

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **July 15, 2003**

RE: **Analysis Report**

Balances As Of:	<u>7/9/03</u>	<u>7/10/02</u>
<u>GSD 4% RESERVE FUND</u>	\$15,382,316	\$16,108,439
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	Unavailable	Unavailable

- BILL ON PUBLIC HEARING -

ORDINANCE NO. BL2003-1506 (SUMMERS & STANLEY) – Rule 12 prohibits the council from hearing this proposed ordinance on public hearing. This ordinance cannot be considered unless the council suspends Rule 12.

This zoning text amendment modifies the floodplain ordinance adopted by council that became effective April 5, 2003 to provide a mechanism whereby an encroachment affecting more than 20% of the preserved floodplain area could be permitted. The floodplain ordinance adopted by the council on March 18, 2003, requires that all development in a proposed floodplain or floodway area keep at least 50% of the

floodplain area and all of the floodway area as undisturbed open space. The ordinance also provided that limited encroachments affecting 20% or less of the preserved natural area may be authorized by variance. However, some large property owners with undeveloped land partially located within a floodplain expressed concern that it would negatively impact the development potential of their property and that a method should be in place to permit encroachments of greater than 20% in certain circumstances. This ordinance is a result of meetings between planning staff, members of council, large property owners, and developers to address these concerns.

This ordinance essentially modifies the floodplain/floodway standards to provide that encroachments affecting more than 20% of the preserved natural floodplain would be permitted if the property's base zoning has not been changed after April 5, 2003, and the applicant submits and the council approves a planned unit development or urban design overlay district application. This will allow property owners the same development potential that existed prior to April 5, 2003. The applicant seeking an encroachment of greater than 20% would not be allowed to submit a companion zoning change with the submission of the PUD or UDO. Furthermore, if the zoning was subsequently changed after the council's approval of a PUD or UDO then the right to encroach on more than 20% of the natural protected area would be eliminated. Pursuant to this ordinance, a PUD or UDO application would not be considered by the planning commission until it has been considered and recommended by the stormwater management committee. The committee would certify that the proposed encroachment would not have a negative environmental impact or would increase flooding hazards. In addition, this ordinance provides that if the cluster lot option is used within a PUD then 66% of the protected area instead of 50% would have to be preserved.

- RESOLUTIONS -

RESOLUTION NO. RS2003-1512 (JENKINS & WALLACE) – This resolution amends the pay plan for employees of the Metropolitan Government to provide for an increase in salary for the mayor, vice mayor, and members of council. The salary of the mayor was last increased in 1987 and the salary of the vice mayor and members of council was last increased in 1995. The current annual salaries are \$75,000 for the mayor, \$8,900 for the vice mayor, and \$6,900 for members of council, not including the \$450 monthly expense account. This amendment to the general pay plan was initiated by a citizens' advisory committee that made recommendations to the civil service commission. The citizens' committee recommended increasing the salary of the mayor to \$150,000, increasing the salary of the vice mayor to \$20,000 with no expense account, and increasing the salary of members of council to \$15,000 with no expense account.

(continued on next page)

RESOLUTION NO. RS2003-1512 (continued)

The civil service commission, upon receiving the recommendation of the citizens' committee, recommended the increases as stated in this amendment to the pay plan. The resolution provides for the following modifications to the salaries:

1. Increases the salary of the mayor to \$136,500.
2. Increases the salary of the vice mayor to \$17,000 provided the vice mayor receives no expense reimbursement account, or \$11,600 if the vice mayor does receive an expense account.
3. Increases the salary of the members of council to \$15,000 if the expense account is eliminated, or \$9,600 if the expense account is kept in tact.

This proposed amendment to the pay plan may not be amended by the council except by making uniform changes by increasing or decreasing the salary for the mayor, vice mayor, and members of council by the same percentage amount.

RESOLUTION NO. RS2003-1513 (BRILEY & WALLACE) – This resolution repeals the expense account for Members of Council. The expense account was originally established for Metro by resolution in 1973, which provided for a reimbursement of monthly expenses up to \$150.00. The resolution was subsequently amended in 1975 to clarify the terms of the expense account reimbursement. In 1988 the expense account was increased by resolution from a maximum of \$150.00 a month to \$450.00 a month, or \$5,400.00 per year.

As stated above, Resolution No. RS2003-1512 includes an amendment to the general pay plan to provide for increases in salary of the mayor, vice mayor, and members of council. Pursuant to this resolution, the salary of members of council and the vice mayor is to be increased by \$8,100 if the expense account is eliminated, or increased by \$2,700 if the expense account is left in place. Therefore, it is necessary to repeal the legislation providing for the council expense account if the council elects to approve the \$8,100 increase in salary.

The council office has long favored and recommended the increase in salary and elimination of the reimbursement expense.

RESOLUTION NO. RS2003-1514 (JENKINS) – This resolution approves the 2003-2004 budget submitted by the District Management Corporation for the Central Business Improvement District (CBID) created by the Metropolitan Government. The CBID, essentially the immediate downtown area, assesses fifteen cents per \$100 of assessed value on property in the district, which tax is added to the tax bill and collected by the trustee. State law and the Metro Code of Laws require that the annual operating budget of the CBID be submitted to the council for review and approval. According to the budget information filed with the clerk, the CBID anticipates \$656,300 in total revenue and would appropriate the revenue as follows:

- Parking/Accessibility (on-street parking, LunchLine trolley and Wayfinding) - \$80,000.
- Public Space Management - \$162,444
- Communications and Imaging - \$83,500
- Development (business retention and recruitment, residential development, and marketing) - \$61,000
- General and Administration - \$269,356

RESOLUTION NO. RS2003-1515 (SONTANY & WATERS) – This resolution approves property located on the north side of Franklin Limestone Road, east of Ezell Pike to be used as a waste transfer station for the benefit of Tennessee Waste. Tennessee Waste has filed a request for a special exception with the Metro board of zoning appeals to use this property for a waste transfer station. The Metropolitan Zoning Code requires that the Metro council approve the location by adoption of a resolution before the board of zoning appeals can act on the request. Tennessee Waste has expressed the intent to use this property as a commercial and demolition waste transfer station only. In addition, Tennessee Waste has agreed to donate an easement on the property to Metro parks for the purpose of a greenway connection. The public works solid waste subcommittee of the council considered and approved this site as a waste transfer station on July 8, 2003.

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

RESOLUTION NO. RS2003-1519 (TYGARD) - This resolution reappropriates \$25,000, previously appropriated for the relocation of Bellevue's Blue House, to be used instead for the restoration of the historic Belle Vue I log cabin. The initial \$25,000 appropriation was included as part of the mayor's 2001 capital spending plan. The funds had not been expended as of October 2002, and were again appropriated in the 2002 capital spending plan by Resolution No. RS2002-1181. The relocation of the Bellevue Blue House never materialized and the funds were never expended. This resolution amends Resolution No. RS2002-1181 to reappropriate the funds for the Belle Vue I log cabin. The cabin, constructed in 1797, is to be moved to Red Caboose Park and restored for use as a community resource.

