



## Island Tax Ruled Unconstitutional

### 7 Mill Levy, Parking Fee Sought as Replacement

The Lake Erie Islands got a nasty Christmas gift from the Ohio Supreme Court when it ruled the Island excise tax was contrary to the Constitution of the State of Ohio.

Ruling in a suit brought by Put-in-Bay businessman Tip Niese, the court held the law violated the provision of the State Constitution that requires all taxes to apply equally everywhere in the State.

The excise tax was passed by the Ohio State Legislature during 1982 and became effective June 1983. It was crafted in a manner so that it would only apply to the major Lake Erie Islands. The intent of the legislation, introduced and championed by former Representative Fred Deering, was to provide a mechanism whereby the governmental bodies in the Erie Islands could indirectly extract a fee from the tourists that visit the Island in the summer season. The tax income would help compensate for the additional cost burdens imposed by the crowds of tourists, such as additional police protection, road deterioration, etc.

The legislation overturned by the court allowed each Island to establish a taxing authority which could impose an additional sales tax on eligible business transactions. The authorized tax rates were 1/2%, 1% or 1 1/2%, at the option of the local tax authority. This added percent was to be applied to all items not exempt from general sales tax.

Islands were defined in the legislation as only including those not connected to the mainland by a bridge. The practical effect of this wording was to exclude all islands in the state except for Kelleys and the Bass Island chain. There could only be three such Island taxing districts - the Village of Kelleys, the Village of Put-in-Bay, and the township of Put-in-Bay which includes a portion of South Bass Island, as well as all of Middle and North Bass Islands.

The tax was never a popular measure, especially on Put-in-Bay where compliance with the law continued to decline over the years as businesses either did not pay the taxes or else put their taxes in escrow pending outcome of the Niese suit. Compliance on Kelleys increased over the past several years because of pressure from Island officials and the cooperation of the County Treasurer and County Prosecutor. Put-in-Bay has held the tax rate at the one-half percent level, while the tax was increased to its

ISLAND TAX - CONTINUED ON PAGE 10

## Duplex Lawsuit Settlement Thwarted

A group of Island citizens pulled a legal surprise when they filed to intervene in the settlement of the Jake Martin suit concerning the duplex he build on Woodford road.

In his suit against the individual Council members, the Mayor and the Zoning inspector, Martin sought to have the Court order the Village, through its officials, to issue him a building permit. The Council had authorized the Village Solicitor to enter into a settlement with Martin and have the suit dismissed.

As the final settlement was being offered, the motion to intervene was filed by Sandusky attorney Dan McGooney who was engaged by Ted Terry as agent for a group of other Islanders. Terry had circulated a petition calling for fair administration of the laws on the Island last fall.

The motion to intervene alleges two serious defects in the Martin lawsuit. The first was the failure to name the Village, as a body politic, as a party to the action nor had the State Attorney General been informed of the lawsuit. The position rested on a section of the Ohio Revised Code which says, in part, "In any proceeding which involves the validity of a municipal ordinance or franchise, the municipal corporation shall be made a party and

DUPLEX LAWSUIT - CONTINUED ON PAGE 2

## New Development Proposed for Island

A major new development has been proposed for the North end of the Island. The concept for the project includes condominiums, single family housing, a hotel, a 9 hole par-three golf course and perhaps a small commercial district.

A special meeting of the Planning Commission was held on January 30 for the purposes of discussing the proposal with the developers. The development group consists of Island businessman and builder Dave VanAuken, along with Harvey Mantis, John Glasco and Lee Holdren. The latter three all had worked for Cardinal Communities, a modular developer from Columbus, and have varied backgrounds in real estate development and construction.

The purpose of the meeting was to discuss the method the Planning Commission would suggest for the group to approach the development. Because of the novelty of the new zoning ordinance the developers, known as The Kelleys Island Investment Group were seeking advice on what the preferred zoning for the project should be.

NEW DEVELOPMENT - CONTINUED ON PAGE 2

DUPLEX LAWSUIT - CONTINUED FROM PAGE 1

shall be heard, and if any statute or the ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and shall be heard."

The motion went on to say that the Ohio Supreme Court has held that if the proper parties are not so included, the court lacks jurisdiction to decide the matter. The motion then requested that the lawsuit be dismissed.

No formal decision on the motion to intervene has been made. It did cause Village Solicitor Randy Strickler to resign from the case and ask that a special prosecutor be named.

The other individuals mentioned as parties to the motion to intervene were Robert Coulon, Dan Martine, Rob Watkins, Richard Sennish, Don St. Julian, Donna Farmer, Don Alexander, Ester Sennish, Charles Moore, Chris Wetzel, David Phinney, Jerry Taylor, Robert Stoup, Ann Ludu, Marian Shanko, Thomas Terry, Bud Minch, Pamala Betzenheimer, and Ted Klainaras.

## New Zoning On Fast Track

The new zoning ordinance, the complete text of which was published in the previous Perchie Press, made it through its first reading with only several modifications, excluding typographical and technical corrections.

The section concerning quarrying was strengthened to specifically prohibit any activities in the buffer zone.

Russ Matsos proposed a change, which was incorporated, that eliminated the requirement to obtain a demolition permit, except for structures on the historic inventory.

Bud Yoscovits succeeded in amending the ordinance to specify that members of the Planning Commission be both electors of the Village and be approved by Council. Both of these specifications seem to conflict with the Ohio Revised Codes proscriptions for the composition of Planning Commissions. Generally a non-chartered Village must follow the dictates of statutes that tell them "how" to do something - but not necessarily what they have to do. The obvious alternative, if the measures in State Code is deemed onerous, is to become a charter municipality where considerably latitude is provide. Also, the doctrine of separation of powers might come into play, in that the Council is attempting to take away some of the authority of the mayor.

The public hearing attendance was hampered somewhat by inclement weather, but it was rather unusual for a proposal of that magnitude not to have any public input, either written or verbal.

The new ordinance moved passed its first reading and, perhaps, passed through its second the following morning. If the second reading stands, the measure could be advanced to its third and final reading at the March meeting. This would make the changes effective prior to the spring building season.

