

**ORGANIZATIONAL MEETING MINUTES
OF THE
CHARTER REVIEW COMMISSION**

Monday, February 1, 2010 – 5:30 p.m.
Mayfield Village Civic Hall

Present: Pat Caticchio
Eric Jochum
James Mason
Shirley Shatten
Paul Fikaris
Randy Hyde
Jim Farmer
Merv Singer

Also Present: Mayor Rinker
Joe Diemert
Diane Wolgamuth
Ron Wynne
Mary Betsa

The Organizational Meeting of the Charter Review Commission was held on Monday, February 1, 2010 in Mayfield Village Civic Hall at the Mayfield Village Civic Center. Mayor Rinker called the meeting to order at 5:30 p.m.

. **Administration of Oaths of Office**

- **Eric Jochum**
- **Merv Singer**
- **Shirley Shatten**

Mayor Rinker administered the oaths of office to Charter Review Commission members Eric Jochum, Merv Singer and Shirley Shatten. The oaths of office to Charter Review Commission members Randy Hyde, Paul Fikaris, James Mason, Jim Farmer and Pat Caticchio were administered at the Regular Council Meeting of Tuesday, January 19, 2010.

. **Introduction**

Mayor Rinker shared with the Commission some ruminations and observations. Tonight Mayor Rinker is going to Solon representing a client with an industrial district that is going to do a tax amendment. Typically, that's a legislative act. That's why you elect Council representatives, the

lawmakers. They would be the ones that would make the adjustments because of delegated authority from the people who elect them to do their duties, to take oaths of office. They should be able to do that, pass the legislation and get on with business, but starting in the late 80's, referendum voting became big. Ohio was the first U.S. Supreme Court case. There was a referendum issue in Eastlake.

Term limits is another one. There are a lot of unintended consequences. Mayor Rinker would hazard to guess that a lot of times people just don't trust government. It's a way for us to get back to government. There is an illogic in that because it's kind of like, if I couldn't vote for somebody good enough to execute his or her duty, how am I going to be any smarter when I have to deal with a referendum issue?

To compound matters, we have in our Charter and a few of you have been around when you have confronted this-Eric and Pat, one year you were talking about, well let's get rid of referendum voting and then five years later you weren't thinking that was such a great idea. People often put in these sort of mechanisms like a governor in a golf cart, to slow down government to give people a chance to be better informed and to make a better decision. You have a direct hand in that outcome. It makes very perfect sense in a lot of situations.

Mr. Caticchio said, except California.

Mayor Rinker stated he will be going to Solon because their Constitution requires that any zoning change is a referendum vote, regardless of the district. Some communities just do it for residential. It's even better. They have gone to Court. The City has defended these lawsuits challenging what also requires referendum vote which is Ward-specific. There have been probably in the last 5 years three different referenda in Solon where community-wide it has passed by 63-65% and failed in the Ward. They will do a campaign, like they did with Issue 6, Yes for 6, No on 5, but they will get that Ward riled up. That tail will wag the whole dog.

Mrs. Shatten asked, how they are making progress?

Mayor Rinker replied, the unintended consequence is that even a lot of people who have been elected officials, residents alike, recognize that it's a cumbersome aspect. The nature is that you end up having a tyranny of a small group of people dictating to the whole community; after you have gone to all the trouble educating the community. We don't have that. Oddly enough, we have Wards, but Mayor Rinker does not think most people in Mayfield Village really have a sense of where wards begin and end. We are small enough of a community. But in a larger community like that when you are selling the whole issue, it ultimately comes down to a handful of people.

Mayor Rinker added, term limits is another one. We had term limits. It was a Charter Review recommendation in 1995. It was pretty liberal. It said three terms. Most are two. Then, next door, the Mayor led the campaign to get rid of term limits. Here, there were a few people that graciously wanted to get involved and they said, well, Mayor, what do you have to say about it?

Mayor Rinker wouldn't go anywhere near it. We had the discussion, well we just want to do it for the Mayor, we won't do it for Council. Mayor Rinker said, oh, that will work. They said, no.

Ultimately, it's the kind of issue where if you tell people how they should vote, they will resent it. Mayor Rinker is a firm believer in this. That same kind of philosophy. Mayor Rinker can stand up and tell you, he doesn't like term limits, he doesn't like referendum voting, who cares? Mayor Rinker is just one vote. If his leadership means anything, it should be that people have to sort out certain things for themselves. A Charter Review Commission is to be a mechanism that is very very valid and valuable, but it has certain problems. Over the years, the unintended consequences have been how good was term limits? When you want to rescind it, how do you rescind it?

That same year, in 1995, we thought it was a good idea to allow Unions for the Fire Department. The Fire Department did an exercise. Villages don't require a Union. Ron can tell you and here we are this year, we are going to voters to say we want to raise our tax rate from 1.5-2%. Before we get involved in discussions Mayor Rinker had with a few people, know that it affects about 5-10% of Mayfield Village residents. 90% of that will be covered. We can show all that. To a lot of people, that may be reassuring, but nonetheless, we have to go and sell this because it's a referendum issue. Our Charter requires it. To some other communities, that might not be a popular vote issue.

What these lessons are that Mayor Rinker asks you to consider is every time you look at a provision and think, this makes sense to do it, think about that unintended consequence, that there is a downside. You may say, well, it's still a judgment call, let's go ahead with it and if it doesn't work we can always rescind it. That may be true, but again, the sense of credibility and the sense of validity and the practicality of rescinding some of these provisions is not always so easy.

