MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **February 18, 2003**

RE: **Analysis Report**

Balances As Of:	**2/12/03**	**2/13/02**
GSD 4% RESERVE FUND	$6,856,869	$7,924,185
CONTINGENCY ACCOUNTS		
GSD	$50,000	$35,000
USD	$50,000	$50,000
GENERAL FUND		
GSD	$35,500,789	$63,997,770
USD	$13,909,890	$16,682,399
GENERAL PURPOSE SCHOOL FUND	$53,181,288	$10,404,340
SOLID WASTE DISPOSAL FUND		
Solid Waste Activities	$2,318,359	$2,293,382

- RESOLUTIONS -

RESOLUTION NO. RS2003-1350 (BOGEN) – This resolution provides a proposed amendment to the Metropolitan Charter that would permit members of the board of public education to be compensated at a rate approved by the Council as part of the general pay plan. The Charter currently prohibits members of boards and commissions from receiving compensation for their service. A similar proposed Charter amendment failed to receive Council approval in 1998 and again in September of 2002.

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. This resolution needs to be deferred indefinitely in order that it may be placed on the agenda with other proposed amendments to be voted on by the council at the June 3, 2003 council meeting prior to the August general election. The charter revision committee has set a deadline of March 14, 2003, for Councilmembers to submit proposed charter amendments to the Council Office in order that the committee and the charter revision commission will have adequate time to make recommendations.

RESOLUTION NO. RS2003-1352 (HAND) – This resolution approves property located at 1840 Linder Industrial Drive to be used as a waste transfer station for the benefit of Withco, LLC. Tom Harrington, optionee, on behalf of Withco, LLC has filed a request for a special exception with the Metro board of zoning appeals to use this property as a waste transfer station. The zoning text of the Metro Code of Laws requires that the Metro Council approve the location by adoption of a resolution before the board of zoning appeals can act on the request. A variance is also being sought from the requirement that the lot be ten (10) acres. This lot is 6.47 acres and has an existing 30,000 square foot building.

If the Council does not adopt or defeat this request within sixty (60) days, it shall be deemed approved by the council.

RESOLUTION NO. RS2003-1353 (JENKINS) – This resolution approves an amendment to a lease agreement between Peter Bruce, Ltd. and the Metropolitan Government for the lease of property at 601 Mainstream Drive. The lease

agreement to be amended was approved by the Council on November 19, 2002. The lease agreement provides that the rent payable is to be determined according to the rentable square feet. The lease agreement further provides that Metro has the right to measure the space and adjust the rental amount accordingly. The original lease agreement provided that property to be leased contained 53,877 square feet of rentable space. However, upon further examination, Metro has determined that the property only contains 51,260 rentable square feet, thus lowering the annual rent amount from $377,139 to $358,810. This resolution simply amends the agreement to reflect the adjusted square footage and rental amount. This resolution also adds a standard subordination provision to the lease agreement, which essentially provides that Metro's lease will be subordinate to any deed of trust held by a mortgage company to the property.

RESOLUTION NO. RS2003-1354 (BEEHAN & HALL) – This resolution authorizes the mayor to execute an amendment to a security planning grant award of $115,000 from the U.S. environmental protection agency to the Metro department of water and sewerage services for the purpose of hiring a consultant to perform an assessment determining the vulnerability of the department's water facilities to an act of terrorism. This resolution extends the expiration date of the grant from December 31, 2002 to March 31, 2003.

RESOLUTION NO. RS2003-1355 (JENKINS) – This resolution approves a third 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, and was subsequently amended on two occasions to increase the amount of the grant by $91,530 and $23,846, respectively. This resolution increases the total grant award to $7,658,907 to add additional funding for a syphilis elimination project, home visiting, two additional public health nurses, and decreases funding for TB epidemiological studies by $53,000.

RESOLUTION NOS. RS2003-1356 & RS2003-1357 (JENKINS) – These two resolutions approve grants from the state department of human services to the Metro social services commission for homemaker and adult care services. The terms of the grants are from July 1, 2002 through June 30, 2003. The services to be provided under the grants are for the benefit of adults who are not capable of full independent living. Such services to be provided include protective supervision, household management, personal care, and assistance with household tasks.

