

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **March 18, 2003**

RE: **Analysis Report**

Balances As Of: 3/12/03
3/13/02

<u>GSD 4% RESERVE FUND</u>	\$9,319,616	\$8,010,715
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$35,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$35,850,689	\$63,997,770
USD	\$13,909,890	\$16,682,399
<u>GENERAL PURPOSE</u> <u>SCHOOL FUND</u>	\$53,181,288	\$10,404,340
<u>SOLID WASTE</u> <u>DISPOSAL FUND</u>		
Solid Waste Activities	\$2,328,358	\$2,293,382

- RESOLUTIONS -

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. 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.

The Metro Nashville Airport Authority has expressed objection to the approval of this site for use as a waste transfer station on the grounds that such a facility might attract birds and other wildlife that could interfere with planes landing and taking off at the John C. Tune airport. The Council Office would point out the Federal Aviation Administration (FAA) advisory regulations regarding hazardous wildlife attractants near airports expressly provide that enclosed waste transfer stations “generally would be compatible, from a wildlife perspective, with safe airport operations”.

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

RESOLUTION NO. RS2003-1372 (WALLACE) - This resolution provides a proposed amendment to the Metropolitan Charter that would allow the council to change the salaries of members of council and of the vice mayor by resolution adopted by the council, rather than such changes being a part of the general pay plan for all Metro employees. The Charter currently provides that the salaries of the members of council and the vice mayor are included as part of the general pay plan, which is first approved by the civil service commission, then the director of finance, then the mayor, and finally adopted or rejected by the council. This Charter amendment would allow the council to change the salaries for members of council or the vice mayor by resolution, provided, however, that such change would not become effective during the period for which they were elected.

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.

RESOLUTION NO. RS2003-1373 (JENKINS & TUCKER) – This resolution endorses the use of funding approved in the mayor’s capital spending plan for the capital plan for schools. The Metro board of education has adopted the long range facilities master plan for schools and has identified the projects to be completed in the first year. A copy of the 2002-2003 proposed capital budget for schools showing the various projects to be funded is attached at the back of this analysis.

The council approved \$50 million in funding for schools on October 15, 2002, pending adoption by the board of the plan. The purpose of this resolution is to comply with council Rule 16 which requires specific projects and amounts on all expenditures of debt proceeds.

RESOLUTION NO. RS2003-1378 (BEEHAN) – This resolution authorizes Horace Bass of Capital City Mattress, Inc., to install and maintain an awning measuring 6.5 feet in length over the public sidewalk at 900 Main Street. The awning will project 8 feet above and 3 feet over the sidewalk. Horace Bass will be required to furnish a \$300,000 certificate of liability insurance to be posted with the Metropolitan Clerk naming the Metropolitan Government as additional insured. This encroachment has been approved by the Metro planning commission.

RESOLUTION NO. RS2003-1379 (JENKINS) – This resolution authorizes the mayor to employ Grant Glassford as special counsel to represent the interests of the Metropolitan Government in pursuit of its legal remedies for the overpayment of disability pension benefits to employees who may have underreported their outside earnings. The recent audit of the Metro disability pension program identified certain members of the program who may have underreported their outside earnings resulting in the overpayment of benefits. It is the responsibility of the department of law to pursue such remedies for any overpayment of benefits. However, the department of law may have conflicts of interest in representing the Metropolitan Government against some of the individuals, especially if such individuals have been represented by the department of law in the past. The Metropolitan Charter provides for the employment of special council when necessary upon approval of the Metropolitan Council. The Council previously authorized the employment of Quenton I. White to represent Metro in such circumstances, but Mr. White has since been appointed commissioner of the Tennessee department of correction and is no longer able to represent Metro.

RESOLUTION NO. RS2003-1380 (JENKINS & BROWN) – This resolution appropriates \$490,000 from the general fund reserve fund to the historical commission for the Hermitage tree replanting project. The project is to replace trees on the Hermitage grounds that were destroyed by the tornado. These funds were received through a grant from the state of Tennessee under the surface

transportation program. The original grant was in the amount of \$250,000, and was subsequently increased to \$490,000. This resolution simply appropriates the funds.

RESOLUTION NO. RS2003-1381 (JENKINS) – This resolution accepts a grant in the amount of \$30,000 from the state commission on children and youth to the juvenile court for residual funds from the juvenile accountability incentive block grant program to purchase computer equipment and software. The application for the grant stated that the funds will be used to purchase laptop computers, printers, and software to be used by probation officers in the field. The juvenile court will be required to provide a match of \$3,333.

