

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **September 17, 2002**

RE: **Analysis Report**

Balances As Of:	<u>9/11/02</u>	<u>9/13/01</u>
<u>GSD 4% RESERVE FUND</u>	\$18,018,585	\$15,938,761
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	Unavailable	Unavailable
<u>SOLID WASTE</u>		
<u>DISPOSAL FUND</u>		
Solid Waste Activities	Unavailable	Unavailable

- RESOLUTIONS -

RESOLUTION NO. RS2002-1099 (TURNER) – This resolution approves property located at 3332 Sidco Drive to be used as a waste transfer station for the benefit of Gray’s Disposal. Gray’s Disposal has filed a request for a special exception with the Metro board of zoning appeals to use this property as a waste transfer station. The zoning text of the Metro code of laws requires that the Metro council approve the location by adoption of a resolution before the board of zoning appeals can act on the request.

If the council does not adopt or defeat this resolution within sixty (60) days, it shall be deemed approved by the council. The council office has been informed that the applicant has withdrawn this request for the waste transfer station.

RESOLUTION NO. RS2002-1123 (JENKINS) – This resolution provides fourteen amendments to the Metropolitan Charter. Four of the proposed amendments were previously submitted pursuant to other resolutions filed earlier in this council term. These four amendments include residency requirements for Metro employees, allowing the council to adopt a redistricting plan without a public referendum, and reconfiguration of the Metropolitan transit authority (MTA) board and the electric power board. In addition, two more amendments are included in this resolution related to the MTA board and electric power board that are similar but not identical to the previously filed amendments. The prior resolutions were deferred indefinitely to allow any proposed amendments to the Charter to be included in one resolution.

The council, pursuant to the Charter, may adopt only two resolutions during the term of the council that submit amendments to the voters for ratification. In order to qualify for the November 5, 2002, election, this resolution must be adopted at the September 17, 2002, council meeting if these amendments are to be submitted to the voters for ratification.

There will be a substitute amendment offered at the September 17th meeting that corrects a typographical error made in one of the proposed amendments.

There is a separate supplemental analysis provided along with this analysis which discusses the proposed Charter amendments in more detail.

RESOLUTION NO. RS2002-1141 (MAJORS) – This resolution adopts a plan of services for the extension of the boundaries of the urban services district to include four parcels of property located to the south of Briley Parkway and to the west of Dickerson Pike. State law requires that a plan of services be approved by the planning commission and by the council, after public hearing, before the boundaries of the USD may be extended. The planning commission approved the plan of services on May 9, 2002. The four parcels of property to be annexed already receive adequate fire protection, police protection, as well as water, sewer, and street lighting services. The only additional service to be provided to these parcels is refuse collection at an annual cost of \$331.00. The ordinance that extends the boundaries of the USD to include these four parcels is Ordinance No. BL2002-1180 on second reading.

(continued)

RESOLUTION NO. RS2002-1141 (continued)

A public hearing on both this resolution and Ordinance No. BL2002-1180 is set for the October 1, 2002, council meeting. This resolution should be deferred until the October 1, 2002, council meeting to comply with state law.

RESOLUTION NO. RS2002-1142 (PONDER, WATERS & MAJORS) – This resolution adopts the floodplain management plan for the Metropolitan Government. The plan identifies the potential for flooding in the Metro area and the locations of known repetitive loss areas. The plan includes action items for the upcoming year and the current five-year initiative of the storm water division of Metro water services, which are included as part of the current stormwater program. The plan was prepared following a process recommended by the federal emergency management agency. The plan has been reviewed by federal, state, and regional agencies, as well by Metro residents in the identified repetitive loss areas at a public meeting.

This floodplain management plan is a new requirement necessary to maintain Metro's current status with the national flood insurance program to enable property owners to receive a five percent discount on flood insurance. The national flood insurance program rates communities on a scale of 1-10 to determine rate reductions, with Class 1 receiving the greatest reduction and Class 10 receiving no reduction. Metro is currently rated as a Class 9.

Pursuant to this resolution, the floodplain management plan shall be evaluated annually by the assistant director of Metro water services – stormwater division, which evaluation shall be provided to the Metropolitan Council and be made available to the public and the media. Future recommendations for new projects or revised action items may be approved by the council as amendments to the adopted plan.

RESOLUTION NO. RS2002-1143 (BRILEY & PONDER) – This resolution appropriates \$100,000 in the form of a grant from the reserve for Nashville Stand for Children program account of the general fund of the general services district to Tennessee Voices for Children, Inc., to provide partial funding for its program services. The council appropriated \$100,000 in the 2002-2003 operating budget to be used as a grant for the Nashville Stand for Children program. Tennessee Voices for Children, Inc., is a not-for-profit organization that provides program services related to the emotional and behavioral well-being of children. Tennessee Voices for Children has agreed to be the non-profit fiscal sponsor for the Nashville Supports Early Education Staff (SEES), which is an initiative of Nashville Stand for Children that will place qualified substitute teachers in head start programs and child care centers.

In order for Metro to appropriate grant funds to an organization, the organization must provide proof of its tax exempt status, an audited financial statement, and a statement of the proposed use of funds. Tennessee Voices for Children has provided the necessary documentation to enable them to be eligible to receive these funds.

RESOLUTION NO. RS2002-1144 (SHULMAN) – This resolution provides for the purchase, sale, and terms of the district energy system revenue bonds (the 2002 series A bonds) and approves the official statement, the project feasibility report, and the purchase and sale agreement for the revenue bonds. This resolution supplements Resolution no. RS2002-1124, adopted on August 20, 2002, which approved some technical changes to and restatement of the general bond resolution that was adopted on December 18, 2001. The general bond resolution provided that a supplemental resolution would be filed to set the terms of the sale, issuance, and delivery of the bonds. The Metropolitan Government is now ready to sell the bonds pursuant to the bond purchase agreement to Lehman Brothers Inc., on behalf of itself and as representative of M.R. Beal & Company and Morgan Keegan & Company, Inc., in a principal amount of \$66.7

million with a maturity date of 33 years and a true interest cost not to exceed 6.5%. The bonds are being sold to finance the design and construction of a new 43,000 sq. ft. steam/chilled water energy generating facility to take the place of the decommissioned thermal facility, as part of the mayor's solid waste plan adopted by the council in December of 2001. The bond funds may also be used pay for land acquisition related to the new energy distribution facility and expansion of Metro's existing facility. Only net revenues derived from the operation of the new district energy system will be used to repay the bonds. These bonds do not constitute a debt of the Metropolitan Government. If necessary, Metro would be obligated to cover any deficiency between system revenues and operating costs, as well as outstanding debt service. An insured debt service reserve account will be in place covering Metro's liability for any outstanding debt service.

