

The Village of Walton Hills

Committee of the Whole Meeting

Date: February 6, 2018

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 Gloria Terlosky, Mary Brenner-Miller, Jennifer Allen, Don Kolograf, Denny Linville, and Brian Spitznagel. Mayor Hurst also wants the record to reflect that our Law Director Mr. Bill Mason is present and Katie Iaconis as our Fiscal Officer and Clerk to Council is present.

Item C – Persons Having Business Before Council. No questions or comments are seen.

Item D – Council Comments. Councilman Linville has no comments this evening.

Councilwoman Brenner-Miller speaks about the Parker Program. She gives the new rates for the Parker Program. Mayor Hurst clarifies that this is just a proposal because we need the council's permission to move forward. He says we have to start advertising for the Parker Program in March, which is why we need the council's approval. Councilwoman Brenner-Miller says that as was mentioned prior, we have to raise the rates this year. She gives the rates as one resident child is proposed to be \$200, two resident children \$350, and three resident children \$550. The grandparent rate is \$225. The resident weekly is \$125. Non-resident child is \$600. Non-resident weekly is \$225. Then, the end-of-summer picnic. These are tentatively going to be increased anywhere from \$100 to \$75 from last year's rates. She explains that the Junior Parker rates are for four days per week for seven weeks for three hours per day. One resident child is \$150, two resident children \$250, grandparent rate \$200. Resident weekly nothing. Nonresident weekly is \$200. Those are the tentative rates for this year's Parker Program. Mayor Hurst states that when we went over the budget in the month of November and December, we talked about raising all the rates across the board. When he talked to Carol, he asked her to please put together a proposal. As everyone knows, we advertise in the March journal, so this is the council's opportunity to look at this and either give direction tonight or give direction before the month of March so we can put it in the journal. Councilman Spitznagel asks if we know off hand how many children we had last year. Councilwoman Brenner-Miller says she does not know, but Mayor Hurst states that we had over 100 last year and over 100 for over the last five years. These rates are still lower than other communities comparable that offer the summer programs.

Councilwoman Allen asks if this would end up bringing the village closer to no cost for the Parker Program. Mayor Hurst says it will help subsidize some of it, but it will not cover all the costs. He says we would probably have to raise our costs astronomical to cover everything for the kids and counselors and everything we do up there. He says this would raise the rates by almost 25%, and that is what council required when we talked about our budget in the month of November and December. He says this is something to look for as we pass the final budget in March. Councilman Linville speaks and asks that if our money situation improves to some extent, to the extent that we could, would we be able to revisit these rates at a later date? Mayor Hurst says yes because the council holds the pursestrings and can do this any time they want. He says this was just required by the majority of council Councilman Spitznagel asks if the Mayor knows the percentage of nonresidents to residents that we have, off the top of his head. Mayor Hurst says he would rather give him a better figure, but he understands that we have about 40% nonresidents, but most of them have grandparents who live here and that is why that number is so high. The grandparents are watching the kids of the summer and things. Councilman Kolograf states that maybe for the next COW meeting we could have the breakdown. Mayor Hurst says he could give them more breakdown for them.

Councilwoman Allen speaks and states that she had a resident approach her asking if there is any way that on the village website, when one of our residents passes away, their name could be on there so other residents would know since the frequency of the paper coming out anymore is not frequent and is very infrequent. She is asking what the feasibility would be with that and whether we would want to advertise this on the website, but if it is something that we could possibly talk about in the future. She thought maybe that if we did do it, we could just have a link with it and it could go directly to the Cleveland.com website for the obituary or maybe just a generic type of obituary that would pull up for that residents. Mayor Hurst says that we could probably do a link, but he does not want to advertise because it would open up the opportunity for more issues or whatever. Councilwoman Allen says that was her concern with it because if someone knows there is a funeral coming up, then they will know that everyone will be away from home. Councilwoman Allen also asks Mr. Mason if he could check into and give a ruling on the voting of present per Robert's Rules of Order. She says it is supposed to be a valid voting method abstaining, present, yes, or no. She says that in Robert's Rules of Order it states that present translates basically to a "soft no," that you would agree with the basic idea but you see a flaw at some point. Mr. Mason said he does not know off the top of his head and Councilwoman Allen thanks him for that. She also states that she checked into and gotten in touch with a few other organizations in regard to economic development and asked to be placed on email lists and trying to build some relationships with other organizations throughout Northeast Ohio that work with businesses like Team NEO, Greater Cleveland Partnership, and things like that. She states that at some point she would like to schedule a meeting with some of those people. Mayor Hurst states that we are currently attached to them and all of our properties are currently listed on their websites. Councilwoman Allen says that they do not know who she is and they do not have her email address. Mayor Hurst says they know him because they are currently working on the Mantua Manufacturing building and the Arhaus building with Vince Adams from Jobs Ohio. Councilwoman Allen said that she also got in touch with Representative Ron Young and he is going to be sending her the agendas of what is going on at the state level with economic development commerce. Councilman Kolograf says good.

