

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Staff

DATE: **February 20, 2001**

RE: **Analysis Report**

Balances As Of: 2/14/01 2/10/00

GSD 4% RESERVE FUND \$7,286,761 \$6,364,317

CONTINGENCY ACCOUNTS

GSD	\$50,000	\$154,000
USD	\$50,000	\$50,000

GENERAL FUND

GSD	\$46,859,389	\$37,648,618
USD	\$11,156,918	\$8,226,373

GENERAL PURPOSE

<u>SCHOOL FUND</u>	\$22,665,532	\$17,165,379
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SOLID WASTE
DISPOSAL FUND

Solid Waste Activities	\$865,517	\$477,098
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- RESOLUTIONS -

RESOLUTION NO. RS2001-514 (GREER) – This resolution appropriates \$85,000 in community development block grant funds for construction of streetscape and storm water infrastructure improvements on 12th Avenue South between Halcyon Avenue and Caruthers Street. These community development funds will supplement urban services district bond funds that have been appropriated for these infrastructure improvements.

RESOLUTION NO. RS2001-515 (GENTRY) – This resolution awards the sale of the general obligation bonds approved by Resolution No. RS2001-502. These general obligation bonds, previously approved by the council in the amount of \$292,565,000, are being sold by competitive bid. The bids will be received on Tuesday, February 20, 2001. In addition to setting the interest rates, this resolution also will set the maturity, terms and redemption dates for the bonds.

There will be a substitute resolution filed after bids have been received which will actually award the sale of the bonds to the bidder with the lowest true interest costs to Metropolitan Government, with necessary details on the form of the bonds being changed to conform to the bid.

This is the typical legislation used in awarding general obligation bonds.

RESOLUTION NO. RS2001-516 (GENTRY) – This resolution authorizes the department of water and sewerage services to enter into a utility relocation contract with the state department of transportation relative to intersection improvements being constructed by the state at Old Hickory Boulevard with its intersection of Granny White Pike. Council has previously approved an ordinance authorizing our participation in this construction project. The cost of our relocation of water and sewer lines in this project will be \$644,397.19. Metro will pay \$534,272 that will be funded from the water and sewer extension and replacement fund. The state of Tennessee will pay the remainder. This is a typical utility relocation agreement with the state.

RESOLUTION NO. RS2001-517 (WALLACE, KNOCH & GENTRY) – This resolution authorizes the public property administrator to convey a temporary construction easement to the state of Tennessee relative to the replacement or rehabilitation of the Shelby Street Bridge over the Cumberland River. This is part of a series of agreements entered into to provide for construction of this bridge.

Temporary construction easements are, in fact, areas that are adjacent to the actual construction work that may be disturbed, although no permanent structure is constructed. Once completed, the easement area must be restored to the same condition as it was when the easement was granted. This temporary construction easement for this Gateway Bridge project will expire December 31, 2002. Ordinance No. O93-743, relative to the construction project, provided that additional construction could be ratified by resolution of the council.

RESOLUTION NO. RS2001-518 (MCLENDON & GENTRY) – This resolution approves an amendment to a grant between the state department of human services, bureau of primary health care, to the Metro health department to provide health care for the homeless. This grant contract expires on January 31, 2001. This amendment extends the term through March 31, 2001, and results in an additional \$154,293 in funding.

RESOLUTION NO. RS2001-519 (GENTRY) – This resolution adopts the annual contract between the Metro health department and the state department of health and environment to provide funding for immunization services for children and adults, especially those children entering school. The amount of this grant is \$334,400. This contract is for a term of one year beginning January 1, 2001, and terminating December 31, 2001.

RESOLUTION NO. RS2001-520 (PONDER & GREER) – This resolution authorizes the execution of an amendment to the lease agreement between the Metropolitan Government, for benefit of the arts commission and the historical commission, with Cummins Station, L.L.C. for lease of office space at 209 – 10th Avenue South. The original five-year lease expires February 28, 2001. This amendment will extend the lease through June 30, 2001, and also provides for an increase in the monthly rental payment. The current rent is \$2,862.76 per month, which will be increased to \$3,054.51 per month.

