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MINUTES OF THE CHARTER REVIEW COMMISSION MEETING

Thursday, June 4, 2015 – 7:00 p.m.
Mayfield Village Main Conference Room

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

Also Present: Joseph W. Diemert, Jr., Esq.
Diane Wolgamuth
Mary Betsa

Absent: Tom Piteo

The Meeting of the Charter Review Commission was held on Thursday, June 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, May 20, 2015

Mr. Syracuse, seconded by Mr. DiNardo, moved to approve the Minutes of the Regular Meeting of Wednesday, May 20, 2015.

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Minutes of Wednesday, May 20, 2015
Approved as Written

Chairman Fikaris stated, this is the meeting where we will be reviewing all of our proposed amendments. Before that, I am going to turn the floor over to Sergeant Paul Matias, Mayfield Village FOP.

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Sergeant Paul Matias

Mayfield Village Police Department

Sergeant Paul Matias introduced himself and Sergeant Kevin Miller, who are attending this meeting on behalf of the Mayfield Village Fraternal Order of Police.

By way of background, I grew up in Mayfield Heights and went to Mayfield High School. After graduation, I joined the Navy and then came back home. I received my Associate's Degree from Lakeland Community College in 2006 and am enrolled in Tiffin University working on my Bachelor's Degree.

Kevin is also a graduate of Mayfield High School. He received his Bachelor's Degree from University of Toledo. After Don Smith retired about 4 years ago, he took over our Detective Bureau.

My wife Josephine graduated from Mayfield High. Kevin's wife Teresa, also a Mayfield graduate, has been a Village resident for a long time.

The reason I give you that background is our story like a lot of employees here is a common story. We understand as all of you do the unique character the Village has and the exceptional level of service our departments are able to provide to the residents and business.

A few weeks ago we learned of discussions being held regarding changes to the Charter language, specifically relative to promotion for Police Chief. Our position on this is simple. We believe the method currently being used and has been used as specified in the current Charter should remain as written. It has been used for decades by Mayfield Village and most of the surrounding departments and has proven to be a very effective way of filling the Chief's position. We respectfully disagree that not seeking outside candidates would be a disservice to the Village. We believe actually the opposite. What better candidate could you have than someone who has come up through the ranks and dedicated their professional life to Mayfield Village? The language regarding promotion for Chief should remain as written. We respectfully oppose any initiative that would change that language.

Mr. DiNardo stated, I just wanted to make sure we are clear. I thought there was an option if we didn't find someone in the department that we could go outside.

Sergeant Matias stated, the last thing I have is the May 7th meeting minutes where it talks about the position of chief of police and fire "when vacancy occurs it shall be filled by a promotion among persons holding the position in the rank below providing there are two or more persons in such next lower rank who are willing to take the examination and qualified pursuant to the national standards as determined by Civil Service. In the event two persons are unwilling to compete for such examination in the next lower rank, then the Commission has the authority to permit competition for such appointment from the next lower rank as well as to include competition from qualified individuals outside the department." If that is the last language.

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Mr. Diemert replied, that's it.

Sergeant Matias stated, the issue we have specifically with that language is by nature of the way the police department is structured, we have a Chief, we have an Executive Lieutenant and then we have 5 Sergeants and the patrolmen. There is only one person below the rank of Chief. According to what I understand in this language, that would mean automatically there would only be one candidate so it would have to go to the next lower rank and include competition from qualified individuals outside the department which is different from the way the Fire Department is structured where they don't have an exec. Their Lieutenants would be eligible for the test and not outside candidates, but for the Police Department it would automatically go outside. Traditionally the way the Police Department does it is the Lieutenant and five Sergeants are the ones who are eligible for the Chief's test. By the way this is written, as soon as the position becomes vacant, it would be available to include competition from outside.

Mr. DiNardo asked, can we do the same thing for the Police Department?

Mr. Diemert replied, both Chiefs decided they want to leave it for the position of chief. The Police Chief was talking about doing lesser ranks as well but then it was not an urgency here because they too don't have the next lower rank filled or available.

Sergeant Matias stated, we are unclear when it talks about qualified pursuant to "national" standards what that would be. We would not want to legislate ourselves out of being able to compete for the exam by standards being set that we are not able to achieve as members of the department. We are not clear as far as what national standards would be discussed. That would be more of a Fire Department thing. What we don't want to see is fixing a problem that doesn't exist and legislating ourselves out of the Village being able to select the best applicant they feel. By opening it up to the outside you are bringing unknowns into it. By making the standards too specific, you may have qualified candidates that because they are missing something or for whatever reason, we are not able to use that person. It's been working fine for us and most of the other surrounding departments. We would like this left as it is written.

Mr. DiNardo asked, was "national standards" something we threw out because we didn't know the terminology?

Mr. Diemert replied, there is a current national standard publication we had referred to at one point and then decided not to lock ourselves into that so let the Civil Service Commission at the time make the determination what national standard they wanted to follow. Pretty much it seemed like this was the Fire Chief's idea based on the fact that he felt that maybe he shouldn't have been Chief because they went down in the rankings. Whereas there might have been some better outside people that could have come in and competed better than he for the position. He and the Chief of Police went along with that together. Neither one really discussed with as much more detail than what they said to you at the meetings here.