The final thing that Mayor Rinker asks you to give pause is how much time you really don't have to put good issues in front of people. The way our Charter reads procedurally is you have 5 months to get it together, come up with recommendations that have to come to Council. Council is a pass-through, they have to adopt legislation that sends it to the ballot in compliance with our Charter and State law. This has to be done in 60 days.

That time gets eaten up very very quickly. Typically in the end, some of you are old hands with this, it takes a lot to get a sense of consensus like a jury with a tough decision, to get the unanimity, to get the feeling that this is something that we really want to do. You spend a lot of time up front, getting your sea legs, getting a sense of the procedures. Joe will give you a lot of insight. We have a few of you who have that insight already.

Mayor Rinker will make it abundantly clear, if you need resources, he will be a champion as much as possible. He does not expect Council to be a problem. We paid one year for Professor Keller to come here. You have his paper. You may want him to come back again. You may want other people to come in and pick their brains. The logistics of getting someone in and paying for

it, there's no free lunch. Mayor Rinker's view is, you get pretty much a blank check. Mayor Rinker means that sincerely. Ron is wincing in the background. The fact of the matter is, for good government and for people to spend the time, you are not getting paid to do this, you want to make sure that you are not just playing at it. Nobody expects that. This is something that, if nothing else is a good learning process. Unfortunately, Mayor Rinker feels that the timeframe that you have is limited. Pat and Eric, Mayor Rinker remembers he had a Council that was, a rocky road, in 2000. Mayor Rinker remembers Pat and Eric came to him and said, you know, we are thinking we would like to get of referendum voting. Mayor Rinker replied, don't, because you literally had about 2 months after that. Mayor Rinker just had visions that it would become a potboiler. It was way too provocative. To be able to have the time to debate; the timeframe to debate that is really very narrow. That doesn't mean it's not a valid issue to debate, but think about how that goes.

Mayor Rinker thinks about when Peg Egensperger got all up in arms and led the campaign for term limits. It did not work in Mayfield Heights. Mayor Rinker is convinced a lot of people just thought they were getting jammed.

The good thing about a referendum vote is that it does give people who are advocating the position a bigger burden of proof beyond a reasonable doubt. You can't sell this to the public. In Solon, it's goofy because it has that Ward specific kicker. But realistically, Mayor Rinker has looked at it over the years. We have had a few issues where we have supported them, when Judge Krenzler came in and we worked for two years to get the cluster zoning. Not the best, but it got in. And then to rezone the property where Parkledge is. The marketplace didn't do too well there. That's something that the administration got behind. Remember D.O. Summers used to be a Marathon station? That had to go through a rezoning. We got behind that as well. There are some other areas where from an administrative standpoint, from a government standpoint, we have been lukewarm.

Almost without fail, if the local government does not support a referendum issue, it's just about guaranteed to go down. If it does support it, it doesn't mean it's guaranteed to pass, but it just about fails. So, anything that's put to a referendum vote, and every one of these amendment proposals that you come up with would be a referendum vote, that is a good thing.

Mayor Rinker looked at the Union issue. While there is a downside to that, the biggest downside is that we have two different sets of employees. A lot of people don't know that. We have Police and Fire that have Unions and then we have the rest of our employees who do not have Unions. We have always looked at parity and equity. We have been very sensitive about how that plays. We never wanted to get internal warfare, nor do we want the public to be thinking in terms of who is Union and who is non-Union. That was an unintended consequence. We know that when people wanted to support the Fire Station the last time around, and Mayor Rinker still does not understand the provision, which is that we can't do anything for our safety forces of a regional nature without a referendum vote. Mayor Rinker is not sure what that means. He is not sure what constitutes regional. We have a deal with Gates Mills right now. We are recouping upwards of what, \$175,000.00 a year?

Mr. Wynne replied, it will be closer to \$300,000.00 this year.

Mayor Rinker replied, yes, because Mayfield Village taxpayers have been providing safety service to Gates Mills. Most taxpayers would expect that we would get some return on that investment. We have been able to work out what Mayor Rinker thinks is a pretty equitable agreement for Gates Mills. One can argue though that that may be violating the Charter.

Mr. Caticchio stated that is not the intention.

Mayor Rinker stated, you tell me how to interpret that language. He remembers when he started quizzing the Commission and it was kind of, what do you mean Mayor? All of a sudden he felt that it would be too provocative. Again, that's a judgment call. Like any judgment call, there's another way to look at it, but the concern that Mayor Rinker has had is when something really has merit, the timeframe in this is awfully short. He throws this out not as a suggestion as much as, think about it. What if Charter Review Commission were to begin six months earlier, or even 12 months earlier, but have a longer run, to be able to make sure that he gets not only the attention from you all before you deliver this as the midwife but that someone gets to this baby before we send it off to school. Those are the kinds of things that are a little more abstract or a little harder, but also, these are very pragmatic questions.

Most people in our community look at the Charter with respect. He knows very few who would not for good reason. We treat it with respect. Mayor Rinker felt from the administrative standpoint whatever this Commission recommends, he is not going to take issue with. He just does not think that plays well. It's a huge responsibility. It's a good opportunity. You don't have to tinker with it just for the sake of tinkering. You may come away and say, yeah, it's got warts and moles, but we can live with it. Or you may want to come up with some changes.

