

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **November 19, 2002**

RE: **Analysis Report**

Balances As Of:	<u>11/14/02</u>	<u>11/14/01</u>
<u>GSD 4% RESERVE FUND</u>	\$4,582,776	\$18,865,006
<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 SCHOOL FUND</u>	Unavailable	Unavailable
<u>SOLID WASTE DISPOSAL FUND</u>		
Solid Waste Activities	Unavailable	Unavailable

- RESOLUTIONS -

RESOLUTION NO. RS2002-1185 (JENKINS) – This resolution appropriates \$116,000 from the general fund reserve fund (4% fund) to purchase 41 laptop computers and a new telephone system for the council office. This appropriation was part of the mayor's capital spending plan and was deferred by the council on October 15, 2002. Four percent funds may only be used for the purchase of equipment and repair of buildings.

RESOLUTION NOS. RS2002-1208, RS2002-1230, RS2002-1231, RS2002-1232, AND RS2002-1233 – These five resolutions approve properties to be used as waste transfer stations. The zoning text of the Metro code of laws provides that before property can be approved as a waste transfer station, a request for a special exception must be filed with the board of zoning appeals. The zoning text further provides that the Metro Council must 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 a request for approval of a waste transfer facility within sixty (60) days, it shall be deemed approved by the council.

Resolution No. RS2002-1208 (McClendon) approves property located at 532 Thompson Lane to be used as a waste transfer station for the benefit of Gray's Disposal. The council must take action on this resolution not later than the meeting of December 3, 2002, or it will be deemed approved.

Resolution No. RS2002-1230 (Wallace) approves property located at 10 Culvert Street to be used as a waste transfer station for the benefit of Gray's Disposal. The council must take action on this resolution not later than the meeting of December 17, 2002, or it will be deemed approved.

Resolution No. RS2002-1231 (Hand) approves property located on Centennial Boulevard to be used as a waste transfer station for the benefit of Withco, LLC. The council must take action on this resolution not later than the meeting of December 17, 2002, or it will be deemed approved.

Resolution No. RS2002-1232 (Gilmore) approves property located at 4457 Ashland City Highway to be used as a waste transfer station for the benefit of Withco, LLC. The council must take action on this resolution not later than the meeting of December 17, 2002, or it will be deemed approved.

Resolution No. RS2002-1233 (Black) approves property located at 2011 Southerland Drive to be used as a waste transfer station for the benefit of Withco,

LLC. The council must take action on this resolution not later than the meeting of December 17, 2002, or it will be deemed approved.

RESOLUTION NO. RS2002-1236 (WALLACE & WATERS) - This resolution appropriates \$120,000 in community development block grant (CDBG) funds for infrastructure improvements located at the intersection of Jefferson Street and D.B. Todd Boulevard. One area that CDBG funds are designated for includes community projects associated with infrastructure improvements. All expenditures of CDBG funds are required to be approved by resolution of the Metropolitan Council. The infrastructure improvements funded by this resolution include a new turn lane and sidewalks at this intersection.

RESOLUTION NO. RS2002-1237 (JENKINS) - This resolution authorizes the Metropolitan Government to file a petition with the court to request that it be allowed to resign as trustee of the Joseph B. Knowles Trust and recommends the appointment of Senior Citizens, Inc., as the successor trustee. Annie Horton, the daughter of John B. Knowles, executed a will in 1891 leaving funds in trust to the City of Nashville to construct and operate a building for aged people of Nashville with the residue funds to be invested and income used for the benefit of the aged people of Nashville. The City of Nashville carried out the transactions for the Trust Fund from the time the Trust was created until the Metropolitan Government was formed in April of 1963, wherein it became the successor trustee. The Nashville City Council approved the sale of the Tarbox School property at 1801 Broadway in February of 1963 to the Trust Fund to be operated as a center for aged persons. In 1965 the mayor, as trustee of the Trust Fund, with Council approval leased the Tarbox School property to Senior Citizens, Inc., for \$1 per year for 25 years to provide a center for aged persons, which lease was extended for another 25 years in 1992. There is currently approximately \$998,573 remaining in the Trust.

The Metropolitan Government has decided that it is not organized to administer such a trust and would like to have Senior Citizens, Inc., named as a successor trustee. Since Ms. Horton's will in 1891 did not expressly provide for the resignation and appointment of a successor trustee, the Metropolitan Government must file a petition with the court to request permission to resign as trustee and to have the court approve a successor trustee, namely Senior Citizens, Inc.

The social services commission, under the Charter of the Metropolitan Government, has the duty to supervise the operation of the Knowles Homes for the Aged. The Charter also provides that the Knowles Homes shall be operated in conjunction with the mayor in his capacity as trustee.

Council office would suggest that this successor trustee petition also address the Charter provision concerning the mayor as trustee to assure that the resignation of the mayor does not violate the Charter.

