

MINUTES OF THE
CHARTER REVIEW COMMISSION MEETING

Wednesday, March 4, 2015 – 7:00 p.m.
Mayfield Village Main Conference Room

Present: Vetus Syracuse
 James Sheridan
 Merv Singer
 Albert G. Hehr, III
 Mr. DiFranco
 Tom Piteo
 Ron DiNardo
 Paul Fikaris

Also Present: Diane Wolgamuth
 Mary Betsa

Absent: None

The Meeting of the Charter Review Commission was held on Wednesday, March 4, 2015 in the Main Conference Room at the Mayfield Village Civic Center. Chairman Fikaris called the meeting to order at 7:00 p.m.

. **Approval of Minutes of Regular Meeting of Wednesday, February 18, 2015**

Mr. DiNardo, seconded by Mr. Piteo, moved to approve the Minutes of the Regular Meeting of Wednesday, February 18, 2015.

ROLL CALL: Ayes: All
 Nays: None

Motion Carried
Minutes of Wednesday, February
18, 2015 Approved as Written

. **Discussion of Model City Charter**

Chairman Fikaris opened the floor for discussion. We will briefly discuss and come back to it when there are sections which apply to it.

Mr. Syracuse had a chance to read through it, not in great detail, but it is good to reference if we have any questions. Nothing jumped out as something we should go back and revisit and redraft our entire Charter. If it isn't broke, we don't need to fix it, but if we need to change anything, we will hopefully get a chance to get it on the ballot. This serves as a great reference guide for us.

Chairman Fikaris thought there were some good points. They discuss residency requirements for candidates. They basically say all an individual needs to be is a registered voter in their

municipality. I thought about, what if one of our fine young people go into the service and are gone for two years and come back? They have lived here their whole lives. It's something to consider, situations like that. They said that some of the validity of those would not hold up if someone were to challenge that. Also, it talks about if you move out of your Ward to another one, you have to revoke your Council seat. Another thing emphasized was that we are looking at this through our eyes. We said a few times in 2010 that that doesn't happen here, but you never know. We have to think ahead of all these different possibilities. Some of the items in the Model City Charter we follow pretty closely in ours. There are others where it is in more in-depth detail. We talked about the order of our Charter and how the Model City Charter sets their up. The Model City Charter seems to be a little more coherent. Ours would take some doing to move these things to different spots. If any movement is going to take place and has to move at a glacial pace, this is what we are here to do, at least start it if we feel strongly that something is out of place and it makes more sense to move it. I think we can find some wording from the Law Department that would accommodate that that says we are not trying to change any of the language, we are just trying to move this to another section for clarity. Keep that in mind.

Chairman Fikaris asked, does anyone else have any comment on the Model City Charter? There were no further comments. We will pick it up as we go along.

. **Old Business**

Chairman Fikaris explained how the Commission goes about preliminarily approving sections. In 2010, after we covered each section, we preliminarily approved each section. If there were any opposition, we either voted on it or if there was discussion involved, it was held pending Law Department review.

Mrs. Betsa added, at the very last meeting in 2010, the Commission went through each section and voted by roll call.

Chairman Fikaris stated, it would be a good idea right now to catch up on that and quickly go through the sections we have already discussed.

. ARTICLE I – THE MUNICIPALITY

- Section 1. Name and Change of Name
- Section 2. Boundaries

Chairman Fikaris asked if there were any further discussion on this Article. There was none.

- **Preliminarily approved 3/4/15.**

. ARTICLE II – FORM OF GOVERNMENT AND POWERS

- Section 1. Form.
- Section 2. Powers.
- Section 3. Manner of Exercise.
- Section 4. Interpretation.

Chairman Fikaris asked if there was any further discussion on this Article. There was none.

- **Preliminarily approved 3/4/15**

. ARTICLE III – THE COUNCIL

- Section 1. Composition and Term.

Mr. Hehr stated, we discussed whether or not we wanted to convert the pagination on this. Do we want to get a suggestion on this? It reads as one incredibly long paragraph/sentence. There were some questions as to whether it should be broken down into several paragraphs so it is a little more clearer on each of the different portions for clarity purpose. It could be set out in an outline format. Is it formatting or pagination? We don't want to change the words.

Mr. DiFranco added, it was a reformatting issue. It was one of the issues brought up in Dr. Keller's report. Dr. Keller stated that the drafting does not read easily. The section addresses several topics and puts them all in one paragraph.

Mr. DiNardo asked, is that something the voters vote on or are we allowed to do it?

Chairman Fikaris stated, I believe, depending on the scope, we can clean it up through a general amendment. Let's not preliminarily approve this section. I can work on a format for next time and we can look it over.

Mr. DiNardo asked, is that something the Law Department should do?

Chairman Fikaris replied, all I was going to do was draft a suggested revision.

Mr. DiNardo asked, so from this meeting, you will contact Joe? It would be wise to let the Law Department look at this. We could spend hours going back and forth.

