[Cite as *State ex rel. Bellman v. Granville*, 2026-Ohio-4348.]

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
LICKING COUNTY, OHIO

STATE OF OHIO, ex rel. DANIEL A. BELLMAN Relator – Appellant/Cross-Appellee -vs- VILLAGE OF GRANVILLE, ET AL., Respondents – Appellees/Cross-Appellants	Case No. 2026 CA 00025 Opinion and Judgment Entry Appeal from the Licking County Court of Common Pleas, Case No. 2023 CV 00914 Judgment: Affirmed Date of Judgment Entry: November 2, 2026

BEFORE: Kevin W. Popham; William B. Hoffman; David M. Gormley, Judges

APPEARANCES: Robert Thompson, Esq., Thompson Legal, LLC, for Relator-Appellant; William M. Mattes, Esq., Justin Burns, Esq., Dinsmore & Shohl, LLP, for Respondent-Appellee.

Hoffman, J.

{¶1} Relator-Appellant/Cross-Appellee Daniel A. Bellman appeals the February 11, 2025 decision of the Licking County Common Pleas Court granting summary judgment in favor of Respondent-Appellee Village of Granville, finding the Comprehensive Plan Working Group was not a public body under R.C. §121.22 and finding no violation of R.C. §121.22(G)(8).

{¶2} Cross-Appellants Village of Granville, the "Comprehensive Plan Working Group", Melissa Hartfield, Jeremey Johnson, Phillip Demarest, Laura Mickelson, Kim

Keethler Bell, Aaron Olber, and Rob Montgomery (collectively Respondents/Cross-Appellants) appeal the trial court's February 11, 2025 decision granting summary judgment in favor of Cross-Appellee Daniel A. Bellman, finding it violated the Ohio Open Meetings Act and the February 26, 2026 Judgment Entry awarding attorney fees.

STATEMENT OF THE FACTS AND CASE

{¶3} This appeal arises from a judgment on cross-motions for summary judgment. The undisputed facts and procedural history are as follows:

{¶4} The Village of Granville operates under a city-manager system which consists of an elected city council which then appoints a manager to be the chief executive for the Village. That person is currently Herb Koehler. The Village typically meets twice a month in open session. These open session meetings are where the Village conducts the majority of its business, however, at times the Village Council is required to enter into executive session for one of the reasons enumerated under R.C. §121.22(G).

{¶5} Relator Daniel A. Bellman is a former council member who served on the Village's Council for almost a decade. Bellman also served as a member on the Village's Board of Zoning and Building Appeals, as mayor for two years, and served on the Village Council's charter review committee.

{¶6} On August 11, 2023, Relator Bellman filed a Complaint for Injunctive Relief asserting violations of Ohio's Open Meetings Act.

{¶7} On October 11, 2023, the Village filed its Answer.

{¶8} On October 18, 2023, in response to Relator Bellman's Complaint for Injunctive Relief, the Village amended the cited meeting minutes to accurately reflect the

reasons for entering into executive session consistent with the reasons stated in the council agenda and the actual motions and votes during the meetings.

{¶9} On October 28, 2025, Relator Bellman and the Village filed competing Motions for Summary Judgment. Relator Bellman alleged 1). The Comprehensive Plan Working Group violated the Open Meetings Act by meeting privately, giving no public notice, and not keeping minutes, and 2). The Village Council violated the Open Meetings Act by entering executive session for economic development matters without first making the required statutory determination.

{¶10} By Judgment Entry filed February 11, 2025, the trial court granted, in part, and denied, in part, the motions for summary judgment. The trial court further entered an order setting a hearing on the issue of attorneys' fees, which was continued until February 6, 2026.

{¶11} On February 5, 2026, Relator Bellman filed a Motion for Fees.

{¶12} On February 6, 2026, the Village of Granville filed its response and was permitted to file a supplemental brief which it did on February 19, 2026.

{¶13} On February 26, 2026, Relator Bellman filed his Reply.

{¶14} By Judgment Entry filed February 26, 2026, the trial court awarded Relator Bellman attorney fees in the amount of $7,323.57.