No action was taken on the zoning map, which delineates the boundaries of zoning districts, because it was not on the Island and available for inspection for 30 days prior to the public hearing. The map can be inspected at the Municipal Building. The large increase in zoning districts and overlay zones called for a major redrawing of the map. Several errors or omissions in the map have been found. It is recommended all individuals inspect this important document to determine if their property has been properly depicted on the map.

NEW DEVELOPMENT - CONTINUED FROM PAGE 1

The group has purchased 16.348 acres of land that has frontage on both Titus Road and Division Street encircling the Sennish property. The plans for the first phase of the project called for building of 150 condos on the parcel. There would be 6 and 8 unit buildings with a mix of two and three bedroom units. They would like to begin construction this year. Landscaping would include ponds for runoff retention, gazebos and a covered bridge.

The group is in the process of purchasing another 52 acres of land for the remainder of the development. That land generally runs from Titus Road in an "L" shape to frontage on Division Street by the VFW.

One of the central items of discussion was whether the project should be done under the new zoning classification of a Planned Unit Development (PUD), or should be split into separately zoned areas. The PUD concept allows a developer to mix and match allowable uses from all zoning categories except for the quarry and industrial classes. The PUD restrictions are somewhat stringent in that they require 40% of the acreage to be in open "green" space and the overall housing density can't exceed three dwellings per acre. Under the PUD structure, only about 210 dwellings would be allowed on the approximately 70 acres envisioned in this project. The one advantage the PUD does present the developer is the ability to have a high density of dwellings (up to 10 per acre) in one section of the development, as long as the overall density of three per acre is maintained.

If the 70 acres were zoned R3, approximately 420 dwelling could be put on the entire property, which is not what the group desires. It seemed they really wanted to get a variance for the R3 classification which would allow a density of eight units per acre for the initial phase. They would then proceed with the other areas if the first venture was a success. The Planning Commission indicated it was not receptive to granting variances to a new zoning code still in the approval process.

Other items discussed were the impact the development might have on the services the Village provides. An increase in 300 dwellings would just about deplete the capacity of the water plant that was just completed, would impact the school system, police and fire protection, and traffic patterns for the area.

The group emphasized that they all expected to own one of the houses and eventually live on the Island. Commenting on life on Kelley they said "Kelleys has a reputation as being quiet and conservative. We are not trying to bring in that same crowd that they have on the other Island with bars and everything. I don't see that you need it."

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## HENNIE

Henry T. "Hennie" Beatty, 91, Lakeshore Drive, Kelleys Island, died on January 20 at Providence Hospital after a short illness.

He was born April 16, 1901 on Kelleys Island and was a lifelong resident. He was the state park ranger of Kelleys Island, retiring in 1977 and was a commercial fisherman. He was a member of St. Michael's Catholic Church on Kelleys, past president of the Village Council, past president of the Economic Development Commission, Board of Public Affairs, and fishermen's cooperative, past Fire Chief and co-founder of the electric cooperative. He was also co-founder of the Kelleys Island Chamber of Commerce, which developed the island airport.

He is survived by three daughters, Mrs. Ramie (Ila) Dick, Mrs. Lyle (Geraldine) Bickley both of Kelleys Island and Mrs. Donald (Mary Ellen) Huntley of Sandusky; on son, Ronald Beatty, Kelleys Island; 12 grand children and 18 great-grandchildren.

He was preceded in death by his wife, Rosella (Elfers) in 1985; his parents, Mr. and Mrs. Henry T. Beatty; two sons, Wayne Beatty in 1985 and Raymond; two daughters Beatrice and Jean in infancy; two sisters, Emma Beatty Betzenheimer and Laura Beatty Hamilton; and three brothers, Leslie, Arthur and Arlo Beatty.

Memorial contributions may be made to the Kelleys Island Historical Society, St. Michael's Catholic Church, Zion United Methodist Church, and the Committee for Quality Education.

## Down in the Dumps

The bills for the availability fees for the Transfer Station were recently mailed to Village residents. For the first time in a long time, the fee structure has not been revised for the new year. The transfer station fund had a modest surplus for the year 1991, instead of the perennial need to transfer funds to it from the general fund.

The \$85 fee covers the cost of providing for the availability of the Transfer Station, and additional disposal fees are charged for the weight of the material being disposed of.

The fact that the fees were not raised for the new year is something of a tribute to Councilman Ed Currila who is chairman of the Transfer Station committee. His dogged pursuit of the details of the operation of the Transfer Station has led to such cost saving measures as closing the station when usage shows it is not worthwhile to be open. However, these saving may be some consumed by the proposed Erie County Landfill tipping fee increase.

Curilla also has analyzed the charges from BFI, the company that hauls the refuse off the Island and from whom the Village leases the dumpsters and compactor, for the last several year. His study has led to questions concerning the accuracy of BFI billings which amount into the thousands of dollars. The Village has contacted BFI concerning reimbursement for these billings.

In related news, the Village was in court in February



With Captain Don Cranmer

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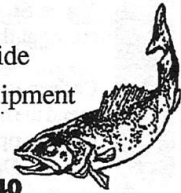
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defending the availability fee in a suit brought by Island businessman Gary Finger. Finger is contesting the validity of the availability fee in Common Pleas Court. There was a court session on February 10 at which no decision was rendered. The next court date has not been set.

Last years compliance rate for payment of the availability fee was better than 90%, with 33 bills still outstanding. The Village will institute collection actions against those accounts after the settlement of the Finger lawsuit.

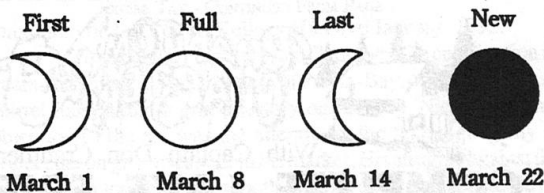
## Airport Parking Fees Due

Village Clerk-Treasurer Jean Kuyoth reminds people who leave cars parked at the airport that the annual sticker renewal fees of \$25 are now due. Cars without stickers will be cited by the KIPD.



**Winter Hours**  
*Monday - Saturday 8-5:30*  
*Sunday 9-10:30*

Get Your Things For Spring from US!



