

**EXECUTIVE & FINANCE COMMITTEE MEETING
JUNE 1, 2011**

Chairwoman Holzheimer Gail called an Executive & Finance Committee Meeting for Wednesday, June 1, 2011 at 6:30 PM in the Euclid Municipal Center Council Chamber.

AGENDA

Ord. (284-11) An ordinance enacting a special assessment upon all property within the City of Euclid to be used for the payment of street lighting within the City. (Sponsored by Mayor Cervenik)

Ord. (285-11) An ordinance authorizing the continuation of the solid waste collection fee for residential accounts for the years 2012 through 2016. (Sponsored by Mayor Cervenik)

Ord. (118-10) An ordinance providing for the submission to the electorate of the City of Euclid, the question of whether Article V, Section 7, Duties of the Civil Service Commission of the Charter of the City of Euclid shall be amended. (Sponsored by Councilman Van Ho)

Ord. (119-10) An ordinance providing for the submission to the electorate of the City of Euclid, the question of whether Article X, Section 1, Submission by Council or Petition, of the Charter of the City of Euclid shall be amended. (Sponsored by Councilperson Scarniench)

Members Present: Gilliham, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail
Excused: O'Neill

Councilwoman Scarniench moved to excuse Councilman O'Neill. Councilwoman Minarik seconded. Yeas: Unanimous.

Members Present: Mayor Cervenik, Law Director Frey, Finance Director Brett, Fire Chief Cosgriff, Police Chief Repicky, Clerk of Council Cahill.

Ord. (118-10)

President Holzheimer Gail – This is a continuation from several Executive & Finance Committee meetings. What we will do tonight is start with the Charter pieces and then finish up with the other two. I will allow for public comment before we take action on the Charter pieces. Then we'll move into discussion of the garbage and lighting fees.

These are both suggested Charter changes brought by Councilman Van Ho and Councilwoman Scarniench. The Charter Commission meets regularly every eight years and they make suggestions that would go to the ballot, pass through Council to the ballot. Council can also introduce a potential change that would be sent to the ballot. Any Charter change does have to be voted on by the residents. Councilman Van Ho, any comments about yours?

Councilman Van Ho – This is a change to the Charter that would allow for direct appointment by the Mayor of both the Police Chief and Fire Chief. These are the only two people it would affect; neither of the present people in that job would in any way be affected. They would still remain until they retire. This would be the next Fire Chief and the next Police Chief. The rationale behind it is, we have a very limited pool to draw from under the present circumstances of three or four people, instead of what we should be looking at which could be 100 or so, so we get the absolute best candidate. These are two tough jobs to fill and we should be able to draw from as big a pool as we want to. In fact I sent Council and the Chiefs and Mayor, an email last night that said how you could literally make sure that there was one person who could do it. That is not what we need. We need to pool from the absolute best candidate that there is. There's been questions about how we can do that and I would prefer to put that in an ordinance because I think we clutter up our Charter with too many things that are operational matters that should be handled by council, so they can be changed by a future council if need be about how the appointment would go. If people want to understand how I would put that resolution together, it would be very simple, we open these two positions up that anybody can submit a resume. The resumes would be reviewed by the State Police or Fire Chiefs Association to make sure the candidates meet the minimum requirements that we've set and then send back. The Mayor at that time could narrow down to a short list and have, once again consult with these people set by these associations, to review it so we get the absolute best person. We need to change things, we need people who are good in community relations, people who are able to just with specific skills, specific times and it should not be, well, this guy has been here for 30 years so I guess we should make him chief. That doesn't work, we need to be able to look and go, the best candidate may very well be an internal candidate from the police department or the fire department, but I don't think we should limit it to those 2, 3 or 5 people. I know there are certain feelings by the Chief about that, but I think the chief is a special thing and I don't think he has to know every building in the City of Euclid to be able to direct the Fire Dept. He doesn't need to know every house to direct a SWAT team. These are people that need to be looking at our manpower allotments, our budgets, equipment, that type of thing. Yes, they can be involved in the fires too, but that isn't their only job.

President Holzheimer Gail – Law Director Frey, do you have any comments? I know you sent an email that explained the current process and how this would differ. For the sake of the audience would you repeat that?

Director Frey – Right now the competitive testing is required for candidates for either chiefs position. It is not a selection process where the appointing authority, in our case the Mayor, is permitted to select any from a qualified pool, rather it is the top scorer who is promoted to that position. Promotions within both of the safety services require the candidate for promotion from firefighter to lieutenant's position, to a captain's position to a platoon chief, to chief, to have served at least one year in the grade below. In the police department the promotions go from patrol officer to sergeant, to lieutenant to captain and then to chief. Each of those require at least a year in grade. The initial probation period for Fire is 2 years and for police it is 18 months. It would actually be a longer period of that for that first step. That's not all that common. Anybody who is qualified in that next lower rank is eligible to test for that promotion.

When there has been a vacancy, the next group, so long as they're at least two candidates in the class below, the grade below, constitutes the class for testing for promotion. If there are less than 2 candidates then it would open to the next grade below. If we use the Police Dept. as an example, if only one captain opted to test for Chief, it would then open to the rank of lieutenants as the next grade that would be eligible on that test, to test for the position of chief. In the fire service, the next grade below the Chief is the Platoon Chief position. If two or more of the platoon chiefs tested, that would be the class eligible for that promotion.

That is the method that we have adopted by our civil service rules and the State civil service code, in the Revised Code. It is predicated on our Charter and the councilmember has pointed out that exempts from the group of non-civil service employees of the city, the two chiefs. I know several council members had questions, I'd be glad to answer those when that is an appropriate time. I don't know whether the council president wants to allow the chiefs to address that or however you want to get to that.

President Holzheimer Gail – I think that would be appropriate, Chief Cosgriff or Chief Repicky, do you have any comments that you would like to share at this point?

Chief Cosgriff – I do have a prepared statement regarding this proposed legislation. I will preface this statement by explaining that from a professional standpoint this legislation, if approved, will not affect me or my counterpart in the police department, Chief Repicky. This legislation as written will take affect with the next chief after we retire, but I must strongly discourage Council from supporting this. Notice that I said from a professional standpoint.

From a personal standpoint and as a resident and taxpayer of the City of Euclid, it affects me greatly. My immediate family, as well as a large number of my extended family who live in the city, not to mention my many neighbors and friends. I have always stated publicly that I try to make decisions that are in the best interest of the citizens of the City of Euclid and the Euclid Fire Dept., in that order. That is what I swore to do when I stood up here and took my oath. I'm not sure that I would have that same level of confidence in someone that has not come up through the ranks of our department. This is not a position, in my opinion, for the next top fire official needs on the job training to learn about our city.

As current fire chief, I don't envision myself to be a yes man to the Mayor or to Council, or to Local 337 for that matter. I cannot say the same for a future appointed Fire Chief. The sponsor of this legislation and I have had disagreements in the past, sometimes heated, and usually on the council floor. This does not mean that I have not had similar discussions or disagreements with the Mayor or with the Executive Board of Local 337. Having not been appointed, I feel that I am able to make unbiased decisions in regards to the safety of our citizens and of our firefighters. The Chiefs of our safety forces should be able to speak freely and offer suggestions and advice without the fear of being let go if that appointing city official does not agree with his or her opinion. We are talking about public safety. With all due respect, our chiefs have a great deal more knowledge and training than the person who holds the title of Safety Director. I certainly believe that our current Safety Director would not argue that point.

Mayor Cervenik – I'm not.

Chief Cosgriff – If this legislation is approved by Council and by the voters, the next mayor will appoint the fire chief and that chief will serve at the mayor's discretion. It would take a very strong individual to disagree publicly with the person that has appointed him/her to that position. For something as important as public safety, we need chiefs that are not afraid to provide an accurate assessment. Chiefs that can give their opinion without the underlying fear of them losing their job should that opinion not coincide with that of the mayor or with city council.

I gave a presentation to a citizens group last week and this current legislation was discussed as I promised the Councilman that I would. The comments made by the citizens of this ward were certainly less than encouraging in my opinion. With the recent overhaul of our county government and with the problems associated with the former government, it would seem to me this legislation would be moving us in the wrong direction. We are proposing changing a competitive civil service system with experienced, qualified employees, for one in which the police or fire chief is simply appointed by the mayor.

Who will apply for this position? It would be hard for me to believe that it would be someone who currently enjoys civil service protection or someone who is not yet qualified for a fire service pension. Why would someone take that risk? My guess is that it would be a retired police or fire chief, someone that wants to supplement his or her pension with no real motive for moving the department forward. Please seriously consider whether we really need to fix the system that has been in place for a long time and may not actually be broken. Thank you.

Chief Repicky – Mine is not going to be as long. I just want to go over a few points that Tom has mentioned. The previous chiefs, the last 49 years, Chief Payne served 26 years from 1962-1988; Chief Baumgart served 12 years from 1988-2000; Chief Maine from 2000-2006; myself 2007 to present. Most administration books you read during promotions and after, a tenure of a chief should be anywhere from 5-8 years and then they should move onto either DROP or greener pastures.

Some of the cities now that hired only from inside since DROP has reached its eight years: Cleveland Heights, Parma, Garfield Hts., Rocky River, Brooklyn, Brecksville, Cleveland Clinic.

Hiring a police chief either inside or out or both: Bedford Hts., Independence, Woodmere, Hinkley, Pepper Pike, Richfield, we all know Huntington Valley. One that is still pending now is University Hts., they had 18 applicants and two of them were within the department and has not been decided yet.

Unfortunately when DROP started in 2003, most people stated they would stay 3-4 years. Unfortunately for our department most of them chose to stay eight years and since that has happened, it has created a management nightmare in the department. We have lost 8 officers already this year and we'll probably lose another three plus, depending on what happens with Senate Bill 5. I'm going to have six out of nine new sergeants. I have two new lieutenants and both of those lieutenants only have two years experience as a sergeant. I have one new captain and the Mayor has eliminated one of the captain's positions, so I have two captains retire also.

To learn this job, you can send them to school, but you have to build a foundation and that starts with experience. When we started out in our jobs, you didn't learn it in one year or two years. We're trying to build a foundation but unfortunately DROP has forced us to make this progression a lot faster and it might hurt us in the long run.

My final comment is, what do the residents want? What do they expect from our police and fire chief in this city? It is all about customer service and are we performing our job duties as we took our oath, myself four and a half years plus and Tom, I know he's senior to me, I don't know if it is was 10 or 20 years ago. We both put a lot of time into this job and it is up to the residents on what they want in the next police or fire chief for this city. Thank you.