RESOLUTION NO. RS2003-1520 (GILMORE & BRILEY) - This resolution approves an amendment to the lease between the Metropolitan Government and the Nashville Zoo for the Grassmere property. The original lease was approved pursuant to Ordinance No. O96-473, which provided that future amendments may be approved by resolution. The original agreement provided that Metro would restore the historic Croft House located on the property and make infrastructure improvements estimated to total \$1.3 million. Metro had already invested over \$3 million in the site prior to the execution of this lease agreement. This resolution amends the lease agreement to clarify that Metro may, but is not obligated to, contribute additional funds to be used only for capital expenditures in any amount that may be appropriated by the Council in any budget year. The Nashville Zoo agrees to solicit donations and pledges from outside sources to be placed in an endowment for the continued maintenance and operation of the zoo. Under the terms of the amendment, Metro may require the zoo to submit an application to Metro for grant funds, and execute a grant agreement similar to those generally used by Metro regarding grants to other entities before receiving future funding.

RESOLUTION NO. RS2003-1521 (JENKINS, GILMORE & BRILEY) - This resolution amends a grant from the Michael and Susan Dell Foundation to the Metro public library board to fund the Teen Homework and Computing Center project. The grant was in the amount of \$216,000 to be paid in two equal installments. This resolution amends the grant by extending the grant period to June 30, 2004 and permitting the use of the unexpended funds totaling \$115,429.48 to extend the employment period of the homework helpers.

RESOLUTION NO. RS2003-1522 (JENKINS, GILMORE & BRILEY) - This resolution approves an amendment to a grant from the Tennessee secretary of state to the library for interlibrary loans. The original grant was approved in 2001 for an amount of \$3,409. The term of the grant was extended last year and increased by an additional \$3,621. This amendment extends the term of the grant through September 30, 2004, and increases the grant award by an additional \$3,143. These federal pass-through funds are used to reimburse the Nashville public library for costs in lending our books to other libraries.

RESOLUTION NO. RS2003-1523 (JENKINS) - This resolution approves a grant in the amount of \$2,475 from the State department of finance and administration, office of criminal justice programs to the office of the public defender for the Take This Book

project. These funds will be used to provide a book to every Spanish-speaking individual who appears on a court docket that will educate them about the American legal system. The book will also be available to other agencies serving the Spanish-speaking population. The office of the public defender will be required to provide matching funds in the amount of \$825.00. The term of the grant is from July 1, 2003 through June 30, 2004, with a possible extension of three additional one-year terms.

RESOLUTION NOS. RS2003-1524 & RS2003-1525 (BALTHROP, BRILEY & DERRYBERRY) – These two resolutions approve grants from the state department of finance and administration to the district attorney general's office for victim assistance. The grants are for a term of three years beginning July 1, 2003 and may be extended for an additional one-year term.

Resolution No. RS2003-1524 approves a grant in the amount of \$186,441 for a Community Diversity Advocate. Pursuant to the terms of the grant, Metro is to receive \$62,147 per year for the next three years. The grant may be extended for an additional one-year term. The Community Diversity Advocate will work with victims of crime who speak Spanish or have English as a second language and need translation.

The resolution provides that \$46,611 be provided each year for the purpose of providing Metro's in-kind matching share for the program. However, the grant agreement provides that Metro shall provide a 20% match of \$15,537 per year. This resolution should be amended so that the provisions of the resolution conform to the provisions in the actual grant agreement.

Resolution No. RS2003-1525 approves a grant in the amount of \$234,246 for the Victims of Crime Act victim assistance project. This grant is to be paid in annual increments of \$78,082. The grant funds will be used for the family violence advocacy team that works directly with victims of domestic abuse, child and physical abuse, and elder abuse. Metro will be required to provide matching funds totaling \$19,521 each year for the three year grant term.

RESOLUTION NO. RS2003-1526 (JENKINS) – This resolution authorizes the mayor to submit a grant application to the state commission on children and youth for juvenile accountability incentive block grant program services. Metro is requesting \$525,894 in federal pass-through funds with a Metro match of \$58,433. If awarded, these funds would be used to fund certain salaried positions and program services.

RESOLUTION NO. RS2003-1527 (JENKINS) – This resolution authorizes the mayor to submit an application for a state grant in the amount of \$9,000 for benefit of the juvenile court. The application is for the Tennessee commission on children and youth state supplement juvenile court improvement funds. If awarded, these funds will be used to provide training opportunities to staff. Any required match will be provided through the juvenile court's operating budget.

RESOLUTION NO. RS2003-1528 (JENKINS) – This resolution approves an annual grant in the amount of \$736,571 from the state department of human services to the Metro juvenile court to provide funds for the child support enforcement program. The term of this grant is from July 1, 2003 through June 30, 2004. Metro will provide a local match in the amount of \$379,445 from the juvenile court operating budget.

RESOLUTION NO. RS2003-1529 (JENKINS & WALLACE) – This resolution approves a grant in the amount of \$6,000 from the University of Tennessee to the Metro department of human resources to provide supervisory and management training for Metro employees. The term of the grant is from July 1, 2003 through June 30, 2004.

This resolution should be amended to reflect that the grant is from the University of Tennessee rather than the Gannett Foundation, as is currently stated in Section 1 of the resolution.

RESOLUTION NO. RS2003-1530 (BALTHROP, BRILEY & DERRYBERRY) – This resolution approves a grant from the state department of finance and administration to the Metro police department for the Victims of Crime Act victim assistance grant project. The grant is in the amount of \$158,814, and will be paid in annual increments of \$52,938 over a term of July 1, 2003 through June 30, 2006. A local match in the amount of \$13,234 is required for each year of the grant term. The term of the grant may be extended for an additional year. These funds will be used to provide support for victims of violent crimes, including crisis intervention, counseling, therapy services, clinical services, and a collaboration with other victim service providers.

RESOLUTION NO. RS2003-1531 (BALTHROP, BRILEY & DERRYBERRY) – This resolution authorizes the mayor to submit a grant application to the U.S. department of justice for the Homeland Security Overtime Program to pay overtime salaries for police officers. The funds will be used to pay overtime to officers to conduct site surveys at all Metro schools and other locations listed as possible targets in the event of a terrorist attack. The funds will also be used to prepare mass evacuation plans for the Gaylord Entertainment Center and the Nashville Coliseum.

RESOLUTION NO. RS2003-1532 (JENKINS & HALL) – This resolution approves an amendment to an agreement between the Metropolitan Government and Chasetel Real Estate Holding Company, Inc., relating to the installation of telephone communications equipment on Metro water/sewer property. Metro has similar agreements with other communications companies that allow them to install telecommunications equipment on water/sewer property. The original agreement adopted in 1999 required Chasetel to pay (continued on next page)

RESOLUTION NO. RS2003-1532 (continued)

annual rent in the amount of \$24,000 at each location, which amount was to increase by 3% annually. This resolution decreases the consideration portion of the agreement to provide that Chasetel will pay \$19,200 annually for each location, with no provision for an increase during the original term of the agreement. This resolution also provides that the agreement may be extended for four additional five-year terms. If the term is extended, the location fee for the renewal term will be 110% of the fee in effect during the preceding term.