This resolution has not yet been considered by the planning commission and may not be adopted without a recommendation.

- **BILLS ON SECOND READING** -

ORDINANCE NOS. BL2000-497 AND BL2000-498 (BRILEY) – These two ordinances amend the Metropolitan Code relative to procedures used in determining whether buildings are fit for human occupancy, their repair, and their use. These two ordinances, principally, modernize existing procedures and conform to the present status of state law. The procedures are used when the department of codes receives notice from the Metro development and housing agency (MDHA) or a private person charging that a structure is unfit for human habitation, or when the department of codes makes a determination as to unfitness and for providing notice to owners to make required repairs. In the event such repairs are not made, the structure can be demolished. It also provides that the codes department can make the necessary repairs and attach a lien on the property to recoup the costs. Additionally, provisions are provided that such structures that are not fit for human habitation can be condemned by MDHA, and MDHA has authority by resolution of the council to acquire such properties so that they can be removed or rehabilitated so as to be used in affordable housing efforts.

The provisions contained in Ordinance No. BL2000-497 are also contained in Ordinance No. BL2000-585. It appears to staff that the provisions in BL2000-585, which are somewhat different, should be incorporated into Ordinance No. BL2000-497.

ORDINANCE NO. BL2001-585 (BRILEY) – This ordinance amend Chapter 16.24 and Chapter 2.88 of the Metropolitan Code by adopting new minimum standards for buildings relative to dwellings and structures that are unfit for human habitation, and by renaming the board of housing code appeals.

Essentially, Chapter 16.24 is revised by making some matters more clear and adopting some additional standards to assure that existing structures meet minimum standards to be safe for occupancy. There are some changes, however, that not only apply to structures but also are expanding to the lots on which the structures are located. Additionally, the standards will be expanded to commercial structures and are not limited to residential structures.

These standards are not to be confused with the building code, fire code, plumbing code, electrical code, etc., which are the codes which must be complied with when structures are being built or remodeled. The standards in this ordinance are to be used to determine whether buildings should be replaced or torn down when it is unsafe for the buildings to be occupied and are applicable when structures are renovated.

There are some issues of which the council may wish to address, however. Our provisions provide that when a regulation is not specifically stated, that the director of codes can make a determination to address a regulation to assure proper stabilization or operation of a building to protect the public health and safety. Staff feels it is inappropriate to grant to the director of codes legislative capability. It should be that the director has the ability to make recommendations for changes should he decide changes are needed to provide health and welfare. There is a provision that allows the director of codes to close public streets that are adjacent to unsafe buildings when he deems it appropriate. Under the Charter this appears to be a function that lies within the public works department. Staff suggests this be modified to authorize the director of public works to close a street when the codes director determines that buildings adjacent to it pose a safety hazard.

ORDINANCE NO. BL2001-585 (CONTINUED)

There are some changes which have been requested through the years by members of council that deal with automobiles and weed control. This ordinance provides that weeds cannot grow in excess of ten (10) feet, and if they do they are in violation. There probably needs to be a clarification of the definition in this section, as it seems to imply that plants also cannot exceed ten feet. The code also provides that unless specifically provided for in the zoning code, it would be unlawful for any person to have an inoperable or unlicensed motor vehicle on their premises unless it is stored in an enclosed structure. It further prevents inoperable vehicles in need of repair, whether or not licensed, from being parked or stored on premises.

