

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **January 21, 2003**

RE: **Analysis Report**

| Balances As Of: | <u>1/15/03</u> | <u>1/9/02</u> |
|---------------------------------|----------------|---------------|
| <u>GSD 4% RESERVE FUND</u> | \$4,592,776 | \$2,788,818 |
| <u>CONTINGENCY ACCOUNTS</u> | | |
| GSD | \$50,000 | \$35,000 |
| USD | \$50,000 | \$50,000 |
| <u>GENERAL FUND</u> | | |
| GSD | \$35,400,789 | \$66,916,627 |
| USD | \$13,909,890 | \$16,682,399 |
| <u>GENERAL PURPOSE</u> | | |
| <u>SCHOOL FUND</u> | \$53,181,288 | \$29,627,728 |
| <u>SOLID WASTE</u> | | |
| <u>DISPOSAL FUND</u> | | |
| Solid Waste Activities | \$2,318,359 | \$2,293,382 |

- RESOLUTIONS -

RESOLUTION NO. RS2002-1293 (WALLACE & JENKINS) - This resolution authorizes the director of public property administration to exercise the negotiated option to purchase a building located at 432 Third Avenue North, located next to the criminal justice center. Metro has negotiated an option with Trial Lawyers Institute, Inc., the owner of the property, to purchase the building for the sum of \$1,175,000. Pursuant to the terms of the option, Metro may allow the seller to remain in part of the building for a rental cost of \$13 per square foot. In the event Metro does not allow the seller to remain, Metro will provide relocation assistance in accordance with applicable law governing condemnation of property for public uses.

This building will be used as transition space during the construction and renovations to the criminal justice center. In the future, this site could possibly be used for further expansion of the CJC or other court related construction.

This resolution has been approved by the planning commission.

RESOLUTION NOS. RS2003-1309 & RS2003-1310 (WALLACE) – These two resolutions provide two proposed amendments to the Metropolitan Charter related to the filling of vacancies in certain elected offices. The council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. One resolution has already been adopted during this term at the September 17, 2002, council meeting, which submitted proposed amendments for ratification at the November 2002 election. The last date that a resolution could be filed submitting proposed amendments for ratification at the August 2003 general election is Monday, May 19, 2003, with a council approval deadline of June 3, 2003. This resolution needs to be deferred indefinitely in order that it may be placed on the agenda with subsequent proposed amendments filed prior to May 19th.

Resolution No. RS2003-1309 proposes that the Charter be amended to provide that vacancies for an unexpired term in the offices of mayor, vice mayor, district councilmember, and councilmember-at-large be filled by an election held by the council. The Charter currently provides that when there is a vacancy in the office of mayor of more than nine months, such vacancy is to be filled by a special election of the voters. The Charter further provides that vacancies in the office of vice mayor, district councilmember, and councilmember-at-large are to be filled at the next general election. The charter amendment would require that such vacancies be filled by the council.

Resolution No. RS2003-1310 is identical in subject matter to that of Resolution No. RS2003-1309, except that it does not include the office of mayor.

RESOLUTION NO. RS2003-1311 (SHULMAN) – This resolution approves an amendment to a contract between the Metropolitan Government and the Vanderbilt child and family policy center for development of the council afterschool initiative. The purpose of the initiative is to work with the Madeline Initiative and Vanderbilt to develop a plan to increase out-of-school time programming and resources for Nashville's youth. The contract, which was set to expire on December 31, 2002, provided \$128,000 from the reserve for council neighborhood aftercare account for services to develop the initiative. Since the funds have

(continued on next page)

RESOLUTION NO. RS2003-1311 (continued)

yet to be expended in their entirety, this resolution amends the contract to extend the expiration date to June 30, 2003.

Ordinance No. BL2003-1314, currently on first reading, is corresponding legislation to extend the termination date of the council's taskforce on afterschool time and youth success to June 30, 2003.

RESOLUTION NO. RS2003-1312 (BALTHROP & JENKINS) – This resolution approves an interlocal agreement between the Metropolitan Government, the electric power board of Metro (NES), and the Tennessee Bureau of Investigation (TBI) relative to access to the 800-MHZ emergency radio dispatch and response system. Metro and NES jointly own and operate the emergency radio dispatch and response system utilizing 800 MHz radio frequencies licensed by the Federal Communications Commission (FCC). This system was jointly funded by Metro and NES, with Metro now maintaining the system and NES contributing the funds to maintain the system.

