



CITY OF FAIRVIEW PARK

20777 Lorain Road
Fairview Park, Ohio 44126-2018
- Established in 1910 -

Eileen Ann Patton, Mayor

CHARTER REVIEW COMMISSION MINUTES
MEETING #4
NOVEMBER 7, 2018
6:30 PM
FAIRVIEW PARK CITY HALL
DUNSON COMMUNITY ROOM

Members Present: Mr. Matthew J. Cavanagh, Esq., Ms. Erika Roitblat-Bowers, Mr. Nicholas Alexander, Ms. Michelle Sayer, Mr. J. Patrick Lang, Mr. Pat Cooney, Esq., Mr. John Mandula, Ms. Lauren Markus, and Mr. John Betts

Staff Present: Mr. William McGinty, Esq., Mr. Shawn Leininger, and Ms. Monica Rossiter

The Charter Review Commission meeting began at 6:30 PM.

Ms. Markus took roll call. All members of the Commission were present.

Ms. Rossiter explained that the meeting was being recorded, and that such recordings are available upon request.

Ms. Markus asked the Commission if they had any revisions to the minutes from Meeting #3 held on October 23, 2018. Hearing no revisions, the Commission approved the minutes.

Ms. Markus introduced Mr. Shawn Leininger, Director of Public Service & Development, who was asked to attend the meeting to provide input on matters related to referendum zoning as they pertain to Article 4, "The Council", of the Charter. Prior to beginning a discussion on referendum zoning, Mr. Leininger provided an overview of zoning, land use, and master plans, as well as the processes and procedures followed by the City for proposals related to a change in use and/or zoning of a property. Mr. Leininger stated that with the City's current procedures, a proposed zoning change must first be approved by the Planning & Design Commission, then City Council, and then through an automatic vote by the public during a general election. Mr. Leininger explained that without referendum zoning, final approval of a zoning change is typically made by City Council, but that a referendum can still be filed by the public. Next, Mr. Leininger addressed the impact that referendum zoning, or lack of referendum zoning, may have on the development or redevelopment of a community. Mr. Leininger explained that ninety four (94) properties have been subject to rezoning since 1950, thirteen (13) of which occurred during Mayor Patton's time in office. He continued by stating that the rezoning of each of these thirteen (13) properties was approved via referendum.

Mr. Leininger reviewed the pros of referendum zoning, including a person's ability to directly voice support or opposition of a proposed zoning change. He explained that the cons of referendum zoning include its potential limitations on positive growth and development in a community. Mr. Leininger explained that some developers may avoid pursuing development opportunities in some communities due to the length of time required for zoning changes to take effect, and due to the uncertainty of the project, which may subsequently present problems for project financing. Mr. Leininger addressed questions related to the approximate number of developers who have turned away from a project because of referendum zoning.

He stated that there is no way of knowing how many opportunities were missed because some developers may not have initiated the process with the City.

Ms. Markus asked if more residential or commercial properties have been rezoned in the past, to which Mr. Leininger stated that the majority of rezonings that he is aware of have been to permit commercial uses. Ms. Markus asked what the typical timeframe is from the initiation of a proposed zoning change until it takes effect. Mr. Leininger stated that the process takes approximately eight (8) months for a best case scenario, and that the amount of time needed depends on the filing deadline for the next general election. Some Commission members provided insight on their own experiences with referendum zoning, and stated that referendum zoning is prohibitive to many businesses and that some won't even approach cities if it is in effect. Mr. Alexander asked if other municipalities have referendum zoning and Mr. Leininger stated that there are a few in the County, but that Fairview Park is a minority in that respect. Mr. Cooney asked if there is any developable land in the City, to which Mr. Leininger stated that there are only a few vacant parcels, but there are opportunities for redevelopment. Mr. Lang asked what measures are in place for communities without referendum zoning. Mr. Leininger stated that such processes are prescribed by ordinance, and typically involve board or commission approval, city council approval, and set durations of time between approvals and enactments to ensure the public have an opportunity to provide input. He continued by stating that many communities have criteria for the evaluation of proposed zoning changes, including a requirement that such changes are consistent with the community's vision and surroundings, and will not have an adverse impact.

