couple of properties just on the outskirts of the Town Center. He's offering that because Steve and Bill brought up excellent points on our modification to it. He has read through these several times. He is wondering how long we had the legislation, you have answered that. He is wondering if it's not restrictive at this time or prohibitive of growth without keeping all the controls in play. You are doing a great job of explaining that all the control measures are still there.

From coming on Council right after that was passed, Mrs. Cinco stated it needs to be done now. You say we do a good job of informing the public. Okay, let's inform them and show them how those things are in place so that they can have some influence on the zoning.

Mrs. Mills stated, our history is a lot different than when that Ordinance was passed. Extremely different.

Mrs. Cinco agreed. We have to do something about that.

Mrs. Mills stated, Pat can speak to that. When she was on Planning and Zoning he was very frustrated most of the time when he would come before us.

Mrs. Cinco stated, that's her point.

Mr. Marrie stated, the Charter Review Commission really worked hard on this. If you read the notes, they spent an awful lot of time on this. The way they have got it written up does protect us, but for passage with the people with less confusion, the passage would be easier if it did have that residential exclusion. It would say exactly what you have except somewhere in there the wording would be all residential rezoning projects would have to be referendum. The public would understand that completely and feel protected. That way they know their homes are not affected but what we want to do is move along Beta and other things. They have got it in there where we are protected but there seems to be an uncertainty whether people would use it or try to push it. Still Council would have the first shot at it and they could say no right off the bat. That's not the idea of getting it passed though. If it's confusing, they are going to vote no. In all due respects with what you have written up, he agrees with it totally, but thinks the idea of having a residential exclusion in there would make it an easier pass as far as the vote.

Mr. Diemert is not quite sure what areas you have that are residential, but we as a Village own some of those. If you wanted to rezone it to park or institution or turn it into something like that, do you think that should be a voter decision and go through the ballot? Even near your Town Center are some of these homes that are still zoned residential that maybe would be better suited to commercial along SOM Center or Wilson Mills that if you get an opportunity for a good development you may lose it because you have to wait for the residential zoning to be changed. Those are the things the Commission was thinking about and addressing. You don't want to be held back if you have that opportunity to change that house across the street to a commercial enterprise because somebody good is going to come in town and now you have to wait and they say forget it, we are not going to go through that.

Mrs. Mills asked, you are saying you think that our present zoning as far as when they go to Planning and Zoning as far as say the size of the building and configuration of the lot that comes in to play to when the developer comes in. Say if they wanted to take that block from Seneca up to Glenview and rezone all that into small office buildings, they would have to comply with what our regulations now are. There's a lot of stop gaps on our system right now.

Mr. Diemert stated, other than the electors voting you still have a lot of other stop gaps.

Council President Buckholtz stated the whole center of town reaches into other land that we already own.

Dr. Parker asked if we have had this problem come up recently.

Mr. Esborn replied, two years ago, there was a dentist, Dr. Fratantonio looking at the corner of Beta and SOM Center. Based on his discussions with local businesses there will be more instances similar to Dr. Fratantonio's looking to open a small business in those residential properties along SOM.

Dr. Parker stated, you are hitting the nail on the head because there may have been enough people at the time that felt that it was important that that stay residential. Council may have felt the pressure to keep it that way and not push a referendum. But, had Council felt that, yes, let's just make that commercial, they could have easily turned around like that and made it

commercial. Maybe that wouldn't have been the right decision. Maybe that wouldn't have been what a majority or even a strong minority would have felt. You are trying to protect the strong minority or the people who can't control it but maybe they have a valid point at the time that isn't the majority. Just because the majority feels it is important doesn't mean it's right.

Mr. Jochum stated, maybe it would have been the best for the community.

Council President Buckholtz stated we have been working for so long creating a 2020 Committee, then a 2020 Implementation Committee, then a Planning and Development Committee and now moving into a Planning Development Department. It seems like we are trying to educate ourselves and interact with the developing community in ways to leverage our land and keep the residential nature and keep the greenspace and keep it all good but still move forward. When he first heard this coming up, he went, wow, really? And then as he started to think about it and read some of the Minutes it started to make more and more sense like we are keeping that wall up but we are educating ourselves. We are learning about all this stuff in a way to lead and to develop a great place to live. We write about it, we talk about it and then in the end you still have an electorate that really comes out in an emotional wave that runs through a neighborhood, like, did you heard the news that something's going to happen? And we say, where did you get that? That's not happening that way at all. The debate should be clearly two-sided. He would love to be a united front. What everyone is saying is, it would be a lot easier to sell if it were a united front, but he is not sure what the right path is.

Dr. Parker stated, if it is such an important issue that Council feels it should be rezoned, then Council could certainly educate the people.

Council President Buckholtz stated, but there's still a length of time involved.

Mr. Jochum stated, that's an option.

