

# DRAFT

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

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

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

Also Present: Diane Calta  
Diane Wolgamuth  
Mary Betsa

The Organizational Meeting of the Charter Review Commission was held on Wednesday, February 4, 2015 in the Main Conference Room at the Mayfield Village Civic Center. Diane Calta called the meeting to order at 7:00 p.m. and welcomed the members of the Charter Review Commission for 2015. Thank you on behalf of the administration, Mayor and Council for agreeing to give up the next 6 months of your life to sit in this room and read the Charter word by word.

### **Administration of Oaths of Office**

Ms. Calta administered the oaths of office to the following Commission members who were unable to attend the organizational meeting of Council:

- Albert G. Hehr, III
- James Sheridan
- Paul Fikaris
- Tom Piteo

Commission members went around the table and introduced themselves.

### **Explanation of Duties**

Ms. Calta advised, I will give a brief overview. If anyone would like a detailed review of the U.S Constitution, the State Constitution and our Charter which you are going to be looking at in detail, let me know. For previous Charter Review Commissions, the history and civics lesson has

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gone on for an extended period of time. I will just hit the highlights for everyone. There is going to be a lot we need to cover tonight. Given the weather, I want people to get home earlier.

You are all aware that you are here to review the Charter of the Village. The Charter is what we call the Constitution that governs the Village and its operations. It's similar in many respects to what the State Constitution does and what the U.S. Constitution does. However, you can't conflict. Our State Constitution can't conflict with the Federal Constitution and our Charter can't conflict with the State Constitution. We also can't conflict with what are called General Laws of the State. Things like Federal laws we have the Federal Medical Leave Act. We all have to comply with them. At the State level, we have things that are considered general laws of state-wide concern. We can't change those on a local level.

One of the most recent examples are residency restrictions. We used to allow municipalities to impose residency restrictions on employees like police and fire. Those were struck down and essentially the State said you can't have those sort of restrictions in place. But there still are areas of the law that the Village as a self-governing unit can decide for itself. And although the law has sort of gone in a direction where they continue to take away those local rights, there's what we call a Home Rule Constitutional Amendment in the State and that allows the Village to have a Charter and that's our governing document. The Charter imposes upon the Village to have a Charter Review Commission every 5 years so that it is reviewed to make sure that it is in keeping with changes.

At one point in time there was a recommendation to amend the time period from 5 years to 10 years. That did not pass. Everyone thought it still needed to be reviewed every 5 years. The Charter gives you 5 months to review all of it and make recommendations.

The Charter Review Commission is a public body which means that you have to comply with State law on public meetings. You can't change that at the local level. We have to abide by the public meeting rules. Mary Beth will take on the responsibilities as your secretary to take Minutes and provide notices of meetings. These meetings are open to the public. They have to be set in advance. Notice has to be provided to the public. They are invited to attend. It doesn't necessarily mean that you have to hold the meetings here. You can have them at another location. But the facilities are here for all of you to use and they are pretty convenient.

There are also public records rules that apply. If someone were to send someone else an e-mail and start discussing business about the Charter Review Commission, not necessarily as much as setting the location and time of meeting, but anything you put in writing with e-mails, that is considered a public record. There are all sorts of exceptions, but if you put anything in writing or have any opinions, think about it in the sense of if that was on the front of *The Plain Dealer* tomorrow, would you want everyone to see it?

I don't remember getting any public records requests pertinent to Charter Review, but it really depends on where things may go and where recommendations might come from that people might be interested. The local paper could make a public records request for everything you are

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looking at, your meeting minutes, your e-mails, things like that. So if you do e-mail, copy Mary Beth so that she has a copy of all of your e-mails. She will maintain it in a file and if there are any sort of public records requests, she can produce it.

You will elect a Chair who will be responsible for calling the meeting to order and conducting the meeting. I would recommend you select a Pro Tem in case the Chair can't be here. You need to have a majority of your members present to have a meeting. If you call a meeting, but don't have a quorum, you can't conduct any business. As long as you have a quorum, anything you do has to be done by a majority vote of the people at the meeting.

As you go along, all of the departments are available for you, so if you get to certain parts in the Charter that deal with the Service Department or the Recreation Department and you need information and would like someone to attend your meeting, go ahead and reach out. Everyone's available. Diane's available as the head of Administration to answer any questions.

A memo will be going out to the Mayor, Department Heads, Council, Commissions and Boards soliciting information for Charter Review. That's usually the first step to see if they have experienced anything with the Charter that they think may be in need of a change.

