

# City of Seven Hills

Record of Minutes of

COUNCIL MEETING HELD April 13, 2015

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This Regular Council Meeting was called to order by Council President Michele K. Ernst at 7:40 p.m. with the Pledge of Allegiance.

## **ROLL CALL**

Present and accounted for were Mayor Dell'Aquila, Director of Law Pignatiello, Director of Finance Johnson, Councilman-at-Large Barth, Councilwoman-at-Large Lecznar, Councilman-at-Large Trafis, Ward 1 Councilman Bryda, Ward 2 Councilman Fraundorf, Ward 3 Councilman Snitzky, Ward 4 Councilwoman Ernst, and Director of Public Service and Properties Moga. Absentee was Building Commissioner Moro.

## **READING AND DISPOSAL OF JOURNAL**

**MOTION** by Mrs. Lecznar, seconded by Mr. Fraundorf, to accept the Minutes of the Regular Council meeting held March 23, 2015, as printed.

Roll Call: all yea

**MOTION CARRIED**

## **CONSENT AGENDA**

**MOTION** by Mr. Fraundorf, seconded by Mrs. Lecznar, to accept the Consent Agenda of April 13, 2015, as printed, if there is no division of the question.

Roll Call: all yea

**MOTION CARRIED**

## **RESOLUTIONS OF COMMENDATION**

There were no Resolutions of Commendation.

## **REPORTS OF COMMITTEES**

### **Planning, Zoning, and Economic Development**

Planning, Zoning, and Economic Development Committee Chairman Snitzky stated that the Committee will hold its next regular meeting on Monday evening, April 20, 2015. Mr. Snitzky said that the minutes from the previous meeting (Monday, March 16, 2015) are on file with the Clerk of Council.

### **Public Works**

Public Works Committee Chairman Bryda stated that the Committee last met on Monday evening, April 6, 2015, and the minutes from that meeting are on file with the Clerk of Council. Mr. Bryda said that the Committee will hold its next regular meeting on Monday evening, May 4, 2015.

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## **Community Services**

Community Services Committee Chairman Fraundorf stated that the Committee last met on Monday evening, April 6, 2015, and the minutes from that meeting will be on file with the Clerk of Council by week's end. Mr. Fraundorf stated that the Committee will hold its next regular meeting on Monday evening, May 4, 2015.

## **Police and Fire**

Police and Fire Committee Chairman Trafis stated that the Committee last met on Monday evening, March 16, 2015, and the minutes from that meeting are on file with the Clerk of Council. Mr. Trafis stated that the Committee will hold its next regular meeting on Monday evening, April 20, 2015.

## **Parks and Recreation**

Parks and Recreation Committee Chairperson Lecznar stated that the Committee will hold its next regular meeting on Monday evening, April 20, 2015.

## **Rules, Ordinances, and Ethics**

Rules, Ordinances, and Ethics Committee Chairperson Ernst stated that the Committee last met on Monday evening, April 6, 2015, and the minutes from that meeting are on file with the Clerk of Council. Mrs. Ernst stated that the Committee will hold its next regular meeting on Monday evening, May 4, 2015.

## **Finance, Civil Service, and Personnel**

Finance, Civil Service, and Personnel Committee Chairman Barth stated that the Committee last met on Monday evening, April 6, 2015, and the minutes from that meeting are on file with the Clerk of Council.

Mr. Barth stated that the Finance Committee will hold its next regular meeting on Monday evening, April 20, 2015.

## **APPOINTMENTS AND CONFIRMATIONS**

*Mayor Dell'Aquila requested to be recognized by Council President Ernst.*

**Mayor Dell'Aquila** addressed Council:

“As we discussed here in Council Caucus this evening, I do have a nomination for the vacancy on the Zoning Board of Appeals. The gentleman is here this evening. He had the opportunity to be with us previously. At this time I would like to nominate **Mr. Ryan Miday** to fill the vacancy on the Zoning Board of Appeals. He is an elector and resident residing at 7666 Quail Hollow Drive in Seven Hills”

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**MOTION** by Mr. Snitzky, seconded by Mr. Trafis, to confirm and accept the appointment of **RYAN MIDAY** to the City of Seven Hills Zoning Board of Appeals.  
Roll Call: all yea **MOTION CARRIED**

**The appointment of Ryan Miday to the City of Seven Hills Zoning Board of Appeals is hereby approved.**

**Mayor Dell'Aquila** thanked Council for the confirmation of Mr. Miday's appointment.

**Council President Ernst** asked Mr. Miday, who was seated in the audience, if he would like to approach the podium to make a statement. Mrs. Ernst said it wasn't necessary, however.

**Mr. Miday** replied, "Thank you, but no."

**Mr. Trafis** stated:

"I would just like to mention that Ryan Miday and his family have been residents of Seven Hills for quite some time. He's a terrific addition for this Zoning Board of Appeals. I look forward to working with Ryan on this Board. So, thanks for signing up for this!"

## **COMMUNICATIONS, PETITIONS, AND CLAIMS**

There were no communications, petitions, or claims.

## **COUNCIL OPEN TO THE AUDIENCE ON LEGISLATION ONLY**

There were no questions or comments from the audience.

## **ORDINANCES AND RESOLUTIONS**

**Ordinance No. 26-2015** – AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT WITH THE CUYAHOGA COUNTY DISTRICT BOARD OF HEALTH FOR THE PURPOSE OF MONITORING AND TESTING MS4 OUTFALL LOCATIONS AS REQUIRED BY THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FOR STORM WATER, AND APPROPRIATING FUNDS NOT TO EXCEED \$3,250.00 FOR SAID SERVICE FOR THE YEAR 2015 REPORT PERIOD.

**MOTION** by Mr. Bryda, seconded by Mr. Snitzky, to read Ordinance No. 26-2015 by title only for its third and final reading.  
Roll Call: all yea **MOTION CARRIED**

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Ordinance No. 26-2015 was read by full title only for its third and final reading.

**MOTION** by Mr. Bryda, seconded by Mr. Snitzky, to pass Ordinance No. 26-2015.

Roll Call: all yea

**MOTION CARRIED**

**ORDINANCE NO. 26-2015 IS DECLARED PASSED.**

**Ordinance No. 27-2015** – AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT WITH SUPERIOR-SPEEDIE PORTABLE SERVICES, INC., OF AKRON, OHIO, TO PROVIDE PORTABLE TOILET SERVICE FOR SUMMITVIEW COMMONS, JOHN GLENN PARK, CALVIN PARK, AND NORTH PARK, AND AUTHORIZING AN AMOUNT NOT TO EXCEED \$2,180.00 FOR SAID SERVICE.

**MOTION** by Mrs. Lecznar, seconded by Mr. Barth, to table Ordinance No. 27-2015.

Roll Call: all yea

**MOTION CARRIED**

**Ordinance No. 27-2015 was tabled.**

**Ordinance No. 28-2015** – AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT WITH SUPERIOR-SPEEDIE PORTABLE SERVICES, INC., OF AKRON, OHIO, TO PROVIDE PORTABLE TOILET SERVICE DURING THE CITY OF SEVEN HILLS 2015 HOMEDAYS, AND AUTHORIZING AN AMOUNT NOT TO EXCEED \$645.00 FOR SAID SERVICE.

