

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Staff

DATE: **June 5, 2001**

RE: **Analysis Report**

Balances As Of: 5/31/01 6/1/00

GSD 4% RESERVE FUND \$13,675,693 \$8,037,887

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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- BILL ON PUBLIC HEARING -

ORDINANCE NO. BL2001-705 (GENTRY) – This ordinance adopts the capital improvements budget for 2001-2002 through 2006-2007. A separate analysis has been provided for the capital improvements budget. The capital improvements budget is a planning document and before a capital expenditure may be approved by the council, the project must be provided for in this document. It does not in itself appropriate any funds. It is amendable on third and final reading. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the mayor, and be adopted by a resolution of council with twenty-seven (27) affirmative votes.

- RESOLUTIONS -

RESOLUTION NO. RS2001-630 (GENTRY & CAMPBELL) – This resolution would adopt a real property tax deferral program for qualified elderly or disabled residents of the Metropolitan Government. Provisions of state law permit the legislative body of counties and cities to adopt by resolution a deferral of property tax payments for residents or certain persons under certain conditions.

This program will allow any person who is 65 years of age or older, or married couples who are both 65 years of age or older, or any person who is totally and permanently disabled to defer payment of real property taxes on their place of residence. In addition to the age requirement, those persons who have gross income, and in cases of married couples a combined gross income of \$25,000 a year are ineligible for the program. The definition of gross income is defined by the Internal Revenue Code. Further, the taxpayer's principal residence will be included, but only one acre of land with the residence. No later than March 1st of each year persons will make application with the Metro trustee's office for deferral of their real property taxes for the following tax year. If found to qualify they will be entitled to a deferment which will be noted in the register of deeds office. When tax bills are received, payment will be deferred and a six percent per year interest will be charged on the deferral. As this outstanding tax payment and interest is a first priority and will become a lien upon the property, mortgage holders must be notified and consent to the deferral. The deferral of payment of real property taxes and interest terminates on the death of the person granted the deferral or when the residence is sold. Upon death the payment of taxes and interest must be paid within eighteen (18) months of termination or settlement of the estate. When there has been a sale of the property, taxes and interest must be paid within sixty (60) days. No deed may be recorded with the register of deeds unless all taxes and interest have been paid.

This program will not be available to residents during this tax year. Qualified applicants may make application after adoption of this resolution for tax year 2002. This cannot take affect unless adopted by a two-thirds vote of the council. This is not the same tax relief program for the elderly and disabled that the council adopts annually which is funded in the proposed budget for next year. That legislation will be forwarded to the council in the fall.

RESOLUTION NO. RS2001-631 (GENTRY) – This resolution calls the Metro board of equalization into special session beginning June 23, 2001, and ends when the board has finished hearing appeals on pro-rated assessments and any business from their regular session. The board of equalization meets during the month of June to hear appeals of assessments on real property, however, they were not able to finish their business during June due to the vast number of appeals. State law provides that the local legislative body may call this board into special session and that is the sole purpose of this resolution, which is to allow the board to complete its work.

RESOLUTION NO. RS2001-632 (GENTRY) – This resolution approves the new four year plan for reappraisal and equalization of assessment for Davidson County and approves receipt of state funds for a share in local costs under contracts with the state regarding performance of state reappraisal functions by the Metro assessor of property.

The reappraisal program will begin July 1, 2001, and provides for the reevaluation of some 206,800 parcels of property in Davidson County. The property reevaluation will be completed in the year 2005. The cost of the reappraisal program, which is funded in the annual operating budget of the assessor of property, funds the salary and benefits for some 39 employees and other related costs for the program. The state will provide \$126,567 annually to assist in this reappraisal program. The total cost of the program is estimated to be as follows:

<u>FY</u> <u>2001-2002</u>	<u>FY</u> <u>2002-2003</u>	<u>FY</u> <u>2003-2004</u>	<u>FY</u> <u>2004-2005</u>
\$1,528,868	\$1,591,945	\$1,643,741	\$1,852,028

RESOLUTION NO. RS2001-633 (GENTRY) – This resolution appropriates \$9,123,176 from the unappropriated fund balance of the general fund of the general services district, from designated fund balances, and increased revenue sources to various departments. The amount of \$7,942,692 is from the unappropriated fund balance; \$567,000 is funded from the register of deeds computer fund balance to the register’s office; and \$613,484 is from increased revenue sources.