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Sergeant Matias stated, our opinion on that is I think the situation that happens with fire regarding Chief Carcioppolo wasn't that there weren't candidates, they were just not interested. The Fire situation is unique to itself. With the Police Department, it's something that has not been a problem. I don't think it would be a problem. Even at this point today there are several qualified candidates in the patrol division and Sergeant's division that would likely make very effective chiefs.

Mr. Hehr asked, would you be more comfortable if we said it was within the core of officers and if you couldn't find the appropriate candidates to step up within that core of officers, meaning the Sergeant and the Exec. Officer, then we could go out to an independent candidate rather than going down to just the patrol officers?

Sergeant Matias stated, not wanting to turn this into a negotiation, because at the end of the day, it's you guys' decision. On that point, that comes back to the standards. For example, if it is determined that a qualified applicant must have a Bachelor's Degree in Criminal Justice and have attended the FBI National Academy for Leadership but Mayfield Village does not send anyone to any type of leadership academy such as the FBI, Northwestern, in probably about 20 years. Right now, there's a Sergeant in Gates Mills and a Sergeant in Mayfield Heights that are attending one. We will agree to that language and then the standards are set and any candidate would have to have a national academy. They submit a request to go to the national academy and it's not possible to go. That's my concern. If we say once we go through the current employees, if we don't have a qualified applicant we can go outside but we have legislated ourselves into requirements that none of the qualified employees are able to attain, then we are back to where we started.

Mr. DiNardo stated, the idea is for options like Al said. This is the Charter. It's going to go on for years. We want to give ourselves the best option for the community, whether internal or external.

Chairman Fikaris stated, what we are doing tonight is to submit suggestions. After we vote on each particular proposed change, it goes to Council for review. If they approve of the proposed changes, it gets put on the ballot for the electorate to determine. We are not deciding. We are a step in the process. The Civil Service Commission determines the qualifications for a test of that nature. What you are saying is if they change their standards, they automatically eliminate someone within the present police force. Right now, there's automatically 6 candidates for the Chief's job if the Chief would leave tomorrow.

Sergeant Matias replied, technically right now it would be 5. Our normal structure is the Executive Lieutenant and then the 5 Sergeants. So, it would be 6.

Chairman Fikaris stated, if at least two of those were interested in the job, that would make this moot should this pass?

Mr. Diemert replied, right. There's no discretion.

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Mr. Hehr stated, with our proposed change, what would it look like?

Chairman Fikaris stated, if there are fewer than 2 interested candidates, you would go down through the ranks, correct?

Mr. Hehr replied, under the proposed change, and I would defer to Joe, there is only one person eligible because the Executive Officer is the next lower rank. Therefore, it would immediately trigger the outside auction. There wouldn't be 5 or 6 candidates because we have an intermediary rank between the 5 line officers and the Executive Officer. As we sit today there would only be one option, it would immediately trigger Civil Service having the ability to go outside and seek an independent candidate where the Fire Department does not.

Mr. DiNardo stated, that's what we need to fix.

Mr. Hehr asked, is that the concern you are bringing to the table?

Sergeant Matias replied, for this specific language, yes that is a concern. But if we amend this specific language to include so that it would be you would have the 6, the Lieutenant and five Sergeants in the initial and if out of those 6 we cannot find two candidates, then it would be opened up to the outside. That's the next level of our concern. When we talk about qualified candidates, what direction would the Village go with setting qualifications? What national standard would be used? What would be used to determine what makes an applicant qualified?

Mr. Diemert replied, that's what they decided, to let the Civil Service Commission decide that. They really are responsible for establishing merit and fitness. They would adopt whatever they felt was appropriate.

Mr. Hehr stated, that flexibility is traditionally kept at that legislative level rather than moving it up to a Charter amendment.

Mr. Diemert replied, you can take out "pursuant to 'national' standards" and just say "qualified as determined by the Civil Service Commission".

Mr. Syracuse stated, the problem you guys have is where it says, "shall be filled by promotion among persons holding positions in the rank below". There's only 1. What if we were to say in ranks below?

Mr. DiNardo asked, would those ranks ever change?

Sergeant Matias replied, we have 1 Chief, 1 Lieutenant and 5 Sergeants. Part of the language issue is that we can't have the same language for Police and Fire because they are structured differently. This language for Fire would probably be acceptable because that's basically how they work now. In the event of what happened previously is the language in the Charter that

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would open up for your basic firefighter, your entry level firefighter position and the part-time classification too which again does not apply to the Police.

Mr. Syracuse asked, would you be opposed then to language that as long as it included the same people who would compete now which would be the 6 people under those 2 ranks? If there weren't 2 or more people willing to compete at that point to open it up to outside, would you be opposed to that?

Sergeant Matias replied, we would be less opposed to it. I don't want to get away from the fact that we are concerned about what standards would be set. We are not opposed to leaving the language as it is. I don't want to keep pushing that to be an irritant, but we believe it is fine the way it is. If we said, okay, if out of the 6 we can't find any qualified applicants that want to compete for the position, then we could open it up to the outside. We don't want to be in a situation where the qualifications are set and they are difficult for members to achieve. We can't control some of those things.

Mr. DiNardo asked, Joe, what's going to go in front of the voters? Is it under one, or separate?

Mr. Diemert replied, they are together.