RESOLUTION NO. RS2002-1238 (JENKINS) - This resolution makes certain technical changes to and awards the sale of water and sewer revenue refunding bonds in a principal amount not to exceed \$35,000,000. The council authorized the issuance of the water and sewer refunding bonds on October 15, 2002. These bonds have been advertised and are ready to be sold to the lowest bidder. This water and sewer refunding bond package is estimated to save the Metropolitan Government in excess of \$1 million over the life of the bonds due to the current favorable interest rates. The true interest cost for these refunding bonds is not to exceed 6% per annum and the bonds will have a final maturity date of January 1, 2016. Only revenues generated by water and sewer customers will be used to pay the obligations on these bonds and the bonds will not constitute a debt of the Metropolitan Government that would compel the use of tax revenues.

This resolution also makes certain technical changes to the terms of the bonds including a change in the optional redemption provision for bonds maturing after January 1, 2014, and a reduction of \$385,000 in the preliminary amount of the bonds to be refunded.

RESOLUTION NO. RS2002-1239 (WALLACE & JENKINS) - This resolution amends the general employee pay plan of the Metropolitan Government by adding the following positions:

<u>Title</u>	<u>Salary Range</u>
Emergency Vehicle Technician 1 \$41,267	\$34,216 -
Emergency Vehicle Technician 2 \$45,468	\$37,668 -
Emergency Vehicle Technician Supervisor	\$44,137 - \$53,435
Emergency Telecommunicator 1 \$32,065	\$24,667 -
Emergency Telecommunicator 2 \$35,740	\$27,496 -
Emergency Telecommunicator 3 \$43,992	\$33,840 -
Emergency Communications Center Asst. Supervisor \$48,593	\$37,379 -
Emergency Communications Supervisor	\$41,161 - \$53,509
Emergency Communications Center Asst. Mgr.	\$45,223 - \$58,786
Emergency Communications Center Mgr.	\$54,201 - \$76,105
Emergency Telecommunications Training Officer	\$33,840 - \$43,992
Emergency Communications Director	\$76,165 - \$146,925

These positions are currently provided for in the police and fire pay plan and it is the position of the department of general services that such positions could be effectively utilized in the general government.

RESOLUTION NO. RS2002-1240 (JENKINS & GILMORE) - This resolution approves an increase in the amount of \$100,000 to a grant between the state department of transportation and the Metro board of parks and recreation for development of the downtown greenway. The greenway is to consist of a walking and bicycle trail to connect Riverfront Park to the Bicentennial Mall, the US Tobacco Company warehouse complex and museum, and the Marathon Village warehouse complex. The initial grant in 1997 provided \$800,000 and was increased by an additional \$640,000 in 2001. This resolution increases the amount of the grant an additional \$100,000 with a Metro match of \$25,000.

RESOLUTION NO. RS2002-1241 (HALL & JENKINS) - This resolution authorizes the mayor to enter into an annual joint funding agreement with the U.S. department of interior - geological survey to continue a program to operate and maintain a UVM gauge on the Cumberland River and a rainfall runoff-gauging network for several streams within the area of the Metropolitan Government. Testing is done on a regular basis to evaluate the water quality impact due to the operation of the Metro department of water and sewerage service's water and wastewater facilities, and to get accurate and detailed information to evaluate the time and amount of pollutants discharged into streams. This annual contract is for a term of one year at a total cost of \$115,100, one-half of which is paid by Metro and one-half funded by the federal government.

RESOLUTION NO. RS2002-1242 (JENKINS) - This resolution approves a grant in the amount of \$756,580 from the U.S. department of health and human services to the Metro board of health. These funds will be utilized in the health department's community access program in an attempt to improve and expand access to medical services, substance abuse, and mental and dental health services offered by the health department for residents of Davidson County who are uninsured. The grant is for a term of one year beginning September 1, 2002, and terminating August 31, 2003. There is a required Metro match of \$559,948 that will be provided from the current operating budget of the health department.

RESOLUTION NO. RS2002-1243 (JENKINS) - This resolution approves a cooperative agreement between the U.S. environmental protection agency (EPA) and the Metro health department to provide for a study to determine ambient concentrations of hazardous air pollutants at two sites in Nashville. The amount of \$80,784 was provided under a similar agreement last year and Metro will receive an additional \$75,094 through this agreement. This grant is for a term beginning June 25, 2001 and terminating December 31, 2004.

RESOLUTION NO. RS2002-1244 (SUMMERS, HALL & JENKINS) – This resolution authorizes the mayor to enter into a licensing agreement with CSX Transportation for the purpose of constructing a water line in the railroad right-of-way located at Valuation Station near Westlawn Court and the CSX railroad crossing. Such licensing agreements regarding constructing utility lines in the CSX railroad right-of-way may be approved by resolution rather than by ordinance.

This licensing agreement would be in perpetuity, however, should the railroad need the property Metro would be required to remove the lines from the right-of-way. This licensing agreement provides for a one-time license fee of \$1,900, which will be paid from the water and sewer extension and replacement fund. In addition, Metro agrees to indemnify CSX to the extent permitted by state law and agrees to maintain self-insured liability insurance in the amount of \$3 million.