The following appropriations are made to the following departments by appropriating to them additional income generated by these departments:

- Juvenile Court - \$364,000
- Parks & Recreation - \$249,484

The following appropriations are made from the unappropriated fund balance of the general fund of the general services district to various departments to balance their budgets for the current fiscal year:

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RESOLUTION NO. RS2001-633 (continued)

- Arena - \$750,000
- Planning Commission - \$21,343
- Medical Examiner - \$163,000
- Justice Information System - \$30,000
- County Clerk - \$70,000
- Information Systems – Government Access - \$2,000
- Metro Action Commission - \$871,457
- Historical Commission - \$3,600
- Law Department - \$75,000
- Finance Department, ADA - \$63,030
- Election Commission – Permanent Registration - \$120,000
- Public Works – Thermal Transfer to Solid Waste Disposal Fund - \$4,006,259
- Greenway Master Plan - \$500,000
- Metro Information System Technology Plan - \$500,000
- Tom Joy Demolition - \$200,000
- Metro Action Commission Deferred Maintenance Assessment - \$100,000
- Post Audit - \$249,570
- Parks-Park Structure - \$157,433
- Parks-Special Revenue Producing - \$60,000

RESOLUTION NO. RS2001-634 (GENTRY & MCCLENDON) – This resolution approves an amendment to an annual grant between the U.S. environmental protection agency (EPA) and the Metro board of health for maintenance and operation of the air pollution control program. This amendment reflects a decrease in funding to be received from the EPA in the amount of \$137,910. It also reduces Metro’s required contribution by \$30,000, bringing the total amount of this grant to \$572,663. The original grant total was \$694,109, which was amended to increase the amount to \$740,573. The EPA is now decreasing the amount of this grant to the program.

RESOLUTION NO. RS2001-635 (JENKINS) – This resolution authorizes the department of law to compromise and settle the claims of Renika Montgomery, Quanita Hayes, Shanielle Black, and Elyse Young against the Metropolitan Government in the amount of \$9,950 plus actual court costs. The amount shall be paid from the self-insured liability fund.

This claim is the result of an automobile accident which occurred at Lafayette Street and Second Avenue North when our police officer struck a vehicle operated by Renika Montgomery. In addition to Ms. Montgomery, three passengers were also injured. This claim is for the settlement of personal injuries only and does not include damages to the automobile. Ms. Montgomery will be paid \$3,250 which includes \$1,360 in medical bills. Quanita Hayes will be paid \$5,000 as she suffered a broken wrist and mouth injuries, and includes \$1,754 in medical injuries. Shanielle Black will be paid \$1,000 which includes \$469 in medical bills. Elyse Young will be paid \$700 which includes \$280.30 in medical bills. Our police officer was suspended two days as a result of this accident.

RESOLUTION NO. RS2001-636 (GENTRY) – This resolution authorizes the department of law to compromise and settle the lawsuit of Lori Murphy against the Metropolitan Government in the amount

of \$70,000, and directs that this amount be paid from the self-insured liability fund. This lawsuit is the result of medical malpractice by nurses at General Hospital involving the birth of Brandi Murphy at General Hospital in 1987. Prior to birth the infant had a deceleration of heart rate and after birth suffered from oxygen deprivation which resulted in permanent defects, including brain damage, spastic cerebral palsy, and seizures. The \$70,000 settlement settles the claims of our employees, who were the nurses who were involved in this birth and aftercare. The physician was an employee of Vanderbilt Hospital and the physician's insurance carrier has already settled for an undisclosed amount.

The Metropolitan Government is liable only for the employees of Nashville General Hospital and the nurses. All physicians are employees of medical colleges.

- **BILLS ON SECOND READING** -

ORDINANCE NO. BL2000-561 (WALLACE & KNOCH) – This ordinance amends the Metropolitan Code to provide a window of opportunity for Metro Government employees to reconnect previous employment service with the Metropolitan Government for pension benefit purposes. The Metro Code now provides that employees who leave the Metropolitan Government and are re-employed have the opportunity to receive previous service in computing service credit for pension purposes. However, employees who were re-employed by the Metropolitan Government prior to January 1, 1996, had only one year to make application for such service credit. A number of employees who were eligible did not make application to receive previous service credit within this window of opportunity.

This ordinance will re-open this window of opportunity and allow any such employees that were employed prior to September 1, 1996, an opportunity to make application to receive prior service credit until December 31, 2001.