Mr. DiNardo stated, we have to do something. We can't have two separate. You are going to just confuse people. Let's figure out the language now and move it along. You are not opposed to changing the language, but not to the national standards. That will be on the Civil Service. We are going to word it as such and let the Civil Service Commission make that determination which they should. It should be in the Charter. As far as giving you options, that's fair and should be in the Charter to allow options for the lower ranked officers. Does anyone disagree with that? No? Joe, can we reword it?

Mr. Diemert stated, we can take out "national". Your discussion on that was there was an existing national standard for these positions and testing for Chiefs in either department.

Mr. DiNardo asked, we prefer Civil Service make that decision or just go with standards? What do you guys think? I would let Civil Service do their job.

Mr. Hehr asked, is there particular language you would want to see in there? Do you have limiting language? Obviously you would like to see us leave it alone.

Sergeant Matias replied, right.

Mr. Hehr continued, we believe that for clarity purposes, it appears that you would like to move the language along so we would like to waylay some other fears that you have which is qualifications beyond the current capacity of our officers. Is there language you would like to see or is there something you have been able to review that meets the criteria that the officers would like to see?

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Sergeant Matias replied, I am not trying to make it too complicated. I don't know off the top of my head what that language would be. Again we are going back to the fact of what the purpose is of trying to allow outside candidates compete for the job.

Mr. Diemert referenced the bottom sentence in the middle paragraph. The next paragraph is the way it is right now. It says, "In the event two or more persons are unwilling to compete from any of the lower ranks then the one person who's willing to compete gets it." Theoretically, a patrolman could become the Chief overnight because it's bound to be done from within. That's what the standard is now. We have never had a problem with it to my knowledge. We have always had qualified people in the next lower ranks to take over the Chief's position. That's what Paul and Kevin are saying, we never had a problem, so why are we monkeying with it?

Sergeant Matias replied, exactly right. To answer your question Al, just to clear it up, I think if the standard set was no different than the standard set to receive initial appointment, meaning, valid driver's license, OPOTA certificate, those type of qualifications, we wouldn't have a problem with that. But if the qualifications started turning towards, we would like a Master's Degree, we would like the FBI academy, we would like 25 years as an executive in law enforcement, that's the concern that we have. I am not saying that would happen, but that's the concern by allowing that in. It was mentioned in one of the other meetings, once you open that door, anything could happen. We don't see any reasoning to open that door. As Mr. Diemert just said, we have qualified candidates. We have always had qualified candidates. It seems like a solution to something that's not a problem. We have been clear that we would like to see it continue before we even consider opening it up, as it is now where the 6 normal candidates would be able to apply without opening up to the outside. If we were going to consider the outside, it wouldn't be because of a candidate we don't have. It wouldn't be a qualification issue. It would be much like what it was with Fire where no one wanted to do it.

Mr. Diemert replied, the way I see it now Paul is if we took out "national" and just left it up to standards as determined by the Civil Service Commission and you have today's circumstances, there will be no ability to go outside. Of the 5 or 6 people in the next lower ranks, if the Civil Service Commission determines they are qualified –

Sergeant Matias stated, with the current standards, yes.

Mr. Diemert continued, then only if the Sergeants don't qualify we don't have two people or more to qualify then it is saying you go outside when you got down to the patrolman level.

Mr. DiNardo stated, that's got to be acceptable. You have to find someone to be a Police Chief.

Sergeant Matias stated, I am fine with the structure of if no one is available. Then what becomes a concern is the level of qualification, what do we determine to be the qualifications? If we are going to say, if there's not a qualified applicant, then they can open up, but of the 6 applicants we have because what we have legislated as qualifications, none of them are qualified.

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Mr. Diemert stated, if we didn't think they were qualified, no one should have made them Sergeant anyways. Maybe if you took out "national" and put "pursuant to 'reasonable' standards as determined by the Civil Service Commission." It would be unreasonable for them to disqualify a Sergeant who is assumed into that position. And as it is now, they can open it up to patrolman as well as outside individuals if there aren't two interested Sergeants.

Mr. DiNardo asked, am I missing something? I don't see a problem with that. I don't think that will ever happen, but we have to have the wording in the Charter so that 50 years from now if it does happen –

Sergeant Matias stated, there's nothing in the Charter currently that addresses any kind of standards or qualifications.

Mr. Hehr stated, one of the things brought up that is very relevant was corporate memory. From having to raise ranks up from each level all the way from the beginning, the people established here in Mayfield Village, we know who they are, they understand the requirements of what a Mayfield Village officer does, they have been able to serve the school district and the household, they know what we as a Village want from our police officers and that's why even if they were not ranked with a national standard or something like that, they would be better qualified even from a patrol position to serve as chief than maybe an outside person from Sasquatchuan that may meet other standards but not really understand what Mayfield Village is all about.

Sergeant Matias shared a police chief job posting for North College, down near Columbus, Ohio. The city is very close to the same structure as Mayfield Village. It lists educational requirements, experience, and certifications. When you talk about certifications, must have a valid Ohio driver's license, meet the certification requirements as required by the Ohio Peace Officer Training Academy. For educational, it lists preferred requirements of an Associate's Degree, Bachelor's Degree, graduate from the FBI National Academy, Northwest Staff and Command or police executive leadership college. It talks about preferred experience. The requirements are the OPOTA certificate and your driver's license. We don't want to see the preferred qualifications become legislated to where the Village has to operate in that window of requirements.