The TBI, a public agency, has requested to be granted operability with the system. This agreement would allow the TBI to utilize our emergency radio dispatch and response system. State law grants public agencies the authority to enter into such interlocal agreements. Pursuant to this agreement, Metro and NES will forego any user fee or charge, except that the TBI will be responsible for purchasing new subscriber units for its own use and will pay the cost for any maintenance that Metro performs on the TBI's radio equipment and vehicles. The term of this contract begins upon approval by the council and extends through June 30, 2005.

RESOLUTION NOS. RS2003-1313 THRU RS2003-1319 (JENKINS) – These seven resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The required information sheets detailing these expenditures are attached to this analysis.

The Council Office would note that these appropriations are a continuation of the mayor's 2002-2003 capital spending plan from October 2002. These four percent fund appropriations were held until the present time to remain in keeping with the council's

longstanding policy of not appropriating four percent funds until Metro actually receives the tax revenue to support the appropriations.

Resolution No. RS2003-1313 appropriates \$161,250 from the general fund reserve fund to purchase various telecommunications, computer, and work equipment for the sheriff's department.

Resolution No. RS2003-1314 appropriates \$357,000 from the general fund reserve fund to purchase office equipment, computer hardware/software, furniture, and work equipment for the department of parks and recreation.

Resolution No. RS2003-1315 appropriates \$2,486,200 from the general fund reserve fund to purchase books and a book mobile for the public library.

(continued on next page)

RESOLUTION NOS. RS2003-1313 THRU RS2003-1319 (continued)

Resolution No. RS2003-1316 appropriates \$283,892 from the general fund reserve fund to purchase radio units for the department of general services.

Resolution No. RS2003-1317 appropriates \$221,000 from the general fund reserve fund for roof repairs to Bordeaux Hospital for the Metro hospital authority.

Resolution No. RS2003-1318 appropriates \$1,274,706 from the general fund reserve fund for the purchase of a \$425,000 fire boat, computer equipment, paramedic equipment, and replacement of HVAC units for the fire department.

Resolution No. RS2003-1319 appropriates \$236,000 from the general fund reserve fund for the purchase of system upgrades for the justice information system.

RESOLUTION NO. RS2003-1320 (JENKINS) – This resolution approves a grant agreement in the amount of \$628,057 from the state commission on children and youth to the Metropolitan Government for juvenile accountability incentive block grant program services. These funds are federal pass through dollars that will be used to fund certain salaried positions and professional services. The term of the grant is from October 1, 2002 through September 30, 2003, with a possible extension of two additional one-year terms. Metro is required to provide matching funds in the amount of \$69,784.

RESOLUTION NO. RS2003-1321 (JENKINS) – This resolution approves an amendment to a grant agreement from the state department of finance and administration to the public defender's office to provide \$253,668, plus a Metro match of \$21,139, for a forensic alternative community treatment (FACT) grant program. Under this program, persons who are in our criminal justice system who suffer from mental illness are referred to an appropriate health agency, rather than being incarcerated.

The resolution amends the grant agreement to increase the amount of the grant by \$2,625 for a total grant award of \$256,293, and to increase the amount of the Metro match by \$875. The matching funds are included in the public defender's operating budget.

RESOLUTION NO. RS2003-1322 (BALTHROP & JENKINS) – This resolution approves a \$350,000 grant from the state emergency management agency to the Metropolitan Government for the purchase of protective, detection, and decontamination equipment for emergency first responders to an incident involving weapons of mass destruction. The term of the grant is from July 1, 2002 through June 30, 2004. This grant is essentially federal pass through funding and requires no local matching funds.

RESOLUTION NOS. RS2003-1323 & RS2003-1324 (JENKINS & HART) – These two resolutions approve grants from the state department of human services to the Metropolitan social services commission for the reimbursement of providing meals to certain youth and adults. The terms of the grant agreements are from October 1, 2002 through September 30, 2003. Pursuant to the grant agreements, the social services commission is to receive reimbursement for meals based on the number of meals served at the rates of reimbursement established by the USDA.

(continued on next page)

RESOLUTION NOS. RS2003-1323 & RS2003-1324 (continued)

Resolution No. RS2003-1323 approves a grant not to exceed \$20,160 for reimbursement of meals provided to children in the social services childcare program.

