

ORDINANCE # O-33-2017

REPEALING ORDINANCE NO. 94-2014; AND DECLARING AN EMERGENCY

WHEREAS, on May 19, 2014, the Village Council for the Village of Bolivar passed Ordinance No. 94-2014 as an emergency after properly suspending the rules pursuant to ORC 705.15;

WHEREAS, this Ordinance provided for the settlement of the case of Lake Region Development Co., Ltd. et al. v. Village of Bolivar et al., Northern District of Ohio Eastern Division Case Number 5:14-cv-00133, in which the Village was an Defendant;

WHEREAS, this Ordinance has been challenged in the case of State of Ohio ex rel. Irvin W. Huth v. Village of Bolivar, Tuscarawas County Court of Common Please Case Number 2016 CV 05 0320, as a violation of Ohio's Sunshine Laws;

WHEREAS, O.R.C. 121.22 and associated Ohio case law provide that a municipality may cure a violation by repealing the prior contested ordinance and by passing the ordinance in conformance with all legal requirements;

WHEREAS, although the Village does not believe that there was a violation during the passage of this particular ordinance, repealing Ordinance No. 94-2014 has been recommended by legal counsel for the Village to take the steps to cure any potential violation and to preserve the settlement agreement so as not to subject the Village to additional legal threats or lawsuits and the potential liability that results from the prior case being re-opened;

WHEREAS, Ohio law provides the defect in prior passage can be cured by restarting the legislative process on the matter at issue and by compliance with all the necessary laws with respect to open meetings and the passage of legislation. Therefore, the Village is restarting the legislative process from the beginning and complying with all applicable laws in passage of the replacement ordinance.

NOW THEREFORE, be it ordained by the Council of the Village of Bolivar, Ohio, not less than five (5) members thereof concurring,

SECTION I. Ordinance No. 94-2014 is hereby repealed.

SECTION II. This ordinance is hereby declared to be an emergency measure necessary for the preservation of public peace, health, safety and welfare of the Village of Bolivar, Ohio; the reason for the emergency being the need to repeal Ordinance 94-2014 and to approve Ordinance ___-2017 so that the settlement agreement is preserved and the Village is protected from additional liability from the previously settled case, which contained substantial risk to the Village. Therefore, this ordinance shall take effect and be in force from and after its passage.

Passed: October 2, 2017

REBECCA HUBBLE, MAYOR

ATTEST:

MARIA APP, FISCAL OFFICER