Mr. DiNardo stated, so, Joe, it takes care of it when you change it to "reasonable standards determined by the Civil Service Commission."

Mr. Syracuse stated, we also have to include any other ranks. Joe, if we were to eliminate this whole part with chief of police whatsoever and just have chief of fire, what happens now if there's an opening? When does it become available to outside candidates? After which candidates now in the police department? You both mentioned there's 6 people who will be able to vie for it now. Then it would be open to other people. It would remain the same? Is that the way it would be?

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Mr. Diemert replied, as I understand the make up of the police, it would go down two ranks right away with no discretion to go outside. It would go down to Lieutenant and then to Sergeants and then if there still weren't two people, it would go down to the patrolman rank. In today's language, if there's only one patrolman that wants it, he gets it. Same structure in the Fire Department which is a little different.

Sergeant Matias stated, they have Chief, Lieutenant and then firefighter, so the next lower rank would be Lieutenant which again they don't have an Executive or Assistant Chief. They have several Lieutenants. Those are the ones who normally compete for that position. They are a different structure than ours. We can't have the exact same language for both Police and Fire because of the structure of the departments.

Mr. DiNardo stated, to give you a level of comfort with the language as we vote on this to move it along, the recommendation from Joe was to change that sentence to allow reasonable standards determined by the Civil Service Commission. Is that acceptable or do we need to word it to what the standards are today? Can someone question that from the outside?

Mr. Diemert replied, both Chiefs wanted to stay away from making it a separate paragraph for Police Chief and a separate paragraph for Fire Chief. The Fire Chief gave up the idea of making this the case for Lieutenants as well. He wanted to be able to go outside if there were no firefighters who could qualify for Lieutenant. The Police Chief was not interested in that. The Fire Chief then gave up that idea of the lower ranks having to have an option for outside people. They both agreed to do it for the Chief's position only. I see it as black and white. Either we eliminate the proposed language altogether and not recommend it, leave it as is because there's no problems, or adopt the language the Chiefs were okay with but make a modification and change national standards to reasonable standards.

Mr. DiNardo stated, but that still gives the Fire Department ability to go outside if they don't have a qualified?

Mr. Diemert replied, correct.

Chairman Fikaris stated, that was the focus that Gino pointed out. Along the firefighter ranks, there's a lot more educational requirements that would be advantageous in terms of different degrees. The national standards are outside of our realm too. It's pretty much up to the Civil Service Commission what standards they adopt. If we would just eliminate that language and if we add those ranks then essentially does that get us to where we want to be too? What kind of standards are adopted by other communities? Do they have this or do they not? Can they allow outside candidates?

Mr. Diemert replied, every town is pretty much different.

Mr. Syracuse asked, what if we did separate this into two separate paragraphs?

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Mr. DiNardo asked, does that give you guys a level of comfort? Is it acceptable?

Mr. Diemert replied, then the Chief of Police who also came to you to recommend that is being left out. It's just a matter of I think you accepting whether you change it or not. Some communities can hire their fire or police chief from outside originally all the time. Mayfield Village has had a nice stability because our Chiefs are protected by Civil Service. Coming up through the ranks through Civil Service is a normal progression from one rank to the other to the other. We have stability. They are not political appointments. Once they were appointed from outside they would still become Civil Service employees but then you are making original appointments without going through the ranks so to speak. That's, I think, what the FOP is probably opposing.

Sergeant Matias replied, absolutely.

Chairman Fikaris stated, our job here is to present it to this Commission either as amended or written for us to vote on as to whether that should move forward to Council for their approval and then ultimately to the voters. There's no decisions. We are only deciding whether we push it up a notch. This will go through the ranks. There's always a question of whether it will fly with the electorate. When they read language like this, an astute electorate as we have may read something into this and say, I don't want outsiders so I am going to vote this down.

Mr. DiNardo stated, we understand where you guys are coming from. We appreciate you bringing it to our attention.

Sergeant Matias stated, we are always available to answer any questions. You know where we are at 24/7.

Sergeant Matias and Sergeant Miller left the meeting at 7:40 p.m.

The Commission commenced discussion on the issues raised.

Mr. DiFranco stated, we have a responsibility to have the correct language in there. Based on what these guys are saying in that we traditionally have not had a problem although I respect what the Chiefs want, I would say we eliminate the language entirely and not put it in.

Mr. DiNardo asked, for Fire too?

Mr. DiFranco replied, stick to what's already there. To me, I don't see the problem as it is right now. We have not had a problem yet.

Ms. Wolgamuth stated, I was pretty involved with the appointment of Chief Carcioppolo. We got very close to having a problem because we might have had a part-time firefighter be appointed Chief because by the Charter we are required to go down the ranks. What the Chiefs are trying to say is a Chief's qualifications are very different. They hopefully have managing experience. A

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patrol officer does not. If you go through the ranks and have gotten past the Sergeants and are going to offer the position to a patrol officer, you would be better off going outside to someone who has Sergeant-rank experience rather than having patrol officer experience. I think that is what they were trying to do.

Mr. DiFranco asked, what happened that we got to that stage of the game? What is wrong with the existing structure that you get down to a part-time employee as your only option? There's something wrong with the structure.