RESOLUTION NO. RS2003-1533 (JENKINS & HART) – This resolution approves a grant in the amount of \$107,053 from the environmental protection agency (EPA) to the Metro board of health to develop and implement an air monitoring network for particulate matter 2.5 microns in size or greater (PM 2.5). The term of the grant is

from April 1, 2003 through September 30, 2004. There is no required Metro match for this grant.

RESOLUTION NO. RS2003-1534 (BRILEY, BEEHAN & HART) -This resolution approves an amendment to a grant agreement between the U.S. environmental protection agency (EPA) and the Metro board of health for planning, developing, establishing, improving, and implementing national primary and secondary air quality standards. The resolution does not reference the resolution that approved the original grant, but it appears to be Resolution No. RS2003-1421. The original grant award was for \$329,431 for a term of October 1, 2002 through September 30, 2003. The required Metro match was \$148,527, which is generally provided through salaries of our employees in the air pollution control division of the health department. This resolution amends the grant agreement by increasing the federal fund portion of the grant award to \$443,591, which represents 57% of total project cost. The amendment also increases the required Metro match to a total of \$321,445.

RESOLUTION NO. RS2003-1535 (JENKINS & HART) - This resolution approves an annual grant in the amount of \$487,100 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 regarding child health by public health nurses. 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 term of the grant is from July 1, 2003 through June 30, 2004.

Section 1 of this resolution should be amended to reflect the correct amount of the grant award.

RESOLUTION NO. RS2003-1536 (BRILEY, HART & DERRYBERRY) - This resolution approves an annual grant in the amount of \$75,000 from the state department of health to the Metro board of health to provide primary dental services to the homeless at the Downtown Clinic. This grant is for a term of one year beginning July 1, 2003, and extending through June 30, 2004. The grant funds will cover the partial salary for an attending dentist from Meharry School of Dentistry to supervise dental care providers and to treat some patients, as well as to employ an office staff assistant. It is estimated that services will be provided to approximately 1,200 patients.

RESOLUTION NO. RS2003-1537 (BRILEY, HART & DERRYBERRY) - This resolution approves an annual grant in the amount of \$6,689,653 from the state department of health to the Metro board of health to provide multiple health services. The services to be provided include adolescent pregnancy prevention, bioterrorism, breast and cervical cancer services, community prevention initiative for children, HIV-AIDS early intervention, home visiting services, and tuberculosis services. The term of the grant is from July 1, 2003 through June 30, 2004. The resolution provides that matching funds of \$12,000 will be provided from the health department's operating budget.

RESOLUTION NO. RS2003-1538 (BRILEY & HART) - This resolution renews the annual contract between the state department of health and the Metro board of health for inspection of hotels, food service establishments, swimming pools, bed and breakfast establishments, tattoo studios, body piercing establishments, and organized camps. This contract extends the program through June 30, 2004. The Metro board of health will receive an amount not to exceed \$1,064,500 for these inspection

services. The board of health performs numerous health inspections on behalf of the state.

RESOLUTION NOS. RS2003-1539 & RS2003-1540 (JENKINS & HART) – These two resolutions approve annual grants from the state department of human services to the Metro social services commission to provide employability services, English language training, and social adjustment services to refugees who have relocated to the Metropolitan Nashville area. The term of the grants is from July 1, 2003, through June 30, 2004.

Resolution No. RS2003-1539 approves a grant in the amount of \$388,000 to provide services to refugees, including employer outreach activities, addressing work related issues, training, mental health services, and sensitivity training for teachers and school administrators.

Resolution No. RS2003-1540 approves a grant in the amount of \$97,000 to provide specialized services to elderly refugees 60 years of age and older.

RESOLUTION NO. RS2003-1541 (BRILEY & HART) – This resolution approves an amendment to an agreement between Tennessee State University and the Metropolitan social services commission to provide support services for the infant/toddler model sites training sessions. The original agreement provided that Tennessee State would compensate Metro in the amount of \$4,200 for support services rendered on November 8, 2002. This resolution amends the agreement to increase the amount of compensation to \$7,240.

RESOLUTION NO. RS2003-1542 (BEEHAN & HART) – This resolution approves an amendment to a lease agreement between Metro social services and the Martha O'Brien Center for office space at 711 South Street to be used as a family resource center. This resolution extends the lease agreement for a term of August 1, 2003, through July 31, 2004. The rental amount will remain at \$600 per month, as it has been for several years.

RESOLUTION NOS. RS2003-1543, RS2003-1544 & RS2003-1545 – These three resolutions authorize the mayor to submit applications for grants from the state department of transportation for bridge enhancements.

Resolution No. RS2003-1543 (Hall, Wallace & Briley) authorizes a grant application for architectural enhancements and pedestrian lighting for the Jefferson Street Bridge. Metro is seeking federal pass through funds in the amount of \$865,824 with a local match of \$292,216. The resolution provides that any matching funds will be provided through the budget of the department of public works.

Resolution No. RS2003-1544 (Wallace, Hall & Others) authorizes a grant application for bridge lighting and safety improvements for pedestrians on Victory Memorial Bridge and Woodland Street Bridge. Metro is seeking federal pass through funding in the amount of \$2,556,682, with a local match of \$862,881.

Resolution No. RS2003-1545 (Hall, Wallace & Briley) authorizes a grant application for the painting of the historic Louisville and Nashville Railroad bridge over the Cumberland River. This bridge has been identified by the

Metropolitan historical commission as being eligible for the national register of historic places. The historical commission and the Nashville Civic Design Center have endorsed this painting project. Metro is seeking federal pass through funding in the amount of \$2,129,600, with a local match of \$532,400.

RESOLUTION NO. RS2003-1546 (HALL, WALLACE & OTHERS) – This resolution approves a contract between the state department of transportation and the Metropolitan Government providing for the addition of certain enhancements to be implemented during the painting phase of the Victory Memorial Bridge over the Cumberland River. Metro has already contracted with the state for repairs to the Victory Memorial Bridge. This contract provides that the state agrees to amend the prior contract to include additional painting enhancements requested by Metro. The total cost of the enhancements is scheduled to be \$247,975.00, with the state providing \$123,987.50 and an equal Metro match of \$123,987.50.

RESOLUTION NO. RS2003-1547 (WALLACE & BRILEY) – This resolution approves a grant from the state department of human services to the Nashville career advancement center (NCAC) to provide for reimbursement of expenses associated with the department of human services' occupancy of the career center. The department of human services will continue to occupy a portion of the NCAC facility to provide access to Family Assistance and Families First services. Pursuant to this grant, NCAC will be reimbursed in an amount not to exceed \$9,875 for the use of the space by the state. The term of this grant is from July 1, 2003, through June 30, 2004, with a possible one year extension.

