

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

Wednesday, March 18, 2015 – 7:00 p.m.  
Mayfield Village Main Conference Room

Present:                   Vetus Syracuse  
                              Merv Singer  
                              Stivo DiFranco  
                              Ron DiNardo  
                              Paul Fikaris

Also Present:            Mayor Rinker  
                              Diane Wolgamuth  
                              Mary Betsa

Absent:                   Albert G. Hehr, III  
                              James Sheridan  
                              Tom Piteo

The Meeting of the Charter Review Commission was held on Wednesday, March 18, 2015 in the Main Conference Room at the Mayfield Village Civic Center. Chairman Fikaris called the meeting to order at 7:15 p.m.

•       **Approval of Minutes of Regular Meeting of Wednesday, March 4, 2015**

Mr. DiNardo, seconded by Mr. Syracuse, 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 with Mayor Rinker**

Chairman Fikaris stated, Mayor Rinker is here this evening to address any specific topics.

Mayor Rinker stated, I can't really think of any specifics. I assumed that at this point you have your ideas of things you either want to tinker with or have questions about where you need our perspective. We can start there and I can play off of that.

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Chairman Fikaris stated, we wanted to get your viewpoint on Article III, Section 13 about referendum zoning, if we feel a case for putting this on the ballot and maybe doing a few things differently than last time with wording.

Mayor Rinker asked, why do you feel as Commission members it's something voters should look at?

Mr. DiFranco asked, so that we all understand, what is it? What is the issue that has been so heated in the past? How can it benefit the Village? How can it hurt the Village?

Mayor Rinker stated, what I am going to tell you is pretty much the position I have taken all the way through. You have all played cards where dealer calls the hand. You can change the rules, but if it's the basic card game, you figure out how to finesse or play the game. Much of what we deal with procedurally in terms of substantive rules like this, referendum voting, falls into that area in my estimation.

Referendum zoning is an acknowledgement that power vests in the people, of the people, by the people, for the people. There's a United States Supreme Court case decision from 1970 involving Eastlake where referendum zoning was the focal point. It really is referendum voting, period. You have elected officials. Who votes for them? They are elected by way of a referendum. It's the people voting for those who run for public office. You can have a referendum on an issue. It's called an initiative petition. Ohio law provides that regardless of Charters, if there is a belief among a set number, you have to petition, like medical marijuana or something about voting rights. You have to get so many people who will sign on to a specific ballot of initiative and by operation of Ohio's Constitution and Federal Constitutional principles, again, power vests in the people. That's the font of power. It's simply a way to provide mechanisms for voters to vote on either a particular issue or category of issues when they arise.

Initiative is one where voters take the initiative as petitioners and if they meet certain criteria for language, a single issue, other aspects, that's put to a referendum vote. After the Eastlake decision in the '70's, and because Ohio has Home Rule, it became pretty much in vogue for communities to look at referendum zoning. From probably 1975 to about 1990, a lot of communities went through it.

Mayfield Village adopted a Charter in 1975. The first order of business in Mayfield Village was incorporating adopting a Charter and creating a Council. There were 5 people on Council. Then they created a Charter Review Commission. I believe from the very beginning, referendum zoning was part of the original Charter, but I am not sure of that. It may have come through from a Charter Review Commission. Knowing that historically is useful. But the idea is that if there is going to be a zoning change rather than allowing the Council, elected officials, to make that decision, it's so important that the people need to make that decision.

Mayor Rinker continued, I look at term limits as another analogous category where voters do these things or these provisions get enacted because people don't trust government. Have you

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ever seen *Blazing Saddles* where Cleavon Little goes “don’t move or”? That’s kind of what goes on. If we don’t trust ourselves to elect officials who are worthwhile to exercise sound judgment, why are we electing them? What do we expect from them? Do we expect that we can sleep 360 days out of the year but suddenly we wake up for 5 and we are going to be smarter and know better what to do? That’s kind of what referendum zoning is.

When I was starting out on Council, Progressive Casualty Insurance Company wanted to expand. It was already zoned for the use so it didn’t have to get rezoned, but Progressive was actually looking at properties and buying properties in my neighborhood, residentially zoned properties. At some point what Progressive was going to do was to assemble land and then approach the Village and say we want to rezone this. If we were like Mayfield Heights, that issue would be handled by Council. The elected officials would decide. There would have to be a certain public process. Legislation would have to be reviewed by the Planning and Zoning Commission which would make a recommendation and come back to Council. You would have a public hearing where people could air their grievances, pro and con, and then Council would make a decision. In referendum zoning, it’s no, if you are going to change the zoning category of a property, we need to put that on the ballot. So it won’t be Council. What does it do? It takes longer. It now becomes far more visible. People talk it up a whole lot more. It can be and often is more provocative. But in Mayfield Village, with referendum zoning, we changed the zoning where D.O. Summers is today. We changed the zoning at Deacon’s. That’s the most recent one. We changed the zoning for Parkledge. Originally the category was created which voters don’t vote on, but in order to put that new classification on pre-existing zoned property that issue had to be voted by voters. In every one of those instances, I thought that the public discussion was very good. I also liked the fact that as a Mayor when developers came to me, and I have had this happen with Skoda Minotti where they wanted to acquire those three properties opposite Whitehaven and they said, we want to expand, we want to do this, can you help us, and we said, yes, but they are zoned for residential, you are a commercial use, you are going to have to go to referendum vote. I liked being able to say, if it’s good enough from the administration to promote this, we are putting the cards on the table and we will go to the voters.

It gives me a certain amount of leverage as a Mayor to say to a developer or property owner who wants to change the zoning that you are going to have to go through a gauntlet. It’s going to take longer, but if we support it, it’s likely going to pass. But for us to support it, we have to do a little horse trading. I am not trying to be clever, but if I didn’t have that card to play, it’s well, you can go to Council. Council would be approached very differently and the Village administration would be approached very differently because now the power is not out there in this sort of 4000 pound elephant. That’s a real deterrent. For people that don’t like that because it’s a deterrent, it makes it more cumbersome. It is often more expensive. I have represented clients where in Solon for example, not only do they have referendum zoning, they do it Ward specific. The history in Solon up until our project 5 years ago was there were four different issues where across the community of Solon, about 63% of the community favored it, but it failed in the Ward, so it got kyboshed. It was a very expensive campaign. The client I had had to spend about \$100,000 to be able to get the whole community and the Ward on board with the

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zoning change. If they had gone next door to Bedford Heights, they probably could have done it within two to three months. The merits would not have been any different.

Home rule is kind of goofy. You go to different communities and you can get very different variations on it. I say you look at Mayfield Village. What is our zoning scheme? What is the extent of development, the pattern of development? Where do we think likely changes would occur where referendum zoning should be removed or not? I just look at it as we are small enough and we have a pretty good handle on how we are developed and how we are zoned that having referendum zoning to me is not a problem. If anything, I can cite examples where it has actually worked out pretty well. But I can see other times where it's a real pain. It's almost how you look at it, how you cast a particular issue. I think we have been able to use it to educate people better. Does that help you or hurt you? Does it explain anything?