Councilwoman Terlosky has no comments today.

Councilman Kolograf has no comments today.

Councilman Spitznagel states that he read the two memos that was sent out by Katie, the one concerning a future master plan and the Roadway Maintenance Program grant. He says yes please move forward on both of these, as far as he is concerned. He does state that for the master plan, he is wondering if Mr. Sheehy or his office would provide that application information. He states he would be happy to work with him to do this if he does not have the time or whatever. Mayor Hurst says that we have time, but it just came out last week and he wanted to make sure that everyone knew there was an opportunity and see how everyone feels. He says that our last master plan had some challenges and he is not sure if we want to go back through that or not. He says it does not mean we have to mandatory do a master plan, it is just open for us to interpret. He thinks the deadline is March 29 or something. This is why he put it out there. Councilman Spitznagel states that if Mr. Sheehy cannot do it or if he needs some help, he would be glad to throw his head in the ring to help on that project. Mayor Hurst states that the road program that was mentioned is that we got \$34,000, but this is just to pay for the materials, so we are going to have some costs on our side. We have until March 29 as well for that one because that is a county program. He asked Mr. Sheehy to break down the opportunities and what we are looking at as far as those roads and give us a hard figure of numbers so we could figure it into our budget.

Mayor Hurst opens up the floor to the audience for questions or comments about the comments from the Council Comments.

Item E – Discussion of the Service Garage. Mayor Hurst explains to Councilwoman Allen that she was not on council, but we have been working on this since 2013. We have tried to work with Bedford and they have a landfill beside our old service garage. We have been working aggressively and Mr. Mason and the Mayor have sat down and worked out some details. He said we created a CIC (Community Improvement Corporation) and two council members sit on that board. It is a nonprofit organization that keeps its books and everything else. There are also four residents who participate in that organization. Council gave a 6-0 vote to support all of that. Tonight, we are here to ask if, at our regular council meeting, we could have the old service garage moved and donated to the CIC so we can finalize it. We have a potential trucking company called Cajin Trucking, LLC; it is a subsidiary of Carr Brothers; and they are looking at purchasing our old service garage and seven acres. We also did that through council where we divided out seven acres on that property. That was all done publicly. It took three months because it went through planning and everything else. He is asking for a resolution at the regular council meeting to put this into the CIC organization. Councilwoman Allen states that as she understands it, the CIC makes it easier for the village to sell property. Mayor Hurst verifies that it makes it easier to negotiate deals. Councilman Spitznagel clarifies that it gives us negotiating power, but it gives us more power to control what goes in there. We may not want an ice cream store in there, and we may want something else. So, that allows that process to happen. Many communities have this. Mayor Hurst says that we have never had that, and that was another one of the tools in our toolbox. He says we were concerned about the Route 8 corridor to where it would impact the residents on Barkley Estates or something of that nature. He says that is the same structure we did with the overlay zoning, so we had control and we could manage to get development but not let a chemical factory move in. That is the base line for this. He would like to put this on the regular council meeting as a resolution to have it donated to the CIC. No comments or questions from the audience. He states he thinks this will create 18 to 20 jobs, and it is bringing in another payroll to the village.

Item F – Resolution to Reappoint Billie Workman and Duke Owens to the Board of Zoning Appeals. Mayor Hurst says that Mr. Owens and Ms. Workman both sent us letters and the council got copies of the letters. No questions or comments from the council. He is recommending that we pass a resolution for this.

Mary Alice Moran from 7500 Linda Lane stands and approaches the microphone. She states that she has seen on several occasions that there is a substantial delay before residents can get a resolution to their requests for a variance. She is wondering if anyone is paying any attention to that. She is wondering if this could somehow be organized better and stepped up to be more consumer oriented. She is President of the Citizen League, and people call her who have various complaints because it is the Zoning Board of Appeals. She followed a few of the cases, and she was very surprised. She does not know what it is like in other communities, but the delays seem excessive to her. When she asks why, it seems somewhat frivolous as to the reasons why. She thought it was maybe the people feel it is disrespectful to their interests. Sometimes they are very much involved in maybe selling their property or something that may be very important to them but is not very important to the village. She was hoping we could have some way of stepping up the consumer aspect of it.

Mayor Hurst says that she is the first complaint in seven years. He says that the way the Zoning Board used to be operated in 2002 and 2004, we changed it in 2006 and took council off of it because it became a political issue. The council is no longer involved and they are their own governing body. He does know that a lot of times when they have a continuance, they try to give an opportunity for that individual who is applying for zoning an opportunity to either work with our building department or find a way to meet in the middle with a bottom line. He states that Councilwoman Brenner-Miller is a perfect example where she got a variance for her property. She made a compromise to move it 2 feet in so everyone could be happy. She wanted 4 and they worked it out and she gave them 2 because she did not want to look at her barn out of her back window. She said in this case, this was just last year, and it did not take long at all. Mayor Hurst says that he has followed through a lot of the cases, and he has not had any complaints. He does

know of a gentleman on Egbert Road that had drainage on his property and he had to go close to the property line, so they were able to move the building so it would accommodate him without any real drainage issues. He is happy with the way the board operates. He will look into this and see exactly what the concerns are. He will sit in on the meetings if he has to. No further questions or comments. Mayor Hurst would like to put this on for resolution to approve their appointment at the council meeting for 2/20/2018.