Dr. Parker stated, it's not really an option. That's only if Council wants to do that. But if Council doesn't really want to do that, they don't have to do it. This way Council has to do it.

Mr. Marrie stated, that's what they are saying, that you would make the decision.

Dr. Parker stated, if that were the case, then they never would have had to have referendum voting on residential. There's a reason why they did it and wasn't necessarily a bad thing. This is a compromise that protects our residential properties while allowing us to make changes to commercial.

Mr. Jochum asked, how many communities have referendum?

Mr. Diemert replied, there's nobody adopting them now. The Mayor may know different, he's in that same field too, but he is only seeing them disappear. People that adopted them all around the same time are starting to repeal them.

Mr. Jochum stated, we have to understand, we are competing with communities that don't have them or are repealing them. That's the reality of it.

Dr. Parker asked, which communities?

Mr. Diemert replied, Chagrin Falls is one that he knows that repealed it.

Dr. Parker asked, how about Mayfield Heights, Gates Mills, Highland Heights? You are telling me this blanket question. He is asking for examples. Is it referendum?

Mr. Diemert did not know.

Dr. Parker stated, he looked at a piece of property before he moved into his current location. It was in Highland Heights. He needed to take it to referendum. That was 6 years ago. Maybe it's changed since then, but he doubts it.

Council President Buckholtz stated, that's interesting, you were looking to open a business and then you abandoned the concept to move on because you weren't going to go through referendum.

Dr. Parker stated, that wasn't the reason at all. He did his due diligence. There was a problem with leakage from an old gas station. He did not step away because it was a matter of referendum voting.

Council President Buckholtz stated but somebody might.

Dr. Parker stated, you made a blanket statement and he asked you to give him examples and you can't. That's his point.

Mr. Jochum can tell you that the vast majority is not referendum zoning in Northeastern Ohio.

Mr. Diemert agreed.

Mr. Jochum cannot exactly name the communities, but the trend is away from referendum zoning. If you talk to developers and ask them if they are interested in bringing a business to a community when they have several communities to look at, all things being equal, if referendum zoning is one of the issues, are they more likely or less likely to go to that community?

Dr. Parker stated, had the individual wanting to rezone that property desired, they could have on SOM Center Road, they could have easily gone to Beta Drive and tried to garner a reclassified piece of property there. It wasn't that that was the only alternative for them. Perhaps that might have pushed someone into Beta Drive as opposed to a residential place. You can take both sides of the story and twist it however you want. The fact that it ended up not happening doesn't mean it was a bad thing for Mayfield Village, it doesn't mean it was a good thing. They could have looked at Beta Drive. There's plenty of commercial property there, why didn't they?

Mr. Marrie replied, because he said he didn't want to be part of the commercial project. He wanted his own stand-alone building which was the house.

For formality's sake, Council President Buckholtz apologized to Dr. Parker if he thought he was putting words in his mouth, but clearly that's the point on the table. In many cases it certainly doesn't make it easier for the entrepreneur, it makes it a little more cumbersome. Here's a unique situation he would like to bring up. It amazed him watching Judge Krenzler go through every step. He came to every Caucus, Committee and Council meeting for two and a half years. It took him longer than two years to put together a first-class development. The community ended up embracing it. By the time he was done, the bottom was starting to fall out of the real estate market. Does anyone happen to know if he sold all those units?

Mrs. Mills replied, no.

Council President Buckholtz said it is simple economics, in a good market, if everyone said, hey, that's great, that's tremendous, you want to do that here in our town and put all that money in there and open it up and then sell them all one, two, three? That's a real life possibility in his book. We obviously have different ways of looking at it. It's a good debate. Let's let any other people add to it. He wanted to bring up that example. People shouldn't have to go to those extraordinary measures in times like these to want to try to be an entrepreneur or try something new. The restrictions outweigh the advantages. As long as the controls are in place, the legislation is good the way it was written.

Council President Buckholtz asked, what's the next move? Do we have more time to discuss this? Do we want to proceed with bringing the public in on it? Is this something we want to mull around?

Mayor Rinker recommended we do it. How it gets done is the issue. You have until September 3<sup>rd</sup>. The question is making the best use of that time.

Mr. Fikaris asked, this discussion will then proceed, the decision is ultimately yours. The Commission's idea was to put this forth to a vote. This and all the other recommendations. Whether there is discussion, that's understood. But one of the intents was to run this up the flag at this point before the voters and see how they feel about it. Educating them is part of that, but the intent is not whether this should be put before a referendum or not, this proposed change in the Charter. Our intent was to solely make it easier for developers. We are not favoring anybody, but the hindrance is saying, all things equal, if I have to go through this extra layer, I am going to look here when it's all vanilla. Mr. Fikaris understands the individual circumstances. He appreciates that. The idea was to just maybe shift the deck of that first card a little bit lower, not to take that away. That was our intent. The idea here is whether we should put this before the voters or not.

