

# *The Village of Walton Hills*

## *Committee of the Whole Meeting*

Date: October 3, 2017

Time: 6:00 p.m.

Location of Meeting: Council Chambers

Mayor Hurst called the meeting to order. The roll call was taken by Katie Iaconis, Fiscal Officer. Present: Councilpersons Paul Rich, Gloria Terlosky, Don Kolograf, Brian Spitznagel, and Denny Linville. Mayor Hurst states that councilwoman Mary Brenner-Miller called and said she was stuck on the interstate and she will be here as soon as she is done. He asks for a motion to excuse her until she comes to the meeting. Councilman Kolograf makes a motion to excuse Councilwoman Mary Brenner-Miller from the October 3, 2017, Committee of the Whole meeting until she comes. Seconded by Councilman Rich. Five ayes approve. Mayor Hurst also wants the record to reflect that our law solicitor William Mason and Katie Iaconis as our Fiscal Officer and Clerk of Council.

Item C – Approval of the Committee of the Whole meeting minutes of July 11, 2017. Councilman Linville asks about the minutes from July 11, the first page, Resolution 2017-17, he states there are a couple of typos there and word usage that does not make sense. He points out a few typos that need corrected. He makes a motion that these errors in the minute be changed. Councilwoman Terlosky seconds the motion. No questions or comments. Five ayes approve.

Item D – Approval of Special Council meeting minutes of July 11, 2017. Councilman Kolograf makes a motion that we approve the Special Council meeting minutes of July 11, 2017. Seconded by Councilwoman Terlosky. No questions or comments. five ayes approve.

Item E – Approval of Committee of the Whole meeting minutes of August 8, 2017. Councilman Linville speaks about some more language that need correction and asks for a motion to have this corrected. Councilman Spitznagel seconds the motion. No questions or comments. Five ayes approve.

Record reflects that Mary Brenner-Miller has arrived and is present at this time.

Item F – Approval of the Special Council meeting minutes of August 8, 2017. Councilman Kolograf makes a motion that we approve the Special Council meeting minutes of August 8, 2017. Seconded by Councilman Linville. No questions or comments. Six ayes approve.

Item G – Discussion of overlay zoning. Mayor Hurst states that this did go through Planning Commission for public meetings. Councilman Rich serves on Planning Commission as council's representation. This is to give the Village Council and the Planning Commission the authority to work with economic development for opportunities of parcels of 15 acres or larger. Mayor Hurst states that he passed out a packet of the comparison of Beachwood and comparison of other communities. Mr. Smerigan is here today and the Mayor invites George up to the microphone. Mayor Hurst also states that it is open mic if anyone wants to ask any questions of George.

George begins by setting the stage by stating that what we are looking at doing is creating an economic development overlay district. The way we are doing that is we are making essentially three co-changes. We are doing an amendment to Chapter 1266, the country home district, to add this overlay district as a conditional use. We are making an amendment to the conditional use chapter, which is 1294, to add the use and refer to where the standards are. We are adding a new Chapter 1267, which essentially establishes all the standards and criteria. The idea is that the land would remain in its current zoning classification until the Village approves a special development project for the parcel. In order to qualify, the parcel

development would have to be a minimum of 15 acres, they would have to present the council with a development plan and they would have to find the development plan to meet all of these criteria and be acceptable to the Village as a means of creating economic development opportunity for the Village. George goes on to say that the council has absolutely no obligation to approve anything that is submitted. He says it is not like the situation where if they submit it, they get approved. It does not work that way. Because it is an overlay district and because it is conditional use, they need to convince the Village that what they intend to do is in the Village's best interest. If they can do that, the council can approve it, and then the new rules, the rules that are set forth in Chapter 1267 and that development plan, are what will control and guide that property being developed in the future. If the council says no, that is it, it stays exactly the way it is and they have the rights under the current zoning that they have today.

So, when the council votes no, they are not taking anything away from them. They have what they have. The council is simply not giving them that additional opportunity for the economic development. The criteria that are set forth in here are intended to create an opportunity for the Village and to provide you with the maximum amount of control, but again, what is happening with each of these projects is that they are going to have to bring the council a plan, they are going to have to make the council comfortable with that plan, and unless the council feels that that plan is in the Village's best interest, the council has no obligation to approve it. However, once the council does approve it, that plan is what they are locked into. They cannot change that without coming back to the council and getting that change approved. It is not only a question of what they intend to do, but who the operator is. So, if the council approves this conditional use permit for someone, they are doing it specifically for that applicant, specifically for that use, and any change either in the operator or the use has to come back to the Village for review and approval, so the council is in total control over the operation. This is what we set up after several work sessions with the planning commission, as Councilman Rich is aware. We discussed this at some length. The commission recommended some adjustments, which we made. Mr. Smerigan thinks that what the council has in front of them in terms of the new district will give them the kind of tools they need to do economic development in the most effective way for the Village.