Item G – Applications and Resumes for Zoning Board. We have received three different applications and letters of interest. Two were very qualified and one did not even live in the village. Mr. Paul Rich, after 17 years of being on the Zoning Board of Appeals; Mayor Hurst got a letter from Mr. Owens and one from Ms. Workman, and he has also heard comments from other Zoning Board members such as Mike Cummins who left, who all recommended Paul Rich because of his knowledge of the zoning and everything else. Not that the other candidate was not qualified, but the Mayor felt that Paul Rich would serve our village as he has served us in the past, so he is recommending Paul Rich. Councilman Linville says that he will support Mr. Rich primarily because of his almost 25 years of public service to our village in various capacities. He was very heartened to see other applicants, one in particular, of a new resident and that is Mr. Weeden from Rashell Drive. At some point, he would like to vote for him someday to be on the Zoning Board of Appeals if that opportunity ever arises. Mr. Rich is an outstanding candidate, as is Mr. Weeden. Councilman Spitznagel echoes Mr. Linville's sentiment about not only Mr. Rich's decades of service to Walton Hills but more importantly his quality of service to Walton Hills. Everyone on the Board of Zoning Appeals, even when Paul was up for renewal, wholeheartedly recommended us to approve him. As far as the other candidate, absolutely, he would also state for him to not give up. He would very much like to see that other candidate because boards open up here and there. Mr. Weeden is an excellent candidate. We are lucky to have him in the village. Councilwoman Allen states she did not receive the information on Mr. Weeden. She just has the information on Mr. Rich, whose resume is quite extensive and very impressive. She also received a resume from Billie Workman also who also has an extensive resume and is very impressive. Councilman Kolograf speaks that one of the resumes was in an email, so it may be on there and not a hardcopy. Mayor Hurst says that we will put this on 2/20/2018 for our regular council meeting. All is okay with this.

Item H – Recognition of Police Dispatchers. Mayor Hurst states that we had a resident on Sagamore Road that had a party. At the party, there were some accusations of misconduct. This was 2-1/2 years ago. After all of the investigations and the county programs and the crisis centers that the county offers and interviews, we found no wrongdoing at that time. This individual has gone through some struggles in their life and they made a call to 9-1-1 two-and-a-half years later to our police department of attempt to take their life. Our sergeant, Melissa Walsh, who was on duty and two dispatchers pulled the file and was able to capture the cell phone and able to do homework and keep her on the phone, and they found her in Fairfax, Virginia. They contacted Fairfax, Virginia, and were able to get this individual to help. They saved her life. So the Mayor would like to pass a resolution when the students are here to recognize our three employees – Melissa Walsh, Jenilee Mason, and Vickie Griminger. These are the dispatchers. The police chief is supporting this and there was a memo sent to the council. He does not know all of the details of what the resolution is going to say because they are working on it and will give it to us. He says that maybe we could even have the children read it when they are here. He just wants to recognize those three employees because that was very good police work. He thinks it took them an hour and 45 minutes or almost 2 hours, but they were very successful. Councilwoman Terlosky states that she thinks it is a very good thing to recognize the police dispatchers because of what has been going on in the last year has been terrible for police and the bad reports that they have been getting. They do go beyond their job, I believe, and this is proof that they do. Councilwoman Allen agrees that this shows exemplary service that they did. This is unbelievable and they should be accolated for that. Council is all on board with this. No questions or comments from the audience.

Item I – Planning and Zoning Board of Appeals. Mayor Hurst states that when we passed the overlay zoning in October or November, we had discussed that we would like to revisit the cost so we would not be stuck with the cost for a planner or engineer to come to those meetings. It is not going to be just one meeting, it is going to be several meetings, when we start doing overlay zoning and we start listening to programs and we start listening to development agreements. This is why this is on the agenda. He thinks we have time, but he would like to see the council address it. Mr. Mason and the Mayor were going to make a suggestion, but he wanted the council to be able to read it and see it, and then we would make a suggestion to cover these costs. He does not know what that number is, but we are actually lower across the board than other communities as far as our Zoning Board of Appeals and as far as our other programs with the planning commission. We may raise all the fees and we will show the council an example of the other communities. Mayor Hurst does not want to put this on the agenda for the council meeting. He wants to discuss it and he wants everyone's input and see what we can do to make it more cost effective for us because he thinks a planner like George Smerigan at \$150 an hour, he does not want to have to absorb that for long meetings. The council is okay with this. Mayor Hurst says that this will be on the next COW meeting. He is not sure he will have all of the draft, but he figures we could start talking about it and then maybe we could pass it in March, if everyone is comfortable with it, or we can pass it in April.

