

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

**Tuesday, June 8, 2010 – 7:00 p.m.
Mayfield Village Main Conference Room
Mayfield Village Civic Center**

The Regular Meeting of the Charter Review Commission was held on Tuesday, June 8, 2010 in the Main 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
Paul Fikaris
Jim Farmer
James Mason
Shirley Shatten
Randy Hyde**

Absent: **Merv Singer**

Also Present: **Law Director Joe Diemert**

. **Approval of Minutes of Regular Meeting of Monday, May 10, 2010**

Mr. Fikaris, seconded by Mr. Hyde, made a motion that the Minutes of the Regular Meeting of May 10, 2010 be approved as written. The motion was unanimously carried.

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| ROLL CALL: AYES: 7 | Motion Carried |
| NAYS: 0 | Minutes Approved |

. **Discussion of 2010 Charter Amendments**

Chairman Caticchio stated that what we are going to do tonight is review the materials sent to us by our Law Director, Joe Diemert. If anyone has any specific questions on the material they read today and would like to ask Mr. Diemert about them, please put those questions to him now and then Chairman Caticchio will ask Mr. Diemert to give us a verbal rendition of what is in writing. Are there any questions? There were none. Chairman Caticchio asked Mr. Diemert to proceed following the outline of the documentation he provided to the Commission.

Mr. Diemert apologized for taking additional time to prepare a response. He has read all of the Minutes from the meetings. He would like to commend everyone on how diligent they were in

discussing these things, particularly at the last meeting when you put into detail your thoughts on each of the motions and issues you were going to vote on.

At some points, Mr. Diemert felt like the Commission came to a consensus that was clear on the recommendations they were making. Others he wasn't quite sure. He thinks the Commission was deferring to him to maybe make a recommendation based on what your conversations were. Mr. Diemert took the liberty of doing that.

- Amendment No. 1/Definitions, Gender, Grammar:

Mr. Diemert drafted the ordinance with no Exhibit A. All it is doing is putting to the voters the question in bold on the second page of that first ordinance. It says:

Shall Mayfield Village Charter be amended in its entirety to correct and clarify all grammatical and definition irregularities and to establish the Charter as gender neutral throughout?

That's all the voters need to really see because we are not going to substantively change anything. We are just going to change "patrolman" and "fireman" to gender neutral words suggested.

Chairman Caticchio stated and anything in the future would use the gender neutral, in other words all ordinances and in Council meetings, we will use the same language.

Mr. Diemert did not plan on putting it in here that you are mandating Council to do that but everyone has been trying to do that.

Mr. Diemert stated the only thing that's added in here that isn't really normal is the definition part of it. The two things you wanted him to define better, "municipality" and "qualified elector" he thought rather than have a definition section since those really appear to be the only two, although we could go through and define a lot of words, but that would be pretty cumbersome and would require a vote on each individual definition because if they are controversial, the definition could mean a lot. Mr. Diemert thought at the location where those words are, such as "qualified elector", we would insert the short definition that we had given to you that would be a legal definition of qualified elector and just put that in parenthesis behind that word. If we see any other words that need a definition, we will do that, if it appears like they would. If you know of any others you would like us to do, that's what we will do.

We will have to sit down and go page by page for the grammatical and for the gender ones to make sure there's not any more than those you have pointed out. We will take care of doing that.

- Amendment No. 2/Council Vacancy

Mr. Diemert stated he took a little liberty because your discussion went on for quite a while. Everyone seemed to have an opinion as to whether or not someone who ran for an office should be automatically put into the position if the person who won vacates it.

Chairman Caticchio stated you brought up a very good point there, one which we did not consider at all.

Mr. Diemert stated they ran into this in another City. The voters actually reject people too. If you are now mandating that the rejected person be put on Council, that could be problematic. Mr. Diemert thought a better way to do it is not require Council to put into the vacancy someone who ran for the office. He understands everyone's comments that gee, that person cared enough to go get petitions; they cared enough to campaign; they cared enough to run; a lot of people have been doing that forever and the voters reject them regularly and for you now to say Council has to put them in that may be contrary to what the voters' best interests are. Maybe putting the burden on those who were successfully elected to make that decision and mandate that they consider those people would be a fair way to bring those people to Council's attention by mandating it in the Charter but not obliging them to appoint that person because they are elected and the voters can always go back at the elected official and say, hey, you made a bad decision by putting so and so in there.