This change in times to reconnect service was the result of the adoption of the new pension plan by the council for Metro employees.

Although an actuary report has not been timely filed, it does not appear that the adoption of this ordinance would have a significant effect on the pension plan.

ORDINANCE NO. BL2001-695 (WALLACE) – This ordinance amends the Metropolitan Code by changing the name of the research staff or council office, thereby removing all references to “research staff” or “staff” and replacing them with the phrase “council office”.

ORDINANCE NO. BL2001-696 (HALL) – This ordinance amends the Metropolitan Code by making applicable the same regulations to scooters that are now presently applicable to in-line skates or roller skates. In 1998 an extensive revision of provisions relative to in-line skates and roller skates was adopted by the council. It included requirements that skating be done in single file, clinging to vehicles

would be prohibited, and certain equipment would be required, including helmets, and lamps when skating at night. It also provided that persons using roller skates or in-line skates could not exceed the posted speed limit.

This ordinance would simply make scooters subject to these same provisions which are not deemed to be skates but are self-propelled.

ORDINANCE NO. BL2001-697 (BRILEY & WATERS) – This ordinance amends the Metropolitan Code by returning as a division of the mayor’s office the Nashville career advancement center (NCAC). Previously, this agency was known as the mayor’s employment and training resources center (METRA) and at one time was part of the mayor’s office. This agency administers the job training program under the Workforce Investment Act of 1988. It has been decided to return the NCAC to the mayor’s office as a division of the mayor’s office. This ordinance will thereby create the NCAC as a division of the mayor’s office. The executive director and all employees shall be in the unclassified service, as are all employees of the mayor’s office and present employees of NCAC. The mayor appoints the executive director of the NCAC.

This ordinance provides that the NCAC would be permitted to accept grants or funds and enter into contracts with the local Workforce Investment agency or any agency as established and required by federal act. These grants to the NCAC presently are being approved by the council.

Staff would recommend that if this division of the mayor’s office would be able to approve and accept grants or funds to carry out its mission, that there be a requirement that the Metropolitan Government is not liable for the administration of the grant funds and that the liability rests solely with the mayor and with the NCAC. Staff does not believe it is acceptable to allow the NCAC to accept grant funds that could result in liability to the Metropolitan Government.

The ordinance further provides that any amendments to the authority of the NCAC could be approved by resolution of the council receiving 21 affirmative votes. Staff is of the opinion that this is inappropriate and illegal to amend the Code by resolution. We do permit certain contracts to be adopted by resolution that have been adopted by ordinance, but staff is unaware of any instances where the Code can be amended by resolution.

ORDINANCE NO. BL2001-698 (MAJORS) – This ordinance authorizes the mayor to enter into a contract with Nashville Electric Service and the Tennessee Valley Authority for the department of water and sewerage services to provide electric service to the central wastewater treatment plant. This contract, which will run for ten years, is being entered into to take advantage of lower costs of electric power for large power users. Under this contract the water and sewerage department will pay a rate for basic electric service and a variable price for interruptible electric power. This essentially allows a basic rate to be charged for normal electrical use, which is lower than the rate for electricity presently

being used by the central wastewater treatment plant. This type contract is being used by the water and sewerage department to reduce its costs for electricity.

ORDINANCE NO. BL2001-699 (HAND, BRILEY & MCCLENDON) – This ordinance accepts a grant from the state emergency management agency in the amount of \$675,000 for construction and operation of an outdoor public warning system. Metro will maintain this program and is providing funding in the amount of \$588,300 which has previously been authorized by the council. These funds will be used to erect a siren system to warn residents of impending weather dangers such as the tornado that struck Nashville in 1998. The term of this agreement begins March 1, 2001, and ends on September 30, 2003.

ORDINANCE NO. BL2001-700 AND BL2001-701 – These two ordinances approve contracts with the state department of transportation concerning signalization at intersections within the area of the Metropolitan Government. Additional traffic signals will be installed at the sole cost of the state department of transportation. Metro agrees to maintain and operate these signals after installation.

BL2001-700 (LINEWEAVER, KNOCH & HAND) approves a contract for installation of a traffic signal at Charlotte Pike with its intersections at Cabot Drive, I-40 westbound off ramp, and I-40 east bound on ramp.

BL2001-701 (STANLEY, DERRYBERRY & OTHERS) approves a contract for installation of a traffic signal and Stewarts Ferry Pike at the intersection of I-40 eastbound exit ramp.