The First Energy property is going up for sale, so the Mayor wanted to let everyone know that this will spur the conversation with the For Sale signs of overlay zoning. Councilwoman Allen asks if she should assume that it would be the tangent communities that we are going to be getting comps on. Mayor Hurst said it would probably be villages, not so much cities. We would like to look at villages that are close to ours. Valley View is the only statutory and the rest are all charter around us, but we would look at those. Councilman Spitznagel states that when he read this, he made a couple thought notes. He asks if the goal is to insert writing in the legislation to include the fees in case they show up, or is the goal to increase all the fees incrementally so it covers it when they have to show up? He states he wrote some pros and cons about doing it either way. He is wondering which way the Mayor is thinking about going here. He says we could keep the fees the same or do an analysis of what the other communities are here. Then, also, in the fee structure, if we only charge when those two people show up, he is saying he is thinking this is more geared towards corporations or companies rather than residents. Councilman Spitznagel says that he would think that if a resident was doing it alone on his own property that needs planning, then maybe too much money for that person to bear alone and basically ending up with a net result of restricting access to his or her right to a hearing for that. He asks if we are talking about incrementally increasing all of our fees to kind of buttress up the pot per se, or are we saying we will keep the fees where they are or adjust them slightly and if we need them, this is what the charge is going to be. Mayor Hurst says he would let Mr. Mason direct him on that, but he says we would definitely see if our fees are comparable to other communities. He knows that Beachwood, which we copied our overlay zoning from, and Oakwood and he would see what they charge and the language they had in their ordinances, and see if those apply to what we are trying to do here. He says that someone with 10 acres cannot build on it. They have to have 15 acres. That is the way we laid that overlay zoning. Now, if you have a neighbor with 10 acres and a neighbor with 5 acres, they still have to come to Planning Commission. They still have to join the process. There is a whole process of things. If they are going to do those kinds of things, they are going to have to make sure that there is a comfort level for everyone and not just that resident. We are here to serve the majority of the village, not just that resident. We get caught up in trying to make sure that the guy with 12 acres is allowed to do it, but the guy with 10 acres cannot. We have certain language where we are trying to protect so we do not make impacts to our residents, yet we get economic development. Councilman Kolograf says this is a good way to look at it. Councilwoman Allen said that when she was reading through all of this, it seemed like it was more aimed at the Section 208.09 General Permit Fees for Commercial Multifamily... that is what she took it as, not necessarily the residential section. She is asking if this is correct. Mayor Hurst says yes that is the direction we are headed. Councilwoman Terlosky speaks and says that Mr. Smerigan is excellent. He is very thorough and he can bring it down to our level of understanding. He has been great for us with what has been going on and what will be going on in the future. Mayor Hurst says he has

helped us out tremendously, and he thinks we are going to get what we think we are going to get. No further comments from the council. No questions or comments from the audience.

Item J – Update on Traffic Cameras. Mayor Hurst says that we currently have a positive path on this and we have the traffic car here by the end of next week that will be throughout the village. It is a Jeep Liberty, a small vehicle, that will be on the side of the road. It is doing the traffic count, and it is doing the patterns of traffic. Then, we will know more of where we are going to mount all of the cameras. The vehicle is from Gatso. Councilwoman Terlosky asks if it will have Gatso on the outside because she wonders if it is sitting there and people see the Jeep there for an extended amount of time, they may wonder what it is. Councilwoman Brenner-Miller states that she had a humorous comment this past Sunday. She says that her pastor said to her that if he did not live in that parsonage and I owned it, if it did not belong to the church, he would put a sign down there – SLOW DOWN. She says well we are working on that. Someone in another part of the community who is seeing the same thing. They speed down there. No further questions or comments from the audience.

Josephine Wardle from 17850 Egbert Road stands and approaches the microphone. She states that when she read in the journal that they will ticket you only if you go 15 miles an hour over, which would be 50 miles per hour. She said that some of our roads are 25 miles per hour. Her concern is that, with that being in the journal, people are going to go 48 and 49 because a camera is not going to see them. She asks what over the limit does the police officer stop you. Mayor Hurst says this is 15 miles an hour over, and is where we got that number. He clarifies that we are not putting any cameras on our secondary roads. Our main avenues is where they will be. She thinks that 15 miles an hour over the speed limit is too much speed over the speed limit. She thinks that it should be 10 miles an hour. Mayor Hurst said that we may modify this and we have talked about it. Josephine says that she knows we have talked about it and she has mentioned it before, but she still thinks that 15 miles an hour over is still too fast. Councilman Kolograf states that the 15 miles over is for using the cameras where it is a civil violation and there is no police officer, unless the police officer is holding the camera, which is also being supplied with the automated ones. If we use our own radar, the police can set it where they want, but then it becomes a regular speeding violation. There is a separation between the two. Our police can still give out a regular speeding violation. Our police department is going to be conducted the same way. This is just another tool to help the police department.