Resolution No. RS2003-1356 approves a grant in the amount of $428,808. A required match of $142,936 will be provided from the social service commission's budget.

Resolution No. RS2003-1357 approves a grant in the amount of $64,242.

RESOLUTION NO. RS2003-1358 (JENKINS) – This resolution accepts $6,690.96 in compromise and settlement of Metro's claim against Beverly Knight. On September 26, 2002, Ms. Knight struck a Metro police department patrol vehicle that was moving through the intersection of Old Hickory Boulevard and Nolensville Road with its blue lights and siren activated. The accident caused $6,690.96 in property damage to the 1999 Ford Crown Victoria patrol unit. This amount will be deposited into the appropriate fund as determined by the director of finance.

RESOLUTION NO. RS2003-1359 (BRILEY) – This resolution authorizes the department of law to compromise and settle the lawsuit of Todd, Melodie, and Edwin Rubenstein against the Metropolitan Government in the amount of $65,000. During the night of March 26, 2000, a Metro water line ruptured outside of the Rubensteins' home at 1431 Finnland Drive. Todd and Melodie Rubenstein awoke to find their lawn and basement flooded. Todd Rubenstein tried to move furniture out of the basement and developed a hernia. He underwent surgery to repair the hernia six months later, incurring $14,031 in medical bills. The Rubensteins are claiming $36,527 in property damage for landscaping, carpet, and replacement of personal property. In addition, Mr. Rubenstein was unable to work for two weeks resulting in lost wages of $1,231. The Rubensteins are also seeking $12,000 for pain and suffering and $1,200 for loss of consortium.

RESOLUTION NO. RS2003-1359

There had been three prior breaks in the line during a four-year period. Metro moved for summary judgment in the case on the grounds that Metro did not have adequate notice of a defective condition in the water line. The plaintiffs presented rebuttal expert testimony that the department of water services should have known there was a defect in the line. Metro's motion for summary judgment was denied. The department of law believes that it is in the best interest of the Metropolitan Government to settle this lawsuit for $65,000, as there is a strong likelihood that the Rubensteins would prevail should this matter go to trial, and a damage award would likely be in excess of $65,000. This amount is to be paid from the self-insured liability fund.

- BILLS ON SECOND READING –

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. BL2002-1021 (STANLEY, KERSTETTER & OTHERS) – This zoning text change amends the zoning provisions regarding floodplain/floodway development by providing new restrictions on the development of floodplain and floodway areas. The zoning code currently does not designate certain areas as appropriate or inappropriate for development, but provides that single and two-family lots less than one acre in size which are located in a floodplain or floodway shall not be used to satisfy the minimum lot size requirements of the particular zoning district. Thus, the current floodplain/floodway provision allows development in floodplains and floodways as long as the minimum floor elevations are provided for the final plat, and sufficient land remains that is not in the floodplain or floodway to satisfy the minimum lot size requirements of the zoning district.

This amendment would designate certain zoning districts as appropriate for floodplain/floodway development and would also designate certain zoning districts that are inappropriate for development. The zoning districts that would be proper for floodplain/floodway development are as follows:

Agricultural Districts (AG, AR2a),
Single-Family Districts (RS80, RS40, RS30, RS20),
One and Two-Family Districts (R80, R40, R30, R20),
Multi-Family Districts (RM2, RM4, RM6, RM 9),
Institutional Districts (I),
Mixed-Use Districts (MUN, MUL),
Office Districts (ON,OL),
Commercial Districts (CN,CL),
Shopping Center Districts (SCN)

The zoning districts designated as improper for floodplain/floodway development are as follows: Single Family Districts (RS15, RS10, RS7.5, RS5, RS3.75),
One and Two Family Districts (R15, R10, R8, R6),
Multi-Family Districts (RM15, RM20, RM 40, RM60),
Mobile Home Park Districts (MHP),
Mixed-Use Districts (MUG, MUI),
Office Districts (OR20, OR40, OG, ORI),
Commercial Districts (CS, CA, CF, CC),

Shopping Center Districts (SCC, SCR),
Industrial Districts (IWD, IR, IG)

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ORDINANCE NO. BL2002-1021

There have been discussions between the sponsoring councilmember, homebuilders, developers, and the planning staff regarding substantial amendments to this ordinance. This ordinance is on the February 13, 2003, agenda of the planning 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 is on file with the planning commission. 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. BL2003-1299 (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 is on file with the planning commission. 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. BL2003-1337 (DERRYBERRY) – This ordinance renames portions of McCrory Creek Road as "Pulley Road" and "Faircloth Lane". This section of road to be renamed runs parallel to Donelson Pike between Couchville Pike and Murfreesboro Pike. This ordinance has been referred to the ECD board and the planning commission. The planning commission has not yet sent out notices to the residents affected by this street name change.