In addition, this ordinance adopts several provisions relative to dwellings that are unfit for human habitation and the process for ordering repairs or demolition and the appropriate appeals process. This is the subject matter of Ordinance No. BL2000-497 which is also on second reading. These provisions actually are in conflict and would amend Chapter 16.52 of the Code. Staff is of the opinion that the provisions cannot be enacted as the caption does not address Chapter 16.52. Staff would recommend that these provisions be amended from this ordinance and substituted in Ordinance No. BL2000-497. One of the provisions in this process provides that if repairs to a structure exceed two-thirds of the value, then it should be torn down rather than repaired. This seems to be too high of a threshold, as repairs to a structure having a certain value will not increase its value by making the repairs. This threshold should most likely be reduced rather than increased from its present 50%. This would require

that structures that cannot be repaired should be removed so the lot can be cleared and put back into use for affordable housing, government loan programs, or other private uses.

In addition, this ordinance amends Chapter 2.88 by changing the name of the board of housing code appeals to become the board of property standards and appeals. Although this chapter is also re-written it, apparently, does not make any changes other than name changes, except for the time for making applications for appeal is extended from ten (10) to twenty (20) days, which is reasonable. One might question this name change, as although the standards are being extended to also cover the

premises where structures are located, these are still primarily structure or building standards. Property standards would include land use standards. Property is a very inclusive term and this name change would tend to indicate that many issues involving property would have to be appealed to this board. It may be appropriate to consider some other name for this board.

Staff has been informed that there will be filed a substitute ordinance which will contain several key changes.

ORDINANCE NO. BL2001-608 (WATERS & GENTRY) – This ordinance amends the Metro Code to permit boards and commissions to hold their meetings in private buildings and on private property if such boards or commissions are specifically permitted to hold such meetings by a contract or lease agreement approved by ordinance adopted by the council.

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ORDINANCE NO. BL2001-608 (CONTINUED)

The Metro Code presently prohibits boards or commissions from meeting on private property and requires that meetings be held in public buildings. A number of boards and commissions, such as the tourism commission, do not have public space to hold such meetings. When available, it tries to hold its meetings at the convention center or the arena in their meeting rooms. However, from time to time there is not room available due to the booking of large events. This ordinance would permit such boards or commissions, such as the tourism commission, to meet in some private conference or meeting rooms, provided the council has approved such meeting locations by a contract or lease agreement approved by ordinance. The tourism commission has a contract with the Nashville chamber of commerce to provide tourism services, but not to provide such meeting space; however, if they did have a contract they could begin holding their meetings on their premises.

ORDINANCE NO. BL2001-609 (WALLACE) – This ordinance authorizes the Education Network of America to enter into a participation agreement with the Metro department of water and sewerage services to provide improvements in a sewer system for McGavock Street, between 11th and 12th Avenues South. Education Network of America will pay \$5,000 to aid in this improvement project. There presently exists a ten-inch clay sewer which is in poor condition. Additionally, the sewer line needs to be lowered approximately 30 inches to allow the Education Network of America building to have sewer service. The project will consist of installation of a new 12-inch public sewer pipe which

will be approximately 135 feet long. This is a typical participation agreement with the water and sewer department.

ORDINANCE NO. BL2001-610 (GENTRY & BOGEN) – This ordinance authorizes the acceptance of grant funds in a total amount of \$196,000 by the Metropolitan Government to offset a portion of the cost of the performance audit conducted on the Metro board of public education. The following grants and their amounts are approved and accepted:

	<u>Grantor</u>	<u>Amount</u>
1.	The Frist Foundation	\$100,000.00
2.	The HCA Foundation	\$25,000.00
3.	Nashville Predators Foundation	\$10,000.00
4.	Afficus Trust	\$5,000.00
5.	Purity Foundation	\$5,000.00
6.	The Community Foundation	\$1,100.00
7.	The Memorial Foundation, Inc.	\$50,000.00

The total cost of this performance audit was \$499,570.

ORDINANCE NO. BL2001-611 (SHULMAN & LORING) – This ordinance approves a grant between the Metropolitan Government and the state department of state for \$5,000 for the benefit of the Metro public library archives. This grant is for a term of one year beginning January 1, 2001, and expiring December 31, 2001. These funds will be used by the public library to assist in the preservation, arrangement and description of endangered local records.