Resolution No. RS2003-1324 approves a grant not to exceed \$32,050 for reimbursement of meals provided to adults in the Knowles Home adult day care program.

RESOLUTION NO. RS2003-1325 (JENKINS & HART) – This resolution approves a grant in the amount of \$97,000 from the state department of human services to the Metropolitan social services commission for the elderly refugee services program. The grant money will be used to fund two case manager social worker positions in the refugee services program to provide services to refugees over the age of 60. The services to be provided include socialization activities, citizenship preparation classes, social adjustment counseling, and other training and assistance services. The term of the grant is from July 1, 2002, through June 30, 2003.

RESOLUTION NO. RS2003-1326 (JENKINS & HART) – This resolution approves a contract between the Metropolitan board of health and Matthew Walker Comprehensive Health Center, Inc., permitting Matthew Walker to compensate the health department for its assistance in Matthew Walker's study to reduce cardiovascular disease and

diabetes among African Americans. The term of this contract is from September 30, 2002, through September 30, 2003, with a possible one-year extension.

Pursuant to this contract, Matthew Walker agrees to pay a total of \$140,864 to the health department to fund the equivalent of one full-time and two part-time support positions. These positions will consist of a research analyst, an associate evaluation director, and a GIS specialist. Under this contract, the health department will conduct telephone surveys and manage the data received. This is part of a program entitled Nashville REACH 1010 Demonstration Project, and is an attempt to collect and manage data to determine a plan to reduce cardiovascular disease and diabetes among African Americans in Nashville.

RESOLUTION NO. RS2003-1327 (JENKINS & HART) – This resolution approves a contract between the state department of health and the Metropolitan board of health regarding health research studies using data supplied by the state department of health. Pursuant to this contract, the Metro board of health will be permitted to use health-related databases containing confidential data maintained by the state for the purpose of producing investigative reports and developing a programmatic initiative to evaluate the quality of healthcare, assess the effectiveness of policy changes designed to improve quality of care, identify groups at risk of adverse health outcomes, and quantify effects of medications and other therapeutic interventions. All confidential information that is obtained from the state databases will not be distributed to any third party by Metro. The term of this contract is from December 1, 2002, through November 30, 2007.

RESOLUTION NO. RS2003-1328 (JENKINS & HART) – This resolution approves a grant in the amount of \$388,000 from the state department of human services to the Metropolitan social services commission to fund the refugee targeted assistance program. This grant is for a term of one year beginning July 1, 2002, and extending through June 30, 2003. The purpose of this grant is to help enable the social services commission to provide enhanced employability services, English language training, and social adjustment services to refugees who have relocated to the Metropolitan Nashville area.

RESOLUTION NO. RS2003-1329 (JENKINS & HART) – This resolution approves an annual grant in the amount of \$617,173 from the United States department of health and human services to the Metro health department to provide healthcare for the homeless in Nashville. The term of the grant is from November 1, 2002, through October 31, 2003.

RESOLUTION NO. RS2003-1330 (JENKINS & HART) – This resolution approves an amendment to an annual grant between the state department of health and the Metro

health department to fund the child healthy start program in Metro. The purpose of this program is to provide home visitation, counseling, and education services by public health nurses regarding child health. The program focuses on children from birth to three years of age, and will provide initial services at birth or prenatal services to at least 200 first time at-risk parents.

The original grant was in the amount of \$442,800. This resolution increases the amount of the grant for a total award of \$487,100.

RESOLUTION NO. RS2003-1331 (JENKINS & HART) – This resolution approves a second amendment to an annual grant from the state department of health to the Metro board of health to provide multiple health services to children, adolescents, families, and for other health purposes. The original grant was in the amount of \$7,436,531. The grant was subsequently amended to increase the amount of the grant by \$91,530. This resolution increases the amount of the grant by \$23,846 for a total grant award of \$7,551,907 for services including breast and cervical cancer research, an environmental specialist network, and increased funding for adolescent pregnancy.

RESOLUTION NO. RS2003-1332 (LORING, JENKINS & HALL) – This resolution authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation in connection with a state road construction project on Briley Parkway from north of Lebanon Road to north of Two Rivers Parkway. Metro's total estimated cost for the water and sewer line relocation is \$403,638.90. This amount includes 21% of the sewer facilities cost (\$267,804.60 of a total of \$1,275,260), and 70% of the water facilities cost (\$135,834.30 of a total cost of \$194,049).