Mr. DiFranco stated, I really didn't get a position from you one way or another.

Mayor Rinker replied, because that's the way I feel. It's on a case by case basis.

Mr. DiFranco stated, what I heard you say was maybe in some areas of the Village, referendum voting is the way to go and in some areas of the Village, Council should be able to make that decision.

Mayor Rinker replied, that's probably true. For example, in Beta Park, we have a screwy set up because our conditional use and special use permitting process is pretty loopy. It's never really been challenged. But if there were an area that would in time be likely to seek some change that would be an area where I would think, I don't know if referendum zoning is going to help or hurt. It's more operational. For example, what if we would want to introduce residential zoning there or we want to introduce more retail? For the most part, under conditional use permits we could push the envelopes. That would be an area where I could see referendum zoning. I don't know if it helps much at all. There are other areas where within established residential neighborhoods, if someone came along and said we want to take Bonnieview and turn that into a higher density to match Stone Creek. If it were just Council doing that, Council could see the merit of it. If it were the community, that might be very different. It's not so much where, although that does come into play. I think it's more what. What is the situation? If we didn't have referendum zoning, when you say that I am on the fence, I would probably approach Council and try to do it in a way like I prepare a case where I have to get in front of a judge and jury and present my case. I would do that regardless. But it's a different approach and magnitude when you have to do it in a community as a whole. Maybe what I am saying is I have had no problem with it. In some ways I kind of like it. I understand it and can use it effectively as a tool.

Mr. DiFranco stated, but what it prevents is, for example in the case of Beta, a situation whereby a large corporation may want to come in and they can't because the zoning isn't there for them. The best you can do for them is give them a conditional use permit which expires after two years.

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Mayor Rinker stated, unfortunately the example you are giving doesn't play out so much because big corporations can pretty much build anything they want on Beta. It's going outside of Beta that's different. For example, on the north side of Beta backing up to your property there are a lot of those properties that are split-zoned. Some of them front on Highland and some of them front on Beta. But the actual zoning line doesn't match the property line. That's where there's a certain dynamic. One of the reasons we did the trail as we did it and we acquired some properties is because we felt that in the future, from talking to Dave Hartt a number of years ago, if there's a tectonic plague, it's Highland because of the traffic flows that are through there, they are deeper properties. Ridgebury went through that. That's where Hidden Woods is now. There was a certain controversy about it. Those were deep lots. You know how that happened? Because back in the day before 271 these were all platted out. This is also the background of *Shemo*, there was a through street. My old street, Norman Lane, went all the way through to SOM. Then it never got built. So when those streets were developed, there was this sort of space between Ridgebury and Foxboro which is a really deep area. Ultimately, Mayfield Heights Council rezoned that. One of the property owners there happened to be Council President and the Mayor. Apart from that issue, that was one that probably worked out pretty well.

Mr. DiFranco asked, isn't that part of the problem where voters see a conflict? That potentially their Council could be influenced to vote for something?

Mayor Rinker replied, exactly. This is where I go back to why we have term limits or the Cleavon Little thing, because there's this inherent mistrust. What we are saying is we are admitting we don't pay close enough attention and we really don't trust the officials we elect to do their jobs which is not a great commentary. The argument to get rid of referendum zoning is you should be focused on the people you elect, you should pay attention to the meetings, things should be handled in the public eye. If your officials aren't doing it, the solution in our system of government is you vote them out of office. But if the damage is done, it's too late. That's why people basically want referendum zoning. I can give you these instances historically in Mayfield Village where I think it has worked out to an advantage. I have never been a fan of it, but I am not opposed to it. What I am sharing with you is historically it's worked out okay.

Mr. DiFranco asked, are you aware of a situation whereby Mayfield Village lost because of referendum voting? In other words we had an opportunity for a good corporate partner to come in to Mayfield Village?

Mayor Rinker replied, I believe that the precursor to Progressive was Gould Corporation. It's very similar to the *Shemo* case where once 271 came through and there are a ton of zoning cases going back into the '60's and '70's that were the spawn on the 271 corridor because just like I explained to you that we had through streets, the same thing was true, streets were platted through. If you look at old plat maps, there was a grid of streets in Mayfield Heights especially. Gould Corporation ended up taking the Village to court. The Village settled and rezoned that property. Whether that was Council just refused, whether that was a referendum issue, but it's probably a good example of where there was a populous notion that a big company, a big developer, a big gun comes in and we resent the fact that they are pushing us around because

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they have a boat load of bucks and high priced lawyers. There's just that sort of paranoia that we are being ganged. That was an example, I believe, where the Village lost.

There was another case involving Weisberg. This was north of Highland. When we looked at our old northwest quadrant development, we had to deal with the fact that this was someone who wanted to develop commercially in that area and I am trying to remember the issue, but there was a referendum vote and it went to court and the court concluded that basically you can be wrong at the top of your voice. The mechanism of a referendum vote is procedurally appropriate under the Constitution, but voters can get it just as wrong as Council could. What if voters voted against a racially motivated issue? Just because it went to referendum voting doesn't sanctify that. It's still a bad law. It's wrong. The *Weisberg* case was one where our Court of Appeals reviewed the facts and concluded, referendum, that's not the issue, whether they can do that, the mechanism is fine, but the outcome is still unconstitutional.

A bad vote, whether by Council or by referendum, is still going to be subject to the same scrutiny. We are talking really about the mechanism itself. What it really comes down to, is an issue of such import that it shouldn't be handled with the ordinary course of business where Council could do it and people may be sleeping and missing it because nobody picks it up. Even though we can go on-line and we have a very good and timely source of information of what the business of the Village is, most people don't read that stuff. It's boring as hell. No one really looks at it. So the idea of a referendum is that this puts it out in front of us so we have to pay attention. I think people like that.

When you talk about taking away referendum, that's when it becomes much more controversial. Every time it's come up, last time it came up where it was actually recommended, there was a real movement. It got caught really as a political football. There were other things going on. That was in 2000. It got kind of kyboshed. I sort of brokered a deal where I said, look Charter Review Commission meets for five months. That is precious little time for the community to discuss such important issues. Ironically, to vote referendum or not is an example of where you would want in a referendum vote people to have the kind of time typically you would need for referendum zoning changes to be able to consider a Charter change. That was the irony. I said look, if it's that important, this doesn't have to be handled through Charter Review Commission. You can bring it around in an initiative petition or you could try to get Council to present it and go through a lengthier process. It died. I wasn't trying to be cynical or clever, it just didn't have that sense of moment.

What you do in Charter Review gets a certain amount of attention, but the irony is the kind of pushback or parallax is, you take the time that you need and then there's not enough time to do anything. Maybe a Charter Commission proposal should be we should vote Charter Review in the preceding year and instead of having five months, we should have 15 months. But then how long would you want to do it? Think about it. Whenever you tinker with the existing rules, you often want to achieve a certain result, but then there would be unintended consequences. Part of the unintended consequences of the Charter Review; by the way, Charter Review originally was supposed to be every 5 years, then it got changed to 10 years, then back to 5 years again; but a

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similar consideration would be this is a rules change, maybe we ought to say Charter Review should meet sooner rather than when it does. Rather than in the year of the vote, start it 12 months ahead of time so that you get your sea legs and you get your due diligence done. It's kind of like negotiating a big transaction. I am probably throwing more out than you need, but I think what happens is when we get into these discussions, we start saying, well I can change this and this might be the effect, or I can change that and it might go differently. In principal, I think the big issue with referendum zoning is it takes too long, it's cumbersome, and it can deter some companies from coming in. Sometimes that's a good thing. Sometimes that's a bad thing.