Chairman Fikaris stated, it would be something to look at first if we gave it a shot and then submit it.

Mr. Piteo stated, putting it in an outline format would definitely make it clearer. I don't know how it works legally.

- **Referred to Law Department for review of format**

- Section 2 – Election.

Chairman Fikaris asked, are there any questions on this? There were none.

- . **Preliminarily Approved 3/4/15**

- Section 3 – Qualifications.

Chairman Fikaris asked, are there any questions on this? I still have a question about “qualified elector”. If someone is going to run for Mayor or Council, one of the qualifications should be that they are a registered voter. Is that a rights thing, like you can’t make me vote? The Model City Charter has it in there. “Elector”, which means vaguely that you have to be over 18. I believe the word elector does not appear in the Model City Charter. Under Eligibility, only registered voters of the City shall be eligible to hold the office of Council member or Mayor.

Mr. DiFranco stated, they use the word qualified elector. That might include someone who is a registered voter. Maybe we should just ask the Law Department for an interpretation of the difference between qualified elector and see if we might want to clear this language up.

Mrs. Betsa referred to the amendment made in 2010. There is a letter from the Law Department where the definition of qualified elector was going to be included.

Mr. Syracuse stated, we may want to include the definition in here.

Mr. Hehr asked, is it defined in the Administrative Code? It’s not in the Revised Code, but should be in the Administrative Code. We can use any of the language that the State of Ohio defines as the State of Ohio defines it. If “qualified elector” is defined in the Administrative Code, then we are done.

Mr. DiFranco stated, or you would have to add something in here that says, qualified elector as defined in whatever section, if we put together a definition section or define it within that paragraph.

Mr. Hehr stated, my understanding is that if it is defined in the Administrative Code, we don’t have to say as defined in the Administrative Code. If it is outside the terms of normal, then we would have to define it. I am not 100% on that, but I am pretty confident.

Mr. DiFranco stated, we are on the same page. Whether you define it in here or default to the Administrative Code, it’s fine.

Chairman Fikaris stated, if there is a clarity issue, it’s interesting the commentaries of the Model City Charter says that a prospective Council member may only be a registered voter of the city. In terms of clarity, I would say the specific question to ask Joe is to define qualified elector.

Mrs. Betsa handed Chairman Fikaris a letter prepared by Joe Diemert in 2010 defining qualified elector.

Chairman Fikaris reviewed the letter. As an example, someone living in two different places, are they qualified electors in both places? Registered voter narrows it down. Joe Diemert defined qualified elector in his letter of 2010 as “qualified elector is defined as a person who is a resident of the Village and 18 years of age or over. You cannot vote unless you have a residency and have achieved the minimal age.”

Mr. Hehr asked, you can only have one residency?

Chairman Fikaris stated, I believe that is the extent of the requirement. “Anyone who has two homes or dual residency has only one residency for voting purposes in the community in which they are a qualified elector.” How do you say that? That’s a fancy way of saying registered voter. Joe Diemert continues, “also you are not a qualified elector if you are disabled for some mental or criminal record reasons.”

Mr. Hehr stated, a registered voter signed up to vote. Qualified elector does not mean you signed up to vote, it just means you are qualified to sign up to vote.

Chairman Fikaris stated, in the letter it says, as far as being registered, it does mean that you are registered to vote in the Village of Mayfield. The fact that you may have changed communities only requires you to notify the Board of Elections as to your new residency for voting purposes. If you have not notified the Board of Elections of your change in address, you merely need to do so in order to be a qualified elector and authorized to be a candidate. I think these definitions are well understood in the court precedence and would be easy to interpret should an issue arise.

Mr. DiNardo stated, this question was raised in 2010.

Chairman Fikaris stated, that being said, if we are all comfortable with what the Law Director said in 2010 and no one has any objections, we can preliminarily approve this section. Basically the Law Director stated that qualified elector is fine.

. **Preliminarily approved 3/4/15**

- Section 4. Organization.

Chairman Fikaris suggested that the term “Village Hall” be changed to “Civic Center”. There is legislation changing the Codified Ordinances. Would this then include the Charter? For clarity, we will need to check with the Legal Department.

. **Check with Law Department about changing “Village Hall” to “Civic Center” throughout.**

- Section 5. Clerk of Council.

Chairman Fikaris stated, we discussed at the last meeting adding qualifications for this position. Should we submit this to the Law Department to add specific language? Do we agree we need to strengthen this?

Mr. Sheridan asked, what should we add?

Chairman Fikaris stated, adding requirements.

Mr. Sheridan asked, would it be any different than what is in Section 3?

Chairman Fikaris, this would be specific to the Clerk of Council requiring educational instruction and clarifying the duties.

Mr. DiNardo asked, specific language we come up with is something that would be voted on? You have continuing education due to your certification?