Mr. Caticchio stated that one of the things that we were sort of disappointed with on the last two Charters was the fact that we didn't get much cooperation from the Council and from the heads of the departments. We requested that they give us some of their insights into what was in the Charter that they should have or should not be there. We never got that sort of cooperation. Perhaps you can sort of pass that around.

Mayor Rinker replied, he will. Council's a different animal from department heads.

Mr. Caticchio replied, I understand.

Mayor Rinker is speaking for them, but his hunch is that the department heads are probably much more reluctant to do anything that they felt was political.

Mr. Jochum said, although we got it covered the last time, didn't we? A couple of the departments did.

Mayor Rinker stated that is definitely something, we will put the message out to Council and Department Heads, definitely.

Mr. Caticchio suggested a letter be sent out to everyone like we did in the past.

Mayor Rinker stated that Joe will give everyone a more of an orientation. Mayor Rinker apologized, but he had to run.

Mayor Rinker added, last time, the Charter Review recommended doing this only every 10 years, but it ended in a tie with the voters, so it was a loss. Mayor Rinker thinks it is good work. He wishes everyone well. Let us know. If there is something you need to motivate a few people as far as the dollars, he knows that came up a couple of times in the past. You lost track, you lost some time getting approval to go ahead. Mayor Rinker has spending authority of just under \$2,500.00.

Mr. Caticchio stated it is in the Charter now that we can ask for funds.

Mayor Rinker replied, you can ask, but it does not mean you necessarily will get it. [Everyone laughed.] Mayor Rinker added, he only has so much authority.

Mayor Rinker thanked the Commission.

. Explanation of Duties

Mr. Diemert asked that the Oaths of Office be passed back to him after they are signed.

Mr. Diemert passed around an outline of what we are going to discuss (attached to the Minutes).

Mr. Diemert said to Mr. Caticchio, he hates to put people through this that have heard it already. Every five years you have to do this.

Mr. Diemert stated that the orientation is important because it helps those who have not been involved in municipal government kind of understand what your job is under the Constitution and how it works and some of you that are here have not been on Council or even participated much in municipal government so it's important that you kind of understand the role that you are about to embark on and what it means.

On behalf of the Mayor and Administration and Council, we thank you for being willing to do this non-paying job and contribute your time to see if our Constitution needs to be amended at all.

Now that everyone has been sworn in, the first thing that you will do when Mr. Diemert is done tonight is select a Chairman of your group. Your Chairman would be the person who will direct

meetings, call meetings, organize the discussions in a parliamentary forum and keep everybody together as best as possible. The Chairman does not have any more vote than anyone else but the Chairman does have a vote. Everyone has an equal vote.

Your meetings will not be productive or useful unless you have at least a quorum which will be a majority of those that are appointed here. If you have a majority, it will be a majority of those present who can vote yes or no on making a recommendation. It's pretty much the same as all other parliamentary meetings and groups and organizations within the Village.

Our office is always ready, willing and able to give you an answer to any question you might have through your secretary or either any of you individually can e-mail or call our office and we will be happy to get you the answers as quickly as possible.

Mr. Caticchio asked, who was the gentleman that we worked with in your office the last time?

Mr. Diemert replied, he thought it was Diane Calta.

Mr. Caticchio stated, we started with her but then we ended up with a gentleman in your office which he can't remember the name. Anyone remember?

Mr. Diemert replied, it could have been Dan Powell or Jeff Sokolowski.

Mr. Jochum just remembers Diane.

Mr. Diemert stated he has the last memos we had here and everything seemed to be from Diane at the end other than himself.

Mr. Diemert continued, the very beginnings of this goes back to Civics. It's important for those who have not been involved to just understand civics, the civics of this whole process. When the United States formed its original Constitution and seceded from Great Britain and the Common Law of England and the Monarchy, our founding fathers decided they wanted to set up a democracy in the sense of a republic, so they used both words and that's why neither one is really preferred, whether it's a party or not, but in our democratic society, they decided to split the whole country up into different republics or states. Those individual states were given certain states' rights. Under the United States Constitution, those states' rights are pretty important. The Federal Government can pass laws which they do in Washington and the President is the Chief Administrator throughout the country. But when it comes to matters of local concern, each state has autonomy and they can elect their own legislature, their own governors, their own executive and judicial branches and they can also have their own Constitutions which they do.

The important part of this is, well how can you have two Constitutions? The reason you can have two Constitutions, a Federal and a state one is that the state can never override the Federal. That issue was resolved in 1865 in the Civil War where some of the southern states decided they

wanted to do something different than the Federal government laws permitted. Of course, that was the slavery issue and seceding from the Union and the war that killed more Americans than any other war before or after resolved that issue in favor of the United States government being the supreme power and we therefore cannot adopt any laws which contradict anything that the Federal Government has taken under its jurisdiction to pass laws on.

What might that be? Well, it's the Civil Rights Bill, the original Civil Rights, the 14 Amendments to the Constitution, the Civil Rights Acts, it's the Americans With Disabilities Act, it's the Age Discrimination Act. All of those Federal laws that they debate and then pass are something which you as a local community in whatever your state may be cannot contradict. Mr. Diemert is sure some of our states such as California don't like some of the Federal laws so they try and do things around the Federal law. The Supreme Court of the United States is the supreme judicial authority. When they pass precedent, it's telling everybody down the road to the Federal courts and the state courts that we have made a decision and you have stepped over the line between a state's right and a Federal right and we will not allow you to do it. So, when you are thinking about changing things on a state level, you have to be very careful and always think about what are the Federal laws that this might impact.