Tom Nowicki at 17612 Egbert approaches the microphone. He asks how many stationary... Mayor Hurst states we are going to let them make a suggestion. We suggested 4. It looks 4 would probably be Dunham, Egbert, Alexander, and Sagamore. We are going to let our police take care of Northfield Road more because of the commercial businesses and our relationship with our businesses. We may eventually go to Northfield Road, but we are going to try our secondary road. That is predominantly where our speed is, on Alexander Road coming out of Valley View. There are a lot of speeding tickets coming off of Egbert Road and a lot coming down Dunham, especially coming down Maple Heights. Tom says that he is happy that he mentioned Egbert Road because when he plows, he cannot even get out in the street because people are flying down that road. He agrees that the 15 may be a little much. He asks if there is a chance to get less in different areas. Mayor Hurst says we can revisit it as council and can modify the ordinance. We just want to try it at 15 right now because we did not want to be accused of a tax grab or a cash cow. This is a safety tool and compliance and it is safety for our police.

Item K – Students. Mayor Hurst states we have the students coming here for our regular council meeting on the 20th, and we will eat dinner at 5 p.m. like we have done in the past. This will be in the Community Building. The Directors will all be here at the regular council meeting on the 20th. Past practice is that we let the students read reports from our Directors and then we let them come up and sit at the dais. We introduce the resolution and then we let the students read the resolution. Since we have this resolution for these employees, if everyone feels comfortable, we can let the students do that or we can do that. It is the council's call. We have time to decide that.

Item L – Senior Lawn Care. Councilman Spitznagel makes a motion to go out for senior lawn care bids for the program for 2018. Seconded by Councilman Kolograf. No questions or comments. Six ayes approve. Mayor Hurst said he thinks we could also put it in the paper for Northfield also because not everyone gets our paper.

Other Business. Mayor Hurst says he passed out a memo about economic development. He wanted everyone to know the details. He said we did solidify this week with the old Todd Industries building on Northfield Road with a company called Mastec North America. They are a fiberoptic company. They have a website. They will be in there by March 1. All of the prints and building permits and everything have been satisfied. If everyone will remember, in the winter months of 2015, we had to shut down this building because it was being operated illegally. The sprinklers were shut off and the gas inside the building was shut off. They were actually generators in this building. We were getting no payroll tax whatsoever. It was a bootleg business, a little machine shop. We tried to work with them through the holiday season, and finally we closed it in January 2016. If everyone remembers then, last year, with Mr. Jason Laver we made an incentive program with that building that if he would create jobs, we would share some of the payroll tax with him. That has expired, just so everyone knows. The payroll for this new company is projected at \$2 million, so that means we will get \$50,000 a year. He cannot go into great details, but he just wants them to know that this is what they projected on their forms.

Also, Mayor Hurst says that we have an opportunity of the vacant lot that we bought from First Energy beside NPK, he is going to ask for a resolution for that as well to put that into CIC so we can negotiate a deal with that. He said that is the movie industry building that was talked about. We do not have a complete agreement so he does not go into great details about it, but he thinks we have shared a lot of it with everyone.

Mayor Hurst said that everything was approved from Planning for Bishop Brothers. This is the old property besides the battery, Western Reserve. That building is going up. They are bringing employees. It is a trucking outfit. Everything will be behind the building. We have a projection of possible \$27,500 per year in payroll tax on that.

He says we have some interested parties through Jobs Ohio and Cleveland Greater Partners. Mayor Hurst says he travels to Washington with Cleveland Greater Partners every year. That is the group that usually pays for everything that we manage there. So, we have a good relationship with them. They are working on Mantua building and also the Arhaus building. We will see where those things go as far as economic development. This is what we projected. When we asked everyone to pass the levy and we would be back on top in a couple of years, well we are getting back on top. We did it by laying off police officers and downsizing, but we are doing it. We did project this and we had more projections. Councilman Spitznagel speaks and states there was another building that was for sale that had some activity going on. Mayor Hurst says that one is still under potential contract. We gave them an occupancy permit and we are waiting for them to fill it out. That would be a simple building department thing, but he would be made aware of everything.

Mayor Hurst says that the smaller Arhaus building is now occupied by the trucking outfit that is a subsidiary of Arhaus furniture, the smaller one. It is called Berger Trucking. They moved out of Macedonia, and they brought 15 employees. So, those are some of the things taking place.

Mayor Hurst says that he knows there have been a lot of questions and a lot of comments. At senior lunch last week, there were a lot of comments and questions from our senior citizens asking about the plain dealer articles, asking about the lawsuit and all the things that are taking place in the village. Mr. Mason approved this and he will answer any of their questions. This is everything pertaining to the lawsuits, everything retaining to the newspaper articles, everything pertaining to public records that people are making. Mr.