RESOLUTION NO. RS2002-1245 (HALL) – This resolution adds a bill paying station to the approved list of locations for payment of water and sewer bills from the Metro water services department. All bill-paying stations must be approved by resolution of the council. This resolution adds Business Services of America, LLC, 2647 Murfreesboro Pike, as a bill paying station.

RESOLUTION NO. RS2002-1246 (JENKINS & HALL) – This resolution approves an amendment to a contract between the Metro department of water and sewerage services and Sprint Spectrum, L.P. The council approved the initial agreement between Metro water and sewer and Sprint Spectrum, L.P. in 1999, which was to allow both parties to install telecommunication equipment on each other's property as necessary to provide telecommunication service. Initially there was to be no cost to either party for use of these properties. This ordinance amends the consideration portion of the contract to provide that Sprint Spectrum will pay a monthly location charge to Metro of \$1,700, which is to increase by three percent (3%) annually.

RESOLUTION NO. RS2002-1247 (NOLLNER, JENKINS & HALL) – This resolution authorizes the director of public property administration to purchase property at 3099 Ewingdale Drive and 3140 Gwynwood Drive at an estimated cost of \$139,500. These properties are located within the floodway and the land purchase is for the purpose of preventing future stormwater flooding losses on the properties. This property buyout will be funded by general obligation bonds. This acquisition is voluntary.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2002-1248 (JENKINS & WALLACE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to

provide Families First support services by decreasing the amount of the grant by \$1,087,859.24 for a total grant award of \$2,121,140.12. The services to be provided by this grant include assessments, Fresh Start/PACW, career counseling, and job training.

RESOLUTION NOS. RS2002-1249, RS2002-1250, RS2002-1251 & RS2002-1252

(JENKINS & WALLACE) – These four resolutions approve grants from the state department of labor and workforce development, under the provisions of the Workforce Investment Act of 1998, to provide funding to the Nashville career advancement center (NCAC) to prepare adults, youth, and dislocated workers for re-entry into the labor force. These grants are essentially federal pass-through funds that provide the operating funds for NCAC.

Resolution No. RS2002-1249 approves an administration grant in the amount of \$166,770.05 with a term commencing October 1, 2002 and ending June 30, 2004. The grant may be extended for two additional one-year periods.

Resolution No. RS2002-1250 approves a dislocated worker grant in the amount of \$607,238.70 with a term commencing October 1, 2002 and ending June 30, 2004. The grant may be extended for two additional one-year periods.

Resolution No. RS2002-1251 approves an adult worker grant in the amount of \$893,646.72 with a term commencing October 1, 2002 and extending through June 30, 2004. The grant may be extended for two additional one-year periods.

Resolution No. RS2002-1252 approves a grant in the amount of \$570,000 with a term commencing October 1, 2002 and extending through March 31, 2004. The grant may be extended for two additional one-year periods.

RESOLUTION NO. RS2002-1253 (JENKINS) – This resolution accepts \$6,225 to compromise and settle Metro Government’s claim against Edna Grimsley. On February 4, 2002, Officer Kimberly Forsythe was standing outside her patrol unit with blue lights activated assisting another police officer on an entrance ramp to I-440 when Ms. Grimsley struck the rear of the patrol car. Ms. Grimsley was subsequently charged with driving under the influence. The 1999 Ford Crown Victoria police car was a total loss and was sold for salvage. The difference between the book value of the vehicle and the salvage recovery was \$6,225. The department of law believes that this is a fair and reasonable settlement.

RESOLUTION NO. RS2002-1254 (JENKINS) – This resolution accepts \$6,428.13 in compromise and settlement of Metro Government’s claim against Norma Lampley. On August 21, 2002, Ms. Lampley was traveling south at the intersection of Gallatin Pike and One Mile Pike when her brakes failed while attempting to stop at a red light. Ms. Lampley swerved to avoid hitting the vehicle stopped in front of her and left the road, striking a wooden pole that secured a Metro signal control

box. Both the signal control box and the pole were destroyed, causing damage in the amount of \$6,428.23. The department of law believes this is a fair and reasonable settlement.

RESOLUTION NO. RS2002-1255 (JENKINS) – This resolution states that it authorizes the acceptance of \$6,966.96 to compromise and settle Metro Government's claim against Kristen Dyer for damage resulting from a motor vehicle accident. The resolution states that on May 8, 2002, Kristin Dyer was driving down West End Avenue and failed to notice the traffic stopped in front of her. Ms. Dyer struck the rear of a Toyota pick-up in front of her, causing the truck to strike a 2002 Nissan Maxima owned by the Metropolitan Government and driven by Sandra S. L. Smith, an employee of the Metro police department. The accident resulted in \$6,966.96 in damage to the Metro vehicle, which required a replacement of the entire rear of the vehicle. There were no medical bills or lost wages involved in this claim.

There was no disciplinary action taken against the Metro employee involved. The department of law believes that this is a fair and reasonable settlement.