Mr. DiNardo stated, Stivo, maybe I can share something with you. If you have a project that, for example, someone wants to come in and do to Bonnieview what they did in Mayfield Heights. If referendum voting was not in our Charter and it was done through our Boards, it would go to Planning Commission, it would go to the Mayor, if there were any zoning issues, BZA and ARB and so forth. Say it gets approved and everyone's on board and there's a development agreement and they talked to the residents. There's still an opportunity for other residents to come and bring a petition up to vote against it.

Mayor Rinker stated, unless it is voted by emergency.

Mr. DiFranco stated, you are right. But the onus of the burden becomes that of those that oppose it locally versus if it's a referendum, the developer has to come to the people and say, this is what I want to do.

Mayor Rinker replied, you have hit the nail on the head.

Mr. DiFranco continued, so it's harder for the organization, the developer to come in and get their way. If they got their way through Council without referendum voting, then it would be harder for a petition to be developed and to go through that process and reverse the decision.

Mayor Rinker stated, that's a pretty fair assessment.

Mr. DiFranco stated, as it is now, I understand it. It's more restrictive as it is right now. The question I had asked last time we had talked about this is, what do we want Mayfield Village to be? I heard you say that if we don't do this, Mayfield Village will never change. This is what it will ever be.

Mr. DiNardo stated, I still believe that. Status quo.

Mr. DiFranco stated, personally, I don't have a big problem with that. Although what I do have a problem with is, I want to know that Mayfield Village is sustainable long term. We always talk about Progressive leaving, what is our tax base?

Mayor Rinker stated, but now you are getting into a totally different realm. Now you are getting into land use decisions, not just zoning, but land use and policy. *Cleveland Magazine* comes

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around every year with polls. Do you know how much land is in the public domain out of all Mayfield Village's acreage? Give or take 40%. 25% is Metroparks. The other 15% is Mayfield Village. When I started on Council, Mayfield Village owned about 12.5 acres. We own a boatload more than that now. We were able to work out a deal with Progressive on North Commons. We did a lot of things, in part because there was referendum zoning. Their frontage, 300-350 feet from SOM, was still zoned single family residential. That gave us an opportunity to negotiate a Development Agreement where we were able to take on a whole lot of property because of the zoning. There was also a wetland area that from a development standpoint was a royal pain in the neck. We were able to barter and swapped. They got good frontage and better draining land. We got a whole ton of acreage that we have been able to develop for active and passive recreational purposes. We were able to buffer and control density because we had been looking at three individual property owners who had taken us to court and were suing against our existing zoning. They wanted a higher density residential. They were looking to the courts. We had referendum vote on the issue in 1994 where voters overwhelmingly voted to rezone the properties from the pre-existing commercial uses, office lab and warehouse distribution, to conventional single family use. The court struck it down. There's an example historically where we lost even though we had referendum zoning because it was clear from a populous standpoint that was hugely important. Out of that court loss, that's how we fashioned our deal with Progressive. We could say, we can't rezone this. The courts won't let us. Here's the deal we have to do.

What I am trying to get at is is part of it, if you understand the zoning and you understand the process better, you can probably figure out a way to use those rules to an advantage. That's what we have done from a land use standpoint. We have found that if we put the money into property, we can negotiate far better than just dealing with the zoning. Zoning has a role. It's a card to play. It's not the only card. It's not the only tool in the toolbox. Policy decisions on how land is going to be developed are hugely important in all this. A lot of people don't necessarily see that.

Mr. DiFranco stated, however, Mayfield Village has gone through, and you mentioned it, Mayfield Village owns a substantial chunk of the land within it. There had to be a reason for acquiring all that property.

Mayor Rinker stated, that's part of what I am trying to tell you.

Mr. DiFranco stated, there was a vision there of what you, Council, this community, wanted Mayfield Village to be. If we divert from referendum zoning, do we have the potential to divert from that vision? There was a 2020 Commission that put together a document.

Mayor Rinker stated, this pre-dates 2020.

Mr. DiFranco stated, that document came out later to say, what do we want Mayfield Village to look like in 2020?

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Mayor Rinker replied, it validated what had been an earlier community involvement. We polled residents and went through discussion. We hired some companies to help analyze. We used Robie Simon and Kevin O'Brien from Cleveland State to help project different economic development models, what would happen if we went this way and the services we would have to provide and police and fire we would have to hire versus what if we went this way. We went through all that in the mid-90's. Subsequently, 2020, having seen certain successes, I think that helped to reinforce that vision. That didn't happen as a direct consequence of referendum zoning or no referendum zoning. That happened as a consequence of land use policymaking. That's what I am trying to get at. You can't separate those two. That's why it's Planning and Zoning. The zoning and planning components have to be soup and sandwich. They always have to be interfaced.

Mr. DiFranco asked, is it the case that if referendum zoning was not a part of Mayfield Village, that vision –

Mayor Rinker replied, is it possible? Yes. Would it affect it? Yes. To what extent? I can't tell you. I can tell you it wasn't the sole nor necessarily the critical factor. That's why I keep coming back to it. To me, referendum zoning is a different way to call the game. You can have two wildcards. Are we playing five card stud or seven card stud? Match the logo card or not? Any one of those games is going to set off a different set of tactics and strategies. That's what I think is most important, understanding enough about the game and then playing the game. You have to want to do that.

When I started on Council, Vince Busa used to say, we are not in the real estate business. I said, if we are not in the real estate business, what business are we in? We are. We are the real estate business. We are the government. We are the ones that do the zoning. We are the ones that do the planning, tax people for it, provide services for it. Who better to be involved? In a way what we did is we approached these decisions much as a developer would. How do you make a buck? What is it that you want? Is it simply an income strain or a quality of life? That was the key. In the '90's, the consensus was when it comes down to it, there are certain quality of life criteria that we need. I think in some ways it was intuitive but putting it on the table and saying it out loud galvanized a lot of what people wanted. A lot of times I would find I had Council that was not at all compliant but I knew where the voters were and I knew where people were because they told us that's what they wanted. In a way that was kind of fun. I don't see that changing. I think Mayfield Village, where we are and the assets we have, yes, if Progressive leaves, there's no question, it's going to be a huge loss. They have always been our biggest employer. They were in the '80's. But they have become that much more so. What we did was we took the revenue stream and made huge infrastructure improvements and are still doing it. We are trying to do it in a way where infrastructure installed is more sustainable. Where the zoning fits into the sustainability is you want to start looking at areas where you take your bookends, populations, pre-imposed family.