RESOLUTION NO. RS2003-1382 (JENKINS) – This resolution approves a third amendment to a grant between the state department of correction and the state trial courts to implement a supervision and day reporting center. The program is to provide an alternate punishment program for non-violent offenders. The grant was approved by Ordinance No. BL2001-824 and subsequently amended on two occasions to provide increased funding of \$19,759 and \$39,518 respectively. This resolution increases the amount of the grant an additional \$25,464, for a total grant award of \$2,587,620.

RESOLUTION NO. RS2003-1383 (JENKINS) – This resolution approves an amendment to a lease agreement between the Northwestern Mutual Life Insurance Company and the Metropolitan Government for lease of property at 501 Great Circle Road for use as temporary facilities for the courts during the courthouse renovation. This building will be used to house the general sessions courts, chancery courts, and the clerk & masters office. The original lease agreement was for 48,014 square feet, but Metro has determined that it needs an additional 2,500 square feet. The original lease agreement provided that amendments to the lease could be approved by resolution. The total rent for the additional space will be paid as follows:

Period	Per Sq. Ft.	Per Mo.	Per
Year			
Year 1	\$15.25	\$3,177	
			\$38,125
Year 2	\$15.75	\$3,281	
			\$39,375
Year 3	\$16.25	\$3,385	
			\$40,625
Option Year 1	\$16.75	\$3,490	\$41,875
Option Year 2	\$17.25	\$3,594	\$43,125

Metro will be entitled to an allowance of \$14.00 per square foot of the additional office space for improvements made by Metro.

RESOLUTION NO. RS2003-1384 (GILMORE & JENKINS) - This resolution approves a grant from the Gannett Foundation to the Nashville public library board to purchase equipment and supplies for an image reproduction station. The image reproduction station will consist of a computer, scanners, printers, and Photoshop software. This equipment will allow library staff to scan and reproduce photographs and images from the library's special collections, namely from the Nashville Banner Newspaper and Photo Collection, without the materials having to leave the library. Ordinance No. BL2002-1186 authorizes all grants requiring council approval to be approved by resolution.

RESOLUTION NO. RS2003-1385 (JENKINS) - This resolution approves an annual grant from the state department of health to the Metro health department in an amount not to exceed \$513,700 for HIV prevention and surveillance. The term of the grant is from January 1, 2003 through December 31, 2003. The Metro health department will use the funds to implement and provide services related to HIV prevention, including providing information about HIV, counseling and testing.

RESOLUTION NO. RS2003-1386 (JENKINS) - This resolution approves a contract between Meharry Medical College and the Metropolitan health department to conduct research as part of the grant for Asthma Disparities in Cohorts at Risk for Morbidity. Meharry has received this grant and wishes to contract with the Metro health department to perform certain research functions. The term of the agreement is from September 30, 2002 through August 1, 2003. Pursuant to the agreement, the Metro health department will receive \$18,992 for their efforts.

RESOLUTION NO. RS2003-1387 (JENKINS & BALTHROP) - This resolution authorizes the mayor to submit an application to the state department of transportation for the Governor's Highway Safety Grant Program to continue the program in Metro established through a (continued on next page)

RESOLUTION NO. RS2003-1387

grant last year. The purpose of the program is to reduce traffic related fatalities, especially focusing on alcohol or drug impaired drivers. If this grant is awarded, the police department plans to continue weekend enforcement teams and seasonal enforcement around the recreation areas on Percy Priest and Old Hickory Lakes. The cost estimate for this program to be funded if the grant is awarded is approximately \$1.5 million.

RESOLUTION NO. RS2003-1388 (SUMMERS) - This resolution approves a \$3,500 grant from the Frist Foundation to the Metro historical commission for the purpose of hiring a 2003 summer intern. The grant funds will be used to hire an intern

enrolled in an undergraduate college program to research national and local architectural history, and to create a pamphlet explaining the styles and where they can be found in Nashville. Ordinance No. BL2002-1186 authorizes all grants requiring council approval to be approved by resolution.