Mayor Cervenik – Some people here this evening or watching may say, well I wonder how the Mayor feels about the fact that the Chiefs may not have the total confidence in the Safety Director, which is a role that I also serve and there's a reason the Mayor doesn't get paid for it. It doesn't bother me at all, in fact I agree with both of them tremendously very strongly. The Civil Service system that we have now really keeps the Mayor out of the decision making and I'll give one suggestion in a minute. It allows for a professional testing company to examine the qualifications and test to see who has the best qualifications to do the job. We also use the Chiefs Associations to evaluate the ability and other qualities of the candidates for Chief.

We've got to back a ways but there were a number of Cleveland Mayors that virtually had a revolving door of police chiefs because the Mayor had sole right and responsibility to appoint his chiefs. Although the Mayor of the City of Euclid and almost virtually every city by right should have the ability to appoint their directors and their key employees; with the safety forces it is a little different because the knowledge they have and the skills they have specialized. As Chief Cosgriff said, we've had our differences at times, but we've always worked them out and never once have I thought to relieve him of his duty because of that. I know all the police chiefs and the fire chiefs over the last 30 years, all very well qualified people that they came up through the ranks, learned our system and passed a test. It has worked very well. From where I sit we have probably, I would say, not probably, definitely the best police department and the best fire department in the State of Ohio, second to none. That really because of the system we have.

Chief Cosgriff is correct. If the chief had to determine what is best for the residents of our city from a safety matter, versus whether he's going to have a job tomorrow, that's a problem. Now having said that, I still do have the authority to relieve a chief of their duty. Our civil service laws provide that as well. But it needs to be for just cause and there is a very strong provision for appealing my decision to the civil service and to other avenues as well. I really think what we have works pretty good.

The fact that we would have a relatively small pool of candidates when we get to the chiefs promotion, yes we do but we have a huge pool of candidates as we originally hire new police officers and new firefighters to our police and fire department. They come from all over, they move up the ranks, they learn. We train them. We send them, not to be trained strictly, we send them to be trained with other departments from not just Northeastern Ohio, from other states, so they learn best practices of other departments so they can come back. I know both departments do this. Those people that go on the training programs, they come back and they teach and they train what their learn to the rest of our department.

I think it is a very dangerous thing for a Mayor to have total control over the selection of a police officer for the reason these gentlemen mentioned. Many cities and this is sort of a compromise and I'm not even sure it needs to be done, but if Council felt there was some change, there are a number of cities that allow the Mayor to pick from the top 2-3 candidates or if there's 5 candidates, the top two that go through the civil service testing, the Mayor can pick one of those two, that gives a little flexibility.

From Euclid's history, I'm not sure that's necessary. I still have the right if I feel a chief is not doing or acting responsibly for the safety and well being of the residents, we have need for termination. Unfortunately not to long into office that was the case that I had to exercise that and it was not a pretty case. It would be even uglier if I could just or the mayor could just dismiss without cause either chief. I think that would be a much larger travesty than going through the process of having to remove a chief, either police or fire chief through the civil service rules that we have. I really can't agree with this legislation. Although I know I would make a very good decision in hiring a chief, I think independence part is very important to the functioning of the police and fire department.

Councilwoman Scarniench – Director Frey can you go through that explanation again, how we do this? If we only have two candidates from the captains list is that when we go down to the lieutenants?

Director Frey – If there are two candidates, that constitutes the class of eligible candidates for promotion, there can't be less than that. If there was only one captain, if we're referring to police, if there was one captain who signed up to test, then you would open the pool of candidates or the class to include the next grade down which is lieutenants.

Councilwoman Scarniench – That is a civil service rule?

Director Frey – It is part of the State civil service rules in how you establish the class of eligible candidates.

Councilwoman Scarniench – If we wanted to change that, could we change that in our city? Where if we had two and we didn't think that was good enough, could we change that to say the next group would be able to move into that and take the test?

Director Frey – The Civil Service Commission has the authority to make rules which then are adopted by city council. If you wanted to change the promotional process yet maintain that the chief's position was a promoted position, yes the Civil Service Commission could promulgate those rules that council would either approve or disapprove.

Councilwoman Scarniench – Could we do the legislation and then send it to them for them to discuss?

Director Frey – Sure, yes you could introduce legislation and refer that to the Civil Service Commission.

Councilwoman Scarniench – I think that's what is part of the problem is, that the pool is so small . Our last two chiefs have both left here, they retired and they immediately go another job. I just wondered how that all works with those cities. I know they're a lot smaller than us, their police departments are very tiny, kind of a thing. If we could do that, that would be something I would be interested in to make sure that we have at least ten people who could qualify to take the test kind of a thing, so that we are picking the best of what we have as the best. That's my thought.

Councilman Langman – As I begin my comments, I just want to preface by saying this doesn't have anything to do with the current chiefs, I don't want you to take anything personally. Law Director Frey, I did ask a couple of questions, specifically on the current system and I think it is important if this change did go to the ballot and pass, currently how our any of our chiefs reviewed, are there annual reviews, what are the disciplinary measures that can be taken. Obviously if you were to bring somebody from the outside that becomes even more important, I would think.

Director Frey – First of all we've gone over the promotional process. The chiefs report to the Ex-officio public safety director, which is our case is the Mayor. We actually do have a code provision for a safety director. Absent having someone in that role, the mayor serves in an ex-officio capacity under our codified ordinances. To my knowledge we've not had a safety director in some considerable period of time, I don't know if we've ever had.

Councilman Langman – Do you know of any suburb that has a safety director?

Director Frey – Parma has a safety director. The vast majority of communities, the Mayor serves in that role or the city manager in those forms of government. Parma does, they're a non-chartered statutory community and they have a safety director who also by State code is responsible for the building department and some other

code reinforcement type of activities. The City of Cleveland has a Safety Director created under their Charter. You have a Safety Director in Cleveland under Charter and the codified ordinances of Cleveland that empower that position and a non-chartered community like Parma which its structure is defined by State code.

Our codified ordinance refers to the state code for the duties of the safety director. It is the authority over the chiefs of the department in our code specifically the chiefs will promulgate rules with the review and consent of the Mayor as the Safety Director for the various departments. There are mechanisms in there for review of disciplinary matters and so forth.

Your question of what are their responsibilities, the chiefs, they are responsible for managing their departments which includes the assignment of personnel. That is a decision under our code belongs to the chiefs. Budgeting is more than anybody a function of the council. The administration, including the chiefs, prepare their budgets and submit them to Council but it is solely Council's authority to set the spending limits for those departments and every other city department. The chiefs do have described in the codified ordinances the authority to discipline. There are, as I've said, review mechanisms also within those sections and in the bargaining agreements for review of those disciplinary decisions.

We talked about how the chiefs are selected and the promotional process. The discharge of a chief or a demotion is covered under our civil service rules, Chapter 8, 8.6 describe the mechanism or a cause for discipline or discharge of the chiefs. There is a mechanism there subject to, if the person chooses, to challenge that decision to discharge to the Civil Service Commission. Let's not be naïve, we know today that it is fairly easy to find some other statutory remedy available that one can pursue a case against discharge in court. While that's not part of our code, and not part of the civil service remedies, we litigated and lost on an issue of the exclusive remedy provision. Our rules do not create the exclusive remedy in certain circumstances.

You asked about the roles of the safety director. Really I can only refer you to the Ohio Revised Code Section 737, which defines those functions. They are the supervisory role over the two departments. In some cases they have appointing authority, the safety director does. Appointing authority is the ability to hire and fire. In our city that authority vests in the mayor as the appointing authority. In some definitions of the safety director, that person would have that authority over those safety service departments. Otherwise it is the hiring of personnel is subject to the budgetary process and they have the authority to enter into contracts for goods and services but those would be subject still to the spending authority and other rules. I don't believe you would read that language to suggest that there's an independent authority outside of the appropriation process to expend funds. They would still need, in our case, to come to city council for expenditures in excess of \$25,000. That's the type of defined role for safety director.

You had one other question Council member and that was the chain of command. While I can generally talk about the structure of the departments, it would probably be better for the two chiefs to describe what their internal chain of command is. In the police department, for instance, there are civilian units associated with the department of police that report either, I believe in those cases, report to different captains. In the fire service there are fewer civilian employees and they would report within their actual departments in the service. Each platoon has a chief. Each of the three platoons is headed by a platoon chief and the three, there's an Asst. Chief, there is a training department, there's fire prevention that are all staffed independently of the line firefighters that are headed by the platoon chiefs. Our platoons are responsible not only for fire safety response but also for EMS response. More detail response would need to come from the chiefs on that.

Councilman Langman – Law Director Frey, I was more concerned with or interested in or relationship between the safety director which in this case is our Mayor versus the chiefs. Obviously any Mayor is going to know far less about police and fire matters. But from a technical, legal standpoint is the safety director, for lack of a better term their boss?

Director Frey – Yes, the answer is yes to that question. The safety director is that supervisory role over those two departments.

Councilman Langman – Therefore given that currently both positions are civil service protected, what is the authority of the Mayor to do annual reviews to bring up various issues that, if there is any?

Director Frey – There is that authority, certainly. The rules are not designed to protect poor performance. They are designed to as Chief Cosgriff indicated, they're designed to insulate the person from, create an independence, if you will in those positions that this community through its charter, has not seen as an appropriate method for other department heads. The other department heads serve at the pleasure of the mayor. The chiefs, report to the mayor, they are subject to the mayor's authority, but there sending to those positions is controlled not through appointment by the mayor but rather the competitive testing process. From a disciplinary perspective, from a performance evaluation perspective, they are no different than any other department head. If that answers the question?

Councilman Langman – Yes, it does thank you Director Frey.

Councilman Van Ho – Could we have a testing where outside people could be brought in? The object of this was to widen the pool so we are getting the absolute best people that we can put in those two positions. Could there be some type of a test written and given that would allow testing by outside fire and police officials who have a stated amount of experience in administrative type of things? It is not to allow the mayor to appoint his brother in law who was a part time policeman. That's not the object of this. Incidentally if you had one that was, I didn't know about it as I made that statement.

Director Frey – If you're asking the question, can you expand the pool of candidates for chief to the people who are outside of the current fire or police service, the answer is no unless we make this charter change. If your question is, do we use outside testing agencies to evaluate our internal candidates, the answer is yes we do.