You are going to review the Charter. You will talk over recommendations. Just because you are here to review the Charter doesn't mean you have to make changes. I don't want anyone to feel like because you are here and it has to be reviewed you have to come up with changes. If it's not broke, it doesn't have to be fixed. The idea here is to have a point in time when it can be reviewed. We have had years that we have had a lot of recommended amendments to the Charter and others not so much, so it varies. You are not held to making a certain number. You are not held to making any. You are just held to review and make recommendations.

We prefer to review all recommendations to make sure we are not bumping up against changing anything in a way that we can't change it. We can't bump up against general laws of state-wide concern. We can't change things the Federal Constitution requires. If you have recommendations, there are two ways the review Commissions have operated. When you have gotten to a point where you have recommendations on a section, you can send that over to the Law Department and we can review it. There has to be language put together because then it has to go to Council. We have to put the actual language together in the ordinance that has the question that is going to go on the ballot.

The General Election is November 3, 2015. There is a Charter amendment filing deadline to the Board of Elections by September 4, 2015. It also needs to go to Council. Council does not have a rule in saying yeah or nay on the recommendations, but they do have a role of moving them from their body to the Board of Elections to be placed on the ballot. Their protocol is that they need to have three readings on each piece of legislation. We do not recommend the rules be suspended on these so that the public has a chance to hear about them.

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In the past, Council has held the readings in June, July and August. Council also has a Caucus meeting which is a workshop where they discuss items on the agenda but don't take any formal votes on the first Monday of every month. It is possible for those meetings to turn into Special Meetings so the ordinances can be read.

What we typically say is you are looking at getting it to Council no later than July 15<sup>th</sup> because then they can read it at their meeting in July, the second reading would be the first meeting in August where they will call a Special Meeting and then the third reading would be at the August Regular Council meeting and then that would be in advance of the September date to get it to the Board of Elections.

Having said that, the Law Department is going to need some time to review things and put it in ordinance form and get it to Council. That's why I would recommend July 1<sup>st</sup>. You can pass these along as you find you want to make recommendations in certain sections or you can wait until the end and send them. It's probably a good idea that if you have made some decisions to send it over to the Law Department so we can give you the okay as far as not conflicting with anything if you get to that point. The earlier the better.

Any questions on the schedule? It's been done before. It sounds cramped, but it has been doable in the past years that I have experienced.

Mr. Sheridan asked, who writes the language if we come up with something we want to change?

Ms. Calta replied, typically what happens is you have a provision in the Charter. For example, there were revisions to how vacancies in Council are to be filled. We take the section and track changes. We omit and put language in that you give to us. We work with it. We come up with the actual question that goes on the ballot. An example is in your notebook. That will then be put in an ordinance for Council consideration.

Mr. DiFranco asked, can we use the screen to track changes to wordsmith this?

Ms. Calta replied, you can do it whatever way you prefer. The technology in here is definitely available here. We can get the Charter in a form that you can play with that.

Mr. DiNardo asked Mrs. Betsa to distribute the Charter in Word to all of the members.

Ms. Calta stated, we also have local ordinances on the books. The Charter is the framework. For example, there is a provision there that says the Village shall have certain departments. But it may not necessarily spell out all of the innerworkings of the department, but in the local ordinances of the Village, that's where you have the department spelled out; that there is a department head and they shall do all of the things and their duties are outlined.

We will not be changing any ordinances. However, if there are changes to the Charter that are recommended and then passed on to the Board of Elections and placed on the ballot, and if

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approved by a majority, they become the law of the land in the Village, the Charter will be amended. Everyone gets a new copy. At that point, when they are the law of the land, if there is a need to change any of the ordinances, the Village is obligated to do that. The ordinances can never conflict with what the Charter says. It is the governing document, which is similar to the State Constitution and all of our State laws.

Mr. Hehr asked, the Charter is driving the Ordinances?

Ms. Calta replied, correct. You have the U.S. Constitution, Federal laws and you do leave some authority to the State to regulate itself. The State has its Constitution. In there are home rule amendments that were adopted back in 1912. You have your State Code and then we have a Charter. There are some communities that don't have Charters. If you don't have a Charter, you are subject to all of the State laws. What they can or can't do is dictated by State law. There's a nuance in there with regard to zoning. They have some control to pass ordinances on zoning.

Mr. Hehr asked, if they don't have a Charter, how are the ordinances developed?