RESOLUTION NO. RS2003-1389 (LORING, JENKINS & HALL) – This resolution amends Ordinance No. BL2002-1133 to authorize the director of public property administration to acquire three additional utility easements by negotiation or condemnation for the purpose of constructing and maintaining water mains in connection with the Briley Parkway widening from Elm Hill Rke to Windmere Drive. Ordinance No. BL2002-1133 authorized the acquisition of 22 easements and provided additional easements to be acquired may be approved by resolution. The easements to be acquired are for property located at 2140 and 2148 Sanborn Drive, and 2213 Crestline Drive. The estimated cost for the additional easements is \$4,500 and to be paid from the water and sewer extension and replacement fund.

RESOLUTION NO. RS2003-1390 (LORING & DERRYBERRY) – This resolution authorizes the Metropolitan department of water and sewerage services to enter into a utility relocation contract with the state department of transportation for reimbursement of engineering and construction inspection costs in connection with the I-40 widening and rehabilitation project from I-24 to Donelson Pike. The reimbursement to the department of water and sewerage services is estimated to be \$11,000. The state will receive bids for the utility relocation and authorize the project to be performed subject to the inspection of the water department.

Although this resolution states that Ordinance No. BL2002-934 may be approved by resolution, such ordinance is limited to signalization contracts. Therefore, this contract may not be approved except by ordinance.

RESOLUTION NO. RS2003-1391 (LORING & HALL) – This resolution authorizes the mayor to enter into a licensing agreement with the Nashville and Eastern Railroad Corporation for the purpose of constructing a sewer line in the railroad right-of-way for the state Briley Parkway widening project from Elm Hill Pike to Windmere Drive. This license would be in perpetuity provided, however, that the agreement may be terminated by either party upon ninety (90) days notice, and Metro would be required to remove the sewer line from the railroad's right-of-way. Metro will pay \$84.00 annually for the license, provided that every (continued on next page)

RESOLUTION NO. RS2003-1391 (continued)

three years that amount is subject to an increase based upon the national consumer price index average. Metro agrees to indemnify the railroad to the extent it legally may for claims resulting from pollution caused by Metro.

Ordinance No. BL2002-934, relating to this project, permitted future signalization contracts to be approved by resolution. As this contract is a utility relocation contract, council office is of the opinion this contract must be approved by ordinance unless a previous ordinance adopted by the council would allow utility relocation contracts on this project to be approved by resolution.

In addition, this agreement provides that Metro (or its contractor) must maintain \$2 million in liability insurance naming the railroad as additional insured. The license agreement also provides that liability assumed by Metro is not limited to the \$2 million insurance coverage. There are no provisions in the agreement that reference Metro's self-insured status, or that it is subject to the Governmental Tort Liability Act limits, other than the indemnification provision to the extent Metro "legally may". The Council Office is of the opinion that it is not in the best interest of the Metropolitan Government to agree to become liable in an amount greater than the liability amounts provided in the Governmental Tort Liability Act. A similar license agreement with Nashville and Eastern Railroad that contained the same liability language was approved by the council on December 17, 2002.

RESOLUTION NO. RS2003-1392 (JENKINS & HALL) - This resolution accepts a grant in the amount of \$6,440 from the state department of environment and conservation to the Metro department of water and sewerage services for an infrared thermography study. Infrared thermography is a form of technology whereby photographs of stream segments using a special camera with infrared film are taken at night from aircraft. This film is then used to identify pollution sources that may be affecting our waterways. Using this technology, possible pollutants can be identified by temperature variations shown on the film. The term of this grant is from January 2, 2003 through November 28, 2003, with a possible one-year extension. Ordinance No. BL2002-1186 authorizes all grants requiring council approval to be approved by resolution.

RESOLUTION NO. RS2003-1393 (JENKINS) - This resolution modifies the existing master list of architectural and engineering firms. The Metro Code of Laws provides that all contracts for professional services of architects and engineers must be with firms listed on the master list. This resolution changes the name of "Post, Buckley, Schuh & Jennigan, Inc." to "PBS&J", and adds the following ten firms to the master list:

- Ben Crenshaw of Nashville, Tennessee
- Cassetty Architecture P.C. of Hendersonville, Tennessee
- California Skateparks of Upland, California
- Grindline Skateparks, Inc., of Seattle, Washington
- Kenneth W. Climer of Nashville, Tennessee
- Power Management Corporation of Nashville, Tennessee
- Purkiss Rose-RSI of Fullerton, California
- Site Design Group, Inc., of Tempe, Arizona
- Susan Nelson-Warren Byrd Landscape of Charlottesville, Virginia