We have lots of birthdays to report since the last time one of these columns appeared. **Chuck Herndon** celebrated his on January 7, **Geraldine Betzenheimer**, **Bud Yoscovits** and **Edna Carroll** on January 14, **Kathy Ullrich** on the 17th, **Lee Shadle** and **Donald Williams** on the 29th, and **Kate Boker** on the 30th. February celebrations included **Ken Singer** and **Bruce Korenko** on the 7th, **Terry Johnson** on the 8th, and **Ben Fritz** on the 12th. **Karen Terry** will be another year older on February 23. In addition, there were two milestone 30th birthdays: **Teddi** entered middle-age semi-gracefully in January, and **Marie St. Julian** had a very public greeting when the crowd at the Fireman's Ball serenaded her for her 30th.

**Claudia Brown** had the longest trip home for Christmas—she came up from Chihuahua, Mexico to spend the holiday season with her mom. She reported that her bus trip home would take 52 hours.

**Dan and Mary Ellen Martine** went east for their annual Christmas skiing trip, and their report: No Snow in Stowe. They are planning a March getaway to the British Virgin Islands, where they will be chartering a sailboat with another couple for a close-up view of the islands.

**Bob and Pat Gruly** are finally moving into one of the condos, and **John and Bobbie Miller** will be moving into the Gruly's house. John is one of the dentists who started the KI Dental Service last year.

No one can say **Jack Terry** isn't a man of many talents. One recent evening had him giving a snake-charming demonstration at the VFW.

**Will Stoup** got to spend some time with his grandma and aunt in Pittsburgh over the holidays, where he picked up some goodies that Santa left for him there.

**Penny Kyle** is back on the island, after spending some time in Florida with **Pat Vandersol**. Lots of islanders have been in Florida recently. **Danny Ahner** visited a friend in North Carolina, then drove down the coastline to visit friends in Florida. **Mary Sennish** and **Richie Mayer** spent a couple weeks with Mary's grandfather, and **Pat and Lori Hayes** did the same. **Bev and Paul Johnson** spent some time in California and Hawaii, and Bev came back tanned and with a great new hairdo.

There was also a KI delegation in Las Vegas in January. **Jack and Karen Terry**, **John and Jean Kuyoth**, **Jerry Bozic**, **Bob and Pat Gruly**, **Lee and Cathy Verlinger** and **Tim and Vicki Sullivan** spent a long weekend at the slot machines. John and Jean took a few extra days and visited with **Joann Wilson** and **Ken Neuffer** in Sedona AZ, and Lee and Cathy visited with relatives for a few extra days. Tim and Vicki spent some time with **Wally and Marion Shanko**, who spend the winters in Vegas. When

last seen, Marion was pumping nickles into the slots at one of the casinos. We hear that she hit a royal flush and spent her winning taking daughter **Becky** to see Siegfried and Roy.

**Ronnie Beatty** and **L.J. Greek** are planning a late summer vacation to San Antonio, for their military reunion. The two of them have gone to several of these reunions in the past.

**Bob and Helene Coulon's** house is getting spruced up in preparation for spring.

KI will have another fishing charter operating this summer. **Capt Don Cranmer** from Marblehead will be running his boat out of the Casino dock. In addition to fishing trips, he intends to take people on island-hopping tours as well.

**Robert Erne's** jeep caught fire recently, the result of an electrical system failure.

**Donna Farmer** won Round 2 of her dispute with the KI School Board, but the board has decided to appeal the decision to the Ohio Supreme Court. No hearing date has been set.

The KI Council passed the **Rhonduh amendment** to the zoning ordinance at their meeting on February 13. Rhonduh was quite pleased with the attention, until she heard **Councilman Herndon** refer to her on tape as "a dispassionate reporter." What does he know about her passion, anyway??

Our not-too-reliable reporter for college affairs, **Jennie Ulisse**, was on the Island for the Fireman's Ball. Jennie, best known as The Tram Girl, will be back in mid-May for the summer.

The KI aerobics team, The Porkettes, would welcome one of the councilmen to join them. They are certain that his contribution wouldn't create any further cracks in the concrete slab.

When you see **Josh Van Orman**, wish him your best. Josh has been nominated to the US Air Force Academy, and will be taking his physical fitness test in March.

## Library Has New Magazine Subscriptions

Beginning in January, 1993, the Kelleys Island Branch of the Sandusky Library started receiving several new magazine subscriptions. The new titles to be added to the collection include Health, Newsweek, Old House Journal, People, Sports Illustrated and Teen. Other material available at the Kelleys Island Branch are large print books for the visually impaired, a selection of videocassettes, and a children's book corner. The Kelleys Island Branch also features a special Kelleys Island Historical Preservation Collection which includes how-to books about renovation and interior decoration, as well as historical information about the homes on the Island.

As part of Sandusky Library, the Kelleys Island Branch is a member of the Clevnet library system which includes 19 libraries in the northeast Ohio area. Materials may be loaned to Kelleys Island Branch from Sandusky Library and other Clevnet libraries.

The Kelleys Island Branch of the Sandusky Library is located in the lower level of the Kelleys Island School. Winter hours for the Branch are Wednesday and Saturday, 10:30 am - 12:30 pm. Please call Sandusky Library at 625-3834 or on Kelleys Island call 746-2356, for more information about library service to Kelleys Island.

# Letters To The Editor

## "Uncle Hennie"

*"The house we first knew on this beautiful earth,  
The friends of our childhood, the place of our birth,  
In the heart's inner chamber sung always will be,  
As the shell ever sings of its home in the sea!"*  
Frances Dana Gage (1808-1884)

During the years that I resided on Kelleys Island (late 50's - late 70's) Uncle Hennie, as we knew him, was always "on call" for emergencies... borrow your jumper cables? please help a tourist with a fish hook in her hand, can you pick me up at the airport, the fishing boat's engine won't start again...

I remember him as the most honest man I ever knew. He worked eight hour plus three, and was paid for one day, but we never heard him complain. He performed all tasks with vigor and pride. The church sponsored a bazaar each summer. Hennie was there before dawn setting up the booths, readying the vat for frying fish, preparing the coffee urns, working the betting wheel till late in the night, apron pockets full of cash counted to the penny before retiring for the night.

He was a sensitive man in a time when "real men" didn't eat quiche. He could fillet a fish swiftly and deftly as an art form, tend a flower bed, cut down a large maple tree and comfort a baby's tears with the same tenderness.