Ms. Calta replied, the State. There's a State Code that says you have different forms of government. You have a Mayor, you have Council, it will say Council has so many people, they serve so many terms. With this Charter, the Village was able to form and adopt its own structure and operate under that. So all of you get the task of reviewing it and seeing if there are any changes that are necessary. When you do that, try and have a healthy debate on all sides of it. There are sometimes going to be unintended consequences of changes that are made, so don't be afraid to bat it around and look at it from all different angles. The first set of suggestions would be coming from heads of departments. That will be forward to the Charter Review Commission.

Ms. Wolgamuth replied, yes. And Mary Beth has a memo that she has prepared that will come from the Commission to the Mayor, Council and Department Heads asking them if they have any recommendations to put them in writing or request to be in attendance at a meeting.

Mrs. Betsa added, it would also include Commissions and Boards. The Commission will also request in the memo that if there were no comments, to advise of that as well.

Ms. Calta replied, I have not attended all the Commission meetings. I have worked on questions, so when questions come up, don't hesitate to throw them our way. We will have you elect a Chair, Pro Tem and Secretary. At that point you will start looking at when you would like to schedule meetings. Then you can break apart the Charter. If you know you can meet every week or two weeks from now until June, you have 8 meetings and you can divvy up the Charter. Some of the sections are going to go faster than others.

Mrs. Betsa stated, in the past there has been a two hour limit for meetings. At the conclusion of a meeting, the Commission decides how many articles they will be reviewing at the next meeting. The review is done section by section and each section is initially preliminarily approved. But, it is the preference of this Commission.

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Ms. Calta stated, the first order of business after the explanation of the duties on the agenda is the election of the chairperson.

**Election of Chairperson**

Mr. Singer, seconded by Mr. Dinardo nominated Paul Fikaris as Chairman of the Mayfield Village Charter Review Commission.

Ms. Calta asked if there were any other nominations. There were none. Nominations were closed.

Ms. Calta asked for a vote to appoint Paul Fikaris as the Chairman of the 2015 Charter Review Commission.

Mr. DiFranco seconded by Mr. Syracuse, made a motion to appoint Paul Fikaris as the Chairperson of the 2015 Charter Review Commission.

ROLL CALL: Ayes: All  
Nays: None

Motion Carried  
Paul Fikaris Elected  
Chairman of the  
2015 Charter Review Commission

Ms. Calta congratulated Mr. Fikaris. And now, if you would like to take over the Pro Tem and Secretary.

**Election of Chairperson Pro Tem**

Chairman Fikaris asked for nominations for Chairman Pro Tem.

Mr. Hehr, seconded by Mr. DiFranco, nominated Mr. DiNardo as Chairman Pro Tem.

Chairman Fikaris asked if there were any other nominations. There were none. Nominations were closed.

Mr. Hehr, seconded by Mr. DiFranco, made a motion to appoint Ron DiNardo as the Chairman Pro Tem of the 2015 Mayfield Village Charter Review Commission.

ROLL CALL: Ayes: All  
Nays: None

Motion Carried  
Ron Dinardo Elected  
Chairman Pro Tem of the  
2015 Charter Review Commission

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Mr. DiFranco, seconded by Mr. Hehr made a motion to appoint Mary Betsa as the official secretary for the 2015 Charter Review Commission.

ROLL CALL: Ayes: All  
Nays: None

Motion Carried  
Mary Betsa Appointed Secretary of  
2015 Charter Review Commission

Chairman Fikaris stated what we usually did was met in two week intervals. We can open it up for discussion as to scheduling. It doesn't have to be solid. For now we should pick a day and stick with that. Typically what we do is assign a couple sections. We will start with the first three or four. Our assignment will be to all review and make notes and when we come to the meeting we can discuss each point. We will go over it line by line. These early sections are typically not things that are open to a lot of change or discussion. It's about how the Village is set up and how we operate.

Some of what we did last time was based on language that we didn't understand. Some things read some way, so we asked questions. We asked law and other questions like what exactly does that mean? A lot of times things get lost in the language. I always try to take an approach of whether or not I can understand it. We looked at whether some of the language could be clearer. Last time we cleaned up things as simple as gender specific language that existed from the past like policeman. We made a motion to change that. There was also a lot of discussion about how we fill in a vacated position. As you read that part, you figure it out, you try to simplify it, and discuss it. Not only read but think about it. That's what we were tasked with. We had an outstanding Chairman in 2010 with Mr. Caticchio. I wish he was with us to share his knowledge.

The report of Dr. Keller is interesting. He was a CSU Professor that reviewed the Charter in 2005 and made recommendations, discussing different things. I believe he addressed us as well. This would be a good thing to go over. It reads well.

Ms. Calta agreed, although it might seem tedious, it is interesting. It is important to the overall workings of the Village.