- Thomas Balsley Associates of New York, New York

RESOLUTION NO. RS2003-1394 (JENKINS) – This resolution authorizes the department of law to compromise and settle the lawsuit of Thomas R. Roberts against the Metropolitan Government in the amount of \$115,000 to be paid from the self-insured liability fund. On October 18, 2001, Mr. Roberts was stopped behind a Metro public works garbage truck in the turning lane at the red light at the intersection of Murfreesboro Road and Ransom Place. When the light turned green, the public works employee released the brake of the garbage truck on an incline, rolled back fifteen feet or more, and collided with Mr. Roberts' Datsun. The estimate for the damage to the Datsun totaled \$2,184.16, but the vehicle was only valued at \$725.00. Mr. Roberts sustained an acute left-sided disc herniation at C6-7 requiring fusion surgery to stabilize the effect of the herniated disc. Mr. Roberts was given a 25% impairment rating and incurred medical bills totaling \$69,435.

The department of law is of the opinion that this is a fair and reasonable settlement given the extent of the injuries and property damage, the 25% impairment rating, and the total amount of the medical bills. The public works employee involved received an oral reprimand.

RESOLUTION NO. RS2003-1395 (JENKINS) – This resolution authorizes the department of law to compromise and settle the claim of Annitra Shelby against the Metropolitan Government in the amount of \$20,000 to be paid from the self-insured liability fund. On October 1, 2002, at approximately 11:30 p.m., a Metro police officer was pursuing a possible armed robbery suspect on Gallatin Pike. Ms. Shelby was sitting at a red light on Douglas Avenue at the intersection of Douglas Avenue and Gallatin Pike waiting for the light to change. Ms. Shelby did not see or hear the approaching chase and was struck by the police car when she pulled into the intersection after the light turned green. The officer was traveling approximately 73 M.P.H. in a 30 M.P.H. zone. The officer's patrol car impacted Ms. Shelby's 2000 Chevrolet Cavalier at 50 M.P.H., resulting in a total loss of Ms. Shelby's vehicle. Ms. Shelby suffered blunt trauma to the head and right thorax as a result of the accident. Her medical bills consisted of \$10,389.88 to Vanderbilt Medical Center and \$1,661 to Vanderbilt Medical Group. This settlement consists of a negotiated amount for the medical bills totaling \$10,761.89, the blue book value of Ms. Shelby's vehicle totaling \$7,065, and \$2,173.11 for pain and suffering.

The police officer involved in this accident was in violation of police department regulations regarding vehicular pursuit, and was in violation of state law by not operating his emergency vehicle with due regard for public safety. This was the officer's third traffic accident while employed by Metro. He was required to attend defensive driving school and lost one day of vacation.

RESOLUTION NO. RS2003-1396 (JENKINS) – This resolution authorizes the Metropolitan Government to enter into a settlement agreement in conjunction with the Dunlop Tire Corporation, Revere Copper and Brass, Inc., and Neely Coble Inc., acting in conjunction with the Saad Site Steering Committee, to pay \$16,000 per party to the United States environmental protection agency (EPA). This settlement agreement is in regard to an EPA Superfund cleanup of property owned by Ellis Saad at 3657 Trousdale Road. The Saad Site Steering Committee, consisting of approximately 400 parties, entered an agreement with the EPA for a \$4 million hazardous substance cleanup at the Saad site. The EPA is seeking to recover its oversight costs totaling \$1,164,796.25. Metro is alleged to have contributed (continued on next page)

RESOLUTION NO. RS2003-1396 (continued)

used motor oil and other motor vehicle lubricants to this site between the years of 1971 and 1983, and is therefore considered liable as a generator of hazardous substances at the site. The department of law has been unable to identify precisely which Metro department(s) contributed hazardous substances to this site.

Dunlop Tire, Neely Coble, and Revere have been identified by the EPA, along with Metro, as potentially responsible parties. Pursuant to this agreement, each party will contribute \$16,000 to be paid to the EPA as part of the cleanup cost. Metro has already implemented a wetlands mitigation project related to this site in an effort to resolve its liability. The deed of trust to the property is under the control of the EPA, and the owner of the property has been determined to be in default on the deed of trust. The agreement provides that if and when the property is foreclosed upon, Metro's contribution to this agreement may be offset from the foreclosure sale proceeds if any remaining proceeds are available. Due to the difficulty of the other parties involved in this agreement in attempting to foreclose on the property, the department of law may assume this responsibility to recover any possible funds. Metro's \$16,000 payment is to be sent to the attorney trust account of Frank J. Scanlon who represents Neely Coble. The total amount of \$80,000 representing the total contributions will then be sent directly to the EPA.