We have a real weak spot in Mayfield Village where we don't have empty nester zoning. If you look at the apartments here, there's Berkeley Square. They have been here forever. The cluster

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zoning we put in place is really kind of small. Our requirement is that you have to be of a certain size, forcing someone to do an assemblage to get a parcel big enough. That's a lot split and consolidation. It becomes more complex. Those are procedures that are cumbersome. What's more important is what do you want, what does it get you or what do you lose? Do you want it or do you not want it? That's where these discussions typically come out when we have referendum requirements. It's forcing people to go back to the planning table and understand what it is they want. I would think there are times where having Council rather than referendum zoning would be more useful in that regard.

Again, I am flip flopping with you because there are some instances where I like having it, but there are other instances where I would say I would like to push this policy change. I would like to have Mayfield Village and part of the lands we have acquired lend themselves in the future to being dedicated for a higher density use. If you look at north of Fisher's on either side of the street, we have acquired some properties there. You look at the corner of Highland opposite Tirgan and ultimately I would like to see there or beyond Tirgan next to our trail, there are areas where if we had some higher density where you could put townhomes in there, something not as pricy as Parkledge but more accessible to people are not going off to Breckenridge. I have known firsthand at least 10 different families that have moved out of Mayfield Village and gone there. Why? Because it's a congregate care facility. In my area, in some of the streets, like Glenview and Bonnieview, they are nice ranch style houses because we all have slabs, those become sort of by proxy, places where people can go pre and post family. But it's not the same thing. You still have the yard to take care of, you have old infrastructure. Most of those houses now are people like you who are expanding or remodeling, which to me is a great change in our housing stock. But we still have a gap. We don't serve a need. What's the problem? We lose that certain sustainability that is sort of a generational recycling that I think is important. That's a planning issue that we have not tackled. I am preaching now because it's stuff we really should be looking at. That's not a Charter Review Commission issue but it highlights the fact that you can talk about changing the rules. It's how you apply those rules that's really critical.

I am not for or against referendum zoning. To me, it's a phenomenon that Mayfield Village has and I work with it. We have worked with it with some success. There are probably instances where we have lost opportunities. Maybe we didn't even know it because someone on the outside looked and said, forget that, we will go next door. I am sure that happens. Whether that's a good or bad thing is a different question. I don't think you can assume it is either. That's to me the mischief in this discussion. People make certain assumptions. For example, Charter Review said we cannot have a regional police district or fire district without a referendum vote. No one knows what a police or fire district is. I don't know what it is. Council Monday night voted for us to go negotiate with the County for regional dispatch operation. Initially, as we started this discussion, I had some people who came in and they are looking at the Charter going, you know, there's supposed to be referendum and we said, no, we looked at this very carefully. This is not that. You see where I am going? People make certain assumptions when they are looking at these rules. It's a one-dimensional view. You always have to look at these decisions more three dimensional.

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I am probably not doing anything but making this muddier. I just think referendum zoning is something that comes and goes. You have to keep looking at it. Godspeed.

Chairman Fikaris stated, we can continue this discussion a little bit later, but I would like to add, we are not just voting yeah or nay here. It's already on the books. What happened 5 years ago, and if you read the Minutes of our public meeting, there was a strong sentiment that we have professional boards and Council. The people were generally, you know more about what the President's up to than what the Mayor's up to because the media covers it. We don't go and seek out that kind of information. A lot of people felt that way that something was trying to be pulled; something was amiss. There was a strong mounted campaign against the idea that we were putting this on the ballot. There was very strong opposition. That's to be taken into consideration.

Mayor Rinker stated, one thing I advise clients, when there's something that has the potential of being provocative, you don't want the process to be the problem because the process becomes the scapegoat, the substitute for the projects, merits or demerits. In other words, if you know the project is going to be scrutinized, you want to remove any sense that it's being railroaded, that there's some underhanded aspect to it. To me, a valid consideration is whether the Charter Review Commission should start its work sooner rather than what it does because by the time you get people selected and you sit down and read through this and do your homework, how many meetings have you had now?

Chairman Fikaris replied, three.

Mayor Rinker stated, and I have two of you who have done this before. Think about it, to me what made the last time largely provocative was not just that the issue was there, but there was very little time. There was a pressure cooker. There was a sense that, oh, oh, we've only got so much time. They are trying to snooker us. Nothing could have been further from the truth. I remember Eric Jochum was so upset because Pat Caticchio was getting raked over the coals. It got ugly. It was a shame because it totally shanghaied the discussion. In a way, doing a change there to make it easier to facilitate discussion of some of these bigger ticket items, that's more realistic. That's more feasible. Because now you are changing the process and designing it to become less in the way so that the process doesn't become provocative and you can focus more on the issues in and of themselves. I think term limits, referendum zoning, you are always going to have polarization. You will always have that on those issues. Being able to have a more thoughtful intellectual discussion I think is hard to do in a charged environment. Oftentimes it's like the stages of death and dying. There's the initial reaction, there's insult and anger, venting and then things subside. If you have been in a public meeting with public processes, you see it curve. It ramps up and then sort of tapers. Sometimes it tapers because people lose interest. That happens often enough. But there's also a certain amount of absorption and understanding. That to me is what public officials have to manage well. They have to keep those issues. That's how we have tried to do it with the dispatch where we do not run away from the issues and we try to share as much information and demonstrate that we are doing it. To me, it's almost more of

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looking at how you propose a decision as much as what the decision is to be. I'm not helping you at all with yeah or nay.

Mr. DiFranco stated, you got everything out.

Chairman Fikaris asked, are there any other discussion points we would want to engage the Mayor in?

Mayor Rinker stated, the only other thing I have heard about is someone is talking about salaries?

Chairman Fikaris asked, would it be right to ask your opinion?

Mayor Rinker replied, yes. Probably the easiest benchmark is to say when was the last time it was done and what was the cost of living and where are things today? What Council and the Mayor have, I no longer take advantage of it, but I am provided healthcare coverage. The value is close to \$20,000 a year.

Ms. Wolgamuth stated, no Council member has healthcare coverage.

Mayor Rinker replied, yes. The Mayor is and the rest of full-time employees do. I have not done it now for a year and a half, two years. Be mindful of that. If there is an adjustment, you really ought to be looking at what is the cost of living and what is the commensurate value? *The Plain Dealer* has helped out because Cleveland.com is at least showing what other communities have. The Mayor and Managers just posted that. They have done it the same for Council. It's a matter of public record.

Mr. DiNardo stated, the article is right here. Everyone has received a copy.

Mayor Rinker stated, my view is, I don't do it for the money. I don't know, but I suspect that over the years there have been Council people who have been attentive to some kind of PERS component that if they get PERS long enough, if they can get into the PERS health coverage, that's changed. It's no longer as attractive as it once was because funding is so hard to do. So I think from a straight cost of living, I would use that as the rubric and just say, it's time for an adjustment to reflect that with the caveat that the Mayor is a different category. The Mayor's salary is not huge, but again, if you have that health coverage, that's basically double.

Chairman Fikaris stated, but in the future, as we look at the Charter going forward, as we structure something like now or something that's a mechanism in place that takes care of that or on an ongoing basis because we are not just talking about now.