Mr. Diemert thinks he had a consensus derived from all of your conversations that that mid-term election was really a cumbersome thing and it's costly and why do that? We eliminated all of that which is a pretty big move. If that's what he thinks he read the consensus to be, he thinks it's a good way to go.

Again, he is not married to this. If you feel you would like to still give the candidates who ran some preference or make them mandated to be appointed, he will change it the way you want.

- Amendment No. 3/Referendum Zoning

Mr. Diemert is glad to see that the consensus was pretty clear to change this one. He went ahead and changed it in the two sections that require it, Sections 12 and 13, taking away the mandatory referendum aspect. What he did put in to maybe make it palatable for those of you who thought referendum zoning should stay and for the citizens to have an opportunity is giving the Council the ability to place it on the ballot if they feel it is a sensitive issue or a 50-50 issue on Council's behalf or if the Planning Commission says we think this is something that should go on the ballot or if the citizens lobby their Councilman and say we would like to have this on the ballot they can succumb to the political pressure and put it on the ballot and dodge the bullet in making that decision themselves.

Mr. Jochum asked, how often do you see that? Mr. Diemert replied, not often.

Mr. Jochum asked if that provision is pretty standard. Mr. Diemert replied we had a case where the Council wanted to put on the ballot an issue just to get the public's opinion on it. It was something like, should we expand the fire department to 35 instead of 30, something that would not normally go on a ballot. We asked the Attorney General for an opinion as to whether or not Council can ask the voters for an advisory opinion and they said, yes, you can. If you are willing to pay to put it on the ballot, you can do that. Ever since then, Mr. Diemert has had it in his head that would be a better way for referendum zoning to be handled because now you can develop Beta Drive and when it's a no-brainer to rezone something to get in a good business, Council does not have to go through the ballot process and then go out and try and sell it to the public, educate the public and then hope that they vote the right way for the betterment of your community. It would take a year off of your timetable and would get things done quicker. But, if it's a controversial thing like going to a five-story height restriction from your current four-story, Council would be hard-pressed not to put it on the ballot because of the political reaction they might get.

Mr. Jochum asked, aren't those the tough decisions. That's where we are at now. The easy ones would pass now. The tough ones are the ones we need someone to make a decision on.

Mr. Diemert stated, Council now cannot make those decisions. They have to give it to the voters. So what you are suggesting is don't even give them the option to put it on the ballot. Let the Council make the decision? I'm okay with that?

Chairman Caticchio asked, did you say that this would be sent to the voters simply as an advisory?

Mr. Diemert stated this would be binding upon Council if the voters voted for it.

Mr. Hyde quoted Article III, Section 13: "Council may at its sole exclusive discretion. . ."

Mr. Diemert stated it then goes on to say that "if the voters affirmatively vote for it, then it becomes the law of the land".

Chairman Caticchio stated that is one of the issues that he will take up at our next meeting when we start voting on this. That's an interesting perspective.

Mr. Diemert stated, remember we talked about how do you get voters to approve something? If you put it on the ballot to take away the right of the citizens to vote on all zoning issues, no one would vote for it because it sounds negative and sounds like you are stripping the citizens of something. Although you are doing that, it's not something voters or electors usually have but you gave it to them years ago and now you are just putting it back to what's workable and

normal. They really don't have the equipment, nor do they really want it to make these zoning decisions. That's why we have a Planning Commission and a Council who pays attention to this.

Mr. Diemert does not know if Planning recommended this or not. He knows the Commission has met with them, but that's that one. It's probably your biggie.