To his beloved community he contributed many ideas at the Council table, fire department, school issues, commercial fishing industry and retail merchants. Politically, he was one of the few Islanders who could hold a difference of opinion with his neighbor at the annual electric coop meetings (often all-day argument sessions) and meet eye to eye the following day to share a good joke, enjoy a beer and continue with life as usual. I don't think words like "grudge" existed in his vocabulary.

He was my neighbor, friend, confidant, Friday night drinking pal and the great uncle of my children. I shall miss him.

Carol Vogler (Elfers) Bright  
Editor, Kelleys Island Home Town News  
(1978 - 1980)

## News from the West

Seasons Greetings from Powell Wyoming

...Last Saturday Rich and I went up to Dead Indian Pass (part of the Shoshone National Forest) and cut our Christmas tree down. The permit only cost \$5.00, and it was great fun. We just gassed up the car, borrowed a little hacksaw, and drove up into the Rockies. Once we were there we just picked a spot, pulled over and hiked into the woods to pick our perfect tree. We kind of looked for a small one because we had to hike it back to the car uphill through a lot of snow. What a blast, the snow was knee deep, and the only thing you could hear up there was us and the snow hitting your coat as it fell. It was truly beautiful. We would have stayed up there all day but we both had to work that night. So when I got home from work at 2 a.m., we decided to decorate the tree, we finally finished our masterpiece at about 4 a.m. Of

course it is the most beautiful Christmas tree in Powell, bald spots and all.

All in all things are going well. And who would have thought that there were only crappy jobs in Ohio. Yes there are in Powell too, and we have managed to find them.

...If we want entertainment and really good food, we usually drive to Cody, Wyoming or Billings, Montana. Cody is a great little town and its only 22 miles away. Since we have none in Powell, we drive there for fast food, and of course our favorite, Rocky Mountain oysters. Yum! Oh ya, it also has, what else? a K-Mart and a WalMart. Actually is really is an adorable little town. Now Billings is way cool. It's the closest big city around. It's only an hour and a half away and it's a pretty nice ride. Billing has everything, great restaurants, a mall & casinos. What else could you possibly ask for?

See ya all in May...

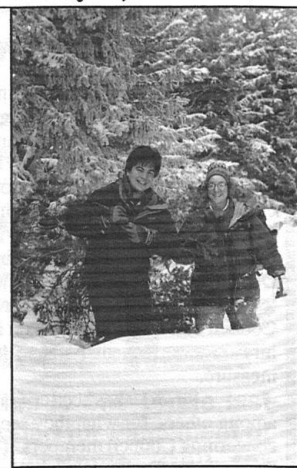
Rich Fujita and Lisa Schwartz

## Answer on Arnold Sheeley

I'm sure you already have the answer to your question on Page 5 (of the November issue). It is Arnold Sheeley, not Scheid, and Marge Newcomb bought Arnold's house from Father Joe Ehrbar. We adored Arnold and have several of his paintings. Our children used to sit and watch him paint. He would explain why he was doing this and that and seemed to love "teaching" again. Michigan State has many of his large paintings in the Art Building where he taught.

Think Spring!

Nadine Mack



*Just the two of you? huh? Who took the picture?*

# The Perchie Press

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## Village Has Solicitor Again

The Village once again will have a full-time solicitor in March when the re-appointment of Randy Strickler becomes effective. Strickler was appointed last year to a one-year term which expired in December. When the appointment came up for renewal, not enough votes could be gathered to make it an emergency measure. The appointment has been opposed by both Councilmen Curilla and Yoscovits which effectively has elongated the process to its full three meeting requirement for passage. In the December meeting a motion was made to hire Strickler on a temporary basis pending his reelection. It is unclear how the Council can hire somebody on a temporary basis that they can't hire on a permanent basis without passing it as an emergency measure.

Strickler has been criticized by both Curilla and Yoscovits, among others, for what they see as his uneven handling of issues concerning Council members. The Village moved swiftly against Councilman Curilla when he was hauling stone off his property, using the police department to gather evidence and citing him on three occasions. The hauling of the stone was characterized as a zoning violation. Strickler removed himself from the prosecution of the case, citing a conflict of interest, and unilaterally appointed a special prosecutor.

In another zoning matter though, involving a another council member, Strickler chose not to pursue the apparent zoning violation by Jake Martin involving the duplex on Woodford road. After Martin filed a lawsuit seeking a zoning permit for the structure, Strickler recommended to Council that an out-of-court accommodation be made with Martin. In contrast to the Curilla matter, Strickler said that he could be involved with this issue since the Martin lawsuit was civil matter and did not present a conflict of interest. After a group of citizens filed a suit to intervene and prevent the settlement, Strickler changed his position and said that a conflict of interest existed and he could not represent the Village.

Strickler has also been characterized by some as more of an advocate on issues than as an advisor.

Total legal expenses paid by the Village for 1992 amounted to \$54,870. (\$2,630 more than the total revenue from the excise tax for 1991.

For his services, Strickler earned \$26,643 during 1992. Strickler's new term will expire in December, 1993, but can be terminated with 30 days notice by either party. Strickler will be paid a \$450/month retainer fee plus \$70/hour for preparation of legislation, opinions, research, and for attending meetings and other legal work. The Village also pays for his transportation to and from the Island and for his lodging when necessary

In addition to the fees paid to Strickler, a \$15,000 sum was paid to attorney William Smith as part of the settlement of the sidewalk suit against the Village. Smith also was paid \$539 for services related to a private lawsuit between Bob Gruly and Leroy Myers in a dispute involving Gruly's condominium development. Former Village Solicitor Lee McDermond was paid \$2,774 for his participation in the sidewalk suit on behalf of the Village. The law firm of Squire, Sanders and Dempsey was paid \$5,660 for their services, primarily is the preparation of debt instruments for the Village.

These costs do not include other fees accrued during 1992 against the Village in other lawsuits that have not been concluded. One of these is the Lentz matter where damages of \$10,000,000 are sought from the Village and individual police officers for a 1989 shooting. Numerous other disputes with the Village are in the adjudication process, including the Martin and Curilla disputes mentioned above.