Mayor Rinker asked, in other words, you have an automatic that there's a cost of living index that's applied?

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Mr. DiNardo replied, maxed out.

Chairman Fikaris stated, Ron suggested you have this mechanism in place and you lay it at the doorstep.

Mr. DiNardo added, it's up to you whether you want to take that percentage increase up to a certain amount. Anything over, leave it up to the voters.

Mayor Rinker stated, I can't do that. Someone's got to vote it.

Chairman Fikaris stated, but it would cover it until the 2020 Charter Review and have them look at it. We are looking at the future. How do we set that up? Is that our job? Or do we say let's take care of it, because there's been such a long time?

Mayor Rinker replied, that's a great question. I don't have a quick answer. A different question is what should public officials be paid? Because in some of these discussions over the years it's been well, you don't get paid enough, we want to attract good people and then you go, well, okay, are you attracting people who are going to be working a full-time job or are they still working a part-time job? I don't think in all likelihood there's much of a correlation between getting paid and the quality of the people filling that spot. I think most public officials run because of ego. Once they get power, it builds their ego. Power corrupts. It's human nature. I think there's less a demand or consideration for paying a good salary. It's more, what's fair for the time of work, the commitment, and looking at our community demands. I don't think it's just population, some communities, regardless of population, their issues are far more complicated. Like Richmond Heights, they have had huge headaches to deal with. They get paid. That's combat pay. When you see all the salaries, it's all over the map. If the argument is this should be indexed either up to a max or over a finite period of time which is another way of saying there's a ceiling to it, so that voters then, it drops off after 5 years and the next Charter Review can put it back on the ballot or not. Council can always do it regardless of Charter Review. I don't know the answer to those questions, but I can see where if you do something that's a permanent automatic, that gets voted down. I just don't think people like that.

Mr. DiFranco asked, but you did just mention, there is already a mechanism for those increases through Council? Council can bring up increases?

Mr. DiNardo replied, not without a vote.

Ms. Wolgamuth added, they would have to put it on the ballot.

Mayor Rinker stated, I think that's fixed. The only way that number gets changed is if voters approve it. You can say in a Charter what we would like is under the Charter you voters can vote for the next five year period to apply such and such cost of living index using the existing salary as a baseline and over that five year period, just articulating the ballot language now would be hard. But I can see where if you give that to voters, you give voters the chance to vote

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up or down this automatic provision that would work a certain way. You are basically, here's the equation, vote it up or vote it down. My suggestion would be it is probably more palatable if palatable at all if it is finite. If it seems as just this sort of never-ending inflation increase, that gets shot down.

What I thought was interesting, and I was reading this today in the Cleveland.com is they talked about this Mayor gets a salary and each resident pays, for example \$5.33. I think Merle was like \$20 a pop or something. People get into that. I think most people would say, oh yeah, it's been a while. You are not being greedy. I don't think there's a huge problem with that. But I would be mindful of being conservative and pegging into something like that is probably as much as you can push.

Chairman Fikaris asked, are there any other questions? There were none. Chairman Fikaris thanked Mayor Rinker for attending.

Mayor Rinker left the meeting at 8:10 p.m.

**. Discussion of Responses from Law Department**

Chairman Fikaris asked, does the Commission want to go through what Joe Diemert had to say to the Commission's questions? Let's discuss a few of these issues and then we will see how far we get. We are doing a good job here. Referencing Joe's response, let's go through these and we can discuss some of the things Joe had suggested.

. Article III, Section 1 – Joe talked specifically about language, pagination issues, and maybe moving things around. He thinks the dates pretty much are a good idea. We talked a little bit about whether Wards are a good idea. We agreed that pretty much we were going to stick with that. Are there any comments on that?

Mr. DiNardo stated, we should leave it alone. No change. The Commission agreed.

Chairman Fikaris stated, let's preliminarily approve it for now.

***Article III, Section 1 preliminarily approved***

. Article III, Section 4 – This was just the language about the Village Hall and Civic Center. He pretty much says it's either/or if we want to go ahead and do that or if we find other language issues, we could combine them into one suggestion to be put on the ballot. Last time there were more major language changes we felt necessary.

Mr. DiNardo asked, are we agreeing to put this on the ballot?

Chairman Fikaris suggested, I think we are pretty much up in the air. What we might want to do is look at this. As we continue through the Charter, if there are other issues then maybe we can

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combine them into an umbrella issue as we did last time. It wouldn't hurt in the end to ask Joe one more time, should we put this on the ballot.

***Article III, Section 4 left to end for consideration by Commission.***

- . Article III, Section 5 – This was about the Clerk's duties. Joe describes what we discussed a little bit. We can include educational requirements. They can do so by ordinance or resolution. The section gives Council the authority to establish the Clerk's duties. He says if you would like to make sure that Council does have a minimum requirement, you can amend this section by inserting after the first sentence "The Clerk shall have a minimum certification as municipal clerk as defined by \_\_\_\_\_ or obtain certification within 6 months of being appointed by Council." That was the suggestion. I interpreted it as he is saying you don't have to put the depth of what we discussed.

Mr. DiNardo asked, what is the entity?

Mrs. Betsa replied, I can get the appropriate language.

Mr. DiNardo asked, should 6 months be 12 months?

Mrs. Betsa replied, the minimum certification takes 3 years because you have multiple requirements, which includes educational instruction. Most of the municipalities require the minimum already.

Chairman Fikaris stated, so we could say, the Clerk must have the certification or obtain it within a timeline approved by Council, or do we want to make it so that the individual must have the certification? A minimum certification.

Ms. Wolgamuth asked, are there are a lot of people who out there with the certification that would be available to apply for the position if there were a vacancy?

Mrs. Betsa replied, yes. But there's five retirements in this area. It's starting to become slim pickings.

Ms. Wolgamuth stated, it might be difficult to find someone to hire with the certification.

Mrs. Betsa agreed. You could somehow say instead that the Clerk is required to maintain continuing educational instruction relevant to their position. Perhaps make it general.

Ms. Wolgamuth stated, maybe at that point you could leave it to the ordinance and resolutions if you are not going to the certification.

Chairman Fikaris stated, as Joe said, it's become much more complicated.

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Mr. DiNardo stated, there's liability issues too.

Chairman Fikaris agreed. For example, pursuant to the public record laws, requests have to be replied to in a timely fashion. There's a lot more to the position

Mrs. Betsa replied, the Clerk and other employees can attend educational instruction. The Mayor and Council are supportive of that.

Chairman Fikaris asked, how do we strengthen the language if we want to? Is that the way it's going?

Mrs. Betsa replied, I will be attending the State Association Board meeting tomorrow. Let me get their input. They are also trying to put something through on a State level.

Chairman Fikaris stated, let's hold off on this.

***Article III, Section 5 held.***

- . Article III, Section 6 – We just discussed this. What Joe and what the Mayor said is to keep in mind that any ordinance ever adopted is subject to referendum. Regardless, your elected official are hesitant to ever ask for a pay raise. He adds, the Village has not kept up with reasonable compensation. These officials actually put in more time than I have seen in many communities.