- Amendment No. 4/Mayor's Absence

Mr. Diemert knows the Commission came to a consensus that you really don't want the Mayor to be replaced by the President of Council if he is in downtown Cleveland. Actually even if he goes to Indiana, he can still work in the city in this day and age. So, when he started working with the language, it dawned on me, why do we even need absence as one of the criteria? It's really not the focal point. We didn't have anything in here about getting ill or things that really would disable him from doing his job. The majority of Council can always make that decision. But Mr. Diemert suggests to eliminate the absence part of it and say "when he is unable to perform the duties of his office, the President of Council takes over" and when he does leave the country, Mayors do tell their President of Council, you are in charge because he is inaccessible and can't be reached. That would plug in their too.

- Amendment No. 5/ Ordinances Not Subject to Referendum

This should not be controversial at all. He changed it quite a bit and cleaned it up. He took out the redundancy. You will see in Exhibit A that he put a line through those parts we took out. He pretty much did not change the meaning of the first or second paragraph. He just cleaned it up a little bit so it read a little easier. He took out the last paragraph altogether. That was a confusing point for everyone. It's redundant as to what the law is because if the citizens circulate an initiative petition, it can't be subject to referendum until it's actually voted on and certified by the Board of Elections. This implies you can do a referendum on an initiative petition before the initiative petition was voted on. So now you would vote on the referendum before you would vote on the initiative and, yikes. The law already is clear that if initiative petition is voted on by the voters and approved by the voters, a referendum could be circulated on that anyway. So why put it in here. It really is the law anyways. It's your job to streamline things and not be redundant as to what is already clear in the law, which may not have been when this was first put in 50 years ago.

The only other issue that Mr. Diemert saw was left out was Section 9.1 on regionalized districts. He read the Minutes discussing this. He knows this was started five years ago. He forgets the reasons for that, but now that regionalization is coming more in to play, he read the discussions the Commission had that there is really no reason to take it out. He just wants to propose that maybe there could be within the next five years, for instance, the Chiefs have been meeting throughout the County and talking about forming a centralized fire department and if that were to save Mayfield Village a million dollars a year to join forces with five other communities and reduce the number of offices, no one would lose jobs but you might reduce the necessity of a

pumper truck or ladder truck. Those are million dollar pieces of equipment. If we could share one with Mayfield Heights and Highland Heights and Richmond Heights rather than each community buying their own ladder truck, if that opportunity arose do you really want to waste time putting it on the ballot if the Council and Mayor think it's a good idea?

Chairman Caticchio still thinks there was confusion as to what we did and what our intentions are. All we wanted to make sure with what we passed five years ago is that we did not want the fire department and police department to be regionalized except by the vote of the people themselves. That was the basic thought.

Mr. Mason stated one of the fellows who is not here right now was very strong about this. We did not have what we have today. He was very strong in that we wanted our own little community and did not want to share it. Joe makes a good point. If we can save some money by pooling our resources, -

Chairman Caticchio asked for the definition of regionalization and how is it constituted?

Mr. Jochum added, sharing equipment rather than sharing personnel?

Mr. Diemert stated the first sentence of this section to him is already the law. It doesn't need to be there. That says that if the Council determines it's in the best interest of the municipality to participate in a regionalized public service other than police or fire, then they can do that by adopting an ordinance and going ahead and doing it. They can abolish their service department if they want. They can do anything they want unless it's mandated in the Charter. Police, fire, service law and finance are mandated in the Charter. Any proposal for Council to join or participate in a regionalized police or fire district, the way he reads it, that any joining of this fire department with another fire department for the purpose of providing fire service in the two communities or more would require a vote of the people. You were right in your minutes when you said right now the Mayor doing jail service with Gates Mills, that's contractual. Their police don't come here and patrol and we don't go there and patrol. They bring their prisoners here. That's really not a police thing. That's a correction thing. EMS is another one. Are we regionalizing? No. We are selling our services to those other people. That's a contract. You were all right in your opinions that right now we are not violating this Charter provision.

Chairman Caticchio stated the Mayor is not quite so sure.

Mr. Diemert stated he wasn't sure. He asked for our opinion on that before and we had told him we did not think it was a violation.

Mr. Jochum asked if there is a difference between personnel and equipment. If we start sharing equipment, are we really regionalizing. The biggest problem the people might have is if we start saying, we are going to cut back on our safety forces, the numbers because we are going to join

with another as opposed to we are going to share the pumper truck. That might be different than we are going to cut the number of firemen.

