

**MINUTES OF THE CHARTER REVIEW COMMISSION OF THE CITY OF AVON, OHIO
HELD THURSDAY, APRIL 13, 2017, AT 7:00 P.M. IN THE COUNCIL CHAMBERS OF
THE MUNICIPAL BUILDING, LOCATED AT 36080 CHESTER ROAD**

Chairman James Smith, called the meeting to order at 7:00 p.m.

ROLL CALL- COMMISSION MEMBERS PRESENT:

Greg Dziak; Pat Jankowski; Jeff Lindsay; Anthony Moore; Marcel Mylen; Mark Principe; Frank Root, Jr.; Vice-Chair, Bruce Klingshirn; Chairman, James Smith; Alternate A Patricia Ashley; Alternate B Eugene Rouse

ALSO PRESENT:

Law Director, John Gasior; Secretary to the Commission, Barbara Brooks; and a host of Avon residents

APPROVAL OF MINUTES OF THE THURSDAY, MARCH 23, 2017 CHARTER REVIEW MEETING

A motion was made by Ms. Jankowski, seconded by Mr. Principe to approve the minutes of the meeting of the 2017 Charter Review Commission, held Thursday, March 23, 2017, and to adopt said minutes as published, and the vote was unanimous in favor and the motion carried.

MOTION TO APPROVE THE ORDINANCE LANGUAGE TO ABOLISH ARTICLE VII SECTION 3 – PARK AND RECREATION COMMISSION AND LANGUAGE IN ANY OTHER SECTION IN CONFLICT

Mr. Gasior stated the Commission had copies of a proposed Ordinance he prepared. He advised he spoke with Mr. Stanbuhl at the Lorain County Board of Elections and he recommended this version the Commission had before them where we are just going to state that Article VII Section 3 entitled Park and Recreation Commission shall be removed from the Charter and any references to this section elsewhere in the Charter are deemed null and void and are to be stricken. He said there is one small line under the Director of Parks that references the Park and Recreation Commission and it would be eliminated.

Ms. Jankowski inquired if this Commission is paid. Mr. Smith said he believes they receive approximately \$100 per month. Ms. Jankowski inquired if that would affect anything. Mr. Gasior stated he did not believe so. Mr. Smith said he knows the pay was added back when a lot of new construction was happening and the Commission put in extra time visiting the different parks. Ms. Jankowski indicated she understood that as they were being compensated for their time, but she did not know if it would cause an issue elsewhere in the Charter. Mr. Gasior said not that he is aware of as it has not been an issue in the past. Mr. Gasior advised the voters would repeal the section and eliminate the positions and that would be their last day in office once the elections results were certified or the ballot issue would fail and nothing would change.

MOTION

A motion was made by Ms. Jankowski, seconded by Mr. Dziak to approve the Ordinance language to remove Article VII Section 3 entitled Park and Recreation Commission from the Charter as presented, and the vote was: and the vote was: Mr. Lindsay, "yes"; Mr. Moore, "yes"; Mr. Mylen, "yes"; Mr. Principe, "yes"; Mr. Root, "yes"; Mr. Dziak, "yes"; Ms. Jankowski, "yes"; Mr. Klingshirn, "yes"; Mr. Smith, "yes".

The vote was 9 in favor and 0 opposed and the Chair declared the motion passed.

DISCUSSION OF ARTICLE XIII SECTION 9 – DETROIT ROAD PRESERVATION

Mr. Gasior advised at the last meeting there was a lot of discussion regarding this topic and they wanted to have a representative from both the Police and Fire Department present at this meeting. Mr. Gasior recognized Assistant Fire Chief Emling was present. It was noted, no representative from the Police Department was present. Mr. Gasior commented he believed this to be a vacation week for the Police Chief. He said he spoke with Asst. Chief Emling earlier in the week about coming to the Charter Review Meeting tonight as Ms. Jankowski raised the issue about safety and

whether the three lane restriction on Detroit Road had any impact on the safety forces. Mr. Gasior stated the police calls were different from the fire calls, but he asked Asst. Chief Emling to comment regarding his experiences on Detroit Road with the heavier traffic.