RESOLUTION NO. RS2003-1548 (WALLACE & BRILEY) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide Families First support services. The original grant was in the amount of \$2,592,387.84 for services including assessments, Fresh Start/PACE, career counseling, and job training. This resolution decreases the grant award by \$507,361.56, for a total award of \$2,085,026.28. The resolution provides that this is a line item shift that does not affect the operations of programs at the NCAC.

RESOLUTION NO. RS2003-1549 (BRILEY) – This resolution authorizes the department of law to compromise and settle the lawsuit of Kimberly R. Collins against the Metropolitan Government in the amount of \$75,000 plus \$12,364.32 in attorney fees. This is a sexual harassment and employer retaliation lawsuit brought against Metro in federal court. Ms. Collins alleges that, while an officer with the Metro police department, she was subjected to sexual harassment by a police sergeant beginning in July 1999. She repeatedly told the sergeant to stop the unwelcome sexual advances, which consisted of the sergeant unnecessarily touching her. The offending sergeant was not her immediate supervisor, but was friends with the superior officers of the school services division. She complained to her supervising sergeant about the situation and then later filed a formal complaint since the situation was not resolved. The complaint was then forwarded to the office of professional accountability. After an investigation, the sergeant was charged with sexual harassment, which ultimately led to his resignation just before his disciplinary hearing. The sergeant worked as a Metro police officer in the early 1990's, but then became a DEA agent in Atlanta. He

was subsequently terminated from his position as a DEA agent due to alleged sexual harassment and was rehired by the police department.

Ms. Collins claims damages for severe emotional distress, physical symptoms, mental anguish, humiliation, lost wages, and other economic and non-economic losses. In addition, Ms. Collins claims that she was denied overtime opportunities and did not receive an assignment at any of her three preferred schools as an officer in the school services division due to retaliation for refusing the sexual advances.

The legal department is of the opinion that this lawsuit should be settled for the above amount due to the likelihood of a higher jury award at trial. Under federal law, if the plaintiff can prove that adverse employment action was taken as a result of her refusal of unwanted sexual advances by a supervisor, the employer is strictly liable. The legal department is investigating whether suit can be brought against the offending sergeant and the supervising captain to recoup the cost of this settlement. This amount is to be paid from the judgment and losses fund.

RESOLUTION NO. RS2003-1550 (JENKINS) - This resolution accepts \$65,000 in compromise and settlement of the Metropolitan Government's claim against Aegis Laboratories, Inc. Metro is under contract with Aegis Laboratories to provide drug testing for employees. On September 2, 1998, an employee of the fire department was terminated after a drug test performed by Aegis Laboratories revealed that the employee tested positive for marijuana. The employee appealed his termination and the administrative law judge found that the drug test was improperly performed. The civil service commission entered a final order to reinstate the employee with back pay and benefits.

Metro's contract with Aegis Laboratories contains a provision whereby Aegis will indemnify Metro for damages Metro incurs from negligent drug testing. Metro paid the employee \$47,000 in back pay and has argued that it is entitled to an additional \$30,000 in potential future pension benefits that could be paid. Aegis Laboratories disputed this amount as speculative, but after negotiations agreed to a total settlement of \$65,000. The department of law is of the opinion that this claim be settled for this amount.

RESOLUTION NO. RS2003-1551 (BRILEY) - This resolution authorizes the department of law to compromise and settle the Metropolitan Government's claim against Thomas C. Bogle in the amount of \$12,390.73. On December 12, 2002, a police cruiser and fire department Chevy Tahoe were stopped on Cane Ridge Road with emergency lights activated assisting in the investigation of a fatal accident. Mr. Bogle struck the rear of the police cruiser, causing it to collide with the Tahoe. The damage to both Metro vehicles totaled \$12,390.73, and the department of law recommends settling this claim for the amount of the property damage.

RESOLUTION NO. RS2003-1552 (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 or architects and engineers must be with firms listed on the master list. This resolution changes the name of "Tribble &

Richardson” to “Stantec Consulting Services, Inc.”, and adds the following thirteen firms to the master list:

- Adams Computer Technology, Inc. of Newark, DE
- Buchart-Horn, Inc. of Franklin, TN
- Chan Krieger & Associates of Cambridge, MA
- Clinard Engineering Associates, LLC of Brentwood, TN
- Global Golf Design, LLC of Nashville, TN
- Hargreaves Associates of San Francisco, CA
- Hughes, Good, O’Leary & Ryan of Atlanta, GA
- KCI Technologies, Inc. of Raleigh, NC
- Kimley-Horn and Associates, Inc. of Knoxville, TN
- Kiskaddon Architects of Brentwood, TN
- Ross Bryan Associates, Inc. of Nashville, TN
- Safdie Rabines Architects, Inc. of San Diego, CA
- TransCore ITS, Inc. of San Diego, CA

RESOLUTION NO. RS2003-1553 (WALLACE) – This resolution authorizes Dixieland Delights Candy & Nut Company to install and maintain a sign above the existing sidewalk at 325 Broadway. The sign to be installed will measure 10 feet tall by 8 feet wide, and will extend 9 feet over and 10 feet above the sidewalk. Daniel Albright, owner of Dixieland Delights Candy & Nut Company, has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the encroachments, and is required to post a \$300,000 certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party. Ordinance O87-1890 authorizes aerial encroachments to be approved by resolution rather than ordinance.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2003-1554 (WALLACE) - This resolution authorizes Molyneux Entertainment Company to install and maintain two awnings above the sidewalk along 9th Avenue South. One awning will be installed over the front door of the business measuring 3 feet by 7 feet wide, and will extend 3 feet over and 8 feet above the sidewalk. The other awning will be installed over the rear entrance of the property measuring 3 feet by 5 feet four inches wide. Molyneux Entertainment Company has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and (continued on next page)

RESOLUTION NO. RS2003-1554 (continued)

maintenance of the encroachments, and is required to post a \$300,000 certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2003-1555 (WHITMORE & BLACK) – This resolution authorizes Michael D. Schmerling & Company, G.P., to install and maintain single-mode fiber optic cable on existing utility poles and lines running along 19th Avenue North across Church Street between 1900 and 1901 Church Street. Michael D. Schmerling & Company, G.P., has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the encroachments and is

required to post a \$300,000 certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

- BILLS ON SECOND READING -

ORDINANCE NOS. BL2003-1387 & BL2003-1388 (WALLACE & HAUSSER) – These two ordinances amend the permit parking program sections of the Metropolitan Code to enable single-family residential lots located within 1,500 feet of a college, university, or other post-secondary school to be eligible for residential permit parking. The Metro Code currently provides for a residential permit parking program. In order for an area to be designated for residential permit parking, a petition requesting the permit parking area must be filed with the councilmember representing the district in which the proposed area is located. The petition must be signed by seventy-five percent (75%) of the residents within the geographic limits requested to be included in the residential permit parking area. The petition must include each petitioner's name and driver's license number, the time of day the permit is to be required, a description of the geographic boundaries of the area, and the maximum time limit that a non-permit holder should be allowed to park. The councilmember then submits the petition, with a written recommendation, to the chief traffic engineer. The chief traffic engineer in turn makes a recommendation to the traffic and parking commission, who then either approves or disapproves. If approved, the area is designated as a residential permit parking area and residents are required to apply for a parking permit and pay a fee set by the traffic and parking commission and approved by the council to cover the administrative costs.

