

RESOLUTION NO 2009-239

SPONSOR Mr. Pry

DATE June 15, 2009

COMMITTEE Rules

An amended Resolution authorizing the County Executive to execute a settlement agreement and release with, and to accept a \$70,000.00 settlement payment from, Kennametal, Inc. for itself and as successor-in-interest to Manchester Tool Company and Federal Signal Corporation as a resolution of any and all claims arising out of or concerning issues raised in the lawsuit, County of Summit v. Kennametal, Inc., et. al., Case No. 5:09 CV 405, before Judge Dowd and Magistrate Pearson in the United States District Court for the Northern District of Ohio, Eastern Division, for the Prosecutor and the Executive's Department of Law, and declaring an emergency.

WHEREAS, the County of Summit filed a lawsuit against Kennametal, Inc., Manchester Tool Company and Federal Signal Corporation in the County of Summit Court of Common Pleas before Judge Teodosio being Case No. 2009 01 0829 and titled **County of Summit v. Kennametal, Inc., et. al.** alleging breach of an Enterprise Zone Agreement entered into on or about the 10th day of August, 1998 between the County of Summit, the City of New Franklin (formerly Franklin Township) and Manchester Tool Company; and

WHEREAS, the above lawsuit was removed to federal court pursuant to 28 U.S.C. § 1446 (D) thereby divesting the County of Summit Court of Common Pleas of jurisdiction to proceed further; and

WHEREAS, upon removal to federal court, said lawsuit retained the caption **County of Summit v. Kennametal, Inc., et. al.** and was assigned Case No. 5:09 CV 405, before Judge Dowd. The parties subsequently consented to the jurisdiction of Magistrate-Judge Benita Y. Pearson; and

WHEREAS, all parties provided information and disclosures as required pursuant to the Federal Rules of Civil Procedure and agreed to a court supervised discovery plan and further agreed and did participate in Court mediation of the lawsuit; and

WHEREAS, in consultation with the County Prosecutor, the City of New Franklin and the Manchester School District, the County Executive reached terms of settlement with counsel for Kennametal, Inc. to settle the case in the amount of \$70,000.00 in return for the County of Summit dismissing Case No.5:09 CV 405 and agreeing to release any and all claims arising out of the subject Enterprise Zone Agreement by the County of Summit, the City of New Franklin and the Manchester School District; 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, accept the funds in consideration for the County of Summit agreeing to a general release of its claims against Kennametal, Inc., Manchester Tool Company and Federal Signal;

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 and general release related to all claims arising out of or concerning issues raised in the pending lawsuit **County of Summit v. Kennametal, Inc., et. al.** Case No.5:09:CV 405, before Judge Dowd and Judge-Magistrate Benita Pearson in the United States District Court for the Northern District of Ohio, Eastern Division, in consideration of payment of the amount of \$70,000.00.

SECTION 2

The County Executive is hereby authorized to terminate the Enterprise Zone Agreement entered into between the County of Summit, the City of New Franklin (formerly Franklin Township) and Manchester Tool entered into on or about August 10, 1998 in the Southern Enterprise Zone.

SECTION 3

The settlement proceeds shall be dispersed among the Manchester Local School District, the City of New Franklin and the County of Summit as provided for by law.

SECTION 4

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 resolving all outstanding matters concerning the Enterprise Zone Agreement entered into on or about August 10, 1998 between the County of Summit, the City of New Franklin (formerly Franklin Township) and Manchester Tool and its successors by the Court imposed deadline of July 7, 2009.

SECTION 5

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 6

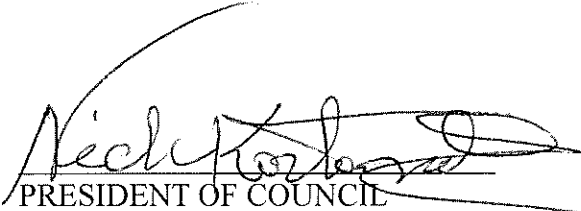
It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings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

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INTRODUCED June 1, 2009

ADOPTED June 15, 2009


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED June 16, 2009


EXECUTIVE

ENACTED EFFECTIVE June 16, 2009

5170
Shapiro, Voice Vote: 8-1 YES: Comunale, Crossland, Feeman, Kostandaras, Poda, Schmidt,
Smith NO: Crawford ABSENT: Rodgers & Prentice