Asst. Fire Chief, Mike Emling advised heavy traffic is always bad and will most likely be a future problem for the department. However, he said as it stands currently the three lanes are adequate. Mr. Emling stated unlike the Police Department they have larger equipment to move through that area and so far it has not been as much of a problem as they originally thought once the traffic started to increase. He said their biggest impact is at the intersections which are considerably wider than the lanes along Detroit Road. Mr. Emling stated west of SR611 traffic does not seem to be a factor as people are able to get over for their vehicles. He said through the three lanes between SR83 going west to SR611 they have not run into any problems as the pre-empters seem to clear and stop traffic enough for them to get through on that third lane. East of SR83 on Detroit Road it is wide enough and traffic is clearing enough as it stands now although he clarified he was not saying that it would not be a problem in the future.

Mr. Gasior added once you are west of French Creek Road and east of Middleton Road that Detroit Road goes down to two lanes and safety forces have to navigate those two lanes as well. Mr. Emling confirmed such and added that it seems that the timing of traffic is such that they are able to get around traffic or there is enough room on the shoulders that people are able to get over for the Fire Department to come through. Mr. Emling stated that the fire vehicles are over 8 feet wide and rather long and as they traverse east and west through the City, he is not going to say it will never be a problem, but right now they seem to be navigating it rather adequately. Mr. Gasior said of course north and south there are SR83, Stoney Ridge Road, French Creek Road and SR611 to name a few, which are very narrow now. Mr. Emling agreed and said they are very narrow.

Mr. J. Smith clarified the City is not restricted from installing three lanes on Detroit Road, just not five lanes according to this provision in the Charter. Mr. Gasior added at the intersections you are allowed to be wider than three lanes on Detroit Road.

Mr. Rouse inquired if they had any statistics on accidents caused by motorists going from 3, 4 or 5 lanes down to 2 lanes. He stated he personally has a lot of problems when he is over near Burger King. Mr. Rouse said outwardly it would appear as though there would be some real problem in that area when going from the larger area into the smaller.

Asst. Chief Emling said they have observed road rage in that area, since it is directly in front of the station. He believed Detroit Road was widened in 2003 and since that time, they have maybe responded to two accidents in that area that he is aware of, but he could check the records to confirm. Mr. Emling advised he only knows of the Fire Department responding to minor accidents and nothing drastic. Mr. Emling noted it might be different story for the Police Department as he was only speaking for the Fire Department.

Mr. J. Smith inquired if there would be a directive from the Commission to the Law Director.

Mr. Gasior advised the discussion item was to eliminate Detroit Road Preservation from the Charter. At the last meeting they were going to vote and take action and then it was suggested the Commission hear from Safety Forces.

Mr. Mylen said there is one statement in this section of the Charter that the City cannot use any funds to widen Detroit Road. He stated if the State says they are going to widen Detroit Road and they tell the City they have to pay a portion of the cost of that widening then he felt the City would end up in litigation against the State to prevent that action. Mr. Mylen suggested eliminating that liability to the City by removing that phrase so that if the State says they are going to widen the road it would prevent the City from getting into a situation where it would cost the City and the road would end up being widened anyway.

Mr. Gasior stated he felt the problem is starting with the first sentence of that section, "Neither Council nor Planning Commission shall act to widen the pavement on Detroit Road." He said if the State proposed to do such a project it

would go to Planning Commission and it may even have to go to City Council if there were properties that needed to be acquired and money needed to be appropriated through eminent domain proceedings.

Mr. Mylen inquired as to who would do that and asked if it was the City or the State.

Mr. Gasior answered it depended on how the project is slated by the State. He said sometimes the State will allow the City to handle the bidding process and the acquisition of the land and pretty much run the project, but they have to follow ODOT specifications. He said another way is ODOT handles the bidding process and the acquisition of the land and ODOT engineers the project and hires the contractors and all the City has to do is pay its ten percent or twenty percent of the cost, however the project is designed. Mr. Gasior advised the last time Detroit Road was improved from two lanes to three lanes it was a State project, but under the terms of that arrangement with ODOT, it was the responsibility of the City to acquire the additional right of way to make that project happen. He said it is hard to say what would happen, but in any case the project would end up going to Planning Commission.

Mr. Mylen inquired if there was a way to reword this section so the City, on its own, could not move forward, but the City should not be held liable if the State comes in.