ORDINANCE NO. BL2001-612 (JENKINS & WILLIAMS) – This ordinance authorizes the Metropolitan Government to enter into an agreement with the City of Brentwood to sell water to the City of Brentwood. The Metropolitan Government has provided the City of Brentwood with water under a contract that began in August 1985. This fifteen-year agreement has since expired, although Metro continues to supply the city with water while a new agreement is being accomplished. Under this agreement Metro will continue to sell the city water at a maximum daily volume of 1,500,000 gallons per year beginning in the year 2000, and increasing in 2003 to a maximum daily volume of 2,500,000 gallons per year.

The increase in capacity that Metro will be required to provide will be subject to the City of Brentwood paying an additional \$1,500,000 to cover capital costs of increasing this capacity amount.

The term of this agreement is for twenty years. The agreement can be terminated by either party after a four-year notice of intent to terminate has been provided.

Issuance of notification by the City of Brentwood to terminate the contract will not release them from paying the \$1,500,000 for capital costs.

The City of Brentwood is charged the same rate as our other industrial and commercial customers. The City of Brentwood does not own a water treatment plant, buying their water in bulk from Metro and then reselling it.

The Metropolitan Government provides sewerage treatment service to a number of other communities, however, this is our only existing water contract.

ORDINANCE NOS. BL2001-613 THRU BL2001-619 – These seven ordinances approve the sale of surplus property by the director of public property administration due to the previous owner’s failure to pay delinquent property taxes. The planning commission has not yet considered these ordinances, which property location and estimated value are listed below:

<u>Estimated Ordinance No. & Sponsor</u>	<u>Map & Parcel No.</u>	<u>Location</u>	<u>Value</u>
BL2001-613 (KNOCH) \$300.00	Map 162-9, Parcel 73	Ash Grove Drive	
BL2001-614 (KNOCH) \$300.00	Map 162-13, Parcel 110	Cedarvalley Drive	
BL2001-615 (MCCLENDON & GENTRY) \$100.00	Map119-2, Parcel 27	225 Desoto Drive	
BL2001-616 (WHITMORE) \$200.00	Map 92-6, Parcel 57	2713 Eden Street	
BL2001-617 (WILLIAMS) \$100.00	Map 116-11, Parcel 116	Pendleton Avenue	
BL2001-618 (KERSTETTER & GENTRY) \$200.00	Map 162-1, Parcel 125	Tusculum Road	
BL2001-619 (GENTRY) \$100.00	Map 121-4, Parcel 5	Western Shore Drive	

ORDINANCE NO. BL2001-620 (CAMPBELL) – This ordinance closes an unbuilt portion of Turner Street, from Riverside Drive to the western edge of parcel 270 on tax map 72-15. This closure is being requested by Nancy Sutton of Seals Realtors & Auction Company, Inc., on behalf of the abutting property owners, and the properly executed petition is on file with the Metro clerk. This closure has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2001-621 (MCCLENDON) – This ordinance closes unbuilt Alley No. 1880, from Whitsett Road north to its terminus at Alley No. 1878. This closure is being requested by H. A. McClaron, Trustee for Patterson Memorial United Methodist Church, the abutting property owner, and the properly executed petition is on file with the Metro clerk. This closure has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2001-623 (GENTRY) – This ordinance grants a franchise to American Fiber Systems, Inc., to construct, operate and maintain a telecommunications system using fiber optic cable under the provisions of the Metropolitan Code. The company will have a fifteen-year franchise and agrees to pay five percent of its gross revenues to the Metropolitan Government. Metro has issued several franchises for fiber optic cable services or telecommunications services which, essentially, are provided to hotels, motels, hospitals and office buildings. These are non-exclusive franchises. The granting of this franchise has been approved by the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2000-560 (PONDER & GILMORE) – This ordinance, as amended, amends various sections of the zoning text by changing some definitions, adding new land uses, and modifying provisions for final site plans review by the planning commission.