He states that he can answer any questions the council may have either on the specifics of what is being proposed or on the whole overlay concept in general. Councilman Rich asks about Chapter 1272, there are a couple of starred items and he is looking at the schedule of setback requirements where there is a building up to 35 feet high and buildings over 35 and up to 50 feet, they have 200 and 400-foot setback requirements respectively. He asks if we have a building that is 35 to 50 feet, we have to have a setback of 400 feet in front, rear, or side? Mr. Smerigan states that it is a setback from a residential district. So, the front setback is above in the document, which is a 50-foot setback. This is in the mixed-use development district. This is where it would abut residential. So, for the bulk of the district, it will be a rear yard for the most part. Mr. Smerigan explains that they did that because they did not want to have a tolerability then looming over those adjacent residences. Mayor Hurst states that we have a 400 foot in the mixed use right now. Mr. Smerigan clarifies that the starred items are simply corrections or changes we are making to the existing regulation.

Mayor Hurst states that he did the asterisk beside some items so the council knew which ones were new or additions. Mr. Smerigan states that the other adjustment to that chapter was that we did not have parking regulations for the medical facilities, and we added those. Councilman Spitznagel brings up a few items. He starts with 1272, the one we were already in. He asks about the Schedule of Permitted Uses. This would be on page 2 of this. In the chart, it has medical marijuana cultivation processing. He asks if the Planning Commission thought about other types of drug manufacturing. He states we have a drug manufacturer outside close to us that does various other prescription-type drugs. He understands they are opening it up to this specific thing, but we are also closing it down to other forms of medical manufacturing. Mr. Smerigan states that we permit production facilities; manufacturing processing production facilities. So, if they are actually processing drugs, creating the drugs, they are permitted use in that district. He goes on to say that the reason that we added the medical marijuana cultivation is because

cultivation technically is not processing. We wanted to make sure that the actual growing was a permitted use. Now, technically that does not come under processing and manufacturing, which is why they made that adjustment. Any other drug manufacturing where someone would be processing and creating drugs would be covered under the manufacturing end of things. Councilman Spitznagel also comments on 1272.08B in Supplemental Regulations, the definition of medical facilities has the same wording as in the overlay zoning of 1267.08A. They added nursing home and assistive living facilities, and he understands why they did that in the overlay zoning, but the definition says short-term medical care and treatment. Councilman Spitznagel states that, according to this definition where it says short-term, would disallow any place like Brentwood or Walton Manor or Light of Hearts Villa because they have facilities that are not really short-term. They are somewhat permanent. There are short-term rehab facilities and things like that. Councilman Spitznagel understands that when we did the mixed use zoning, that is what we wanted in that area. We did not want a permanent place or a nursing home where someone would be there for 10, 15, or 20 years. In the overlay zoning, there is the same wording where it says short-term. He is wondering if this is what the Planning Commission really wanted – a short-term rehab facility.

Mr. Smerigan states that he thinks the concept was that they wanted to permit the hospitals, the surgery centers, trauma centers, and the outpatient type of thing, but he thinks there was a general feeling that the nursing homes and assisted living facilities were acceptable uses. So, they wanted to clarify that these were also available. If the council feels different than this, we would simply need to adjust the language. Councilman Spitznagel states that it is not that he feels different about it; it is just that the definition says short-term facilities and there are short-term nursing home facilities and long-term care. So, by their definition here, they are limiting it to a facility that only does short-term care. Mr. Smerigan thinks that this was a great catch on the Councilman's part, and he thinks that the problem is that when we first wrote this, we did not include the nursing homes and assistive living facilities. So, we focused on the short-term care. When we added those words, we should have taken out the short-term. Mayor Hurst states that because this is the overlay zoning, we can remove the short-term. Mayor Hurst and Councilman Spitznagel think that we need to take out the short-term language.