Ms. Ashley inquired if it would be possible to simply end the final sentence with, "...unless the State of Ohio demands as such" and in that way the City is not in a position where they have to fight the State. She said it would give the City permission to relent to the desires of the State. Mr. Gasior advised that would be one way to end that sentence.

Ms. Jankowski inquired if Detroit Road belongs to the State of Ohio. Mr. Gasior answered yes. Ms. Jankowski stated she did not see that the City is in control of that road. Mr. J. Smith advised he did not believe the State will ever want to widen Detroit Road as it is very difficult on secondary roads. Mr. Smith added as far as the State giving money to the City of Avon, the only time the City did receive money was when they applied for the Detroit Road three lanes and the City could have done the project for \$1.4 million and when the State became involved it increased to a \$2.5 million project because they take over the project. Mr. Smith advised the likelihood of the State coming in and widening Detroit Road is slim unless they can prove a severe amount of hazards. Ms. Jankowski felt the Charter provision preserving Detroit Road had no meaning. Mr. Mylen stated except for the fact we would be forced into litigation to defend this Charter provision and/or change it.

Mr. Gasior advised it does prevent the City from doing a project that they might want to do. He said that provision was added to the Charter in 2003 and for this particular issue there were 3,720 votes cast with 2,100 in favor and 1,600 opposed, passing by 56.5 percent. Mr. Gasior said in 2016 there were 12,212 votes cast at the ballot, which is 4 times the number of voters.

Mr. Lindsay inquired if Mr. Emling had an opinion as to how a wider road would affect the Police Department. Mr. Emling stated that sometimes, when roads are narrower, people try to aggressively pull over and occasionally overcorrect themselves and jump a curb and cause some damage to their car, but that often goes unreported. Mr. Smith stated if the State is involved in a project there will not be any structure within a certain number of feet from the right of way including telephone poles. Mr. Lindsay asked what if it is an historical property. Mr. Smith felt that was not considered unless it was designated through the United States Historical Society. Mr. Klingshirn felt it must not be a very large setback requirement because on Center Ridge Road where they are moving the gas lines was fairly close to St. Pete's. Mr. Smith noted that is not a completed project as yet. Mr. Lindsay noted some structures were taken down for that project on Center Ridge Road.

Mr. J. Smith inquired as to the desire of the Commission. He asked if they were amenable to changing some of the language in order to keep the City from liability.

Mr. Dziak inquired if this provision keeps the City from even a feasibility study because it says neither Council nor Planning Commission can act. He inquired if this provision handcuffs Council. Mr. Gasior advised the language is broad enough that obviously someone who is opposed to any action being taken will say that some action is being taken to

study the possibility of widening the street beyond three lanes. Mr. Dziak inquired if the idea was to preserve historical homes on Detroit Road.

Mr. Matthew Smith of 4455 Jaycox Road stated that similar to what Mr. Gasior and Mr. J. Smith are saying that yes, the State of Ohio can come in and do what they want. He said we need to remember the Ohio Department of Transportation designated State Route 254, Detroit Road, as an Ohio Scenic Byway, the North Ridge Scenic Byway. He stated he would find it very ironic that the State of Ohio would come in and widen Detroit Road beyond three lanes and destroy what they designated in the first place. Mr. M. Smith noted there are only 24 of those designations in Ohio and he felt it was really important. He said Detroit Road in Avon comprises most of that Byway, with some into Sheffield Village. Mr. M. Smith agreed the State will do what they want, but Mr. Gasior is correct when he said the whole reason that provision was put in the Charter was to prevent Avon's Planning Commission and City Council from doing anything beyond three lanes on Detroit Road. He said we all know that City Council and Planning Commission can do things quickly and citizens are not aware and it is a done deal and this Charter provision prevents that from happening. He said his concern is that he does not want Detroit Road to be like Lorain Road in North Olmsted or Ridge Road in Parma or what Center Ridge Road in North Ridgeville is becoming. Mr. M. Smith said if a person like himself does not come and express his thoughts then things like that will happen and have happened. He said three lanes are fine and he could see three lanes on Detroit Road all the way through from one end to the other and he felt that was necessary. Mr. M. Smith said once you get beyond three lanes he felt the historical integrity of Detroit Road will be destroyed and the North Ridge Scenic Byway for all practical purposes will be gone. He said yes, that language is in the Charter so that Planning Commission and City Council cannot make Detroit Road wider than three lanes.