Councilman Van Ho – My question was could we open it up so there's a larger pool capable of taking the test?

Director Frey – We could, without a charter change open the pool of internal candidates. But we could not open it to external candidates without a charter change.

Mayor Cervenik – The testing that we do in both department, at least in my mind and practice, guarantees us that those individuals that are in the upper ranks that are eligible to take the test for Chief, have already succeeded in showing the best, for instance in the police department, as they became patrolman to sergeant. Then when the openings came up, they proceeding to prove that they were the best qualified to be sergeant moved up to lieutenant. Then they took another test when openings became available and the victor of that test, the highest scorer in that test proved that he was the most capable to be a captain. When the chief retires, leaves, those candidates that are captains have gone through each one of those proven steps to show that they are the most qualified, at least at that time. Each time, just because you were the first to pass, maybe you did best in the sergeant's test, then you may because of the way the testing is done, you may never get farther than the sergeant. Somebody that fell below your grade, the time you became sergeant, next time took it, moved to sergeant, moved to lieutenant. Our testing is extremely rigorous, the same as in the Fire Dept. I know we have a firefighter out there, I know we're missing Councilman O'Neill tonight, he spent since St. Patrick's Day studying almost daily for his promotional exam. It is a very rigorous tight and professional procedure to pass that test. Some of these guys, that's their main thrust is to study and learn that. The best candidate because we use proper grades, outside testing professionals, we are almost assured each and every time. No system is foolproof, we are assured those people that are eligible to take the chief test have proven throughout their career that they are the most qualified. That's why I get a little concerned that we change what we have here when we can count on one hand how many police chiefs and fire chiefs we really have had, they have been very well qualified. That's my concern, they've proven that. To say we want to assure ourselves of the best qualified person taking the test, I think that stands to reason, it has already happened by their promotional performance in the past.

Councilman Gilliam – I had the liberty to talk to a few firemen and a few firefighters and they had mixed reviews on this legislation. I will not announce the cities, these individuals trusted me to just give my comments but not direct them to any particular police chief or fire chief. Some of the things they said which were positive is that it does make, in the sense of having a mayor appoint a fire or police chief, it makes the chief more accountable to the needs of the residents, allowable by law. In some cases and this is no indication of any of the chiefs that are sitting here right now, some chiefs hide behind civil service to avoid being terminated. If residents are unsatisfied with their services, sometimes that situation can be a long drawn out problem. It also in some cases provide motivation for staff internal to excel. If you're a 25 year old police officer, you may not want to wait 35 years to get promoted. Good officers sometimes leave situations to go to other places to make their particular goals and objectives to be met.

It also in some cases removes the feeling of entitlement. There are some good officers, firefighters, who work in the system and enjoy their particular job but they realize they may not ever get a chance because the way the rules are structured, it may take them forever to advance to another level, such as the number of lieutenants, the number of captains, the number of sergeants. If those individuals stick around and stay and you have a young force, there's a good chance that a person may not be able to move up as well, based on budget numbers and also the civil service rules.

Lastly, in many cases it gives the mayor the ability to determine what a chief can positively address concerning issues in the city. An example would be if we had a horrible juvenile problem and we had a police chief that specialized in that particular area, that would be an excellent candidate for a city that had major crime with juveniles. That's an example they had used.

Now, Chief Cosgriff you had a very eloquent letter on your opinion and I respect that, but there were a couple of things that kind of bothered me based on your comments and these are just my opinion, but it is not any of your words. If the fire chief and the police chief can remain independent of the mayor, is there an assumption that all the other directors are patronizing the mayor? That's my first statement.

The second statement is, I'm sure that any mayor would not hire a rural police chief or a rural fire chief to come into an urban area. We just saw Chief David Maine a few years ago transfer into another police station and obviously he's done quite well. As far as knowing Euclid, I'm quite sure that a candidate from the New York Fire Dept. or the New York police dept. would be an appropriate person to work in the City of Euclid.

While the system is not broken, no one is here talking about this being a bad system. Is there an assumption that this is the best and most perfect system for the City of Euclid? I think we need to discuss that. Lastly, and I just wanted to make this clear again and it might be redundant but the bottom line is that in some cities, police and fire chiefs have used civil service as a shield or a form of retaliation against the mayor and anybody else that they feel is adverse to how they run their department.

My personal opinion is, Chief Repicky or Chief Cosgriff can leave this post, go somewhere else and work as chief. My assumption is someone else from another city of appropriate size, demographics, issues, crime, whatever the case may be, would be appropriate. I do not think an urban firefighter would do well in a rural forest fire, I don't think that. I don't think any mayor would make that, in my opinion, a bad decision as such.

The goal of this is to open up the pool. I've just given you some reason after talking to some firefighters and to some police officers on the pros and cons of it. I'm in favor of this, but I'm in favor of making sure that they have those requirements. Chief Cosgriff stated he had five certifications. If a firefighter from Dayton wanted to be a chief and had these same certifications, does that exclude him from not doing his job well in the City of Euclid? I don't think so. I just feel that at this point in time, opening the pool will allow for other candidates, internal and external to give serious consideration to Euclid as we transition into a new day and time. If there are some issues out there that need to be addressed, we need to be able to pool those resources, from internal or external resources to do so.

Councilwoman Jones – A just have a few comments, in the legislation the way it is written now the one thing I do like about it is that it opens up and gives more opportunity for candidates to apply for the chief position. Although I don't feel that it should be the discretion of the mayor to select who the final choice of those candidates are, I do like the opportunity to open it up to more than just those candidates that are within the structure of the police department or the fire department now.

We talked about training. We talked about opportunities. Let's say there's another city that has, the level under the chief and I forget what that is called, I'm sorry. A level that's under the chief and they're waiting to move up to chief in their location but maybe they have a chief that is going to be there for awhile so they don't have that opportunity. But yet, there could be a position opened in Euclid that they qualify for because they have gone through all the training and qualifications and testing that is needed and could be a so called superstar candidate that could apply for chief. I like to open up the opportunities because they could bring some other training to the department that maybe is lacking in some areas that we don't know of and that could come out in the interview process.

It opens up opportunities that are fresh ideas that we are looking for, fresh ideas and new things to, and I'm not saying that the two chiefs are not doing that now, but there's always opportunities for improvement anywhere you go. I like the idea to opening it up to more candidates that can apply for the position, but I don't really like the idea that it would be the discretion of the Mayor to select. Director Frey, correct me if I'm wrong, did we say that if this legislation passed, it would be the discretion of the mayor that would be able to select out of the candidates which one would fill that position?

Director Frey – This legislation would remove the requirement that the two chiefs not be subject to the at will employment. So that's all this would do. There could be a methodology in other ordinances to regulate or continue to use the civil service commission as far as a selection process as the mayor has pointed out. One of the approaches that is frequently used is allowing the appointing authority to select from the top three candidates. That could be done with or without this. So this would be necessary to open the pool of candidates to outside of the Euclid fire or police department. Internally if we were sticking with internal candidates, we could modify the appointing rules through civil service that would increase the size of the pool, as Councilwoman Scarniench has asked, could create some different process by which candidates tested and created this eligibility pool and then gave the appointing authority more discretion in that selection. There are a lot of different variations that are possible and permissible. This piece of legislation would be necessary solely to allow people that are not part of the current safety services in the City of Euclid to be eligible to become Chief in the City of Euclid.

Councilwoman Jones – Chief Repicky or Chief Cosgriff, one of you read a list of cities that do testing and that also take candidates from outside of the city. If there's a candidate that is coming from a city that currently does civil service testing to a city that does not, can they cross positions like that? If there's a current lieutenant that's applying for a chiefs position for a city that hires outside of the civil service process, is it necessary, can they apply for something like that? Or because they're in that structure of civil service, do they have to stay within that same structure?

Chief Repicky – I think I understand your question. But as Chief Cosgriff stated, if you lose your civil service status and you have 23 years in, you're not going to get your pension. A lot of candidates are not going to leave their job security until they get their 25 and 48 and 52, whatever it comes out to be legislation, to go to another police or fire department. It just won't happen. They could leave if they have their time in. You would have to have some minimum qualifications. Five plus years in supervisory capacity above the rank of lieutenant or above. Other schools such as staff in command or FBI national academy, those would be some of your minimal requirements. Maybe a bachelor's degree, that's up to civil service or council to set those qualifications. Does that answer the question?

President Holzheimer Gail – I'll go to Councilman Wojtila but then let's let the audience speak. We do have a member of the fire department here. We have a couple of different options on the table that may require looking at some of the civil service rules and I want to make sure that whatever we propose gets to what the intent is.

Councilman Wojtila – Chief Cosgriff in your email reply today you mentioned the current procedure, currently our structure as it is right now, it would allow the Asst. Chief and three platoon chiefs to sit for the promotional exam. Is that because there is only one asst. chief and then it opens up the pool to the next lower grade which is the three? The second follow up question, if that's the case, then have there been two asst. fire chiefs that you recall? Two or more I should say.

Chief Cosgriff – That is correct. Since there is only one asst. chief and there has always only been one asst. chief, in order for it to be a competitive exam, it needs to go to the next lower level. The next lower level would be the platoon chiefs, it would be open to them also.

Councilman Wojtila – There has traditionally been three platoon chiefs?

Chief Cosgriff – That's correct.

Councilman Wojtila – Chief Repicky, is it similar for police force?

Chief Repicky – We have three captains now, so you'd have to have two of them.

Councilman Wojtila – You don't have an asst. chief?

Chief Repicky – We have an asst. chief, but it is a captain, so it is three captains technically.

Councilman Wojtila – We talked earlier about being able to, regardless of this legislation, we talked about earlier, Councilwoman Scarniench mentioned revising the process. The concept of the Mayor selecting one of the top two or three that took the test could be done outside of the charter change. How would that type of change be initiated? How would that get put into place?

Director Frey – What I would suggest we would do would be to create legislation or, send a request to the Civil Service Commission, to look at their rules for modification to achieve that goal. Yes, the City of Euclid Civil Service Commission. Under our home rule authority, those that we have left, the civil service rules are apart of that and we have expressly stated in our rules that where there is a conflict between our rules and the Ohio Revised Code, under our home rule authority, our rules control. I would suggest the best place to start this process if you will, would be to send that request to the Civil Service Commission to look at their rules for modification of the rules to achieve that goal that Council has expressed.

Councilman Wojtila – The authority to make that change rests with the Civil Service Commission?

Director Frey- Then with Council.

Councilman Wojtila – Council has to approve it.