**MOTION** by Mr. Fraundorf, seconded by Mr. Bryda, to read Ordinance No. 28-2015 by title only for its third and final reading.

Roll Call: all yea

**MOTION CARRIED**

Ordinance No. 28-2015 was read by full title only for its third and final reading.

**MOTION** by Mr. Fraundorf, seconded by Mr. Bryda, to pass Ordinance No. 28-2015.

Roll Call: all yea

**MOTION CARRIED**

**ORDINANCE NO. 28-2015 IS DECLARED PASSED.**

**Ordinance No. 30-2015** – AN ORDINANCE AUTHORIZING THE CITY OF SEVEN HILLS TO ENTER INTO AN AGREEMENT WITH THE CUYAHOGA COUNTY JUVENILE COURT IN CONNECTION WITH A COMMUNITY DIVERSION PROGRAM TO ADDRESS JUVENILE MISDEMEANOR AND STATUS OFFENDERS IN THE CITY OF SEVEN HILLS; AND AUTHORIZING AND ESTABLISHING A COMMUNITY DIVERSION PROGRAM FUND AS A SPECIAL REVENUE FUND.

**Ordinance No. 30-2015 was read by full title only for its second reading.**

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**Ordinance No. 31-2015** – AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PUBLISHING SERVICE AGREEMENT WITH LITURGICAL PUBLICATIONS, INC., OF CLEVELAND, OHIO, FOR QUARTERLY NEWSLETTER PUBLISHING SERVICES FOR THE CITY OF SEVEN HILLS NEWSLETTER.

**Ordinance No. 31-2015 was read by full title only for its second reading.**

**Ordinance No. 32-2015** – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO A SEASONAL PROFESSIONAL SERVICE CONTRACT WITH RONALD ROSE, MEN'S FLAG FOOTBALL COMMISSIONER ASSOCIATED WITH THE CITY OF SEVEN HILLS RECREATION COMPLEX 2015 SPRING AND FALL FLAG FOOTBALL LEAGUE.

**Ordinance No. 32-2015 was read by full title only for its second reading.**

**Ordinance No. 33-2015** – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH ALADDIN RENTS OF EASTLAKE, OHIO, FOR THE PURPOSE OF PROVIDING TENTS, RISERS AND APPURTENANCES TO BE USED AT THE CITY OF SEVEN HILLS 2015 HOMEDAYS, 2016 HOMEDAYS, AND 2017 HOMEDAYS, AND APPROPRIATING THE SUM NOT TO EXCEED THREE THOUSAND EIGHT HUNDRED FIFTY DOLLARS AND TWENTY CENTS (\$3,850.20) FOR THE YEAR 2015, A SUM NOT TO EXCEED \$3,850.20 FOR THE YEAR 2016, AND A SUM NOT TO EXCEED \$3,850.20 FOR THE YEAR 2017 FOR SAID SERVICE.

**Ordinance No. 33-2015 was read by full title only for its second reading.**

**Ordinance No. 34-2015** – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH NORTHCOAST PROMOTIONS, INC., FOR THE PURPOSE OF RECRUITING, CONTRACTING, AND MANAGEMENT OF CRAFT, ART, AND COMMERCIAL EXHIBITORS FOR THE CITY OF SEVEN HILLS 2015 FALL FESTIVAL & CHILI COOK-OFF AND CRAFT SHOW.

**Ordinance No. 34-2015 was read by full title only for its second reading.**

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**Ordinance No. 35-2015** – AN ORDINANCE TO AMEND SUBSECTION 123.01(a), AS CONTAINED IN SECTION 123.01, PUBLICATION, OF CHAPTER 123, ORDINANCES AND RESOLUTIONS, OF TITLE THREE, LEGISLATIVE, OF PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING THE OFFICIAL POSTING PLACES IN THE CITY OF SEVEN HILLS.

**Ordinance No. 35-2015 was read by full title only for its second reading.**

**Ordinance No. 36-2015** – AN ORDINANCE TO AMEND SUBSECTION 135.04(k), SICK LEAVE, AS CONTAINED IN SECTION 135.04, COMPENSATION FOR POLICE CHIEF, OF CHAPTER 135, DEPARTMENT OF POLICE, OF TITLE FIVE, ADMINISTRATIVE, OF PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING THE POLICE CHIEF'S SICK LEAVE BENEFITS.

**Ordinance No. 36-2015 was read by full title only for its second reading.**

**Ordinance No. 37-2015** – AN ORDINANCE TO AMEND SUBSECTION 135.06(j), SICK LEAVE, AS CONTAINED IN SECTION 135.06, COMPENSATION FOR LIEUTENANT OF POLICE, OF CHAPTER 135, DEPARTMENT OF POLICE, OF TITLE FIVE, ADMINISTRATIVE, OF PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING THE LIEUTENANT/S SICK LEAVE BENEFITS.

**Ordinance No. 37-2015 was read by full title only for its second reading.**

**Amended Ordinance No. 38-2015** – AN ORDINANCE TO AMEND SUBSECTION 135.08(a), COMPENSATION, AS CONTAINED IN SECTION 135.08, COMPENSATION FOR PART-TIME POLICE OFFICERS, OF CHAPTER 135, DEPARTMENT OF POLICE, OF TITLE FIVE, ADMINISTRATIVE, OF PART ONE, ADMINISTRATIVE CODE, OF THE CODIFIED ORDINANCES OF THE CITY OF SEVEN HILLS, OHIO, FOR THE PURPOSE OF AMENDING THE COMPENSATION RATE FOR PART-TIME POLICE OFFICERS.

**Amended Ordinance No. 38-2015 was read by full title only for its second reading.**

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**Ordinance No. 39-2015** – AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SEVEN HILLS, OHIO, WITH KISSEL AMUSEMENT COMPANY, INC., FOR THE PURPOSE OF PROVIDING AMUSEMENT RIDES, GAME CONCESSIONS, AND FOOD/CONFECTIONARY CONCESSIONS FOR THE CITY OF SEVEN HILLS 2015 HOMEDAYS; AND DECLARING AN EMERGENCY.

**MOTION** by Mr. Trafis, seconded by Mr. Barth, to read Ordinance No. 39-2015 by title only for its first and final reading.

Roll Call: all yea

**MOTION CARRIED**

Ordinance No. 39-2015 was read by full title only for its first and final reading.

**MOTION** by Mr. Trafis, seconded by Mr. Barth, to pass Ordinance No. 39-2015 as an emergency measure.

Roll Call: all yea

**MOTION CARRIED**

**ORDINANCE NO. 39-2015 IS DECLARED PASSED.**

**Resolution No. 6-2015** – A RESOLUTION TO EXPRESS THE NEED AND DESIRE OF THE CITY OF SEVEN HILLS, OHIO, FOR THE APPOINTMENT OF A VOLUNTEER MAGISTRATE TO PRESIDE AT COMMUNITY DIVERSION PROGRAM HEARINGS.