## THE PERCHIE PUZZLER

R O A D S T R I P E R T U B E L E S  
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 S E L F S T A R T E R R E T H C I R  
 P L A Y D O H Y E N O M N R E D O M

### Mother is the Necessity - or Vice Versus

The nearby city of Milan is famous for having been the boyhood home of one of the great inventors of all times - Thomas Edison. Edison invented the electric light, the phonograph and hundreds of other things.

There seems to be something kind about Ohio for inventors, because all of the following items were invented by people from Ohio.

The words below are all in the puzzle, in all directions, except for the words in parenthesis, which have been added for clarity.

This puzzle also contains a very important suggestion. The message is formed from the leftover letters in the grid after all the words have been found.

- |                                |                                    |
|--------------------------------|------------------------------------|
| 1. Unloader (for Ore)          | 17. Formica                        |
| 2. Microencapsulation          | 18. Mr. Coffee                     |
| 3. Xerography                  | 19. Freon                          |
| 4. Disposabile Diaper          | 20. Teflon                         |
| 5. LC (Liquid Crystal) Display | 21. School Chalk (for blackboards) |
| 6. Rubber Hose                 | 22. Richter (Scale)                |
| 7. Rolled Steel                | 22. Mixed Paint                    |
| 8. Airplane                    | 23. Ethyl (gasoline)               |
| 9. Gas Cracking                | 24. Stepladder                     |
| 10. Self Starter               | 25. Road Striper                   |
| 11. Grocery Bag                | 26. Vacuum (Cleaner)               |
| 12. Aluminum Process           | 27. Tubeless Tires                 |
| 13. Cash Register              | 28. Day-Glo Paint                  |
| 14. Modern Money               | 29. Play Doh                       |
| 15. Cow Catcher                | 30. Ivory (floating soap)          |
| 16. Padded Seats (for bicycle) | 31. Helix (Antenna)                |

<p><b>WARD REAL ESTATE, INC.</b>  <b>Dan Martine</b>  <b>Island Residence 419-746-2600</b>  <b>419-281-2600</b></p>	<p><b>24 SOLD</b></p>  <p><b>C-16 THE QUARRY CONDOMINIUMS!</b> Condo living at its best! New 2 and 3 bedroom units will be available soon. Swimming pool and boat dockage available. All this with beautiful Lake Erie at your front door. Excellent investment opportunity.</p>	<ul style="list-style-type: none"> <li>★ Residential homes and lots</li> <li>★ Commercial lot for development</li> <li>★ Rentals and rental investments</li> </ul>
 <p><b>S-47 - LAKE FRONT LOT!</b> This in demand home has all the extras for the discriminating buyer. 4 bedrooms, 3 baths, family room, enclosed sun room, new kitchen and just remodeled. Large insulated garage. Priced at \$189,000! Call today!</p>	 <p><b>S-38 HISTORIC CENTURY HOME!</b> Currently used as bed and breakfast; lake front lot with magnificent view. Ideal for the antique lover. Situated on 1 1/2 acres and included barn. Many bedrooms and a must to see!</p>	<p><b>Lot Zoned For Mobile Home</b></p> <p>This is one of the last areas zoned for Placement of a Mobile Home. Call for Location and Specifications.</p>
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## Johnson Selected for BPA

Paul Johnson was appointed by the Village Council to fill the vacancy created on the Board of Public Affairs by the death of Hennie Beatty. Paul, proprietor of the Sweet Valley Bed and Breakfast, will serve for the duration of the term which expires December 31, 1993. The appointment of Johnson was recommended by the BPA and formalized by Council at it February meeting.

In other news from the BPA, the Village Council also approved two resolutions by the BPA. The BPA requested that the Village set a fee for checks returned for non-payment. The Council has concurred and the returned check fee will apply to all accounts with the Village. The fee will be \$30.

Also, the BPA has requested an increase in tap-in fees to the water distribution system. The three-tiered structure, which is rated by size of the pipe being connected to the system, were raised by \$250. This will put the new structure prices at \$750, \$1,000, and \$1,250. This will put the Islands fees generally in line with surrounding communities, according to Superintendent Bruce Korenko.

## Taxation with Representation

The talk of a May referendum to consider a tax levy should alert eligible individuals to make sure they are valid electors. Jean Kuyoth, Village Clerk/Treasurer is now a deputy registrar and can provide all the necessary material to register to vote. And for all the aspiring statesmen or stateswomen on the Island, she also has petition forms for candidates for election.

## Community Bulletin Board

**VILLAGE TRANSFER STATION**  
**Wednesday & Saturday 9:00 AM - 1:00 PM**  
**Sunday 10:00 AM - 3:00 PM**

## Kelley's Island Branch of Sandusky Library

**Fall and Winter Hours**  
**Wednesday and Saturday**  
**10:30 a.m. - 12:30 p.m.**

**For Information Call**  
**Lillian Phinney 746-2356**

Located In The Basement of Kelley's Island School

## New Blasting Ordinance Offered

The Council was offered a new version of the Village Blating permit. The new ordinance specifies a \$25,000 surety bond must be posted before the permit can be issued. Recently, Mayor Haas demanded a \$250,000 bond be posted by Ted Terry before issuing a permit for what Terry characterized as needed to construct septic systems. A bond manager for an insurance company stated "this is first time in 20 years that I have seen a request for a blasting permit bond of this size." The new ordinance still has a rather vague provision that, in addition to the bond, requires the person seeking the permit to provide "such other information as the mayor or other administrative official may require."

A "producing quarry" which has a quarry permit from the Village and State, is exempt from the ordinance.

# Monthly Financial Report For Village

The table below is an abridged version of the monthly financial report prepared by the Village Clerk/Treasurer and

submitted to the Council. The presentation for this month lists a combination of the January and February reports.