This resolution also approves a project feasibility report prepared by Gershman, Brickner & Bratton, Inc. (GBB) to provide potential bond investors with detailed information regarding the new energy distribution system for which the bonds will be used to finance. The new facility will be constructed and operated by Constellation Energy Source, Inc. pursuant to contracts approved by the council in December of 2001 and January of 2002. Constellation is responsible for the design work, construction work and management services for the new facility and system. It is estimated that the new energy distribution system can be up and running by July of 2004. According to the official statement to be approved by this resolution, Metro has entered new customer contracts with the State of Tennessee and with 13 of the 16 current private customers to provide heating and cooling services. Public Square and Sun Trust Bank have yet to decide whether they will participate in the new system. Washington Square has decided that it will not be a customer of the new system. In addition, the facility will provide heating and cooling to the seven current Metro-owned buildings connected to the system, plus the addition of Hume-Fogg Academic High School.

RESOLUTION NO. RS2002-1145 (CAMPBELL & SHULMAN) – This resolution approves a grant in the amount of \$169,000 from the Metropolitan development and housing authority (MDHA) to the Nashville career advancement center (NCAC) for community based employment services for adults and youth in six MDHA communities. This grant is comprised of payments received in connection with the capitol mall urban development action grant (UDAG), which can be used for economic development activities. NCAC will use this grant to operate an employment services program for residents in the Tony Sudekum Homes, J.C. Napier Homes, Vine Hill Homes, Preston Taylor Homes, Sam Levy Homes, and John Henry Hale Homes communities. The goals of the program are to provide services to 500 residents, enroll 150 people into WIA career development services, and to place 200 people into jobs. The term of this grant is from July 1, 2002 through June 30, 2003.

RESOLUTION NO. RS2002-1146 (SHULMAN) – This resolution approves a grant in the amount of \$1,241,260 from Centerstone Community Mental Health Centers, Inc., to the Nashville career advancement center (NCAC) to provide employment related services to eligible recipients of the U.S. department of labor welfare-to-work program. Centerstone has been awarded a grant from the federal government to provide job training and employment services to participants in the welfare-to-work program within a 27 county area of Middle Tennessee. Pursuant to the grant agreement included as part of this resolution, Centerstone desires to subcontract with NCAC to provide these employment-related services in Davidson County in the form of referrals, job retention services and employee placement. NCAC will also provide consulting services to other Centerstone welfare-to-work programs. NCAC will have the authority to subcontract with other providers to fulfill the terms of the grant. This grant is for a

term of one year, to begin on or about September 20, 2002, with a possible extension for two additional terms.

RESOLUTION NOS. RS2002-1147, RS2002-1148, & RS2002-1149 (SHULMAN) – These three resolutions approve amendments to grants from the state department of labor, under the provisions of the Workforce Investment Act of 1998, that provide funding to the Nashville career advancement center (NCAC) to prepare adults, youth and dislocated workers for re-entry into the labor force. The grants are essentially federal pass-through funds that provide the operating funds for NCAC. These amendments transfer funds among the three grant accounts as follows:

Resolution No. RS2002-1147 amends the administration grant contract by transferring all of its funds between the adult grant (\$82,369.83) and the dislocated worker grant (\$72,693.51).

Resolution No. RS2002-1148 increases the amount of the dislocated worker grant by \$72,693.51, for a total grant award of \$726,935.06, by transferring the funds from the administration grant.

Resolution No. RS2002-1149 increases the amount of the adult grant by \$82,369.83, for a total grant award of \$823,698.30, by transferring the funds from the administration grant.

RESOLUTION NO. RS2002-1150 (SHULMAN) – This resolution authorizes the mayor to submit an application for a demonstration grant for youth with disabilities from the U.S. department of labor to be administered through the Nashville career advancement center (NCAC). If awarded, the grant funds will be used to enable NCAC to establish a program to better understand the needs of youth with disabilities. This program will have four main goals: to establish a baseline for the performance of youth with disabilities, to assist teachers working with youth with disabilities by providing employability skills training, to assist youth providers to understand the needs of youth with disabilities, and to increase the knowledge and commitment of employers interested in reaching out to youth with disabilities.

RESOLUTION NO. RS2002-1151 (WHITMORE & SHULMAN) – This resolution approves an amendment to a grant between the Nashville Prevention Partnership and the Metro board of parks and recreation by providing an additional \$3,000 to the parks department to help fund their continuing program of substance abuse prevention in 21 community centers.

RESOLUTION NO. RS2002-1152 (SHULMAN) – This resolution approves a grant agreement in the amount of \$1,514,700 between the state department of health and the Metro health department to fund staffing for the women, infants and children (WIC) program, which provides nutritious foods to low income women, infants, and children. The grant is for a one-year term, commencing October 1, 2002, and expiring September 30, 2003.

RESOLUTION NO. RS2002-1153 (SHULMAN) – This resolution approves an amendment to a grant from the state department of health and human services to the Metro health department for substance abuse and mental health services. The amendment increases the amount of the grant by \$13,361, for a total grant award of \$499,502. The term of the grant is from September 30, 2001, through September 29, 2002. These program funds are federal pass-through funds to assist Metro in expanding its capacity to effectively diagnose substance abuse and mental health problems.

RESOLUTION NO. RS2002-1154 (SHULMAN) – This resolution approves a contract between the alcohol and drug council of Middle Tennessee and the Metro health department for reimbursement of services supplied by the Metropolitan Government. This contract reimburses Metro in an amount not to exceed \$3,000 for the consultation and clinical supervision services supplied by a Metro health department employee to the alcohol and drug council. This is a one-time contract, which cannot be extended.

RESOLUTION NO. RS2002-1155 (SHULMAN) – This resolution approves an EPA cooperative agreement between the pollution control division of the Metro board of health and the U.S. environmental protection agency that increases the amount of the grant by \$117,722 for a total grant award of \$544,691. The grant increase is for participation in the ozone mapping project under the environmental protection agency's quality monitoring program. The agreement is for a term beginning March 31, 1998, and extending through September 30, 2002.

RESOLUTION NO. RS2002-1156 (SHULMAN) – This resolution approves a grant contract between the National Health Care for the Homeless Council (NHHC) and the Metro health department in the amount of \$50,253 to fund a TennCare shelter coordinator full-time. This is an annual grant that will fund this position full-time for a second year. The term of this agreement is for one year beginning July 1, 2002, and expiring June 30, 2003.

RESOLUTION NO. RS2002-1157 (SHULMAN) – This resolution approves a grant agreement in the amount of \$218,200 between the state department of health and the Metro board of health to fund staffing for the commodity supplemental food program (CSFP). This program provides nutritious food to low-income women, infants, and children who are vulnerable to inadequate nutrition. The term of the grant is from October 1, 2002, to September 30, 2003.

RESOLUTION NO. RS2002-1158 (WALLACE, MCCLENDON & SHULMAN) – This resolution authorizes the Metropolitan Government to enter into a licensing agreement with CSX transportation for the purpose of constructing a sewer line in the railroad right-of-way located at the intersection of Carney Street, Second Avenue South, and Ensley Boulevard. The rights under the license agreement shall cease in the event of a revocation, termination, subsequent agreement, or Metro's removal of the pipeline. Metro agrees to indemnify CSX up to the legal liability limits for Metro, and Metro must also pay a one-time fee of \$375 to cover the cost of adding this crossing to CSX's liability insurance policy.