Mr. DiNardo replied, or the management.

Mr. DiFranco continued, the pay scale, whatever it is.

Mr. Hehr stated, in other words, unique. Personal information about the people involved. There were personality differences that did not allow the candidates that had the capacity to move up in the Fire Department. They were unwilling on a personal level to take that next step up. Had the candidates been willing to step into those shoes, but they were not.

Chairman Fikaris stated, the word is interested. That's what in the language.

Mr. Diemert replied, the language we were going to strike out, the third paragraph down, is that part-time business where there's not two or more full-time firefighters interested, it goes to part-time. That's how that happened.

Mr. DiNardo stated, realize that this Charter is for 50-100 years down the road. We need to fix that.

Mr. Diemert replied, or 5 anyway.

Mr. DiNardo asked, does the next Commission 5 years from now want to go through this? We have a duty.

Chairman Fikaris stated, it gives an option for the Fire Department, which Chief Carcioppolo made a very valid point about, qualifications are varied and different. There are sectors within professional firefighter education and ranks that that would be a great option for us. On the other side, it's pretty much the same thing. I can understand where these guys are coming from but again it's to his argument against getting outsiders in saying just because you have been around for 15 years doesn't make you management material. You could be the best baker in the bakery and you are made chief.

Mr. DiNardo replied, you are absolutely right. You may be able to bake a cake, but you might not be able to manage.

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Chairman Fikaris stated, if we added that language, to me, if you open that up and say, since there's only one more rank below in the Police Department, you will never get an outsider because of the nature.

Mr. DiNardo stated because of the quantity of Sergeants available.

Chairman Fikaris stated, you always going to have interested and qualified. Then it goes to Civil Service whether they make it or not. I would like to see the language changed, but then you eliminate the teeth on that side that you will never get anyone from the outside.

Mr. Hehr stated, and I respectfully disagree that we would eliminate the teeth because by using Mr. Diemert's language that surrounds the concept of allowing Civil Service to determine the qualifications, we can put them back in. We can write into Civil Service whatever qualifications we want and we can arguably write out people that they believe would be perfectly qualified. I don't think you are incorrect in allowing Civil Service to determine the qualifications of the individuals we want to hire because those qualifications may change as Mr. Diemert pointed out. I do like the language of figuring out what we need to do to add Sergeants and the Lieutenant language. Otherwise what we are saying is we are always going to the outside for Chief of Police or to leave it alone.

Mr. Syracuse asked, where it says here in the second sentence of this new first paragraph, "In the event there are not two persons willing to compete for such examination from the next lower rank, the Commission has the authority to permit competition for such appointment from the next lower rank". Is that the rank below the next lower rank?

Mr. Diemert replied, I interpret that to be the third level down which would be the patrolman. The reason I didn't use patrolman or firefighter is because I tried to make it applicable to both forces.

Mr. Syracuse asked, if we were to adopt what is here, it wouldn't change the policy that they have in place with the Civil Service Commission appointing a Police Chief now? It would only allow for outside after the next two lower ranks?

Mr. Diemert replied, the first sentence covers the Lieutenant and the Sergeants in the Police Department.

Mr. DiNardo asked, the Lieutenants and the Sergeants?

Mr. Diemert replied, the first sentence does. The immediate rank below and if there's not two or more there, then you go to the next rank which is the Sergeant's. Then the next sentence is in the Police Department it would be if there's not two or more Sergeants and Lieutenants interested, it goes down to the patrolmen. At that point, the Commission has the authority to bring in other people to compete. Firefighters are different. They only have Lieutenants. You have a Chief, Lieutenants and then Firefighters. In the Fire Department when a vacancy occurs it will be filled

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by promotion from persons holding positions in the rank below providing there are two or more persons in such a lower rank who are willing to take the examination and are qualified pursuant to the national standards as determined by the Civil Service Commission.

Mr. DiNardo asked, isn't that what we want? Am I missing something here? We just spent almost an hour talking about something. Doesn't that cover everything the FOP wants?

Mr. Diemert replied, not really. They want their patrolmen to also be able to compete.

Mr. DiNardo replied, but it does. It allows the Civil Service Commission –

Mr. Diemert replied, to go outside as well.

Mr. DiNardo stated, if there's not a patrolman capable of managing.

Mr. Diemert replied, they were also concerned about the national standards. We took that out. Is everyone in agreement with that?

The Commission agreed.

Mr. Syracuse asked, is it changing "national standards" to "reasonable standards"?

Mr. Diemert replied, just take "national" out and keep "standards as determined by the Civil Service Commission." It's always going to have to be reasonable anyway.

Mr. Syracuse asked, so all this does for the Police is eliminate patrolmen from being able to become Police Chief without Civil Service being able to look outside as well once you get down to the level of patrolman.

Ms. Wolgamuth replied, they would have the opportunity to test. It would depend on how they come out on the test. They would just have to test well.

Mr. Syracuse asked, if there's only one at that point who qualifies then the Civil Service Commission can look outside, is that right?

Mr. Diemert replied, yes. They can do it even if there's two or more if they are patrolmen.

Mr. Syracuse asked, okay, so if we strike "national", we can move on?