Chairman Fikaris stated, I think the reason why we review is because things do get added on. As you see in the Charter, there are dates when things were submitted. Like Diane said, we are not tasked with changing anything. The idea is to read it, do you understand it, banter ideas and make suggestions. We typically would write it out and send it off to the Law Department for interpretation. Some of the things went to that level, like, what are they saying, what do they mean? We get their help. We can invite them as well to be at our meetings. Diane and Joe Diemert were very helpful in describing the language and putting everything into perspective.

**Scheduling of Future Meetings**

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Chairman Fikaris asked, are there any good evenings for the purpose of scheduling meetings?

The Commission agreed that Wednesdays were good days. Chairman Fikaris asked, we don't have to write the meetings in stone, do we?

Mrs. Betsa replied, they were preliminarily scheduled last time. If changes needed to be made to the schedule, that was done.

Chairman Fikaris asked, did we schedule every other week?

Mrs. Betsa replied, last time they were scheduled every other Monday when Council did not meet.

Chairman Fikaris asked, can we meet every other Wednesday? We can also put a time limit of starting the meeting at 7:00 and concluding by 9:00. The timeframe is doable. It starts out straightforward and then gets into some of the meatier things. You will see that we can bang these out pretty quickly and spend some time if we need to to refine and do final language. It's not a one shot deal.

The next meeting was scheduled for Wednesday, February 18<sup>th</sup> at 7:00 p.m.

Mr. DiFranco asked, we need 5 of 8 to be here, correct?

Mr. DiNardo replied, yes, for a quorum.

Ms. Calta replied, you will ultimately vote on recommendations. The Commission voted on everything at the end.

Chairman Fikaris replied, yes, and that was good because all of the language was refined. The reviews from the Law Department and various departments was squared away and then we knew where we stood at the end. The sections in each article were preliminarily approved and at the end all sections and articles were voted on, which is what we should also do this time as well. Looking at this, did we go through all four articles at the initial meeting last time? Let's take the first four articles. If we don't get to the fourth one, then we can look at it at the next meeting. Also, if you get a chance, glance through the whole thing.

Mr. Syracuse asked, does some of the articles pertain to other parts of the articles in different sections?

Ms. Calta replied, for the most part, no. For example, you have a section on Council, you have a section on the Mayor, they are pretty confined. When you start to get down to the planning and the zoning, they are still pretty much in the same article. You are not going to find that if you are looking at one article and section, it's usually not going to refer to another section or article.

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There are some when you get down into the planning, but they really should mostly be contained in the same article, just different sections.

Mrs. Betsa pointed out that the last time, the Commission initially reviewed Articles I, II and III. Article III took a little bit longer. I don't know if you want to do 4 at the meeting, because there are some sections that you worked on a lot in Article III during your first meeting.

Chairman Fikaris recommended the Commission review only Articles I, II and III for the initial meeting.

Mr. DiNardo asked, but weren't they resolved in 2010?

Mrs. Betsa replied, yes, they were. But you have to review and preliminarily approve 17 Sections in Article III and 9 Sections in Article IV. Articles I and II are not as long.

The Commission agreed. Article III is long. Review will be undertaken of Articles I, II and III at the next meeting.

Ms. Calta stated, using as an example, if you asked the Law Department, can we get rid of the Council sections, the answer would be no.

**. Any Other Matters**

Chairman Fikaris asked, is there any other business this evening?

Mrs. Betsa stated, I just need the authority to send to the Mayor, Council, Department Heads, Boards and Commissions the memo sent the last time asking for any recommendations. I can send the memo to them tomorrow and ask them to let me know within the week.

Mr. DiNardo stated, I actually already have one, but we will talk about it when we get to that section.

Chairman Fikaris asked the Commission to provide Mary Beth with the approval to send out the request for recommendations.

Ms. Wolgamuth stated, we have been talking about this at Department Head meetings. They should be pretty ready to give you a response.

Chairman Fikaris stated, this is our schedule for reviewing, but we can come back and deal with different parts should they come up. Meetings will be scheduled every two weeks on Wednesday starting at 7:-00 p.m. Each meeting we will check and see and if the schedule needs to be changed in any way. Mary Beth will then have enough time to announce if we will be changing a scheduled date.

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Chairman Fikaris asked if there were any other comments. There were none.

**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. Singer seconded. There was no opposition.

The meeting concluded at 7:50 p.m. The next meeting is scheduled for Wednesday, February 18<sup>th</sup> at 7:00 p.m. in the Main Conference Room at Mayfield Village Civic Hall.

Respectfully submitted,

Mary E. Betsa, Secretary  
Charter Review Commission