Mayor Rinker said, stated another way, this is a zoning matter for referendum vote.

Mr. Marquardt thinks what was proposed as an alternative that made sense to some people and probably would make it easier for you to pass the thing. He thinks you will have a difficult time

passing it if you don't have consensus on something. That's the situation that it's in at this point that if you don't have consensus, people won't vote for it.

Mr. Fikaris stated, you run anything up the flag. That's what we felt. We knew that it was going to be an uphill battle. We knew that the perception to take some power away from the voters would be very negative. His opinion is, he's all for education, he thinks that is great. But maybe now is the time to run it up that flag and see how people feel about it. If it gets shot down, then we will know.

Council President Buckholtz stated, it's an excellent compromise. What you are recommending and why you are recommending it is fine. Would we have time to meet with the public? Would there still be time to keep the language the same or tweak it?

Mayor Rinker replied, we have two months.

Mr. Diemert stated, the other option is if the voters turn this down, Council always has the right to submit any amendment to the Charter that you want next year.

Council President Buckholtz agreed. We can always do a Charter amendment.

Mr. Diemert stated, you can take the compromise you are talking about or vice-versa.

Council President Buckholtz stated, in his mind we should go for the gusto. If it doesn't work, we come back with the modified language.

Mrs. Cinco stated, in that case, hold town meetings knowing that we are going to put it on the ballot this way and educate them.

Mayor Rinker is suggesting, administration can do that regardless, typically the better way to go on matters involving this gravity is for Council to convene a public hearing and invite people to come in. A public hearing typically is, hear the pros, hear the cons, hear the advocates for whatever position. The goal is to promote a healthy discussion of the issues. After that, some communities can do it the night of the public hearing or they can wait until the next Council meeting. You can do a special meeting or a regular meeting. You have between now and September 3<sup>rd</sup> to utilize. We will try to promote it for dialogue. He is trying to be merits-neutral and process-positive. You have a lot of time to be able to convene at least one public hearing, maybe two.

Mr. Caticchio suggested a public hearing be held three weeks from now.

Mayor Rinker replied, yes, you could do it on the night of the Caucus for example, if you want to convene it that way.

Council President Buckholtz stated, you are going to get as many people interested to attend the meeting. That's who is going to come out. That's it.

Dr. Parker stated, obviously there has been a secondary proposal. This is an all or nothing thing. You educate them to either do this or not.

Mayor Rinker replied, that's your discretion. That's your function on Council.

Dr. Parker stated, there are alternatives that are out there.

Mayor Rinker stated, you have the alternative. That's your role. That's the whole purpose, is to put this up and inspect it from some different angles. The risk is either you confound people because you are coming up with more than one option. But the risk is that you don't give people an opportunity to have some faith in a process that invites people into it. The way the Charter Review Commission process is set up was it was a good guess, a good stab if you will, but those that implemented it, later adopted by referendum, as a means to get changes of importance to the voters on a periodic basis.

Mr. Caticchio thinks this is one of the most important things that have come up in a long time. It's about time that some of the zoning regulations of the Village change. One, to keep up with the trends that are happening in other communities and also of course from the real life experience of going through what happens when developers come to municipalities and are unable to get a quick decision, by quick he means within 30-60 days, not 18-24 months.

Mayor Rinker stated, historically this issue came up with the last Charter Review Commission. The caution then was, hey, you don't have to jam it in that short period. There's always the interim period in which to do it. Human nature is we tend to need certain aids to mobilize. That was the intent of the Charter Review Commission process that on a periodic basis things of this matter, clearly there are enough people who have considered it, that it's worthy of open discussion, much less the vote itself.

Mr. Caticchio asked, what's your pleasure?

Mrs. Mills asked, why can't we have a meeting the second week in August for the public? Then the next week would be the 16<sup>th</sup>. That would be our Council meeting. That would be the last time we could vote on the legislation if we wanted to amend it.

Mayor Rinker stated, unless you had a special meeting.

Council President Buckholtz stated, that's fine.

Mrs. Mills stated, we have the whole month of August. Will everyone be in town for that?

Council President Buckholtz will not be here for Caucus in August.

Mayor Rinker stated, Mary Beth should do the task of checking calendars and trying to get as many people at a meeting as possible.

Council President Buckholtz likes hearing that this is not a staged event. You guys did your duty and we are having a good discussion and debate on the options and we take it to the public before the vote. This is a beautiful thing.

Council President Buckholtz asked if there was anything else. Is there discussion on any of the other proposed amendments?

There was no further discussion.

**ANY OTHER MATTER BEFORE COUNCIL**

Council President Buckholtz asked if there were any further matters. There were none.

There being no further business, the meeting adjourned at approximately 9:30 p.m.

Respectfully submitted,

Mary E. Betsa, Clerk of Council