RESOLUTION NO. RS2002-1159 (LORING, MCCLENDON & SHULMAN) – This resolution authorizes the Metropolitan Government to enter into a contract with the state department of transportation for the relocation of water and sewer lines in connection with the Briley Parkway road construction project from Elm Hill Pike to Lebanon Road. The relocation work is to be performed by state contractors, with Metro being responsible for 57 percent of the cost of the sewer relocation and 100 percent of the water line relocation. Metro's estimated cost will be \$645,573.80 for the sewer line relocation and \$667,097.50 for the water line relocation. The state agrees to reimburse Metro for \$9,024.42 of the sewer engineering cost. Metro's portion of this relocation is to be paid from the water and sewer extension and replacement fund.

In addition, this resolution authorizes the Metropolitan Government to participate in the local government investment pool program (LGIP) with the state treasury department to allow Metro to earn interest on the relocation funds until they are needed.

RESOLUTION NO. RS2002-1160 (SHULMAN) – This resolution approves the compromise and settlement of the lawsuit of Rodney Smotherman against the Metropolitan Government in the amount of \$21,000. On July 6, 2000, Mr. Smotherman was attempting to turn left onto Ellington Parkway off of Hart Lane when an employee of the Metro codes department, while on duty, pulled out in front of him causing him to strike the vehicle driven by the Metro employee. Mr. Smotherman suffered a strain to his lower back and a cut on his wrist, and received physical therapy for four months.

The amount of \$12,372.96 was previously paid to Mr. Smotherman by the Metropolitan Government for damages to his vehicle. This resolution settles Mr. Smotherman's claims for personal injuries consisting of \$9,010.95 in approved medical expenses, \$3,045.67 in lost wages, and \$8,943.38 for pain and suffering, for a total settlement of \$21,000. The department of law believes that this settlement amount is fair and reasonable. The settlement is to be paid out of the self-insured liability fund.

The Metro employee involved in this accident was cited for failing to yield and attended driving school. The employee also received disciplinary action consisting of a written reprimand.

RESOLUTION NO. RS2002-1161 (SHULMAN) – This resolution authorizes the department of law to compromise settle the claim of Benjamin Fuson against the Metropolitan Government in the amount of \$25,400.69. A blocked Metro sewer line caused a sewer back up into the basement of Mr. Fuson's home at 2651 Willow Branch, causing structural damage and loss of personal property. The structural damage required replacement of sheetrock, carpeting, molding, and bathroom cabinets totaling \$9,753.33. Cleaning and furniture restoration was also required totaling \$12,996.65. The value of the lost contents of the home totaled \$4,500. The department of law believes that \$25,400.69 is a fair and reasonable settlement for the damage sustained. This amount is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2002-1162 (SHULMAN) – This resolution accepts \$5,009.09 in compromise and settlement of the Metropolitan Government's claim against Jerry Baker. On December 19, 2001, a Metro police car was parked on I-65 South at Armory Drive with its blue lights activated, assisting a disabled vehicle. Jerry Baker's car struck the police car causing damage in the amount of \$5,009.09. As a result of the accident, Jerry Baker was arrested for D.U.I.

RESOLUTION NO. RS2002-1163 (SHULMAN) – This resolution approves the compromise and settlement of the lawsuit of Mario Hambrick against police detective Billy Brewer in the amount of \$6,500. Mario Hambrick was arrested by Detective Brewer for allegedly impersonating a law enforcement officer. Hambrick had been involved in a traffic accident with Brian Miller, a private citizen, and allegedly told Miller that he was a law enforcement officer in

an attempt to get money from him. Brian Miller contacted Detective Brewer about the incident, who arranged for Mr. Miller to meet with Mr. Hambrick while wearing a recording device. At that meeting Hambrick again flashed a badge and stated that he was a “special agent”. Unfortunately, the recording turned out to be unusable because of the traffic noise in the background. As a result of the charges, Mr. Hambrick, who is a private security guard, had his police-issued written directive to carry a firearm seized for several months. Mr. Hambrick was found not guilty of the criminal charges and subsequently sued Detective Brewer for malicious prosecution seeking \$40,000 in total damages, including \$15,000 in lost wages.

The case against Detective Brewer went to trial but the jury was unable to agree on a verdict, apparently due to some confusion during deliberations as to the issue of “malice”. The judge then ordered a new trial. The department of law believes that it is in the best interest of the Metropolitan Government and Detective Brewer to go ahead and settle this matter for \$6,500. This amount is to be paid from the judgment and losses fund.

RESOLUTION NO. RS2002-1164 (SHULMAN) – This resolution accepts \$8,148.46 in compromise and settlement of the Metropolitan Government’s claim against Tia C. Smedley. On June 6, 2002, a Metro Ford F450 fire truck was traveling west on Charlotte Pike in the left lane when Tia C. Smedley backed out of her private drive into the path of the oncoming fire truck. The fire truck struck Ms. Smedley’s vehicle causing damage to the fire truck in the amount of \$8,148.46.

RESOLUTION NO. RS2002-1165 (HAUSSER) – This resolution authorizes Vanderbilt University to construct fiberoptic cable at a minimum height of 18 feet over the public right-of-way between 115 28th Avenue South and 3319 West End Avenue. Vanderbilt will be responsible for all construction and maintenance costs and has agreed to indemnify and hold the Metropolitan Government harmless for any claims resulting from the installation of the cable. Vanderbilt is required to submit a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2002-1166 (WHITMORE) – This resolution authorizes HCA Realty, Inc., to construct an elevated pedestrian crossing and canopy over the 23rd Avenue public right-of-way. The pedestrian crossing will be 75 feet in length and will be elevated 14.1 feet above the street. HCA Realty will be responsible for all construction costs and has agreed to indemnify and hold the Metropolitan Government harmless for any claims resulting from the construction of the pedestrian crossing and awning. HCA Realty will be required to submit a certificate of public liability insurance in the amount of \$300,000 naming Metro Government as additional insured prior to the commencement of construction.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2002-1167 (WALLACE) – This resolution authorizes C. Mark Carver as trustee for Nashville Urban Partners 2000 LLC, to install an awning above the public sidewalk at 401 12th Avenue South. The awning will measure 12 feet in length and will project 5 feet over and 11 feet above the sidewalk. The trustee will be responsible for all construction and maintenance costs and has agreed to indemnify and hold Metro harmless for any claims resulting

from the installation of the cable. The trustee is required to submit a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured.