Mason comments and states that last week, as in the article, we got a call from a reporter talking about Mayor's court. He was asking some questions. He thought it best to lay it out for everyone as to what transpired with the laws and what the situation is resolved at. Back on February 11, 2002, the council created a Mayor's court in which we had a magistrate participate and handle those hearings. Then, going back to March 1, 2011, a new ordinance was passed for the existing Mayor's court that created the Mayor sitting in at the magistrate but without compensation. So, then, about five months later on July 25, 2011, a new ordinance was passed that created the Mayor sitting in as magistrate but being compensated for sitting in as magistrate. Those two ordinances were pending, one saying that the Mayor should not be compensated and one saying that the Mayor should be compensated. Those were clearly in conflict with each other. What he did is researched and in trying to follow the law, in our codified ordinances here in the village, it says, "By rules of construction..." so, when you are looking at ordinances and trying to figure out what they say and what they mean, there is a section in our ordinances that say that when statutes are irreconcilable, meaning they are completely different like this situation, that the ordinance that was passed last... So, the ordinance that was passed in this instance would have been ordinance 2011-18, which was passed on July 25, 2011. That one should supersede it. The ordinance that says this is the same thing that Section 1.52 talks about structuring when there are ordinances and statutes that are not in conflict, how we handle it. Basically it says the same thing. If they are irreconcilable, we would take the one that was passed most recent basically, and that is the one. In this instance, again, it is the most recent one that was passed, which is the Mayor should be compensated for sitting in on the magistrate's hearing. I explained that to the reporter, and I thought he kind of portrayed that in his article, but he thought that everyone should hear that directly because, as he sees it, the ordinance and what has transpired, everything is as it should be. There is nothing inappropriate going on.

Lastly, to follow this up, there is pending legal action that the council has been aware of for quite some time. It went into the common plea's court. The judge of the common plea's court made a decision to throw the case out on a statute of limitations argument. That was appealed to the Court of Appeals. The Court of Appeals has then overturned it and sent it back to trial court. That is where it stands now. Mr. Mason spoke with the village's insurance company who has been handling and paying the bills for the litigation, and they had said that our limits were \$25,000. So, they were only going to pay \$25,000 of the legal fees that are generated from that law suit. So, moving forward, the village will be paying the attorney's firm \$150 an hour moving forward. The insurance capped at \$25,000. Councilman Spitznagel states that in the information that he read, that attorney said we could do a couple of different things. The issue is whether this is a politician or someone working for the municipality is under a contract or not. That is why they sent it back, in very non-technical language, that they said yes, this was a contract, and our attorney's disagree with that. They said we can take it to the Supreme Court to rule out that. He wonders if there have been any further discussions on this because the issue of the point of the lawsuit is not even being discussed really, it is whether it should be heard or not to begin with. That is what is taking up all the time and money so far, and we have not even gotten to the lawsuit itself.

Councilman Spitznagel wants to know if there have been any further discussions that we can discuss out in the public as to which prong and which area we are going to go toward. Mr. Mason said that he has talked to Jim Climer who is the attorney handling it, and they have already filed a motion asking the Court of Appeals to reconsider it before he had a chance to speak with him. They are going to ask the 12 members of the Court of Appeals to all sit and listen and make a decision of whether that was a proper ruling or not. That is done and over. He assumes that is not going to carry the day and it is going to go back to the trial court for a determination. He thinks that what he just laid out today is a very strong argument as to why it is a good defense for the village, at least as he sees it. He thinks the village is probably going to come out on top on that argument. Who knows what the court will do. Mayor Hurst states this is not a law suit against Kevin Hurst. Everyone on council is named on that law suit. They simply chose to mention my name on the thing because I am the Mayor. All we have ever done is follow what the council has passed as legislators and voted on, and that is the way it went. The Mayor put a memo out, as an example. He took everything from 2008, 2009, and 2010 to 2017. It shows all the reductions. It shows what we have paid for

our court. It shows everything that we have done. In the 2008, 2009, and 2010, there were 22 and 21 sessions. We had 48 sessions and look at the cost. There is a savings in the clerk, there is a savings in the law director, and there is a savings in the prosecutor's position. So, we have done twice as much work and still saved money. Basically, this memo says, "We discussed the pending litigation in Executive Session. However, with recent article, I would like to address this issue in open forum. I discussed this with Mr. Mason and he was in agreement, and he feels certain that we took the appropriate steps. I am notifying each one of you that we have reached our \$25,000 insurance threshold of coverage in this case, and now the Village of Walton Hills will be paying \$150 an hour to Mazanec, Raskin, and Ryder, LPA. Because of the insurance coverage, we have not felt the impact of this lawsuit. Now the village will have to begin paying out of our village coffers. Mayor Hurst is also distributing the information that was provided from November 30 until present. So everyone was notified on November 30 where they had filed with the courts and everything. He has been giving the council members all the files from these proceedings. Councilman Spitznagel states that just for planning purposes and budgeting purposes, we have blown through \$25,000 and we have not even gotten to the actual law suit yet. So, we can expect to pay at least another \$25,000. That would be his estimation because we still have a lot of money to pay towards figuring out whether or not this can be heard or not or this was some sort of contract and it met the statute of limitations or whatever. Mr. Mason confirms that this would probably be what we could expect it to cost us. Mayor Hurst says that when we pass our budget in March, we have to look at that number.