Mr. Diemert replied, I think the big thing Gino was concerned about which Diane experienced is that paragraph you are knocking out altogether. I don't think there's any opposition to that.

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Mr. DiNardo stated, you have to leave that. We are going to end up with another situation as we had with the Fire Department. I don't know how long Gino will stay. Gino could leave in 10 years. Where are we going to be in 5 years?

Mr. Diemert stated, maybe just take the Chief of Police out of the first paragraph and leave it when there is a vacancy in the Chief of Fire and have that progression and then in the first sentence of the next paragraph we can clarify that the Chief of Police still goes according to these concepts which will eventually go down to patrolman and they would have to be picked from the patrol officers. Now you are treating two different safety forces differently.

Mr. Syracuse replied, yes. I like it consistent. I like the idea that once you get down to that level, you can look outside for more experienced people. To me, eliminating "national" and leaving it "pursuant to standards as determined by the Civil Service Commission" would work for me.

Chairman Fikaris agreed. It covers these guy's concerns and the present Chief of Fire's concerns and I believe it covers the Chief of Police's concern. We are all just setting this up. We are still going to vote around the table and it still has to go to Council.

Mr. DiNardo replied, and the voters.

Chairman Fikaris stated, it's not like we are making decisions here.

Mr. Hehr asked, are you comfortable with the idea that this includes the Executive Officer and the Sergeants?

Mr. Diemert replied, yes. Let's try and make it so it is read the way we intend it to read. "The position of Chief of Police and Chief of Fire, when a vacancy occurs shall be filled by promotion from among persons holding positions in the rank below providing that there are two or more persons in such lower rank who are willing to take the examination and are qualified pursuant to standards as set by the Civil Service Commission."

Mr. Hehr stated, there's only one in the Police Department.

Mr. Diemert replied, there's only one Lieutenant in the Police Department, therefore you are now down to the Sergeants. In the event there are not two or more persons willing to compete for such examination from the next lower rank which would be the Sergeants –

Mr. Hehr stated, that's referencing them. That's not referencing back to that Executive Officer who is not there.

Mr. Diemert replied, right.

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Mr. Hehr stated, I am still not seeing that. I keep reading it saying, the next lower rank which is the Executive Officer. At no point do we go to the Sergeants. That's what I see. Again, I have a unique way of reading statutes sometimes.

Mr. Diemert replied, I think I see what you are saying and how it can be misread. Our job is to try and make it so it's clear what the consensus would be. Do you want to say the next supervisory rank?

Mr. Hehr replied, I would be more comfortable with that.

Mr. Diemert replied, that's a good point. I will study it some more, but I know what you are trying to do.

Mr. Hehr stated, I like the ability at some point to go outside, but I think that they bring in an excellent point which is I like corporate memory which is our Executive Officer and our Sergeants.

Mr. Diemert asked, would it help then if at the next line we say, "then the Commission has the authority to permit competition for such appointment from the next lower non-supervisory rank." Do you want to go that far?

Mr. Hehr replied, I don't think you really want to. Before we get to patrol officers, we could say, let's see what we have out there, and then we can keep both Fire and Police together.

Mr. DiNardo stated, these are some valid points.

Mr. Diemert asked, is that considered a vote? How do you want to do it? You probably should make a motion with a roll call.

. **Motion to adopt the proposed amendments to Article V, Section 6(E) as amended pursuant to discussions this evening. (Assigned Ordinance No. 2015-15).**

Mr. DiNardo, seconded by Mr. Hehr, made a motion to adopt the proposed amendments to Article V, Section 6(E) as amended pursuant to discussions this evening.

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article V, Section 6(E) as amended Approved

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- . **Motion to adopt the proposed amendment to Article III, Section 4 as presented. (Assigned Ordinance No. 2015-14).**

Mr. Syracuse, seconded by Mr. DiNardo, made a motion to adopt the proposed amendments to Article III, Section 4 as presented.

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article III,
Section 4 Approve

- . **Article III, Section 6**

Mr. Diemert explained, you asked me to divide these up. One was to set the new salary you recommended. That would be 2015-13. 2015-12 would take out the mandatory voter referendum to change elected officials' compensation in the future.

- . **Motion to adopt the proposed amendments to Article III, Section 6, as presented. (Ordinance No. 2015-13).**

Mr. Syracuse, seconded by Mr. Hehr, made a motion to adopt the proposed amendments to Article III, Section 6, as presented. (Ordinance No. 2015-13).

Mr. Syracuse stated, so we are all clear, the Charter would be amended to change the Mayor's salary to \$26,000 per year, Council President to \$11,000 per year and Council to \$10,000 per year.

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article III, Section 6
Approved

Article III, Section 6 (Ordinance No. 2015-12).

This Ordinance was opposed. The Commission would like to keep this in the voter's hands. This Ordinance would allow an increase in salary without having to go to the voters. It would not apply to the current terms they are serving. It would be for the next term members and Mayor.

- . **Motion to adopt the proposed amendments to Article III, Section 6, as presented. (Ordinance No. 2015-12).**

Mr. DiNardo made a motion to adopt the proposed amendments to Article III, Section 6, as presented. (Ordinance No. 2015-12).

Due to lack of a second, this Motion died.

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- **Motion to adopt the proposed amendments to Article V, Section 6(B)(3) as presented. (Ordinance No. 2015-16).**

Mr. Diemert stated, this is housecleaning.

