

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

**Wednesday, March 24, 2010 – 7:00 p.m.
Mayfield Village Loft Conference Room**

The Regular Meeting of the Charter Review Commission was held on Wednesday, March 24, 2010 in the Loft Conference Room at the Mayfield Village Civic Center.

Chairman Caticchio called the meeting to order at 7:05 p.m. and asked for a Roll Call.

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

Absent: **Merv Singer (Excused)**

Also Present: **Mary Betsa**

Approval of Minutes of Regular Meeting of Monday, March 8, 2010

Chairman Caticchio asked if everyone has read the voluminous Minutes of the last meeting. The Commission received and read the Minutes of Monday, March 8, 2010. Chairman Caticchio asked if there were any comments. There were none.

Mr. Hyde made a motion that the Minutes of the Regular Meeting of March 8, 2010 be approved as written. Mr. Jochum seconded. The motion was unanimously carried.

ROLL CALL: AYES: 7
 NAYS: 0

Motion Carried
Minutes Approved

Before we commence with the agenda items, Chairman Caticchio requested that the Commission review Article VII through XII for the next meeting.

Mrs. Shatten stated the Commission skipped Section 11 (Planning and Zoning Commission) of Article V (Administrative Departments, Boards and Commissions) pending insight by Mr. Farmer.

Article V – Administrative Departments, Boards and Commissions

Section 11 – Planning and Zoning Commission

(A) Composition, Term and Removal

Mr. Farmer does not think there needs to be any change to this. He was on one of these Commissions back in the '90's. We had talked a little bit about how at the beginning of this Section, they talk about the composition and the elector. They were scattering the start of the electors. Eventually, everyone gets a five-year term. We were thinking, that's already in effect, so why do we need to leave that additional language, but then people were thinking, well, maybe from a historical perspective, we can see how it started out. That was the rationale for leaving it in at that time.

(B) Officers, Rules, Quorum and Compensation

Mr. Farmer referred to the last sentence of this section where it says the "Members of the Commission shall serve without compensation unless otherwise provided by ordinance of Council." The members do get compensated now. He does not know if that needs to be eliminated. If Council decided we are not doing a good job, they could take away our compensation. Mr. Jochum said, it is by ordinance that we get it. Chairman Caticchio stated that must have been passed at one time.

Those are Mr. Farmer's only comments. He does not see that there's any reason to change it.

As an adjunct to that, Chairman Caticchio raised the issue of the Planning Department. Exactly what is this Planning Department that is being put together?

Mr. Jochum replied, this is a question we are not going to direct to Jim as much as we were going to direct it to the Mayor. It involves Ted, who heads it up. He works along with Dave Hartt who is on contract. They report to the Planning and Development Committee.

Chairman Caticchio knows what planning departments are. He has seen them in other communities. What do they have in mind in this community? Is the Planning Department going to be in any part of the Planning and Zoning Commission? Is that the intent or is that to be kept totally separate?

Mr. Jochum replied, it's totally separate. It's more advisory, the way it was set up.

Mr. Farmer stated they are still kind of feeling it out right now too on what they are.

Mr. Jochum agreed. That's why he said he thinks the Mayor would be the best to talk to regarding this.

Chairman Caticchio reported that the Mayor will be attending the May 10th meeting. Let's put that on the agenda for the Mayor.

Mr. Mason asked, Mr. Farmer, you are Chair of this right? Mr. Farmer replied, yes. Eric is on it with me.

Mr. Mason said, it was last amended in '84. You don't see any reason to make any changes in this for 2010? Mr. Farmer replied, no.

. **Article III - The Council**

. Section 13 – Submission to Electorate of Zoning and Land Use Changes

Chairman Caticchio referred to the question raised to Mr. Diemert. (See 3/17/10 letter of Charter Review Commission to Mr. Diemert and 3/23/10 letter from Mr. Diemert in response, attached to these Minutes.) Chairman Caticchio thinks it is a good idea to meet with the Planning Commission to discuss this issue.

Chairman Caticchio explained that what was discussed was whether or not there should be a referendum any longer in zoning in this Village. His feeling is that referendum zoning does not work well. He has expressed that view. Perhaps we should consider turning it back to the Mayor and Council and then of course to the Planning and Zoning Commission rather than submit it to the voters. Chairman Caticchio asked Mr. Farmer what his opinion is on that.

Mr. Farmer replied, he does not have an opinion one way or the other.

Chairman Caticchio asked, you don't think it makes a difference whether the people vote on zoning or whether Council votes on zoning?

Mr. Farmer does not mind having the people vote on the zoning. It's probably simpler to let Council do it because you don't have to go through the hassle of an election.

Mr. Jochum replied, looking at it from the standpoint of having projects done in your community, you need to also look at it from the perspective of someone that is bringing that business to your community, the developer, and whether or not, will they bypass your community and go to another community if the process is different. Dealing with referendum zoning is much different than dealing with an elected Council.