Fund Description	January		February			February	
	at Beginning	Receipts	Disbursed	at Beginning	Receipts	Disbursed	Month End
General Fund	48,346.00	11,915.00	19,565.60	40,697.00	1,261.94	14,519.00	27,440.22
Street Maintenance	1,228.39	1,682.31	2,196.37	714.33	1,453.19	1,960.86	206.66
Waterfront Development Grant Fund	3,291.95	0.00	99.70	3,192.25	0.00	0.00	3,192.25
Zoning Ordinance Grant Fund	0.00	0.00	0.00	0.00	7,000.00	0.00	7,000.00
Cemetery Fund	6,013.00	750.00	399.70	6,364.00	200.00	386.48	6,177.61
Sidewalk Fund	(0.34)	0.34	0.00	0.00	0.00	0.00	0.00
Road Construction Fund	68,149.00	0.00	442.00	67,707.00	0.00	744.27	66,963.61
Airport	7,194.00	25.00	600.07	6,618.94	0.00	1,275.68	5,343.26
Police Levy Fund	6,917.00	0.00	4,008.85	2,908.84	0.00	592.62	2,316.22
Fireman's Levy Fund	3,992.34	0.00	2,825.35	1,166.99	0.00	793.60	373.39
Medical Service Fund	25,785.04	0.00	219.76	25,565.28	0.00	740.93	24,824.35
Levy Debt Service Fund	0.00	59.04	59.04	0.00	0.00	0.00	0.00
Airport Resurfacing Fund	5,320.80	0.00	0.00	5,320.80	504.00	0.00	5,824.80
Airport Building Fund	172.06	0.00	0.00	172.06	0.00	0.00	172.06
Water Fund	62,486.00	1,463.09	10,929.00	53,020.00	23,393.00	13,606.00	62,807.84
First Mortgage Debt Service Fund	10,004.52	2,501.14	0.00	12,505.00	2,501.14	0.00	15,006.80
Debt Service Reserve Fund	1,245.00	249.00	0.00	1,494.00	249.00	0.00	1,743.00
Water Capital Improvement Fund	6,507.00	0.00	650.08	5,857.00	0.00	0.00	5,857.43
Landfill	13,735.00	588.33	4,464.76	9,858.00	182.73	2,441.44	7,599.96
Cemetery Trust Fund	23,183.00	200.00	0.00	23,383.00	50.00		23,433.55
Special Bond Assessment Fund	354.51	0.00	0.00	354.51	0.00		354.51
Totals	293,929.63	19,434.20	46,460.75	266,903.08	36,795.43	37,060.99	266,637.52

## Fire Out, But Still Smoldering

The boat fire at the Casino dock last season has resulted in legal action between the owner of the boat and the Village. The fire apparently started in the boat's bilge and resulted in burns to a child, who was rescued from the water by Casino employee Terry Johnson. Several other individuals wound up in the water as a result of the blast and fire. The Village fire department spent hours fighting the fire, which rekindled several times. The Coast Guard also assisted in fighting the blaze.

The legal entanglements began when the Village filed a suit to recover costs incurred as a result of the fire. Specifically, the small claims action sought \$1,200 for waste disposal, over \$600 for wages of Village employees, and \$300 for tests required by the EPA to assure water quality (the water plant was closed for several days as a result of the fire, which caused fuel and foam to be present near the intake for the system).

The Village had sought to determine the name of Rose's insurance carrier, if any, but Rose has not cooperated. It is also reported that Rose has not paid the salvage company that hauled and disposed of the damaged boat.

As a counter suit to the Village action, Sheila Rose of Cleveland, claims the Village fire department did not properly fight the "minor fire" and seeks \$25,000 in damages for negligently handling of the incident.

The amount of damages sought by Rose is above the limit allowed in Small Claims division, so the suit and countersuit have been transferred to Erie County Common Pleas Court.

## Shirley Sits Out Some Rounds

The weather on the Island turned nasty and uncooperative for the Shirley Irene in her first year of service. The big orange boat was kept out of service because of engine problems a large portion of the week of February 7. Experts were brought in from the builder of the boat.

Then came the ice. Persistent northerly winds blew most of the ice in the Lake to the south shore which filled slips and fused together in the cold. This hampered docking and the Erie Isle and a back hoe were given icebreaker service.

The unseasonably cold temperatures and several major snow storms in the area have helped in the formation of more ice. During the week of February 21, through Wednesday afternoon, there has been no ferry service to the Island.



Fun and Frivality at Firemans Ball takes on a C & W Look



## Police Report for January

The Kelleys Island Police Department handled six calls during the month of January - two of which were for motor vehicle accidents, two hunting complaints, a theft complaint and a broken window report.

One of the motor vehicle accidents resulted in a citation being issued to John Kuyoth, Village Street Commissioner. Kuyoth was traveling east on the section of Ward road where it goes through the "S" curve and becomes Hamilton Road. A tie rod on his truck broke, which caused him to lose control and sever a utility pole. Kuyoth then attempted to drive his pickup truck to his nearby home to report the mishap. Steering the truck without the tie rod caused him to nearly colliding with a car proceeding in the opposite direction. According to Police Chief Schnittker, Kuyoth was given a citation for "endangering" for this near collision. Kuyoth was not seriously injured in the mishap and did not seek medical attention.

In other Police news, Schnittker and summer officer Ron Covert will be attending a Crime Prevention Fair in Toledo on March 13 and 14. Another program the Police Department will be participating in is an ice water rescue training program along with the Island EMTs. The program, which is open to the public, will be conducted on February 26 at 9:00 at Municipal building.

The loss of the Island excise tax, and resulting reduction in the police budget, has caused increased consideration of establishing a police auxiliary program. Legislation is being drafted for presentation to Council to allow formation of a police auxiliary. This voluntary unit would provide individuals to assist the regular force on their patrols, handling radio traffic and dispatching. They would not have any arrest powers. The legislation should be ready for review at the March Council meeting.

At the monthly Council meeting, Schnittker was asked how operations are handled when Schnittker is off the Island, as was the case recently when he took a week's vacation. Councilman Bud Yoscovits was especially interested in how the new "911" system was handled in Schnittker's absence. Schnittker responded by saying he informs the Erie County Sheriff's department when he will be off the Island so that they can be prepared respond to emergency situations on the Island. Also, since the dispatching of 911 calls to the Island is done by the sheriff's office, they can intercept those directed at the Police department and make an appropriate response.

## Check Before You Step

The Ohio Division of Wildlife is advising ice anglers and other outdoor enthusiasts to check for safe ice conditions before venturing out on the ice to pursue ice-related, winter activities.

No ice is ever 100 percent safe. New ice formed by a long, cold freeze is usually clear with a glossy appearance. This is usually the safest ice. If the ice is milky, white or cloudy in color, it is an indication the ice is deteriorating and is unsafe.