This resolution also ratifies an agreement with the state treasury department to transfer funds held in the local government investment pool (LGIP) account to the department of transportation upon request to provide funding for Metro's portion of this utility relocation project.

RESOLUTION NO. RS2003-1333 (HALL) – This resolution is an annual routine housekeeping matter required by state law that classifies all public roads in Davidson County. By adoption of this resolution, those roads and alleys listed on the street and alley acceptance and maintenance map under Ordinance No. BL2002-1248, including any changes since the adoption of the map, are classified as public roads.

RESOLUTION NO. RS2003-1334 (JENKINS & HALL) – This resolution ratifies an agreement between the Metropolitan Government and the city of Oak Hill for the distribution of street and road funds for road repairs made by the city of Oak Hill. Metro has similar agreements with the cities of Belle Meade and Forest Hills, which agreements were ratified by the council on December 17, 2002. The cities of Goodlettsville and Berry Hill do not participate in such contracts with Metro because they do not turn over their sales tax receipts to Metro.

Ordinance No. O87-1935 established a procedure for the distribution of street and road funds to the eligible cities and provided that these annual contracts are to be ratified by resolution of the Metro Council with 21 affirmative votes. The eligible cities are paid \$0.15 per square yard of streets and roads to be maintained. Pursuant to this agreement, the city of Oak Hill will receive \$88,000 for fiscal year 2002-2003.

RESOLUTION NO. RS2003-1335 (JENKINS) – This resolution approves the compromise and settlement of the Metropolitan Government's lawsuit against Roes Contracting Company in the amount of \$19,816.74. On September 30, 1999, Roes Contracting Company struck Metro's 42" water main at Rains Avenue and Merritt Avenue while digging to lay fiber optic cable. The damage to the water main and water loss totaled \$19,816.74. The department of law recommends settling this lawsuit for \$19,816.74, which funds are to be deposited into an account as determined by the department of finance.

RESOLUTION NO. RS2002-1336 (JENKINS) – This resolution compromises and settles the lawsuit of Joann Mallard against the Metropolitan Government in the amount of \$7,500. On July 26, 2000, a Metro truck driven by a public works employee struck the rear of Ms. Mallard's vehicle causing property damage and personal injuries. The Metro employee stated that he took his eyes off the road and was unable to stop in time to avoid hitting Ms. Mallard's vehicle. Ms. Mallard's medical bills totaled \$1,761.25, and she was given a 10% disability rating from her doctor. Ms. Mallard also sustained approximately \$1,700 in property damage due to the total loss of her vehicle. The department of law is of the opinion that \$7,500 is a fair and reasonable settlement, taking into account the property damage and personal injuries sustained. This amount is to be paid from the self-insured liability fund.

The Metro employee involved received a three-week suspension.

RESOLUTION NO. RS2003-1337 (JENKINS) – This resolution approves the compromise and settlement of the Metropolitan Government's claim against Nashville Christian Church in the amount of \$7,072.16. On October 28, 2002, a Metro fire truck was stopped at the scene of a motor vehicle accident on I-440 with its blue lights flashing. A Chevrolet Suburban owned by the church was unable to stop due to the wet road conditions and struck the rear of the fire truck causing \$7,072.16 in property damage to the fire truck. The department of law recommends this claim be settled for \$7,072.16 and that these funds be deposited into an appropriate account as determined by the department of finance.

RESOLUTION NO. RS2003-1338 (JENKINS) – This resolution compromises and settles the claim of the Metropolitan Government against Ru Jiao Shan for the amount of \$6,012.43. On March 22, 2002, Ru Jiao Shan failed to yield the right-of-way to a Metro police department motorcycle on Nolensville Road, striking the motorcycle and causing \$6,012.43 in property damage. The operator of the Metro motorcycle, Officer Ronnie Brock was taken to Vanderbilt medical center, but the report supplied to the Council Office does not indicate the extent of any injuries. This resolution approves the settlement of only the property damage. The department of law recommends that this claim be settled, and that the funds be deposited in an appropriate account as designated by the department of finance.

- 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. BL2002-1286 (HALL & SHULMAN) – This ordinance closes an unnamed street, approximately 155 feet in length, extending north from Warfield Drive to its terminus. This closure is requested by Kurt Denny on behalf of himself and the Royal Arms Apartments as abutting property owners. Metro has determined that there is no future need for this unnamed street for governmental purposes.