{¶15} Both parties now appeal the trial court's February 11, 2025, and February 26, 2026 judgment entries, assigning the following errors for review:

ASSIGNMENTS OF ERROR

APPEAL

I. THE TRIAL COURT ERRED AS A MATTER OF LAW BY HOLDING THAT THE COMPREHENSIVE PLAN WORKING GROUP WAS NOT A PUBLIC BODY UNDER R.C. 121.22.

II. THE TRIAL COURT ERRED AS A MATTER OF LAW BY HOLDING THAT COUNCIL DID NOT VIOLATE R.C. 121.22(G)(8) WHEN IT ENTERED EXECUTIVE SESSION WITHOUT FIRST DETERMINING, BY ROLL-CALL VOTE, THAT THE SESSION WAS NECESSARY TO PROTECT THE APPLICANT'S INTERESTS OR THE POSSIBLE PUBLIC INVESTMENT OR EXPENDITURE OF PUBLIC FUNDS TO BE MADE IN CONNECTION WITH THE ECONOMIC DEVELOPMENT PROJECT.

CROSS-APPEAL

I. THE TRIAL COURT ERRED WHEN IT GRANTED SUMMARY JUDGMENT DECIDING THAT RESPONDENT AND CROSS-APPELLANT VILLAGE OF GRANVILLE VIOLATED THE OHIO OPEN MEETINGS ACT FOR OMITTING THE REASON FOR ENTERING INTO EXECUTIVE SESSION IN THE OFFICIAL MEETING MINUTES, WHERE THE REASONS FOR ENTERING EXECUTIVE SESSION WERE PROVIDED IN THE OFFICIAL APPROVED AGENDA OF COUNCIL, READ INTO THE OFFICIAL RECORD WORD FOR WORD, VOTED ON BY ALL MEMBERS PRESENT AT THE COUNCIL

MEETINGS, AND IN THE OFFICIAL RECORDINGS OF COUNCIL MEETINGS—ALL OF WHICH RELATOR HAD ACCESS TO AND/OR POSSESSION OF PRIOR TO FILING THE LAWSUIT.

II. THE TRIAL COURT ERRED WHEN IT AWARDED RELATOR ATTORNEYS' FEES PURSUANT TO R.C. 121.22(I)(2).

SUMMARY JUDGMENT STANDARD

{¶16} Summary judgment proceedings present the appellate court with the unique opportunity of reviewing the evidence in the same manner as the trial court. *Smiddy v. The Wedding Party, Inc.*, 30 Ohio St.3d 35, 36 (1987). As such, this Court reviews an award of summary judgment de novo. *Grafton v. Ohio Edison Co.*, 1996-Ohio-336.

{¶17} Civ.R. 56 provides summary judgment may be granted only after the trial court determines: 1) no genuine issues as to any material fact remain to be litigated; 2) the moving party is entitled to judgment as a matter of law; and, 3) it appears from the evidence that reasonable minds can come to but one conclusion and viewing such evidence most strongly in favor of the party against whom the motion for summary judgment is made, that conclusion is adverse to that party. *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317 (1977).

{¶18} The party moving for summary judgment bears the initial burden of demonstrating the absence of genuine issues of material facts concerning the essential elements of the nonmoving party's case. *Dresher v. Burt*, 1996-Ohio-107. The moving party must support the motion by pointing to some evidence in the record of the type listed in Civil Rule 56(C). *Id.* at 292-293. However, the moving party need not support its motion for summary judgment with evidence negating his opponent's claim, but may simply point out there is an absence of evidence to support the non-moving party's claim. *Celotex Corp. v. Catrett*,

477 U.S. 317, 325 (1986); see also *R & R Plastics, Inc. v. F.E. Myers Co.*, 92 Ohio App.3d 789, 807 (6th Dist. 1993).

{¶19} If the moving party satisfies this burden, then the non-moving party has the reciprocal burden to demonstrate a genuine issue for trial remains. *Dresher* at 293. The nonmoving party may not rest upon the mere allegations or denials in her pleadings but must point to or submit evidence of the type specified in Civ.R. 56(C). *Id.*; Civ.R. 56(E). Types of evidence specified in Civ.R. 56 (C) are "pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact." Civ.R. 56(C).

APPEAL

I.

{¶20} In Relator-Appellant's first assignment of error, he argues the trial court erred in finding the Comprehensive Plan Working Group was not a public body as defined under R.C. §121.22. We disagree.

