

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **March 16, 2004**

RE: **Analysis Report**

Balances As Of:	<u>3/10/04</u>	<u>3/12/03</u>
<u>GSD 4% RESERVE FUND</u>	\$25,823,029	\$9,319,616
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$24,779,757	\$35,850,689
USD	\$8,433,994	\$13,909,890
<u>GENERAL PURPOSE</u> <u>SCHOOL FUND</u>	\$38,771,091	\$53,181,288

- RESOLUTIONS -

RESOLUTION NO. RS2004-140 (TYGARD, ISABEL & OTHERS) - This resolution establishes a task force to determine the highest and best use for the downtown thermal plant property. As a result of the construction of the new district energy system, the thermal plant is no longer being used by the Metropolitan Government. The Nashville Sounds baseball team has proposed that a downtown stadium be constructed on the now vacant thermal plant site. Although no official proposal for the construction of a stadium has been filed with the Council, this resolution would create a task force to determine the highest and best use of the property. The task force will be charged with the duty of establishing the current fair market value of the thermal plant property and of soliciting and reviewing any and all proposals for the development of the property. The task force is to report its findings to the Council within 60 days of convening.

The task force will consist of 18 members to be selected and appointed by the vice mayor. The task force is to include a representative from the following professions, agencies, and associations:

1. A licensed and practicing architect
2. A licensed and practicing engineer
3. Assessor of Property or designee
4. A certified public accountant or other person with financial or banking background
5. Director of the Metropolitan Convention and Visitors Bureau or designee
6. Director of the Metropolitan Planning Commission or designee
7. Director of the Nashville Sports Council or designee
8. Director of the Regional Transportation Authority or designee
9. Executive Director of MDHA or designee
10. Member of the Downtown Partnership owning commercial office or retail property
11. Member of the Downtown Partnership owning multi-family residential property
12. Member of the Nashville Business Coalition
13. President of the Nashville Chamber of Commerce or designee
14. President of the Nashville Hotel/Motel Association or designee
15. Representative of the public relations industry
16. Three members of the Metropolitan Council; one each from the Planning and Zoning Committee, the Budget and Finance Committee, and the Parks and Recreation Committee.

The task force is to give notice of all meetings to the public and is expressly authorized to rely on outside experts in determining the highest and best use of the property.

RESOLUTION NO. RS2004-182 (GILMORE & JAMESON) - This resolution approves a \$25,000 donation from the James Stephen Turner Charitable Foundation to the Metropolitan arts commission to research, discuss, and recommend opportunities for art in transit projects. The Metropolitan Code of Laws allows the arts commission to accept funds from other arts organizations and private entities for disbursement to deserving nonprofit civic and charitable organizations, subject to approval by resolution of the Council.

RESOLUTION NO. RS2004-209 (MURRAY) – This resolution appropriates \$50,000 in community development block grant funds for property acquisition and related costs for affordable housing sites in the Cleveland Park neighborhood strategy area. Ordinance Nos. BL2001-868 and BL2002-1230 approved the applications for the 2002-2004 community block grant program, which included funds allocated for the Cleveland Park neighborhood strategy area. The expenditure of these funds for this purpose has been recommended by the Cleveland Park citizen advisory committee.

RESOLUTION NO. RS2004-210 (GILMORE) – This resolution authorizes the Council to contract for financial consulting services to assist in the adoption of the fiscal year 2004-2005 operating budget. The chairperson for the budget and finance committee desires to have such consulting services to assist in the review and adoption of the operating budget. A request for proposals (RFP) will have to be issued before such a consulting contract may be awarded. The resolution provides that the executive committee of the Council shall oversee the criteria for the RFP, the contract terms, and the selection of the consultant. Such consultant shall have a degree in accounting or finance, be a certified public accountant, and have experience in governmental accounting and/or auditing. In the past, the Council has not contracted for consulting services regarding the review and adoption of the budget.

RESOLUTION NO. RS2004-211 (GILMORE) – This resolution authorizes the director of finance to accept and allocate \$173,965 in private sector funds for the purposes of marketing and promoting Nashville, and to appropriate \$173,965 in public matching funds. Substitute Ordinance No. BL2003-1471, the fiscal year 2003-2004 operating budget, authorizes the finance director to allocate up to \$2 million from the hotel occupancy tax fund, subject to a dollar for dollar private sector match, for the purpose of marketing and promoting Nashville. The total amount of \$347,930 will be allocated to the convention and visitors' bureau. The following private organizations have contributed matching funds for this purpose:

ORGANIZATION PROJECT AMOUNT

- AAA 2004 Marketing Campaign:**
- Grand Ole Opry - \$10,000.00
- Country Music Hall of Fame - \$10,000.00
- Studio B - \$10,000.00
- Frist Center for the Visual Arts - \$10,000.00
- Nashville Zoo - \$10,000.00

Subtotal \$50,000.00

- Winter Gannett Newspaper Insert:**
- Best Western Airport - \$1,615.00
- Courtyard Properties - \$3,625.00
- Embassy Suites - \$3,625.00
- Frist Center for the Visual Arts - \$3,081.00
- Gaylord Opryland Resort - \$7,000.00
- Grayline Tours - \$3,081.00
- Hilton Suites Downtown - \$3,081.00
- Holiday Inn Select Vanderbilt - \$1,900.00
- Loews Vanderbilt Plaza - \$3,081.00