This ordinance also abandons all easements held by Metro, including the right of utility companies from entering onto the property to construct or maintain existing or future utilities. The Council Office is of the opinion that this ordinance should be amended to

simply state that all easements regarding this property held by the Metropolitan Government are hereby abandoned.

Documentation showing affected property owner consent has not yet been provided to the council office, but this information should be forthcoming.

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

ORDINANCE NO. BL2002-1287 (HALL & BEEHAN) – This ordinance closes a portion of alley #258 from South 4th Street to South 5th Street. Metro has determined that there is no future need for this alley. This closure is requested by St. Ann’s Episcopal Church for the Nashville Baptist Association, the abutting property owner. Easements are to retained by the Metropolitan Government.

The Council Office has yet to be supplied with documentation showing affected property owner consent, however, this information should be forthcoming.
(continued on next page)

ORDINANCE NO. BL2002-1287 (continued on next page)

This alley closure has been approved by the planning commission, but was again deferred by the traffic and parking commission for the applicant to work with the public works staff regarding options for ensuring that Metro trucks will have adequate turn-around space once the alley is closed.

ORDINANCE NO. BL2002-1288 (HALL & SHULMAN) – This ordinance abandons a 4 foot wide portion of a public utility drainage easement extending approximately 225 feet in length located on property at 1728 Glen Echo Road. This portion of the easement is no longer being used by the department of water and sewerage services and there is no future need for this portion of the easement.

This ordinance also provides that further amendments to this ordinance may be “processed” by resolution. This ordinance should be amended to delete this provision, as this ordinance is not approving an agreement in which an amendment by resolution may be appropriate. The Council Office is of the opinion that the ordinance should only be amendable in the future by the council’s approval of another ordinance.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1289 (WALLACE) – This ordinance closes alley #237 from 15th Avenue North to its terminus. Metro has determined that there is no future need for this portion of this alley. Metro will retain all easements. This closure is requested by H. Parker Toler on behalf of Jim Reed Chevrolet and Hillsboro Realty Company, the abutting property owners. Section 2 of this ordinance should be amended to simply state that Metro is retaining all easements.

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

ORDINANCE NO. BL2002-1290 (WALLACE) – This ordinance authorizes Nashville Enterprises, Inc. to maintain an existing building encroaching 0.76 feet into the alley #113 right-of-way. Nashville Enterprises, Inc. agrees to indemnify the Metropolitan Government from any claims arising from the maintenance of the encroachment and is required to maintain a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1291 (WALLACE) – This ordinance authorizes the mayor to execute a participation agreement with James Edward Scott Lewis for the relocation of a sewer currently lying underneath the building at 415 Chestnut Street near 4th Avenue North. As consideration for this agreement, Mr. Lewis will pay a total of \$60,975 in five annual installments of \$12,195. This \$60,975 received as a contribution in lieu of construction will be deposited into the water and sewer extension and replacement fund. Metro will be responsible for all other construction and easement acquisition costs. This agreement will become void if the new sewer is not constructed by January 1, 2004.

(continued on next page)

ORDINANCE NO. BL2002-1291 (continued)

This ordinance also provides that further amendments to this ordinance may be “processed” by resolution. While it is appropriate to provide that such participation agreements may be amendable by resolution of the Metropolitan Council, this ordinance should be amended to include the proper language for providing for such a process.

ORDINANCE NOS. BL2002-1292, BL2002-1293, BL2002-1294, & BL2002-1295 – These four ordinances approve lease agreements between the Metropolitan juvenile court and the Metropolitan development and housing agency (MDHA) for the lease of properties in various housing developments for the purpose of providing juvenile court services. This practice has been in effect for some time and these lease agreements require no rental payments on the part of the Metropolitan Government. Pursuant to the lease agreements, MDHA will be responsible for paying utility charges and maintaining the exterior of the premises, the HVAC system, the electrical wiring, and the plumbing system. Metro will be responsible for providing janitorial services and maintaining the interior of the premises. All of the lease agreements include an option to renew the lease for an additional year, and they provide that any amendments to the agreements are to be approved by resolution of the Metro Council receiving 21 affirmative votes.