This resolution has been approved by the planning commission.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2002-1127 (WALLACE & TUCKER) – This ordinance prohibits cruising in certain areas of downtown Nashville. A “no cruising area”, as to be determined by the traffic and parking commission, will include streets within the boundaries of Charlotte Avenue on the north, Franklin Street on the south, 8th Avenue on the west and the Cumberland River on the east. Pursuant to this ordinance, cruising is defined as unnecessary repetitive driving past a designated traffic control point two or more times within a given three-hour period. Cruising will be prohibited in these areas between the hours of 9:00 p.m. and 3:00 a.m. Police officers will have the authority to monitor vehicles going past the traffic control points and to stop a vehicle after it drives past the control point two or more times to give notice that the cruising ordinance is in effect. If the vehicle is seen driving past the control point again after this notice has been given, the officer may issue a traffic citation to the operator of the vehicle. This cruising ordinance is not applicable to emergency vehicles, public transportation vehicles, a vehicle being used for business purposes, during special events, and to residents living within the “no cruising area”. This ordinance has been approved by the traffic and parking commission.

ORDINANCE NO. BL2002-1143 (BLACK) – This ordinance closes Hale Street from West Alpine Avenue to its terminus. Hale Street is currently unbuilt and there is no future need for the street by the Metropolitan Government. Metro will retain all easements. Consent of affected property owners is on file with the planning commission. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1162 (BEEHAN & BRILEY) – This ordinance amends the Metropolitan Code of Laws by extending the opportunity for locations within the MUL zoning district to obtain retailer on-sale beer permits from December 31, 2000 to April 30, 2003, so that they can be exempt from the minimum distance requirements. The Code of Laws provides that a beer permit cannot be issued to an applicant whose location is less than 100 feet from a church, school, park, or 1-2 family dwelling. There are certain exceptions, one of which is if the location is within the MUL zoning district and has obtained a retailer on-sale beer permit prior to December 31, 2000, more than 50 percent of gross sales comes from food sales, and that the permit has been held without lapse for at least a year. This ordinance simply changes the date to April 30, 2003, to have obtained the permit in the MUL. The provisions are structured so as to allow restaurants to obtain beer licenses in mixed use zoning districts.

ORDINANCE NO. BL2002-1163 (SHULMAN & SONTANY & DERRYBERRY) – This ordinance approves a lease between the Metro Nashville airport authority and the Metropolitan Government for property located at the Nashville International Airport known as the Luton Center. The space will be used to provide temporary space for the operation of an emergency 911 center. It has been determined that Metro needs a backup emergency 911 center in case of a terrorist attack or other disaster. The current emergency 911 facility will become the backup center when a new primary emergency 911 facility is built. This lease concerns space at the airport to be a temporary backup center until a new facility is constructed. (continued)

ORDINANCE NO. BL2002-1163 (continued)

The term of the lease is from October 1, 2002 and extending through September 30, 2005, with two possible one-year extensions. Metro will pay an annual rental of \$60,165.48 for the space, payable in monthly installments of \$5,013.79. Metro will be responsible for maintaining the premises in good repair, including electrical and air conditioning systems, roof, structural walls and foundation of the building, and for paying all utility costs. All plans for improvements to the area must be approved by the airport authority before work commences. Metro agrees to provide self-insured liability coverage, fire insurance, and a construction bond before commencing any work.

This ordinance is to be considered by the planning commission at their September 12, 2002 meeting.

ORDINANCE NO. BL2002-1164 (SHULMAN, MCCLENDON & OTHERS) – This ordinance authorizes the mayor to apply for and execute the necessary documents to accept grant funds from the federal and/or state emergency management agencies to fund the purchase of ten homes in the Seven Mile Creek home buyout and five homes in the Wimpole Drive home buyout. The grants to be applied for will be from the federal hazard mitigation grant program and the state flood mitigation assistance program. These funds are used to mitigate costs local governments incurred as a result of floods or natural disasters. The homes to be purchased have either been vacated or are in danger of flooding due to their proximity to a floodplain. This ordinance also authorizes and directs the department of water and sewerage services to take necessary steps to enable Metro to participate in these relief programs. Additional future projects eligible under these programs may be added by resolution of the Metropolitan Council.

The council office would recommend that this ordinance be amended to provide that all future grant agreements as a result of this ordinance be approved by resolution of the Metropolitan Council, as this ordinance does not indicate the responsibilities and/or the

liabilities of the Metropolitan Government in accepting the grant funds. The council office is of the opinion that it is not appropriate for the Metropolitan Government to accept grant funds without the liabilities of the Metropolitan Government being disclosed to and approved by the council.

This ordinance may be amended to expand the number of homes to be purchased.

ORDINANCE NO. BL2002-1165 (TURNER, BRILEY & OTHERS) – This ordinance approves a grant in the amount of \$9,600 from the state administrative office of the courts to the Metropolitan Government, acting through the state trial courts, for the divorce education and mediation program. The term of the grant is from July 1, 2002 extending through June 30, 2003. These funds are being provided by the state to provide on-call mediation services for indigent parties. The counselors will be compensated at an hourly rate of \$50 for the on-call mediation services. Amendments to this grant may be approved by resolution of the Metropolitan Council.

ORDINANCE NO. BL2002-1166 (BLACK & MCCLENDON) – This ordinance authorizes the director of public property administration to acquire two stormwater easements, by negotiation or condemnation, in relation to the LaGrange Drive stormwater project. The easements to be acquired are located at 3200 and 3202 LaGrange Drive. The estimated acquisition cost for the easements is \$1,000 and is to be paid from the stormwater fund.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1167 (MCCLENDON) – This ordinance amends the Metropolitan Code of Laws to remove the provisions in the Code that permit lead and galvanized iron water pipes for installation in the public distribution system. State and federal law no longer permit the installation of lead water pipes and galvanized iron is an undesirable material to use for pipes between the public water main and the water meter. This ordinance requires copper to be used for pipes three inches or less in diameter and requires ductile iron material to be used for service pipes larger than three inches in diameter.

ORDINANCE NO. BL2002-1168 (MCCLENDON & SHULMAN) – This ordinance authorizes the director of the department of water and sewerage services to execute a participation agreement with JCH Development Co., LLC, to provide public sewer services in the Hobson Pike/ Mt. View Road area known as Long Hunter Chase. JCH Development desires to provide public sewer service to Long Hunter Chase, which will require an upgrade to the Towne Village pumping station. JCH Development has agreed to pay \$30,000 to Metro as a proportionate share of the cost of the upgrade in lieu of construction. The \$30,000 will be deposited into the water and sewer extension and replacement fund.

ORDINANCE NO. BL2002-1169 (SHULMAN & WALLACE & OTHERS) – This ordinance approves a lease agreement between the Metropolitan Government and Duke Realty Limited Partnership for approximately 22,181 square feet of space on property located at 621 Mainstream

Drive, known as Corners II, to be used as office space for the Nashville career advancement center (NCAC). The lease is for a term beginning October 1, 2002, and extending through September 7, 2003, with an optional three year extension. The rent Metro will pay for the premises will be \$271,051.80 for the first year, with 3% annual increases thereafter. The base rent for the premises and annual increases will be paid according to the following schedule:

Date	Per Sq. Ft.	Per Month	Per Year
10/1/02	\$12.22	\$22,587.65	\$271,051.80
10/1/03	\$12.59	\$23,271.57	\$279,258.84
10/1/04	\$12.96	\$23,955.48	\$287,465.76
10/1/05	\$13.35	\$24,676.36	\$296,116.32
10/1/06	\$13.75	\$25,415.73	\$304,988.76

(continued)

ORDINANCE NO. BL2002-1169 (continued)

In addition to the base rent, Metro will be responsible for paying, as additional rent, a proportionate share of property taxes (to the extent Metro is not exempt by law), fire insurance premiums, and maintenance of common areas. Metro will also be required to supply its own janitorial services. Duke Realty Limited Partnership will be responsible for maintaining the exterior of the premises and for the electrical and air conditioning systems, and for insuring that the premises comply with the requirements of Metro’s ADA compliance office.