Councilman Spitznagel mentions that in Chapter 1272.08K, the chart, on the right side of the chart where it has been revised, he believes the same chart is in 1267.08F, and he believes that chart is correct where this chart, I think someone simply tabbed it out or something. After some deliberation, it was noticed that Councilman Spitznagel ended up with a different copy than everyone else. It is verified that this is, in fact, fixed. In the overlay zoning, 1267.02, the chart of Schedule of Permitted Uses, Councilman Spitznagel asks for the reason behind the medical marijuana cultivating not being mentioned in that. Mayor Hurst states that medical marijuana cultivating can be done in our district because it falls under agriculture. Councilman Spitznagel confirms that it can be done and it does not need to be in here. Mayor Hurst and Mr. Smerigan agree. Councilman Spitznagel comments on 1267.03, the lot area requirement. He says that his says 10 and wonders if he has an incorrect version. Mr. Smerigan thinks he has an old version. He says there were a number of corrections that were made based on the meetings with the Planning Commission. He states that this got adjusted to 15 and this is confirmed with the Mayor and Mr. Smerigan. The question that Councilman Spitznagel has is whether it is 15 acres per business or 15 acres per development. Mr. Smerigan verifies that it is 15 acres per development. In other words, when someone would come in and request to go into the overlay district, they would have to have 15 acres in order to make an application to create that district and create that plan. Now, that plan may consist of several different things so that some of it may be smaller than 15 acres, but they need 15 acres to do the overlay at all. The reason for this is in order to create an overlay district, we want it to be large enough to make sense for the Village. Councilman Spitznagel then brings up the setback requirements in 1267.04 that Councilman Rich was talking about. He knows that Mr. Smerigan mentions 200 feet. His question is where it says 30 feet from the side mere setback for a parking lot abutting country home residential district. He asks if the board talked about anything such as buffers such as trees or shrubbery. Mr. Smerigan says absolutely they did. Mayor Hurst says that this is why they put the requirements of so much land. So, even though they may only use 5 acres

of that 15 acres, we want to be sure that we do not impact any of our residents. That is where the formula of 15 acres came up. We did talk about that this is part of the overlay.

Mr. Smerigan says that the whole idea is that as part of the development plan that they give you, they would also be bringing in a landscaping buffering and screening plan as part in parcel of that. So, that would all be part of what gets reviewed and approved. There was quite a bit of discussion at the Planning Commission level about the exact nature of what that buffer would be like. They talked at one point about whether or not it made sense to specify a particular buffering requirement, but Mr. Smerigan thinks that the decision was because it would vary so much from property to property, rather than try to specify something in the dark, we would do a planned review when the application came in and make sure that the buffering was specifically correct for that location. He thinks that makes a lot more sense because with grade changes and topography and everything, the same thing is not going to work everywhere. So, the idea was that we would tailor it to the individual situation, but as a requirement of the submission.

Councilman Spitznagel brings up one more thing in 1267.08C where it speaks about the overlay zone that has to come off on Alexander Road. He knows that there is land off Sagamore Road that is 17 or 18 acres. Mayor Hurst interjects and says that is owned by the church and confirms that we do not own any of it. Mr. Smerigan and Mayor Hurst confirm that Councilman Spitznagel has an old version. Mayor Hurst says "No road or economic development overlay shall have connection with or discharge traffic into residential districts of the Village other than Alexander Road." Mayor Hurst says that we want to be sure we do not have headlights going into people's homes and things like that. That is all the questions that Councilman Spitznagel had.

Councilman Rich asks if there is a possibility to give the council some examples as a member of municipality who took an advantage of overlay zoning and what occurred. Mayor Hurst says that it is in his packet. Beachwood is in there. There are other communities in there. Oakwood is where they got some of the examples because Chagrin Valley Engineering have residential and they have overlay zoning there on Forbes Road. So, this is not unusual or off the wall. It is done in many communities. It is simply that Walton Hills has never brought these kinds of things to the front. These are more economic tools. Mr. Smerigan states that communities have used it in different ways. He states that he works for Strongsville as well. In Strongsville, they do some of their residential development as overlay districts as if the development meets certain criteria, they can develop a different than normal residential requirements, but they have to meet a bunch of standards to do that. They have used it even for some residential development. It is a common technique with communities today to use these overlay districts as a way to control the development and it tries to keep the maximum amount of control in the community's hands as opposed to having a standard that if someone simply designs it to that standard, they can go ahead. That is not good enough here. They have to convince you that this is in the best interest of the Village, and you have no obligation to approve anything at all.