Ordinance No. BL2002-1292 (Wallace & Jenkins) approves a lease agreement for property located at 1611 Jo Johnston Avenue for a truancy reduction program and

suspension school in the John Henry Hale Housing Development. The term of the lease is for two years beginning October 1, 2001, and extending through September 30, 2003. This ordinance should be amended to correctly reflect that this lease agreement is for a term of two years, as opposed to three.

Ordinance No. BL2002-1293 (Wallace & Jenkins) approves a lease agreement for property located at 83 University Court for a truancy reduction and suspension school in the Tony Sudekum Housing Development. The term of the lease is for two years beginning October 1, 2001, and extending through September 30, 2003. This ordinance should also be amended to correctly reflect that this lease agreement is for a term of two years, as opposed to three.

Ordinance No. BL2002-1294 (Jenkins) approves a lease agreement for property located at 2306 26th Avenue North for a truancy reduction program, housing of a probation officer, and supervising of children at the Cumberland View Housing Development. The term of this lease is for three years commencing October 1, 2000, and extending through September 30, 2003.

Ordinance No. BL2002-1295 (Hall & Jenkins) approves a lease agreement for property located at 302 Foster Street for juvenile court probation purposes in the Sam Levy Homes Housing Development. The term of this lease is for one year beginning October 1, 2002, and extending through September 30, 2003.

These ordinances have been approved by the planning commission.

ORDINANCE NO. BL2003-1296 (WILLIAMS) – This ordinance closes a portion of Boview Lane between Skyline Drive and Wallace Lane. Metro has determined that there is no future governmental need for this portion of Boview Lane. Metro will retain all easements. This closure has been requested by David Heusinkveld for the abutting property owners.

Documentation showing consent of the affected property owners has not yet been supplied to the Council Office, but this information should be forthcoming.

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

ORDINANCE NO. BL2003-1297 (WALLACE) – This ordinance closes alley #98 between Division Street and alley #196. Metro has determined that there is no future need for this alley. Metro will retain all easements. This closure has been requested by Judith A. Swindell for Norman & Judith Kale Co., LLC, the abutting property owner.

Documentation showing consent of the affected property owners has not yet been supplied to the Council Office, but this information should be forthcoming. This ordinance has been approved by the planning commission but was deferred by the traffic and parking commission to obtain further information from the applicant regarding this alley closure.

ORDINANCE NO. BL2003-1298 (WILLIAMS) – This ordinance changes the name of Old Hickory Boulevard to “Annex Avenue” from Charlotte Pike to the existing Annex Avenue. Documentation showing consent of the affected property owners has not yet been supplied to the Council Office, but this information should be forthcoming. This ordinance has been approved by the planning commission and referred to the ECD board.

ORDINANCE NO. BL2003-1299 (WILLIAMS) – This ordinance abandons alley #1534 from Westboro Drive to its terminus. Metro has determined that there is no future governmental need for this alley. This closure has been requested by St. John’s United Methodist Church. Metro has agreed to abandon all easements.

Documentation showing consent of the affected property owners has not yet been provided to the council office, but this information should be forthcoming. This ordinance has been approved by the planning commission but was deferred by the traffic and parking commission to obtain further information from the applicant regarding this alley abandonment.

Section 2 of this ordinance should be amended to simply state that all easements held by Metro are abandoned.

ORDINANCE NO. BL2003-1300 (WALLACE) – This ordinance authorizes Historic Hotels of Nashville, LLC to install and maintain a granite inlay into the public sidewalk for the Hermitage Hotel located at 231 6th Avenue North. Historic Hotels will pay all costs incident to construction and agrees to indemnify Metro from any claims resulting from the installation or maintenance of the inlay. Historic Hotels will also be required to submit a certificate of public liability insurance in the amount of \$300,000 naming the Metropolitan Government as additional insured.

(continued on next page)

ORDINANCE NO. BL2003-1300 (continued)

The enactment clause of this ordinance should be amended to state only that the ordinance is to become effective immediately upon its adoption. A separate section should be included to provide that the privilege granted by this ordinance shall not become effective until the certificate of insurance is filed with the Metropolitan clerk.

ORDINANCE NO. BL2003-1301 (JENKINS & BALTHROP) – This ordinance authorizes the Metro police department to accept 27 paintings and drawings by local artists valued at \$23,900 to be displayed in the domestic violence division. This

donation was coordinated by a community advocate against family violence. The artwork is being donated to provide comfort to those who are assisted by the domestic violence division.

