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5 RESOLUTION NO. 2010-024

6
7 SPONSOR Mr. Pry

8
9 DATE February 8, 2010

COMMITTEE Public Works

10
11 **A Resolution declaring the necessity for the transfer of all funds in the Water Enterprise**
12 **Fund, Fund No. 55002, in the amount of \$1,829,457.35 to the General Fund, directing the**
13 **County Prosecutor to prepare and forward a petition concerning the transfer of said funds**
14 **to the Ohio Tax Commissioner for review and approval, directing the Prosecutor to file**
15 **said petition with the Court of Common Pleas upon receipt of notice of the Commissioner's**
16 **approval, and directing the Clerk of Council to publish notice of the filing of the petition in**
17 **two newspapers having general circulation in the County of Summit, pursuant to Sections**
18 **5705.15 and 5705.16 of the Ohio Revised Code, for the Executive, and declaring an**
19 **emergency.**

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21 WHEREAS, in 1970, the County of Summit Commissioners formed the Summit County
22 Metropolitan Sewer District ("District"), consolidating many local sewer districts into one, in
23 accordance with Chapter 6117 of the Ohio Revised Code; and

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25 WHEREAS, under the provisions of Chapter 6117 of the Ohio Revised Code, the District
26 owned and operated water lines, and served customers with water in various locations in its
27 territory; and

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29 WHEREAS, pursuant to Section 6103.02, the County established the Water Enterprise
30 Fund, Fund No. 55002 ("Water Enterprise Fund") to provide for the operation and maintenance
31 of the water lines and was required to deposit "all moneys collected as rates, charges, or penalties
32 fixed or established in accordance with division (F) of this section for water supply purposes..."
33 and

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35 WHEREAS, during the 1990's, the District sold or traded its water lines to various local
36 governments or utilities, and divested itself of all water customers; and

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38 WHEREAS, the County no longer operates a water supply system and no longer provides
39 water service to customers; and

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41 WHEREAS, there is currently \$1,829,457.35 in the Water Enterprise Fund that
42 constitutes a surplus given that the County no longer operates any water lines; and

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44 WHEREAS, Article III, Section 3.01.1 of the County Charter provides that "[t]he County
45 Council shall be the legislative authority and taxing authority of the County [of Summit];" and

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47 WHEREAS, Sections 5705.15 and 5705.16 of the Ohio Revised Code set forth a
48 procedure for the taxing authority of any political subdivision to transfer from one fund to
49 another any public funds under its supervision, subject to certain exceptions; and

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5 WHEREAS, Sections 5705.15 and 5705.16 of the Ohio Revised Code authorize the
6 County's taxing authority, this Council, to adopt this Resolution by majority vote declaring the
7 necessity for the transfer of all funds in the Water Enterprise Fund to the General Fund and the
8 County; and

9
10 WHEREAS, pursuant to Sections 5705.15 and 5705.16, subsequent to the adoption of
11 this Resolution, it is necessary to prepare a petition for filing with the Court of Common Pleas
12 setting forth the name and amount of the Water Enterprise Fund, the General Fund to which
13 moneys from the Water Fund will be transferred and the reason or necessity for the transfer,
14 along with copies of this Resolution and a full statement of the proceedings pertaining to its
15 passage; and

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17 WHEREAS, pursuant to Sections 5705.15 and 5705.16, the petition must then be
18 forwarded to the Ohio Tax Commissioner for review and approval; and

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20 WHEREAS, upon the approval of the Commissioner, the County Prosecutor may then
21 file the petition with the Court of Common Pleas and notice must then be provided by one
22 publication in two newspapers having circulation in the County; and

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24 WHEREAS, the current economic crisis has negatively impacted many of the revenues
25 received by the County; and

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27 WHEREAS, the 2010 budget adopted by this Council reduced spending by 7% but still
28 relies on \$7 million in reserves and one-time revenues and assumed it would be necessary to
29 transfer the funds in the Water Enterprise Fund for the ongoing operations of the County;

30
31 WHEREAS, due to the economic crisis, this Council has determined by reviewing all
32 pertinent information that it is necessary and in the best interest of the County of Summit to
33 declare the necessity for the transfer of all funds in the Water Enterprise Fund, to the General
34 Fund, to direct the County Prosecutor to prepare and forward a petition concerning the transfer of
35 said funds to the Ohio Tax Commissioner for review and approval, to direct the Prosecutor to file
36 said petition with the Court of Common Pleas upon receipt of notice of the Commissioner's
37 approval, and to direct the Clerk of Council to publish notice of the filing of the petition in two
38 newspapers having general circulation in the County, as provided in Sections 5705.15 and
39 5705.16;

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

43
44 SECTION 1

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46 The Council of the County of Summit hereby declares that the economic crisis makes it
47 necessary to transfer all funds in the Water Enterprise Fund, Fund No. 55002 ("Water Enterprise
48 Fund"), in the amount of \$1,829,457.35, to the General Fund, pursuant to Sections 5705.15 and
49 5705.16 of the Ohio Revised Code.

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5 SECTION 2

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7 The County Prosecutor is hereby directed to prepare a petition addressed to the Court of
8 Common Pleas setting forth the name and amount of the Water Enterprise Fund, the General
9 Fund as the fund to which moneys in the Water Enterprise Fund will be transferred and the
10 reason or necessity for the transfer, along with copies of the resolution and a full statement of the
11 proceedings pertaining to its passage. The Prosecutor is further directed to forward a copy of
12 said petition to the Ohio Tax Commissioner for review and approval and upon receipt of notice
13 of the Commissioner's approval, to file said petition with the Court of Common Pleas.

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15 SECTION 3

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17 The Clerk of Council is hereby directed, to publish notice of the petition described in
18 Section 2 of this Resolution once in the Akron Beacon Journal and Cleveland Plain Dealer after
19 it has been filed with the Court of Common Pleas.

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21 SECTION 4

22
23 This Resolution is hereby declared an emergency in the interest of the health, safety and
24 welfare of the citizens of the County of Summit and for the further purpose of immediately
25 declaring the necessity for the transfer of all funds in the Water Fund, in the amount of
26 \$1,829,457.35, to the General Fund.

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28 SECTION 5

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

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34 SECTION 6

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36 It is found and determined that all formal actions of this Council concerning and relating
37 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all
38 deliberations of this Council and of any of its committees that resulted in such formal action,
39 were in meetings open to the public, in compliance with all legal requirements, including Section
40 121.22 of the Ohio Revised Code.

1 RESOLUTION NO. 2010-024
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5 INTRODUCED January 25, 2010

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7 ADOPTED February 8, 2010

8
9 Shirley P. Chen
10 CLERK OF COUNCIL

[Signature]
PRESIDENT OF COUNCIL

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13 APPROVED February 8, 2010

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15 [Signature]
16 EXECUTIVE

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19 ENACTED EFFECTIVE February 8, 2010

Voice Vote: 10-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras
Poda, Rodgers, Schmidt, Shapiro, Smith Absent: Prentice