

RESOLUTION NO. 2009-202

SPONSOR Mr. Pry

DATE June 1, 2009

COMMITTEE Rules

A Resolution authorizing the County Executive to execute a settlement agreement in the amount of \$40,000.00 to settle all claims arising out of or concerning issues raised in a lawsuit, *Ernest Mathlage v. County of Summit and Mark Lushes*, in the County of Summit Court of Common Pleas, Case No. CV 2008-07-4770, and appropriating funds in the amount of \$25,000.00, for the Prosecutor and the Executive, and declaring an emergency.

WHEREAS, Ernest Mathlage, filed a lawsuit against the County of Summit and one of its employees, *Ernest Mathlage v. County of Summit and Mark Lushes*, in the County of Summit Court of Common Pleas, Case No. CV 2008-07-4770, before Judge Teodosio, arising out of an accident on July 7, 2006 at State Route 93 (Manchester Road) and I-277 W., Exit 2, in the City of Akron, in which Ernest Mathlage was a pedestrian crossing the street; and

WHEREAS, in consultation with the County Prosecutor and a representative of St. Paul Insurance, the County Executive reached terms of settlement with Mr. Mathlage through his legal counsel at mediation to settle the case in the amount of \$40,000.00; and

WHEREAS, an the amount of \$25,000.00 will be paid out of the Insurance Retention Fund 10145-1151-40501, this amount representing the County's self-insured retention under its automobile liability insurance policy; and

WHEREAS, the balance of the settlement will be paid by the County's insurer; and

WHEREAS, this Council has determined by reviewing all pertinent information that it is necessary and in the best interest of the County of Summit to settle the lawsuit filed by Mr. Mathlage, and to appropriate funds, in the amount of \$25,000.00, for the aforementioned reasons;

NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit, State of Ohio, that:

SECTION 1

The County Executive is hereby authorized to execute a settlement agreement related to all claims arising out of or concerning issues raised in *Ernest Mathlage v. County of Summit and Mark Lushes*, in Summit County Court of Common Pleas, Case No. CV 2008-07-4770, before Judge Teodosio in the County of Summit Court of Common Pleas, for the amount of \$40,000.00. The settlement agreement shall include a release by Ernest Mathlage of all claims against the County of Summit.

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SECTION 2

Funds are hereby appropriated as follows:

<u>Account</u>	<u>Description</u>	<u>Amount</u>
Self Insurance - Auto 10145-1151-40501	Other	\$25,000.00

SECTION 3

This Resolution is hereby declared an emergency in the interest of the health, safety and welfare of the citizens of the County of Summit and for the further purpose of immediately sparing County taxpayers further expense related to Mr. Mathlage's lawsuit.

SECTION 4

Provided this Resolution receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and be in force at the earliest time provided by law.

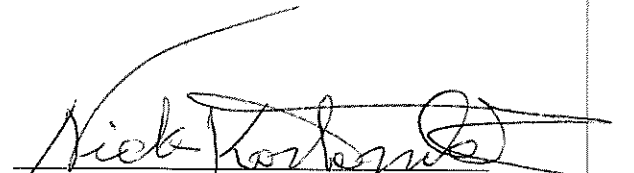
SECTION 5

It is found and determined 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 and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

INTRODUCED May 11, 2009

ADOPTED June 1, 2009


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED June 1, 2009


EXECUTIVE

ENACTED EFFECTIVE June 1, 2009

Voice Vote: 9-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras
Poda, Prentice, Schmidt, Shapiro, ABSENT: Rodgers & Smith