Mrs. Betsa replied, 32 hours of annual instruction relative to the position.

Mr. DiNardo asked, should we require less or more? Or add, continuing education, paid for by the Village, relevant to the position?

Mr. Sheridan asked, should we make certification a minimum requirement?

Mr. DiNardo replied, yes. We should give it to Joe to word it somehow. Does anyone have any objection to that?

Mrs. Betsa replied, there are other municipalities in the area that are changing their language as well. Five clerks in this area in the past year have retired. Their job duties were misinterpreted. New clerks are struggling. The position definition needs to be expanded.

Mr. DiNardo asked, is the sample you provided clear enough?

Mr. Sheridan asked, are you being too restrictive in the selection of Clerk of Council versus including it in the position description when it is posted that the Clerk of Council shall possess certification or shall achieve the certification within three years of service?

Mr. Hehr stated, it's much like you hire a police officer. You put him through the academy. At the end of the academy, he will have his designation.

Chairman Fikaris stated, Joe could come up with some language stating that the Clerk of Council must achieve the requirements set forth by this entity.

Mr. Hehr asked, we are putting these requirements on the Clerk of Council. Is it not right then to put similar requirements on the Law Director, Rec Director or positions stated within the Charter?

Mr. DiNardo stated, that is a profession. I am sure you have continuing education classes you have to take anyway.

Mr. Hehr asked, is this the appropriate place to put those requirements in here or should it be inserted into the position description?

Other positions are defined in Section 5. Qualifications are defined in the section. It generally outlines their qualifications. For example, with the Law Department, they have to be an attorney for five years. To your point, we should include the same thing for the Clerk of Council.

Mrs. Betsa explained, the argument in other municipalities is once a Clerk of Council attains certification, they stop there and do not attend any other educational instruction. The law is constantly changing. They haven't attended any additional instruction so is unaware of the change and incorrectly performs a duty. Who's responsible for the error? The response of the Clerk is, I didn't know.

Mr. Hehr stated, by putting this kind of requirement in the Charter, does it help with liability coverage for the municipality? Does it do more because of the ability to restrict liability based on having that designation and maintaining continuing education. As an attorney, in order to maintain your position, you are required to take 24 hours every two years of continuing education. People who don't do that, cannot get liability insurance or it is so high. I am sure an architect has the same requirements. The difference between a municipal clerk and a police chief or law director is that we are being proactive in saying we want a minimum qualification. Does it take three years to get a municipal clerk designation?

Mrs. Betsa replied, you need about 300 hours of instruction, employment, community service, service to the municipality.

Chairman Fikaris stated, in this day and age, a professional would apply for this job knowing they need qualifications for the position.

Mr. Hehr stated, that would be very restrictive. We would only hire someone who has the municipal clerk designation.

Mrs. Betsa stated, most municipalities at least require Certified Municipal Clerk designation or college degree. The clerk then works toward the Master Municipal Clerk designation. Education of the clerk is detrimental. For example, say I started as a Council Clerk and shortly thereafter received a public records request. Had I not had educational instruction, I may have thought it was spam and disregarded it. The outcome would conclude where the Village is liable.

Mr. DiNardo stated, it sounds like you need to have some certification and additional certification could come later. If you retire and we need to find someone, we should select someone with educational designation.

Ms. Wolgamuth asked, the question is, is the Charter the place for that? The Charter in this section talks about performing other duties as required by resolution. Are there any resolutions that exist with respect to the Clerk of Council? Those are so much easier to do and change where once it is put in the Charter, it's very difficult to change.

Chairman Fikaris stated, we have some preliminary language to submit to the Law Department. Let's see how they would handle that.

Mr. Hehr stated, or if they agree or disagree.

Chairman Fikaris stated, they may make a recommendation that this is probably better off as a resolution. It's not only about having the best qualified person, it's could also be a liability issue.

Mr. DiNardo added, limiting our risk as a Village.

Chairman Fikaris stated, the Law Director may define language to be used on qualified positions. Maybe it can be taken care of through resolution.

Mr. Hehr stated, but I like putting here what the minimum qualifications are and then using an ordinance to ratchet it up. If we are going to take the time to put the position in the Charter, we should put the minimum qualification in there.

Mr. DiNardo stated, okay. That's a question for the Law Department. Should the minimum language be in there?

Chairman Fikaris stated, we should send this to the Law Department for guidance on what we should and should not include in this section.

. **Referred to Law Department for language review**

- Section 6. Salaries, Bonds and Compensation.

Mr. DiNardo stated, prior to getting the package from Mary Beth, taking the Charter and limiting some of the words in here, I threw a 4% number in here. That's strictly for conversation. After I saw what Mary Beth presented here, we should discuss this further. What are we doing here? Should we eliminate that and have it by ordinance as opposing to having any part of it voted on by the electorate? Mary Beth has included examples from other communities. I was trying to minimize the wording here to allow some increase, but now that I look at it, I see that our Mayor and Council members are not being compensated enough based upon what Mary Beth has provided us from other communities. I will open this up for discussion.