That worked real good for 100 years or so, but then it became involved with the individual states where they were governing themselves and they wanted to kind of do a local government thing similar to what the Feds did with the states. They wanted to give some local autonomy within the individual states.

Now why would they do that? Well, let's use Ohio as an example. Ohio functioned until 1912 as a government with its own Constitution, a state legislature elected from all parts of the state, a governor who was the governor of the entire state. But things were happening differently in different parts of the state. For instance, Cleveland, Toledo, Sandusky, Cincinnati. All of the port cities became industrialized near the end of the 1800's. If you remember from your Civics class, industrialization and the industrial age caused a whole new dynamic in every community throughout the country. That dynamic really brought to the attention of each individual state a lot of different concerns. Around Cleveland you started having houses pop up everywhere and close together and the factory houses that they were building around the factories and the infrastructure issues and the roadway problems and security and police whereas the majority of the elected officials for the State of Ohio came from rural areas. They didn't have those concerns. They didn't care if houses were close together. A farmer might want to build a house right next to his house for his son. He didn't want anybody telling him how far that house had to be from the next house. They had no sympathy for the industrial areas around the State of Ohio who were in the minority when it became election time. All of the Senators and all of the State Legislatures were pretty much of a southern and rural thinking and they always elected those kinds of people in Cleveland. Types of Cleveland really never had a say so. Until those cities started growing, bigger and bigger. And the problems became bigger and bigger. Those problems now began to impact Columbus and the State Capitol and the rest of the legislators in the State of Ohio. And how was that? And why was that? Well, because constantly the State of Ohio legislature had a deal with these local issues that most of the farm guys down there didn't care about such as the

zoning and the child labor laws. They had a lot of different opinions with each other on how this should be handled and they frankly didn't want to get involved and they didn't want to pass laws that would help Cleveland but then impact their farm workers and the duties that they were doing in the rural areas.

So, somebody came up with a great idea, well, gee, let's come up with local self government in the State of Ohio. They got together a Constitutional convention which is one of only two ways you can amend the Ohio Constitution. That's through a petition process of going about it or an actual vote of all of the people where three quarters of the citizens in the State of Ohio petition for a change in the Constitution.

Well, they did that. They called for a Constitutional Convention. They got a bunch of people together in the State Capitol and they came up with a model form of amendments to the Constitution of Ohio that would allow for home rule, that is, certain geographical areas could carve out geography, call it whatever they want, and declare for themselves the right to have local self-government. But, they cannot adopt laws that contradict the State of Ohio. And of course, as Mr. Diemert said earlier, certainly cannot contradict laws of the Federal government.

So, they had a vote in 1912 and it passed and therefore the 1912 Convention and Constitutional Convention and amendments became the law of the State of Ohio. Actually that's the last time we have had a Constitutional Convention and the last time the Constitution had a material amendment such as this. Part of the blanket amendments, and Mr. Diemert has given you kind of an outline of this in here, was the Ohio Constitution, Article XVIII, Section 3. He has reprinted it because it's kind of at the basis of your authority in what you do. What it says is that municipalities shall have the authority to exercise all powers of local government and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws of the State of Ohio and of course the United States.

So, that's been commonly known as the home rule section of the Constitution of the State of Ohio. You have heard that term "home rule" in editorials and newspaper articles. There's always a balancing in the courts going on between, well, do we have home rule, do we have local self-government on this issue, or does the state control on those issues? What are some of those, where the state controls and local government cannot get involved, child labor laws, for example, minimum wage laws are an example, the collective bargaining laws in the State of Ohio, who can negotiate, who can't, the public employees pensions, public employees sick leave issues, there's just dozens and dozens of different things that the State of Ohio has pre-empted unto themselves.

The most recent one was the residency case where the State of Ohio said local communities can no longer make residency in that community a pre-condition of employment. It went all the way to the Supreme Court of Ohio and the Supreme Court ruled that the State legislature had the authority to take that away from local municipalities because it impacted all of the employees in the State of Ohio and it had a general overwhelming good purpose in their mind for the State legislature to change the law and prohibit local residency requirements.

So, the State gets involved in a lot of different issues. Everything that they pass is considered a general law that applies to everyone in the State of Ohio and therefore we as a community cannot contradict them. We cannot pass laws that conflict with them. Under Ohio Constitution Article XVIII, Section 7, any municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of Section 3 of this Article, exercise thereunder all powers of local self-government.

What happens after 1912 is Cleveland, Columbus, Toledo, all of the big cities, formed a Charter Review Commission, formed a basis of a Charter from its residents that the Commission like you had to be elected. The first time you do this you have to elect a Charter Review Commission. Those elected Charter Review Commissioners make their recommendations. Those recommendations go to the voters and the voters decide whether or not they are going to declare home rule and local self-government.

Mayfield Village did that around 1961 or thereabouts, seceded from the township of which they were a part of. You could declare your own boundaries. You were part of Mayfield Township. You decided that you were going to carve out this geographical area which you now call Mayfield Village and from the people, you declared in that little geographical area. You went around, gave them a vote and a ballot and they voted in a Charter Review Commission. That Commission then put together your Charter, gave it back to those same people and once it was adopted, the State of Ohio immediately recognized Mayfield Village as a separate entity from Mayfield Township.