Director Frey – You would adopt or approve the rules.

Councilman Wojtila – The Safety Director, the Mayor in this case, couldn't request that change to the Civil Service Commission.

Director Frey – Sure, the Safety Director could make that request, but it will come to council ultimately.

Councilman Wojtila – The reason I have a question is I always know the Mayor has the right to personnel changes but this is outside of that.

Director Frey- That's correct. That's actually a modification of our current rules.

President Holzheimer Gail – At this point if there is anyone in the audience that would like to speak to Ord. (118-10), which is what we've been talking about, duties of the Civil Service Commission, you may do so now. Please state your name and address for the record.

Mr. Chris Caimi - I am a member of the Euclid Fire Dept. and vice-president of Euclid Firefighters Local 337, 9759 Campton Ridge, Chardon, OH. I am here to speak on behalf of our local against the proposed amendment to change the hiring process for the police and fire chief. We, the Euclid firefighters are adamantly against this change because we feel that the best and most qualified candidates for the position of fire chief for the Euclid fire department come from within the ranks of the Euclid fire department for many reasons.

The current and all previous chiefs have all advanced through the ranks of the Euclid Fire Dept. They have all had the opportunity to learn all aspects of the fire dept. throughout their careers. From the division of training to the fire prevention bureau and the general day to day fire and rescue operations of the fire dept. The chief's past work experiences with the Euclid Fire Dept. give him the ability to respond and mitigate large scale emergencies, as well as the ability to accurately prepare his department's budget.

We strongly believe that any outside candidates would have an extremely difficult time budgeting for the department that he has limited knowledge of what the department entails and how things are done within the Euclid Fire Dept. The Euclid Fire Dept. has many committed firefighters and officers who have educated themselves and will continue to prepare themselves for not only the opportunity to advance through the ranks of the fire dept., but also the opportunity to continue the professional traditions of the Euclid Fire Dept.

From the time a new firefighter is hired, the department invests in their future by not only educating and training them, but also preparing them to eventually become a leader within the department. We have many qualified individuals who have gone above and beyond their fire dept. training and have prepared themselves for future higher ranking positions.

Finally the position of Fire Chief is much more than the city's department head. He is ultimately responsible for the safety of every resident in this city. In every decision he makes, the citizens and firefighters safety is at hand. We as Euclid firefighters believe the history of the Euclid Fire Dept. speaks for itself in that the position is best suited by having a Chief that has intimate knowledge of the Euclid Fire Dept. as well as the City of Euclid to use in the back of his mind when he needs it most. Thank you.

Mr. Christopher Michael Litwinowicz – 21970 Morris Ave. I'm only going to touch on a couple of things because that just alone is basically how the voters are going to turn it down, but it should never go that way. An ordinance provided for the submission to the elector of the City of Euclid the question of whether Article V Section 7 duties of the civil service. That's how it is written Law Director?

Director Frey – By and large, yes.

Mr. Litwinowicz – The question would be, I'm asking because if this goes to Council and you all approve it, that's short notice so I'm asking these questions. Article V Section 7 of the Charter, the council budgets a lot of money each year for the police and fire. The City of Euclid and the voters, if they would have heard of this would have been up here, it is like we're fighting. To me, the city loves you Chief, and Chief of Police, thank you for your service.

With three captains, you ask those three captains would they want to be chief and they won't tell you. They love it. They love our Chiefs, fire and police. We're going through a tragedy because of

President Holzheimer Gail – Mr. Litwinowicz, if you could keep your comments or questions to this ordinance please.

Mr. Litwinowicz – They're losing their bargaining rights if we don't get the signatures.

President Holzheimer Gail – That doesn't have anything to do with this specific ordinance.

Mr. Litwinowicz – I'm just going to hold my time short but you know, I think it is really a waste of time, thank you.

Mr. Jeffrey Beck – 25540 Chatworth Dr. As for taking the police chief and fire chief out of civil service and opening up the pool to a larger group of candidates, I believe this is a good idea. This will allow the opportunity for the administration to bring in a fresh face to the department who would not have any preconceived notions as to personnel policies, etc. I would like to comment on a couple of things I've heard tonight, or at least what were insinuated tonight.

First as a long time resident of this community, I would not feel any less safe with a chief who came in from the outside. The Mayor stated that we've set out personnel to other cities to find and see best practices.

That seems like an argument to open up the pool. To get that experience first hand without having to learn it from the inside and sending somebody out.

Private sector CEO's generally do not come from the rank and file. They are brought in for their specialized skills in running a company. I know that public and private are two different things but I've spoken up here before and I feel strongly that if we operated more like the private sector did, the city would be in better shape.

If we had a mayor who would fire a police or fire chief on a whim, then we need to change mayors and I don't think that would happen. I think that everyone is concerned to make sure that we bring in the best qualified person and that needs to gel within the community, that needs to gel with the residents, it needs to gel with the administration. I think the mayor in looking for a person like that would make a wise decision and we wouldn't be in a situation like that.

The last thing I wanted to mention is that the Chief said, what do the resident want. Well why don't we let them decide. You're not making that decision up here tonight. All you're doing is asking this to go on the ballot in November to let the voters make the decision. They're the final answer and they may turn this down and they may not. Let them have the opportunity to do that. Thank you.

Mr. Victor Goodman – 20201 Glen Russ Lane. As far as, as long as I've lived here, I have been under the understanding that we hire the best firemen, our firemen are required to be paramedics as well. I will assume we hire the top of the class, not the middle or the bottom when it comes to the police. I know as a person who spent a career working, if I joined a company which is the police and fire department and knew that somebody from the outside could come in after all my work, how do we keep getting the best people here to serve until then?

I can't agree in opening this up to a wider group. I think testing is important. I think the certifications are important. If we want to keep the best coming here to want to work here, then they have to have the incentive at least to know. As the Mayor said, he has a safeguard, he can and we all, some of us who lived here long enough know that a fire chief was removed. If there is just cause, the mayor has that right if the fire or police chief are doing things that are wrong, there is a method in place.

I would say don't discourage the best from coming to Euclid. Thank you.

Councilwoman Minarik – This seems very drastic to change the charter. From the discussions and questions, Director Frey, if we want to open the pool, we can simply do that the same way we did with lateral hire, is pass an ordinance that would still allow the safety net of civil service, is that true?

Director Frey – It would be true, yes.

Councilwoman Minarik – That's good to know. Changing the charter to remove the two chiefs from civil service is not a good idea. I do believe that they need their independence. Perhaps this council, this mayor are doing a great job and they have the best intentions. That's not to say ten years down the road you will have people of the same integrity and they could fire on a whim. I like the idea of civil service being the protection for our two chiefs and they can have the independence and the autonomy. If we can do it simply by an ordinance to open the pool up for lateral hiring as we did with the police, that might be the better solution than putting this on the ballot to change the charter and remove this protection. I do like the idea of opening up the pool because there isn't the political baggage that sometimes we have from within the department. There is just like when the schools hired Supt. Jones, you're picking the best. As Councilwoman Jones said, you have fresh ideas a lot of times, a new way of looking at things, checking things out. I think that's important too.

I will not support this if we can do it in a simpler way. I don't like changing the charter and putting the two chiefs at risk to be fired at a whim, not in this particular administration but perhaps ten, 15, 20 years down the road. That's not a good thing.

Director Frey – I want to make sure I understood the comment. The lateral hiring that has been approved both in the civil service rules and adopted by city council applies to the police dept. It only allows the bringing in of current police officers to the patrolman's rank. They don't come in at rank. We had one instance where a Sergeant from another department came in on a lateral hiring, but he did not come here as a sergeant, he came in as a patrolman.

Councilwoman Minarik- We can do this by ordinance and we can set procedures.

Director Frey – We can expand the pool of internal candidates by ordinance.

Councilwoman Minarik – By ordinance we cannot expand the pool of qualified candidates for chief to outside the City of Euclid?

Director Frey – I need to think on that.

Councilwoman Minarik – Because if we did that, then they would be required to still follow our civil service rules, correct?

Director Frey – If we are to expand the candidates for chief outside of our community, our two departments, we need to create new civil service rule that would provide some mechanism for that. I'm not sure, I need to study that issue. What this legislation does is removes that protection, that civil service protection and allows that person to be hired at will. I know your question was, how do we preserve civil service, but go outside of the city's safety forces and I need to think that through and make sure I'm clear on how we would be able to accomplish that, whether or not we would need a charter change to do that. I know we can expand the pool of internal candidates by legislative action ultimately without a charter change. I know that if we were to remove that civil service coverage entirely, we need this charter change. Whether we can expand the pool to outside candidates and yet maintain civil service, I need to think that one through.

President Holzheimer Gail – That sort of leads to my suggestion because I think there's a number of issues that we still need to get answered and I understand what Councilman Van Ho is trying to do, but I think you're right. If there's a way to make changes, I want to make sure what we can do and what our rules and what we're able to do through civil service. I for one would want to get that information before acting on this. I would not be prepared to support this this evening. I don't know, Councilman Van Ho if you had thoughts?

Councilman Van Ho – As I've stated, I'm trying to get the pool opened up so we can have the best people in the job.

President Holzheimer Gail – The question of whether we can do that only with internal candidates or external candidates needs to be reviewed.

Councilman Van Ho – It was my understanding that we had to change the charter to do that so that is why I brought forth this legislation. I do have a couple of comments, really a question to the Law Director. That is someone brought up the fact that we had removed a fire chief and then we got into law suits. Had we had the legislation that I proposed, would we have even had these law suits, let alone pay out any money? Because it would be an at will appointment, and I don't believe the Mayor is just going to fire somebody because they don't like them.

Director Frey – The issue that existing in that litigation was a claim of disability and that the termination of that individual was improper based on a disability issue. If those facts existed whether or not there was civil service protection or at will appointment, that would not change that. Ultimately it had no bearing, the status of the position had no bearing. We argued as I had indicated that there was a failure to exhaust those administrative remedies under the civil service rules. That argument did not win the day, if you will. The Ohio Supreme Court determined that there was independent ability to bring a cause of action directly to Common Pleas Court under State statute covering disabilities.

Councilman Van Ho – Having spent a fair amount of time in Cleveland politics, if we brought in just a God awful chief, the police and fire generally have enough political clout to see that is taken care of within a few years, so I don't see a, everybody is saying it would be at the political whim of the chiefs. Probably the mayor that fires a good chief would pay for that dramatically more so.