Chairman Caticchio agreed. That is his opinion also.

Mr. Jochum is not sure that the residents would see it that way.

Mr. Hyde asked, how would you get that passed? Mr. Jochum replied, they would have to vote on this.

Chairman Caticchio stated, there are other issues involved here, unique to this situation, and that is the 2020 Vision Plan that we have. This is more or less a renewal of certain portions of the community. How do you accomplish that with every little parcel of land that you want to rezone to include in that Vision Plan?

Mr. Jochum replied, it's very difficult. Chairman Caticchio stated, it's going to be impossible, not just difficult. They may pass one corner of the block and not pass the other corner of the block.

Mr. Jochum replied, the only way that you could do it is for there to be put before the voters a total change in the zoning. Chairman Caticchio stated, of the entire area that you are going to be developing. Mr. Jochum agreed.

Chairman Caticchio stated, then just the Planning and Zoning Commission would be involved after that. Mr. Jochum replied, right, at that point. But that would be a huge step in a community like ours to rezone that way.

Chairman Caticchio stated, the other thing that bothers him is the fact that on Beta, people are coming in to improve Beta and they come before Council and Council tells them yes, we approve, we will give you a two-year conditional permit. First of all, if he were investing a couple million bucks in a building, he does not think he would like that. Secondly, the banks don't like it when you have to renew the conditional use permits every two years.

Mr. Jochum replied, whether it's by referendum or whether that's changed for Council to be the one, you have to start with a rezoning. You look to what the community needs to do and then set up a rezoning. That's what we have to look at. What areas need to be rezoned? That may have to be done referendum if you don't change that. Even if it were to go back to Council, you can't let Council do it piecemeal either. There has to be a plan.

Chairman Caticchio agreed. That's what the 2020 Vision Plan is all about. He has to assume that that Plan is supported by Council and Planning Commission and the Mayor.

Mr. Farmer stated, the referendum vote does slow things way down and where we are with Beta, we are going to want to move at some point. You drive down there and there are so many vacancy signs. It's ridiculous. We are doing it with these conditional use permits. It would make more sense to have Council have that authority, but then we have to get that voted in. People have to trust their leaders.

Mrs. Shatten asked, but don't you have to have a referendum to change that? Mr. Farmer replied, yes.

Mrs. Shatten said, so your chances of getting things changed are very small. Mr. Jochum said, you do it by Charter. We could put it in there, but they have to vote on that.

Chairman Caticchio said, so we tried. That is, if we are all in agreement and vote on it. The last time there were two Council persons that were very upset in 2005 that we were going to do it, remember?

Mr. Jochum suspects that we would have some opposition today to do that as well.

Chairman Caticchio stated, on the other hand this is why we are here. This is why we were formed.

Mr. Jochum stated, this is something that Joe has advocated for quite a while. Chairman Caticchio agreed. Joe has advocated it and he believes that Mayor Rinker has also.

Mrs. Shatten stated, when he was talking, some of the time he said he wanted it, but he said there were some bad reasons for changing it. Mrs. Shatten remembers him saying that that evening. We would like a chance to question him. Do the rest of you remember that? When he was talking that changing the referendum would be a good thing but then on the other hand it wouldn't be. That's how he left it.

Mr. Jochum would think that there would be individuals in the community that would look at it with suspicion, but if it's something that we believe in, we should advocate it. Chairman Caticchio added, if we have good sound reasons. This is a case where we do have good reason to look into it.

Mr. Farmer stated, the problem is if you leave it to the voters, people don't keep up with anything that's going on. As soon as you tell them you want to do something, it's like they were ambushed. You have to go to all these neighborhood meetings and explain everything to everyone. Meanwhile, the developer says, "Forget it, I'll go to Highland Heights."

Mr. Jochum stated if you really want to make some changes in your community for the betterment of the community, you have to have faith in the individuals you have elected to lead your community. Chairman Caticchio agreed. And if they make a major mistake, you vote them out of office the next time they come up.

Chairman Caticchio asked for a straw poll. How many would vote for it that we should include it in our consideration to put it on the ballot? Mr. Mason suggested to wait to hear from the Mayor. Mrs. Shatten agreed.

Mr. Mason continued, Jim said he was comfortable with the language we have now. We have an appointment with the Mayor. Chairman Caticchio did not mean that we should vote tonight. He thinks we should take a consensus.

Mrs. Shatten would like to wait to see what the Mayor has to say. Mr. Mason agreed. If there's a strong feeling and we can get the language crafted properly and we get a majority here, then let's go with it at that time.

Chairman Caticchio stated that we will hold this until the Commission has an opportunity to discuss this with the Mayor.