Sunshine Legislation, Open Meetings Act

{¶21} The Open Meetings Act, as set forth in R.C. §121.22, seeks to prevent public bodies from engaging in secret deliberations on public issues with no accountability to the public. *Cincinnati Enquirer v. Cincinnati Bd. of Edn.*, 2011-Ohio-703, ¶ 9 (1st Dist.). Under the act, public officials are required "to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law." R.C. §121.22(A). R.C. §121.22(C) likewise requires "[a]ll meetings of any public body . . . to be public meetings open to the public at all times." Thus, the Open Meetings Act requires public bodies to deliberate public issues in public. If specific procedures are followed, public

officials may discuss certain sensitive information in a private executive session from which the public is excluded. *Tobacco Use Prevention & Control Found. Bd. of Trustees v. Boyce*, 2009-Ohio-6993, ¶ 64 (10th Dist.).

{¶22} An executive session "is one from which the public is excluded and at which only such selected persons as the board may invite are permitted to be present." *State ex rel. Hardin v. Clermont Cnty. Bd. of Elections*, 2012-Ohio-2569, ¶ 15 (12th Dist.). R.C. §121.22(G) lists various matters a public body may consider in executive session. A public body may convene in executive session only after a motion and vote which specifically identifies the permissible topic. R.C. §121.22(G). The exceptions contained in R.C. §121.22(G) are to be strictly construed and Ohio law requires this court to liberally construe R.C. §121.22(G) to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law. R.C. §121.22(A); *In re Removal of Kuehnle*, 2005-Ohio-2373, ¶ 93 (12th Dist.).

{¶23} R.C. §121.22 Public Meetings – exceptions, provides:

> (A) This section shall be liberally construed to require public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law.
>
> (B) As used in this section:
>
> (1) "Public body" means any of the following:
>
> (a) Any board, commission, committee, council, or similar decision-making body of a state agency, institution, or authority, and any legislative authority or board, commission, committee, council, agency, authority, or

similar decision-making body of any county, township, municipal corporation, school district, or other political subdivision or local public institution;

(b) Any committee or subcommittee of a body described in division (B)(1)(a) of this section;

(c) A court of jurisdiction of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use when meeting for the purpose of the appointment, removal, or reappointment of a member of the board of directors of such a district pursuant to section 6115.10 of the Revised Code, if applicable, or for any other matter related to such a district other than litigation involving the district. As used in division (B)(1)(c) of this section, "court of jurisdiction" has the same meaning as "court" in section 6115.01 of the Revised Code.

(2) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.

{¶24} The trial court found the Comprehensive Plan Working Group was not a public body as contemplated by the statute because none of its members were "overtly selected" by "any specific elected official, governmental body, or stakeholder group." (Feb 11, 2025 Judgment Entry at 7). As explained by the trial court:

This case arises from efforts by various stakeholders in the Granville area to compose what they called a Comprehensive Plan - a road map according to which policies related to land use, infrastructure development, and

> other similar elements of governance would be pursued over a period of several years or more. The CPWG, its members drawn from various public entities and also including some private citizens in leadership positions, met to discuss and propose the Comprehensive Plan with the aim of presenting it to the Village of Granville so that it could be voted on by Council. However, the CPWG did not provide any manner of public notice related to its meetings, and it did not keep minutes of those meetings. Relator Bellman is a former Mayor of the Village of Granville and a former member of the Village Council, though he holds no governmental position presently. He filed this action on August 11, 2023, naming thirteen persons and entities as Respondents.

{¶25} (February 11, 2025 Judgment Entry at 2).

{¶26} The group itself was composed of eleven individuals, most of whom were never deposed. One of the CPWG's members, Laura Mikelson, testified in her deposition she volunteered for the position and Council "did not take any official action to install her on the CPWG. (February 11, 2025 Judgment Entry at 7; Mikelson depo. at 13-14). This testimony was corroborated by Herb Kohler in his deposition. (Koehler depo. at 14).

{¶27} There is no evidence to suggest or support any of the people in the CPWG were installed or appointed to the group by any public body or any formal action or any public body directed or controlled the group's activities. There is no evidence as to what the organizational structure of the group was or that CPWG ever created any bylaws. There is no evidence any of the stakeholder groups participated in any manner to place members on the CPWG. There is no evidence the CPWG was a "decision making body".