Mayor Cervenik – I'm not going to comment on that because I firmly believe that at least one occasion the Chief came from a very, very large community and was very well thought of over there and he didn't last very long at all because he had a different view of how we should provide protection to the residents.

I want to make one comment, it was said that since the Mayor appoints Directors do they patronize the Mayor as well. That's probably not the right word to use, okay. When the Mayor is entrusted by the voters based upon his plan that he has presented to the voters, to the city, it is very important that the Mayor is able to appoint the people that understand the goals and understand what is important. For instance, one of the most important things for economic development is not to bring in new jobs, but in my reasoning, first and most important thing is to retain present jobs. I would want my Development Director to feel the same way. Things like that. It is a little different with safety forces because the Mayor is not going to have that same understanding of the safety forces. The safety forces react to things on a daily basis and they need to have the independency to do that. I know I trust each one of our police and firefighters with my life, my family's life and our resident's lives, every single day throughout their career and many of them move through the ranks. I'm not quite sure why we can't trust them when as they move through the ranks and we trust them everyday that they could not possibly be the best chief for us.

In any case, regardless of what City Council decides to do and I don't vote here, regardless of how you decide how the next chiefs are appointed, either he or she, once they assume the office, please don't change the protection that they have now under civil service. Changing the appointing method is one thing. But please don't allow that to change their protection so they can act at least quasi-independently. I've been very fortunate

with the chiefs I've worked with, we have a good relationship and we don't always agree but we know what is important. Nine times out of ten, I defer to them because they are professionals and I can pretty much say that about my directors as well. Regardless of what we do, I don't want to ever take them out of civil service protection once they are appointed whether it is by me, whether it is some combination in between or whether we continue as we've done it now. I think that's a very, very dangerous thing to do.

Chief Cosgriff – I would like to comment on some of the comments that have been made since I made my original statement. Maybe we're missing the point, we're discounting the experience that our personnel have gained from working in the city. We are not a city like New York or Cleveland where the Fire Chief is a figure head and there's many layers between the fire chief and the people that are on the streets. Our personnel do monthly company inspections, usually somewhere between 35 & 45 inspections; where each fire company and rescue squad company get out and get into our buildings. They meet the people in our buildings and they look for hazards. I personally have done probably thousands of inspections during my career. That's not to mention the amount of runs that we go on where we get in and out of buildings, things that we learn on squad runs, on fire runs. This is all invaluable experience.

On a weekly basis I'm contacted by our captain in fire prevention who has an issue to discuss in regards to a particular business or school or someone that's adding an addition onto a business or changing their egress patterns. It could be any multiple of things. When he comes and talks to me about that business, I need to know what he is talking. I really can't tell our fire prevention captain, hold on, let me go out and take a look at that building and see what the building looks like, see what we're talking about. I know what the building is that we're talking about.

The Fire Chief as established by the Ohio Fire Code is the authority having jurisdiction when it comes to matters related to public or fire safety. They have to be approved by me with the assistance from fire prevention. I would not want that to be a person that's never been in these buildings, someone who maybe a great chief in Independence but doesn't know our city or our buildings.

We are also a city where I can get a call in the middle of the night, or in the middle of the afternoon. Yesterday I got a call in the middle of the afternoon that they were at a working fire at Continental Products. I know where Continental Products is. I know what they produce at Continental Products. I went on the scene and I assisted with the command of that incident. Last month I got a call in the middle of the night for a fire in the Omni building. The Fire Chief's response to dispatch should not be, what is the Omni building; where is the Omni building; what kind of building is it? I don't need to ask that because I know what the Omni building is, I've been in the Omni building. I get in my car and I assist with command in that.

I'm just saying that the experience that we gain by working in the city, and let's face it the next fire chief, if he goes through the ranks is someone who is going to have 20 years of experience in our city. That experience and that training is not in a bubble. We send our personnel out as the budget will allow. We send them to the fire department instructors conference. We send them to the State Fire School in Bowling Green. We send them to numerous amounts of free training that is offered by the State or is offered by the County, or is offered by Region 2. We send those people for training so they can meet with fire personnel from other cities, from other states. We discuss different methods of doing things. Not to mention the periodicals. It is ongoing training. I think our personnel are the best qualified to handle that position and I'm saying that as a citizen who intends to live in the city after I retire. I want one of our personnel running our fire department. Thank you.

Councilwoman Scarniench – I do have a few questions that I would like clarification. Chief Cosgriff, you said we have one assistant chief and four platoon chiefs and those are the people who get to do the testing for chief, correct?

Chief Cosgriff – We have one assistant chief and three platoon chiefs. We have three platoons with a platoon chief and captain that run each of those.

Councilwoman Scarniench – Have we ever had a platoon chief that became the chief? Or has it always been the assistant chief that moved up, do you know that offhand?

Chief Cosgriff – Yes we have had a platoon chief. Platoon Chief Slattery went from platoon chief to chief.

Councilwoman Scarniench – Director Frey, when you were talking about how we go about this, is it the top person who gets the job or does the mayor currently get to pick from the top two?

Director Frey – No, right now it is the top person that gets the job. There's no selection involved by the mayor. The only possible recourse would be for some reason the removal from the eligibility list but that would be highly unusual for that level of service. We had instances where a candidate for promotion, not to those higher levels was on probation for some infraction, they were ineligible to be promoted.

Councilwoman Scarniench – Once somebody becomes chief, they're on probation for how long? A year? Is that part of civil service?

Director Frey – It is part of the civil service rules and it is one year.

Councilwoman Scarniench – Chief Repicky, we've lost a captains position and we're down to three. How many lieutenants do we have currently?

Chief Repicky – Five.

Councilwoman Scarniench – How many of them have been lieutenant for at least two years?

Chief Repicky – Two.

Councilwoman Scarniench – A comment on what Councilwoman Minarik said. I couldn't go along with that because if you allow lateral hiring for a chief, then you better be allowing it for every grade and I don't think that's fair to our police or our fire department, that wouldn't make any sense to me. We talked about this and the whole thing was to open this pool up to more people. I would really like to see us really look at this, get it on the agenda.

President Holzheimer Gail – A change in civil service rules you're talking about.

Councilwoman Scarniench – Right, civil service could technically meet all summer long?

Director Frey – Yes they do.

Councilwoman Scarniench – If we had legislation on the agenda, I know it is to late for Monday, but if we had it for our second meeting, that would do this to open this to add more people. I would like to see the lieutenants be allowed to do this. It just gives us more of our own people. I don't have a problem with that. If we could do that, they could work on it all summer and by our first meeting maybe actually come up with a plan to do what we wanted to do without it being a charter change. I don't know how anybody feels about that but I'd be willing to go with that.

Mayor Cervenik – I don't know that we need to do this the second meeting in June. I don't think any of these two gentlemen are going anywhere, at least I hope not. I have been working with the Ohio Police Chiefs Association and intend to upon reviewing their proposal to do a complete evaluation of the Euclid Police Dept. Somewhat to address some of the comments that you have brought up in emails which I won't go into detail here about mission goals and accountability. They will come in and look at organizational structure, management controls, personnel management and recruitment and selection of police officers. Based upon the benchmarks of other police departments throughout the State of Ohio. I think that may give us a little more information on what kind of changes we want to make as well. They are basically going to do a management assessment of the total department. When that is done and I believe it will be a very helpful exercise for all of us. I talked with Chief Cosgriff and there are organizations in the firefighter field that will do the same thing for the Euclid Fire Dept. They will look at things like, do we have to many captains, do we not have enough, should we have 12 lieutenants, should we have six lieutenants. They will look at all of that as well as the management structure of both departments. Those are the two departments that as again as you talked about, safety director is not trained in police and fire department operations. We have done this exact same thing first hand ourselves in virtually every other department in the city and have combined many departments together which have resulted in a savings of, or a budget that is \$700,000 less than 2008. We're going to be bringing this forward. The price is extremely reasonable and there is some money in the budget to do some things like this. When the report is done it will be presented to city council and it will be helpful not only in the police department but as we get into the fire department. I think it will bring out some things so maybe you understand that we don't need to go outside or maybe the report will say because of the structure you've had all these years, maybe you do want to go outside. I think that may help us with the decision too. Changing legislation in June, I'm not sure what the rush is.

President Holzheimer Gail – If I understood you right, that would be a way to start the process.

Councilwoman Scarniench – With all due respect Mayor, I remember a group came in and I can't tell you off the top of my head, it was under David Lynch as Mayor it was assessment of the city and the way it ran. That was given to council and nothing was ever done with it. That's the problem here. We're listening to our residents, we see what is going on and we want to make it better. I don't necessarily need to go outside to do it. There's opportunities for people who are in our departments to move up and do things and when they're not given the opportunities all that happens is just being disgruntled and why do I stay here, because there is no place for me to go. That's for every department and as Council, as the legislative body, we should be looking at this. It doesn't mean that we're going to change it, but I want to give civil service the chance to make this recommendation because that's what I believe in. I don't know what anybody else feels, but that's my opinion.

Mayor Cervenik – I don't think I said anything about this process that we disagree on. I think this is helpful. The group that Mayor Lynch brought in was citizens and they really looked at most of the other processes.

President Holzheimer Gail – Are you talking about Jefferson Wells.

Mayor Cervenik – That was not brought in by a mayor that was brought in by city council, Jefferson Wells. I have that report on my desk and everyone that I thought was reasonable, I think we pretty much handled.

Councilwoman Scarniench – I don't believe that was it because I have it at home and I'll pull it out. It was an assessment of the way the city ran and he was mayor, I'll pull it out.

President Holzheimer Gail – I'm going to try to pull us back on task. Councilman Van Ho, I'm hearing consensus that we want to look at civil service opportunities first.

Councilman Van Ho – Then we hand a report that says this is what we should do.

Mayor Cervenik – Part of this process is going to be interviewing by the two representatives of the Chiefs association. They have made it clear that they would certainly want to interview certain members of council. They're going to interview not every person in the department but certainly make sure that they have an overview from the various different levels of classifications, captains, lieutenants, patrol people, civilians, records, the whole thing. They want to understand and see that everything is working and how we can better ourselves. I commend the Chief for working on this as well and it is going to make us a better department. Some of you will be included and there will be a final report given out with recommendations and we're following them.

Councilman Van Ho – I would like there to be a council session where these people will talk to the whole council directly. I don't expect them to give any confidential information that could affect any specific, like patrolman so and so, or firefighter so and so, that's not what I'm looking at. I'm looking at structure.

Mayor Cervenik – They're not looking at that either. They're looking at structure.