Mr. DiFranco stated, it identifies (B)(1) and (B)(2) above, but those sections are not included.

Mr. Diemert replied, those are the Police and Fire Chiefs. They still remain in Civil Service. This section excludes certain people from Civil Service.

Mr. DiFranco asked, is this going to be put out in text this way?

Mr. Diemert stated, the three stars mean we skipped over paragraphs rather than killing more trees. The Ordinance will be posted at the voting booth and they will get a copy of it ahead of time. We are not changing who is excluded. We are just clarifying. I can put (B)(1) and (2) in there.

Mr. DiFranco asked that it be included in there.

Mr. Diemert will include it in there.

Mr. DiFranco, seconded by Mr. DiNardo, made a motion to adopt the proposed amendments to Article V, Section 6(B)(3) as amended per discussion.

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article V, Section 6(B)(3) as amended per discussion.

- **Motion to adopt the proposed amendments to Article XII, Section 9. (Ordinance No. 2015-17)**

Mr. DiFranco, seconded by Mr. Syracuse, made a motion to adopt the proposed amendments to Article XII, Section 9. (Ordinance No. 2015-17).

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article XII, Section 9 Approved

- **Article V, Section 12(A)**

Mr. Syracuse stated, I raised this proposed amendment in the beginning. It is also built in that use variances have to go to the Planning and Zoning Commission for approval.

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Mr. Diemert replied, BZA, Council, Planning Commission and back to Council.

Mr. Syracuse stated, since we last met, we had discussed worst case scenario. The Building Commissioner gave an example. Say if Hilton Garden Inn applied for a use variance that runs with the land. If you got a new hotel that came in that was a cheap hotel and was unsightly and did not meet the standards, that would be a bad situation. I raised that with Joe. We had some conversations. Joe has made it clear that any use variance, if it were to be granted, could be granted with both either conditions like a conditional use permit or something we would have the applicant sign with the Village. They would have to maintain certain standards for anyone that goes in after them. Although the use variance would be for a hotel, we can make conditions to make it of a certain caliber. With checks and balances, you would still have to go through the Board of Appeals and then add conditions to it. It would then have to go through Council. They would have to approve it. Then it would have to be approved by Planning and Zoning as well. Conditions can be applied at any of those levels if there are any objections. We are limiting ourselves as a Village in non-residential areas to maybe miss out on people coming in who might want to develop and do some things. If a use variance is denied, they would still have the right to go to the voters and ask for a change in the zoning for that land. This is offering another tool. We have officials on these Commissions who do a good job who could grant or deny these with certain conditions as Planning and Zoning currently does for conditional use permits. Joe also mentioned that we could adopt an application where they would have to meet the criteria. This would be for us to allow use variances in the Village in non-residential areas only.

Chairman Fikaris asked, the conditions would be on the initial application? The use variance goes with the land. The second proprietor would have to adhere to the conditions set by the initial variance. The burden is on us to set standards that could be clear.

Mr. Diemert replied, the BZA, the Council and the Planning Commission would impose a condition. The motion would be to grant the variance with conditions, such as the hotel not changing to anything less than a 5 star or AAA rated. That would go with the land. You could also put in there that if anything other than a hotel chooses to go in there, the variance is rescinded. The courts allow us to do that with variances. It would automatically be rescinded, null and void and would go back to warehouse distribution.

Mr. Syracuse stated, it might make it more attractive having the use variances to other opportunities to bring in non-residential areas, different places that right now would not be able to even consider the Village in any way because they would only be on a two-year conditional use permit.

Mr. Diemert stated, there are a lot of court cases, why would anyone in their right mind who is investing in a \$5 million property to build a hotel only do so with a two-year conditional use permit not knowing if they are going to continue to be there every two years? I am sure that's impaired us from filling up Beta and a lot of different things, but the zoning is the zoning and we have lived with it and we are an attractive Village so people want to be here. But if we want to fill up that last 20%, this is not a bad idea you guys have come up with. I don't see a downside.

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Mr. Hehr stated, I like the idea we are diversifying. We are not as dependent as we may be on Progressive at this stage. We are giving flexibility. It's non-residential property. What happens in the non-residential property, I am a little more flexible with than what happens in residential property.

Chairman Fikaris stated, the main crux is to make the Village more attractive. It doesn't really change much of anything.

Mr. DiFranco stated, the hotel will submit for a use variance if this passes. The Board of Appeals has to come out and say what standard do we want to make sure stays with that land? The Hilton is a pretty high standard right now. If there is something in the Village that has been here for a long time but does not have the standards we really want, if they come in for a conditional use permit, you are going to give them the standards they currently have right now and we are never going to get anything better.

Mr. Syracuse stated, Board of Appeals would probably want to deny that. If it runs with the land it is going to create a detriment to Mayfield Village. That's where again we have to rely on the members. You and I both sit on the Board of Zoning Appeals. Both of us would want to hold that down if it was going to be a detriment to the Village down the road.

Mr. Diemert stated, you are making a good point. What happens if Hilton goes bankrupt and LaQuinta or Red Roof wants to come in? I think we will have established what the standard is and it's not going to be less than that but if LaQuinta comes in and they want to reapply for a variance to get it again or extend the same variance, they are going to have to prove themselves that they are going to meet the quality and conditions we want. You have a leash on them.