Mr. DiFranco stated, I did some number crunching. I was trying to figure out what the cost per resident is to have a Mayor. Based upon 3,200 residents, it's \$5.95 per resident. In comparison, Moreland Hills is \$14.12. Highland Heights is \$2.66 per person. Reminderville is \$8.10. It's all over the board. From the legislation samples provided, Oakwood Village included raises from 2013-2016. It averages to about 3.69% which lines up with your 4%.

Mr. DiNardo stated, I threw a number out there for conversation.

Mr. DiFranco stated, I like the way Oakwood did it. It is finite. It has to be revisited. It is projected out. 4% per year could be a very difficult thing for voters to approve. What if the economy is in bad shape?

Mr. DiNardo stated, that's why I brought up whether we should eliminate it and let ordinance or resolution take care of it.

Mr. DiFranco stated, if you go by ordinance, what Council or Mayor is going to bring up the subject? They won't do it. They are playing the martyr.

Mr. DiNardo stated, but if you do one ordinance and set goals for 5 years like Oakwood does, then it is set and done.

Chairman Fikaris stated, one thing the Master City Charter said was to avoid putting any hard numbers in. I ran some numbers too. Ron, was yours automatic or would the 4% have to go to a vote?

Mr. DiNardo replied, the way this reads is anything over 4% would go to a vote. I was trying to keep it simple until I got this package from Mary Beth and then I started to rethink what I sent you guys. Do we pick some number and anything over that let the voters decide? That means every year they would get an increase and would not have to do anything, but is that the right thing to do?

Mr. Hehr asked, why does someone usually get an increase? This is a government. Should anyone get an automatic 4% increase? In reality, someone should not automatically get a 4% raise. I would personally love to get one. What's real out there?

Chairman Fikaris stated, this system isn't working now in fairness. It's been 15 years.

Mr. Hehr stated, I am not sure it's not working. The question would be is, do we have less qualified people running the city now based on compensation? I believe when we sat down, the majority of the people sitting in this room believe we have reasonably well qualified people serving very well.

Chairman Fikaris stated, I think we all agree there should be some mechanism to review that. Let's ask Joe how it is done. It shouldn't take 15 years, but I am not crazy about the automatic thing.

Mr. DiNardo stated, it does give them the option not to take it. The revision I provided stated they don't have to take it, but they have the ability of taking it. If you tie it to some index, some percentage, someone is going to challenge that. That's why I went with a specific number. What is the annual index of inflation? It changes every year. Joe maybe should comment on the best way to handle this. We need some mechanism like you mentioned. The last time it went to the voters it was specific.

Chairman Fikaris stated, what you are saying is, if you want it, you ask your boss for it.

Mr. DiFranco, but why would you ask your boss for a raise? Because you deserve it. It should be a mechanism on an annual review of a position by peers, if you will, that agrees to an increase. Whatever it is, I don't know.

Mr. Hehr stated, the way it is set up now, if they want a raise, they have to put it on the ballot. Isn't that like asking your boss for a raise?

Chairman Fikaris stated, would they craft the language?

Mrs. Betsa stated, there was a post-it note on the results of the last election on this that said, "not for CRC review, just straight to the electorate." It was crafted as a result of a Council member asking for an increase and it went to the electorate. It has not been raised since because no one wants to raise it.

Mr. DiNardo looked at the certificate of results. It was overwhelmingly passed. That was a fixed amount set for Mayor and Council and Council President.

Chairman Fikaris stated, this might be a good method.

Mrs. Betsa stated, back then, when the increase request was raised, it was done by a Council member.

Mr. DiNardo stated, it comes down then to this group making a recommendation to Council, do you want to change this mechanism and then let the voters decide? If not, we have to collectively vote when we get to the end if we want to make a recommendation.

Mr. Hehr stated, is this something we should ask the Law Department, to draft a recommendation addressing increases?

Mr. DiNardo stated, for Mayor, Council and Council President.

. **Referred to Law Department to draft recommendation regarding increases for Mayor and Council.**

- Section 7. Council Meetings.

Chairman Fikaris asked, any questions on this Section? There were none.

. **Preliminarily approved 3/4/15**

- Section 8. Vacancies in Council.

Chairman Fikaris stated, this was revised at the last session. It was a little confusing. Is this okay?

Mr. Piteo stated, we just had a vacancy in Council this past year. I was involved with it. Honestly, I found it confusing. It was handled correctly and the right person got in the position, but again, I had to be there like, that afternoon.

Mr. DiNardo stated, it says it right here that within 30 days, or the Mayor will decide.