Chairman Caticchio asked, if Gates Mills and Mayfield get together to put together two departments, is that really regionalization? Regionalization is the sanitary sewer system that we have.

Mr. Diemert stated that is a good question. He did not know what the Commission had in mind, so he pulled out those discussions back in 2005 and really didn't get in to much about what you thought regionalized meant when you chose that word. Maybe he should have pushed it then to say well, let's define what you mean by regionalized.

Mr. Mason had had some experience in Montgomery County, Maryland where they lived for a few years. Regional government meant a lot of things. It meant, police, fire, EMS, recreation, not just sewers.

Mr. Jochum does not know what would have to happen for that to happen in this area.

Mr. Diemert asked, who is going to be the first one to say, I don't need to be Chief, let's let him be Chief?

Mr. Mason stated that's where the conversation led to.

Mr. Diemert asked if the consensus was that we are not clear that we really want to change it, so let's leave it. He's okay with that. If it comes up, we can always come back. We can take it on a case by case basis.

Mr. Diemert is happy to change whatever he has given any way the Commission wants back to whatever they would like. This gives you a starting point in the language. You saw how the ordinances would look. We would take lines out and underline new stuff if you want anything added. We are way ahead of schedule.

Mr. Jochum asked Mr. Diemert if he has an opinion relative to referendum. Is this the year to do it?

Mr. Diemert replied, he thinks so. We have had no controversial zoning issues for quite a while. This language came in because of the first Progressive building and Highland Road issue. They were the precipitate factor for this change. It was the hot thing going on all around the country, not just Ohio, to let the voters decide zoning issues. Almost all of those have been repealed. We are taking away the mandate that the voters have to approve everything. There are so many things that were routine that we're bothering you and charging you through your taxes to put on the ballot when it's something that you now have to get educated on. It's a routine matter that you elect people. If you don't like their vote on a zoning matter, vote them out, or issue a

petition or a referendum. Those are the three tools voters still have to change a zoning decision that Council and planning might make. That is vote them out of office. The voters still have tools. This is a good time.

Mr. Jochum thinks from the other side, you know how it is, developers, when they see referendum, they go to the next community. Chairman Caticchio stated, you try to avoid them.

Mr. Diemert stated Buddy Krenzler is the only one he saw successfully navigate the ordinance. Mr. Jochum stated he had the know-how to handle it.

Chairman Caticchio asked if there were any other questions for Mr. Diemert. There were none.

Mr. Diemert advised the Commission if they had any further questions, to feel free to let him know.

Mr. Diemert left the meeting at 7:40 p.m.

Chairman Caticchio suggested the Commission go home and review everything and discuss it at the next meeting, unless the Commission wishes to start right now.

Mr. Jochum stated this may be something we can finish.

Mrs. Shatten asked Chairman Caticchio what he was disagreeing with.

Mr. Hyde stated it was an issue about another city, something that had occurred, he was using it as an example regarding regionalization.

Chairman Caticchio asked what regionalization means. He is not sure he received the definition. When you look at the bigger picture, a good example is the one he gave, that's the NEORS. That's real regionalization.

Mr. Mason thinks a better example is the one Shirley and he had when he lived in Montgomery County Maryland. It's every service provided by government. We had a County Executive elected by all of the people that lived in Montgomery County. We had a centralized fire department, police, and schools.

Chairman Caticchio asked if they had the two layer government in Maryland with the County and villages and cities under it. Mr. Mason replied, one single government.

Chairman Caticchio stated if Gates Mills and Mayfield Village decides to put their police and fire department. Is that regionalization? Mr. Fikaris replied, it falls under the umbrella, for example Columbus. Mr. Jochum stated the water department drove that. They would not give

water rights unless you annexed to Columbus. If you wanted water, you had to become part of Columbus.

Mr. Jochum stated the problem you are going to have is how do you equalize the taxes? Mr. Fikaris stated it happens already. You have a specialized rescue unit or bomb squad or squad unit. If you say to Gates Mills, it's going to cost you less money if we combine our police forces and you do that through attrition, the fear is that if we regionalize five communities, for example, they will say we did this study, you guys have three guys patrolling the Village, you don't need that. The assessments on manpower might change and that's when people will have a problem. Thing like that might be a problem. Once you go through attrition and introduce it in slow steps, look what we have on a Federal level.