Councilman Linville states that he would like us to explore a way that we can recoup our money for the time and trouble we were put through. Mr. Mason said that is not likely to happen. Even when they have different rules where the prevailing party has to pay the other's attorney's fees, but we do not have that here, only in rare occasions would that apply. Councilwoman Terlosky states that in the article, it stated that the magistrate had to be an attorney and she asks if that is incorrect. Mr. Mason said that is incorrect. Councilwoman Terlosky states that this is \$150 an hour. We have George Smerigan here who is doing overlay zoning, which is very important to this village, and we are going to be paying to fight a law suit that is ridiculous. She asks if there is a point in time where there is no payment but they still perform the duties of magistrate. Mayor Hurst says that all of 2014 and 2015, he did 48 sessions and only got paid for 24 sessions. Councilwoman Terlosky asks if we can recoup when this is done? Mayor Hurst said no because it had to be the next term, which was 2016. He knows the law. We all passed the law. It is only because I am getting paid as of right now, but you can see where we have saved money. That is not even in the equation of our police officers. We used to have two full-time police officers in our court session. We eliminated that. Now, we have auxiliary in here at \$12/hour. So, we could really get into the micromanaging and show where the money is saved. We have done what we said we have done, but this is with the council's help. We took the clerk of court's position to part time, and then we took it from part time to full time. Then, we changed it and negotiated the prosecutor to be less money. All of these things. None of this is just the Mayor's idea or at his direction, this is all of us. This all started in 2011. Councilman Spitznagel has had several people talk to him about that article concerning the Mayor's Court; not the law suit; but why we are doing Mayor's Court and money grabbing and all of that. If this were years ago and he had a generalized view of Mayor's Court, I would probably assume the same thing, but as he sees the operations and that, a lot of people do not understand. He explains this to these people and they then understand. We only do traffic tickets. Everything else gets sent to Garfield anyway. So, they are doing most of our stuff now to begin with. To him, if they were to do our traffic tickets too... First of all, they do many municipalities other than just Garfield, so that is taxing on them. That is putting a burden on them as far as he is concerned. The judge is not going to hear it, they are going to put a magistrate on it. They are going to take their cut out of that. So, it is almost like a reverse money grab to say, "Oh we will do your stuff over here, and we are going to take our cut." The infraction occurred here in Walton Hills and either you were speeding or you were not. Whatever the opinion of Mayor's Court is, the Mayor is not sitting here making deals. Most people that show up are trying to fight it on some reason that they think, "Well, I was not doing this or whatever," or it gets worked out or whatever. Most of the people do not understand that most of our stuff that comes through Mayor's Court gets put to Garfield anyway.

Mayor Hurst states that they have the opportunity to say no contest, guilty, or not guilty. If they say not guilty, it automatically goes to Garfield and goes before the judge. We listen to first-time DUI ten years back. After that, it goes to Garfield. When people come here to our court, nine times out of ten, they have had two other tickets in the year. The law is after two tickets in a 12-month period, you have to go before a magistrate. That is another law. The Mayor did not write that law. That is why they are here because they are repeat offenders. We had a gentleman who was in a semi-truck at Overseas Packing, pulled across the street, and hit the telephone pole and knocked down the electric. We worked with him to pay for everything. He paid for it and insurance, and we made sure he kept his CDL license. We read through the process. That is an infraction in the law and we work with it. We try not to make life difficult for anyone. A lot of times, we have people coming through here that are driving under suspension. That is probably the Mayor's number one offense. That means that they have already lost their license and they are driving around illegally. What we do with that process is we say, "We will give you a continuance and you go and get your license straightened out and pay all of the fees through the DMV; then, when you come back, we will settle this case." If he rules on this case right now, then they would lose it for another six months. We try to keep people productive in society. We try to make sure that everyone is still working. We try to make sure that it works out for everyone. We have cases come in here where people cannot pay. We have cases where people have problems. Sometimes, we send them to Garfield because there are public defenders over there. There are all kinds of things that people just don't have a grasp of.