ORDINANCE NO. BL2003-1302 (GREER) – This ordinance readopts the code of the Metropolitan Government to include all ordinance enacted on or before August 6, 2002.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2002-1246 (WALLACE) – This ordinance amends the Metropolitan Code of Laws to prohibit the enforcement of parking meters on Saturdays. The code currently provides that parking in designated meter zones shall not be regulated on Sundays and certain holidays. This ordinance simply adds Saturdays to the list of unregulated parking times.

The traffic and parking division of the department of public works has provided information regarding the financial impact of this ordinance. According to this information, the revenue loss as a result of this ordinance would be approximately \$25,000 annually. This ordinance has been approved by the traffic and parking commission.

ORDINANCE NO. BL2002-1273 (BROWN & JENKINS) - 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.

The council approved Ordinance No. BL2002-1171, as amended, at the December 17, 2002 council meeting, which dealt with the same subject matter and accomplished the same results as this ordinance. However, Ordinance No. BL2002-1171 was amended to increase the buffering distance from 1,000 feet to 2,000 feet after the council public

hearing was held. In order to prevent a challenge to BL2002-1171 on the grounds that persons having an interest in property located between 1,000 and 2,000 feet from a school or park were not given an opportunity to be heard, this ordinance was filed so that a public hearing could be held regarding the 2,000 foot provision.

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 and sanitary landfills. 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, and designated by the government as a park, but does not include greenways. The minimum distance requirements contained in this ordinance, as amended, do not apply to waste transfer stations.

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.

The planning commission has approved this zoning text change.

ORDINANCE NO. BL2002-1274 (BEEHAN, FERRELL & OTHERS) – This ordinance amends the Metropolitan Code of Laws to make certain changes relating to the fair employment and housing practices. The code currently prohibits employers and labor organizations from discriminating or refusing to hire on the basis of race, color, religion, national origin, or sex. This ordinance amends the code provisions related to fair employment and housing practices by including sexual orientation and disability to the list of classes protected from discrimination and also substitutes the word "gender" for the word "sex". The current Metro Code section regarding fair employment practices is taken almost verbatim from the federal statute prohibiting employer discrimination. Federal law does prohibit discrimination on the basis of disability, but federal courts have interpreted the law to not prohibit discrimination on the basis of sexual orientation, as this is not a class expressly protected by the statute. This ordinance would clarify that an employer, employment agency, or labor organization may not deny employment or discriminate on the basis of sexual orientation or disability within the area of the Metropolitan Government.

There will likely be a proposed amendment offered for this bill that would exempt religious organizations from the provisions regarding sexual orientation discrimination, and would include definitions of "sexual orientation" and "disability". Ordinance No. BL2003-1313, currently on first reading, also contains the same subject matter as the proposed amendment. There is also another bill on first reading, Ordinance No. BL2003-1312, that relates to the same subject matter as this ordinance, but would include only "disability" as a protected class, not "sexual orientation".

ORDINANCE NO. BL2002-1275 (JENKINS) – This ordinance authorizes the mayor's office of neighborhoods to accept and appropriate cash donations for the purpose of

underwriting the cost of the 2002 "National Night Out Against Crime" conference and "Celebrating Neighborhoods" conference. Bell South, Nashville Electric Service, Vanderbilt University, and AmSouth Bank have pledged a total of \$11,000 to help underwrite the costs of these two conferences. Once the cash donations are received they will be appropriated to the office of neighborhoods fund. The funds pledged by each donor are as follows:

- Bell South \$2,500
- NES \$5,000
- Vanderbilt \$2,500
- AmSouth \$1,000

ORDINANCE NO. BL2002-1276 (WHITMORE & HALL) – This ordinance renames a portion of 21st Avenue North between Clifton Avenue and Charlotte Avenue "Shortview Avenue". This small section of 21st Avenue North is not connected to the main thoroughfare of 21st Avenue North. It has been determined that this name change would enhance E-911 efficiency. This name change has been approved by the planning commission and the Emergency Communications District (ECD) board.

The Metro Code requires that prior to the adoption of third and final reading of an ordinance changing the name of a street, the planning commission shall provide the council written comments on the proposed change one week prior to such adoption. The council office has yet to receive any written comments from the planning commission.