The council office would recommend that this resolution be withdrawn. In fact, our employee is police officer Kristen Dyer and the person responsible for the accident is Sandra L. S. Smith. A new settlement resolution should be filed. A substitute resolution would most likely violate the open meetings act, as it would completely change the purpose of the original resolution.

RESOLUTION NO. RS2002-1256 (JENKINS) – This resolution authorizes the department of law to compromise and settle the lawsuit of Ebtisam H. Najman against the Metropolitan Government in the amount of \$5,500 to be paid from the self-insured liability fund. On July 25, 2000, a Metro garbage truck driven by a Metro employee within the scope of his employment backed into Ms. Najman's vehicle. Ms. Najman was diagnosed with lower back pain and incurred medical and chiropractic bills totaling \$2,466.81. Ms. Najman also incurred lost wages of \$124.00. No disciplinary action was taken against the Metro employee involved. The department of law believes that this is a fair and reasonable settlement to compensate Ms. Najman for her medical bills, lost wages, and pain and suffering.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2001-723 (WALLACE) – This ordinance, as amended, amends the Metropolitan Code to permit parking within the central business improvement district (CBID) between the hours of 6:00 p.m. and 6:00 a.m. Thursday through Sunday evenings, regardless of signs that prohibit such parking. Such parking would still be prohibited if it interferes with fire hydrants, in no parking zones, in crosswalks, and intersections. It basically would allow parking in no standing zones and loading zones. This ordinance has been disapproved by the traffic and parking commission.

SUBSTITUTE ORDINANCE NO. BL2001-822 (WALLACE) – This substitute ordinance amends the Metro Code to limit the types of traffic violations for which a vehicle may be towed by the Metro police department. Presently, the Code provides that any vehicle which is parked, stopped, or standing in violation of any ordinances, except overtime parking, may be towed by the Metro police department. This substitute ordinance would provide that vehicles can be towed only when in violation of an ordinance or regulation and also are (1) causing a safety hazard, (2) blocking pedestrian or vehicle access to property or a street, alley, or driveway, or (3) disrupting the flow of traffic.

This substitute ordinance does not affect the authority to tow vehicles in violation of obstructing the orderly flow of traffic, parked on thoroughfares more than 48 hours without current registration, or are disabled so as to obstruct traffic, and other similar instances.

ORDINANCE NO. BL2002-1230 (BEEHAN, WHITMORE & OTHERS) – This ordinance authorizes the mayor to submit a 2003 annual update to the consolidated plan for housing and community development programs for the Metropolitan Government to the U.S. department of housing and urban development (HUD). The current five year consolidated plan was prepared by the

Metropolitan development and housing agency (MDHA) and adopted by the council in 1999. The plan is administered by MDHA and includes the allocation of funds received from HUD for community development block grants (CDBG), the HOME investment partnerships program (HOME), the emergency shelter grant program (ESG), and the housing opportunities for persons with AIDS (HOPWA). This 2003 plan update has been prepared by MDHA, in connection with other public and private agencies, to allocate funds from the above-mentioned programs.

Any property that may need to be acquired under any of these programs may only be acquired for public use and approved by ordinance, unless the owner consents in writing to sell the property for the program. The exercise of the power of eminent domain under the development plan is expressly reserved for the Metropolitan Council, except in the case of open projects approved by the council in accordance with state law. Additionally, all requested program expenditures must be approved by resolution of the Metropolitan Council. Attached at the end of this analysis are the program allocations under these various programs beginning April 1, 2003 through March 31, 2006.

CDBG funds are based on entitlement funding in the amount of \$6,150,000, with program income of \$625,000 during the coming year. These CDBG funds are designated for affordable housing activities to provide matching funds and for neighborhood activity funds for youth initiative programs and community projects associated with storm water (continued on next page)

ORDINANCE NO. BL2002-1230 (continued)

drainage, sidewalks, park improvements, and other localized needs. A large portion of the CDBG funds are targeted at specific residential neighborhood strategy areas (NSAs) and commercial district areas. The two commercial district target areas are the Dickerson Road and Buchanan Street commercial districts. Also attached at the end of this analysis are maps that set out the boundaries for all of the NSAs and commercial district target areas.

HOME funds are to provide a mixture of owner-occupied and rental rehabilitation, new housing ownership programs, new multi-family housing opportunities, and down payment assistance. A required twenty-five percent local match must be provided from repayments of urban development action grants (UDAG). UDAGs are federal loans made to qualifying programs, essentially in the downtown area, which are repaid to the Metropolitan Government to be expended in approved programs that target persons living in pockets of poverty.

ESG funds are allocated to local homeless shelter providers to help cover operational expenses and essential services. Local matching funds required under this program must be provided by the local non-profits that participate in the program.

The **HOPWA** program provides housing related assistance for low-income persons with AIDS and their families.

ORDINANCE NO. BL2002-1231 (JENKINS) – This ordinance approves an annual grant in the amount of \$49,000 between the Tennessee arts commission and the Metropolitan Nashville arts commission for general operating expenses. This grant is for a term beginning July 1, 2002 and extending through June 30, 2003.