The Metro Code also provides for a downtown area residential permit parking program whereby residents of the downtown area may apply for a permit that enables them to park on downtown streets without payment of the required parking meter charges. Applicants for the downtown area are required to pay an annual fee set by the traffic and parking commission and approved by the council.

These two ordinances essentially accomplish the same result in that they both would allow permit parking at single-family residences located within 1,500 feet of a college or university. However, the first ordinance amends the current code section regarding residential permit parking, whereas the second creates a new residential permit parking program specifically for university area lots. Only one of these two ordinances should be adopted on third and final reading since the ordinances are related to the same subject matter. These two ordinances have been referred to the traffic and parking commission. A more detailed analysis of the two ordinances is as follows:

Ordinance No. BL2003-1387, as amended, amends the Metro Code to provide that university area residential lots are eligible for residential permit parking on an individual lot basis without first having the geographic area designated as a residential permit parking area and without having to obtain signatures of seventy-five percent of the residents in the area. Pursuant to this ordinance, a "university area individual residential lot" means any lot within the area of the Metropolitan Government that has an erected and occupied single-family residence within 1,500 feet of a university, college, junior college, or other post-secondary school. This ordinance also provides that in addition to the regular residential permit parking fee, the applicant would be required to pay the reasonable costs incurred in the installation of the parking signs.

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ORDINANCE NOS. BL2003-1387 & BL2003-1388 (continued)

Ordinance No. BL2003-1388, as amended, amends the Metro Code by creating a separate university area individual residential lot permit parking program. The definition of university area individual residential lot is the same as provided in Ordinance No. BL2003-1387. This ordinance is essentially modeled after the existing residential permit parking program ordinance. Pursuant to this ordinance, the chief traffic engineer is authorized to restrict parking on streets in front of a university area individual lot to vehicles bearing a valid (continued on next page)

permit, subject to approval by the traffic and parking commission. An application would have to be submitted to the chief traffic engineer for review by staff of the traffic and parking commission. The application is to include the following information: (1) the applicant's name and address; (2) the make, model, color, registration and license plate numbers of the vehicle; (3) driver's license number; (4) time of day that permits will be required; and (5) the maximum amount of time that non-permit holders may legally park. The applicant's vehicle registration must show the applicant's present address, and the applicant must have a valid Tennessee license plate unless the applicant is a full-time college student. The chief traffic engineer would then recommend to the traffic and parking commission whether to designate the lot for a university area individual residential lot permit. The traffic and parking commission would be required to either approve or disapprove the recommendation of the chief traffic engineer.

If the lot is designated for university area individual residential permit parking, then a permit would be issued to the applicant on an annual basis. The fee for the permit must be set by the traffic and parking commission and approved by the council. This ordinance provides that a fee of \$25.00 is approved. The applicant would also be required to pay the reasonable costs associated with the installation of the parking signs. The holder of such permit would be the only vehicle allowed to park on the street in front of the university area individual lot with the exception of service vehicles and vehicles for which a visitor's permit is obtained.

These two ordinances were again deferred by the traffic and parking commission at their meeting of June 9, 2003, but are to be considered at their July 14, 2003, meeting. There will likely be an amendment or substitute ordinance offered as a result of a meeting between public works staff and the sponsors to define the term "university" and remove the requirement that the applicant pay for the installation cost for the signs.

ORDINANCE NO. BL2003-1422 (SONTANY) – This ordinance amends the Metropolitan Code of Laws to increase dog licensing fees and to provide for a licensing fee differential for sterilized dogs. The Metro Code currently requires all dogs kept within Davidson County to be licensed, with the annual license fee set at a fixed \$4.00 per dog, regardless of whether the dog has been spayed or neutered. This ordinance would increase the fee to \$20.00 for each unspayed or unneutered dog and \$5.00 for each sterilized dog. Certification of sterilization would have to be presented at the time the licensing fee is paid to be eligible for the \$5.00 fee. The licensing fee

would not be applicable to registered service animals and law enforcement dogs, nor would senior citizens be required to pay any fee for a spayed or neutered dog. The fee for a duplicate or replacement tag would be an additional \$2.00. In addition, this ordinance lowers the age at which dogs must be vaccinated for rabies from six months to four months.

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ORDINANCE NO. BL2003-1422 (continued)

An amendment will likely be offered to clarify that persons 65 years of age and older will not be required to pay any fee for a dog license.

ORDINANCE NO. BL2003-1475 (NOLLNER) – This ordinance amends the Metropolitan Code of Laws to permit tax-exempt charitable organizations to solicit and collect charitable contributions in the roadway. The Metro Code currently prohibits the solicitation and collection of donations within a public roadway. However, state law provides that a charitable organization that has received a 501(c)(3) status, and who is soliciting and collecting donations, has an affirmative defense to prosecution for obstructing a highway. This ordinance would adopt a similar provision for Metro, whereby charitable solicitations and collections within the roadway will be permitted if the following conditions are met: (1) the charitable organization has received a 501(c)(3) determination of tax exemption from the IRS; (2) the organization has received a written approval from the chief of police or designee; (3) the solicitations are made during daylight hours only; and (4) the organization takes reasonable precautions to prevent traffic disruption.

An amendment will likely be offered to require persons seeking solicitations to wear a reflective safety vest and to include an indemnity provision protecting the Metropolitan Government.

ORDINANCE NO. BL2003-1497 (JENKINS) – This ordinance is a housekeeping amendment to the beer code to correct a referenced code section number. One of the beer code sections refers to a section number that does not exist. This ordinance simply corrects a typographical error in the section number.

ORDINANCE NO. BL2003-1498 (JENKINS, BALTHROP & DERRYBERRY) – This ordinance approves a contract between the Metropolitan Government and Baker, Storey, McDonald Properties, Inc., for contribution of \$13,750 for a feasibility study of the relocation of Fire Hall No. 10 located at 15530 Old Hickory Boulevard and Edmonson Pike. Tri-Data Corporation is currently under contract with Metro for the development of a master plan for the fire department and has quoted a price of \$13,750 to conduct a study of the feasibility of relocating this fire hall. Baker, Storey McDonald has agreed to advance the cost of this feasibility study. Amendments to this contract may be approved by resolution of the Metro Council receiving 21 affirmative votes.

The Council Office would point out that a copy of the contract approved by this ordinance is not attached to the ordinance filed with the Metropolitan Clerk. This ordinance should not be approved until a copy of the contract is filed, as the Council cannot be adequately informed as to the contractual obligations contained therein.