**Resolution No. 6-2015 was read by full title only for its second reading.**

## **COUNCIL OPEN TO THE AUDIENCE**

**Tom Jaros, 224 Crescent Ridge Drive** made the following comments:

“I’d like to comment on what I just saw in the Caucus – the presentation Mr. Fraundorf had. For those of you that weren’t in there, what it was, it showed that – here you go, Mike – Mr. Barth had negotiated a contract with the City’s rank-and-file and union employees that supposedly saved us money but, in fact, cost us money. In an example in a given hourly rate of \$40,000.00 pay-out winds up being an \$80,000.00 pay-out under what was supposed to be savings. I’m also hearing this is precedent – what brought this up is extending the same benefits to the Chief and the Lieutenants. And now I’m hearing because Mr. Barth decided to overpay the rank-and-file, we have to overpay the Chief and the Lieutenants. And, like we’re stuck with this forever. I don’t really understand the logic. I do understand the math. If you guys go ahead and give the raise to the other guys, you’re trying to perpetuate this thing. Somewhere along the line this needs to be addressed. They’re already getting paid 8% more than they had to on sick pay, and I don’t see that we have to be married to it just because Mr. Barth made a mistake. And I think you really ought to consider that before you do anything. And you should probably consider who you have for the Finance Committee Chairman. That’s it. Thank you.”

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**Council President Ernst** thanked Mr. Jaros for his commenets.

**Ron Grahek, 1172 John Glenn Drive** made the following comments:

“The playground at John Glenn is going to be coming down very shortly. Has anybody thought to make a working drawing or try to contact the manufacturer to get a drawing so when the playground gets put back up it doesn’t cost the City an arm and a leg to do it? And I believe that when it was put in, it was put in by all volunteer tradesmen in Seven Hills. That’s another avenue that the City should look into to see if they can get the tradesmen to put it in. Thank you.”

**Council President Ernst** thanked Mr. Grahek for his comments.

**Gerry Rieman, 1044 Joy Oval** made the following comments:

“I’d like to comment on variances that are being requested by Simich, Landsong and Company with regard to the continued development of the John Glenn School property. It’s difficult at this time to determine exactly how many variances Simich and Company will be requesting. I’ve heard numbers from 66 to 88-plus. Regardless of the quantity, I think we should give some thought to the effort it requires to process here within our City a variance of most any type. Initially variances, as I understand the process, are submitted to the Building Department. The Building Department reviews it, submits it to the Zoning Commission. They review; they make suggested changes to whoever has submitted it – any particular variance. And Legal gets a stab at it I think during the process. Legal reviews the variances also, gives them back, and then of course it goes to Council. Each and every one of you get a copy, and do your review, and you make your judgment. One of the points that I want to make is there are a number of man hours required to process variances. As such, if you look at the fee structure for variances that we have in place at this time, you will find that a resident fee is \$75.00. A commercial fee is \$150.00. I suggest to you that those fees are low. I suggest to you that you review the fee structure for not only variances, but other types of paperwork that we generate during the course of City business. I think in these-days dollars – in 2015 dollars -- \$150.00 for a variance is extremely low, be it even for commercial. I suggest to you that you need to review that and make any changes that you think are reasonable to make. Council President, do you agree with me?”

**Council President Ernst** replied, “I agree that we will look at it. We had looked at one time before how our rates were in line with the cities around us, and at that point in time we were pretty much in line, but I will be glad to discuss this with PZB, and we will look at it.”

**Mr. Rieman** responded, “Thank you. When will you respond, please? It’s imperative that we have.....there is some degree of urgency being recognized here, given the number of variances that are going to have to be looked at here shortly.”

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**Council President Ernst** added, “Rules Committee meets the first Monday of the month. PZB is next week – that’s a little early to get very much information from the cities around us. I think next month is probably going to be what we’re looking at.”

**Mr. Rieman** asked, “That may be a little late given the activity we’re going to experience here shortly. Is there anything we can do to move that on?”

**Council President Ernst** said, “We can try to talk about it in next week’s Caucus. I won’t guarantee anything.”

**Mr. Rieman** replied, “Well, we appreciate the effort. That’s very reasonable. Thank you. Thank you very much.”

**Council President Ernst** thanked Mr. Rieman for his comments.

**Mike Lehet, 1038 Joy Oval**, made the following comments:

“Looking at your prints over there for this Landsong development, where are the sidewalks? Is there no curb? Is there a curb? Do we have a tree lawn? Or is the sidewalk right to the curb? Does anybody know?”

**Council President Ernst** answered, “I believe that the sidewalk was directly against the curb – on one side. And on the other side, there is.....”

**Mr. Lehet** interrupted saying, “My question to you is, when you go to plow the streets, where are you going to put the snow? Where is the snow going to go? So if there are children there, they have to trudge through the snow, correct? That’s what you’re telling me. Yes or no?”

**Council President Ernst** replied, “Sir, do they clean the sidewalks.....Do your neighbors clean your sidewalks in your neighborhood?”

**Mr. Lehet** said, “Maam, I clean my own sidewalk. I have a tree lawn. Understand what I’m trying to express here.”

**Council President Ernst** said, “I do. I understand.”

**Mr. Lehet** continued, “Okay. If you have a sidewalk right against the street, when you plow the streets, the snow goes on the sidewalk. You have a problem here.”

**Council President Ernst** answered, “We had the meeting. This should have been brought up at the Planning Commission meeting, or at the variance meeting that they will be having. This is not really a Council discussion.”

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**Mr. Lehet** said, "Oh, so it's not a Council discussion."

**Council President Ernst** stated, "It would be the variance discussion."

**Mr. Lehet** continued, "So, if some little kid is walking down the street and he gets hit by a snow plow or buried by snow, it's not a Council problem. There's a concern here. I mean it's a very, very.....I think I have a legitimate question to ask here."

**Council President Ernst** said, "Okay, I understand. We note your concerns."

**Mr. Lehet** asked, "When will you answer this? Because I don't want to hear *I'll get back to you.*"

**Council President Ernst** stated, "It is not a decision that Council makes. It is a decision that the variance board would be making. So you need to take....."

**Mr. Lehet** interrupted, "Understand. Please bring it to their attention. Thank you."

**Council President Ernst** said, "Okay. We have people on the board....."

**Mr. Trafis** stated, "Mr. Lehet, once the Zoning Board of Appeals makes their decision on whether or not they're going to grant the variances regarding this sidewalk, then it comes in front of Council to approve or disapprove, and then it is our problem. So, I would suggest you come to the upcoming Zoning Board of Appeals meeting, and then again to the following Council Meeting. We can talk about that later."

## **REPORTS AND COMMUNICATIONS FROM THE MAYOR-SAFETY DIRECTOR**

**Mayor Dell'Aquila** made the following remarks:

Thank you, Madam President. Just very briefly.