Mr. Smerigan offers to get the council a list of examples that they can consider and the council agrees that that would be great. Councilwoman Terlosky asks for clarification for a situation where if a business that comes to the village and they want to use overlay zoning and they pass everything to our specifications, and if they go ahead and build a hospital, for example, and then they run it for three years, and then they decide they do not want to be a hospital anymore and were going to leave, and then another company comes here and says they want to come here on this 15 acres, that would revert back to country home unless they can come to us and say they want to do the overlay zoning. Mr. Smerigan confirms that they would have to come in and make the council comfortable that they were going to do all the same things that they wanted done. They would have to agree to all of the same things that the council wanted done. They could not simply buy the facility and take it over and operate it. They would have to come back to the council and start from square one. It is a permitted use. Mr. Smerigan states that they key here is that the idea is to keep the control long-term so they cannot simply transition into something else. He says this is critical for the community. So, any new owner or user would have to come back to the council and make the council comfortable that they were going to operate to the same standards and the same style that made the council

want to do it in the first place. Councilwoman Terlosky then asks about the height of the buildings where it says 5 stories, which is 60 feet, and we have fire trucks that reach? Mr. Smerigan and Mayor Hurst confirm that this is what it was based upon. Mayor Hurst says it was based upon the ladder trucks in Oakwood.

Councilman Spitznagel asks if this would work for greater than 10 acres as opposed to greater than 15 acres? Mr. Smerigan says that is up to the council and the council could always make that amendment later if they found that they wanted to consider smaller projects. We needed to have some sort of a cutoff and we did not want to have someone come in with an acre or two-acre project. That would be wasting everyone's time. We wanted to have some minimum scale. We chose the 15 and thought it made the most sense for right now. The council can always adjust this in the future. There is a thing in the documentation that says that they can add any size to the district once it is created. So, if someone did a 15-acre development and then purchased an additional 5 acres and wanted to expand it, they can do this. That is totally up to the council in the future. He thinks the council would want to get a little bit of experience with this first before they start making those adjustments. Mayor Hurst asks for any other questions from council. None are seen. Mayor Hurst then opens up the floor to the audience for overlay zoning or any other similar questions. He clarifies that the council is not going to pass it in the month of October. We are simply digesting the information and hopefully in the month of November we can talk about it again. If there are any questions or anything, we can get back to George. George is the planner for several communities. He helped us with the mixed use. Thanks is given to George by Mayor Hurst and the council.

Item H – OPWC funding for Alexander Road. Mayor Hurst explains to council that we are going to apply for a grant from Alexander Road. We broke it up into three different sections. The deadlines for grants are for next year, not this year. This is from Alexander to Walton Road as one section. The next section is Walton Road to Dunham, and then Dunham to the end of the Village. The OPWC funding for Alexander, we just need to pass a resolution giving our engineers privilege to apply for the grant. We are not making a commitment to this. The county has given us \$250,000 for Alexander Road for 2018. So, we are using that language and we are looking for some more money at the state level. Then, hopefully we will get either matching grants or 0% loans or something of that nature. Just like we did at Sagamore Road and Egbert Road. It is the same exact process. He says that everyone knows that Alexander Road is breaking down. He says this will be on the agenda for the council meeting at the end of the month. This is just a resolution for the council to give permission to the engineers. No questions or comments from the council. No questions or comments from the audience either.

Item I – Discussion of Tax Review Board members. Mayor Hurst reminds the council that he brought this up in the month of August. He says we have one person, Lloyd Wareham but we need three people. He is asking the council if they have any recommendations of anyone to be on the Tax Review Board, some of the people who did not serve before. We have never been challenged, of course, but we need this in place because we collect our own taxes and things. He said we put it in the journal and we have advertised. We have not had anybody interested other than the gentleman on Dellwood, Lloyd. He also states this to the audience – if they have anyone who would be interested in being on the Tax Review Board to provide a letter of interest and the council will take it under consideration. We will hopefully have something by the end of the month that we can pass a resolution to appoint. It is a two-year, non-paid, volunteer appointment to someone challenging on what their tax collection was.

Item J – Other Business. Mayor Hurst has a few items. He mentions that the council has a memo in front of them. At their last council meeting, we had a gentleman from 7295 Walton Road that came to the microphone about drainage under the road on Walton Road with flooding issues. That was on 9/19/2017. So, they went to the engineers and the engineers have found out that this particular creek is related to the Northeast Ohio Sewer District, so they are the ones doing the review. So, if there are any repairs or any modifications to that particular creek, this would not come out of the money that we collect that we have to wait a full year on. So, there are attachments to the memo from Rachel Webb from the Northeast Ohio

Sewer District and Mr. Joe Giolotti. So, the information is in front of the council in case that resident would ask the question. The process is in place and it is moving forward.