ORDINANCE NO. BL2002-1232 (JENKINS) – This ordinance readopts the purchasing provisions of the Metropolitan Code of Laws with certain technical changes. The procurement code, when it was adopted in 1992, was scheduled to sunset on June 30, 2002. In March of 2002, the council, by ordinance, extended this sunset date until December 31, 2002 to allow more time to study the purchasing code for possible revisions. This ordinance readopts the procurement code with no future sunset date. Thus, the readopted code will remain in effect for an indefinite period of time. This ordinance also makes certain technical changes to conform to the standard procurement code revisions and to provide for electronic bidding as part of the procurement code, and beginning in 2003 provides for an inflation increase on the amounts requiring a minimum number of bids or quotes.

ORDINANCE NO. BL2002-1233 (WALLACE & JENKINS) – This ordinance amends the Metropolitan Code of Laws to specify that the Metropolitan Government has a subrogation interest for disability pensions paid to employees who were injured in the line of duty where a third party is legally liable for the injury. The code of laws currently does not expressly permit Metro to recover costs of disability pensions from third parties who are responsible for the employee's injury. This ordinance would allow Metro to have a subrogation right against a third party only for the cost of the disability pension paid and Metro would only collect its subrogation interest when the employee has been made whole for his/her damages.

(continued on next page)

ORDINANCE NO. BL2002-1233 (continued)

The benefit board has approved this code change upon recommendation from an actuarial study. This provision is similar to other subrogation provisions common in insurance contracts. An example of how this subrogation interest would be implemented is as follows:

Suppose a Metro employee is driving a Metro vehicle during the scope of her employment and is struck by a third party vehicle, whose driver ran a stop sign. If the Metro employee becomes disabled as a result of this accident, Metro would be obligated to provide a disability pension to the employee. The employee, or the Metropolitan Government, may then choose to pursue a claim against the third party. Upon a settlement or a court judgment against the third party, Metro would

be entitled to recover from that settlement the amount actually paid to the employee in pension benefits.

ORDINANCE NO. BL2002-1234 (WALLACE & JENKINS) – This ordinance amends the Metropolitan Code of Laws by adding a deferred retirement option program (“DROP”) to Metro’s employee retirement plan. A DROP is typically an arrangement in which employees who would otherwise be eligible to retire may continue working and have a lump sum equal to the retirement benefits they would be eligible to receive during the elected DROP period credited to a separate account until the employee eventually retires, allowing the employee to earn interest on the amount deposited into the separate account. Although the plan established by this ordinance is called a DROP, it is not consistent with the standard DROP format. This ordinance provides for a somewhat modified DROP that would allow employees who are eligible for normal retirement to receive payment of their retirement benefits for a one, two, or three year period in a lump sum immediately upon retiring. The remaining pension benefits to be paid in the form of an annuity would be actuarially reduced according to the amount of the lump sum initially paid. This differs from a standard DROP in that the lump sum is not credited to a special interest bearing account to allow the employee to continue working, but instead is an incentive for an employee to go ahead and retire if they wish to receive a lump sum payment of pension benefits.

Any Metro employee member that is eligible for normal retirement and has accumulated at least twenty-five years of service shall be eligible to participate in the DROP, excluding members whose service terminates as a result of disability or death. The plan will also only be available to new retirees who have not already received pension benefits. Metro received an actuarial determination that adopting such as plan will not increase the cost of the system of employee benefits. The employee benefit board has approved the DROP, but the plan will not become effective until the benefit board adopts a resolution certifying that the necessary resources are in place for its administration.

ORDINANCE NO. BL2002-1235 (WALLACE & JENKINS) – This ordinance amends the Metropolitan Code of Laws to permit employees of the Metropolitan Government to decline medical and dental coverage offered through the Metropolitan employee benefit system. The benefit board, based upon an actuarial study, has determined that allowing employees who have other health and dental coverage to opt out of Metro’s plan would reduce overall plan costs. The code currently requires all full-time employees of the Metropolitan Government to participate in Metro’s medical and dental insurance plans. Pursuant to this ordinance, employees will be eligible to opt out of participating in Metro’s plan upon demonstrating to the benefit board that he/she has other medical and/or dental coverage. (continued on next page)

ORDINANCE NO. BL2002-1235 (continued)

This ordinance also requires that the benefit board adopt policies that would govern the circumstances, if any, in which an employee who has declined to participate in Metro's plan of coverage may later elect to opt back into the plan.

ORDINANCE NOS. BL2002-1236 & BL2002-1237 – These two ordinances create positions within the Metropolitan Government enabling them to be part of the employee pay plan. The Metropolitan Charter requires that newly created positions be approved by ordinance upon recommendation from the mayor and the civil service commission.

Ordinance No. BL2002-1236 (Wallace, Hall & Jenkins) creates the positions of garage manager, garage supervisor 1, garage supervisor 2, manager of fleet operations, and public works associate director. These new public works positions will be in the classified service of the Metropolitan Government.