President Holzheimer Gail – We're going to leave this one here, that seems to be the consensus. Very good. The second charter by Councilwoman Scarniench.

Ord. (118-10) Stays in committee.

Ord. (119-10)

Councilwoman Scarniench – Being a person who sat on a Charter Review Commission and after talking many hours with Dorothy Fike who was on many Charter Review Commissions and not to disagree with our Law Director but he seems to have a different opinion than I do on what the Charter Commission's job is. When our founding fathers put together the idea of having this commission, it was to take the politics out of it so that changes could be made and brought forward that the people decide if they want or not. Currently the he believes is that council, we don't have to, and correct me if I'm wrong, we don't have to send a charter amendment to the people if we decide we don't want to. I don't think that's what the charter commission was about. What this amendment is is to make it perfectly clear that we are just a pass through because by law only Council can do the charter amendments. We have to be the people who send it to the Board of Election. I feel that those people who serve do a very good job and really look at what it is that we do in the city and it needs to go directly to the voters for the voters to decide, not for council to arbitrarily to say yes to this one and no to that one.

Director Frey – I guess I take some disagreement with the Councilwoman's comments. I don't think that I'm intending to violate some intent of the framers of our charter. I think our framers had intended to make the Charter Review Commission's recommendations mandatory that they go to the voters, they would not have used a more permissive term such as may, and included other charter language that suggested that those charter changes that were proposed by the Charter Review Commission should be sent to the ballot in the same manner as charter changes proposed by city council. Obviously city council has the authority to approve or disapprove ballot issues as they choose to do so. While I absolutely agree that it is a better practice that recommendations by the Charter Review Commission be passed through to the ballot. So in that I am absolutely in agreement with the councilwoman. I think the language of our present charter needs to be cleaned if you will to make it happen in that fashion. In other words to remove from the discussion of city council anything other than the perfunctory approval required by code to get a matter onto the ballot.

As council is aware, the voters of the city amended the charter as far as the appointment of the Charter Review Commission, so Council will have appointments to the next Charter Review Commission as will the administration. Clearly there will be a broader spectrum of appointees if you will. I'm not denigrating any prior charter commission, but there will be by council action, there will be some members appointed to the charter commission that will in theory bring that perspective of the council to this process. There will be members appointed by the then mayor to bring members to the charter review process. Given that broader or more diverse appointments to the commission itself, it would seem to me it would logically follow then that that charter group when they do make recommendations it would be more appropriate that those be passed through as opposed to be at the discretion of the council as far as getting them on the ballot.

Councilwoman Scarniench – Thank you Law Director. There are two things that would have to be changed on this. The date in Section 1 to the current date. Also back in Section 4 where we talk about the 15 days. I think we changed that to 30, but that still doesn't give us enough time because absentee ballots go out October 4th. I would recommend we change that to 45 days.

Director Frey – Obviously we would have to amend Section 1 of the ordinance to reflect as this was drafted, it was the anticipation that it would have been on this past November's general election ballot. To get this on the November 8, 2011 ballot, we would have to make that amendment and we would have to have it to the Board of Elections by September 9th.

Councilwoman Scarniench moved to amend Section 1, to insert correct date of November 8, 2011.

Councilwoman Jones seconded.

Roll Call on Amendment:

Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.

Amendment passed.

Councilwoman Scarniench moved to amend Section 4, to change 15 days prior to the election to 45 days.

Councilwoman Jones seconded.

Roll Call on Amendment:

Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.

Amendment passed.

Councilman Wojtila – Trying to read Section 1 without the new added items, am I correct when I state that Council has to by a two-thirds vote approve any Charter Review Commission's recommendation; or in the case of the legislation prior to this, by a Council member? So by a two-thirds vote that would then go to the general election?

Director Frey – That's a correct reading.

Councilman Wojtila – If it was a 10% of the registered electors presented a charter amendment that would pass through?

Director Frey – Automatically pass through, yes.

Councilman Langman – To follow up on that course of questioning Law Director Frey, if this were to pass from a practical standpoint, if a council member felt that I can't support what Charter Review has presented to council, do they still have the ability to abstain or vote no? Or, would they be compelled to vote yes to pass it through the ballot?

Director Frey – I guess it would be the same fashion as a charter change proposed by 10% of the registered electors. You would be obligated to pass that through. I would have to look at Robert's Rules to see whether one could abstain from that vote, properly abstain from that vote, I don't know that. You would not have the discretionary role. How you would rationalize a philosophical opposition to the issue and yet maintain your required charter duty, I would have to look at Robert's Rules and see how that would play out. My suggestion would be that you would look at it the same as if the electorate brought in the necessary number of signatures. There currently you don't have that discretion to not send that to the ballot.

Councilman Langman – I think the difference is, you're looking at a vast number of people that have brought something to the council. I think you'll be compelled to follow the will of the people. That's a little bit different than a commission that's making proposals, at least in my eyes.

I've said this when other matters have come up. I believe that anything just about that passes before this body, city council current and in the future should have the discretion to modify or vote yes or no on those types of matters. I think because we are the elected body, our authority is higher than any particular commission. I cannot support this because I will not give up that prerogative for future councils. I don't believe we should just

be a pass through in matters such as these. There is the safety valve that if in fact the Council did not pass or affirm a recommendation of a charter review commission, those members can take the matter before the public and put it on the ballot. We've seen that happen in the past and we may see it happen in the future. I cannot support this particular ballot initiative.

Councilman Gilliam – Director Frey, thanks for putting that information out because if Council shall, if this were to pass as it is written today, Councilman Langman brings up an argument worth merit. I'm hearing what he is stating and we need to definitely have an understanding of this before we pass this in my opinion. The other issue is, Council shall, if this were to pass today as proposed, we may not need to have a petition signed by 10% of the electorate because the charter review does it then the possibility of having the electorate does it. I'm just pulling some options out there. Obviously it is best to have the electorate in here because they can do it within a year.

As a former member of the Charter Review Commission, there were a couple of things that I noticed in reading the history of the Charter review commission and dealing with individuals who were commenting about the roles of the Charter review commission. When I was appointed, I was appointed by the Mayor at that time. There was discussion that the Mayor had too much control in appointing charter commission members. At that time there was an amendment for council to select and the mayor to select as well. I felt that it was appropriate for the Mayor to select the charter, so I did not vote for that change even though that change did come about.

There were also arguments and conversations about how the council could check the Mayor's authority, but if council is not able to pass through charter commission amendment, how do we check council? The citizens who are selected to the charter review commission are challenged to look at this particular and make determinations on amendments or in some situations new laws that would affect the charter and affect the city. While the residents do have the option of voting in the mayor or out, voting council in or out, if a charter review commission comes up with an idea that could benefit the city, I don't want council to get in the way of that. I'd rather have the vote be the vote, up or down. As a former member of the charter review commission we had numerous amendments, regardless of our opinions that were passed recently.

When we talk about, well we want to make sure that we are checking and balancing each particular side of government. The residents have to check us. In my opinion I think this needs to be looked at. I have a concern that Councilman Langman has brought up that if a person cannot support this, how do we go about addressing this. I think that's important to know before this is passed. I'm in support of this because I think at this point if there's no need for a charter if council has the ability to remove it and put the burden of putting out to the voters via the 10%. Charter commission, excuse me. I just personally feel this is just another way to bring government closer to the citizens with the charter review commission and it allows the citizens to vote how they want this city to run. Ultimately we make suggestions based on what we feel is correct as council people and as mayor and the legislative authority. Also we need to be able to open the avenues for residents to have more than one option to see their city go in a direction that they feel is the most appropriate under the laws of the State of Ohio and City of Euclid.

Councilman Van Ho – I will vote along with Councilman Langman against this piece of legislation for one reason. That is, we are the elected officials. We ultimately answer to the voters if it is a good or bad idea. I can appreciate that the charter review commission spends a lot of time thinking about this and their motivations are pure and everything else. But they do not have to face the voters if it's a bad change, we do. I don't think we have withheld willy-nilly when stuff was brought to us by the charter review commission but we have looked at it, we have amended it and I think that's our job, just as it is our job to be a check and balance to the mayor. So I have to agree with Councilman Langman and I'll be voting no on this.

Director Frey – I knew there was an issue that I had with this piece of legislation that I wanted to point out to city council. I would ask before you vote on the merits of it you consider a third amendment because the way this was crafted, there's an unintended result and that was to remove the ability of city council to put a charter amendment on. That was not the intention of the proponent of this legislation.

What I would like to be able to do is offer it as a third amendment to this, that the section read: The council shall submit any proposed amendment to the charter to the electors approved by an affirmative vote of at least two-thirds of its members, or recommended by the Charter Review Commission, or upon receipt of a signed petition. That was a drafting error and not the intention of the proponent of the legislation. We never intended to remove council's two-thirds vote as one of the methods to get a charter change before the voters.

It would read, the Council shall submit any proposed amendment to the charter, to the electors, approved by an affirmative vote of at least two-thirds of its members. At that point, just before we started the bold underlined section and go on with, or recommended by. Again that preserves the intention and I knew there was something bothering me when I looked at this before and I needed to bring that to your attention and ask that be amended to include that.

Councilwoman Scarniench moved to amend Section 1 to read: The Council shall submit any proposed amendment to the Charter to the electors approved by affirmative vote of at least two thirds of its members, recommended by the Charter Review Commission or upon receipt of a petition signed by not less than ten percent (10%) of the registered electors of the City setting forth any proposed amendment to the Charter.

Councilwoman Minarik seconded.

Roll Call on Amendment:

Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.

Amendment passed.

Councilwoman Minarik – I'm very uncomfortable with the elected representatives being required to pass through anything appointed persons recommend. We don't do that with Planning & Zoning. We have the authority and the right to overrule something from Planning & Zoning if we don't think it is appropriate. I'm very uncomfortable that appointed people can submit changes to our charter or to our constitution.

A lot of times too, when we saw the last amendments to the charter or changes to the charter, they passed very easily and council approved them. Part of it is the way they're worded in such a way that voters tend to vote yes, vote no, depending on how the language is. Council should be able to look at the language of what is being proposed. We are the elected representatives. I will not be voting for this.

President Holzheimer Gail – I would like to have the public comment as well on this specific ordinance.