We still have township governments all over the State of Ohio. There's a lot of them. The closest is probably right here in Chester Township. Chester Township is a big entity. There's been movements by Chesterland which is like the hub. There's been a lot of folks who have, from time to time, petitioned to have their own charter, but it never got anywhere, so they still stay as a township government.

How's that different from a local government, a municipal government such as a charter government? Well, it's different in a sense that a township has three trustees. They act as the mayor and council. They pretty much do everything. They pass resolutions. They pass budgets. They do the things that a mayor and council do, but for one thing. Because they didn't declare home rule, guess what? They have to follow State law, on everything. They have to follow whatever the General Assembly and Columbus adopts, whether it's zoning, building, police, fire, they have to follow it because they are an extension of the State government and they have not declared home rule, so they have to follow it. There are some municipalities even, like Bentleyville, for example, they formed their own little local entity separate from the township, but they did not adopt a charter. So, they have a mayor and a council and the Ohio Revised Code allows them to do that, but guess what? They have to follow everything the State legislature does. So, if they want to change anything within their community beyond zoning, they have to go to Columbus and get the State legislatures to consider amending the State law so that it

applies to them. But when it applies to them, it applies to every other non-charter community throughout the State of Ohio.

So a charter form of government is pretty good in the sense that you get local control. You get local input. And you can adopt local laws relating to police, sanitary, building, protection for your folks in this community, zoning, the way you want to have it, as long as you don't contradict the State of Ohio in its general laws and as long as you don't contradict the United States government in its general laws.

One of those requirements under the State law that you are not allowed to change is the Open Meetings law. They passed a law 15-20 years ago saying that all public bodies need to have their meetings open to the public at all times with few exceptions. No community can adopt a law contrary to that. So, you can take that off your agenda right off the bat. It's not something you need to consider, although back in the old days, Mr. Diemert was a law director even before the Open Meetings law. They got a lot of work done in the bars across the street. The public didn't seem to like that anymore.

That's pretty much the basis of how Mayfield Village came to be. What they did was, you should have a Charter in front of you. That is the basic Constitution that your original elected Charter Review Commission proposed and the Villagers all accepted. Looks like this. It's pretty thin, but it is your Constitution. If you ever looked at the Constitution of the United States, it is not much bigger. The reason is that the words are important and we leave room for the legislators to maneuver for changes in times and circumstances and we leave room for the courts to make interpretations in order to again make changes for times and circumstances and that we are not so rigid that people find themselves bogged down by words as opposed to what makes sense and what's logical.

So, this is the document that you are going to scrutinize. It's again not that cumbersome of a document, but it's a very critical document. You go right to the beginning of the document which Mr. Diemert would recommend you do and you just go section through section. For instance, The Preamble, "We the people of Mayfield Village", does that sound familiar? It's the same Preamble as the Constitution of the United States, same Preamble as the Constitution of the State of Ohio. That's how important this document is. It is the Constitution of Mayfield Village. No councilman, no legislature, no mayor, no judge, no law director, can go against this document. It is our Bible. It is our basis of law. As you know, we are a government of laws, not of men, so no men are allowed to override this Charter. That's why it's important what you are looking at and how you make a change.

You could recommend changing the name. As a matter of fact, Mr. Diemert thinks we had that one year, 20 years ago. No one wanted to lose the tag, "Village", so when you become a city in the State of Ohio, which is one of those laws we cannot change, is that if you become 5,000 population or more, you automatically are called a City. That's why Mayfield Heights is the City of Mayfield Heights and you are the Village of Mayfield. They have more than 5,000

population, therefore they are automatically called a City and then a whole separate section of the codes apply to them as opposed to villages.

So, regardless of being bound by those codes, our fathers back in those days said, "Gee, we like being a Village and it looks like we might go beyond that 5,000" back when we didn't know what was going to happen with the Northwest Quadrant with the zoning down there and we were going through all those battles. We weren't quite sure if we would go above 5,000 within that next 5 year period. So they changed Section 1 to read, "In the event that we ever become a city, we are going to still be called the 'City of Mayfield Village'." Again, that sounded kind of silly and guess who does that, Hudson. They are a city, but they want to be called Hudson Village, so they are called the City of Hudson Village. There are some others around the State that do that, but Mr. Diemert thinks your folks were wise enough to see that then it shall be known as the City of Mayfield Village and that's the way it is now. You might want to change that, call yourselves something else. You don't want to be the City of Mayfield Village, you might want to be the City of Caticchioland or whatever that's convenient. If the voters adopt it, it's there.

The boundaries are the same thing. We can't change the boundaries because you abut other communities who would have to agree to that. There is a process for that which is called annexation and changing of boundaries between municipalities. That's probably a section you don't need to spend any time on.

The form of government, as you know, University Heights just went through a big battle. They wanted to change to City Manager government like Cleveland Heights had. Their Charter Review Commission recommended it. There was a big battle over whether or not they would have a City Manager as opposed to a part-time Mayor.

So, those are the kind of things you can consider. Basically our Charter Review Commissions in the past have not tried to change things that aren't broken already. It seems to work fairly well so that kind of thing is how you approach this. Qualifications, elections, organization, you can change the minimum age required for a candidate for Council. You can change the time periods they must live within the Village to become a candidate.