This lease agreement may be amended by resolution of the Metropolitan Council.

This lease agreement is to be considered at the September 12, 2002, meeting of the planning commission.

ORDINANCE NO. BL2002-1170 (MCCLENDON) – This ordinance abandons a portion of water, sewer, and drainage line easements encumbering property owned by Matthews Partners at the Jackson Downs subdivision located in the vicinity of Jackson Downs Boulevard and Lebanon Road. Jackson Downs Commercial/Matthews Partnership will install a new sewer and drainage system that will serve the subdivision and neighboring properties. These lines and easements will be abandoned upon completion of the new sewer and drainage system. This abandonment has been approved by the planning commission.

The council office suggests that this ordinance, as well as similar future ordinances, be amended to clarify that members of council are not authorized to execute documents to carry out the abandonment of utility lines and easements. The ordinance as written authorizes the “below signed” to execute necessary documents, which would include members of council sponsoring the bill. Further, the council office recommends that Section 2 of this ordinance be amended to state that this ordinance shall take effect either twenty days after its passage or upon its adoption, if the welfare of the Metropolitan Government requires it, in keeping with Section 3.05 of the Metropolitan Charter. Section 2 currently states that the ordinance shall not become effective until the new sewer and drainage system is built and approved, which should be incorporated as part of Section 1.

ORDINANCE NO. BL2002-1172 (WHITMORE) – This ordinance approves a lease agreement between the U.S. Army and the board of parks and recreation for 8.62 acres of property adjacent to the Cheatham lock and dam for use as a park facility known as Lock II Park. The lease is for a term beginning May 1, 2002 and extending through April 30, 2012. There is no cost to Metro Government under the terms of the lease, but Metro must use and maintain the property as a public park. This property has been under lease to Metro by the U.S. Army since 1982. Metro must provide evidence of self-insurance in an amount of \$1 million. Future amendments to this lease must be approved by resolution of the Metropolitan Council.

This lease agreement has been approved by the planning commission and the board of parks and recreation.

ORDINANCE NO. BL2002-1173 (WILLIAMS, SHULMAN & DERRYBERRY) – This ordinance authorizes the Metropolitan police department to accept a donation of \$1,507.05 from the Carl Williams 5K Walk/Run for Victim Rights. The funds will be used to benefit the police department's victim intervention program to provide services to victims and/or witnesses of violent crime.

ORDINANCE NOS. BL2002-1174 & BL2002-1175 (SHULMAN & DERRYBERRY) – These two ordinances authorize the Metropolitan police department to acceptance computer hardware and software to aid in the recovery of missing children. This computer equipment will assist in establishing the recently publicized AMBER Alert program in Nashville. All of the computer equipment accepted by these ordinances is in the form of donations and requires no expense on the part of the Metropolitan Government.

Ordinance No. BL2002-1174 accepts a donation from the Child Alert Foundation of an Abduction Central Alert software program, valued at \$10,000, that would electronically alert all participating law enforcement agencies and media within a 100-mile radius of a reported abduction within minutes. The Child Alert Foundation is a non-profit organization whose purpose is assisting law enforcement in notification of missing children.

Ordinance No. BL2002-1175 accepts the Lost Child Alert Technology Resource (LOCATER) from the National Center for Missing and Exploited Children (NCMEC). LOCATER is a computer system with software and support services that allows for the quick creation and dissemination of posters to law enforcement agencies and the media upon notification of a missing child. A congressional grant has enabled NCMEC to offer the LOCATER system to the Metro police department at no cost to Metro.

ORDINANCE NO. BL2002-1176 (CAMPBELL, SHULMAN & DERRYBERRY) – This ordinance accepts a \$200,000 grant from the state emergency management agency to the Metropolitan Government to purchase protective, detection, and decontamination equipment for emergency first responders to an incident involving weapons of mass destruction. The grant is for a term beginning July 1, 2002, and ending June 30, 2003. This grant does not require any local matching funds. Amendments to this grant may be approved by resolution of the Metropolitan Council receiving 21 affirmative votes.

ORDINANCE NO. BL2002-1177 (SHULMAN & DERRYBERRY) – This ordinance approves a grant agreement in the amount of \$208,873 between the state department of transportation and the Metropolitan Government for reimbursement of funds expended for litter pickup along roads and highways in Davidson County. Metro workhouse inmates are used to pickup litter along roads and this grant helps reimburse Metro’s costs for transporting and supervising the inmates. At least \$62,000 of these funds must be spent for litter prevention education. The term of this grant is from July 1, 2002, through June 30, 2003. Amendments to this grant may be approved by resolution of the Metropolitan Council receiving 21 affirmative votes.

ORDINANCE NO. BL2002-1178 (CAMPBELL) – This ordinance abandons a sewer drainage easement on CVS Pharmacy property located on Gallatin Pike. This easement is no longer being used by the department of water and sewerage services and Metro has no future need for the easement. This abandonment has been approved by the planning commission.

The Council Office suggests that this ordinance be amended to clarify that members of council are not authorized to execute documents to carry out the abandonment and relocation of utility lines. The ordinance, as written, authorizes the “below signed” to execute necessary documents, which would include members of council sponsoring the bill.

ORDINANCE NO. BL2002-1179 (BROWN) – This ordinance abandons and relocates a portion of a water line, drainage and sewer line easements at the Hermitage Walmart. MRW Retail Joint Venture is the owner of the property encumbered by the lines and easements and wants to use the lines as private service lines. The department of water and sewerage services has no need for the easement, is in agreement with the abandonment and relocation, and has approved the conversion of the lines to private service lines. This ordinance has been approved by the planning commission.

The Council Office recommends that this ordinance be amended for the same reason as discussed in the above analysis of Ordinance No. BL2002-1178.

ORDINANCE NO. BL2002-1180 (MAJORS) – This ordinance extends the boundaries of the urban services district (USD) to include four parcels of property located on Oak View Drive abutting the south side of Briley Parkway, east of Dickerson Road. A request has been made to include these parcels in the USD, which would make them in conformity with most of the other properties abutting this section of Briley Parkway. State law provides that the boundaries of the USD can be extended by ordinance, after notice and public hearing, and adoption of a plan of services to be provided for the annexed property. The plan of services must be approved by resolution, which is the subject matter of Resolution No. RS2002-114, prior to adoption of this ordinance on third reading.

A public hearing will be held at the October 1, 2002, council meeting for both the resolution approving the plan of services and this ordinance prior to their adoption.