{¶28} For these reasons, we find no error in the trial court's finding the CPWG is not a public body and therefore their actions did not violate the Open Meetings Act.

{¶29} Relator-Appellant's first assignment of error is overruled.

APPEAL II. AND CROSS-APPEAL I.

{¶30} Appellant argues the trial court erred in finding council did not violate R.C. §121.22(G)(8). Cross-Appellant argues the trial court erred in finding it violated the Ohio Open Meetings Act. We disagree.

R.C. §121.22 Public meetings – Exceptions

(G) Except as provided in divisions (G)(8) and (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

***

(8) To consider confidential information related to the marketing plans, specific business strategy, production techniques, trade secrets, or personal financial statements of an applicant for economic development assistance, or to negotiations with other political subdivisions respecting requests for economic development assistance, provided that both of the following conditions apply:

(a) The information is directly related to a request for economic development assistance that is to be provided or administered under any

provision of Chapter 715, 725, 1724, or 1728 or sections 701.07, 3735.67 to 3735.70, 5709.40 to 5709.43, 5709.61 to 5709.69, 5709.73 to 5709.75, or 5709.77 to 5709.81 of the Revised Code, or that involves public infrastructure improvements or the extension of utility services that are directly related to an economic development project.

(b) A unanimous quorum of the public body determines, by a roll call vote, that the executive session is necessary to protect the interests of the applicant or the possible investment or expenditure of public funds to be made in connection with the economic development project.

If a public body holds an executive session to consider any of the matters listed in divisions (G)(2) to (8) of this section, the motion and vote to hold that executive session shall state which one or more of the approved matters listed in those divisions are to be considered at the executive session.

A public body specified in division (B)(1)(c) of this section shall not hold an executive session when meeting for the purposes specified in that division.

(H) A resolution, rule, or formal action of any kind is invalid unless adopted in an open meeting of the public body. A resolution, rule, or formal action adopted in an open meeting that results from deliberations in a meeting not open to the public is invalid unless the deliberations were for a purpose specifically authorized in division (G) or (J) of this section and conducted at an executive session held in compliance with this section. A resolution, rule, or formal action adopted in an open meeting is invalid if the public body that

adopted the resolution, rule, or formal action violated division (F) of this section.

{¶31} Before the trial court, Appellant argued Council violated the Open Meetings Act by failing to take two votes before entering executive session. Here, on appeal, Appellant argues Council was required to make a threshold determination under R.C. §121.22(G)(8)(b) before voting to enter executive session. Because Appellant did not raise the "threshold determination" issue below, we will limit our review to the "two votes" issue on appeal. It is well settled parties may not raise new arguments on appeal. *Stores Realty Co. v. Cleveland Bd. of Bldg. Standards & Bldg. Appeals*, 41 Ohio St.2d 41, 43 (1975).

{¶32} The Clerk of Council, Autumn Klein, testified Council entered into executive session on five occasions without entering the reason for the executive session in the minutes. (Klein depo. at 20-40). The stated purposes for entering into executive session were included in the agenda and read into the record prior to each motion and vote, but were left out of the minutes. (Tr. of Proceedings at 22, 30; Feb. 26, 2026 Judgment Entry at 3).

{¶33} Based on the failure to include the reasons for these executive sessions in the minutes, the trial court found Council violated the Open Meetings Act and imposed a civil forfeiture fine of $500, pursuant to R.C. §121.22(I)(2)(a), along with attorney fees and court costs. (February 11, 2025 Judgment Entry at 10).

{¶34} Based on this violation, the trial court also issued an injunction to comply with the Open Meetings Act and declared any actions taken as a result of the improper executive session invalid.

{¶35} The trial court did not find any violations of the Open Meetings Act based upon the number of votes taken with reference to executive session and further found no support for Appellant's assertion two votes are required to enter executive session.

{¶36} We find the testimony of Ms. Klein demonstrates council entered into executive session without specifying a justification in its minutes, a clear violation of the Open Meetings Act.

{¶37} While Cross-Appellant argues the violation was merely a technical violation, not done for any improper purpose, and later corrected, the fact remains the minutes failed to include the reason Council entered into executive session and had Relator Bellman not filed this action pursuant to Open Meetings Act, it is questionable, if not unlikely, the error would have ever been corrected.