I'm a little bit confused about the discussion this evening concerning the three Union Contracts that were negotiated, and I believe approved unanimously by Council. So, how is it that now we're trying to second-guess a decision that everybody up here participated in is a mystery to me. I would certainly invite, if anybody on Council voted in a way that they didn't understand, or perhaps I don't remember correctly and they voted 'no' instead of 'yes', I'd invite you to speak about that. But, my recollection is that everybody up here voted unanimously to approve those contracts. So, I don't quite get it.

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**Mayor Dell'Aquila** (continued):

A recent edition of the *Sun Papers* contained another letter from Tom Jaros to the Editor – this time claiming that he was not afforded an opportunity to meet with something he calls a City Development Team. I have no idea what that supposed team is, its supposed function, or the composition of its membership. I would normally not respond to his claims, but his letter was printed by the newspaper completely unchallenged and without contacting me for comment.

The truth is that Mr. Jaros has had his questions answered repeatedly at months and months of Council Meetings and at least at two other meetings scheduled and held at his request. The first separate occasion was on February 19<sup>th</sup> during one of my bi-monthly meetings at the Recreation Center at which he and other residents, some of who are here this evening in the room, asked questions of various City Officials and attendants. The meeting was going well until Mr. Jaros suddenly stormed out cursing loudly at me and disturbing patrons at the Recreation Center who were not even part of that meeting. He was formally notified that his abusive language violated Recreation Center rules and that a second profane outburst will result in his being barred from the facility. I know you find this, Mr. Jaros, amusing – but it certainly is not amusing to me. Now, Tom Jaros may not respect me or the office I hold, but he should at least respect the people around him who were exposed to his profane and angry outburst. Here we are, almost two months later, and Mr. Jaros has not apologized to these people. No, instead we have more angry, false claims from him.

But despite all that, a second meeting was again held at his request -- this time, in the evening, right after the March Planning Commission hearing. The City announced that meeting to over 1,400 residents by U.S. mail, posted a notice on the City website and the City smartphone app, sent out an email blast, and delivered an automated phone message. I even reminded the audience at a prior Council Meeting, while Mr. Jaros sat no more than twenty feet in front of me, perhaps in the same chair he's sitting in here this evening. You can see the video.....'Hi, Mr. Jaros' – you can see the video on *You Tube* if you want to examine it.

At that second meeting various City Officials attended on their own time at the request of Mr. Jaros and answered questions. However, Mr. Jaros angrily -- surprisingly so -- refused to participate, claiming that he knew nothing about that meeting.

Now it's not clear what he expects to achieve by all this. But, our residents should know that they may contact my office or attend one of my bi-monthly regularly scheduled meetings at the Recreation Center with any remaining questions they may have.

Thank you, Madam President.

**Council President Ernst** thanked Mayor Dell'Aquila for his report.

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## REPORTS FROM THE DIRECTORS OF DEPARTMENTS AND OTHER OFFICIALS

Director of Finance Johnson had no formal report.

Director of Law Pignatiello had no formal report.

Director of Public Service and Properties Moga had no formal report.

Building Commissioner Moro was not present.

## MISCELLANEOUS

Mr. Snitzky had no miscellaneous comments.

### Mr. Fraundorf:

I do have a comment, and I think it's most appropriate that Council has now assumed the last word at Council Meetings.....at its Council Meeting.

To answer your question, Mayor, how could Council vote for these four contracts? I can tell you how that happened. Number one, no one on Council – I mean no one – was given any summary of changes from the previous contracts to the current contracts. We had to take it on face value, based on our Council leadership, that this was a good contract. And even if we did look at the contract, there was no way to ascertain whether the 60 hours was in the prior contract or in the current contract. There's no way to tell that, Rick – there's no way to tell it. You have to go back and compare both contracts to see what has been added and what has been deleted or changed. Fair enough? So, Council unanimously voted based on the recommendation of its Council leadership and Finance Chairman.

And now, a year later – this happened in March of 2014 – now, a year later, and thank goodness for Lieutenants Gezymballa and Salloum, and the Police Chief, asking for the same benefits that the rank-and-file receive, it begged the question is this really a good deal for the City. And particularly hearing that the structure of 60 hours cash-in at 100% of their hourly wage was a good deal for the City, and upon analysis it wasn't. It turns out it wasn't. So, that's how that happened, Mayor. Thank you.

### Mr. Bryda:

I just want to comment. I've been reading and hearing about one of the variances, particularly at John Glenn, of how the houses will only be twelve feet from the curb. That is wrong. I brought my scale here tonight and a copy of the print if anyone in the audience would like to see why that's wrong and see why it's really thirty feet, I would be more than happy to show you.

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**Mr. Trafis:**

Thank you, Madam President, just two things tonight. The first one is the Zoning Board of Appeals variance request that we discussed in the Caucus Meeting.

At the April 8, 2015 Zoning Board of Appeals Meeting, the Board made the following motion regarding a variance request heard:

“That the Board grant Paul Sileo, as the property owner of 1023 Scenic Lane, a variance to Ordinance No. 997.03(a), Obstruction to View, to allow the installation of a six-foot (6’) high reverse runner privacy fence along the easterly property line forward of the rear building line where no side door exists.

Roll Call: 4 yea, 0 nay

Motion Carried”

**MOTION**

by Mr. Trafis, seconded by Mr. Snitzky, to concur with the findings of the Zoning Board of Appeals of April 8, 2015, in granting the variance request of Paul Sileo of 1023 Scenic Lane, concerning the erection of a six-foot (6’) high reverse runner privacy fence along the easterly property line forward of the rear building line where no side door exists.

**Mr. Snitzky** added that this variance request was passed unanimously by the Zoning Board of Appeals.

Roll Call: all yea

**MOTION CARRIED**

Now I have some prepared remarks.

I’ve patiently waited a couple of weeks to continue my comments about the budget that was passed at the March 23<sup>rd</sup> meeting with a 5-2 vote. As I mentioned on the dais two weeks ago, the 2015 budget has an approximate \$700,000.00 deficit that is being paid for by reserves previously set up to pay for the future debt due to the debt restructuring in 2011. This year’s budget does not come anywhere within reason of matching the City’s revenues versus expenses. We are operating far, far, far beyond our means.

This brings me to an interesting article that I read today on Cleveland.com about the finances in the City of Brookpark. Brookpark is also in a precarious financial condition and last year their residents voted down two property tax increase levies. However, this year Brookpark’s mayor, Mayor Coyne, presented a budget with a \$270,000.00 General Fund surplus. He recognizes and understands the importance to his City to maintain a balanced budget and not tap into reserves. He made some very difficult decisions that were quite unpopular with his residents, but it enabled him to achieve a surplus even during a financial hardship. I don’t think Mayor Coyne wanted to decrease services to his residents, and I’m fairly certain that nobody on this dais and any of our elected officials want to do that either.