ORDINANCE NO. BL2003-1499 (TYGARD & GILMORE) – This ordinance approves the grant of a permanent sewer easement on Metro property under the jurisdiction of

the department of parks and recreation to the Ensworth School. The board of parks and recreation has determined that the granting of this easement will not negatively impact the usage of the property. The easement to be granted is approximately 271 feet long and 20 feet wide.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2003-1500 (TYGARD & GILMORE) – This ordinance authorizes the director of parks and recreation to accept, execute and record an agreement for the grant of an easement from Ensworth School to be used for the Metro greenway system. This 150-foot trail and access easement and the conservation easement are located on Ensworth School property along the Harpeth River extending from Highway 100 in the Bellevue area. Metro will construct a twelve-foot wide trail for bicycle or pedestrian use along the bank of the Harpeth River.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2003-1501 (STANLEY, TYGARD & OTHERS) – This ordinance authorizes the acquisition of property by negotiation or condemnation for the construction of sidewalks in accordance with the strategic plan for sidewalk capital improvement projects. The sidewalk projects involved with this ordinance are Old Matthews Road, Lischey Avenue, Scholarship Drive, Annex Avenue South, Annex Avenue North, Achievement Drive, Edmonson Pike, Colice Jeanne Drive, Baugh Road, Jacksonian Drive, and Plantation Drive. The cost of these property acquisitions will be funded by USD and GSD multipurpose improvement bonds of 2001.

ORDINANCE NO. BL2003-1502 (JENKINS, HALL & HAUSSER) – This ordinance authorizes the acquisition of easements by negotiation or condemnation in connection with the 54" storm water and 18" water line relocation at Vanderbilt Place and 29th Avenue. The estimated cost for the easement acquisitions total \$40,000 and are to be paid from the water and sewer extension and replacement fund. The easements to be acquired are on the following properties: 110, 114, 116, 118, 120, 122, and 124 30th Avenue South; 2810, 2817, 2900, 2904, 2906, 3000, 3002, and 3004 Vanderbilt Place, 109, 111, 113, 115, 119, and 121 29th Avenue South; 115 and 126 28th Avenue South; and 2817 West End Avenue.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1503 (GREER) – This ordinance declares property owned by the Metropolitan Government located at the corner of 12th Avenue South and Wedgewood Avenue to be surplus, and authorizes the director of public property administration to sell the property. The Metropolitan Government has determined that there is no longer a governmental need for this property. The proceeds from the sale will be credited to the general fund.

ORDINANCE NO. BL2003-1504 (JENKINS, HALL & WALLACE) – This ordinance authorizes the mayor to enter into a licensing agreement with the Nashville and Eastern Railroad Corporation for the purpose of installing and maintaining fiber optic cable in the railroad right-of-way overhead at M.P. 0.97 in the vicinity of the Driftwood Street intersection. The total distance of cable to be installed is approximately 1,660 feet. The license would be in perpetuity, provided, however, that the agreement may be terminated by either party upon six months written notice, and Metro would be required to remove the cable from the railroad's right-of-way. Metro will pay \$750.00

annually subject to increases every three years based upon a consumer price index. In addition, Metro will be required to pay a one-time \$270.00 fee for the license. These costs are to be provided by federal grant funds administered through the Tennessee Department of Transportation.
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ORDINANCE NO. BL2003-1504 (continued)

Metro also agrees to indemnify the railroad to the extent it legally may for claims or injuries arising from the installation and maintenance of the cable. Metro or its contractor will also be required to maintain a \$2,000,000 certificate of public liability insurance. This ordinance further provides that any future agreements with Nashville & Eastern Railroad concerning the use of railroad right-of-way for the installation of fiber optic cable may be approved by resolution of the Council.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1505 (HALL & TURNER) – This ordinance abandons a portion of Otter Creek Road from the western boundary of Radnor Lake State Park to the Oak Hill city limits. It has been determined that this portion of Otter Creek Road is unsafe for vehicular traffic and that the ecology of the area adjacent to the road prohibits the type of repairs necessary to make the road safe. The State of Tennessee as the abutting property owner has consented to this abandonment. Metro will retain all utility easements on the property but is abandoning the easement for highway purposes.

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

ORDINANCE NOS. BL2003-1507 & BL2003-1508 (WALLACE) – These two ordinances amend the Metropolitan Code of Laws to prohibit persons from inhabiting motor vehicles. Since these two ordinances are related to the same subject matter and amend the same section of the Code, only one of these ordinances should be adopted on third reading.

Ordinance No. BL2003-1507 amends the Code to make it unlawful for a person to use a motor vehicle as a place of dwelling within the area of the Metropolitan Government.

Ordinance No. BL2003-1508 amends the Code to prohibit persons from entering an abandoned motor vehicle for the purpose of sleeping, resting, or inhabiting. The Code already prohibits trespassing on enclosed real property.

ORDINANCE NO. BL2003-1509 (PONDER) – This ordinance amends the Metropolitan Code of Laws to clarify that in-line and roller skating is permitted on an undivided two-lane roadway in a residence district. The purpose of this ordinance is to clear up some ambiguity surrounding the existing in-line skating ordinance. The current ordinance provides that a person may not operate scooters, in-line skates, or roller skates on public roadways except as otherwise provided in the ordinance. The problem with this language is that there is no other provision in the ordinance stating where in-line skating is permitted. Thus, the ordinance can be interpreted as an outright ban on in-line skating.

This ordinance modifies this Code section to provide that scooters, in-line skates and roller skates may be operated on an undivided two-lane roadway in a residence district. In-line skating would also be permitted on a designated bicycle lane adjacent to or as a part of any public roadway. Furthermore, if a designated bicycle lane happens to be adjacent to an undivided two-lane residential street, then skating would be restricted to the bicycle lane.

There is a housekeeping amendment to correct a section numbering error.

ORDINANCE NO. BL2003-1510 (SHULMAN) – This ordinance amends the Metropolitan Code of Laws regarding the collection of garbage during nighttime hours. The current Code provisions prohibit the collection of garbage between the hours of 11:00 p.m. and 7:00 a.m. for containers located within 300 feet of a residential structure outside of the CC and CF zoning districts. This ordinance would apply the collection time restriction to hotels, motels, and bed and breakfast establishments as well. In addition, this ordinance would add certain dumpster-type container requirements. Specifically, dumpsters located within 300 feet of a residence, motel, hotel, or bed and breakfast would be required to have a non-metal lid and have a label affixed to the outside of the container indicating the owner's name, the telephone number of the owner, and the telephone number of the Codes department.

ORDINANCE NO. BL2003-1511 (HALL & JENKINS) – This ordinance approves an agreement between the U.S. Department of Army and the department of water and sewerage services for the North First Street streambank protection project. The construction project will consist of minimal clearing, bioengineering, and the placing of stone along the bank of the Cumberland River. The estimated cost of the project is \$460,000, with Metro water services being responsible for 35% of the cost (\$161,000). Any amendments to this agreement must be approved by resolution of the Council.