{¶38} Upon review, based on these facts presented, we find no error in the trial court's decision.

{¶39} Relator-Appellant's second assignment of error and Cross-Appellant Village of Granville's first assignment of error are overruled.

CROSS-APPEAL II.

{¶40} In its second assignment of error, Cross-Appellant Village of Granville argues the trial court erred in awarding attorney fees pursuant to R.C. §121.22(I)(2). We disagree.

{¶41} The Open Meetings Act contains a fee-shifting provision under R.C. §121.22(I)(2) that authorizes an award of reasonable attorney fees to the individual establishing an OMA violation. A trial court's determination as to whether to award attorney fees under R.C. §121.22(I)(2) is a discretionary matter. *Wheeling Corp. v. Columbus & Ohio River RR. Co.,* 2001-Ohio-8751 (10th Dist.). An appellate court will not reverse a lower court's

decision to award attorney fees unless the decision indicates the court's reasoning or attitude was unreasonable, arbitrary, or unconscionable. *Taylor v. McCullough-Hyde Mem. Hosp.*, 116 Ohio App.3d 595, 600 (12th Dist. 1996).

{¶42} Revised Code §121.22(I)(2)(a), permits a court, in its discretion, to reduce an award of attorney fees if the court determines a "well-informed public body" would reasonably believe it was not violating Open Meetings Act and that it would believe its conduct was serving the public policy underlying Open Meetings Act.

{¶43} Cross-Appellant argues the trial court's award of attorney's fees was improper because the injunctive relief upon which such an award may be issued was unavailable and further because "the Village was reasonable in both its beliefs that it was not violating the act and that it was serving the public policy by entering into the executive sessions at issue." (Cross-Appellant's Brief at 15).

{¶44} Where a court is unable to issue an injunction under R.C. §121.22(I)(1), it is unable to award attorney's fees under R.C. §121.22(I)(2). *See Skindell*, 2017-Ohio-398 at 5. In *Skindell*, the court expressly held when a technical violation of the Open Meetings Act is cured by a subsequent action, the injunctive relief to correct the violation is rendered moot. *Id.* The court went on to hold when the injunctive relief is unavailable or moot, claims for attorney's fees "predicated upon the issuances of the unavailable injunctive relief by a trial court, . . . are also precluded." *Id.*

{¶45} In its decision, the trial court clearly stated:

> The Council is hereby enjoined to comply with the Act, and any actions taken as a result of the improper executive session are invalid.

{¶46} (Feb. 11, 2025 JE at 10).

{¶47} Cross-Appellant again argues the violation was merely technical, Council had no intent to violate the law, the minutes were subsequently corrected and therefore the need for an injunction was rendered moot by such actions. However, as stated above, had Relator Bellman not brought the action, it is questionable, if not unlikely, the corrections would have been made. An award of attorney fees incurred by Relator Bellman are therefore not improper.

{¶48} Cross-Appellant also challenges the amount of the fees awarded.

{¶49} When calculating attorney fees, a trial court is guided by a two-step determination. The court should first calculate the "lodestar" amount by multiplying the number of hours reasonably expended by a reasonable hourly rate and, second, decide whether to adjust that amount based on the factors listed in Prof. Cond. R. 1.5(a). *Levy v. Seiber*, 2016-Ohio-68, ¶ 67.

{¶50} Relator requested $87,918 in attorney fees and submitted his attorneys' billing records reflecting time spent on the case. Relator's attorney reduced their fees by $33,854 "as time attributable to unsuccessful or marginal issues." (See Feb. 26, 2026 Judgment Entry at 4).

{¶51} Upon review, we find the trial court carefully reviewed the time entries contained in Relator's Motion for Fees, finding only $7,323.57 (8.33%) of the requested lodestar amount of $87,918 appropriate for the successful claim herein, as permitted pursuant to Revised Code §121.22(I)(2)(a).

{¶52} Upon review, we find no error in the trial court's imposition or calculation of attorney fees in this matter.

{¶53} Cross-Appellant's second assignment of error is overruled.

{¶54} The judgment of the Licking County Court of Common Pleas is affirmed.

{¶55} Costs split equally.

By: Hoffman, J.

Popham, P.J. and

Gormley, J. concur.