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**Mr. Trafis** (continued):

However, the future success of our City may very well require us to make some similar decisions that were made in Brookpark along with a revenue enhancement measure to ensure the stability of our finances for future years and decades ahead.

Finally, I debated on whether or not I was going to mention this tonight, but it's bothered me so much since I read this, but in the April 8<sup>th</sup> edition of *The Gazette*, Councilwoman Ernst was quoted as saying "Based on revenues I think it's a reasonable budget." Michele, I just can't wrap my arms around that since our budget that was passed appropriates about \$700,000.00 more than the revenues that we are anticipated to generate. Can you explain that comment to all of our residents? That's all I have. Thank you.

**Council President Ernst** replied, "Thank you. And, no, I am not going to respond at this point in time."

**Mr. Trafis** stated, "Duly noted."

**Mrs. Lecznar**:

In response to the question about the John Glenn playground. We're going to make sure that it does get moved, and it will get moved properly. That's all, thank you.

**Mr. Barth**:

Madam President, I wish to speak this evening directly to our residents about a troubling matter that has gone on far too long. For the last few years, Seven Hills has suffered with the ostentatious rhetoric of Tom Jaros, who lost by a landslide for the Ward 1 City Council seat in the last election.

At first I wrote it off as the angry ramblings of one disgruntled individual, upset that the voters rejected him so soundly in that election. But I have now come to believe that he is doing the bidding of others, in this an election year.

We as City leaders have restrained ourselves from responding in kind as a matter of courtesy to which everyone who appears before this body is entitled, even if he lacks any respect for others.

I have chosen not to respond to Mr. Jaros' gutter politics, especially the ceaseless online rants he posts. But it has now become apparent that the name calling, smear tactics, and personal attacks against some of us here are part of a larger scheme.

While healthy debate is good, personal attacks and name calling only lend credence to the dysfunctional politics in Seven Hills and simply are not good for our City.

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**Mr. Barth** (continued):

I have no illusions that Tom Jaros will alter his tactics at my request.

I know this because I previously asked his friends, Councilmen Trafis and Fraundorf, to ask him to stop his smear campaign – but to no avail. So he continues, meeting after meeting, as we are regaled by his uninformed, angry, and accusatory comments.

But there is a serious problem here, too. At our last meeting on March 23<sup>rd</sup>, Mr. Jaros crossed the line. Name calling and misleading and unsubstantiated statements are one thing, but when you tell lies about individuals and make those lies part of the official record, it becomes time to set the record straight, not only about me, but also on who the real Thomas Jaros really is. Because it is also important for our residents to know that qualified individuals are making decisions when it comes to their City.

As a Public Official, my career, my reputation, and my integrity will always be up for discussion and I would be happy to have that discussion with anyone. However, I will not accept lies circulated about me intended to distort and affect public policy and decisions; and neither should our residents accept it.

On March 23<sup>rd</sup>, Tom Jaros attacked the passage of the 2015 budget and said here in this room, and I quote, “.....you guys are going to bury us in budget.....debt.....just like you buried Lorain County – same deal Mike – left there with \$6 million bucks – Fact.”

Well, that is not fact and Tom Jaros knows it.

In an earlier email to my colleagues he falsely claimed that I caused Lorain County taxpayers MILLIONS of dollars of debt through my “self-acclaimed” ability to get loans while running the Lorain County Airport. He claimed that was fact and public record.

At that March 23<sup>rd</sup> meeting, I submitted FAA government records to the Council Clerk, readily available on the FAA website, demonstrating that these supposed “loans” that Jaros was talking about were actually grants for Lorain County. Those records were accepted and approved as part of the minutes here tonight. Also, the year before I got there they received no grants.

Tom Jaros’ financial history tells me that he may not know the difference between a loan and a grant, so for his benefit I will explain it: a grant is money you don’t have to repay while a loan is money that you borrow which you must pay back.

So I did not “bury Lorain County in debt” as Jaros falsely claimed. I actually enhanced their economy. The Elyria Chronicle Telegram felt the same way when they wrote in an editorial on January 24, 2006, and I quote:

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**Mr. Barth** (continued):

“If Barth leaves, it will be a tough loss for the County. Barth is a competent administrator, who quietly has done a fine job during his six years in charge at the airport.”

I also refer to an editorial in *Crain's Cleveland Business* on November 30, 1999, when writing about my departure from Burke Lakefront Airport they said, “We wish the highly competent Mr. Barth well in his new job.” The highly competent Mr. Barth.

Or a quote in the *Plain Dealer* on November 11, 1999 from the head of Cleveland City Council's Aviation Committee, who described me as a key employee and probably the most competent airport person the City of Cleveland has.

How about the June, 2000 issue of *Airport Business* magazine when it announced me as the winner of a National Air Transportation Association award, wherein Jim Coyne, a former Congressman and President of the Association said:

“Barth clearly illustrates the management leadership essential for a healthy airport.”

Jaros must have missed the fact that I was secretary/treasurer of the Cleveland National Air Show or that in 1997 I received the very prestigious Clifford W. Henderson Air Show Achievement Award sandwiched in between years it was won by the U.S. Navy Blue Angels and U.S. Air Force Thunderbirds. Self acclaimed? A legend in my own mind, as Jaros puts it. Hardly.

I am proud of the achievements in my career and could go on and on about it, and I will gladly compare the accomplishments of my professional career and personal life against those of Tom Jaros any day of the week.

So let's look at Mr. Jaros. Part of the choreographed game has been for Tom Jaros to portray himself as accomplished in the areas of Finance and Planning and Zoning, so I began looking into his background. After all, he has made himself a public figure, subject to the same scrutiny as everyone on this dais.

If you run his name on the Cuyahoga County Common Pleas website it will turn up over 20 different legal actions involving Thomas Jaros just in that court alone.

The latest was a 2014 eviction from a building in Cuyahoga Heights owned by Cuyahoga Foundry. Jaros countersued, claiming he lost “business opportunities” and could no longer afford to pay the rent.

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**Mr. Barth** (continued):

What I found in the other legal actions is too sad to mention in this room and, unlike Mr. Jaros, I will take the high road, by not embarrassing him, and simply say that anyone who takes the time to review his record of legal actions and filings would surmise that this is an individual who cannot manage his own financial affairs let alone pass judgment on Seven Hills finances.

Tom Jaros is now also the self-proclaimed champion of zoning rights and laws, and claims that Council tried to devalue Seven Hills homes by unanimously voting to put a zoning issue on the ballot.

When I say unanimously, that means everybody; including Councilmen Trafis and Fraundorf – who got a free pass from Jaros; as do the campaign contributions to Councilman Trafis get a free pass from him. Sounds a little hypocritical to me.

I say hypocrisy also, because Parma Heights charged Jaros with violating their zoning ordinances, related to his working on motor vehicles at his home there. Neighbors complained that offensive noises and fumes came from his residence when he worked on vehicles.

Evidence also indicated that Jaros stored barrels of flammable chemicals along side of his garage. He lost a court case; he appealed it, and he lost again. The fight went on for ten years. The court actually ordered him to stop running dragster motors, parking more than three cars on his property, or creating noxious odors or smoke that could harm public health in the City of Parma Heights. I can only imagine the misery he put his poor neighbors through.