Chairman Fikaris stated, it was a lot more confusing prior. One of the things was the language last time said the second most vote getters, so I run against Al, I lose, Al moves away, I get it automatically. Then someone made the point that, they wanted Al, they didn't want me. Why do I automatically get it because I came in second? That's why they put it back into the hands of Council. Did you think it was confusing because of the time? Was it contested?

Mr. Piteo replied, no.

Mr. DiNardo asked, did it work at the end?

Mr. Piteo replied, it worked. I believe the right person was selected.

Mr. Hehr stated, the question would be then do we want to switch 30 to 60 or 90? It doesn't mean Council has to wait that long.

Mr. Piteo stated, I think what has to be done is if there is a vacancy, you have 10 days to advertise for the vacancy. After 10 days, you have another 10 days for interviews. The last 10 days, the selection should be made. If it is not done after the 30 day process, the Mayor can make the selection. It's taking the 30 days and breaking it up. Put something out the first 10 days.

Mrs. Betsa replied, we advertised twice in the paper, for 14 days. Then 10 days later were the interviews, taking it to 24.

Chairman Fikaris stated, that's the other thing. You worry that someone says, I didn't know there was an opening on Council. One of the reasons why we changed it too was because it would call for a special election which could be costly. That's what the language had last time.

Mr. Piteo stated, the way it was done was fine. It was put in the paper. That was the right thing to do. Is that something that should be in there?

Mrs. Betsa replied, it was also on the web and in Council Minutes. I don't know if there would be any other way to get it out.

Mr. Hehr stated, you could drop a mailer. We get mailers for a lot less. Within 14 days you could have a mailer to every electorate in the Village.

Mr. DiNardo asked, do you want that?

Chairman Fikaris stated, we took it from extreme precaution. There wasn't specific language. There was enough time. We can ask for a comment on that from Joe. Is there a mechanism other than the newspaper? That might not be a bad idea. See whatever he feels is the best form

of notification. We can ride out newspapers until they are dead. If we include mailers, this might be something where that would occur. What does a mailer cost?

Mr. DiNardo asked, notification to all voters?

Mr. Hehr stated, for 6,000 people with postage, it's about \$2,000.

Chairman Fikaris stated, so we are about half that. Maybe that's worth it.

Ms. Wolgamuth stated, until we had this recent event where they were looking for people that were interested, I always thought Council would amongst themselves have someone in mind and would contact that person and ask them if they would be willing. If that person said yes, they would appoint them. I never really contemplated that all residents would get a notification. If you want it to be that way, you do need to clarify that. Very easily Council could just say, we know Joe Smith, he would be a great Councilman, we are going to appoint him.

Chairman Fikaris stated, what happened in our case was quite familiar to all the members. Before, it automatically went to the second most vote getter.

Mr. DiNardo stated, if there's only one person that runs, you don't have a second vote getter. There's your issue. If you notify all the residents, you have to give them more time. 30 days isn't enough.

- . **Requesting Law Department recommendation on position posting mechanisms and whether or not 30 days enough is.**

- Section 9. Powers and Duties.

Chairman Fikaris stated, we had a discussion at the last meeting on the sequence of formatting. Are there any further questions? There were none. The Law Department will be asked to review the present sequence of formatting and advise whether or not there is a need for change.

- . **Requesting Law Department to review formatting.**

- . **Review and discussion of Article III, Sections 10-17 of the Charter**

- Section 10. Effective Date of Ordinances and Resolution.

Chairman Fikaris asked, are there any questions on this Section? There were none.

- . **Preliminarily approved – 3/4/15**

- Section 11. Mandatory Referral of Ordinances and Resolutions.

Chairman Fikaris stated, this has to do with zoning and what should be referred to the Planning and Zoning Commission. This is pretty straightforward. One of the questions we had last time is if Planning and Zoning Commission fails to act, it shall be deemed to have been adopted. It goes ahead to Council. Any further discussion? There was none.

- . **Preliminarily approved – 3/4/15**

- Section 12. Public Notice and Hearing on Certain Ordinances.

Chairman Fikaris stated, this discusses how we inform and that the public has to have a hearing. We have had a few of those.

Mr. DiNardo stated, this is pretty standard. It's no different than any other community.

Mr. Hehr stated, it discusses the newspaper. Does that constitute general public notice at this point?

Mr. Piteo stated, in five years, what's going to happen to the newspapers? They are becoming extinct.

Mr. Hehr asked, is this the time to look at instead of putting it in the paper, you have to put it in a circular?

Mr. DiNardo asked, what is the right word for notification? I think that might be a legal question. Is it internet-based?

Mr. DiFranco stated, newspapers still exist, in digital or hard copies.

Mr. Piteo stated, we are at the point right now that we may go down to no newspaper in the City of Cleveland. What happens? Five years ago there was no one who thought the *Plain Dealer* could close up. Five years from today, what's going to happen? Internet communication should be introduced.