ORDINANCE NO. BL2003-1512 (LORING & HALL) – This ordinance approves an agreement between the Metropolitan Government and Opry Mills Operating Company, LLC, Opryland Attractions, Inc., and OLH, G.P. (Property Owners) regarding the operation and maintenance of flood protection improvements along the Cumberland River. This agreement involves a flood protection system for approximately 400 acres of property in the Opryland area in the vicinity of Briley Parkway and McGavock Pike. This agreement is necessary to qualify the property for protection under the national flood insurance program administered by the Federal Emergency Management Agency (FEMA). FEMA requires that such flood protection systems be maintained or operated by a governmental entity.

Pursuant to this agreement, Metro will assume jurisdiction and responsibility for the operation and maintenance of the flood control system. The flood control system consists of levees, catch basins, valves, drains, pumping stations, culverts, storm sewers, and storm detention areas. The owners of the property covenant that they will continue to operate and maintain the system in accordance with applicable laws and will indemnify the Metropolitan Government against damages arising out of the property owners' failure to properly operate and maintain the system. Thus, this agreement should not result in any increased cost to Metro. The agreement also "runs with the land", meaning that it will be binding on all subsequent owners of the property. The term of this agreement is for 30 years, with automatic renewal terms of 30 years each unless the agreement is terminated. Any amendments to this agreement must be approved by resolution of the Council.

ORDINANCE NO. BL2003-1513 (WALLACE) – This ordinance declares certain parcels of property owned by the Metropolitan Government along Hermitage Avenue, Franklin Street, and Peabody Street (commonly known as Rolling Mill Hill) to be surplus, and authorizes the director of public property administration to transfer the property to the Metropolitan development and housing agency (MDHA) for redevelopment. The Rolling Mill Hill property (continued on next page)

ORDINANCE NO. BL2003-1513 (continued)

is to be redeveloped as a mixed-use development to provide housing opportunities in downtown Nashville. MDHA is preparing a master plan detailing the locations and types of uses pertaining to the redevelopment of the property.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2003-1514 (GREER & HALL) – This ordinance authorizes the director of public property administration to acquire, by negotiation or condemnation, property interests to 47 parcels of property for the 12th Avenue South streetscape improvement project. The streetscape improvements to be made include roadway improvements, sidewalks, curbs and gutters, on-street parallel parking, drainage, and street lighting from Halcyon Avenue to Ashwood Avenue. The costs of this project are to be funded by the GSD multi-purpose improvement bonds of 2002.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1515 (HALL & GILMORE) – This ordinance authorizes the director of public property administration to convey a 169 sq. ft. slope easement on the Alex Green School property to the State for construction of sidewalks on Granny White Pike from Lloyd Road to the Alex Green School entrance. This easement will be conveyed in consideration for the state's construction of the sidewalks. The board of education has approved the conveyance of this easement.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1516 (WALLACE) – This ordinance authorizes Warner Music Group to construct and maintain a communication duct under the public right-of-way between the buildings located at 20 and 21 Music Square East. Warner Music Group has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the communication duct. Furthermore, Warner Music Group is required to post a \$300,000 certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1517 (WHITMORE) – This ordinance closes a portion of 41st Avenue North from the south margin of Alley #1204 to Indiana Avenue. This closure has been requested by Andrew M. Akers, the abutting property owner. It has been determined that there is no future governmental need for this portion of 41st Avenue North. The Metropolitan Government will retain all easements.

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

Information regarding consent of the affected property owners has been requested from the planning commission staff.

ORDINANCE NO. BL2003-1518 (SHULMAN) – This ordinance closes Harcome Avenue between Belvidere Drive and Woodvale Drive. This closure has been requested by Hugh M. Goodman, Jr., on behalf of Amy Ryder, Philip Kirby, Sharon Kirby, and Nancy Shipley, the abutting property owners. Harcome Avenue is an unbuilt street and it has been determined that there is no future governmental need for this right-of-way. The Metropolitan Government will retain all easements.

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

Information regarding consent of the affected property owners has been requested from the planning commission staff.

ORDINANCE NO. BL2003-1519 (WALLACE) – This ordinance authorizes Parkway Properties, L.P., to construct and maintain various encroachments on the sidewalk at the Bank of America Building and Plaza located at Union Street and 5th Avenue North. The encroachments consist of the following:

1. Aggregate planters along Union Street and 5th Avenue North;
2. A canopy over the Union Street entrance of the Bank of America Plaza Building, extending 10 feet over the public sidewalk and measuring 15 feet above the sidewalk; and
3. Alternate paving materials at the Bank of America Plaza entrance on Union Street and Bank of America Plaza Building entrance on Union Street.

Parkway Properties, L.P., has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of encroachments and is required to post a \$300,000 certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1520 (BEEHAN) – This ordinance authorizes St. Ann's Episcopal Church to construct and maintain a fence partially within the public right-of-way along South 4th Street and Woodland Street. This fence is necessary so that the area may be used for special events parking. St. Ann's has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of encroachments and is required to post a \$300,000 certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1521 (WALLACE) – This ordinance closes alley #233 between 12th Avenue South and 11th Avenue South, just south of Laurel Avenue, in

connection with the Gulch redevelopment project. Metro has determined that there is no future governmental need for this portion of the alley. This closure has been requested by Richard and Sheryl Horton for Joseph and Ginger Finch, Trustees, and Laurel House 2001, L.P., the abutting property owners. The Metropolitan Government will retain all easements.

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ORDINANCE NO. BL2003-1521 (continued)

This ordinance has been approved by the planning commission and the traffic and parking commission. Information regarding consent of the affected property owners has been requested from the planning commission staff.

ORDINANCE NO. BL2003-1522 (WALLACE) – This ordinance closes a portion of Alley #378 extending from the east margin of 18th Avenue North between Church Street and State Street for the benefit of the U.S. Postal Service. Metro has determined that there is no future governmental need for this portion of the alley. The Metropolitan Government will retain all easements.

This ordinance has been referred to the planning commission, and has been disapproved by the traffic and parking commission.

Information regarding consent of the affected property owners has been requested from the planning commission staff.

ORDINANCE NO. BL2003-1523 (GREER & HAUSSER) – This ordinance closes a 266-foot portion of Alley #428, a small portion of Alley #393, and a 75-foot portion of 13th Avenue South extending south from Wedgewood Avenue. Metro has determined that there is no future governmental need for these areas. This closure has been requested by Robert Gowan for Mark Tarver, a prospective property owner, and Ted Walker, the abutting property owner. The Metropolitan Government will retain all easements.

This ordinance has been approved by the planning commission and referred to the traffic and parking commission for consideration on July 14, 2003.

Information regarding consent of the affected property owners has been requested from the planning commission staff.

ORDINANCE NO. BL2003-1524 (BLACK) – This ordinance abandons Alley #514 located on the property of St. Cecilia Dominican Order. Metro has determined that there is no future governmental need for this alley. This alley closure is necessary for the expansion of the convent. This closure has been requested by Tommy J. Martin of AMEC Earth & Environmental, Inc., on behalf of St. Cecilia Dominican Order. All easements held by Metro are to be abandoned. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2003-1525 (HALL) – This ordinance closes unbuilt Alley #314 between Cowan Street and Oldham Street. Metro has determined that there is no future governmental need for this portion of the alley. This closure has been requested by Robert Gary Lindsey for Turner H. and Clara Jo Todd, Dacco, Inc., the Thelma R. Frazier Family Partnership, and Virah Corporation, the other abutting property owners. The Metropolitan Government will retain all easements.