ORDINANCE NO. BL2002-1181 (SHULMAN & ARRIOLA) – This ordinance accepts the dedication of Recovery Road and its associated right-of-way as a public street. Recovery Road, located at Southern Hills Medical Center, has been built to Metropolitan Government standards by HCA Southern Hills Medical Center and HCA Realty, Inc., and is to be dedicated with the Wallace Road subdivision final plat. The final plat has been filed with the Metro planning

commission. By accepting the dedication of the road, Metro becomes responsible and liable for its maintenance and repair.

This ordinance has been approved by the planning commission.

Ordinance No. BL2002-1183, also on second reading, is a companion to this ordinance and is discussed below.

ORDINANCE NO. BL2002-1182 (BRILEY) – This ordinance closes a portion of Old U.S. Highway 70 South between Brookmont Terrace and Windsor Trace Drive. Metro will retain all easements for utility construction and maintenance purposes.

Consent of the affected property owner is on file with the planning commission.

This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2002-1183 (ARRIOLA) – This ordinance authorizes HCA Realty, Inc., to construct a pole sign in the right-of-way adjacent to Recovery Road. This ordinance is a companion to Ordinance No. BL2002-1181, also on second reading, which accepts the dedication of Recovery Road. This sign, which is to be constructed 18 feet into the right-of-way, will be a 20 foot tall hospital directional sign for Southern Hills Medical Center measuring 18 feet in width and 10 feet in length. HCA will be responsible for all costs associated with the construction of the sign and must receive public work's approval before beginning construction. HCA must also submit a certificate of public liability insurance in the amount of \$300,000 before constructing the sign. HCA has further agreed to indemnify and hold harmless the Metropolitan Government for any claims resulting out of the installation of the sign.

This ordinance has been approved by the planning commission.

- **BILLS ON THIRD READING** -

ORDINANCE NO. BL2002-1115 (WHITMORE & TUCKER) – This ordinance, as amended, approves the development of 19 units of low-rent scattered site housing in the vicinity of the Preston Taylor Hope VI redevelopment project. Resolution No. R92-288 approved a cooperation agreement with MDHA in support of up to 200 new dwelling units. MDHA is planning this development in accordance with the U.S. department of housing and urban development (HUD) replacement housing program. The proposed development will be located on MDHA owned sites on Michigan Avenue, 40th Avenue North, Georgia Avenue and Indiana Avenue. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1116 (WALLACE) - This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit the feeding of any fowl, except water fowl, in public streets, alleys and sidewalks within the urban services district.

ORDINANCE NO. BL2002-1134 (SHULMAN, PONDER & OTHERS) – This ordinance establishes a property tax relief program for low-income elderly residents of the Metropolitan Government. State law allows county legislative bodies to appropriate funds for such programs and to establish guidelines for participation in the program and the disbursement of such funds. The council appropriated approximately \$1.2 million in the current fiscal year's operating budget for a property tax relief program for the elderly. This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$12,210 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2003.

ORDINANCE NO. BL2002-1136 (MCCLENDON, BEEHAN & OTHERS) – This ordinance authorizes the mayor to apply for state wastewater grants and loans. The federal government, through the environmental protection agency (EPA), has entered into a grant agreement with the state to enable the state to provide assistance to local wastewater agencies in construction of water pollution abatement projects. This ordinance allows the mayor to apply for such funding from the state for various water pollution projects within the Metropolitan Government. Future projects may be added to the list by resolution of the Metropolitan Council. Further, this ordinance authorizes the department of water and sewer services to take whatever steps are necessary to receive these grants or loans.

The following projects, with a total estimated cost of between \$150-\$200 million dollars, will be repaid from the extension and replacement fund of the department of water and sewerage services over the next four to five years:

Benedict & Crutcher Sewer Separation (District 6)
Biosolids Management (Countywide)

(continued on next page)

ORDINANCE NO. BL2002-1136 (continued)

Boscobel Sewer Separation (District 6)
Dodson Chapel Equalization Tank (District 12)
Dry Creek WWTP Optimization (District 10)
Hurricane Creek Equalization Tank (District 29)
McCrary Creek Equalization Tank (District 14)
Omohundro Backwash Improvements (District 15)
Smith Sprints Equalization Tank (District 29)
Odor Control – CWWTP (Countywide)
Odor Control – DCWWTP (Countywide)
Schrader Lane Sewer Separation (District 21)
Whites Creek P. S. (District 1)

Council office sees no problem with adding projects to this program by resolution, however, council office would recommend that this ordinance be amended to provide what the terms of repayment would be in each of these agreements so that the council could have an understanding as to its obligations and potential liability from tax revenue rather than revenues of the department of water and sewerage services.

ORDINANCE NO. BL2002-1137 (SHULMAN & DERRYBERRY) – This ordinance approves a grant in the amount of \$360,000 from the U.S. department of justice to the district attorney general's office for the community gun violence prosecution program. These funds are to be used to pay the salaries of prosecutors whose time is devoted to the prosecution of firearm-related violent crime. The term of the grant is from October 1, 2001 through September 30, 2004. Metro is required to make an in-kind match of \$40,000 during the first and second year of the grant term, and \$10,000 during the third year. Amendments to the grant may be approved by resolution of the Metropolitan Council.

ORDINANCE NO. BL2002-1138 (MCCLENDON & SHULMAN) – This ordinance authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation in connection with the James Avenue over Briley Parkway state road construction project. Pursuant to the terms of the agreement, Metro will pay the state \$110,000 out of the water and sewer extension and replacement fund for relocation of the water and sewer utilities. The \$110,000 amount represents 100% of the estimated cost. This ordinance also authorizes Metro to enter into a local government investment pool (LGIP) agreement with the state treasury department to allow Metro to earn interest on the \$110,000 until the funds are spent.

ORDINANCE NO. BL2002-1139 (WHITMORE & SHULMAN) – This ordinance approves an urban and community forestry grant in the amount of \$4,400 between the state board of agriculture and the Metro board of parks and recreation. The grant is for a term of July 1, 2001 through September 30, 2002, with a possible four month extension. The grant funds will be used to reprint 6,500 copies of the educational brochure “Trees for Middle Tennessee Homes”. An additional \$4,400 must be provided as matching funds; \$900 as a cash match and \$3,500 as in-kind matching funds.

ORDINANCE NO. BL2002-1140 (SHULMAN) – This ordinance approves a license agreement with the American Society of Composers, Authors and Publishers (ASCAP) for use of ASCAP’s musical compositions at Metro facilities. ASCAP requires businesses, governments and other organizations to pay a license fee in order to play recorded music or allow live performance of music written by their composers and/or published by their publishers. This agreement is a result of Metro’s failure to be in compliance with ASCAP requirements as they relate to music played at Metro facilities. The agreement was negotiated between ASCAP and representatives of the Metropolitan Government and other cities, and it ensures that “Music City, USA” is in compliance with the regulations governing the use of music in government-owned facilities.