- . **Update - letter sent to Mayor, Council, Department Heads, Commissions and Boards**
 - **Response from Human Services Department**
 - **Response from Finance Director**
 - **Response from Councilman Marrie**
 - **Response from Recreation Department**
 - **Response from Fire Department**

Chairman Caticchio referred to the letter the Commission sent out to the Mayor, Council, Boards, Commissions and Committees for their input. We received good responses.

With regard to the Human Services Department request, Chairman Caticchio reported that Council is working on that.

With regard to the response from the Finance Director, Chairman Caticchio noted that there were no issues.

With regard to the response from the Recreation Department, Chairman Caticchio stated there were no issues.

With regard to the letter from the Fire Chief, Chairman Caticchio noted that he has no issues.

With regard to the letter from Councilman Marrie, Chairman Caticchio noted that he made a few comments which we can consider. He said we are doing a good job and raised the following:

- . 10 years for Charter Review would be good.
- . Four year terms for Council members should not be changed. It takes at least two years for people to get to know what they are doing. Chairman Caticchio agrees.
- . The 12/24 hour notice of meeting of Council is not any big issue. In his eight years as Council member, he does not recall it ever happening. 24 hours is certainly more reasonable considering everyone's busy schedules.

Chairman Caticchio asked if there were any comments on the letters received in response to the Commission's letter requesting input. Mr. Jochum asked, excluding Joes? We are going to get into that right? Chairman Caticchio replied, Joe's we will hold off for discussion.

- . **Review of response from Law Department**

Chairman Caticchio thought the letter from Joe was informative. It is also very helpful to us. Chairman Caticchio asked for comments from the floor.

Mr. Mason stated, Shirley's point she made last time was addressed. He picked that up. He will address that. Mr. Shatten stated, it wasn't really her idea. She got it from the letter Dr. Keller wrote.

Mr. Jochum stated it was interesting what he mentioned about the residency qualifications.

Chairman Caticchio stated he brought up the same thing you did, if a person lives here for 20 years and he moves out for a year and then comes back, he doesn't have to start all over again. That's a highly unusual situation. While we are at it, we need to consider all alternatives.

Chairman Caticchio continued, Joe sets out how the Charter gets amended other than by us sitting here and amending it. We discussed that. For medical and neutral gender language, he would like to lump all of those together. He agrees that we should clarify when there are vacancies in Council. We discussed that. He agrees with us that we should. What we will do is take his language now and then write something more precisely for him to consider. He will write the final language.

Mr. Jochum stated we will do that as we start to go back through the Charter.

Chairman Caticchio stated, yes. At the end when we start putting things together like we did last time. We will make up a list of what is to go to him to be included.

Mr. Jochum asked about the revisions we are going to go back to. Mr. Mason stated Mrs. Betsa sent us a summary update. As we go through the various sections, she updates it.

Chairman Caticchio continued referencing Joe's letter, in particular, *Qualifications of the Mayor* and *Residency Requirements*. We are not the only ones who have raised this issue. It looks like it has ended up in the Court of Appeals in other communities. Chairman Caticchio asked, the residency requirement for Mayor right now is three years, is that correct?

Mr. Mason referred to Article IV, Section 2. Chairman Caticchio stated that Joe is suggesting maybe two years would be sufficient. Mrs. Shatten said, that's what Councilperson Marrie said too. He thought two years was better than three. Chairman Caticchio stated he believes we should do a little revision there so that we clarify the language. Whatever years the person is qualified for would have to be after he has reached his 18th year. In other words, he has to be 18 years or older to start qualifying.

Mr. Jochum asked what other communities have done with respect to this. Mr. Mason stated Joe is the law director of a couple other communities, so he must have some knowledge of that.

Chairman Caticchio referred to the letter where Joe says that some courts; it must have been tested at one time or another; because he says in fact some courts have held that three years is unreasonable. That means it has been tested somewhere. Mr. Jochum wonders how many have.

Chairman Caticchio stated Joe is also in agreement with us about the absence issue, when the Mayor is in town or is out of town. That needs to be clarified. He is suggesting it is a very simple clarification whereby the word "and" would be substituted for the word "or" in the language. He

agrees with gender changes. That can be cleaned up with the general clean-up of the other amendments.

Mr. Jochum stated, but, if you add “and” to that provision, someone that is in the community but unable to perform the duties, then it wouldn’t apply, would it? You would have to have both. Chairman Caticchio agreed.

Mr. Jochum asked, so if you had someone who was here but they weren’t capable, then it wouldn’t apply? Chairman Caticchio replied, first of all, we are not going to substitute “and” for “or” and let it go at that. We will review the entire paragraph. That’s the way it’s going to get done.

Chairman Caticchio referred to Joe’s response to the Commission’s concern regarding Article V, Form of Government and Powers, General Powers. He states that it is not mandatory that the Human Services Department be in the Charter. That can be created simply by ordinance. They are working on it.