Mayor Hurst states that we received a letter from the superintendent about the Bedford Schools regarding the latest rating from the school district. I am offering to invite the superintendent to one of our working sessions to ask any questions that we would like to ask, or we could all go to a school board meeting. He says this is the council's call on what they would like to do. He knows the letter was open ended and there were a lot of open ended questions. He wants the council to let him know their interests and we can go from there. He attends a lot of their school board meetings and he receives everyone's agenda. He goes to Cuyahoga Heights school board and he also goes to Macedonia school boards and Twinsburg. Cuyahoga Heights had a submittal from Newburgh Heights residents, not their government, with a signed petition to leave the Newburgh Heights system to go into Cuyahoga Heights. That was discussed publicly two weeks ago. Mayor Hurst was there. He says it is not going anywhere, but the superintendent of Bedford found out that I was there from their superintendent and right away, that is what spurred these letters and interests and everything. He has also had conversations with Twinsburg school system as well. He says we are still looking for options for our children or some kind of agreement that we can negotiate or find a way to promote our education system. It makes some people very nervous when we do this. He gets every community's agenda on his computer so he knows what is going on in all the communities around us.

Councilman Kolograf states that he knows that Councilwoman Brenner-Miller has some things. Councilwoman Brenner-Miller states she has some literature. She states that after the candidate's night, Mr. Tench made the comment that 70% of the Bedford school students are poverty level. She thinks that of anything, that bothered her the most, to be quite frank. She states that we are trying so many remedies that she would start looking herself a little bit. She looked into charter schools. She realizes that we have no building, but they also offer charter schools online. Charter schools get subsidies from the state, and the residents do not have to pay. She did print something out and she is going to pass it out. Obviously, there would be a lot of work, and it does not mean it can happen, but she thinks we need to look at every option possible to see what we can do for our students here and our residents so people with children want to move in here. She states that right now, the school system is a deterrent. She knows they are trying very hard and she is not making any kind of negative comments, but she thinks we have to think for ourselves and see what other alternatives are possibly available to us. So, she is passing this out and the council can read it. She is going to keep doing research.

Councilman Kolograf comments and states that everyone in the room know the challenges we face when we try to separate from the Bedford school system before. The challenge is to get the money to go with us. That is the challenge and the important part. They will let you build the school, etc., but they will not fund it for you. Councilwoman Brenner-Miller was concerned about that too and states that the state does provide some money per student, which she was surprised to hear. She also states that you can get money from businesses or whatever just like you would do for the stipends or the scholarships. Mayor Hurst agrees 100% and he simply thinks we have not looked in the right spot yet or found the right thing. He hopes we can all put our heads together and come up with some type of solution.

Mayor Hurst also brings up that on 9/15/2009, the zoning code was changed, and it was introduced by Mr. Les Sheeler, councilman at the time, and that is where the information came out about no chickens, no pigs, no cattle, no sheep, no goats, and no livestock. Most of the current councilmembers were not on the council at the time. We need to modify the language and remove the language of no chickens. This will probably be next month. We have modified it, but we did not change the zoning code language. It is just a simple word that we have to change and it will just be a simple resolution to remove that, but we did rectify that situation. He knows that now that it is election season and people are making that comment, this was something no councilmember really inherited. We corrected the problem, it seems it is an issue right now. Mayor Hurst is clarifying this publicly that this was something that was done in 2009 and not by these councilmembers.

Mayor Hurst also mentions that we have our Halloween party coming up on 10/29, and he wanted to reiterate that everyone is crystal clear. All of our Village functions such as the hay rides, Halloween parties, or senior lunches are not opportunities to be political. These are not opportunities to pass out your campaign literature. These are opportunities to come and enjoy a program at the Village and not be bombarded. Many years ago, people were passing out candy with “vote for me” and things like that. This is a policy that was in long before he became Mayor. It is something that we practiced when I first got into politics in 2004. He simply wants to make this crystal clear. He is not challenging anyone on their campaign. He just wants to let them know that we respect our residents at Village functions. All councilmembers understand.

Item K – Adjournment. Mayor Hurst asks for a motion for adjournment. Councilman Rich makes a motion to adjourn the COW meeting of October 3, 2017, seconded by Councilwoman Brenner-Miller. Six ayes approved. The meeting adjourned at 6:52 p.m.

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Katie Iaconis, Fiscal Officer