The department of law believes this is a fair and reasonable settlement in that, pursuant to this agreement, Metro's liability will be limited to \$16,000 even though the EPA is seeking to recover its entire oversight costs. This amount is to be paid out of the judgments and losses 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. 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 disapproved by the traffic and parking commission.

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 NOS. BL2003-1339 & BL2003-1340 (JENKINS) – These two ordinances approve and authorize licensing agreements with SESAC, Inc. and Broadcast Music, Inc. (BMI) regarding the public performance and use of music at Metro facilities. Music publishing societies such as SESAC and BMI require that businesses, governments, and other organizations pay a license fee in order to play recorded music or allow live performance of music written or published by their composers and publishers. Metro has inadvertently neglected to be in compliance with these licensing requirements until recently. A similar agreement with ASCAP was approved by the council in August of 2002 regarding the public performance of musical compositions at Metro facilities. Amendments, renewals, or extensions of these agreements may be approved by resolution of the Metropolitan Council.

Ordinance No. BL2003-1339 approves a licensing agreement with SESAC. Pursuant to this agreement, Metro will be required to pay a base annual license fee of \$2,150 for a population of 500,000, plus \$200 for each additional 100,000

population. This base amount may increase incrementally each year based upon a consumer price index. This license agreement is for a term of one year that automatically is deemed renewed on a year-by-year basis unless terminated. This agreement excludes concerts and sporting events.

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ORDINANCE NOS. BL2003-1339 & BL2003-1340 (continued)

Ordinance No. BL2003-1340 approves a licensing agreement with BMI. Pursuant to this agreement, Metro will pay a base license fee of \$3,877 for a population of 500,000, plus \$500 for each additional 100,000 population. This base amount may increase incrementally each year based on a consumer price index. Additionally, Metro is required to pay 1% of gross revenues generated in excess of \$25,000 from special events where BMI music is played. There should be very few events to which this provision applies since Metro rarely acts as its own promoter of events. This agreement does not cover the music played at any professional sporting events. This license agreement is for a term of one year that may be renewed on an annual basis.

ORDINANCE NO. BL2003-1341 (BALTHROP) – This ordinance authorizes the Metro police department to accept the donation of a Tennessee walking horse from Shelia Hale and George Craig for use by the mounted patrol unit. The horse, Solo Time, has been certified by a veterinarian as being fit for duty.

ORDINANCE NO. BL2003-1342 (HALL) – This ordinance approves a corrected deed conveying Metro’s interest in two parcels of property to the Nashville & Eastern Railroad Authority in connection with the Gateway Boulevard project. Metro will convey the first parcel of property subject to retention of a two-year temporary construction easement and a permanent easement for use of the air space. Metro will also convey a permanent easement in a second parcel of property for use by the railroad in its business activities. The first deed conveying the interests was approved by Council’s enactment of Ordinance No. BL2002-1332. However, the first deed listed the first parcel of property to be conveyed as consisting of 220 square feet, when in reality it consists of approximately 26,000. This ordinance nullifies the prior deed and corrects the inaccuracies.

ORDINANCE NO. BL2003-1343 (NOLLNER) – This ordinance closes a portion of the East Campbell Road right-of-way abutting the CSX railroad tracks. Metro has determined that there is no future governmental need for this portion of the road. All easements are to be retained by the Metropolitan Government. This closure is requested by Councilman Ron Nollner, the abutting property owner.

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

ORDINANCE NO. BL2003-1344 (MCCLENDON) – This ordinance closes Willow Brook Drive from Thompson Lane southward to its terminus. This ordinance also closes a 940-foot portion of the Thompson Lane right-of-way off of the eastbound lane. Metro has determined that there is no future governmental need for the portions of this street and right-of-way. This closure is requested by Jay West of Bone, McAllester, Norton PLLC, on behalf of JDN Development Company, Inc., the contracted purchaser of all abutting properties. All easements are to be retained by the Metropolitan Government.