Since water freezes and thaws at different rates, ice strength and thickness may vary considerably from one location to another on the same body of water. Many factors affect the strength of ice, including the size and depth of the body of water,

distance from shore, weather conditions such as temperature, wind, snow rain and sun, currents, vegetation, obstructions such as logs and rocks, and the presence of waterfowl.

Swampy areas, where many of these conditions are often prevalent, can be particularly hazardous. Decomposing vegetation and organic matter on the bottom can produce enough energy to affect the strength and thickness of the ice.

Beware of areas of thin ice where waterfowl may have previously created open water. The spot may have since frozen, but the ice will not be as thick as the surrounding ice.

Currents from small streams running into a body of water can also affect ice strength and thickness. Lake Erie has many areas with currents that erode the ice from the bottom, resulting in spots with thin, unsafe ice surrounded by thick ice.

Ice melts first along the shoreline and around stumps, dock poles, and other objects protruding through the surface. The sun warms these objects and the heat is transferred to the surrounding ice.

The following table provides guidance for ice activities; but there are no absolutes when dealing with ice safety. Caution should always be used and ice thickness should be checked before proceeding. The table applies only to clear, blue ice. Cloudy, slushy ice must be viewed with extra caution and, in general, must be twice as thick to support the same weight.

- Less than 2 inches - Stay Off
- 2 inches - one person on foot
- 3 inches - more than one person in single file
- 4 inches - a group of people together
- 5 inches - small ice boat, shanty, or one snowmobile
- 6 inches - two-ton car or truck

PICTURE AND CAPTION BY BRUCE & LESLIE KORENKO



"KI Ferry Boat Lines strict collection policy - if you don't pay they shake the car until the money falls out." (Photo of car being pulled from the Lake after going over the end of the ferry ramp in the early morning hours of November 29.)

## CLASSIFIED ADS

### Notice

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EXCISE TAX - CONTINUED FROM PAGE 1

maximum of 1 1/2 % on Kelleys effective January, 1992.

The action by the Supreme Court was the culmination of years of fighting the tax by Niese of Put-in-Bay, owner of the Beer Barrel Saloon and a grocery store on the Bay. Niese's original objection to the tax was the attempt by the taxing authority to collect tax on groceries sold in his market. His struggle against the tax saw him lose his case at both the trial court and appeals level before prevailing before the Supreme Court.

The financial effect of losing the tax revenue will be much more severe on the Village of Kelleys Island than it will be on the Village of Put-in-Bay. Two factors influence this unevenness of effect on the two Villages. First, Kelleys has raised the tax to its maximum level, while PIB has held it to the minimum percentage. Second, the Village of Put-in-Bay has been conservative in forecasting the amount of tax to be collected in an appreciation of the lower compliance rate of PIB businesses as well as awareness of the fact that Niese could prevail in the suit. Kelleys, on the other hand has based its budget on the projection of collecting a large amount over previous years with ambitious estimates of both compliance and business revenues. Also, the very existence of the Niese suit challenging the tax to the Supreme Court seemed to come as a supreme surprise to Village Officials.

Some budget numbers for the two Villages will show the difference in how they handled the excise tax. Put-in-Bay forecast revenues from the excise tax for 1992 to be \$7,000, even though their Island businesses collectively do many times the business volume as those on Kelleys. This excise tax estimate was part of a total revenue forecast of \$530,350, or only 1.3% of the total. Kelleys forecast the revenue from the excise tax for the 1992 budget to be \$108,000. This was out of a total revenue forecast of \$293,400, or 37% of the total budget.

The \$108,000 forecast for 1992 could be considered optimistic based on past performance. The tax generated revenues of \$52,239 in 1991 and an estimated \$75,000 for 1992.

The effects of the tax repeal are still being assessed, but dark consequences have been hinted at by various officials. Speaking at the January Council meeting, Finance Committee chairman Chuck Herndon said that there will be cutbacks in police protection, less work on the roads, and the cemetery may go unmowed. At the February meeting he indicated that \$20,000 would be cut from the police budget and said that "... if the businesses want to have protection down there, they may consider contributing money to hire a police officer."

The repeal of the tax has also had a ripple effect on other island revenue. The business license fee, originated in 1992, was originally passed to have an even affect on all business activities on the Island. It was later changed to be assessable only on business that were required to pay the Island excise tax. Because of that wording the business license can not be enforced unless and until a new ordinance is passed.

Also, there is a general belief among members of the Council that they can still rely on collecting the Island tax on water transportation, since no determination was made on that separate tax. However, the tax on water transportation, a mirror image of the Island excise tax, is worded similarly to the Island business license. Section 5727.83 of the Ohio Revised Code says "No tax may be levied under this section by a taxing district unless the district also levies a tax under section 5739.101 [Island Taxing

District] of the Revised Code and the rate of the tax levied under this section shall not exceed the rate of tax levied under that section." Since section 5739.101 was the one disallowed by the Supreme Court, it appears no tax on water transportation can be levied.

The Village has taken several steps in response to loss of the revenue. One of the first actions was to authorize up to \$5,000 to be spent on the services of a lobbyist to assist the Village in searching for alternative means of raising a like amount of revenue. None of this money has been expended to date, although the lobbyist, former Ohio Taxation head Joan Limbach, has helped set up several meetings between officials from the Island and State personalities.

The first of these was between State tax officials and legal representative of the entities involved. That was held on February 18 in Columbus. Another meeting was held the following week with representative from the Village meeting State Representative Darryl Opher and State Senator Betty Montgomery.

The other action taken by Village Council was an attempt to hold a special election in May to consider an additional tax levy of seven mills on Village landowners. The current status of this action is unclear (see accompanying story).

In addition to the property tax levy, a proposal was put forward by Herndon that would require all vehicles on the Island to have parking stickers. No details of the plan were forthcoming, but the intent was straightforward - relieve visitors of cash to help raise revenues. The program would require a parking sticker for all vehicles under the assumption that they would need to park somewhere on the Island. For Islanders, it would be a nominal fee when compared to the term of the sticker - which could be renewable quarterly or so. But for the one time visitor, the fee would help offset the alleged cost imposed by the tourist trade. Herndon claimed the arrangement was legal. Not discussed was the mechanism for issuing stickers.