Mr. Hehr agrees. This definitely needs to go to the Law Department. What is our Code requirement? Notice is defined there. It might have to be in the newspaper. We can't be in front of the State of Ohio, so therefore we have to agree to that. If we wanted to add additional requirements for the purposes of what is notice, then we would have to make those kind of determinations.

Mr. Piteo stated, eventually in 10 years I think we will have a virtual paper. The newspaper will not be something that is distributed. It will be electronic.

Mr. DiNardo stated, I think Joe should come up with something.

Mr. Hehr asked, are we in a position where we can restrict it? We could always add additional by ordinance. We want to get the minimum here. If the minimum is that it has to be in the newspaper because that's what the Code says, then that's what it has to. I can't be in front of the Code, I have to be behind it.

Chairman Fikaris stated, the idea too is to make it easier to notify our constituents. It's a tough call. We live in a world where everyone's wired. Not everyone gets the paper.

Mr. Hehr stated, I think we have to be very clear and get from legal counsel what the definition of "notice" is.

Ms. Wolgamuth stated, in practice, if there's ever a public hearing, there would be a mailing to every house. Typically, if we are holding a public hearing, we want everyone to come. We don't trust everyone would see it in the paper or look on the website.

Mr. DiNardo asked, what happens with Boards when there is something specific like a zoning issue that comes up? The adjacent property owners receive notice?

Mrs. Betsa replied, yes.

. **Request Law Department definition of "notice".**

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

Chairman Fikaris stated, this pretty much solidifies the fact that any zoning change ultimately goes to a vote.

Mr. DiNardo stated, this was brought up at the last Charter Review Commission. It went to the ballot. It did not pass. I would like to see it go back on. The people we voted in that are running the Village should make the decision. If it benefits the community in a way that the residents may not know, I would like to throw it on the table one more time to the voters. If it fails again, we can put it to bed. I do think we are getting to a point in our community where there is no land left and any changes to Beta that may come up should be the ability of Council and Planning Commission to make some changes. That's my feeling. Otherwise, you can't have the voters make those decisions for you when there is limited land left.

Mr. DiFranco asked, the industrial area of Mayfield Village?

Mr. DiNardo replied, the 2020 Vision Committee came up with a bunch of ideas for the future of Mayfield Village. It kind of petered out.

Mr. Piteo asked, if someone wants to come and change the industrial area to residential?

Mr. DiNardo replied, no. It's a mixed use. Right now Beta is manufacturing. If we decide to take something and do mixed use where we have office and residential, if we come in with a plan, it has to be voted on by the people. If it's brought to the Planning Commission, Board of

Zoning, ARB, Council, Mayor, they should make that decision. They are watching over the Village. Those are professionals. They should make that decision as opposed to the voters. I understand their concern. They don't want something zoned commercial that is in a residential area.

Mr. Hehr stated, I think we have frequent enough elections that a change like that could go to the voters. We are a small enough electorate that information from both sides can get out. We are not talking about a national election where there are 300 million people who are supposed to vote. We are talking about 3,200. We ought to be able to educate people and give people enough information that they can make a reasonable vote of it. We are not talking about long waits. We are not talking about every 4 years. We get the opportunity to vote twice a year.

Mr. DiNardo stated, it's hard for any developer to come in to town with any type of project knowing they have to go through this process. If Mayfield Village is going to stay status quo as of today, then leave the Charter the way it is and it goes to the electorate. If you want Mayfield Village to be more progressive and look at what could be down Beta, right now what I am concerned as a resident is our General Fund is funded by Progressive, period. We should look at the future of what Mayfield Village could be. I don't want to leave that in the hands of the voters. I want to leave that in the hands of the people I have elected to run this community.

Mr. DiFranco asked, do you think it should be more restrictive or less restrictive? It's easier to get approval through Council than to go to the voters because the voters may not understand the entire issue or they may not want a certain development for whatever reason, but could there be a situation whereby Council could be impacted that they may find some conflict and want to vote some development in for their own benefit. I am not saying this would happen here, but you are less restrictive in terms of bringing in whatever development you are talking about.

Chairman Fikaris stated, this was proposed in 2010. Economically we were in a different position. We have turned the corner a little bit. I have been involved on the Planning and Zoning Commission for the last five years. We were making the transition on Beta, losing manufacturing jobs in that sector. The main pitch for this was exactly that. If you are a developer, you can go to city a, city b or city c. You would not bother going to a city that had referendum zoning knowing that is another layer and knowing how people feel about zoning laws. A quick fast forward, here are the minutes of one of the public hearings that I got to address. The people were very very upset. I think a lot of confusion arises from this. When people hear zoning, they automatically think the Walmart next door. That's real. An illustration would be the GetGo in Highland Heights. There was a lot of opposition and things flying back and forth.

Mr. Piteo stated, the redevelopment went through anyway.

Mr. Syracuse asked, Highland Heights went to the electorate?