Ordinance No. BL2002-1237 (Wallace & Jenkins) **creates the positions of paramedic 3, emergency medical technician 3, and executive administrator – police/fire for the Metro police and fire departments. These new positions will be in the classified service of the Metropolitan Government.**

ORDINANCE NO. BL2002-1238 (JENKINS) – This ordinance accepts a donation of \$3,000 from the Dodge division of Daimler-Chrysler Corporation to the Metropolitan Government. On September 26, 2002, approximately 400 Dodge Vipers paraded from Opry Mills to Riverfront Park. This ordinance authorizes the police department and fire department to accept \$1,500 each in appreciation for the men and women who serve in those departments.

ORDINANCE NO. BL2002-1239 (JENKINS) – This ordinance authorizes the Metropolitan Government to donate surplus cellular telephones to non-profit domestic violence agencies for distribution to persons seeking assistance and refuge from domestic violence. The telephones to be donated, which were obtained at no cost to Metro, are now obsolete and cannot be sold at public auction. The phones will be programmed with emergency numbers by the domestic violence agencies and distributed to persons seeking refuge from domestic violence. This ordinance may be amended by resolution of the Metropolitan Council receiving 21 affirmative votes.

ORDINANCE NO. BL2002-1240 (PONDER & HALL) – This ordinance reduces a triangular-shaped drainage and storm pipe easement encumbering property at 4009 Lake Parkway to a ten-foot wide easement. The department of water and sewerage services has determined that the entire easement is no longer needed.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1241 (WALLACE & HALL) – This ordinance authorizes Cook’s Pest Control to install coring and underground termite treatment within public sidewalks for the purpose of termite protection of the Washington Square Building located at 214 and 222 Second Avenue North. The termite treatment will be installed within the sidewalks along Second Avenue North, Bank Street, and First Avenue North. W.S. Investment Holdings, L.P., the property owner of the Washington Square Building has agreed to indemnify the Metropolitan Government for all claims resulting from the coring and termite treatment. The authority granted by this ordinance shall not take effect until a \$5 million certificate of insurance naming the Metropolitan Government as additional insured has been posted with the Metropolitan clerk.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1242 (WHITMORE & HALL) – This ordinance abandons Alley # 1177 and portions of Alleys No. 1202 and 1221. The alleys to be abandoned are located in the vicinity of Georgia Avenue and Delaware Avenue. Alley No. 1177 is to be abandoned between Georgia Avenue and Alley No. 1221. Alley No. 1202 is to be abandoned extending 100 feet west from Alley # 1177, and a portion of Alley No. 1221 is to be abandoned from parcel 162 to its terminus.

The Council Office recommends that Section 2 of this ordinance be amended, as it is unclear from the current language whether the easements are to be abandoned or retained.

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

- BILLS ON THIRD READING -

ORDINANCE NO. BL2002-1171 (BROWN, PONDER & OTHERS) – This zoning text change, as amended, establishes buffering distances between waste facilities and parks and schools, and defines the term “park” within the zoning code. Ordinance No. BL99-86, adopted on January 18, 2000, amended the zoning text to provide setback requirements of two miles for construction and demolition landfill facilities from parks and schools. The two-mile setback, along with another ordinance that provided for construction and demolition landfills to be permitted with conditions in certain zoning areas rather than permitted by right, was subsequently ruled unconstitutional in the case of *Consolidated Waste Systems, LLC v. Metropolitan Government of Nashville and Davidson County*. The Court held that the two-mile setback violated substantive due process rights and equal protection principles. The Court was of the opinion that the setback was too restrictive and that any setback restrictions on construction and demolition landfills should apply to all other landfills as well.

This zoning text change, as amended, reduces the setback for construction and demolition landfills to two thousand feet, as well as provides for a two thousand foot setback for medical waste facilities, sanitary landfills, and waste transfer stations. In addition, this ordinance adds a definition for “parks” to the zoning text, which would include any facility that is open to the public for recreational uses, predominantly kept in a natural state, or designated by the government as a park. The ordinance expressly excludes greenways from the definition of a park.

This ordinance also includes a counter-buffer requirement for schools and parks that would prohibit their construction within two thousand feet of a landfill or other waste facility.

This ordinance has been re-referred to the planning commission to consider the bill, as amended. Thus, this ordinance should be deferred unless the planning commission has made a recommendation.

There will be an amendment offered to this ordinance, as amended, which would remove waste transfer stations from the applicable provisions of this zoning text change.

ORDINANCE NO. BL2002-1186 (SHULMAN, CAMPBELL & DERRYBERRY) – This ordinance provides that all grant awards requiring council approval may be approved by resolution of the Metropolitan Council, rather than by ordinance. This would implement a recommendation by an independent consultant in order to expedite the approval process for grants and consume less council time.