ORDINANCE NO. BL2003-1338 (GREER) – This ordinance readopts the code of the Metropolitan Government to include all ordinances enacted on or before November 19, 2002.

- BILLS ON THIRD READING -

SECOND SUBSTITUTE ORDINANCE NO. BL2002-1226 (PONDER) – This zoning text change provides for commercial amusement (outside) uses to be permitted as a special exception in the IR (Industrial Restrictive) and the IWD (Industrial Warehousing/Distribution) zoning districts. "Commercial amusement (outside)" is defined in the zoning code as providing entertainment or games of skill to the general public for a fee where part of the activity takes place outside. This would include facilities such as golf driving ranges, paint-ball facilities, archery ranges, go-cart tracks, and miniature golf courses. This ordinance provides certain criteria that such a facility would have to meet to be granted a special exception use. First, any new structure to be built on the property must be at least 1,500 square feet. Second, there must be a minimum setback of 100 feet for any structure on the property abutting a residential zoning district or district permitting residential use. Third, a landscape buffer must be constructed along common property lines with residential districts. Fourth, all lighting must be directed on-site to ensure that adjacent property owners are not adversely affected by any nighttime activities of the facility. Finally, driveway access to the facility must be from a collector street. In addition, the ordinance provides that the board of zoning appeals may set the maximum noise level to be permitted based upon the zoning district and nature of the land uses in the immediate area.

This ordinance has been approved by the planning commission.

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. There will be an amendment offered to this ordinance that will provide that Metro will retain a sewer easement, but that all other easements are abandoned.

Documentation showing affected property owner consent is on file with the planning commission. This closure has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2002-1287 (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.

Documentation showing affected property owner consent is on file with the planning commission. This alley closure has been approved by the planning commission, but was again deferred by the traffic and parking commission at the request of the applicant.

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), as amended, 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.

Ordinance No. BL2002-1293 (Wallace & Jenkins), as amended, 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.

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. BL2003-1305 (HAND & JENKINS) – This ordinance closes a portion of alley #1504 from Croley Drive to its terminus. The Metropolitan Government has determined that there is no future need for this portion of the alley for governmental purposes. Metro will retain all easements. This closure has been requested by Robert McGowan, the abutting

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

ORDINANCE NO. BL2003-1306 (BALTHROP, JENKINS & DERRYBERRY) – This ordinance authorizes the Metro fire department to accept a donation of $600 from Sam's Club. Sam's Club has chosen the Metro fire department to receive the 2002 Safe Neighborhood Heroes Grant.

ORDINANCE NO. BL2003-1307 (BALTHROP & JENKINS) – This ordinance approves the annual contract between the Metropolitan Government and the emergency communications district (ECD) relative to operation of the enhanced-911 service for fiscal year 2002-2003. This contract provides that Metro will operate the system through its public service communications system. The department of public works agrees to maintain an updated street and house number system, and the department of information systems agrees to provide day-to-day staff and support services. The ECD is to pay the public works department $4,640 for its services, and is to pay $36,428 for services provided by the department of information systems.

ORDINANCE NO. BL2003-1308 (JENKINS & HALL) – This ordinance authorizes the department of public works to enter into a participation agreement with Pulte Homes Tennessee Limited Partnership to provide public sewer service in the Chestnut Springs subdivision in Williamson County. This is a typical arrangement whereby a developer wishes to provide sewer service to a new development and agrees to pay a portion of the extension cost. Pursuant to this agreement, Pulte Homes will contribute an amount not to exceed $126,000 toward the cost of the extension of the Owl Creek Trunk sewer to 63 single family homes in the Chestnut Springs subdivision.