Chairman Caticchio asked the Commission if they wish to stay and discuss this this evening.

Mr. Farmer stated it sounds like there are not going to be a lot of changes. Chairman Caticchio asked if we should vote on this right now. The Commission agreed.

The Commission will go through each item one by one.

- **Amendment No. 1 – Definitions, Gender, Grammar**

Mr. Jochum, seconded by Mr. Hyde, moved for passage of Amendment No. 1. The motion was unanimously carried.

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| ROLL CALL: AYES: 7 | Motion Carried |
| NAYS: 0 | Amendment No. 1 Approved |

- **Amendment No. 2 – Council Vacancy**

Mr. Hyde, seconded by Mr. Jochum, moved for passage of Amendment No. 2. The motion was unanimously carried.

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| ROLL CALL: AYES: 7 | Motion Carried |
| NAYS: 0 | Amendment No. 2 Approved |

- **Amendment No. 3 – Referendum Zoning**

o **Section 12**

Chairman Caticchio stated the only change is the deletion that it goes to voters. Chairman Caticchio referred to the bottom of Section 12 as being deleted "thereafter any such ordinance which has been approved by the Council shall be submitted to a vote of the electors of the

municipality and shall become effective only on approval thereof by such electors.” That has been removed.

Mr. Jochum stated we are saying it is approved by Council. It doesn't have to go to the electors.

Chairman Caticchio stated, it then says Section 13 has been changed so that Council has the authority to send it to the people if they so wish.

Mr. Mason stated in Mr. Diemert's language, he says, the language he has used also makes this ballot question a little easier to approve. When we were talking about it, Mr. Mason thought there was a question that he was going to do some more work on it.

Mr. Jochum stated, it's whether or not we really want that Section 13. Do we want to give Council the ability to send it back to the elector or do we just approve 12 without the last sentence of 12.

Mrs. Shatten thinks it is good to have 13. If it's something that is sticky, Council could let the people decide.

Chairman Caticchio stated in order to get this passed, it will be easier to have Section 13 in here. We are giving the people something without them realizing we are taking away something else.

Mr. Jochum stated, we get it passed. And then we get a Council that does not want to touch any of this. We are going to give it back to the electorate.

Chairman Caticchio stated, then they are not doing their job. It's as simple as that.

Mr. Hyde stated this is just a recommendation that is going to Council from us.

Chairman Caticchio stated, maybe they want to send it to the voters or they are going to send it to the voters anyway.

Mr. Hyde suggested that the last sentence of 12 be put back in. If they don't want the responsibility, they are going to alter this.

Mr. Jochum stated Council cannot alter what we say. They can either approve and send it to the electorate. Chairman Caticchio added or they can disapprove it and send it. It still goes to the Board to be put on the ballot. They cannot override our authority here in this matter.

Chairman Caticchio stated, the most likely scenario here is going to be something like this. Council gets a really hot potato. They argue about it and cannot reach a conclusion. They say, all right, let's send it to the voters. That's okay too.

Mr. Farmer stated what this eliminates is a lot of the piccune stuff.

Chairman Caticchio stated on the other hand if a good business comes into the village, Council is going to say, we are going to give them the rezoning without sending it to the people at all.

Mr. Farmer stated that's okay too. The problem with referendum is you have to educate so many people.

Mr. Jochum agreed that by adding 13, we have a better chance of passing this. The Commission agreed.

Mr. Fikaris added that the language adds that the way it is worded is positive. Maybe your electorate that has this gas well issue stuck in your mind can say, this gives them some control.

Mr. Fikaris, seconded by Mr. Hyde, moved for passage of Amendment No. 3, Section 12. The motion was unanimously carried.

Mr. Fikaris, seconded by Mr. Hyde, moved for passage of Amendment No. 3, Sections 12 and 13. The motion was unanimously carried.