Chairman Fikaris stated, looking at that, that's the present. Looking at the future, that's what his suggestion was. It was different than what Mayor Rinker said. He says, a specific increase for each position beginning January 1 and each year thereafter until we hit the five year mark. The language can then be reviewed in the next Charter. He is saying take it on a case by case basis.

Mr. DiNardo passed around additional discussion and wording. I have underlined some things. It needs to be done.

Mr. DiFranco stated, what this is saying, there are fixed increases for the next five years and then Charter Review would have to take a look at it again next time. I like that. Very set numbers.

Mr. DiNardo stated, I was trying to get input from Joe. And you saw what Mary Beth presented from other municipalities. A lot of those ordinances are set for a certain amount. That's what people like to see.

Mr. DiFranco stated, I agree with the Mayor. I don't think the Mayor and Council are doing it for the money.

Mr. DiNardo stated, it needs to be looked at.

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Mr. DiFranco replied, I don't disagree.

Mr. DiNardo stated, Joe is willing to come up with the language. He needed direction from our group here as to where we want to go. The people present today like the fact that it's set for certain amounts up to the next Charter. I had a question on language for another thing coming down that we can discuss, and I just threw that in when I e-mailed him. That's why it's only addressed to me. I wanted to make sure everyone's aware of it. It was really regarding the Architectural Review Board, the Building Commissioner being able to vote. That was the reason for this e-mail just to me. Mary Beth, can you inquire with Joe so now he knows what we are looking for? Can we put this aside? Can he come up with the actual wording that would be in front of the voters?

Mr. DiFranco replied, I am good with that. We need to come with a percentage increase.

Chairman Fikaris stated, we have not done anything since 2001. We are talking 14 years. Instead of taking on the burden, would it maybe be prudent, as Joe suggested, and address it next time in the Charter Review, to make it a one-time increase? Or are we setting a precedent for an annual?

Mr. DiFranco replied, if you do a one-time increase, you are looking at probably a 20% increase. I don't think that looks good in front of the voters.

Chairman Fikaris stated, we could argue that we have to make it all up in a basket. There's not a number we are trying to achieve.

Mr. DiNardo stated, ultimately we will have to.

Mr. DiFranco stated, this is the way I see it. Cost of living used to be 3%. When you index things now, Social Security increases by 1 point some odd percent now. It is indexed to some standard. Since 2001, there have been no increases. I think we have to come up with the cost of living plus a little bit more to catch up. That's why I thought 4% seemed about right. When Ron mentioned that last time, the evaluation that I did looking at Oakwood who were at 3.69% per year, in that similar ballpark, maybe 3.5 or 4% is my suggestion as an annual increase for the next five years and then the next Charter Review can look at it and go from there.

Chairman Fikaris stated, my question is that you can say that this is not a full-time job. I understand about using the index as an indicator, but I find it interesting that they didn't bring it up and maybe it's because they are handcuffed and that maybe shows a little more the integrity and quality that we have that in 15 years no one has ever mentioned that. I am just not sure that, when you say catch up, I understand, but what's that number we are getting at? We are at \$7,500. I agree with you guys. I am just bouncing that off. Would it be more palatable to say, okay, now what these guys are doing is trying to establish some sort of, maybe that is our intention so we don't have to wait 15 years, but the idea is, like Joe mentioned, it's not that anyone is going to rich, but it's not worth my time. That's the whole idea, you are not going to get folks that are

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going to say, it's not worth my time. I like your idea. It establishes some sort of form. I was just throwing out maybe a one-time deal with language that says to be addressed by the next Charter Review Commission.

Mr. DiNardo asked, what about coming up with some number that is an increase set for 2015 and then after that you get increases to the next Charter? Either you continue it or change it again. The last time it went to the voters, it was established as a certain amount. It was a pretty good yes vote versus no. This group has to come up with that number. Do we just take the existing base salary and work some percentage above? You will find it's probably very minimal. We have to figure out something.

Chairman Fikaris asked, the question you have to ask is will the Village ever go to a full-time Mayor? Is that usually a population thing? We are all thinking here and now. We have a good Mayor. We have good Council.

Mr. DiNardo stated, the article listing what Mayors make says if the position is full or part-time. It doesn't say in the Charter if it is a part-time or full-time position. We are talking 15 years from now.

Chairman Fikaris stated, there's a lot to be said. What happened in Mayfield Heights? When Greg got in there, he went from full-time to part-time? He reduced his salary. Was that by choice? I don't think that's our mission.

Mr. DiNardo asked, the list says the Mayor makes \$21,660. I thought it was \$19,000?

Ms. Wolgamuth replied, it's \$19,000. That's pension contribution.

Mr. DiFranco asked, what is the entire benefits package for him?

Ms. Wolgamuth replied, he's eligible for medical, but he doesn't take it.

Mr. DiFranco stated, so the Village has to accommodate \$20,000?

Ms. Wolgamuth replied, if the Mayor chose to take medical.

Mr. DiNardo asked, that's by Ordinance? It's not in the Charter.

Mr. DiFranco asked, does the Mayor get benefits or a vehicle or mileage?

Ms. Wolgamuth replied, no.

Mr. DiFranco asked, so it's basically a salary and PERS contribution?

Ms. Wolgamuth replied, right.

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Mr. DiFranco asked, as his salary increases, so does the contribution Mayfield Village puts in? The same for Council? I think we have to look at that total amount of how much more annually are we going to be spending on the Mayor and Council and is it palatable? People will look at that.

Mr. DiNardo stated, Mary Beth was just digging through things and she found the results from the vote from 2000 which dictates the amounts the Mayor, Council and Council President make. The last increase before then was 1994. It was overwhelmingly approved.

Mr. DiFranco asked, what was the increase at that time?

Mrs. Betsa will obtain the information and advise the Commission.

Chairman Fikaris stated, potentially the next Mayor can say, I am entitled to my PERS contribution and I am entitled to my healthcare. So that total compensation package could get up there close to a full-time salary. There is no stipulation in the Charter whether the Mayor's position is full-time or part-time. What is full-time and what is part-time? Do other communities have it in their Charter? We look beyond today and say that's what we are on the hook for. Council as well, you said no one is taking advantage of the healthcare but they could?

Ms. Wolgamuth replied, no, they are not entitled to it.

Mrs. Betsa stated, it has been proposed by Council a couple of times. Legislation was drafted requesting coverage, but it was determined it would have to go to the vote of the electorate. The legislation was not introduced.

Ms. Wolgamuth stated, and the Finance Director told me the health care plan would not allow it because they don't work enough hours a week to be eligible for healthcare. We should check on that.

Chairman Fikaris asked, but the Mayor could qualify?

Ms. Wolgamuth replied, yes. Because he puts in so much time although he doesn't keep his time.

Mr. DiFranco asked, how do you determine he is working a full-time position? He's a full-time attorney, is he not?

Ms. Wolgamuth replied, right. At the time, I am not sure how that happened. They must have contacted the healthcare company and showed the amount of hours he puts in.