ORDINANCE NOS. BL2003-1309 & BL2003-1310 (JENKINS) – These two ordinances approve additional lease agreements relative to the temporary housing of the courts at Metro Center while the courthouse is under renovation. The council approved three leases for temporary space for the courts on November 19, 2002. These two ordinances approve agreements for the lease of property to be used as a parking lot and for lease of space to be used for the storage of records. The term of the agreements is from April 1, 2003 through March 31, 2006, with a possible extension of two additional one-year terms. Amendments to the lease agreements may be approved by resolution of the Metropolitan Council. The rental payments required under the lease agreements are to be paid out of the unappropriated fund balance. The two leases have been approved by the planning commission.

Ordinance No. BL2003-1309 approves a lease agreement between the Metropolitan Government and Five Star Investments, L.P. for 3.66 acres of property to be used as temporary parking space for the courts. This temporary parking lot will contain at least 250 spaces. Metro will pay $59,750 per year in rent for the use of the land and will be responsible for the payment of all utilities. In addition, the lease states that Metro will be responsible for reimbursing Five Star Investments for the construction of the temporary parking lot, although the lease agreement does not give an indication of what these costs are expected to be. This reimbursement amount is to be amortized over three years at a rate of 10.5%. The lease also

states that Metro will be required to pay an additional $11,750 per year, which represents $30,000 amortized over three years at 10.5%, for reclamation of the land. This payment is to compensate the property owner for having to take up the temporary parking surface at the end of the lease agreement. The Council Office would point out that the 10.5% amortization rate used for these additional rent provisions is higher than the rate at which Metro typically borrows funds. Construction of this parking lot as a temporary lot would relieve the property owner from complying with the tree provisions in the zoning code.

ORDINANCE NOS. BL2003-1309 & BL2003-1310

Ordinance No. BL2003-1310 approves a lease agreement between the Metropolitan Government and Realmark Property Investors Ltd. Partnership for lease of 20,800 square feet of space located at 230 Cumberland Bend Drive to be used as temporary storage space for court records. Metro will pay $114,396 per year in rent, payable in monthly installments of $9,533. Realmark Property Investors will be responsible for the build-out of the property at no out-of-pocket expense to Metro. In addition, Realmark Property Investors will be responsible for maintaining the exterior of the premises and all pluming and HVAC systems. Metro will be responsible for maintaining the rest of the premises, and will be responsible for paying all utilities and janitorial services.

ORDINANCE NO. BL2003-1312 (TUCKER & DERRYBERRY & OTHERS) – This ordinance, as amended, amends the Metropolitan Code of Laws fair employment and housing practices chapter to include "disability" as a class protected from discrimination within the area of the Metropolitan Government. The Code currently prohibits employers, labor organizations, and employment agencies from discriminating or refusing to hire on the basis of race, color, religion, national origin, or sex. The current Metro Code section regarding fair employment practices is taken almost verbatim from the federal statute prohibiting employer discrimination. Federal law, under the Americans with Disabilities Act (ADA), does prohibit discrimination on the basis of disability, but the Metro Code provision does not expressly include disability as a protected class. "Disability" is essentially defined in this ordinance as a physical or mental impairment that substantially limits a person's major life activities. The definition expressly excludes the current use of a controlled substance or the current abuse of alcohol from being considered a disability.

ORDINANCE NO. BL2003-1314 (SHULMAN) – This ordinance amends Ordinance No. BL2002-974 to extend the termination date of the council's taskforce on afterschool time and youth success from December 31, 2002, to June 30, 2003. Ordinance No. BL2002-974 created the taskforce, which is comprised of members of council, youth, parents, youth professionals, and community organizations. The purpose of the taskforce is to work with the Madeline Project and the Vanderbilt Child and Family Policy Center to develop a strategic plan to increase out-of-school time programming and resources. Pursuant to Ordinance No BL2002-974, the taskforce was to sunset on December 31, 2002, however, the taskforce is still in the process of completing its work. This ordinance simply extends the termination date to June 30, 2003. On January 21, 2003, the council approved an amendment to the contract between Metro and the Vanderbilt Child and Family Policy Center regarding the extension of the termination date of the contract to June 30, 2003.