ROLL CALL: AYES: 7
NAYS: 0

Motion Carried
Amendment No. 4 Approved

- **Amendment No. 4 – Mayor's Absence.**

Mr. Jochum, seconded by Mr. Hyde, moved for passage of Amendment No. 4. The motion was unanimously carried.

ROLL CALL: AYES: 7
NAYS: 0

Motion Carried
Amendment No. 4 Approved

- **Amendment No. 5 – Ordinances Not Subject to Referendum**

Chairman Caticchio asked if there were any questions on this amendment.

Mr. Farmer stated it was tough reading it. Mrs. Shatten stated it was written so that people would pass it. But it still does not sound like that they will pass it. The Commission agreed that it was not easy to understand.

Mr. Farmer recommended the Commission work on it or send it back to Joe.

Mr. Jochum read the language: “When more than one ordinance is necessary to make any public improvements, the referendum provision shall apply only to the first ordinance required to be passed and not to any subsequent ordinance relating thereto.”

Mr. Mason referred to the last paragraph of Mr. Diemert’s letter. That should probably clear it up.

Chairman Caticchio stated the more we read it the more it becomes apparent it needs clarification.

Mr. Jochum stated maybe the question is really about the referendum provision. If people understood the referendum provision, they might get it. That portion of it is probably what is confusing.

Chairman Caticchio gave an example. There’s a big project. The firehouse is being built. Referendum was passed. What if they split it into two parts? Say they did not want to tell people it was going to be \$8 million so they passed it in referendum with \$4 million. Now you have another \$4 million needed but that one does not have to go to referendum. Because that is what this says.

Mrs. Shatten suggested we ask Mr. Diemert to rewrite this.

Chairman Caticchio stated we have to understand it ourselves and then we have to tell Joe what we want it to say.

Mr. Mason stated he tried to clarify when he was meeting with us.

Mr. Hyde reread it again.

Mr. Farmer stated it is confusing. What makes that ordinance so special. Is that the one that is putting the project itself into place.

Mr. Hyde stated if you take out the main ordinance, don’t you take out the other ones with it.

Chairman Caticchio thinks we are missing something here. We are talking about the fact that the Village has to pass an ordinance for a public project or public improvements. They have the right to pass any ordinance for public improvements. They pass an ordinance for \$1 million. At that point that ordinance can go to referendum.

Mr. Fikaris said it says measures that are subject to referendum. All they are trying to say is the initial ordinance, Chairman Caticchio added, passed by Council says that it is going to cost one million dollars, Mr. Fikaris concluded, but the resolution is subject to referendum whether Council likes it or not under this language. Every little bit of this is not subject to a referendum.

Chairman Caticchio asked, what if Council says, the station is going to cost \$2, let's pass an ordinance that it's only going to cost \$1 million. That's subject to a referendum. After all is said and done, Council says, okay, now we can pass another \$1 million required cost. That would not be subject to referendum. That is his concern.

Mr. Fikaris stated as it sits on the books, this is exactly what we have here in the Charter. All this did was clean up the explanation.

Chairman Caticchio stated it did not change our original concern.

Mr. Jochum asked if it makes sense the way it is right now.

Chairman Caticchio stated it makes sense because there are cost overruns.

Mr. Jochum thinks government would not work if you did it the other way. He does not think you could pass a project like that.

Chairman Caticchio understands. He is not sure that Joe addressed their concerns.

Mrs. Shatten stated the primary thing we are trying to do here is get it passed by the community that every little teeny thing is going to go to referendum.

Mr. Fikaris clarified. You might be thinking referendum zoning. That's a little different. All we are trying to do is clean up this language in this article that was confusing. Joe tried to clean it up as it sits but we still have an issue with the whole section, the way it's worded. If we do nothing, it's still on the books and in the Charter.

Chairman Caticchio checked the Charter to see if there is a definition of referendum. The Charter stated it is a vote of the people. When the Village passes an ordinance, the people have 30 days in which to contest it. That's subject to referendum. Is that a referendum vote when they contest what Council has already done?

Mrs. Shatten asked if Council can do something without asking for a vote of the people? No. We want to change it so Council can do something without sending everything to vote.