Mr. DiNardo asked, what about the new Obamacare? Is it anything over 30 hours makes you full-time? Maybe the insurance provider has certain guidelines? Is that a Federal thing?

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Ms. Wolgamuth suggested we discuss this with the Finance Director and get the details on the healthcare.

Mr. DiFranco asked, can we grid it out, along with the PERS contribution?

Chairman Fikaris asked, so if I was a Council person and put in 30 hours, I would be eligible? Is that written down anywhere? That someone could be potentially eligible just by the number of hours they work?

Mr. DiNardo suggested we inquire with our healthcare provider. Start there. Ask them first.

Mr. DiFranco stated, right. Say Council makes a certain salary, but their healthcare package is \$20,000. Do you still feel they should get increases?

Chairman Fikaris stated, a lot of folks as they head towards retirement say, what's more important? To be able to secure access to that healthcare rather than looking at the number of dollars they are getting.

Mr. DiNardo stated, for those in PERS, healthcare is changing. I don't know what the changes are. The impact is pretty big.

Mr. DiFranco stated, you used to be able to have your spouse covered with your healthcare plan. Now your spouse is not covered under PERS. They have to get their own. This is preventing a lot of people from retiring because they have a spouse that can't get healthcare or is working part-time or can't get Medicare. They can't retire. They want to continue to carry them on their medical plan at work. It's preventing a lot of people in the private sector from retiring. Or, what they are doing is retiring and getting rehired which is preventing the younger generation from coming in. There's a double-dip issue.

Mr. DiNardo asked Mrs. Betsa to include the results of the vote from 2000 and the actual ordinance. What are we asking Joe, to leave those blank and we fill them in? Or do we want to wait?

Chairman Fikaris suggested we wait. Until we get all the information and see what the amount is, we can then put some other input into this. We kind of know what Joe has to say. You are on the right track.

Mr. DiFranco likes the way Oakwood did it by laying it out.

Chairman Fikaris agreed.

***Article III, Section 6 held pending further information.***

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. Article III – Section 9 – At first we had an issue with the way this was paginated. We talked about “shall” and “may”. Joe talks about emergency clauses and things like that. We really didn’t discuss a whole lot about that. Was there any discussion on this?

Mr. DiFranco asked, you mean whether or not there’s an issue with the emergency piece?

Chairman Fikaris stated, he addressed it. I don’t recall us discussing that. Some people have some general issue with that.

Mr. DiNardo stated, I think we should leave it alone. There are times when we need things to happen quicker. Literally at the last Council meeting we had to get a budget approved that has been discussed for many many weeks. We also had legislation on life insurance which needed to come in to effect April 1<sup>st</sup>. There are times when we need it. I feel we should leave it alone.

Chairman Fikaris stated, if this needs to, should it be put before the voters to get a pagination change?

Mr. DiFranco stated, I never had a problem with the way it was worded. Al raised that. This might be looking into it too much. Is it something we need to put on the ballot? If so, it would just be changed by outline format. It doesn’t raise anything that we should put to the voters, but if we are going to, that’s the only thing we need to do.

Mr. DiNardo agreed. I would leave it alone. People are just going to be confused.

***Article III, Section 9 preliminarily approved.***

. Article III – Section 12 – We discussed this thoroughly. Joe talks about posting. We have a pretty good format in place. He suggested if you wanted to, add the word digital if we think that’s necessary.

Mr. Syracuse asked, is digital putting it on the Village’s website? Is it e-mail? That’s opening a can of worms. Five years from now, things will change a lot more. If it is still something then that needs to be addressed that would be a better time for this to be looked at and to be amended. I don’t think anything’s wrong with the way it is now.

Chairman Fikaris agreed. When things are very important, they mail it directly to all residents. That’s a tradition.

Mr. Syracuse stated, e-mail is going to probably replace mail eventually anyway. They will have their e-mail address on file with the Village and will get all the information that way rather than by mailing. Until that occurs, I don’t see any reason to change this.

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Chairman Fikaris stated, mailing is a physical aspect of saying there's a record of it.

*Article III, Section 12 preliminarily approved.*

Article III – Section 13

Chairman Fikaris does not think necessarily that we have to put this one to bed. We can think about it. We will be voting on this. There is an advantage. There was a large backlash about communication. It seemed to be that we were taking something away from them. People were angry and yet the same time things came up that they did not know. The counter was everything's public, everything's open, the Minutes are available. I can understand the way people felt. I also understand that we have our professionals in place. This is taking away something. The whole narrative got lost in the process. People were pretty angry. Conversely, the thing that did come up was Deacon's. It was a minor lot split consolidation but it was kind of crucial to that project. Basically what people voted on was whether we want Deacon's to stay or not. Without it, it would not have flown. They passed it.

Mr. DiNardo asked, what if we just asked the voters to let Council, the Board members or Mayor, to allow for rezoning in commercial areas as opposed to the whole Village? I think the way that was presented to the voters was the entire Village. What if we asked them to just say the commercial areas? Would that give them some ability to make deals with whoever comes?

Mr. Syracuse replied, I don't think there's anything wrong with referendum voting. Especially for residential areas. You don't want to take that away. What you bring up Ron is a good point. To the point that I brought up at the last meeting, I think we can do that by amending Article V, Section 12 which we have not gotten to yet. I sent an e-mail out to everyone on that. It is by ordinance and Charter. The Charter says that the Board of Appeals shall have no power or will there be any change for a variance in any land use or classification or district in the existing zoning ordinances or the zoning map for the municipality. I think if you want the market of the commercial areas here to be dictated by people coming in, what businesses are coming in, what people want to put in there, I think use variances would be very helpful in our community on Beta and in the commercial areas. I think that's something that, rather than a zoning referendum under Article III, Section 13, we might want to just allow that process. I feel that is a really good process to make minor changes. Referencing the memo Joe prepared years ago, you are rezoning it, you're not rezoning it. Allowing the Board of Appeals to make that decision, Council's the last to approve that, if it is something major, people will know about it. They will show up to these meetings and will voice their objections to it. Instead of just leaving it up to Council to say, we want to rezone this, we want to rezone that. We could do that. I still think the public would be against that.

Mr. DiNardo stated, we have to be careful. A lot of times if you go in front of BZA to get something changed, such as land use, many municipalities allow that in their Charter or the way they do business. We have to make sure it doesn't contradict. You will get some resident in here

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saying wait a minute, it has to go in front of the voters but then in that section it says you are allowed to make that change. We have to make sure it works. I like your idea Vetus of putting it in front of the BZA because that's the Board that needs to make that change and then follow suit with Planning and Zoning, but they work together. How do we mesh that?

Mr. Syracuse stated, we need a legal opinion on that. The older opinion talks about the standard of review for granting an area variance. That's what that memo is about. It basically stated that by Charter there is no ability for the Village to allow any use variances. But now if we take a look at that and ask the Law Department what we would need to do to allow use variances, would we just have to amend Article V, Section 12, or would we also have to make a change to Article III, Section 13? How would that affect one or the other?

Mr. DiNardo stated, that's perfect.