Chairman Fikaris stated, to the ward. I believe the City passed it, but the ward did not. What's interesting is being on Planning and Zoning, we are doing a lot of work on trying to revise our ability to attract more businesses. I like your suggestion about mixed use. We are not hamstrung.

There was a very big uproar about this last time. The opposition felt strongly to the point there was accusations about deals being made. It was unfortunately a fear. Since that time, one zoning issue came before the voters and that was the expansion of Deacon's. That passed pretty handily. There is no opposition in Planning and Zoning. We get different types of businesses in through conditional use permits.

Mr. Piteo stated, to your point with the relationship to developers deterring away from a referendum area, I don't know that to be true or false. I would like to do a little homework on it. I want to ask around. I have developed in every State except Vermont and have been involved with zoning and non-zoning areas. When I didn't have to go to a vote, I was happy about it. There's always that unknown.

Mr. DiFranco asked, what do we want Mayfield Village to become? If you open it up to Council, there's a potential that zoning becomes easier. Maybe they put in a Walmart at where Campus III was supposed to be. Maybe something like that could go there. Some of the Mayor's vision is to eat up the land along SOM so we don't have Mayfield Heights.

Mr. DiNardo asked, is it split zoning?

Ms. Wolgamuth replied, layer cake zoning. The fronts are residential. You can see it on a zoning map.

Mr. DiNardo asked, what if we limit it to the commercial areas? We could say, referendum voting is not required if it is zoned commercial currently. If we don't do something, nothing will happen. I have lived here for 25 years. I don't see anything changing unless we make it a little easier for developers. We have qualified people on these Boards and Council and Mayor who make the right decisions. I believe that wholeheartedly.

Mr. Piteo asked, are there situations that have arisen where because we are referendum, the developers don't come here?

Chairman Fikaris replied, we will never know.

Mr. Piteo stated, you are saying if someone wants to build on Beta.

Mr. DiNardo stated, we have had some vacancies there. Those people are struggling with trying to get tenants there. If it's zoned commercial, can they make a change?

Mr. Syracuse stated, there are a couple other ways we can do that through Mayfield Village. We talked about that in Planning and Zoning. We were not trying to change anything, just clarify which permitted uses were there and what special uses would also qualify that they could apply to the Planning and Zoning Commission to be able to put that sort of business where it was not zoned for that. There are exceptions in our ordinances. The way it goes now is if someone wants to go on to Beta and it has been happening in a lot of our meetings, they want to put a business in where it's manufacturing or warehouse and they want to put some other sort of business in there, they come for a conditional use permit and are granted that upon vote by us and the Council. It's

a two year permit. If there are problems that people in the community are having with it they can bring it to the Building Commissioner or Council's attention. We also can say in two years when it comes back for renewal of the conditional use permit that we are not going to renew it. We even talked about changing the two year limit to five or more. I was against that because I like that we have the ability to have people voice their objections every two years. In doing so you may be preventing a lot of businesses from coming in who maybe want to sign a five or ten year lease for their business. One thing I raised during one of our Planning and Zoning meetings was a question regarding whether or not we can have the Board of Appeals grant use variances. Diane from the Law Department provided a memo to us saying that use variances were not allowed by ordinance.

Mr. Piteo asked, a conditional use permit can be granted without vote?

Mr. Syracuse replied, yes.

Mr. Piteo asked, for a limited amount of time?

Mr. Syracuse replied, yes. Two years. A use variance would be a variance that runs with the land, meaning that we can allow for a different type of zoning that's not permitted there. That would go to the Board of Appeals. Mayfield Village has an ordinance specifically prohibiting use variances from being granted. If that ordinance were changed to allow for use variances, then the Board of Appeals would be allowed to vote on an applicant who came in with a plan to have the Board of Appeals grant them a use variance. That runs with the land. It's not two years, but it's permanent, so whatever is granted, you could then say, for example, the Holiday Inn, there's a hotel, something that wants to come in, instead of applying every two years for a conditional use permit, you can have it where now this is a permitted use to run a hotel in this place. It runs with the land. That would be permanent. There's area variances, such like a sign or setbacks. When you are talking about a use variance, we have an ordinance that prevents that from happening.

Mr. DiNardo asked, can we find that ordinance?

Mr. Syracuse replied, that would be something we could ask the Law Department about.

Mr. DiNardo stated, that would be great if we could change that ordinance, but somehow somehow I have a feeling it is tied to this Charter.

Mr. Syracuse replied, it might be. There was a legal opinion on that from Joe Diemert about a year or so ago.

Chairman Fikaris asked Mrs. Betsa to provide in the next packet a copy of the Minutes from the Public Hearing in 2010.

Mr. Syracuse stated, as the economy changes, in 10 years, Beta might be the place where people want to have restaurants. There's office space, manufacturing, warehouse. We received statistics from Ted Esborn saying that Beta was 80% occupied. If there's a possibility that the

economy changes, you don't want to have it that it is only zoned for one thing. Either it has to go to referendum or where Commissions or Council can change zoning on their own and that would go in the Charter or if we have to change the requests for use variances, these are all things we should consider and maybe toss back to the Law Department.