Chairman Caticchio referred to Article VII of the Charter. Referendum is not defined. Mr. Jochum referred to Section 5. Chairman Caticchio stated it refers only to a referendum provision but does not say how a referendum gets launched.

Mr. Jochum stated the Charter references the State of Ohio. That determines which laws are subject to referendum.

Chairman Caticchio stated it goes on and tells what the procedure is. Most ordinances are subject to referendum. Going back to his original concern, if they pass a \$1 million budget for a fire station, that's subject to a referendum. The voters can stop it.

Mr. Jochum stated but the second one wouldn't be.

Mr. Mason asked what we are trying to do. Mr. Farmer replied, it is not clear to him. Chairman Caticchio is trying to clarify it. Mr. Mason asked if we should call Mr. Diemert back. Let's get clarification.

Chairman Caticchio asked if we accept it as is or do we send it back to Joe.

Mr. Farmer would like clarification. He is missing something.

Mr. Jochum stated it is saying that Council can vote to finish it and it is not subject to referendum.

Mrs. Shatten stated you have to think that your elected officials are honest people.

Chairman Caticchio suggested the Commission contact Mr. Diemert. The Commission contacted Mr. Diemert to further discuss their concerns regarding Article VII, Section 5.

Mr. Hyde summarized the concerns of the Commission. Why could only the first ordinance and none of the subsequent ordinances be referendum? Mr. Jochum added, what we need to know is Council takes up an ordinance regarding a project. We are looking at procedure and how this issue might come up.

Mr. Diemert provided an example. In an improvement, for instance the police station, if we go out for bonds on it you have to have what is called an ordinance of necessity and if that passes, then you go out and get bids. They come in. You have to pass another ordinance to proceed. You then have to advertise for bids. You then have to pass ordinances accepting the lowest and best bidders. Then you have to go ahead and pass ordinances authorizing bonds or money. If it's a public improvement you are assessing then you have to authorize assessment ordinances against the individual properties. On some projects, there could be a dozen ordinances relating to the same project such as the police station. We probably had 6 or 7 different ordinances, the first one being the one of necessity. What this is saying is if you have obstructionists in your citizenry or contractors who are disgruntled, they can circulate initiative petitions on each one of those ordinances which would stop the project in its tracks at each stage, almost making it impossible to proceed. The idea is here that if the ordinance relates to the same subject matter such as the construction of the police station, it can only be subject to referendum on the very first ordinance, not any others.

Chairman Caticchio asked, and that first ordinance merely says we are going to build a police station, period, end of sentence? Mr. Diemert replied, correct.

Chairman Caticchio asked everyone if they understood. The members did.

Mr. Farmer understood, but he thinks the wording needs to be clarified. You need to say what this first ordinance is. Is it the initial ordinance regarding the project, is it the ordinance of necessity? How do you establish that okay, once this kind of ordinance is passed, then any ordinance related to it is not subject to referendum. That's what's not clear to me. What makes this one ordinance so special?

Mr. Diemert explained, it's a public improvement ordinance. This paragraph only relates to public improvements such as sewer systems, roadways, new buildings, public buildings, those are the only ones that require more than one ordinance to go forward. That's what this paragraph relates to, a public improvement, something that's for the public, paid for by the Village and public, a referendum provision where someone can come in and file a petition and stop the project until the vote of the people takes place. You only want to apply it to the very first ordinance so that you don't go spending a lot of money on plans, construction, advertising, getting your financing, and then have someone come along and when you finally award the contract to somebody, they do a referendum on that, merely because they didn't want the police station to be built.

Mr. Jochum asked, this provision takes those situations you have described out and makes it a special category, whereas the State law permits referendum with all other ordinances or resolutions?

Mr. Diemert replied, yes. Referendum will still be allowed on any other ordinance Council passes such as an ordinance buying a new fire truck. That's not a public improvement. It's only a contract. There could be referendum on it. An ordinance rezoning property is not a public improvement. That can have a referendum on it at any stage. Everything else other than a public improvement still has the referendum right on every ordinance relating to it.

Chairman Caticchio asked, so the first ordinance is nothing more than an ordinance of need? Mr. Diemert replied, the first one is the necessity to go forward with the improvement.