Mr. Dziak inquired if this provision in the Charter were to be removed, if City Council can even act without the State approving its widening since it is a State Route. Mr. J. Smith stated they could if the City paid for the project on their own.

Mr. Rouse said he agreed with the preservation of some historical properties and that we need to save some of that; however, in this particular section of the Charter there seems to be a lot of conflict and potential for litigation and he did not care to have his Avon tax dollars fighting his State tax dollars. He indicated litigation such as this could be drawn out for years. Mr. Rouse stated there is already established a Landmark Preservation Commission and there is already the ability for people to have direct input into what happens by use of the Landmark Preservation Commission. He said he felt this provision in the Charter regarding Detroit Road could create a lot of problems and a lot of money could be spent and ultimately the State could do it anyway. Mr. Rouse inquired if there has ever been a study done because he spoke with a civil engineer and was told that it would be a logistical nightmare to try to widen Detroit Road more than three lanes with moving all the infrastructure and filling in low areas and removing structures. He felt this section in the Charter is a moot point and it could create a lot of litigation when a Landmark Preservation Commission is established, whose job is to preserve the landmarks. Mr. Rouse suggested the Landmark Preservation Commission present a proposal to Council that allows Council to act. He said Council is elected to represent the citizens and if they do not, they can be voted out.

Mr. M. Smith advised by that time, the damage is already done. He noted, he is the Chairman of the Landmark Preservation Commission, but they have no power to stop Planning Commission or Council. Mr. Rouse stated according to the Charter they have input. Mr. M. Smith said the Landmark Preservation Commission has input, but they cannot stop them. Mr. Rouse said on the other hand, the Council makes decisions for the City and now we are tying their hands and we could end up in litigation that we would eventually lose and Detroit Road is logistically a nightmare and we are working on the potential that probably will never come in our lifetime. Mr. Rouse indicated more areas were being improved to allow other outlets for traffic such as Chester Road.

Mr. J. Smith felt we are still many years away from installing five lanes on Detroit Road, if at all, and he said there would be many more Charter Review Commissions between now and then for changes to be made. He stated when it was time for those changes to be made it takes a lot of time to complete such an undertaking and was not one of those things that happen without people being made aware. Mr. Mylen said the City could still be forced into litigation. Mr. J. Smith responded he agreed with Mr. Mylen on that point. Mr. J. Smith inquired of the Law Director if there was language that

could be put in this section of the Charter to keep the City from litigation. Mr. Gasior advised they needed to understand that this is not going to happen in two weeks, but is a project that will be talked about for months and years and then the City will have to act at that point. Mr. Gasior stated the City will have to recognize that there are some really strong limitations on their ability to address a five lane road project for Detroit Road in its Charter and the issue would have to be debated at that point. Mr. Mylen stated even at that point, if Council called for a Charter Review Commission to address this specific issue and in conversation of the State coming in and widening Detroit Road, the Charter Review Commission has to pass it and then it has to go to the voters and that would take time as well. Mr. Gasior said City Council can bring any matter to the voters at any time under the Charter; it does not have to wait for a Charter Review Commission. Mr. Gasior advised if the day comes where there is going to be a serious discussion about widening Detroit Road he felt there should be enough lead time for either a future Charter Review Commission to address it or for the City Council to address it by placing it on the ballot to be amended at the subsequent General Election, in that given year. Mr. Gasior did not feel this Charter provision was going to get the City into litigation unless when the time comes and the State is knocking on our door saying they want Detroit Road to go to five lanes, if there is still a Charter provision at that time, and the voters have reaffirmed Detroit Road should not be widened, then he felt there could be litigation. Mr. Gasior said there would be discussions about whether we have a home rule right to dictate what happens on a State route.