Mr. Jeffrey Beck – 25540 Chatworth Dr. I'm in favor of cleaning up the language in Article X Section 1. As a member of the most recent charter review commission, we struggled with many issues during a particularly trying time for the city. We openly debated and voted to pass onto the residents the opportunity to vote on significant changes to our charter. In the past, council has always been a pass through to the voters on the charter changes. Due to some faulty language, council is able to step in and take an active role in deciding whether or not the recommended amendments should be past onto the voters.

I, along with other members of the charter review commission, appeared before council twice to discuss with and inform council of our recommendations. In addition to informing council, the discussions turned into political ideologies and it became clear that a few members of council did not want the electorate to be able to decide for themselves. This attempt to usurp the voters' rights defeats the purpose of the charter review commission. Fortunately enough members of council voted to send the issues to the ballot. Once the vote was tallied, all of the charter review commission's charter changes were overwhelmingly approved and passed by the voters. I urge council to approve this language change so future charter review commissions will be able to do their job as our founding fathers intended.

It was mentioned here that elected authority usurps commissions and elected authority is higher than commissions. Yes, that maybe true. But the ones who put you there, the voters, they are the highest authority in this city. By denying them the opportunity to decide for themselves how they would like our city to operate, you're taking on a role that you are not intended to take on. Leave it up to the voters to decide what they want to do in their city. Do not decide for yourselves that you are higher than the voters in the city because you're not. Thank you.

Mr. Christopher Michael Litwinowicz – 21970 Morris Ave. A couple of questions Mr. Law Director, does this affect initiative petition of our charter, the referendum and all that?

Director Frey – No sir it doesn't.

Mr. Litwinowicz – Does anybody have the updated legislation of what you all are looking at because I don't have it right here?

President Holzheimer Gail – There's copies on the desk there.

Mr. Litwinowicz – Does our current charter say 10% for what they're trying to say right now? This was brought up by Council.

President Holzheimer Gail – The only change is that Council shall put forward the Charter Review Commission's recommendations. The current charter say may. That's the only change. The percentage of votes, none of that has changed.

Mr. Litwinowicz – Even though the election is free because the city is paying for it, is it nonsense or does it make sense? It already says may. What does the different terminology? After those questions, what the people was put into an appointed position, I urge Council to vote for their ward when they vote today for this amendment. Thank you.

Mr. Victor Goodman – 20201 Glen Russ Lane. Although I understand the position of another speaker, I still feel that you are the elected body which means you represent the people. The one thing that a pass through eliminates is discussion. If there's one thing I have noticed about you nine, you discuss everything; it should be no less. Discussion is important. It will give even if passed through, it will give the voter an understanding of differences of opinion. Just a pass through does not do that. I would certainly keep in favor of the fact that Council is still required as in all things to make a final decision not accept a final decision from others.

I do have to agree, the commissions are there to recommend. If you can overrule P&Z, then there's no reason you can't overrule anything else, if you think it is in the poor interest of the people. That's the key of it all, the poor interest of the people. So, I want to hear discussion on things like charter changes like we're doing tonight.

Councilwoman Scarniench – Never let it be said I won't discuss anything. The whole purpose of the charter commission, like I said is to take the politics out of this. If you leave the politics in, then we're self-serving. Nothing will ever come before the voters that the 9 people sitting here didn't decide to put there. If council could have, they probably would have stopped the changes that made us change from 2 years to 4 years and from staggering the terms, it would have never come before the people, I really believe that. I go back to the founding fathers, the fact is that this was put in there to give the people the right to make a decision. It doesn't stop us from discussing it. It specifically says we're a pass through to go. It is the same thing like we do when we fill out a petition. When I ask you for a signature on my petition I'll tell you this doesn't mean you have to vote for me. All it means is you're giving me the right to put myself on the ballot. When you have an amendment, you're people are trying to get rid of Issue 5. You sign a petition giving the people the right to vote for it. That's all this does, I truly believe that is it is giving the citizens the right that our founding fathers gave us. If we take that away, then what's even the purpose of having a charter commission? We can have a council committee that's for the charter and just do it that way. I don't understand why that is such a threat to everybody. Thank you, that's all I'll say.

Councilwoman Jones – I just want to make sure that I'm understanding this correctly and there was some discussions here tonight. The way this legislation stands is that if there's a charter amendment that's brought before council, we just have to go along with that and it is brought before the voters on election day, whenever the next election date is. There's been some discussion as far as council not having the ability to, one of the things I wanted to ask is, if it is brought before council, do we have the ability to discuss it and if there's some wording changes or maybe some different variations, do we still have the ability to do that before it goes onto the voters, not necessarily stopping it from going onto put on the ballot, but at least have some opinion as far as wording or any other changes that may need to be made.

Director Frey – First of all, no, the very quick answer is, if it came to you based on this language, if it came to you from the charter review commission, you could discuss it all you want, you wouldn't have the ability to change it. But you would have by two-thirds vote of your members would be to put an alternate version on the ballot. If you thought there was a better way to address the issue, you could put that as an alternate. In how the charter changes work, if they are conflicting, it is the one that gets the higher percentage. If both of them pass, it is the one that gets the higher passing percentage that becomes effective. If council put version b on the ballot because it was a superior language, and it received a higher percentage, even if version a were to pass, it would be version b that would become the charter provision for the City of Euclid.

The other mechanism that is available is to address the discussion within the charter commission meetings themselves. Council certainly has the ability to address proposed charter changes as it affects the council or the electorate at the charter review process. If there were proposals for better language or clearer meaning or such, that might be an appropriate use of time and resources as well.

Councilwoman Jones – My follow up question from that is, once it comes to council, that's the final step before going to the voters the way this legislation would stand?

Director Frey – It is the last council step that is taken. All ballot language is reviewed by the Ohio Secretary of State office. They have in the past and said, we don't believe this ballot language is clear; have us, have me, recreate that ballot language and send it back to them for review. Not only does the Board of Elections review the ballot language but the Ohio Secretary of State reviews it.

Councilwoman Jones – I have one other question in a little different scenario. If there's a charter amendment that comes to council, we do our discussion on it, we do come up with a different variation of the language. Can the charter commission take that back and make the changes to go on the ballot?

Director Frey – Again I'll have to look at Robert's Rules for that, whether or not you'd be able to table it at that. You certainly could go through a three reading. Nothing requires you to pass it on first reading. You can go through a three reading process and I suppose the sponsor of the legislation being the charter commission could withdraw it during that time period and substitute a different version.

Councilwoman Jones – I'm just bringing this up because even though the opportunity would be available to attend the charter review commission meetings and bring up different variations and things like that, with a lot of other things going on, maybe there's not that opportunity. Or maybe there's not a different version that comes up until the discussion at the council meeting comes out. I would like to at least see that we do have the ability to be able to make revisions if need be. If it comes to council, we have the discussion and there's a different version of that amendment that's brought up that there's still a possibility of either creating a different version as you said or the Charter Review Commission sponsor would take it back and make changes.

Director Frey – If that's the position, if you see a need to maintain a review and amendment prospect within the city council, all I can tell you is you would not support this piece of legislation that is before you tonight. If you support the legislation that is before you tonight, you would not have that ability under the way this is drafted.

President Holzheimer Gail – I do support this because our charter specifically sets up a charter review commission with the intent, goal or responsibilities to review the charter on a regular basis and provide suggestions for changes. Council also has that authority, on our own, as we discussed tonight both in this one and Councilman Van Ho's piece, we have that authority as well. The citizens have that authority through a referendum petition. If the charter had not set this up specifically as one process to make changes to the government, that's a little different than the day to day planning and zoning and some of the other Ad Hoc committees that we form. The charter specifically gave them that purpose. I've always treated it as it was our responsibility to pass it through. Certainly with discussion, we don't have to agree, but I think they are serving a purpose. Who is going to want to serve on a committee if their working and they're providing recommendations that we don't have to do anything with? The Charter specifically gives them that authority. We can submit a competing proposal. We can submit another one. We have through the last Charter Review Commission, we did have that back and forth process and we did make some changes. The Charter Review Commission probably would be open to that, whether we need to make that official.

Our charter gave the residents that authority, I will support this because I think it is important they have that autonomy to look and make changes that we may not agree with. I think it is important and it happens every eight years, they're appointed now both by Council and the Mayor. The charter review commissions, the last several times that have met, have put a lot of work, have put a lot of energy into that. I don't know that you're going to get the same impartial review if they know we don't have to do anything with it. I think they all serve for the best purposes. The process in itself is public. Other people have the opportunity to participate. I don't want to belabor it, we've talked about it a lot, but that is where I stand.

Councilwoman Minarik – First of all, just to my colleague, I do resent the fact that my disagreement with the two year, four year staggered terms, it was not self-serving as you've implied. That being said, I have to disagree. Twice now we've heard that the charter review makes suggestions to the council for charter changes. That is exactly what they do. Our charter allows for two ways to change the charter. Council puts it on the ballot or the people put it on the ballot. The Charter Review Commission makes suggestions, just as you said. It is then up to council, which has the authority to put items on the ballot, to exercise its authority. Who would serve on the charter commission if it could be changed? We had people serve on the Memorial Park? They didn't have a problem with knowing Council would review their plans. We have many committees where citizens serve knowing that the council has the final say and they're fine with that.

Again, we can overrule all these other committees, but when it comes to this, we're not allowed to change the language. We're not allowed to question it. There was no newspaper at the time those issues went on the ballot. I would like to know what effort was made to the public to promote both sides of the issue publicly? There was no newspaper. I do know in my ward when I sent letters to every absentee voter explaining my position four of my precincts voted against the charter change and the other were very, very close. Yes, it passed overwhelmingly. It passed overwhelmingly because there was no effort made to educate the public. There was no public forum of a newspaper. If we accept this that council may not even challenge or question, all right, what we are doing, voters will not be able to make an informed decision as the one resident said, this is the place we discuss it. This is the place we hold the pros and the cons of a charter change. We are the elected representatives. This is a republic. If we in our conscience feel that something to be placed on the charter by a group of appointed citizens is not in the best interest of the people's liberty, of the people's controlling of their own government, we should be able to bring that up, we should be able to challenge it and discuss it. The Charter review commission suggests. Council or the people put things on the ballot. Thank you very much.

Councilman Van Ho – First of all, I agree with the concept, there is a referendum if we are arbitrary and capricious in our decisions of what we're going to put on. Second of all, there would be massive confusion if we were to put an alternative resolution on the same item. You've got two ballot issues there in two different languages, the first result is I'm going to look at the first one and go, they mis-typed again, screwed up at the Board of Elections and not even vote on the second one.