Zoning rights? Who does Tom Jaros think he's kidding?

I am submitting to the Council Clerk the supporting documentation for everything I just said regarding Tom Jaros.

I also have a copy of his very revealing -- very revealing -- deposition when the Stoneridge Homeowner's Association (on which he sits as a board member) sued the City the first time and lost. Jaros then had them file a second legal action last year and he lost again, using their money to attack the City of Seven Hills. The transcript is extremely revealing and I will make it available to anyone who would like to read about the real Thomas Jaros. Simply contact me at [mcbarth@cox.net](mailto:mcbarth@cox.net) and I will send it to you.

Now that he is finished trying to beat up Parma Heights, Tom Jaros has turned his attention against Seven Hills. And since he has nothing to lose, others can use him to say and do things in an election year that they can claim not to be involved with.

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**Mr. Barth** (continued):

Thomas Jaros does not own property in Seven Hills and pays no property taxes. Unlike most of us, he can pick up and leave tomorrow.

So why has he become the loudest and most hateful person in the audience at our meetings? What motivates someone, who has no real stake in anything that happens in Seven Hills, to behave as he does?

Madam President, I take no pleasure in exposing this individual, but he has brought this on himself, and I do so because it is important that our residents know that their elected and appointed officials are more than competent in running this City, and above all not corrupt as he claims.

I also want our residents to be aware of the background and motives of this individual who is trying to make them believe otherwise with his deception and his distortion of the facts.

He is on a mission to attack everyone on this dais, with the exception of his friends, Councilmen Trafis and Fraundorf, and our residents need to know and understand that.

I have been involved in municipal government at many levels and have encountered many strange people in my career.

But I can tell you that I have never encountered an individual as inflexible and inexplicably hostile as Tom Jaros, blinded by his own false self-righteousness, in spite of having so few accomplishments in his own life.

I would hope that all this nonsense can end here tonight, but I expect the personal smear campaign will continue and even escalate.

After all, this is an election year and Tom Jaros is saying and doing things that others cannot, because he has nothing to lose and is angry at the City and especially the Ward 1 voters who rejected him so thoroughly in the last election. I say to them – you were correct in your rejection of him.

After my retirement, I chose to help the City of Seven Hills by running for City Council, where I have made many contributions to my community.

I am very proud of my accomplishments both personally and professionally. I am proud of my successful career and the number of national, state, and local recognitions I received and the Boards I have served on.

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**Mr. Barth** (continued):

I am most proud of my family, my wife of 33 years, and my three grown children who are all very successful in their careers, and I am proud of my church and community and what I have given back to both. Nothing that Tom Jaros says or does could change any of that.

Thank you, Madam President.

**Council President Ernst** thanked Councilman Barth for his comments.

*Four pages of documents, consisting of two printed pages of Cuyahoga County Clerk of Courts Name Search Court Record Results for Thomas Jaros, and a two-page October, 1991, Old Cars in Law, Car Collector article authored by Lawrence Savell, entitled 'Not in Your Backyard', submitted to the Clerk of Council by Councilman Barth have been included and appended to these minutes as an exhibit.*

**Mr. Barth** concluded, "I'd also like to welcome my soon-to-be grandchild to its first Council Meeting."

**Council President Ernst:**

I would like to remind the residents that there are Town Hall Meetings to discuss finances tomorrow night at 7:00 p.m. here, and Thursday at 10:00 a.m., also here.

Thank you very much.

**Councilman Trafis** requested to be recognized. Mr. Trafis stated:

"Thank you. First, I think we all now understand why the agenda got changed and Councilman Barth was allowed to speak last, so thanks for explaining that one, Michele. Second, Mike, my family has been involved in Seven Hills for thirty years. You don't know half of the things that we have experienced over the past few decades, and it's nothing compared to some of the criticism that you've received. Any resident – I'm not done, Michele – any resident in this City is welcome to come to these meetings, say anything they want to us. They're welcome to post anything they want on line about us. We're their elected officials. We are held to a higher standard. And, Mike, if you don't have a thick enough skin for it, it's time to get out."

**Council President Ernst** replied, "Councilman Trafis, I appreciate your comments. However, last week, or at the meeting that this all happened, I would like to say that you told me that I should have let Mike speak at that time. So, we....."

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**Mr. Trafis** continued, "I'm glad he spoke. I take exception to a lot of the comments that he's making. And if we want to continue this conversation in a public forum, I am more than willing to do so. I hope everybody in the media is reading this, or listening to the recording of these minutes, and bringing this up at a later date to talk about this further. I'll leave my comments at that, and I encourage everybody to continue asking about exactly what Mike Barth just brought up."

**Council President Ernst** thanked Mr. Trafis for his additional comments. Mrs. Ernst stated she would entertain a motion to adjourn.

**MOTION** by Mrs. Lecznar, seconded by Mr. Snitzky, to adjourn the meeting.

Roll Call: Barth, yea; Bryda, yea; Ernst, yea;.....

*At this point in the meeting, Roll Call was interrupted by resident Russ Schneider, of 1049 Meadview, who rose from his seat in the audience and started to loudly address Council.*

As a result of the roll call interruption, **Council President Ernst** stated, "Sir, you had your time."

**Mr. Schneider** continued, "No I didn't! I want to comment in response to what Mr. Barth said, which was untrue, and also I was going to....."

**Council President Ernst** called for order.

**Mr. Trafis** stated, "I'd like to make a motion to amend the agenda to allow for public comment." (*Councilman Fraundorf seconded Mr. Trafis' motion.*)

**Mr. Trafis** continued, "Roll Call, please."

**Council President Ernst** said, "I do not agree with that. We went through this....."

**Mr. Trafis** said, "There's a motion on the table."

*The Clerk of Council informed the Council President that a motion to adjourn the meeting is currently pending and in process, and that roll call was actually interrupted by resident outburst prior to Councilman Trafis entertaining an additional motion.*

**Mrs. Lecznar** stated, "A motion has been made to adjourn the meeting."

**Council President Ernst** stated, "A motion has been made to adjourn the meeting. It's been seconded, and I decide the order of the agenda. The residents had their time."

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**Mr. Trafis** said, "Give the resident their due."

**Mr. Schneider**, standing in the audience, angrily responding to Mrs. Ernst's statement that the residents had their time, shouted "And so did Mr. Barth. He had his time – now it's our time!"

**Council President Ernst** responded, "No, you had your time earlier, Sir."

**Mr. Schneider** answered, "No I did not – because I did not hear him before he spoke up. That makes sense, doesn't it?"

