

RESOLUTION 2024-06
VILLAGE OF BUCKEYE LAKE

AN RESOLUTION RESOLVING PENDING LITIGATION AND THE DECLARATION OF AN EMERGENCY.

WHEREAS, on or about February 19, 2024, OOOH Advertising LLC d\b\ a Oliver Outdoor applied for a zoning permit to upgrade an existing billboard sign with static display to an electronic LED display board, said application being assigned permit number 2024013; and

WHEREAS, on or about February 21, 2024 the Zoning Administrator denied the application, said sign being prohibited pursuant to Zoning Code 1106-6; and

WHEREAS, on March 7, 2024, a representative of Oliver Outdoor attended the Village Planning and Zoning Commission meeting to discuss a variance for the proposed sign and provided additional information, said Commission still wanting more information and delaying any decision; and

WHEREAS, on April 4, 2024, a representative of Oliver Outdoor attended the Village Planning and Zoning Commission meeting to further discuss the proposed sign changes, the Village and applicant having shared information and communicated between the meetings; and

WHEREAS, at the conclusion of the meeting the Planning and Zoning Commission voted against a variance for the sign; and

WHEREAS, on April 26, 2024, Oliver Outdoor filed a notice of administrative appeal in the Licking County Court of Common Pleas, Case No. 24-cv-00519, appealing the Planning and Zoning Commission decision; and

WHEREAS, on May 29, 2024, Oliver Outdoor filed a civil action against the Village, in the Licking County Court of Common Pleas, Case No. 24-cv-00671, alleging the Village's prohibition of off-premises advertising violates freedom of speech as guaranteed in the Ohio and United States Constitutions, that the denial of the permit was a violation of Oliver Outdoor's substantive and procedural due process, and seeking to invalidate the Planning and Zoning Commission decision and restraining the Village from restricting Oliver Outdoor's use of its property; and

WHEREAS, the Council of the Village of Buckeye Lake has the authority to resolve litigation involving the Village and wants to resolve these matters, without admitting any wrongdoing nor extensive litigation and the costs associated therewith, and has reached an amicable resolution to these matters with Oliver Outdoor in which the Village will issue the requested permit and Oliver Outdoor will dismiss its pending lawsuits.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the Village of Buckeye Lake, at least two-thirds (2/3) of its members concurring to dispense with the requirements of Charter Section 4.04 requiring three readings on three separate days with at least one week between the readings:

Section 1. The permit requested by Oliver Outdoor to change its static billboard to an electronic billboard without changing its location on the parcel or enlarging the size of the billboard as set forth in OOOH! Advertising, LLC's February 19, 2024 Sign Permit Application, shall be granted by the Village. The Zoning Administrator or his/her designee shall issue said permit. Oliver Outdoor, upon passage of this Resolution, has indicated it will dismiss both pending cases,

24-cv-519 and 24-cv-671, and said permit shall be revoked and invalidated if said cases are not dismissed within two weeks of the issuance of the permit.

Section 2. The permit issued via this Resolution is to resolve pending litigation and shall have no effect on future sign permit applications.

Section 3. It is hereby found that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, morals, and welfare of the citizens of Buckeye Lake, Ohio. Therefore, this ordinance shall become effective upon its passage by Council.

ADOPTED this 10th day of June, 2024

Attest:

Samantha Torres
Council Clerk, Samantha Torres

John F. Lemmon
Council President, John Lemmon

Date Filed with Mayor 6/12/2024
Date Approved by Mayor _____

Mayor, Linda Goodman