ORDINANCE NO. BL2002-1197 (BROWN, MCCLENDON & DERRYBERRY) – This ordinance, as amended, authorizes the Metropolitan Government to accept an easement from the U.S. Army Corps of Engineers for construction and maintenance of a 20-foot drainage easement and replacement of an 18-inch outfall pipeline on property located at J. Percy Priest dam and reservoir. Pursuant to this agreement, Metro is responsible for any damage done to the property and agrees to indemnify and hold the U.S. Government harmless for claims resulting from Metro’s actions. The easement is granted for a term beginning January 17, 2000 and extending through January 16, 2020.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2002-1200 (MCCLENDON, SONTANY & DERRYBERRY) - This ordinance authorizes the Metropolitan Government to accept an easement from the U.S. Army Corps of Engineers for construction and maintenance of a culvert, ditch, and 18” pipeline on property located at the J. Percy Priest dam and reservoir. Metro agrees to indemnify the U.S. Government for claims arising from Metro’s actions and agrees to be responsible for damage caused to U.S. Government property. The easement is granted for a term beginning January 21, 2001 and extending through January 20, 2020.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2002-1202 (WATERS) – This ordinance closes a portion of Old Preston Road, north of Pettus Road and west of Blue Hole Road. This closure is being requested by Mr. Jim Stinson of MEC, Inc. MEC, Inc., will retain all easements to this section of Old Preston Road. Consent of the affected property owners is on file with the planning commission. This closure has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2002-1208 (WALLACE, HALL & OTHERS) – This ordinance approves the redirection of income in the amount of \$2,000,000 in the capitol mall urban development action grant (UDAG) from the economic development activities to affordable housing activities, and appropriates this \$2,000,000 to the Metropolitan development and housing agency (MDHA) for the Sam Levy HOPE VI affordable housing program. The UDAG program is a federal program that provides loans to developers, which loans are to be repaid to MDHA rather than the federal government for use in the “pocket of poverty” areas of the Metropolitan Government. Pursuant to Ordinance No. O90-112, the council allocated in equal proportion payments received in connection with the capitol mall UDAG between affordable housing and economic development. MDHA is applying for \$20 million in federal HOPE VI funds for an affordable housing initiative at the Sam Levy homes and MDHA needs to pledge the UDAG repayment funds to obtain the federal funding. Thus, it is necessary to redirect this \$2,000,000 from economic development activities to affordable housing activities.

ORDINANCE NO. BL2002-1209 (SUMMERS) – This ordinance adopts the property identification maps for the Metropolitan Government identifying property as of January 1, 2002, as the official maps for the identification of real estate for tax assessment purposes.

ORDINANCE NOS. BL2002-1210, BL2002-1211 & BL2002-1212 (JENKINS) – These three ordinances, as amended, approve lease agreements for use as temporary space for the courts while the Metropolitan courthouse is renovated. These agreements provide for the lease of approximately 150,000 square feet of space located at Metrocenter for a term commencing April 1, 2003 and extending through March 1, 2006, with a possible two year extension. The lessors will be responsible for covering construction buildout costs up to a certain point, as more specifically discussed below. While some parking is provided as part of the leases, additional parking will be required prior to the courts moving to these facilities. Amendments to the leases may be approved by resolution of the Metropolitan Council.

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ORDINANCE NOS. BL2002-1210, BL2002-1211 & BL2002-1212 (continued)

Ordinance No. BL2002-1210 approves a lease agreement between the Metropolitan Government and The Northwestern Mutual Life Insurance Company for approximately 48,014 square feet of space at 501 Great Circle Road, commonly known as First Image Building. This building will house the general sessions courts and clerk, as well as the chancery courts and the clerk & masters office. Northwestern Mutual will provide a tenant improvement allowance of \$15 per square foot to renovate the interior of the building to suit Metro’s needs. Metro will be responsible for paying a proportionate share of any increase in operating expenses, which include property taxes, utilities, and maintenance of the building. Northwestern Mutual will be responsible for maintaining the common areas, the exterior of the building, janitorial services, light fixtures, plumbing and HVAC systems, utilities, and electrical equipment. Metro will be required to provide property insurance and to indemnify Northwestern Mutual to the extent allowed by state law.

The total rent for the premises is not to exceed \$1,980,577.50 and will be paid as follows:

Year	Per Sq. Ft.	Per Mo.	Per Year
2003	\$13.25	\$53,015.46	\$636,185.50
2004	\$13.75	\$53,016.04	\$660,192.50
2005	\$14.25	\$57,016.63	\$684,199.50
option year 1	\$14.75	\$59,017.21	\$708,206.50
option year 2	\$15.25	\$61,017.79	\$732,213.50