Although the excise tax was declared void, it appears the Village will have no liability for returning any of the funds collected in the past. A provision of state law allows recouping taxes paid only if the tax was paid under protest. According to Village Clerk/Treasurer Jean Kuyoth, no such protests were made. Additionally, any refund would not belong to the businesses that remitted it, but to the public who paid the tax on Island goods and services.

## Seven Mill Tax Issue On Ballot - Or is It?

The loss of the Island Excise Tax caused the Council to try and put an additional tax levy of 7 mills to the vote in a special election to be held in May.

At the January meeting, the merits of the proposal were discussed and it was decided to have the legislation drawn up. It is estimated the tax will raise about \$70,000.

During the discussion at the February meeting it was noted the resolution would not meet the February 18 filing deadline with the Board of Elections unless it was passed as an emergency. There were not enough Council members present at

CONTINUED ON PAGE 12

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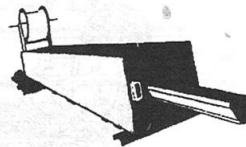
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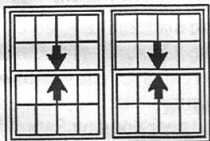
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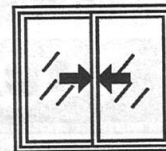


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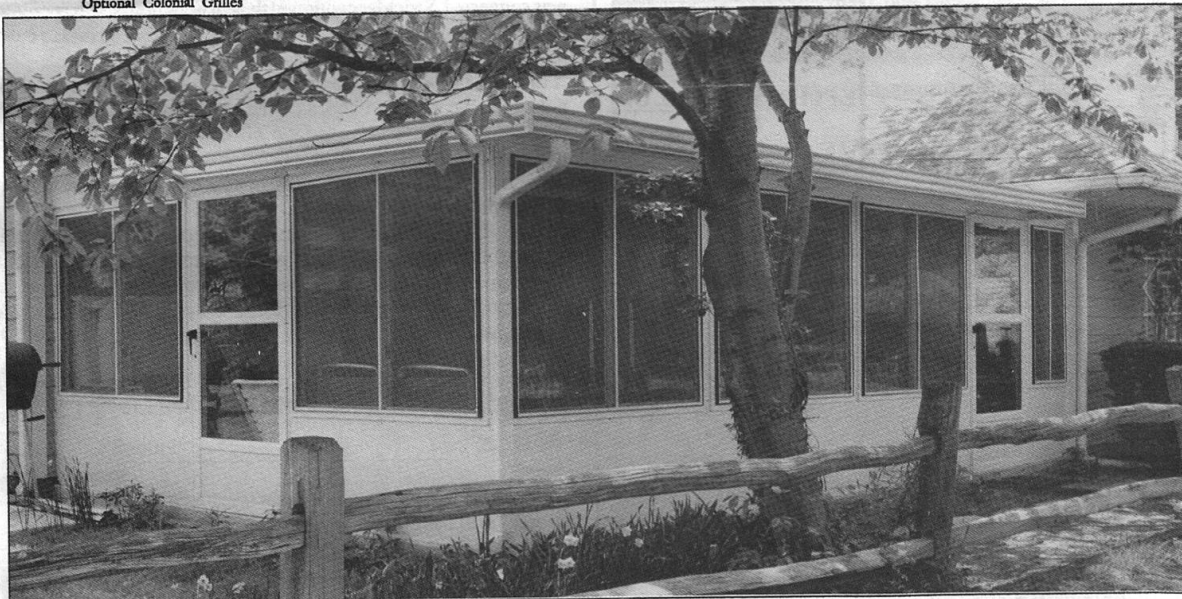
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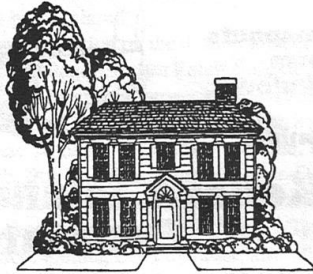
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ON BALLOT? - CONTINUED FROM PAGE 10

the meeting to do that, so a tentative plan was formulated to adjourn until later in that evening to see if Ed Curilla arrived on the Island. This would allow the measure to be passed as the emergency. (Curilla had gone to the mainland to appear at a hearing on the Villages charges against him. Weather stranded him there).

At the conclusion of the regular meeting, Herndon started to make a motion to recess until 6 PM Saturday night, but Stricker interrupted by saying had something to talk about. The Council then went into executive session, ostensibly to discuss "imminent or pending court action." As the Council was coming out of executive sessions the tape recorder was turned on and the following conversation is heard on the tape:

Matso: "The tape is a running."

Yoscovits: "I move we recess until tomorrow at 8 o'clock."

Shadle: "No, we're not recessing."

Matso: "No, we going to adjourn."

Herndon: "What's our plan now?"

Matso: "We need a motion now to..."

Shadle: "Why don't you turn the tape recorder off till we get straightened out."

Herndon: "I thought we were recessing.." (tape recorder is turned off)

When the tape recorder is resumed, Herndon moves that a special meeting be called for 8AM the Sunday morning to bring the new zoning ordinance to its second reading and to pass the tax levy. They then launch into a discussion as to whether they had adjourned out of executive session.

There are several things wrong with the above conversation. First, none of the above matter is allowable material for executive session. Second, the Council, and the Village Solicitor, seem to have conspired to call a meeting knowing that it would not meet the notification requirements of State Law, since the 8AM Sunday meeting was called near noon on Saturday. (In the earlier open meeting, the subject of a special Sunday meeting was suggested. Strickler cautioned that 24 hour notice was required. When a noon meeting was suggested, Shadle said he had to catch the 9AM flight, so the idea was dropped)

If the meeting was not a legitimate meeting, either because it did not have proper notice or because the actions were inappropriately decided on in an executive session, all actions taken at that meeting may not be valid. Thus the motion to put the tax levy on the ballot is without authority as is the second reading of the zoning ordinance.

If the Council persists in certifying the tax issue or second reading of the zoning ordinance, any person may apply to the Court of Common Pleas for an injunction to enforce the provisions of the "Sunshine" statute. For their efforts, the court could award the complaining party all court costs and attorney fees as well as \$100 from the Village.

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