When you come up with those ideas, they should be run by us because there are some other entities higher than us that have made decisions on how long you can require somebody to be a resident. There's Federal and state laws that impact your decision. We can monkey with it a little bit, but not a whole lot. The age requirements are sometimes considered now to be under the Federal Age Discrimination laws so if you have the right to vote, it's pretty hard to take away the right to become a candidate. Same thing with deciding how old somebody can be to vote. You can't really change that. That's a Federal law and we aren't allowed to change that.

Qualifications for candidacy, things like that, you can monkey with that if you choose to do so, but again you have to be careful and let us analyze your proposal in light of all Federal and state Constitutions and cases that have interpreted them in the meantime.

The process that you will go through is pretty well dictated by your goal and your goal is to analyze each of these sections. Writing as Pat had indicated to each of the Department Heads to come in with their recommendations, what they think needs to be changed. Mr. Diemert is not sure if he heard the Mayor make his recommendation about getting rid of referendum voting but the example down the road that he mentioned where the voters did have to change the zoning put that project behind a year in the procedures in the process. Could that have impacted the fact that it's a difficult market a year later now and the homes aren't selling as well or at the prices they should? Those are all debates as to whether or not you want referendum voting or you don't want referendum voting on zoning.

So, those are the kind of things that you can look at and are important to our everyday life here. You have a very competent Planning Commission. Some days, maybe it was 30 years ago when referendum voting was adopted in Mayfield Village, your citizens at that time were mistrustful of the Planning Commissions at those times. They were concerned about Progressive developments or other buildings being developed and how they were being scrutinized so this was a way for the voters to retain unto themselves the right to veto anything the public officials might recommend. But as the Mayor indicated, now it's a matter of how do we educate the voters on such important technical issues. That's again something within your purview to analyze and then make your own decisions as to whether or not you want to recommend the changes.

After you have these several months of discussions with the administration, with Council, with yourselves, with citizens, you want to include everyone, advertise with everybody, get as many thoughts and suggestions as possible, then close off your public and other input from government officials and sit with each other and make your own decisions. Unfortunately, you can't close the doors. You are a public body, therefore you have to be open to the public. Your meetings have to be published ahead of time. You can call special meetings with 24 hours notice, but we have to let the newspapers know and post it somewhere so that the public knows that you are meeting.

You are not allowed to get together and have a party and discuss any of these issues without letting the public know that you are having that meeting and where you are having it at. You don't have to have every meeting here. You can relocate them somewhere else, but again, we have to let the newspapers and the public know where that meeting is. Your discussions, your records, your minutes, your notes and your suggestions become a public record. The Public Records laws of the State of Ohio are pretty strict just like the Open Meetings law. If you have put it in writing or in an e-mail, it is available for anyone to ask for, whether they are a citizen or not. We have to produce it for them within a reasonable time. If we don't produce it for them within a reasonable time, we are subject to sanctions under the laws of the State of Ohio.

Mr. Diemert's recommendations would be that if you were going to e-mail each other on an e-mail list that's fine. But don't put anything in the e-mail that you wouldn't want to be on the front page of *The Plain Dealer*.

Mr. Diemert would also have one person in charge of your public records and e-mails and therefore, Mr. Diemert would suggest that whatever string of e-mails you do, copy your secretary, Mary Beth and she will print them out, put them in a file or store them in her computer, however she chooses to do it and that will then be the resource for any public record requests that come in in the future. We can just then copy those and give them to her.

So, as you can see, it's difficult to be a public person. It might hold back some of your suggestions. It might hold back some of your comments. But that is the way it is. You can maybe have those conversations with others on a one-on-one. You can have telephone conversations with each other one-on-one and you can e-mail each other one-on-one or even less than a majority, but once the majority is involved in an e-mail or a conversation, then it has to become a public meeting and it has to be held under the scrutiny of the Sunshine Law.

After you elect a Chairman tonight, you might want to set up a schedule that works for everybody's calendars or set up another meeting to set up that schedule where everyone can bring their calendars and then publish that through your secretary with all of the departments and decide among yourselves which departments on which date. It's totally within your control and how you want to have it. It's pretty easy with our departments. If the Chief can't be there, he can always send somebody else in his place. The only ones would be the smaller departments like the Law or the Finance where you actually would want to work with the Director at a time where they can be there to make their comments known to you or ask them to put it in writing. If you have questions, you can always get back to them.

At the end of the time period, the election is on Tuesday, November 2nd. Working back from there, we have to have your recommendations in Ordinance form, adopted by Council to the Board of Elections no later than September 2nd, 60 days before. Council has the right to put these on the agenda for three different meetings. They have a regular meeting once a month. They have a regular Caucus meeting once a month, so there's two regular meetings that Council has every month. They can call a special meeting at any time if you get caught up in a time problem here, but to give yourselves a beginning guideline, you might want to give Council a six-week period or a month to review your recommendations before they pass the Ordinances sending it down. That brings you back to maybe the beginning of August or middle of July. That's why the Mayor mentioned five months. You have February, March, April, May, June and July, so you have five and a half months theoretically to get your final recommendations made.

Giving yourselves July 15th as your deadline and working back from that you will want to break down how many times you want to meet, once a week, once a month and how you want to set it up, during the day, in the evening, who you want to have come in at which meetings and then allow time for yourselves to discuss it. Do you want to discuss it all at the end after you get all of the recommendations or do you want to take each department as it comes in or each section that you review as it comes in, that's totally within your discretion on how you want to do it.