Ordinance No. BL2002-1211 approves a lease agreement between the Metropolitan Government and Duke Realty Limited Partnership for approximately 47,246 square feet of space at 523 Mainstream Drive, commonly known as Riverview Business Center II. This building will house the community corrections, circuit court clerk, trial court administrator’s offices, and the 1st, 2nd, 3rd, 4th and 6th circuit courts. Metro will be responsible for any construction costs exceeding \$4.50 per rentable square foot of the premises. Metro will be responsible for providing all janitorial services, as well as a proportionate share of property taxes, insurance premiums, and operating expenses including maintaining the common area. Duke Realty will be responsible for maintaining the exterior of the building, the electrical

wiring and light fixtures, the plumbing and HVAC systems, and for providing and paying all utilities. The total rent under this lease is not to exceed \$1,591,717.80 pursuant to the following schedule:

<u>Year</u>	<u>Per Sq. Ft.</u>	<u>Per Mo.</u>	<u>Per Year</u>
2003	\$10.90	\$42,815.12	\$514,981.44
2004	\$11.23	\$44,214.38	\$530,572.56
2005	\$11.56	\$45,513.65	\$654,163.80

Option years will be measured at 103 percent of the previous year's rent.

Ordinance No. BL2002-1212 approves a lease agreement between the Metropolitan Government and Peter Bruce, Ltd., for approximately 53,877 square feet of space at 601 Mainstream Drive, commonly known as Corners I. This building will house the criminal courts, criminal court clerk, the district attorney victim witness office, the sheriff's holding area, the 7th and 8th circuit courts, and the probate court clerk. Metro will be responsible for construction costs of improvements exceeding \$160,000. Metro will be required to pay (continued on next page)

ORDINANCE NOS. BL2002-1210, BL2002-1211 & BL2002-1212 (continued)

utilities, operating expenses, insurance premiums, and property taxes. Metro will also be responsible for providing janitorial services. Peter Bruce, Ltd., will maintain all aspects of the interior and exterior structure, as well as electrical wiring, light fixtures, and plumbing and HVAC systems. The rent will be paid in monthly installments of \$31,428.25 for an annual rental amount of \$377,139, and a total rent amount for the term of the lease not to exceed \$1,131,417.

ORDINANCE NO. BL2002-1213 (HART, JENKINS & OTHERS) - This ordinance approves a grant in the amount of \$641,674 from the state department of children's services to the Metro juvenile court for a children and family intervention grant program. The term of this grant is from July 1, 2002, through June 30, 2003. This grant is to fund an intervention program of the juvenile court that uses case managers and referrals to appropriate agencies to reduce the number of delinquent children from being placed into the juvenile custody system. The program is designed to identify high-risk children prior to their being placed into a custody program and to reduce continued juvenile delinquency. The ordinance provides that this grant can be amended by resolution adopted by the council with 21 affirmative votes.

ORDINANCE NO. BL2002-1214 (GILMORE, HALL & JENKINS) - This ordinance authorizes the director of public property administration to convey to the State of Tennessee certain interests in three parcels of property located at Whites Creek Park, Whites Creek High School, and Two Rivers Park in conjunction with state department of transportation construction projects. Pursuant to this ordinance, Metro will convey the following interests:

A slope construction easement upon approximately 2,100 square feet of property located at Whites Creek Park.

Approximately 3,800 square feet of property located at Whites Creek High School.

A slope construction easement upon approximately .1 acre of property located at Two Rivers Park.

The board of education and the board of parks and recreation have approved these conveyances. Metro will receive a total of \$2,200 for the conveyance of these interests.

ORDINANCE NO. BL2002-1215 (HALL & JENKINS) - This ordinance authorizes the acquisition of a stormwater easement, by negotiation or condemnation, in connection with the 442 Clearwater Drive stormwater project. The easement to be acquired is on the 442 Clearwater Drive property and has an estimated cost of \$500 to be paid from general obligation bond funds. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1216 (HALL & JENKINS) - This ordinance, as amended, authorizes a participation agreement between Metropolitan Government and Laura Wilhite to provide public sewer service for 866 Dortch Lane located in the Stonebrook subdivision. Laura Wilhite has agreed to pay \$2,000 in construction costs for connecting the single-family home and \$2,500 as her proportionate share of upgrade costs to the Stonebrook subdivision sewer pumping station.

ORDINANCE NO. BL2002-1217 (TURNER & HALL) - This ordinance abandons a water pumping station at Skymont Drive encumbering property owned by Edward L. Hiland and wife. This pumping station is no longer being used by the department of water and sewerage services, and it has been determined that there is no future need justifying its retention.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1218 (WALLACE) - This ordinance, as amended, closes certain rights-of-way adjacent to the proposed symphony hall site to facilitate expansion of the site. The symphony hall is to be constructed at the old fire station and repair shop located on the corner of Fourth Avenue South and Demonbreun Street. This ordinance closes the southeast corner of Fourth Avenue South at Shelby Street, the northeast corner of Fourth Avenue South at Demonbreun Street, and the southwest corner of Third Avenue South at Shelby Street. Metro will retain all easements until all utility and drainage facilities are relocated.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1219 (WALLACE) - This ordinance abandons a 57-foot utility easement and a 20-foot sewer easement located at the proposed symphony hall site. Any future amendments to this ordinance may be approved by resolution.

This abandonment has been approved by the planning commission.