**Council President Ernst** replied, "No, Sir. You saw the agenda."

**Mr. Schneider** approached the podium, and said "Pardon me? No, I did not see the agenda. No I did not."

**Council President Ernst** answered, "Well, you could have picked up one."

**Mrs. Lecznar** again stated, "There's a motion....."

**Council President Ernst** stated, "There is a motion, and I am voting 'yes'."

**Mr. Schneider**, growing more agitated, asked "Are you trying to turn me down? Are you saying I can't talk?"

**Council President Ernst** replied, "Yes, I'm saying you cannot speak now."

**Mr. Schneider** continued speaking at the podium, out of order, "Well, I'm going to talk whether you like it or not! And I'm going to tell Mr. Barth that I have such little respect....."

*The Clerk of Council attempted to continue roll call on the pending motion to adjourn asking for Mr. Fraundorf's yea or nay. Mrs. Sekerak could not hear Mr. Fraundorf's vote. Council President Ernst said that Mr. Fraundorf's vote is a 'no'.*

**Mr. Schneider** insisted on speaking out of order. He continued, "I have such little respect for what he had to say. This whole thing began.....the animosity that this has taken over here.....and this here is the cause of you, and Mr. Mayor."

**Council President Ernst** again called for order.

**Mr. Schneider** ignored Council President Ernst and continued, "When I stood up and I tried to tell you that I would not listen any more to what either of you had to say."

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*Mr. Schneider was approached at the podium by a Seven Hills Police Officer.*

**Mr. Schneider** continued, addressing the Seven Hills Police Officer, "What?"

*Mr. Schneider was politely asked by the Police Officer to step out of Council Chambers.*

**Mr. Schneider** said, "Wait.....Wait.....Wait. I'm not finished speaking."

*The Police Officer continued to try to encourage Mr. Schneider to walk away from the podium.*

*Council President Ernst asked the Clerk of Council to continue roll call on the pending motion to adjourn the meeting. Mrs. Sekerak asked Mr. Fraundorf for his vote on motion to adjourn; she said Council is in the middle of roll call.*

**Mr. Schneider**, still at the podium, continued: "I didn't disrupt it. No! It all began with Mr. Barth."

*Roll Call continued over the disturbance.*

**MOTION** by Mr. Lecznar, seconded by Mr. Snitzky, to adjourn the meeting.

Roll Call **continued:**

.....Fraundorf, yea; Lecznar, yea, Snitzky, yea; Trafis, nay.

6 yea, 1 nay

**MOTION CARRIED**

**The April 13, 2015 Council Meeting was adjourned at 8:37 p.m.**

---

Michele K. Ernst, President of Council

Attest: \_\_\_\_\_  
Carol L. Sekerak, Clerk of Council

Date: \_\_\_\_\_

## New Search

Displaying 1 through 20 (out of 22) matching your search criteria.

Name	Address	Role	Case Number	Case Caption
JAROS THOMAS	6895 REVERE RD	PLAINTIFF	<a href="#">CV-02-465832</a>	THOMAS JAROS v JOSEPH JAROS
JAROS THOMAS	6895 REVERE DRIVE	DEFENDANT	<a href="#">CV-02-487558</a>	JOSEPH JAROS, ET AL v MARY BACZKOWSKI, ET AL
JAROS THOMAS	6895 REVERE DRIVE	CREDITOR	<a href="#">JL-06-254495</a>	THOMAS JAROS ET AL v MARY JO DIETZ, EXECUTRIX, ET AL.
JAROS THOMAS	6895 REVERE DRIVE	PLAINTIFF	<a href="#">CV-02-489824</a>	THOMAS JAROS, ET AL v MARY JO DIETZ, ETC., ET AL
JAROS THOMAS	224 CRESCENT RIDGE DRIVE	DEFENDANT	<a href="#">CV-10-726870</a>	STONE RIDGE MAINTENANCE ASSOCIATION, INC. v THOMAS MARRERO, JR., ET AL
JAROS THOMAS	4540 EAST 71ST STREET	DEFENDANT	<a href="#">CV-14-825559</a>	CUYAHOGA FOUNDRY CO. INC. v THOMAS JAROS
JAROS THOMAS DBA	6895 REVERE ROAD	DEFENDANT	<a href="#">CV-97-334634</a>	PARKER RUST PROOF OF CLEVELAND INC v THOMAS DBA PHILIP JAROS METAL RECOVERY
JAROS THOMAS J	6895 REVERE ROAD	DEFENDANT	<a href="#">CV-80-021614</a>	METALS CRANKSHAFT,INC.-ETAL v THOMAS J JAROS ETAL
JAROS THOMAS J	6895 REVERE	DEBTOR	<a href="#">JL-97-061045</a>	BENEFICIAL OHIO, INC. v THOMAS J JAROS
JAROS THOMAS J	6895 REVERE RD	DEBTOR	<a href="#">JL-98-079647</a>	FIFTH THIRD BANK MAIL DROP 109067 4030 v THOMAS J JAROS
JAROS THOMAS J	6895 RIVER RD	DEFENDANT	<a href="#">DR-78-098113</a>	THOMAS J JAROS v MARLENE JAROS
JAROS THOMAS J	3201 W 25TH ST	DEFENDANT	<a href="#">DR-79-108810</a>	THOMAS J JAROS v MARLENE JAROS
JAROS THOMAS J	6895 REVERE RD	DEBTOR	<a href="#">JL-00-127266</a>	ASSET ACCEPTANCE CORPORATION ASSIGNEE DISCOVER v THOMAS J JAROS
JAROS THOMAS J	6895 REVERE ROAD	DEFENDANT	<a href="#">CV-89-175422</a>	PAUL W MAYOR CASSIDY OF THE CITY OF PARMA HEIGHTS v THOMAS J JAROS
JAROS THOMAS J	6896 REVERE ROAD	PLAINTIFF	<a href="#">CV-90-186081</a>	THOMAS J JAROS v PARMA HEIGHTS,CITY OF ET AL C ANTHONY STAVOLE DIRE
JAROS THOMAS J	6895 REVERE RD	DEFENDANT	<a href="#">CV-99-380268</a>	ASSET ACCEPTANCE CORPORATION ASSIGNEE DISCOVER v THOMAS J JAROS
JAROS THOMAS J	6895 REVERE ROAD	DEFENDANT	<a href="#">CV-99-395514</a>	HUNTINGTON NATIONAL BANK v THOMAS J JAROS AKA THOMAS JOSEPH JAROS ET AL
JAROS THOMAS J	6895 REVERE COURT	DEFENDANT	<a href="#">DR-03-293930</a>	JEANMARIE JAROS v THOMAS J JAROS
JAROS THOMAS J	6895 REVERE RD	DEBTOR	<a href="#">JL-05-231667</a>	STATE OF OHIO DEPARTMENT OF TAXATION v JAROS,THOMAS J
JAROS THOMAS J.	7811 SNOWVILLE RD	DEFENDANT	<a href="#">CV-04-537216</a>	THIRD FEDERAL SAVINGS AND LOAN ASSOC OF CLEVELAND v THOMAS J. JAROS AKA THOMAS JOSEPH JAROS ETAL