The Chairman can always be overridden by a majority of the members, if whoever your Chairman may be wants to do something or call for a vote, the majority can decide not to, or if

the majority wants to call a vote, anyone can move and second, normal parliamentary rules under Robert's Rules. If there's a motion and a second, then the Chair has to allow a vote. If there's a majority vote, then whatever it is they adopt becomes recommended to Council.

So, given that process, and the time periods of all of your own private lives, that really is not a whole lot of time to get things done. We appreciate whatever you do get done. Once you make your recommendations, we would like a little time in the Law Department to turn your recommendations into legislation which is what we do. Once you tell us what you want to do, for instance you want to change the Charter Review Commission to once every 10 years instead of once every 5 years, we put it into an Ordinance form saying just that. We propose the language that will be on the ballot. Once we make that language and draft the Ordinance, we send it back to you for final approval to make sure it is what you wanted it to say and then we will make sure it's not conflicting with any state laws or Federal laws, that it's something we can enforce and something that if the voters approve, it can become the law of our land. Once we okay it and send it back to you for your okay of the language, we ought to allow a couple weeks' time in there. That's why the five and a half months, July 15th now becomes July 1st and even June 15th would be better, if you get us your proposals, then we put them in to Ordinance form.

Now you have to vote on that to make sure it is the language you want, the way Mr. Diemert types it up and then once you make your recommendation; you can piecemeal it too. You can give him an Ordinance once a month or a suggestion every month and say, okay, we have decided, we are going to make these two recommendations, go ahead and get them drafted up. We can start doing it that way. Or, you can just wait until the end and give them all to Mr. Diemert and we can do them then and you will vote on them and then they will go to Council. Council will pretty much consider it. Do they really need four to six weeks? No, they don't. Normally they take your recommendations and then in one meeting, they will suspend the rules and adopt them. They will look at them ahead of time and they will come to your meetings too if they have concerns. That's it in a nutshell.

Mr. Farmer asked Mr. Diemert what his preference would be. Would he like to get them as they are made, or all at once?

Mr. Diemert replied, obviously it's easier for us if you do them as you make them. If you get done with a section of the Charter and say, we want to change this, that would be better because then we don't have the problem of researching all of them within that final two-week period. That would be very helpful. But again, some commissions would rather wait until the end.

We are not beyond understanding that there's politics involved in this. Each of you was appointed by a politician and maybe you have a preference for one thing over another. Maybe you guys are going to negotiate and say to each other, "I'll tell you what, I will vote for yours if you vote for mine." That could happen. Some folks want to wait until the end in order to leave themselves that bargaining chip on something that they may not have agreed to in the beginning but now they do agree with. We don't see a lot of politics in Mayfield Village which is good. Can't find it in the Charter, they eliminated it like 20 years ago. It's been pretty nice.

Mr. Diemert asked if there were any questions. It's a whole lot of stuff in a half an hour.

The Commission thanked Mr. Diemert for the history lesson. It was very interesting.

Mr. Diemert thanked the Commission. It's boring for those who have heard it a half a dozen times. If you would like, Mr. Diemert can start off the discussion for your selection of the Chair. If anyone has any ideas or you have not discussed it, maybe you want to discuss who wants to do that. It's an added burden and you get no additional money for that.

Election of Chairperson

Mr. Farmer stated that it makes sense to him if we use somebody who has done it before. It will save us some time. We are under time restraints. Rather than reinvent the wheel with a new Chairperson.

Mr. Diemert asked if there were any nominations.

Mr. Mason asked, how do you start?

Mr. Diemert replied, someone make a nomination. Who served before?

Mr. Jochum asked, should I ask him if he would do it again?

Mr. Caticchio replied, the third time? Mr. Caticchio would prefer that someone else new get the experience. Make your nominations.

Mr. Mason nominated Pat Caticchio for Chairman of the Charter Review Commission. Mrs. Shatten seconded the nomination.

Mr. Diemert asked Pat if he would nominate someone else.

Mr. Caticchio replied, no.

Mr. Diemert asked if there were any other nominations. There were no other nominations. Mr. Diemert asked for a vote. All were in favor. None were opposed. Nominations were closed. Mr. Diemert turned the meeting over to Mr. Caticchio.

Scheduling of Meetings

Chairman Caticchio asked Mr. Diemert for a timeline and the different steps that we are going to have to meet and when.

Mr. Diemert asked, so what I gave you tonight, put it in writing for you all?

Chairman Caticchio replied, yes.

Mr. Diemert replied, he would be happy to do that.

Mr. Diemert asked if, in this day and age, does everyone want e-mail or should we still do it through typewritten through your secretary and out to you guys through faxes or e-mails?

Chairman Caticchio asked if everyone had e-mail.

Mr. Mason replied he just gave Mary Beth his correct e-mail.

Chairman Caticchio stated, e-mail would be the best. Does anyone have any objections to e-mail?

There were no objections.

Chairman Caticchio replied, perfect. We will set up those files on our own e-mail lists and will keep everything together.

Mr. Diemert asked Mary Beth to get everyone's e-mail and give it to Mr. Diemert. We will create our group and he will send an outline of what he gave in the way of dates tonight with the calendar in front of him. We will share that with Council once you approve that and you can start setting up the order in which you want to see people about this. You might want to have at least one meeting or so among yourselves. Maybe even read through the Charter together. Mr. Diemert knows the Commission has done that before.