Mr. Syracuse stated, the memo that was prepared years ago does not cover that issue. That might guide our conversation further. Correct me if I am wrong, but it seems like the main place this would occur that you are losing out on businesses coming in because they don't want to apply for a two year conditional use permit, is on Beta. That's the main place where this is happening. Instead of saying, well Council could rezone it and then 10 years from now whatever they zone it for then, businesses are crashing left and right, that economy has changed, well now they are going to rezone it again. I don't know that rezoning is the right way to go plus in the memo itself I want to point out that it says the Board may not grant a variance or exception to the zoning regulations or building codes, unless the applicant has shown that the literal application of the provisions of the zoning code or building code would result in unnecessary hardships or practical difficulties. The standard for area variance is a practical difficulty. That's the types of things that are already allowed. People can apply for area variances for setbacks or signage, things like that. The unnecessary hardship, that's a strong burden of proof they would have to show. It's not like by allowing use variances the Board of Appeals can just say, oh, you want to put a restaurant in on Beta? By all means go ahead. They would still have to show and the Board would have to apply what the case law says. This just does not really cover it in detail because again it's more practical difficulties, but I have seen the case law on it in my experience on the Board of Appeals in Mayfield Heights where we would have applications for use variances and the unnecessary hardship that they would have to show. There's a whole list of things that they would have to show. That's what the Board of Appeals would be voting based on. It's not willy nilly. It's not Council says this is good to change the zoning. You might want to just change it for one property. For example, there could be a vacant building in Beta that's been vacant for five years and they don't know what to do with it so they are going to sell it to someone who is going to tear the building down and build something else. There's all sorts of hoops they have to jump through, but one would be a referendum vote to allow them to build a restaurant atmosphere type building, something like that. It could be anything it's not zoned for now. I think a use variance would be very effective for that.

Mr. DiFranco asked, are you saying the ability for specifically Beta or Beta to be changed in terms of zoning only commercial?

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Mr. Syracuse stated, that's what I would like it to say. Just my opinion.

Mr. DiNardo stated, we only have certain pockets of commercial.

Mr. Syracuse stated, you couldn't have someone come in for a use variance asking for –

Mr. DiNardo stated, Highland Road. You wouldn't be able to do that. It's not zoned that way.

Mr. Syracuse continued, you couldn't change a residential area by a use variance to allow commercial, but you would be able to rezone commercial that only allows manufacturing or warehouse or offices.

Mr. DiNardo asked, but if they show a hardship?

Mr. Syracuse stated, the hardship could be that there are no other places in the community that would be of service to the community. What happens is the public would be notified of it. I like the idea of a use variance being allowed here. The public might be more open to voting yes to that than a referendum vote being taken away. It's worth looking into what would need to be changed. If we have to change both of these sections, that opens a whole other set for discussion at the next meeting. We should get the answer as to what would need to be done. If it's too complicated or other issues arise where yes, it might not change anything, asking for a use variance, the Board may not grant any anyways.

Mr. DiNardo added, or being tied to an agreement with the Planning Commission. I don't know. This is a whole different ballgame. Can you ask Joe that if multiple boards, you agree, Planning and Zoning comes in and says, wait a minute, we don't agree with BZA.

Chairman Fikaris stated, procedurally they would have to go to Planning and Zoning first.

Mr. DiNardo stated, the zoning change should come from these guys.

Chairman Fikaris stated, it would be an appeal. You guys have the authority to grant the appeal. It's a process.

Mr. DiNardo stated, these are good questions.

Chairman Fikaris stated, that's a very good idea. That's the way it does flow. Here's what we can do. Here's what you have to do. Go to the BZA to appeal.

Mr. DiNardo stated, this is strictly on commercial property.

Mr. Syracuse agreed. Maybe there's a better way to allow for changes. Whether it's Council does it, whether it's allowing use variances or whether they have to go through Planning and

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Zoning first. Whatever way it's going to be, we should get a legal opinion on our options and maybe a recommendation on what the Law Department feels would be the best route to go.

Chairman Fikaris stated, say this proposal flies. For example, these guys wanted to expand along the Beta/SOM corridor where those three homes are. They are still zoned residential?

Mr. DiNardo replied, yes.

Chairman Fikaris continued, so then that would automatically with only the one change have to go to a referendum? And that's okay. That's kind of the way we want it.

Mr. Syracuse stated, that's exactly why I like the use variances.

Chairman Fikaris stated, I have been on that Board for 5 years. We do all kinds of things. It's all above board but we are working on trying to strengthen our protection and what we have to offer. The people that control it are good stewards, knowing what is good for the Village.

Mr. DiNardo stated, okay, we will hold this for now.

***Article IV, Section 13 – Held pending further review and discussion.***

**. Any Other Matters**

Mr. DiNardo will raise the role of the Building Commissioner at Architectural Review Board meetings at the next meeting.

Chairman Fikaris stated, John suggested the same thing and a copy of his e-mail should be in the Commission's notes. If there is a quorum issue, or in the event of a tie, he can become a voting member only at that time. He says, we bring people before us and then we lack a quorum and cannot act. We should be able to act.

Chairman Fikaris continued, the next section we talk about how our Commissions and Boards are set up. Then we talk a little about the Civil Service Commission as well. There is one issue that both police and fire have suggested about going outside to hire.

I think we are really good. We have squared away a bunch of items. We will finish up IV and V at the next meeting. Article V has a lot of meat into it. What I scheduled for the next meeting is to review and finish the review part of this between VI to XII. Some of them are one shot things. We will take it as it comes. I want to assure you that we are making progress. It's all good. I don't know if anyone is a little worried about not making things happen, but I think we definitely are.

Mr. Syracuse agreed. By the next few meetings we will have gotten through most, if not all, of Article V which is a very long one where all the changes may come in.

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Mr. DiNardo asked, do you want to revisit IV? Or do you want to go through the rest of this and leave IV towards the end? We are all in agreement we need to do something. Do we want to keep moving?

Chairman Fikaris replied, I think next time what we will do is start where we left off and go through this and table Article IV.

Mr. DiNardo asked, so we start on Article V and spend some time there?

Chairman Fikaris replied, there's some of IV we can go through and bang out. We are on Section 5 which is about the Mayor's Executive Powers, Veto, Inability to Perform Duties, Vacancy and Removal. It's two pages. Then we can move on to Article V. Let's keep progressing. We can either to discuss this again or go through and save everything to the end which is only about another two meetings. Then we can say, we have gone through it all, here's what we have pending. Let's talk about it, wrap it up.

. **Next Meeting**

Next meeting – Due to conflicts, Mary Beth will coordinate schedules and confirm the next meeting date.

. **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. DiFranco seconded. There was no opposition.

There being no further matters, the meeting concluded at 9:10 p.m. The next meeting will be scheduled upon coordination of calendars.\*

Respectfully submitted,



Mary E. Betsa, Secretary  
Charter Review Commission

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\*Upon coordination of calendars, the next meeting of the Charter Review Commission was scheduled for Tuesday, April 7, 2015 at 7:00 p.m. in the Main Conference Room of the Mayfield Village Civic Center