There is a new definition for mobile storage units which are permitted with conditions in mixed use, some office, and most of the commercial districts. These storage units are to be permitted with conditions in industrial zone districts for storage of excess inventory, lay away items, and seasonal merchandise. They are used extensively by large retail. They are permitted storage for ninety days only at one time.

There is a change in the zone text which would prohibit commercial billboards in communities or as a requirement of base zone.

There is a proposed change related to zone fees which must be approved by the council by resolution to allow the planning commission and the board of zoning appeals to recommend and develop proposed fees for council consideration to cover the cost of processing such applications.

There is a text change that would remove the floor area ratio restriction in the OR20 and OR40 zone districts to allow these districts to get the proposed number of units permitted. This amendment was previously adopted for the multi-family zone, but inadvertently the combined office/multi office zone did not get the benefit of this change.

This text change also modifies the definition of a boarding house by providing that such facilities can contain no fewer than three or more than ten rooms which are occupied for a period of no less than thirty days or more than six months. Further, the text change clarifies that hotels or motels contain ten or more rooms for paying guests for a period of less than thirty days. This more clearly defines hotels and motels.

There is a new condition adopted for the planning commission relative to final approval by the planning commission for site plans. These conditions are more detailed and clearly set out those areas for which they are to review.

This text amendment has been approved by the planning commission.

Staff would caution the council that many of these changes are in areas that were rejected by the council when the new zoning text was adopted. The provisions relating to billboards and to final approval for site plans by the commission and the planning director were specifically rejected by the council when it adopted this new zoning text. Both of these changes remove control from the council, dilutes the PUD process, and gives more power to the planning commission.

ORDINANCE NO. BL2000-566 (DERRYBERRY) – This ordinance (1) renames a portion of McCrory Creek Road, between Pulley Road and Couchville Pike, to “Pulley Road; (2) renames portions of Couchville Pike, McCrory Creek Road, from Donelson Pike to Bell Road, to “Derryberry Boulevard”; and (3) renames a portion of McCrory Creek Road, from Old Murfreesboro Pike to its intersection with an unnamed road, to “Faircloth Lane”. The renaming of these streets is being requested by the Metro public works department in order to improve E-911 system efficiency and response time. This ordinance has been approved by the planning commission and the E-911 board.

ORDINANCE NO. BL2001-581 (WALLACE) – This ordinance abandons an unnamed alley running from Winfrey Street to its terminus at Alley No. 190, lying between Lewis Street and Fairfield Avenue. This abandonment is being requested by Rev. James E. Henry on behalf of Mt. Ararat Missionary Baptist Church, the abutting property owners, and the properly executed petition is on file with the Metro clerk. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2001-582 (PONDER & WATERS) – This ordinance grants a fiber optic cable franchise to Digital Access Corporation of Tennessee, Inc. (Digital Access). Digital Access has previously been granted a cable television franchise, however, as in addition to providing television services, they will also be providing telecommunications services utilizing the same fiber optic cable. The Metropolitan Code requires that persons who provide telecommunications through fiber optic cable must obtain a franchise, therefore, the purpose of this ordinance is to grant a franchise for a period of fifteen (15) years. Digital Access will pay a franchise fee of five percent (5% of the gross revenue from such telecommunications services if that is the only service being utilized. However, if it is in conjunction with the cable television franchise, which has a similar fee payment, the one five percent of gross receipts will be paid to the Metropolitan Government.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2001-583 (GENTRY) – This ordinance approves a lease agreement between the Metropolitan development and housing agency (MDHA) and the Metropolitan Government for benefit of Metro public schools for use of housing Unit 08322 located at 3810 Georgia Court, which is part of the Preston Taylor Homes housing development, for a term of one year beginning October 1, 2000, and expiring September 30, 2001. No rent will be paid for the use of this unit. The board of public education will provide adult educational services for at-risk families at this location.