Chairman Caticchio stated that one of the first things he would request everyone to do is to start out with what we paid for during the last one when Dr. Keller, you all got a copy of it. It's a good teaching tool in the same manner that Joe presented to us. If you would just read that final report, it gives you background of why we are here and what we should be doing.

Chairman Caticchio asked the Commission when we should have our next meeting. Obviously we can't make any plans tonight except set the next meeting. The number two suggestion is, how often we should meet, keeping in mind that we can always set up a meeting in addition to what we already scheduled. Anyone have any suggestions? Meet twice a month, every two weeks?

Mr. Farmer replied, twice a month so we can get a feel for it.

Chairman Caticchio suggested the first meeting take place on week from tonight. Whoever is not going to be available, please advise Mary Beth that you will not be available.

Mr. Mason asked, at this same time?

Chairman Caticchio suggested we not have it during the dinnertime, period. Is 7:30 a good time for everyone?

Mrs. Shatten asked, will it interfere with Council meetings?

Mr. Diemert replied, the 1st and 3rd Mondays are Council and Planning Commission.

Mr. Mason asked, so the first one will be February the 8th at 7:30, is that what you are suggesting, Pat?

Chairman Caticchio replied, yes. We will meet when Council is not meeting on the 2nd and 4th Monday.

Mr. Mason asked, we are only scheduling now the 8th at 7:30?

Chairman Caticchio replied, right. And at least for the first meetings, we had better take a little bit more time so that we can discuss these matters.

Mr. Mason asked, what would that translate into, two hours?

Chairman Caticchio replied, no more than two hours. That's more than enough time.

Chairman Caticchio stated, the first comment he wants to make is we don't want to make any changes just to make changes. That is not going to be our objective here. The last one, we did a fairly decent job of cleaning a lot of the fluff and housekeeping. For those of you who were not aware of it, we sent 11 issues to the voters and they passed 10 of them. We felt pretty proud of that. The only one that did not pass was that we should have an organizational meeting for the Charter Review every 10 years. Chairman Caticchio guesses the voters felt we should have it every 5 years.

Mr. Mason asked Mr. Diemert what his experience has been in these Charters in other municipalities, the duration.

Mr. Diemert replied, the standard 5 years. He thought the 10 year recommendation was a great idea. He has no idea why that did not pass.

Mr. Jochum stated it was a tie. A tie is a loss. It's the only one that was even close.

Mr. Diemert replied, yes, the rest were all 80-87% in favor of the amendments. That one was 50/50.

Mr. Diemert looked at it again today and said, how could I have worded that differently? Sometimes that happens. You get a little creative. For instance, they had a residency

requirement years ago in Garfield. The Mayor and Fire Department wanted to change it. They said, let's put a charter amendment on. They had a requirement that everyone had to live within the City of Garfield Heights. They wanted to change it so that everyone lived within 15 miles of Garfield Heights, which is a compromise between. Now, if you put it on the ballot to the voters in Garfield Heights, "Do you want to amend your charter to eliminate the residency in Garfield and change it to 15 miles?", it would have failed. So we wrote the language, "Do you want to amend the charter of the City of Garfield Heights to require all public employees to live within 15 miles of City Hall?" It passed overwhelmingly. It's a matter of how you word it.

Chairman Caticchio said to Mr. Diemert, one of the things we are going to come to you is the one that caused the most problem to the Mayor and also to the Council and that is the ability of the Village to make deals for work with adjacent communities. The original intent there was that it is all right if Council and the Mayor cooperated with other cities on a contractual basis. That was our idea. Not where there would be some kind of a legal merger of some sort. That is what we had in mind that we did not want to happen. That would have to go to the voters. It just isn't clear enough. We would like to discuss it.

Mr. Diemert suggested we work on cleaning that up. He will get started on that now.

Mr. Jochum stated we had no trouble with mutual aid.

Chairman Caticchio added, we had no trouble with anything that is contractual.

Mr. Diemert said, like sort of if there was a merger between Mayfield Village and Willoughby Hills or Highland Heights. You didn't want that to happen without a vote of the people. Not just on one issue contractually, but as a governmental entity.

Mr. Jochum replied, like sharing safety forces.

Chairman Caticchio stated that's a contract. You make a contract with the other city and tit-for-tat, etc.

. **Any Other Matters**

Chairman Caticchio asked if there were any other comments.

Mr. Farmer stated he has a conflict for the next meeting. He will see if he can change it.

Mr. Jochum stated he does as well. He will see if he can change that.

Chairman Caticchio asked how many people are on the Commission.

Mrs. Wolgamuth replied, 8.

Chairman Caticchio stated, as you know, trying to get 8 people together especially when you have lawyers involved; he is a retired lawyer, so he does not have that problem. He never retired, he just calls himself a retired lawyer. He is semi-retired. He only works 40 hours a week.

. **Adjournment**

Chairman Caticchio stated, if there are no further comments, let's call it a night. Anyone want to make a motion to adjourn?

Mr. Hyde made a motion to adjourn the meeting. Mr. Jochum seconded. There was no opposition.

There being no further business, the meeting concluded at 6:35 p.m. The next meeting is scheduled for Monday, February 8th at 7:30 p.m. in the Mayfield Village Civic Hall.

Respectfully submitted,

Mary E. Betsa, Secretary
Charter Review Commission