Third, using this logic that we're using that we should be a pass through, could we also put something on where the mayor couldn't do anything we're doing because it is the same thing? It's the checks and balances so let's just eliminate the mayor's ability to stop anything we want to do. After all, we've talked a lot about it. It sounds a little crazy and it is, but so is a group of appointed citizens being able to override an elected body. It just does not make sense to me.

Councilman Gilliam – The charter commences every eight years for a maximum of two years. The comments were the charter review commission makes suggestions. Most of what we do are suggestions until it becomes law. Either we amend the current law or we add in potential new laws. I think sometimes we get caught up in semantics because there have been plenty of pieces of legislation that we either passed or didn't pass because it wasn't in favor. I don't think as a pass through council could not discuss their angst or their anger or even their disgust about this particular item. They can always lobby to voters not to support this as has been done in the past.

There are some external issues that we have no control over. You're right, a newspaper did cause a problem, I totally agree with you, I'm being fair. But you also advocated for your residents and you got the result that you received. I think that's great on your part and I appreciate that. What I do have a concern with is that how do we give the voters, the voters still have to vote on this. It is not a situation where we put it on the ballot and say, bing it is done. There's going to be people lobbying for it and people lobbying against it. At the end of the day, the voters have the final decision.

What I asked before, who checks Council? That's a very serious question. Now, in regards to Council and the Charter Review commission working together, there was an amendment that was passed where city council and the charter review had to make two different forms of amendments regarding selection and appointees of charter review commission members. That actually passed and it was a combined effort, a meeting of the minds. There are times when Council and the Charter Review can work together.

I don't think we're taking away the ability for the voters to make informed decisions if we inform them and it goes to your point. At the same time, even if we at this point in time this were to pass and I was against the actual charter amendment, I can argue why I was against it at neighborhood associations, I can send out letters, there's a Euclid Observer that's still around. There are avenues that we can do that. We've talked about some issues right here in this room that some residents are against, some residents are for that are still waiting for potential ballot language. I truly understand where we're coming from.

I want to talk as the elected officials, I've got to be honest. We say appointed commission members, it is almost condescending to be totally honest with you. One day you might be appointing someone that potentially may not be as important as a council person, I don't understand that. If council is appointing an individual, they are trusting that individual to have the skills, the qualities and abilities to make sound decisions, being referred by the Mayor and council. I just want to get away from that. To say that the elected body is the greatest body on the earth, that's not always true. All you have to do is be 18 years of age, live in your ward or city for one year. It doesn't require you to have a PhD, doesn't require you to have a master's, doesn't even require you to be smart, because we've seen that happen before. The bottom line is that we all equal citizens and some of us take different steps to try to propose the best for the city. Some do it from an appointed standpoint, some do it from an elected standpoint. Many of us here at some point or other was a community leader and we weren't minimized and we were on appointed commissions or committees and we were not minimized as well. I'm not taking offense to it but I just want the public to know that we appreciate the efforts that you do whether you're on a neighborhood association, whether you're on a committee or commission, I just want to get that out. I don't want the city to think that council as a whole feels that they are minimized because they are not elected officials. The reality of it is, they're the most important piece to all this puzzle.

Councilman Langman – Logically being able to discuss and being compelled to vote yes doesn't make any sense for a city council. Why would you even bother? Because you couldn't vote what your conscience dictates to you. As written, that seems to be and we'll wait for the Law Director clarify, if you can't cast a vote the way your conscience feels, then what's the point of having any argument, you're just going to pass this stuff through.

As far as commissions versus elected officials, there is a hierarchy, that's simply how the government is because this is a republic, as Councilwoman Minarik said. We are the elected officials. We have been tested through the voters. If we move forward with an Ad Hoc commission on finances, are we saying that okay, whatever they recommend we have to pass because that's a very important issue?

I don't think so. We still have the authority to accept or reject what they recommend. Madame Chair, that's a poor segway into the next part of the meeting. But to say that we have to accept what is presented I don't think does justice to the roles that we have.

Also as far as the politics of any commission, there's always going to be politics. It seems like the proposal that's before us is geared towards the past. Well that council wouldn't have voted on it. I don't know that and neither does anybody else. It was chosen not to be presented to that particular council, it was chosen to be presented to the successor council, fine. Our due diligence as elected officials, I believe, is paramount here. I don't recall any proposal by charter review that has ever actually been turned down. So I don't see why there's any change that's needed.

Finally I don't think if members of council feel strongly about this that their opinion should be just tossed off as you just feel threatened or it is discounted. If people truly feel that in fact this is a bad amendment, it should be accepted as face value and not just slumped off as you're just being political. I strongly believe that items that are presented to this council that any council now and in the future should have the ability to cast a yes vote or no vote. That's what we're hired to do. Thank you.

President Holzheimer Gail – I want to go back to the recommendations and then I think we should act one way or the other and we've discussed this quite a bit. I use the word recommendations because in the case of the charter, they are recommendations, whether they come from us, whether they come from the Charter Commission, or whether they come from ballot initiative. Ultimately the voters have to make that decision. That to me is the distinction that the charter review commission and all of our other committees, commissions, we have the authority to change ordinances to do zoning actions, to decide how to manage the finances. We don't have the authority to change the charter. It is just like the ballot initiative, we don't have the authority to not pass that through because that's a process the charter set up. A referendum petition has to be sent through whether we like it or not. I think the charter sets up the charter commission in the same way. This is a difference of opinion, obviously, but I think we need to move, everybody has had the chance to state their opinion. I think we need to decide how to act.

Councilwoman Scarniench – I'll make a motion but first I want to read two sentences of the Charter, Article X Section 2. Such commission shall review and recommend to the council of the city any alterations, revisions and amendments to this charter as in its judgment seems desirable. The Council shall submit to the electors any such proposed alterations, revisions or amendments to the charter in a manner provided in Section 1 of this article. That section tells you how to put something on the ballot. I'll ask the Law Director, in your opinion, what does that mean?

Director Frey – As we've discussed this in the past, the Charter Commission in my opinion has the ability to propose those charter changes but because of that language that says, subject to or in the manner provided in Section 1, is where I believe and have opined to the Charter Commission and to you as council members, that it is discretionary subject to that two-thirds majority vote of city council whether or not to take that charter recommendation and put it on the ballot. I don't remember what the issue was but Council did disagree and not send forward one proposed charter change from the last charter review commission, so it does happen, it is not an automatic or an isolated situation where something doesn't necessarily go forward. Again I'm reading Section 2 to require the mechanism to take that recommendation from the Charter Commission and make it subject to a two-thirds affirmative vote by council in Section 1.

Councilman Wojtila – I don't think I gave my opinion. I don't support this change. I've listened to everybody and everybody is pretty passionate about this. I believe that when this was set up, it was set up to make it, it has to be a super majority vote or two-thirds vote, so it has to be, whether it is an initiative from council or from the charter review commission that it is a two-thirds vote of council that reviews that and passes that on. Whereas 10% of the electorate is a pass through except for tweaking of the language. That's how I read it. I think that's an appropriate position. It is consistent with our planning and zoning, if they make a recommendation we have to overturn it with a two-thirds vote. There's consistency there. I don't support this. The sponsor may want to hold off since it looks like it is 4 to 4 or I don't know what it is, but we're missing one member tonight, so I just wanted to point that out to the sponsor. Thank you.

Councilwoman Jones – There's one outstanding question I don't think, at least I didn't hear an answer to. Law Director Frey, I think the question was asked of you, let's say there is an amendment that came before council that the way this legislation is written it just unanimously goes to the ballot. So a council person doesn't have the option to abstain from that vote, it just automatically goes?

Director Frey – I indicated Councilwoman that I need to look at the Robert's Rules and try and determine how the council person would appropriately act if they had the discretion to abstain or to vote no on the matter. I don't have that answer tonight, I did make a note of that fact and will get that answer to the council members as soon as I get it researched probably tomorrow.

Councilwoman Jones – I'm all for letting the voters vote, give their opinions that way. But this is the one section that is really holding me back. I don't want to say that because a charter amendment comes before me, that I unanimously agree with it. By looking at this, that is the way it is stated. The way this is written, I couldn't agree with that.

President Holzheimer Gail – Councilwoman Scarniench, do you want to?

Councilwoman Scarniench – Leave it here.

President Holzheimer Gail – Okay, doesn't sound like there's support to move it forward. Given the fact that it is 9:00, we have two items on our agenda, but I don't think we're going to get to them. If there's folks from the audience that want to make comments while you're here about either the garbage or the lighting. We do have a Sustainability Committee meeting on Wednesday beginning at 6:30 to discuss Waste Zero. Councilwoman Minarik why don't you explain, in your opinion does that have an impact on the discussion of the garbage fee?

Councilwoman Minarik – I think so. I think Council should hear from Waste Zero first. They are a company that specializes in pay and you throw. They'll explain the bag system. I also have been in touch with a company out of Chicago that sent me packets of information for you all and stickers for the bulk items. With Waste Zero here, it is the President of the company, I believe Council will have the opportunity to ask the questions, raise the concerns, illegitimate dumping, all these questions and stuff that people have about pay as you throw. I would like to hold off on the discussion of garbage fee until then.

President Holzheimer Gail – Given the fact that it is 9:00, I don't think we're going to have productive discussion at this point. I will ask Council to leave open Monday June 13 and Wednesday June 15, because we will have to act, we want to act before the June 20th council meeting on both those pieces and send them back to Council for a decision. We will have the Ward Redistricting. I want to make sure we have at least one public hearing, possibly two on that. We will want to have a meeting with Council sometime next week for you to review some proposals with that. I want to talk to you about dates afterwards. It will be a public meeting. Others will be open to attend. There are residents here who would like to make comments because it was on the agenda, I will allow that if you have comments on either the garbage or the lighting fee legislation that is on the agenda.

Mr. Christopher Michael Litwinowicz – 21970 Morris Ave. On Ord. (248-11) and (285-11), going to the committee and talk about this again in a couple of weeks. I support it. We just spent two hours talking about appointments and this and that. The City appointed the Mayor, not appointed but voted, elected the Mayor. That's the only thing I wanted to say was just to keep it on your agenda and there's two weeks. If there's any questions, research it and come to the next meeting because I'm going to for the city. Again, I just wanted to emphasize that these two items are necessary to move forward and for long term planning in the City of Euclid.

President Holzheimer Gail – Seeing no other comments, we'll take a motion to adjourn.

Councilman Langman moved to adjourn. Councilwoman Minarik seconded. Yeas: Unanimous.

Meeting adjourned.