Mr. Hehr asked, do we have an issue with precedent?

Mr. Diemert replied, not with variances, no. As long as we are being reasonable. The conditions attached to variances that are reasonable is what the standard is. We would never be unreasonable.

Chairman Fikaris asked, what if something is overlooked? I know there is a parking issue at Hilton Garden right now. They have shared parking and a situation. We were able to control it a little bit with our conditional use permit when they came back to apply. The second applicant comes in and says, I am going to come in here. It's very attractive because I already have a use variance that goes with the land. It's going to be a hotel. This is where we want to be. Once they are in they are in.

Mr. Syracuse stated, with regard to the parking, that would be an area variance.

Mr. Diemert stated, we still have strings on that too. We wouldn't let the new guy by and get occupancy without meeting the parking requirements that we overlooked the first time.

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Mr. Syracuse stated, unless they are grandfathered in for some reason, they would have to come in and also ask for an area variance to approve parking with a limited number of spaces which can be denied if it has created problems.

Chairman Fikaris asked, you would have the power to deny that? To say that you like the situation as it now?

Mr. Syracuse replied, it would depend on standards put in place by Council by ordinance which would be whether it is an unnecessary hardship and what must and may be considered by the Board of Appeals or whether not it is changed to practical difficulties. That's a conversation for another day. This just allows the mechanism. If any of us want to go in and give our opinion on it at a Council meeting, we can. As far as adopting the ordinance, with Joe's guys, they will be in great hands as far as what standards they should adopt in the ordinance.

Mr. Diemert stated, there's more checks and balances on this that you are proposing now than there is on anything else we are doing in this Village. BZA is going to recommend it. Council is going to have to refer it to Planning. Planning has to have a 30 day announced publication and a public hearing of it. Council has to read it three times. By the time it gets to the end of Council's adoption, it's going to have all of the possible protections.

Mr. Syracuse stated, it will go through the Building Department where the application is filed first. That's the first step. They file their application. Joe's going to have it in place. They will have to meet the factors and criteria. The Board will vote whether or not they approve it. In doing so, along with that, if there's a problem with it, the Law Department would see the application before it goes to the Board of Appeals and they could state their concerns with granting this without adding specific conditions and maybe to make a recommendation to us.

Mr. Diemert passed around a draft application he prepared for Mayfield where they would have to show all 7 unnecessary hardships or practical difficulties. I would like you to take a look at it.

Mr. Syracuse stated, it's the last page. If the standard were changed to practical difficulties then the standard by law which we read into the minutes at the last meeting would be the criteria they would have to meet. That's for a later date for Council to decide. We are going to vote today on whether or not this is a mechanism we would like to have in the Village and whether or not it should go to Council to recommend it to go on the ballot. I am definitely in favor of it.

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. **Motion to adopt the proposed amendments to Article V, Section 12(A). (Ordinance No. 2015-18)**

Mr. Syracuse, seconded by Mr. DiNardo, made a motion to adopt the proposed amendments to Article V, Section 12(A). (Ordinance No. 2015-18).

ROLL CALL: Ayes: All
Nays: None

Motion Carried
Proposed Amendments to Article V, Section
12(A) Approved

. **Any Other Matters**

Chairman Fikaris wanted to add for the record the appreciation of the services of Pat Cattichio. He was the former Chair of this Charter Review Commission who passed away this year. I served with Pat on the Commission in 2010 and on the P&Z for 4 years. I personally benefitted from his knowledge. This Commission reflects his knowledge and the way he handled things. The Village is a better place because of him. I would be remiss not to say anything. Pat was a huge contributor.

Chairman Fikaris asked about the next steps.

Mrs. Betsa replied, at the June Council meeting, the proposed legislation will be put on Council agenda for First Read. July 13th would be the Second Read. In 2010, there was a hearing prior to the Third Read on August 10th. It was passed in August and forwarded to the Board of Elections by the deadline. In October, a letter was sent to the Village residents and a second hearing took place in preparation for the November General Election.

Chairman Fikaris stated, we should be prepared if asked during the first Council session to answer any questions.

Mr. Diemert stated, it wouldn't hurt Paul if you or your designee came to the opening meeting to summarize what the legislation is.

Mr. DiNardo stated, I am there anyway.

Chairman Fikaris asked, what is that date?

Mrs. Betsa replied, June 15th at 8:00 p.m. These will have to be filed with the Board of Elections by September 4th. Fifteen days prior to the election, I will place a notice in the paper with the language.

Mr. Diemert stated, you guys did real good.

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Mr. Syracuse asked about Ordinance No. 2015-12 that was not seconded. Will that go to Council as well?

Mr. Diemert replied, no.

Chairman Fikaris stated, it has been an honor to serve with all of you. Thank you for all your hard work.

Mr. DiNardo stated, this is a good group. A lot of intelligent discussion took place.

Mr. Syracuse thanked everyone, especially Paul who served as Chair, and the assistance from Mary Beth and Diane and Joe. We appreciate it. It made the process smooth. Thank you.

Mr. Diemert stated, thanks to all of you for caring.

. **Adjournment**

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

The meeting concluded at 8:35 p.m.

Respectfully submitted,

Mary E. Betsa, Secretary
Charter Review Commission