Mr. Mylen inquired if the first sentence of this provision limits what Council can do along those lines to which Mr. Gasior said absolutely. Mr. Mylen inquired because of that limitation if Council can even bring up the subject of changing it. Mr. J. Smith explained that City Council can put an issue on the ballot to change the Charter and it does not have to go before a Charter Review Commission. Mr. Mylen replied he understood that, but he clarified that since City Council would be looking at changing the provision regarding widening Detroit Road and Article XIII Section 9 states, "Neither Council nor Planning Commission shall act..."he inquired if by placing that question on the ballot if that would be considered acting and in violation of this section of the Charter. Mr. Gasior advised that is an excellent point, but he felt City Council could call a Charter Review Commission and the Charter Review Commission could make the recommendation to remove that section from the Charter. Mr. Mylen advised his intent is to keep the City out of litigation. Mr. Gasior stated when the push starts to come for the road to be widened it would be a two, three or four year process and as that process starts to unfold it is going to be clear that we have a major obstacle and it would have to be addressed at that time to remove it from the Charter and if the voters should vote not to take it out of the Charter then we would have litigation. Mr. Mylen inquired if Council's hands would be tied to which Mr. Gasior answered not if it was a Charter Review Commission. Mr. Mylen inquired if City Council tries to bring the removal of that section to the voters if they would be in violation of this section. Mr. Gasior felt it is possible, but he said as the Charter Review Commission they are recommending to City Council and Council will take action and if he follows what Mr. Mylen is suggesting to its logical conclusion, then there is a clause in the Charter that can never be removed and he does not believe that is what they have. Mr. Mylen stated that is not the conclusion as it states Council cannot act, but the Charter Review Commission can act. Mr. Gasior said but the Charter Review Commission sends to Council their recommendation by legislation that City Council must pass to place on the ballot. Mr. Mylen felt that was fine and said what he is suggesting is where Council wants it brought to the voters between review time of the Charter then, he felt they could be considered as acting in violation of this section of the Charter and that is his question for Mr. Gasior. Mr. Gasior advised he could not answer the question now, but his point is well taken and he felt it would end up in litigation because someone could make that argument if Council were to go forward. Mr. Gasior also advised that the argument could be that is not the case because the Charter gives Council the authority to send a Charter change to the ballot and that it is restricted to legislation and what they are discussing here is so fundamental that you cannot stop Council from moving forward to place an amendment on the ballot, but the language is broad enough that someone could make that argument.

Mr. James Goodwin of 37399 Detroit Road stated he lives in the old Cummings home. He said they are talking about five lanes on Detroit Road and he inquired if there is ever a chance that it will be improved to three lanes and does the same Charter provision apply. Mr. J. Smith advised no, they could make Detroit Road three lanes at any time. Mr. Goodwin said that is a concern he has because they would lose houses from his house all the way to French Creek Road because there is not room for three lanes plus moving telephone poles and the like. Mr. Lindsay stated that issue has nothing to

do with the current provision in the Charter to which Mr. J. Smith agreed. Mr. Goodwin thanked the Commission and said that answers his question.

Mr. J. Smith advised when the Charter says, "shall not act" he believed it means that neither Council nor Planning Commission shall act to widen Detroit Road. Mr. Gasior reiterated Mr. Mylen's question if removing this provision from the Charter is acting to widen Detroit Road. The consensus of the Commission was no, it is not. Mr. Gasior advised to Mr. Mylen's point, someone could make the argument that the only reason they were removing it from the Charter is to widen the street. Mr. Mylen stated he understood and he agrees with everyone who said it is probably never going to be widened beyond three lanes and he cannot see it being done, but his sole purpose of bringing this up is to protect the City, as pointed out earlier, from using his City tax dollars to fight his State tax dollars. Mr. Mylen said he is looking to protect the City from litigation if the State ever wants to widen Detroit Road. Mr. Gasior supposed the State would probably come in and say they are going to widen Detroit Road and the City would point out the Charter provision that restricts that and the City would likely be given a deadline to get that provision in the Charter removed and then the State would widen the road. Mr. Gasior advised the City would then have to act within that time frame provided and he felt at that time, if it ever comes, there would be a lot of people in favor of widening Detroit Road because the situation would probably be dire. Mr. Gasior noted he did not feel there would be a problem with a Charter Review Commission or City Council proposing that the Charter amendment be placed on the ballot. Mr. Gasior advised he believed City Council could act in that way in answer to Mr. Mylen's question because what City Council would be doing is very narrow and that is addressing a Charter provision. Mr. J. Smith confirmed Mr. Gasior's statement saying the legislation would not be to authorize the widening of Detroit Road or paying for it to be widened.