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

ORDINANCE NO. BL2003-1345 (BALTHROP) – This ordinance renames “Spring Brach Drive”, from Twin Hills Drive to its terminus at the Harbor Village development, to “Harbor Village Drive”. The letter sent to affected residents in the area is on file with the planning commission.

This ordinance has been approved by the planning commission and the emergency communications district board.

ORDINANCE NO. BL2003-1347 (WALLACE, JENKINS & WATERS) – This ordinance amends the Metropolitan code of laws to include sheriff’s department correctional officers and parks special police in the fire and police pension plan. Certain public safety employees in the fire and police departments receive more favorable retirement benefits than other Metro employees due to the physical and mental demands of the job. This ordinance would enable correctional officers and parks special police (park rangers) to receive the favorable retirement benefits as well. An actuarial determination of the cost of adding these two employee classes in the police and fire pension plan has been made and it has been approved by the employee benefit board.

The council should not adopt this ordinance until the employee benefit board has provided the council with the actuarial report on this pension change.

ORDINANCE NO. BL2003-1348 (BALTHROP, HALL & JENKINS) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Thomas L. Cunningham for the extension of a 12-inch water main to a proposed development. This is a typical participation agreement whereby the developer pays a share of the expansion cost to extend service to a new development. Pursuant to this agreement, Mr. Cunningham will pay \$2,500 for each individual lot, not to exceed \$172,500, as a contribution in aid of construction. The development to be serviced, preliminarily referred to as Hidden

Acres, consists of 69 lots located in the area of Old Dickerson Road. The extension of the 12-inch water main in Campbell Road from Brick Church Pike is included in the capital improvements budget and will require the construction of approximately 14,000 lineal feet of water main.

ORDINANCE NO. BL2003-1349 (BALTHROP) – This ordinance approves an affiliation agreement between Volunteer State Community College and the emergency medical services (EMS) division of the Metro fire department permitting students from the college to participate in a clinical experience with EMS. Pursuant to this agreement, allied health education program students will receive clinical training by working with EMS personnel. The clinical experience is to be divided into two types of assignments: unprecepted and precepted. Students in the unprecepted assignment will be assigned to select Metro ambulances for at least 40 hours per semester for the first two semesters. Students in the third semester, under the precepted assignment, will receive up to 96 hours of training with certain Metro paramedics. Metro will be paid up to \$10,800 for providing this preceptorship service. The college is also required to provide necessary liability insurance for the students. This agreement is for a term of one year, which may be extended for four additional annual terms.

ORDINANCE NO. BL2003-1350 (JENKINS & BRILEY) – This ordinance approves a lease agreement between Metro social services and the Salvation Army for housing of a childcare center. Pursuant to the agreement, social services will lease the property located at 617 Stockell Street to be used only for child day care services Monday through Friday between the hours of 6:00 a.m. and 7:00 p.m. Included in the premises to be leased is a playground and designated parking spaces, as well as the shared use of common areas such as a conference room, kitchen, gym, athletic field, and non-designated parking spaces. The rental fee will be based upon a pro-rata portion of the previous year's utilities cost, including telephone and custodial service, plus actual maintenance costs for the childcare center portion of the facilities. The fee is to be derived from the United Way collaboration grant to social services and the Salvation Army.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2003-1351 (MCCLENDON & BRILEY) – This ordinance authorizes a participation agreement between the Metropolitan Government and Woodbine Community Organization for construction of a 6-inch sewer main to improve sewer services to Timmons Street and Simmons Avenue. Pursuant to this agreement, Woodbine Community Organization agrees to pay the lesser of 50% of the survey, design and construction costs, or \$5,000 as a contribution-in-aid of construction. Woodbine Community Organization also agrees to dedicate to Metro a 20-foot wide water and sewer easement along the proposed sewer main.

ORDINANCE NO. BL2003-1352 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to enable a beer permit holder whose permit has been revoked for the unlawful sale of beer to a minor, and who has filed an appeal of that decision, to continue to sell beer upon posting a \$25,000 bond with the Metropolitan clerk. The Code provides that the beer board has the authority to revoke or suspend a permit if the permit holder sells beer or allows beer to be sold to a minor. The Code also provides, in accordance with state law, that a decision of the beer board to revoke a permit may be appealed to the chancery or circuit court. This ordinance would allow for a permit holder that has appealed the beer board's decision to be allowed to continue selling beer during the appeal process only upon posting the \$25,000 bond. The ordinance provides that any subsequent finding by the beer board that the permit holder has sold beer to a minor will result in a forfeiture of the bond. This ordinance also provides that any continuance permitted after the posting of the bond during the appeal process shall terminate upon the issuance of a stay by the court.