ORDINANCE NO. BL2001-702 (KNOCH, JENKINS & LINEWEAVER) – This ordinance authorizes the acceptance of a contract between the state department of transportation and the Metropolitan Government for improvements to our countywide signal maintenance program. These funds are being 100% provided by the federal government. The amount of the contract is \$1,290,000. These funds will be utilized to improve and rehabilitate traffic signals at the intersection and approaches at approximately 15-30 locations throughout all of Davidson County. Primarily, the project is to replace various traffic signal displays with LED signal heads, raise signal spans for necessary overhead clearance, and replace existing vehicle loop detectors with video detection and preformed loops as appropriate at each location.

ORDINANCE NO. BL2001-703 (LORING) – This ordinance amends Chapter 16 of the Metropolitan Code by adopting the 2000 edition of the Metropolitan Code for one and two family dwellings. It also adopts the 1998 edition of the ICC/ANSI accessible and usable buildings and facilities code. This replaces the 1994 and 1992 editions of these two codes. Copies of these new editions of the code are filed with the clerk and in addition to the adoption of these codes, certain amendments to the code are provided. State law requires local governments to adopt building codes every six years. The Metropolitan Government generally amends codes when updated which is generally every 2-3 years. These amendments to these codes essentially localize them with definitions and provides the necessary amendments to assure compliance with our other building and safety codes.

There are also some corrections to the Metro building code and electrical code being adopted so that they will conform to the various codes being adopted herein.

ORDINANCE NO. BL2001-704 (BLACK) – This ordinance changes the name of North Hydes Ferry Road to “John Mallette Drive” beginning at the junction with Ashland City Highway and terminating at the intersection of South Hamilton Road and River Drive. This ordinance is being requested by Councilmember Melvin Black. This name change has been approved by the planning commission and the E-911 board.

ORDINANCE NO. BL2001-706 (WALLACE & MAJORS) – This ordinance authorizes MCI Metro Access Transmission Services, LLC to install and maintain fiber optic cable within the right-of-way of the Metropolitan Government. The installation and operation of this fiber optic cable is not being done for the purpose of providing any type of service to the Metropolitan Government. In the event MCI Metro Access Transmission Services desires to provide service from the fiber optic cable being installed, they will be required to obtain the appropriate franchise permit from the Metropolitan Government. Under federal law Metro may not charge for the installation of such cable running through the Metropolitan Government. MCI Metro Access Transmission Services will be installing cable beginning at First Avenue South and Mollow Street; then running south on Fairfield Avenue to Trimble Street; then running west on Trimble Street to Lewis Street; Then running south on Lewis Street to Factory Street; then running east on Factory Street to Woodycrest Avenue; then running east on Woodycrest Avenue to Hackworth Street; then running south on Hackworth Street to Polk Avenue; then running southwest on Polk Avenue to Hutton Drive; then running northwest on Hutton Drive to Woodycrest Avenue; then running north on Woodycrest Avenue to Herron Drive; then running west on Herron Drive to Interstate Boulevard South where the cable terminates at an existing MCI building located at 340 Herron Drive.

This ordinance has been approved by the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2000-443 (SHULMAN, HAUSSER & DERRYBERRY) – This ordinance amends the Metropolitan Code to insure that adequate notice is given to abutting property owners when construction work, which by definition involves excavation, occurs on streets adjacent to their property. Presently, the property owner is required to be given fourteen (14) days notice prior to beginning such work in easements on their property. Under this proposed ordinance, the notification requirement will be expanded to require that notice be given to abutting property owners to streets, roads, alleys or rights-of-way when construction is to take place prior to the beginning of such work. It also requires that members of council be notified.

The Metropolitan Code does provide for an alternative, that rather than be given notice by certified mail, it would allow contractors to get signatures from the property owners stating that they were aware that construction work was to begin.

These notification provisions are being changed primarily so that property owners and occupants will know when work is being performed in streets, such as fiber optic cable work which does not occur on property, but in the street. These provisions will be applicable to all utility operators, cable providers, and any persons, including the Metropolitan Government, who do construction work in the street. For larger projects signs relative to the construction work must be erected.

There is a proposed substitute bill that will allow alternative notice options and require the posting of signs for larger projects.