Pursuant to the license agreement, Metro is required to pay a base annual license fee of \$3,800 for a population of 500,000, plus \$500 for each additional 100,000 population. This base amount may increase incrementally each year based upon a consumer price index. Additionally, Metro will be required to pay 1% of gross revenues generated in excess of \$25,000 from special events where ASCAP music is played. Metro must submit a report within 90 days of a special event indicating the name of the performers and the gross revenue from the special event. It is estimated that there will be very few special events to which this fee will be applicable since Metro typically does not act as its own promoter of events. This agreement does not cover music played at any professional sporting events. It is estimated that this license agreement will cost the Metropolitan Government about \$5,000 annually. The license agreement is for a term of one year and must be renewed on an annual basis. Amendments to this agreement may be adopted by resolution of the Metropolitan Council. In the future, there may be additional similar license agreements before the council with BMI and SESAC, the other two large organizations of music publishers and composers.

ORDINANCE NO. BL2002-1141 (MCCLENDON) – This ordinance authorizes the acquisition, by negotiation or condemnation, of utility easements on 126 tracts of property for the Grizzard Manor grinder pump installation project. The current septic system for the Grizzard Manor subdivision has been identified as a health threat by the Metro department of health. To remedy this situation, Metro water and sewerage services (MWS) has installed a pressure-type sewer system that requires individual grinder pumps for each residence. This ordinance authorizes the acquisition of the easements to install the grinder pumps. The easements will be acquired at no cost to the Metropolitan Government pursuant to an agreement between MWS and the Grizzard Manor homeowners. Pursuant to the agreement, the homeowners will pay a one-time maintenance and tap fee of \$3,000, which may be financed through MWS at a 7% annual interest rate.

ORDINANCE NO. BL2002-1142 (TUCKER) – This ordinance amends the Metropolitan Code of Laws by adopting the latest edition of several standard codes. Copies of the new editions of the standard codes are on file with the Metropolitan Clerk. Metro adopts new codes when they are amended and updated, which is generally every few years. The last time new standard codes were adopted was in December of 1998 for the 1997 standard codes. State law requires local governments to adopt a building code edition that is within six years of the latest published

editions. Generally, Metro also adopts some amendments to the standard codes that are local in nature, which are included as part of this ordinance. This ordinance adopts the 2000 edition of the fire prevention and life safety code, the standard building code, the CABO model energy code, the international energy conservation code, the standard plumbing code, and the standard mechanical code. The various building and fire codes are being adopted at the same time to avoid conflicts between the various codes. The new standard codes have been approved by the board of fire and building code appeals, the board of plumbing examiners and appeals, and the board of gas/mechanical examiners and appeals. (Continued)

ORDINANCE NO. BL2002-1142 (CONTINUED)

In addition, this ordinance clarifies that the enforcement of the Metro fire ordinances, the investigation of fires, and the powers of the fire marshal are applicable county-wide. The current Metro Code of Laws technically makes these provisions only applicable to the urban services district. Further, this ordinance provides that a person ordered by the fire marshal to remedy a fire hazard may appeal such order to the board of fire and building code appeals prior to the next scheduled meeting of the board, as opposed to appealing to the mayor as the code currently provides.

As stated above, in addition to adopting the standard codes, this ordinance adopts some local amendments. These amendments include changes in some definitions and technical requirements to make the new code read in the manner that is consistent with the previous language. This ordinance also makes a technical clarification to an amendment of the existing electrical code and amends the building permits section of the code of laws to clarify the calculation methods for partial permit fees.

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director

DATE: September 17, 2002

RE: **Analysis Report On
Proposed Charter Amendments**

This supplemental analysis is being provided to the Members of Council prior to the September 17, 2002 meeting on the proposed amendments to the Charter. The Charter Revision Committee of the council held a committee meeting on Tuesday, September 3, 2002 at 5:30 p.m. to hear from the various sponsors of proposed amendments.

RESOLUTION NO. RS2002-1123 (JENKINS) – This resolution provides fourteen amendments to the Metropolitan Charter. Four of the proposed amendments were previously submitted pursuant to other resolutions filed earlier in this council term. Those four amendments include residency requirements for Metro employees, allowing the council to adopt a redistricting plan without a public referendum, and increasing the number of members of both the Metropolitan transit authority (MTA) board and the electric power board (NES). Two of the new amendments included in this resolution also are related to the MTA board and NES board and are similar but not identical to the previously filed amendments. The prior resolutions were deferred indefinitely to allow any proposed amendments to the Charter to be included in one resolution.

The Council, pursuant to the Charter, may adopt only two resolutions during the term of the Council that submit amendments to the voters for ratification. In order to qualify for the November 5, 2002 election, an amendment had to have been filed at least 80 days prior to the election, and the resolution proposing amendments must be adopted by the Council within a period not more than 60 days nor less than 45 days prior to the election. Therefore, in order to submit amendments for a public referendum for ratification, the Council must adopt the resolution at the September 17, 2002 council meeting. The Charter Revision Commission met Wednesday, August 14th and Friday, August 16th to discuss these proposed Charter amendments and to make a recommendation to the council. The recommendations of the Charter Revision Commission are included in the analysis of the individual amendments listed below. The Charter Revision Commission previously met earlier this spring and decided not to initiate any proposed amendments for the general election this year.

The Charter may also be amended by proposed amendments submitted for public referendum that are generated by a petition signed by 10% of the number of registered voters of Davidson County voting in the preceding general election. Two significant amendments to the Charter

have been ratified which were generated by petition: requiring an elected board of public education and the term limit provisions.

Each amendment submitted must be specifically adopted by 27 affirmative votes to be made a part of the resolution, and the resolution itself must receive 27 affirmative votes in order to be adopted. Charter amendments and resolutions proposing Charter amendments are not subject to the approval of the mayor.

There will be a substitute resolution offered at the September 17th council meeting that corrects a typographical error in one of the proposed amendments, clarifies when the subject matter of another proposed amendment would become effective, and contains only those amendments that are to be submitted for a vote by the council.

The Charter Revision Commission has made recommendations on the proposed amendments. This recommendation does not affect the required vote of council to submit an amendment to the voters. Enclosed with this analysis is a report of the Commission.

A list of the proposed amendments and analysis of each is as follows:

Amendment No. 1 (Wallace) – This amendment would reduce the size of the Metropolitan council from 40 to 21 members and would eliminate the positions of councilmember-at-large. This amendment would additionally require that the vice mayor be elected by the council from its membership effective as of the September 2003 council term. Amendment No. 2 is similar and this amendment cannot be adopted and submitted to the voters if Amendment No. 2 is adopted, as they are in conflict with one another. Only one of these proposed amendments may be adopted by the council.

A previously proposed amendment to reduce the size of the council and one to require that the vice mayor be elected by the council failed to receive the council's approval in 1994.

The Charter Revision Commission did not recommend this amendment.

Amendment No. 2 (Wallace) – This amendment is identical to Amendment No. 1, except it would reduce the size of the council to 25 members. This amendment cannot be adopted and submitted to the voters if Amendment No. 1 is adopted, as they are in conflict with one another. Only one of these proposed amendments may be adopted by the Council.