This ordinance has been approved by the planning commission and the traffic and parking commission. Information regarding consent of the affected property owners has been requested from the planning commission staff.

- BILLS ON THIRD READING -

SUBSTITUTE ORDINANCE NO. BL2003-1353 (SUMMERS) – This substitute ordinance amends the Metropolitan Code of Laws to exempt restaurants located on property subject to a commercial planned unit development (PUD) that 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.

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. Also pursuant to this substitute, the state definition of “restaurant” would be used in determining the applicability of this ordinance. The state definition of restaurant includes primarily eating establishments with seating capacity of at least 75 people at tables, or a gourmet restaurant with a seating capacity of at least 40 people.

An ordinance that would have exempted restaurants possessing a state liquor license from the minimum distance requirements was defeated by the council in April of 2002.

ORDINANCE NO. BL2003-1364 (GILMORE, MCCLENDON & TUCKER) – This ordinance makes applicable to the Metropolitan Government the provisions of Part 7 of Chapter 211 of Title 68 of Tennessee Code Annotated (commonly referred to as the “Jackson Law”) to require local approval of landfills, solid waste disposal facilities, and solid waste processing facilities prior to construction of such facilities and prior to an issuance of a permit by the state department of environment and conservation. The Jackson Law was enacted principally to enable smaller local government legislative bodies with limited zoning requirements to have some control over the siting of proposed landfills and solid waste facilities. If this ordinance is adopted it would require that public notice be given to inform interested persons in the area of a proposed landfill, waste processing facility, or waste disposal facility, and that interested persons be given the opportunity to request that the local legislative body hold a public hearing prior taking action on the matter.

The Jackson Law does not expressly define the terms “waste processing facility” and “waste disposal facility”, though the terms are defined in the Tennessee Solid Waste Act. “Solid waste disposal” is defined under the Act as “the process of permanently or indefinitely placing, confining, compacting, or covering solid waste.” “Solid waste processing” is defined as “any process that modifies the characteristics or properties of solid waste, including but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.” According to a decision by the Tennessee Court of Appeals in *Profill Development, Inc. v. Dills*, a recycling facility that falls within the definition (continued on next page)

ORDINANCE NO. BL2003-1364 (continued on next page)

of “solid waste processing facility” is covered by the provisions of the Jackson Law and requires local government approval. The *Profill* case also clarified that both public and private permit applicants must obtain local legislative approval if the municipality has opted into the provisions of the Jackson Law.

The Metropolitan Code of Laws already requires that all requests for special exceptions, including sanitary landfills and waste transfer facilities, be approved by resolution of the Metropolitan Council prior to consideration by the board of zoning appeals. The Council Office contacted the state department of environment and conservation to obtain some clarification as to the types of facilities to which the Jackson Law would apply. The department indicated that the Jackson Law would be applicable to a recycling center that fell within the definition of "waste processing facility", but a collection center would not. The Metro Zoning Code defines "collection center" as "a facility which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable material."

Representatives from the state department of environment and conservation also informed the public works committee on May 20, 2003, that recycling facilities such as Rivergate Recycling that are not required to obtain a state permit would not require Metro approval if the provisions of the Jackson Law are adopted.

State law requires that this ordinance be adopted by a two-thirds majority vote of the council (27 votes) prior to its adoption on third reading.

ORDINANCE NO. BL2003-1399 (SUMMERS) - This zoning text amendment makes several modifications and additions to the zoning provisions regarding college and university institutional areas. Foremost, this zoning text change eliminates the Institutional (I) zoning district. The present zoning code provides that Institutional (I) and Institutional Overlay (IO) districts must be applied concurrently over existing and future college campus areas in accordance with the institution's campus master plan. The planning commission staff analysis of this text change indicates that the purpose of eliminating the I District is to remedy the low community acceptance of the district. The current I district applies not only to properties within a campus master plan area that have been acquired by the institution, but also applies to properties that have not yet been acquired. By eliminating the I district, this ordinance would result in the Institutional Overlay (IO) as the sole zoning district applying to institutional areas.

In addition to the elimination of the I district, this ordinance modifies the provisions regarding the IO district. First, the ordinance amends the development standards for IO districts by removing the 100-foot minimum setback requirement for campus-related buildings from residential zoning districts. The ordinance also provides that existing structures within the boundaries of an approved campus master development plan can remain in conformance with the base zoning districts until construction begins after final site approval. In addition, the ordinance provides that expansions of institutional-related uses are to be in accordance with an approved phasing plan, be supported by adequate infrastructure improvements, and are to contain an adequate buffer yard to protect adjacent residential properties.

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ORDINANCE NO. BL2003-1399 (continued)

Finally, this ordinance distinguishes between major and minor modifications to the approved campus master development plan. A minor modification is a change that does not exceed 10% of any square footage limitation, building setback, lot coverage, landscaping requirement, parking requirement, or dimensional requirement relating to fences or walls. Approval for minor modifications may be granted by the planning director without planning commission consideration and Council approval. All other modifications are considered major modifications and would require recommendation by the planning commission and consideration by the Council. This text change has been approved by the planning commission.

ORDINANCE NO. BL2003-1400 (WATERS) - This ordinance, as amended, amends the Metropolitan Code of Laws to provide for reimbursement of customer overpayments for water and sewer services. The Metro Code sections regarding water rates and charges provide for the

classification of customers into four classes for the purpose of billing. These four classes are described as follows:

1. Residential – Up to 2 housing units on a common meter
2. Small commercial – Up to 1,600 cubic feet per month
3. Intermediate commercial and industrial – 1,600 to 200,000 cubic feet per month
4. Large commercial and industrial – Over 200,000 cubic feet per month.

This ordinance would only affect commercial customers since there are three different classes of commercial usages, as opposed to only one residential class.

Pursuant to this ordinance, if the director of water and sewerage services shall determine whether a customer has been overcharged during the previous 36 months upon receipt of a request by that customer. The customer's most recent 12-month usage period would be used in determining the applicable rate in the event of a claimed error in usage calculation. If the customer was overcharged, then the department shall reimburse the customer in the amount of the customer's overpayment. This ordinance expressly provides that no reimbursement shall be made for any overcharge that occurred prior to the effective date of this ordinance. Thus, the provisions of this ordinance are not to be applied retroactively.

ORDINANCE NO. BL2003-1431 (HAUSSER & WALLACE) – This ordinance renames a 200-foot segment of Capers Avenue as “Children’s Way”. The section of Capers Avenue to be renamed is located parallel to Blakemore Avenue between 21st Avenue South and 22nd Avenue South. This ordinance has been approved by the planning commission and the ECD board.