ORDINANCE NO. BL2002-1277 (LORING & HALL) – This ordinance closes an unnamed street located south of Woodberry Drive. This small street only serves two properties and the closure is requested by Lloyd and Myrtle Price for Molly E. Forsbinder, the abutting property owner. Metro will retain all easements. Consent of affected property owners is on file with the planning commission. This ordinance has been approved by the traffic and parking commission and the planning commission.

ORDINANCE NO. BL2002-1278 (HALL) – This ordinance renames a portion of Fowler Street, now designated as Percy Street, to officially become "Fowler Street" throughout. The section to be renamed extends the length of approximately six parcels of property to the street's terminus at Cunningham Street. It has been determined that this name change would enhance E-911 efficiency. This ordinance has been approved by the planning commission and the ECD board.

The Metro Code requires that prior to the adoption of third and final reading of an ordinance changing the name of a street, the planning commission shall provide the council written comments on the proposed change one week prior to such adoption. The council office has yet to receive any written comments from the planning commission.

ORDINANCE NO. BL2002-1279 (BLACK & HALL) – This ordinance closes a portion of Winstead Avenue and closes two alleys adjacent to Old Matthews Road. These closures are requested by John and Judy Newell, who desire to combine several parcels of property into one to construct a day care facility. The 280 foot portion of Winstead Avenue to be closed extends from the mid-point of the right-of-way between Monticello Street and Old Matthews Road to its terminus. This ordinance also closes all of Alley # 1039 from Old Matthews Road to Monticello Street, and closes an unnumbered L-shaped alley extending from Old Matthews Road. Metro will retain all easements. Consent of affected property owners is on file with the planning commission.

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

ORDINANCE NO. BL2002-1280 (WHITMOORE & JENKINS) – This ordinance, as amended, declares real property owned by the Metropolitan Government located on 32nd Avenue North to be surplus property, and authorizes the director of public property administration to sell the property to an adjoining property owner for the highest and best price in accordance with the standard rules and regulations for the disposition of surplus real property. The Metropolitan Government has determined that this property is no longer needed for governmental purposes. The Code of Laws requires Council approval before the disposition of Metro surplus property and requires that the proceeds of the sale be deposited into the general fund.

This ordinance has been approved by the planning commission

ORDINANCE NO. BL2002-1281 (GILMORE & JENKINS) – This ordinance declares property located at 7100 Whites Creek Pike, owned by the Metropolitan Government and under the control of the board of education to be surplus property and authorizes the director of public property administration to transfer the property to another Metro department upon crediting \$200,000 to the unappropriated school fund. The board of education has determined that this property is no longer needed for school purposes. The director of public property administration has placed a fair market value of \$200,000 on this parcel. The Metropolitan Code of Laws provides that surplus board of education property can be disposed of subject to approval by the council and the mayor, and that proceeds from the sale are to be credited to the unappropriated school fund. Although this is a transfer within the government and there will technically be no sale of the property, the board of education is entitled to receive the fair market value of the property as if they were selling it outright to a third party. This property is to be transferred to the department of water and sewerage services for construction of a water storage reservoir.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1282 (GILMORE & JENKINS) – This ordinance authorizes the director of public property administration to accept a 4.47 acre parcel of property located at 4640 Cummings Park Drive for use as part of the greenway along Mill Creek. This property is being donated to Metro, with Metro's only expense being the closing costs and fees for a survey of the property.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1283 (WALLACE & HALL) – This ordinance authorizes Meharry Medical College to install voice and data communication cables under the Metro right-of-way at 21st Avenue North near the intersection of Albion Street. Meharry will pay all installation costs and agrees to indemnify the Metropolitan Government for any claim arising from the installation of the cables. Meharry further agrees to be responsible for restoring the public right-of-way to its prior condition after the installation is complete. The privilege granted by this ordinance will not take effect until Meharry has posted a \$300,000 certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as additional insured.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1284 (WALLACE & HALL) – This ordinance authorizes an existing building located at 1320 Little Hamilton Avenue to encroach 0.73 feet into the abutting Merritt Avenue right-of-way. Ruth Darby, the owner of the encroaching building, agrees to indemnify the Metropolitan Government for any claims arising from the maintenance of the existing encroachment. Additionally, Ms. Darby will be required to maintain a \$300,000 certificate of public liability insurance naming the Metropolitan Government as additional insured.

This ordinance has been approved by the planning commission.