Mr. Lindsay inquired as to why they cannot just propose it to be removed. Ms. Jankowski agreed and said that is what they, as the Charter Review Commission, are there for. Mr. Gasior felt they might have to rewrite the whole thing as he would really have to look at it. Mr. J. Smith asked if the Commission would be in agreement to the Law Director drafting ordinance language to keep the City out of litigation in regards to this section of the Charter. Mr. Gasior indicated if they just eliminate the portion of that section that states "shall not act to widen the pavement on Detroit Road in the City of Avon to more than thirty-six feet or to divide said pavement into more than three lanes". Ms. Jankowski inquired if they could not just eliminate section 9 of Article XIII altogether. Mr. Gasior advised they could.

Mr. Paul Burik of 37245 Carleen Avenue inquired of the Law Director if the Home Rule would apply. He stated he knew there have been differences between various cities and the State back and forth, but the idea of Home Rule is that the City can determine its own destiny and its own policies. Mr. Gasior advised yes, we have Home Rule and we would make that argument, but he could not answer whether that would be successful. Mr. Burik advised years ago, the previous Charter Review Commission had the foresight to try to preserve that area. He said looking at the reason why Avon is so popular and why Avon is a desirable community in which to live and one of the reasons is the designation of the North Ridge Scenic Byway and in the planning process that was considered. He said he understood there were concerns about increased traffic flow as the community grows and numerous east/west roads are proposed as part of the Master Plan, we just need to stick to the Master Plan. Mr. Burik stated reliance on one collector road, if there is an accident on that collector road, half of the city is out of luck. He said that safety services would not be able to get anywhere if there is a pile up on that one road and they need to work toward multiple roads going east and west similar to those we have going north and south with a grid work of roads so if there is an obstruction on one road, you can take another to get around it. Mr. Burik advised we should not look to Detroit Road as a sole means of moving people east and west and since it has been established in a historic manner we should try to preserve it and make it our signature of the City. He said he was involved with the Charter Review years ago and he gives credit to the people that had the foresight to put that in the Charter. Mr. Burik suggested they consider the past as well as the future and consider whether removing that Article will lead to degradation of some of the history and the greatness for which Avon is known.

Mr. J. Smith said even if the Commission puts the issue of removing the Detroit Road Preservation from the Charter on the ballot, it does not mean that the voters would agree, but it gives the people the chance to decide. He indicated the decision of the Charter Review Commission does not make it law.

There was no further discussion on this topic.

MOTION

A motion was made by Mr. Principe, seconded by Ms. Jankowski to remove Article XIII Section 9 – Detroit Road Preservation from the Charter, and the vote was: Mr. Moore, “yes”; Mr. Mylen, “yes”; Mr. Principe, “yes”; Mr. Root, “yes”; Mr. Dziak, “yes”; Ms. Jankowski, “yes”; Mr. Lindsay, “yes”; Mr. Klingshirn, “yes”; Mr. Smith, “yes”.

The vote was 9 in favor and 0 opposed and the Chair declared the motion passed.

DISCUSSION OF ARTICLE VI SECTION 3 – CIVIL SERVICE COMMISSION – LATERAL ENTRY

Mr. Root advised when he was the Avon Fire Chief, the Police Department did a lateral transfer where an employee from a Police Department in another City could transfer to Avon’s Police Department or vice versa without taking the Civil Service test. He said he was against it then and when he was appointed to the Charter Review Commission this time he felt it should be reviewed and discussed. Mr. Root pointed out under Article VI – Civil Service Commission, Section 3 – Duties, [the second sentence in the last paragraph] ***“Except as herein provided, the Civil Service Commission shall determine the practicability of competitive examination for any non-elective office or job classification in the service of the Municipality.”*** He said he feels the lateral transfer took away the competitive possibility for qualified candidates. Mr. Root stated he felt it allowed you to hire your friend if you wanted to by lateral transfer. He advised the reason we have a Civil Service Commission is for the testing and he felt this takes away that competitive chance. Mr. Root said with that sentence in the Charter he does not believe the Civil Service has the right to test that person making the lateral transfer. He asked for Mr. Gasior’s opinion on the matter.