With regard to the language “regionalized districts”, Chairman Caticchio stated that Joe agrees with the Commission that this needs to be clarified.

Chairman Caticchio asked if there were any comments or questions.

Mr. Mason asked Mr. Farmer, you have been gone for a while, let’s hear something from you about what we are doing here.

Mr. Farmer replied, it seems like we are going about it the right way. He has been on this Commission twice before, somewhere in the 90’s. This is pretty much the way to handle it.

Mr. Mason said, outside of the Mayor, are we anticipating anybody else to come? Chairman Caticchio replied, we still might want Joe here. He does not know if we need anybody else.

Mr. Fikaris stated, everyone has responded.

Chairman Caticchio asked if there were any other comments.

Mrs. Shatten stated that Eunice did say to her this morning that if people were really interested in what the Human Services Department did, which she thinks people don’t know about it, she would be happy to come and tell us.

Mr. Mason stated, she came in to the Citizen’s Advisory Committee and gave a presentation. That went back out to the people.

Chairman Caticchio stated from the letter we received, he got the idea she did want to be more focused on this. Mrs. Shatten added, visible.

Mr. Hyde asked where she is located. Mrs. Shatten replied, across the street in the back of the Community Center.

Mr. Farmer stated because we have done this before and on a regular basis, there's no reason you have to change things. It's more or less just updating things.

Mr. Mason stated, we made a number of changes last time. We made 11 and 10 of them passed.

Mrs. Shatten would still like to put it to 10 years. Mr. Mason agreed that we ought to do that. Mrs. Shatten thinks we should put it on the ballot again for 10 years.

Chairman Caticchio stated again, as we did last time and as we are doing this time, we are simply clarifying some of the language rather than creating some new ideas. The only new idea that we really want to propose is zoning back to Council. That would be a pretty big thing.

Mr. Mason said, let's see what the Mayor has to say.

Mrs. Shatten asked what most communities do. Is that what they have instead of referendum? Chairman Caticchio replied, that's exactly what they have.

Mrs. Shatten asked, even surrounding communities like Mayfield Heights and Highland Heights? Chairman Caticchio replied, Mayfield Heights does not have referendum voting.

Mr. Mason stated, this might be a tough sell, but it is worth trying. if the Mayor thinks it is worth trying it, Council would be amenable.

Mrs. Shatten stated, the sell would be easier if communities around us had it.

Mr. Jochum asked, do you think that Council would be supportive of changing? Mr. Mason does not know. They were all in lockstep on that save one. He does not know.

. **Next Meeting**

Chairman Caticchio suggested we go back to discussing what to prepare for for the next meeting. Does the Commission think we can complete review of the Charter at the next meeting? The Commission agreed. For discussion at the next meeting will be Articles VII through XII. That way we will have gone through the entire Charter and then we can get down to business to select what we are going to vote on and forward to Joe.

Mr. Jochum mentioned that the next meeting is scheduled for April 12th. There is a Town Hall informational meeting on the proposed income tax increase scheduled the same date and time.

Mr. Mason stated, we had our first meeting Monday. The second one is going to be next Monday. The first meeting was not very well attended. Anyone can attend them. Mr. Mason would like to

go to as many of these as he can since he is Chair of the Citizen's Advisory Committee. Mr. Mason will not be here on the 12th. The plan is to have three more meetings, March 29th, April 12th and April 26th. Mrs. Shatten said we are scheduled for the 26th too.

Mr. Mason does not know what kind of turnout we will have for the remaining informational meetings. The first one was a modest turnout. Mr. Mason asked Chairman Caticchio what he wants to do about the Commission meetings being at the same time.

Chairman Caticchio suggested we move Monday the 12th to Wednesday the 14th and move Monday the 26th to Wednesday the 28th. Is everyone in agreement? The Commission agreed. Chairman Caticchio asked Mrs. Betsa to put these dates down as our next meetings.

Mrs. Betsa asked if the Commission would like her to check with the Mayor's schedule and see if he can attend either one of these meetings instead of the May 10th meeting. Chairman Caticchio replied, we would like him here as soon as possible now. If we can, we would like to get him here Wednesday the 14th. We are getting to a point where we have to start focusing on the issues.

Chairman Caticchio asked if there were any further comments. There were none. Chairman Caticchio asked for a motion to adjourn.

Mr. Jochum, seconded by Mrs. Shatten, made a motion to adjourn the meeting.

There being no further business, the meeting concluded at 7:50 p.m. The next meeting of the Charter Review Commission was scheduled for Wednesday, April 14th at 7:00 p.m. in the Loft Conference Room at Mayfield Village Civic Hall.

Respectfully submitted,

Mary E. Betsa, Secretary
Charter Review Commission