Councilwoman Brenner-Miller asks Mr. Mason about a scenario that we go through this, we win, and it is done. Then, let's say that we get slapped with another nuisance lawsuit by the same person. Is there any way to know whether these are just nuisance lawsuits to attack us? Mr. Mason says that there is. In this country, we have the right to do this and everyone has their right to hear their grievances one way or another, but at some point, there is what is called a vexation to litigate. That means that someone is slinging lawsuits. This can, of course, order and prevent that person from being allowed to file a lawsuit anymore. They have done that. It is a pretty heavy abuse; it is not just a couple of lawsuits. Mr. Mason also chimed in on Garfield court. He says he is in Garfield court on occasion. If anyone is ever there for a morning session, it is crazy. There are people all over the place, there is nowhere to park, and the court system there is overwhelmed. Having these Mayor's Courts in different communities helps the Garfield Court. They are overburdened right now with these cases not going there. For example, if the 1600 cases that Mayor Hurst hears here go to Garfield court, they could not handle it. That is just Walton Hills and does not include all the other Mayor's Courts and the Garfield Municipal Court. It has helped. Not only does the village hold some of the cash here for the violations that happen in the village, it is a huge help to the system. He testifies that Garfield Court cannot handle any more cases. So, our village is doing a service to the municipal court by peeling these things off because they are nice and easy, and it is convenient for the people living in the area to come to Walton Hills rather than travel into Garfield if, in fact, they are local. Councilman Spitznagel states that he knows the opposite argument is the money grab issue, and people think it is an error of impropriety where even if it were a magistrate sitting here as opposed to a Mayor, the magistrate works for the Mayor, so he or she would be bound to pull in as much money. He says this is probably too much work, but he is wondering if there are any statistics or record keeping of the types of tickets and how they were solved. This would show people when they read these things that when they read these things, it is really not a money grab and that we actually helped with the things people needed to be helped with. Mayor Hurst said that we get audited and usually it is every two years, but he has been audited six times in seven years because of false accusations. We have never had a bad audit in our courts. They do pull random cases. That are the statistics there. We are not showing where we are charging someone \$1200 for a DUI and then we are charging someone else \$500. We are pretty consistent across the board. We would like to make sure that we get people in compliance. We try and tell them to go to a hotel and stay over the weekend for their DUI to get their class in and things. We try to get them to go to programs. We are not geared for a lot of social things, but we try. We do reach out to Mothers Against Drunk Driving. We do reach out and go to those programs. This also includes the UH grants that took away our overtime for our police. We reach out as far as we can within the means that we have. There are stats and there are things on file.

Councilwoman Allen states that she was looking at the numbers on one of the memos and she is asking if it is possible that we could get this one again specifically because it does not show how many cases actually went to Garfield court. Then, if we could also get the gap in the years on this memo. Mayor Hurst asks if she would like all the years, and Councilwoman Allen said yes, she would appreciate that. Mayor Hurst says no problem. Councilman Linville states that people who serve as a magistrate should get paid. After all, we are not communists as they noted in the Godfather. People get paid for their work. He does not know why this is all over whether the Mayor gets paid. It allows him a little extra money. He voted for this because it allowed him to give the Mayor a raise. He goes out and does everything. He plows snow. He cuts grass. He does everything in the village. This just irks Councilman Linville and gets him a bit upset. Other than that, he says kudos to our service department because the roads were immaculate this morning. Councilman Spitznagel asks him to make an announcement about this. Maybe residents would like to participate in that. Mayor Hurst thanks Councilman Spitznagel.

Mayor Hurst states that on Sunday, February 25, 2018, at 4 p.m. to 8 p.m. at our Community Building, we are having a fundraiser for Bobby Moore. He worked for the Village of Walton Hills as a dispatcher, and he was a police officer in Bedford Heights until he got shot in the line of duty. Bobby has been diagnosed with an inoperable cancer. They approached us and asked us if we could donate the building. So, the Mayor asked all of the council members and everyone supports this 100%. The donation is \$25 per person. So, if anyone would feel inclined to go... His father, Glen Moore, did retire from Walton Hills. They lived right across the street by the village hall there. They have been lifelong residents. It is unfortunate that Mr. Bobby Moore has run into some health issues. Councilwoman Terlosky states that Mr. Moore was a police officer in Bedford Heights. They went to Bedford Heights and asked if they could use the room and the Mayor said no, he was not a police officer when I was in office. So, his father lives here, he lived here as a young man, we unanimously voted that he could use the room. She said we are Christians. We believe in doing the right thing.

Councilwoman Terlosky states that she goes to Carol's book club, and it is at night down at the Community Center. Last time she went, she almost took out the fence. You cannot see the driveway when it snows. We need some kind of reflector there by the driveway to show it. There is no way to see the drive. We want to turn by the fence, but the fence is further away from the driveway. Mayor Hurst says she will have some things installed tomorrow.

Item K – Adjournment. Mayor Hurst asks for a motion for adjournment. Councilwoman Brenner-Miller makes a motion to adjourn the COW meeting of February 6, 2018 at 7:12 p.m. Six ayes approved.

Katie Iaconis, Fiscal Officer