Mr. Farmer commented, this language could be better. Mr. Diemert asked, how should the language be different? It says, "when more than one ordinance is necessary to make any public improvements, the referendum provision shall apply only to the first ordinance required to be passed and not to any subsequent ordinances relating thereto". So you would like that last part maybe to be clarified somewhat?

Mr. Farmer replied, something to the effect that when you are passing the initial ordinance or resolution that you are going to have this public improvement, the referendum provision would

apply just to that initial resolution. Once you have decided that you are going to have this public improvement and people have had a shot at referendum, then any other ordinances related to it aren't subject to a referendum. Mr. Farmer does not think it is clear to people reading it. Once the public improvement has been authorized or subject to referendum and is passed, then any of these other resolutions that you are going to need in the process are not subject to referendum. It does not read clear to a voter reading this. He does not think they would have a clue.

Mr. Diemert stated, this paragraph is pretty much the way it's been. He just took out the redundant language.

Mr. Jochum suggested the paragraph be started, "In matters related only to public improvement, only the initial ordinance may be subject to referendum". We set a framework from the beginning.

Mr. Diemert added, "the ability for referendum shall apply only to the first ordinance relating thereto".

Mr. Jochum stated, it may clarify it.

Mr. Diemert stated, that's fine. That sounds good. Just agree on what you would like it to be and he can substitute that for that first paragraph. It makes it a little clearer. He was trying to work with the old language as best he could.

Chairman Caticchio thanked Mr. Diemert for his additional time. Mr. Diemert advised the Commission to call back if they had any further questions.

The Commission gave suggestions for a redraft of the language to get a clearer understanding and eliminate confusion for the voters and without changing the language too much, making it easier to read and understand for the lay person. Mr. Jochum rewrote the draft using the language of Mr. Diemert, making revisions based upon suggestions of the Commission.

After discussion, the Commission agreed to the following language:

In matters related to public improvements, when the Council is required to pass more than one ordinance, only the initial ordinance authorizing the improvements is subject to referendum. All subsequent ordinances related to the initial ordinance shall not be subject to referendum.

The Commission agreed that the language was a bit redundant, however, the redundancy is needed.

Mr. Fikaris stated we will include the second paragraph as Joe improved it, meaning everything that's not stricken.

Upon vote of the Commission moved by Mr. Hyde and seconded by Mr. Jochum, the rewriting by the members of the first paragraph of Article VII, Section 5 and the subsequent paragraph as revised by the Law Department were accepted as today written without opposition.

Mr. Jochum, seconded by Mr. Hyde, moved for passage of Amendment No. 5. The motion was unanimously carried.

ROLL CALL: AYES: 7
 NAYS: 0

Motion Carried
Amendment No. 5 Approved

Article VII, Section 5 will be resubmitted to Joe Diemert for his comment and revision.

. **Any Other Matters**

Chairman Caticchio discussed the next steps. A final version of the revisions will be prepared. The members will not need to meet to review the final draft. The entire package will be forwarded to Council for their review and approval.

Mr. Farmer would like to hear what Joe has to say on the rewrite of Article VII, Section 5.

Chairman Caticchio asked Mrs. Betsa to send Joe an e-mail. Ask him to review the proposed revisions. If he has any questions, he should e-mail the Commission.

. **Next Steps**

Following the meeting, Mrs. Betsa checked with the Law Department on the next steps. Council will be reviewing this at their June meeting. The issues will be forwarded to the Board of Elections. A letter will be prepared to the residents. A legal notice will be issued for publication.

. **Next Meeting**

Another meeting was not scheduled. If necessary, the Commission will hold another meeting.

Mr. Jochum asked if we went to Council when the revisions were presented during the last review in 2005. Chairman Caticchio said we did. We should this time as well. Whoever wants to go is welcome. Mrs. Betsa will advise the Commission as to when Council will be considering this.

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There being no further business, Mr. Farmer, seconded by Mr. Hyde, made a motion to adjourn the meeting. The meeting concluded at 9:05 p.m.

Respectfully submitted,

Mary E. Betsa, Secretary
Charter Review Commission