Mr. Betts asked why the City's Master Plan was not submitted to the electors for approval, Mr. McGinty explained that master plans are often used for purposes of establishing a vision for land use in a community. Ms. Roitblat continued by stating that changes to zoning are the methods for effectuating changes in land use. Mr. Cavanagh voiced concerns regarding "ad hoc" proposals for zoning changes. He continued by stating that if there are zoning changes needed in the City in order to ensure the best use of property, that the system should be looked at as a whole and amendments made as necessary. Ms. Markus responded to Mr. Cavanagh by stating that the City is almost fully developed, and also that most developers she has experience with have a desire to develop in accordance with the surroundings and complement adjacent uses. Mr. Cavanagh stated that he believes zoning should not be changed to meet the needs of development, but should be put in effect to control what development or changes in land uses to occur in the community. Ms. Roitblat-Bower stated that in some circumstances even slight changes to land use require zoning changes, and that referendum zoning is prohibitive to such minor changes.

Mr. Cavanagh stated that he believes zoning changes should be made to reflect the vision of the community in advance of any potential development to ensure that "ad hoc" zoning changes do not occur, and that a master plan can complement and guide development around these zoning changes. Ms. Rossiter stated that City Council cannot pass zoning changes on emergency read, and such changes will take effect no less than forty (40) days after passage by City Council to ensure there is adequate time for the public to file for a referendum. Ms. Markus reiterated that residents vote for City Council members to represent them, and that they, in theory, should therefore represent the needs and desires of their constituents. Mr. Lang stated that referendum zoning does not enable communities to adapt to current best practices for land use and zoning. Mr. Cavanagh stated that zoning is supposed to accommodate a prospective land use that meets the standards of the zoning district for which it is proposed. Other Commission members stated that a plan and vision for land use in the community is more relevant to the content and purpose of a Master Plan, as opposed to enacting zoning changes in preparation for the future proposal of desired, as well as undesired, land uses. Ms. Markus further stated that removing referendum zoning is ultimately the decision of the voters.

Commission member asked if zoning could be made more general to reduce the number of zoning changes needed for similar uses in similar districts. It was stated that making zoning regulations more general can result in less of an ability to disapprove uses that are undesired by or unfit for the community.

Ms. Markus asked if votes by the Commission have to be unanimous for recommendations to City Council, to which Ms. Rossiter applied that it is not required. Mr. Leininger summarized the discussion by stating that there are pros and cons for both referendum zoning and lack of referendum zoning. He continued by reiterating the safeguards in place for both processes, and concluded that a process should be determined based on the unique needs of a community. Ms. Markus asked the Commission to continue reflecting on this matter, and that it be addressed at the next meeting.

Mr. Betts asked the Commission for their thoughts on requiring a radius within which letters to property owners should be sent regarding proposed zoning changes under review by City Council, rather than the current requirement which is to send notices to the impacted properties, and those adjacent or abutting those properties. It was stated that for proposed zoning changes under review by Planning & Design Commission mailings be sent to properties within five hundred (500) feet of the impacted property, which is not consistent with the mailing requirement of the Charter for review by City Council. Mr. Betts asked that this matter be added to the Commission's list of "open items", and that research be conducted to determine the best and most consistent option.

Ms. Markus ended the discussion and stated that this item would be discussed on the agenda for the next meeting on Monday, November 19.

Public comment was opened. Councilman Russo provided input on the costs associated with expanding the City's mailings for meetings related to zoning changes. He also explained that he is aware of other communities whose development has been restricted due to the adoption of a Master Plan, and that market demand should play a role in development and redevelopment.

Ms. Markus stated that the next meeting will focus on the remaining sections of Articles 4, Article 5, and any written comments provided by department directors, boards and commission chairpersons, or members of City Council. It was also decided that future meeting dates will be selected at the next meeting on November 19.

The meeting was adjourned at 7:56 PM.