Mr. DiNardo stated, I am looking long term at what Mayfield Village could be. If we don't do anything, it will stay exactly the same as you see it today. Hopefully we can come to a consensus and come to some sort of direction to move.

. **Refer to Legal for additional discussion.**

- Section 14. President of Council and President Pro Tem

Chairman Fikaris stated, one bit of clarity which I have, is how it talks about serving a term of one year. At the same meeting Council shall choose one of its members as President Pro Tem. There is no term duration for the President Pro Tem. There's a succession part of this too with the Mayor. If the Mayor vacates his position, it goes to the Council President and then if he vacates it, it goes to the President Pro Tem. If it is understood it is a one year term.

Mr. Syracuse stated, it says one year. It leads in to it. That may clear it up.

. **Preliminarily approved 3/4/15**

- Section 15. Employees of Council

Chairman Fikaris asked, any questions? There were none.

. **Preliminarily approved 3/4/15**

- Section 16. Removal

Chairman Fikaris asked, any questions? I believe the Model City Charter says, three consecutive absences without approval is cause for removal. I don't agree. I thought that was kind of harsh.

Mr. DiNardo asked, so if you miss three Council meetings, you are out.

Chairman Fikaris asked, any comments on that? There were none.

Mr. DiNardo pointed out, it has never been changed.

. **Preliminarily approved 3/4/15**

- Section 17. Wages, Terms and Conditions of Employment

Chairman Fikaris asked, any questions? It's just fire and police?

Mr. DiFranco asked, what about the other employees?

Mr. Hehr stated, fire and police are part of the Civil Service process.

Ms. Wolgamuth stated, this was put on the ballot and the voters agreed they would have the ability to unionize.

Mr. DiFranco asked, what about the other employees in the Village that are non-exempt? Are they in a union?

Mrs. Betsa replied, no.

Mr. DiFranco asked, so the assistant rec director, Danielle, or Sean are not in a union?

Ms. Wolgamuth replied, no.

Chairman Fikaris asked, Civil Service?

Ms. Wolgamuth replied, no. The reason police and fire ended up getting this in the Charter is because since we have less than 5,000 people, by law we are not required to follow the collective bargaining laws. The Village would have to recognize the laws voluntarily, so that's how this got added. Service has not gone through that process. They have never unionized or put it on the ballot to be recognized that way.

Mr. Hehr stated, that's exactly what 4117 says.

Chairman Fikaris asked, is there any further discussion on this section? There was none.

. **Preliminarily approved 3/4/15**

. **Review and discussion of Article IV of the Charter**

- Section 1. Term.

Chairman Fikaris asked, everyone okay with this?

Mr. Hehr asked, has there been discussion of terms limits recently?

Ms. Wolgamuth replied, term limits were removed.

Mr. Hehr stated, they were in and they were out.

Ms. Wolgamuth replied, I think they removed them in 2004.

Mr. Hehr asked, do we have discussion as to why they were removed?

Mrs. Betsa will research and report back.

- **Not approved pending discussion as to why term limits were removed.**

- Section 2. Qualifications.

Chairman Fikaris asked, any discussion on this? There was none.

- **Preliminarily approved 3/4/15**

- Section 3. Judicial Powers

Chairman Fikaris asked, any discussion on this? There was none.

- **Preliminarily approved 3/4/15**

- Section 4. Legislative Powers

Chairman Fikaris stated, the Model City Charter stated it will likely impede rather than enhance the Mayor's capacity to lead.

Mr. Hehr asked, how often do ties occur?

Ms. Wolgamuth stated, there was one time there was a tie. The Mayor abstained, which meant it failed.

Chairman Fikaris asked, any further discussion? There was none.

- **Preliminarily approved 3/4/15**

- **Any Other Matters**

Chairman Fikaris asked, any further discussion? There was none.

- **Next Meeting**

Chairman Fikaris stated, at the next meeting, be prepared to complete review of Article IV and Article V.

Discussion ensued about meeting early. Meetings will continue to commence at 7:00 p.m.

Mrs. Betsa gave advance notice to the Commission that the next meeting is on March 18th. The meeting following is April 1st. That's spring break for some. The Commission will discuss at the next meeting as a few members will be unavailable.

. **Adjournment**

Chairman Fikaris stated, if there is no further business, I will entertain a motion to adjourn.

Mr. DiNardo made a motion to adjourn the meeting. Mr. Piteo seconded. There was no opposition.

The meeting concluded at 9:00 p.m. The next meeting is scheduled for Wednesday, March 18th at 7:00 p.m. in the Main Conference Room at Mayfield Village Civic Hall.

Respectfully submitted,

Mary E. Betsa, Secretary
Charter Review Commission