ORDINANCE NO. BL2001-687 (LORING) – This ordinance amends provisions in the beer code to grandfather a retail liquor store fronting on McGavock Pike between Briley Parkway and Riverview Drive. This liquor store has been in continuous operation for over fifteen (15) years. The Metro beer code provides that liquor stores may not receive a certificate of compliance unless they front on a designated major street in the major street plan as adopted by the planning commission. This particular location faces McGavock Pike between Briley Parkway and Riverview Drive, which is not presently designated as a major street. However, McGavock Pike, east of Briley Parkway is a major street. In 1990 council adopted a provision that required that liquor stores be on major streets, however, those in existence prior to this requirement were specifically exempted.

The adoption of this ordinance provides this location the same exemption as afforded those liquor stores similarly situated.

ORDINANCE NOS. BL2001-688, BL2001-689 & BL2001-690 – These three ordinances approve participation agreements between the department of water and sewerage services and private developers to provide for extension of public sewer service to serve new developments. These types of participation agreements are routinely entered into where the developer provides costs that are in addition to what the Metropolitan Government would require so that future developments would be adequately served by water lines, public sewers, and water service.

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ORDINANCE NOS. BL2001-688, BL2001-689 & BL2001-690 (continued)

Ordinance No. BL2001-688 approves an agreement with Centex in the amount of \$42,000 to provide sewer service to 21 lots in the Willowmet Phase I Subdivision.

Ordinance No. BL2001-689 approves a participation agreement with Pulte Homes, Tennessee LP, in the amount of \$164,000 to provide sewer service for 82 units in the Chestnut Springs Subdivision and Clubhouse.

Ordinance No. BL2001-690 approves a participation agreement with Phillips Builders in the amount of \$111,000 for construction of a public sewer and force main to serve the Wintergrace Farms development.

ORDINANCE NO. BL2001-691 (BOGEN & JENKINS) – This ordinance, as amended, authorizes the board of parks and recreation to enter into an agreement with JDN Realty Corporation for acceptance of a donation of a park area being donated adjacent to the Walmart development off Charlotte Pike. This is part of a proposed donation from some time ago when the Walmart property was constructed. The agreement provides that JDN Realty will construct a parking lot, a pedestrian boardwalk, and a plaza on the property prior to its donation and delivery to the board of parks and recreation. The ordinance further provides that any amendments to this agreement may be approved by resolution of the council. This ordinance has been approved by the board of parks and recreation and the planning commission.

ORDINANCE NO. BL2001-692 (FERRELL & BLACK) – This ordinance, as amended, amends the Metropolitan Code relative to standards of ethical conduct of the council and the board of ethical conduct procedures. Essentially, this ordinance removes references to the appearance of a conflict which for legal purposes are very vague. It also provides a provision that members of council who receive gifts or benefits that are provided to other elected officials, Metro Government employees, or members of the public are not deemed a benefit which would equate to unethical conduct.

In addition, a more detailed complaint will be required for filing of ethical conduct complaints, which requires factual information which alleges specific facts that constitute an ethical violation. It also provides that the department of law will undertake an investigation and give a report to the board of ethical conduct as to whether a hearing is warranted.

The purpose of these provisions is to provide a more efficient method to handle complaints against members of council that do not require as many meetings by the board and which require a determination that such complaints do warrant a hearing.

The present process has resulted in extensive hearings on matters that were not ethical violations.

This ordinance was proposed and suggested by the staff, as well as several members of council, after observing the nature and method of those complaints that have been filed over the past two to three years.

ORDINANCE NO. BL2001-693 (MCCLENDON & WATERS) – This ordinance readopts the Metropolitan Code to include all ordinances adopted by the Metro Council before December 19, 2000.

ORDINANCE NO. BL2001-694 (WATERS) – This ordinance authorizes the acquisition of five utility easements, lease or fee-simple take of 1.63 acres of property in the first alternative, or 5.15 acres in the second alternative and acquisition of 14 utility easements for construction of the Kinhawk Drive water reservoir project. The first alternative would be estimated to cost \$65,300 and the second alternative would be estimated to cost \$206,000.

In the first alternative the Metropolitan Government is attempting to acquire from the U.S. federal aviation administration (FAA) the necessary property to construct the lines and the water reservoir.

This has been an on-going negotiation. The Metropolitan Government may not condemn property owned by the U.S. government.

Therefore, the second alternative, which would relocate this proposed water reservoir and necessary lines, is only proposed in the event Metro is unsuccessful in obtaining the property from the FAA.

This ordinance has been approved by the planning commission.