ORDINANCE NO. BL2003-1353 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan code of laws to exempt restaurants that have already have a state on-premises liquor consumption license from Metro's minimum distance requirements to obtain a beer permit. The code currently prevents a beer permit from being issued to an establishment located within 100 feet from a church, school, park, daycare, or one or two family residence. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant's location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law.

ORDINANCE NO. BL2003-1353

This ordinance also provides that in the event a restaurant permit holder that is exempted under this exception to the distance requirements ceases to hold a valid state liquor license for on-premises consumption for any reason, the beer permit is automatically deemed revoked and the applicant would have to reapply for a new beer permit without being exempted from any distance requirements.

An ordinance consisting of similar subject matter was defeated by the council in April of 2002.

ORDINANCE NO. BL2003-1355 (BRILEY) – This ordinance closes a portion of Old Amqui Road abutting the CSX railroad tracks. Metro has determined that there is no future governmental need for this portion of the road. All easements are to be retained by the Metropolitan Government. This closure is requested by Councilman Ron Nollner on behalf of the abutting property owners.

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

- BILLS ON THIRD READING -

SUBSTITUTE ORDINANCE NO. BL2002-1021 (STANLEY & GILMORE) – This substitute 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 provides that single and two-family lots less than one acre in size that are located in a floodplain or floodway designated area 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 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. Further, the current regulations only apply to single and two-family lots less than one acre in size and do not apply to any non-residential development.

This amendment would delete the current provisions regarding floodplain and floodway development and replace the provisions with new regulations. First, this substitute ordinance would require that all development proposed in floodway or floodplain areas keep at least fifty percent of the floodplain area and all of the floodway area as undisturbed open space. This would apply to both residential and non-residential development, except for property located within the CC, CF, MUI, MUG, IR, IG, and IWD zoning districts. Second, limited encroachments into the preserved floodplain area may be authorized as a variance by the stormwater management committee if the encroachment reduces the flood danger and is necessary to improve the environmental quality of the area. Third, these regulations would not apply to parks and greenways, nor would they apply to single or two-family lots greater than one acre in size. Finally, this ordinance would retain the cluster lot option that exists in the current zoning code section regarding floodplain development. This zoning text change has been approved by the planning 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 NO. BL2003-1299 (HAND & 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 and the traffic and parking commission .

ORDINANCE NO. BL2003-1304 (GILMORE) – This zoning text change would amend the Metro Code to include a notification and community meeting provision regarding applications for the construction of a radio/TV/satellite/cellular/personal communication tower. Pursuant to the Code, all new radio, TV, and satellite towers must be granted a special exception permit by the board of zoning appeals prior to construction. Although (continued on next page)

ORDINANCE NO. BL2003-1304 (continued)

cellular telephone towers are permitted with conditions pursuant to federal regulations with no notification requirements, proposed cell towers often do not meet the height requirements and must apply for a special exception. The residents that would be affected by the construction of such a communication tower are notified by mail at least 21 days prior to the public hearing at the meeting of the board of zoning appeals. This is the point that the district councilmember is typically informed, which often gives little time for the councilmember to hold a public meeting.

This zoning text change would require the zoning administrator or the planning director to notify the district councilmember of the proposed tower immediately after an application has been submitted. The councilmember would then have 30 days to hold a public meeting if they so choose, and the applicant would be required to attend such a meeting to provide information regarding the safety of the tower, the necessity for the tower, its visual aspects, and alternative tower sites and designs considered. This notification requirement would only apply to towers proposed within a residential district, a district permitting residential uses (excluding the MUI, ORI, CF, CC, and SCR districts), or within 1,000 feet of a residential district boundary.

This text change also clarifies that in the event a proposed radio/TV/satellite tower cannot comply with the maximum height provisions in the Code, the applicant must apply for a special exception permit. Further, this ordinance expressly states that an applicant for a new cellular tower must demonstrate that the existing towers cannot adequately accommodate the equipment to be installed on the new tower. This provision is already in the Code regarding other communication towers.

The planning commission has approved this zoning text 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.