Mr. Gasior advised the Civil Service has adopted rules and he read the first sentence in the first paragraph under Article VI, Section 3 which states, ***“The Civil Service Commission through the home rule powers of the City of Avon, is expressly authorized to provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the service of the Municipality.”*** He said he believed the Civil Service Commission considered a lateral entry in 2010 when the issue was brought up by the Police Department. Mr. Gasior advised there was a system set up and they did extensive interviewing, lie detector testing, reviewed personnel files from the other departments where these candidates had spent their employment. He stated a determination was made about the skill set that officer brought and the skill set they were looking for and it was determined at the time that this lateral entry method would work and save the City a lot of money with regard to training. Mr. Gasior stated he believed there were some officers who were working for another Police Department that could be brought in to the City of Avon and Avon would not have to train these officers as they had a specific skill set and it was believed they were good candidates. He said this lateral entry was put together by the Police Department for a very specific purpose and that was to find a candidate with a very specific type of training so that candidates could be hired among a pool of candidates with the same type of training and they would not have to go through an extensive training process. Mr. Gasior advised in their eyes it was cost efficient and a better use of time to interview candidates that have already achieved a certain amount of success in a specific area and hire who they thought was the best for the specific position.

Mr. Root said in the Fire Department you are required to test for paramedic and firefighter. Mr. Emling confirmed that to be true. Mr. Root asked why the Police Department did not have to do the same for their department. Mr. Gasior advised Police Officers are required to have a lot of training. Mr. Root stated you are saying the City is saving money by hiring this person because he is already trained, but he believed when they sign up for the Civil Service test that they are required to have the training to even qualify for the job. Mr. Gasior speculated it could be that a candidate would be required to have a specialty skill such as reading fingerprints for example. Mr. Gasior advised at that time he believed they were looking for an officer with five, six, seven or eight years of experience. Mr. Root stated he is asking about that one sentence and if he is wrong then he would let the Law Director’s opinion stand. Mr. Root read, ***“Except as herein provided, the Civil Service Commission shall determine the practicability of competitive examination for any non-elective office or job classification in the service of the Municipality.”*** Mr. Root said he does not want to change the Charter, but he felt there should

be a clarification as to whether this lateral transfer can be done. Mr. Root stated Mr. Gasior could come back and provide an opinion at a later meeting, if necessary. Mr. Gasior advised the words ***except as herein provided*** in the very first sentence of the first paragraph of that same section states, ***“The Civil Service Commission through the home rule powers of the City of Avon, is expressly authorized to provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the service of the Municipality.”*** Mr. Gasior said it is the Police Department’s job to determine what tests and how they are going to test or not test candidates and how they are going to allow for candidates to be selected that are fit for the job and merit the job and whether to use the lateral entry methodology as a basis to ascertain their qualifications. Mr. Root stated but it says, ***“...shall determine...competitive examination”***. Mr. Gasior added, ***“Except as herein provided...”*** and suggested it should possibly say, “in the rules”. Mr. Gasior said the section had to be read in its entirety as you cannot cherry pick one sentence. Mr. Gasior stated the first line in that section is probably the most important line of the entire section [***“The Civil Service Commission through the home rule powers of the City of Avon, is expressly authorized to provide by rule for the ascertainment of merit and fitness as the basis for appointment and promotion in the service of the Municipality.”***] and the sentence Mr. Root is referring to which begins, ***“Except as herein provided...”***. Mr. Gasior advised in reading the first sentence of the whole section **with** the “except as herein provided” that they correspond. Mr. Gasior said that first sentence provides herein for the organization to determine merit and fitness for a position in the City of Avon. Mr. Gasior advised the Police Department has used it to determine how a person is tested and they have decided that in some very limited situations that a lateral entry process, which they have outlined in the rules, will be used to find candidates that fit specific job criteria. Mr. Gasior noted he does not believe the Fire Department has ever used the lateral entry process available to them. Mr. J. Smith stated the City has benefited from the ability to use lateral entry. Mr. Root respectfully disagreed with the Law Director’s opinion and indicated he would leave it at that. There was no further discussion on this topic. No motion was made.

ADDITIONAL COMMENTS

Chairman Smith stated he felt the Commission should be able to wrap up and finalize their duties within the next meeting or two. It was noted, there are three items the Commission proposes for the voters to consider amending in the Charter. There was no further discussion.

ADJOURN: 8:07 p.m.

A motion was made by Mr. Mylen and seconded by Mr. Klingshirn to adjourn the meeting of the Charter Review Commission, and the vote was unanimous in favor.

Respectfully submitted by:

The Clerk of Council
Secretary to the Charter Review Commission
Barbara Brooks