ORDINANCE NO. BL2001-584 (GENTRY) – This ordinance approves the execution of a contract between the Metropolitan Government on behalf of the state trial courts and the state administrative office of the courts. This contract is for a term beginning September 2, 2000, and expiring June 30, 2001. Under the terms of this contract the state will provide \$10,000 to the courts to be utilized to arrange for professional educational, mediation, and psychological evaluation services for indigent persons who are involved in dispute, custodial, or visitation matters in the courts, and for divorcing parents with minor children who cannot obtain such services. The courts will provide a list of persons who provide these services and will pay to those counselors to whom persons are referred an amount not to exceed \$75 per hour. This program is the Divorce Education and Mediation Pilot Project and does not require any funding from the Metropolitan Government.

ORDINANCE NO. BL2001-586 (GREER & KNOCH) – This ordinance authorizes the acquisition of property, by negotiation or condemnation, of nine (9) tracts of property for right-of-way acquisition in connection with improvements to 12th Avenue South, from Halcyon Avenue to Caruthers Street. The estimated cost of acquisition is \$5,000 to be funded from previously approved bond funds. In addition to previously authorized funds by council, the Metropolitan development and housing agency is providing \$80,000 for this project.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2001-587 (KNOCH) – This ordinance authorizes the acquisition of property, by negotiation or condemnation, for one utility easement in relation to the Oak Highlands Off-Site sewer project. The estimated cost of easement acquisition is \$1,000, which will be funded from the water and sewer extension and replacement fund.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2001-588 (NOLLNER & DILLARD) – This ordinance authorizes the sale of 1,954 square feet of property in the vicinity of I-65 from the Chadwell Elementary School property to the state of Tennessee. The state will pay \$1,900 for this property which funds will be paid to the school debt service fund. The board of education has approved the sale of this property. The property is being acquired by the state of Tennessee as part of the construction work and widening of I-65.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2001-589 (KNOCH & GENTRY) – This ordinance authorizes the Metropolitan Government to accept \$70,000 from Seven Springs Associates, LLC, which amount is to be used by Metro public works for intersection improvements at Cloverland Drive and Old Hickory Boulevard. Seven Springs Associates, LLC, has had approved a plan to develop property that abuts the north margin of Old Hickory Boulevard, opposite Cloverland Drive which specifically requires the construction of a left turn lane. The payment of these funds to public works will satisfy this obligation.

ORDINANCE NO. BL2001-590 (HAND) – This ordinance authorizes the Metro police department to accept the donation of twenty (20) portable radios being donated by Motorola Communications and Electronics. These radios have a value of approximately \$1,000 each and will be utilized by the information services division of the police department. Motorola, from time to time, donates radios to police departments.

SUBSTITUTE ORDINANCE NO. BL2001-591 (GENTRY) – This substitute ordinance approves the transfer of a cable television franchise held by Intermedia Partners Southeast, d/b/a AT&T Broadband to Comcast Cable Communications, Inc. Intermedia, which has been acquired by another entity (AT&T Broadband), will transfer their franchise in order to abide by some federal regulations relative to competition and antitrust concerns. The present franchise, which was granted in 1995 for a period of fifteen (15) years, will be transferred to Comcast Cable Communications, Inc. Comcast Cable Communications is a major cable television franchise operated in the United States. They will pay \$5,000 to the Metropolitan Government to cover our costs of processing the application for transfer of the franchise. In the event our out-of-pocket fees exceed \$5,000, they will be responsible for the actual amount. This is a routine requirement under our cable franchise ordinance as we prohibit transfer of any franchise. Metro reserves the right to approve the transfer of such franchises so that we can be assured that the operators are competent to maintain a cable television franchise in a city the size of Nashville. Comcast Cable Communications is a large nation-wide provider. This ordinance has been approved by the special CATV committee.