The Charter Revision Commission did not recommend this amendment.

Amendment No. 3 (Wallace) – This amendment would require that all employees and officers of the Metropolitan Government be residents of Davidson County. A similarly proposed amendment failed to receive approval by the council in 1994.

The Metro Code required that all employees be residents of the area of Metropolitan Government, however, the Council repealed that requirement in 1994 and replaced the residency requirement with one that required employees be residents of the State of Tennessee. The United States Supreme Court has ruled that it is valid to require that employees of local government be residents of the jurisdiction of the government.

The Charter Revision Commission did not recommend this amendment.

Amendment No. 4 (Wallace) – This amendment would prohibit a member of an administrative board or commission from serving in any other public office or on any other board or commission.

The Charter Revision Commission did not recommend this amendment.

Amendment No. 5 (Briley) – This amendment changes the term of the public defender from four years to eight years effective at the regular August election in 2006.

The office of public defender is created by the Charter and the Charter provides for a four year term of office. The vast majority of public defenders in the other Tennessee counties were created by state law, which provides for an eight year term of office. The district attorney general also has an eight year term of office, as do judges. This would allow all such officials in the justice system to serve equal terms.

The Charter Revision Commission recommended the adoption of this amendment.

The sponsor has decided to withdraw this proposed amendment.

Amendment No. 6 (Williams) – This amendment would require that all members of Metro administrative boards and commissions be residents of Davidson County for at least one year prior to being appointed.

Presently, members of boards and commissions created pursuant to the Charter must either be residents of Metropolitan Government or have their principal place of business within the area of Metropolitan Government for at least one year.

The Charter Revision Commission did not recommend this amendment, noting that the Council currently has the authority to confirm or not to confirm any board or commission member who may reside out of county.

The sponsor has decided to withdraw this proposed amendment.

Amendment No. 7 (Bogen) – This amendment provides that the members of the board of public education may receive compensation at a rate approved by the council as part of the general pay plan.

The Charter currently prohibits members of boards and commissions from receiving compensation for their service. A similar proposed amendment failed to receive Council approval in 1998. At that time the members of the Metropolitan Board of Public Education indicated that they did not favor compensation for members of the Metropolitan Board of Public Education.

The Charter Revision Commission recommended the adoption of this amendment.

Amendment No. 8 (Hart) – This amendment would provide that any increase of two percent or more of the property tax levy would not be effective until ratified by a referendum election. This proposed amendment failed to receive council approval in 1998.

At the request of the sponsor, the Charter Revision Commission did not take action on this amendment.

The sponsor has decided to withdraw this proposed amendment.

Amendment No. 9 (Shulman & Ponder) – This amendment would increase the membership of the NES board from five to nine members, with one member being appointed in each of the following areas: law, finance, construction, engineering, education, and social services.

Presently the NES board is comprised of five members appointed by the mayor and confirmed by Council without specific qualification. Previous attempts to increase the size of various boards and commissions by Charter amendment have been rejected by the voters.

The Charter Revision Commission did not recommend this amendment. The Commission did recommend increasing the membership of the board to seven members without specific qualifications for membership.

Amendment No. 10 (Shulman) – This amendment would increase the membership of the Metropolitan transit authority (MTA) from five to six members, with one member representing disabled riders. The amendment would also increase the quorum required to conduct business by the authority from three to four members.

Presently the MTA board is comprised of five members appointed by the mayor and confirmed by Council without specific qualification. Previous attempts to increase the size of various boards and commissions by Charter amendment have been rejected by the voters.

The Charter Revision Commission did not recommended this amendment. The Commission did recommend that the MTA board be increased to seven members with one member being appointed to represent the interests of disabled citizens and not disabled riders, and the other member being appointed without specific qualification.

Amendment No. 11 (Ponder) – This amendment to the Charter would provide for an increase of term limits to three consecutive four-year terms for members of the council, the mayor, and the vice mayor, and would clarify that term limits do not apply to any other office authorized or created by the Charter.

Term limits were adopted in November of 1994 after being submitted to the voters by petition. The Council submitted an amendment in 1996 to extend the terms to a limit of three, as does this amendment, and in 1998 submitted an amendment to repeal term limits, both of which were rejected by the voters.

The Charter Revision Commission, although they recommended this amendment, did not recommend the language in the “For The Ballot” section that is a part of the requirement for an amendment. The Commission did not wish to have language that states that the mayor would be permitted to serve for three terms if the amendment is adopted, apparently so in the event this amendment fails again, it can be argued by the mayor that this office already has a three term limit. Although the Director of Law under the previous Mayor held the position that the Mayor was not subject to these term limit provisions, Special Counsel to the Council is of the opinion that the mayor is subject to the two-term limit provision. The previous mayor did not follow the decision of his Director of Law.

Amendment No. 12 (Shulman) – This amendment would increase the membership of the electric power board effective July 1, 2003, to have nine members rather than its present five. The amendment provides that each member of the power board should be appointed from each of the nine school districts. An identical proposed amendment failed to receive the council’s approval in 1998. This amendment could not be adopted and submitted to the voters if Amendment No. 9 is adopted, as they are in conflict with one another.

This amendment was withdrawn by the sponsor at the Charter Revision Commission meeting, in favor of proposed Amendment No. 9, therefore, the Commission did not take action on this proposed amendment.

Amendment No. 13 (Shulman) – This amendment would increase the membership of the Metropolitan transit authority (MTA) from five to seven members, with two members required to be regular riders of the MTA transportation system. This amendment would also increase the quorum required to conduct business by the authority from three to four members. An identical proposed amendment failed to receive the council’s approval in 1998.

Presently the MTA board is comprised of five members appointed by the mayor and confirmed by Council without specific qualification. Previous attempts to increase the size of various boards and commissions by Charter amendment have been rejected by the voters.

The Charter Revision Commission did not recommend this amendment, however, they recommended increasing the membership of the MTA board to seven members, but did not recommend that two members be persons who ride public transportation on a regular basis. This amendment cannot be adopted and submitted to the voters if Amendment No. 10 is adopted, as they are in conflict with one another.

Amendment No. 14 (Wallace) – This amendment would change the procedure for redistricting by allowing the council to reject the planning commission’s redistricting plan and adopt its own redistricting plan by resolution without submitting the plan to a referendum.

The Charter allows the council to reject the redistricting plan submitted by the planning commission and to adopt its own plan. Both plans must then be submitted to the voters allowing the people to choose which plan they prefer. Following the 1990 Census, this council rejected the commission plan, adopted their own, and submitted both to the voters, with the voters approving the plan adopted by the Council. The referendum requirement is an attempt to assure that the “One Man – One Vote” principal is followed in redistricting. This principal was adopted by the United States Supreme Court in the landmark case of *Baker v. Carr*, which suit was originally brought by the City of Nashville.

The Charter Revision Commission did not recommend this amendment and noted that the commission would continue to study the issues involved in redistricting.