1 2

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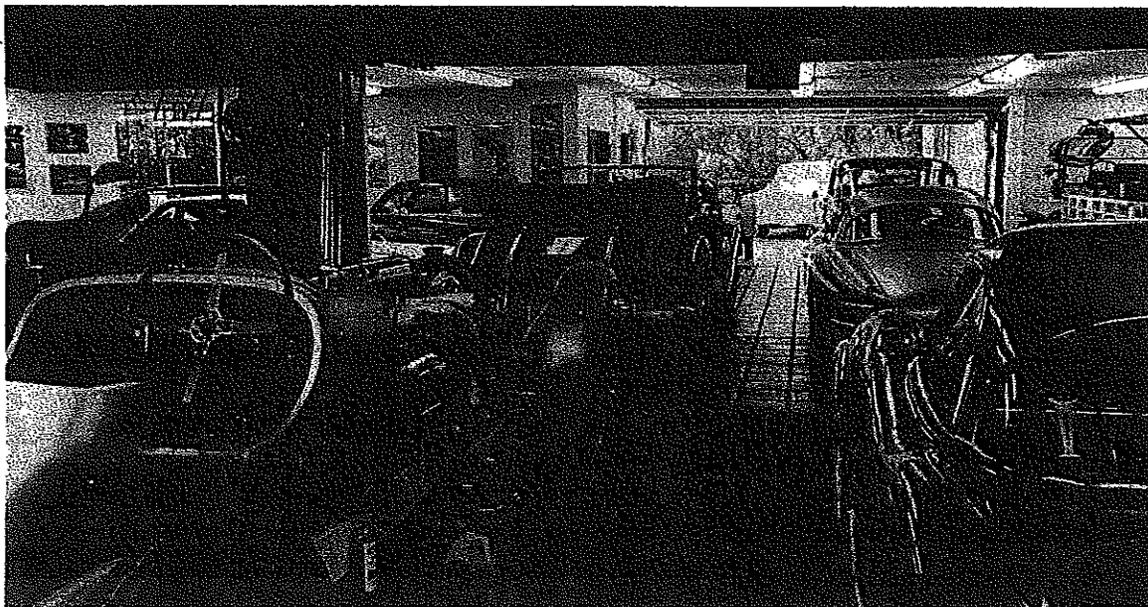
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Name	Address	Role	Case Number	Case Caption
JAROS THOMAS J.	6895 REVERE CT	DEFENDANT	<a href="#">CV-04-537216</a>	THIRD FEDERAL SAVINGS AND LOAN ASSOC OF CLEVELAND v THOMAS J. JAROS AKA THOMAS JOSEPH JAROS ETAL
JAROS THOMAS J.	6895 REVERE ROAD	PLAINTIFF	<a href="#">CV-05-567799</a>	THOMAS J. JAROS v RAYMOND LAPORTE

1 2

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## NOT IN YOUR BACKYARD



**If your home's garage looks more like a repair or restoration shop...  
be kind to your neighbors.**

**W**e are often reminded of the phrase, "love thy neighbor." Unfortunately, not everyone heeds that advice. Sometimes neighbors do not get along. Sometimes they even sue each other.

Many neighbor versus neighbor lawsuits concern (purportedly) the use to which a homeowner puts his or her property. A neighbor who disapproves of activities being conducted on the other side of the hedge may attempt to invoke local zoning ordinances limiting or prohibiting those activities. Some cases have involved a homeowner's restoration of collector cars on residential property.

Thomas Jaros lived in the city of Parma Heights, Ohio. His residence was located in an area zoned for single-family dwellings. At his home, Jaros worked on, repaired and painted racing cars and other automobiles. He also stored several "classic vehicles" in his backyard under a canvas. He had previously done such work at a business location which had been destroyed by fire. He thereafter had moved such equipment and machinery to his residence.

Some of Jaros' neighbors complained to the City that offensive noises and fumes came from his residence when he worked on the vehicles. The noises allegedly consisted of his starting a dragster engine and using various tools and equipment in his garage. They claimed that the noises occurred between

8am and 11pm.

The city charged Jaros with violating a local zoning ordinance. The ordinance stated that "no building, structure or premises shall be used or arranged or designed to be used, except for one or more of the following uses: (a) A single family dwelling, (b) Accessory uses customarily incident to the foregoing permitted use."

At trial, the complaining neighbors testified that they had seen various motor vehicle parts delivered to and located around Jaros' residence. The evidence also indicated that Jaros stored barrels of chemicals along the side of the garage; Jaros admitted that some of these materials were flammable.

Jaros testified that working on cars was his hobby. He reported that he had even insulated his garage in an attempt to minimize the noise such work created. Other neighbors testifying on his behalf denied the allegations of noise; one claimed that everybody in the neighborhood worked on motor vehicles at their residences.

The jury found Jaros guilty of violating the zoning ordinance by conducting activities not customarily incident to single-family dwellings. Jaros appealed.

On September 20, 1990, the Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County, affirmed the trial court's conviction of Jaros.

The court rejected Jaros' argument that the

LAWRENCE SAVELL



ordinance was unconstitutionally vague. This was an attempt by him to invoke the principle that, to be permissible under the United States Constitution, a law must fairly inform a person of what it commands or prohibits. The court stated that the language "accessory uses customarily incident to the foregoing permitted use" was sufficiently definite to give a person of ordinary intelligence fair warning that his contemplated conduct was forbidden. The court concluded that Jaros "clearly... was on notice that his operation of what was essentially an automobile repair shop in his backyard was prohibited in his residential district which was zoned only for single-family dwellings and accessory uses customarily incident to single-family dwellings."

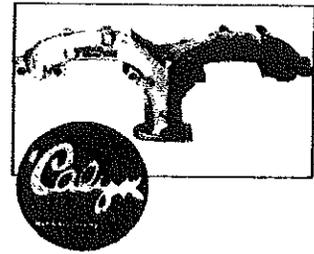
The court also rejected Jaros' argument that working on cars was his "hobby" and, therefore, such acts were "accessory uses customarily incident to single-family dwellings." The court followed a prior decision by the Tennessee Supreme Court, which stated that "We of course can think of all kinds of hobbies, many of which would customarily and ordinarily be considered as a proper use for a one family dwelling, but when a hobby reaches the proportion of the destruction

of the neighborhood by the use of assembling and tearing down of numerous automobiles, in this case nine, this goes far beyond any common sense idea of what a one-family dwelling might be used for."

The *Jaros* case dealt with activities which clearly went beyond the normal use of small-scale residential property. Nevertheless, it illustrates the point that, before undertaking significant automotive restoration work on residential property, a homeowner should make sure that what he or she wants to do does not exceed the uses permitted under local zoning ordinances. One should review such ordinances, keeping in mind the anticipated work's noise level, materials, fumes, hours of operation, and other considerations. Otherwise, you may find yourself in deep trouble, particularly if you live near others whose preferred version of the hallowed motto is "sue thy neighbor."

*Lawrence Savell is a graduate of Cornell University and the University of Michigan Law School and practices with Chadbourne & Parke in New York City. This column provides general information and is not intended as a substitute for consulting an attorney.*

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