RESOLUTION NO. RS2004-211 (continued)

Nashville Marriott Airport - \$3,081.00
Nashville Marriott Vanderbilt - \$1,615.00
Quality Inn Suites - \$1,615.00
Renaissance Hotel - \$5,950.00
Sheraton Music City - \$1,615.00

Subtotal \$43,965.00

Convention Sales Road Shows:

Embassy Suites Nashville Airport - \$5,000.00
Gaylord Opryland Resort - \$20,000.00
Hilton Suites Downtown - \$5,000.00
Loews Vanderbilt Plaza - \$5,000.00
Nashville Marriott Airport - \$5,000.00
Nashville Marriott Vanderbilt - \$5,000.00
Millennium Maxwell House - \$5,000.00
Renaissance Hotel - \$5,000.00
Sheraton Downtown - \$5,000.00
Sheraton Music City - \$5,000.00
Downtown Convention Collection - \$15,000.00

Subtotal \$80,000.00

TOTAL \$173,965.00

RESOLUTION NO. RS2004-212 (GILMORE) – This resolution authorizes the Metropolitan Government to accept a \$5,000 grant from the Junior League of Nashville to help underwrite the costs of the second annual Mayor’s Summit on Children and Youth. The purpose of the summit is to bring policymakers, experts, youth, and advocates together to analyze issues facing Nashville’s youth. Once this grant is received, the funds will be appropriated to the mayor’s office of children and youth fund.

RESOLUTION NO. RS2004-213 (GILMORE) – This resolution approves the sixth amendment to a grant from the state department of correction to the state trial courts to fund the operation of the supervision and day reporting center. The purpose of the program is to provide an alternative punishment program for nonviolent offenders. The original grant was approved in 2001 and was for a three-year term to expire June 30, 2004. This resolution amends the grant to increase the grant award in the amount of \$26,533, for a total grant award of \$2,573,359.

RESOLUTION NO. RS2004-214 (GILMORE) – This resolution accepts a grant in the amount of \$224,910 from the state emergency management agency to the mayor’s office of emergency management to prepare first responders for weapons of mass destruction, and terrorist incidents involving chemical, biological, radiological, nuclear, or explosive devices. These are federal pass through funds from the U.S. department of homeland security to enhance the capabilities of state and local first responders through the development of a state homeland security training program. This grant is for a term beginning August 1, 2003, and extending through February 28, 2005.

RESOLUTION NOS. RS2004-215, RS2004-216, RS2004-217 & RS2004-218 (DREAD & GILMORE) – These four resolutions approve additional grants from the state emergency management agency to the Metropolitan Government to prepare first responders regarding homeland security and to provide supplemental funding for local emergency management assistance. These four grants are all federal pass-through funds from the U.S. department of homeland security.

Resolution No. RS2004-215 approves a grant in the amount of \$1,444,463 to acquire equipment to enhance the capabilities of first responders for homeland security. The term of the grant is from August 1, 2003, through February 28, 2005. These funds will be used to acquire personal protective equipment, communications equipment, detection equipment, physical security enhancement equipment, terrorism incident prevention equipment, and logistical support equipment.

Resolution No. RS2004-216 approves a grant in the amount of \$272,000 to train emergency responders and assess readiness to prevent and respond to a terrorist attack. The term of the grant is from March 1, 2004, through June 30, 2004. These funds will be used to staff the position of an exercise coordinator and to contract with a consultant to design and conduct a terrorism training exercise.

Resolution No. RS2004-217 accepts a grant in the amount of \$117,656 to provide supplemental funding to the mayor's office of emergency management. The term of the grant is from October 1, 2003, through September 30, 2004.

Resolution No. RS2004-218 accepts a grant in the amount of \$40,000 to prepare first responders to deal with terrorism incidents involving chemical, biological, nuclear, or other explosive devices. The term of the grant is from August 1, 2003, through February 28, 2005. These funds will be used to hire a consulting firm to develop a strategic plan for dealing with such incidents.

RESOLUTION NO. RS2004-219 (LORING) – This resolution authorizes the mayor to enter into a licensing agreement with Nashville and Eastern Railroad Corporation for the construction of a 48" water main under the railroad right-of-way at M.P. 2.15 adjacent to Fesslers Lane. Metro will be responsible for all construction costs and will repair any damage caused to the railroad property. Metro agrees, to the extent legally permissible, to indemnify the railroad for claims resulting from the installation of the water main and agrees to require its contractors to maintain \$2 million in liability insurance. This license agreement shall be in perpetuity, subject to cancellation by either party upon ninety (90) days written notice. In the event of cancellation, Metro agrees to remove the water line at its own expense. Metro will pay a one-time fee of \$300 to be paid from the water and sewer extension and replacement fund to cover the railroad's costs in executing this agreement.

RESOLUTION NO. RS2004-220 (WHITMORE & GILMORE) – This resolution approves an agreement between the state department of transportation and the Metropolitan Government for reimbursement of funds expended for litter pickup. This grant was approved by the Council in August of 2003, but the state department of finance and administration has determined that the previously executed contract format is not acceptable. This resolution approves a new grant contract that changes the form but not the substance of the grant. This grant agreement, in the amount of \$254,500, is to fund the administration of a continuing program for the use of inmates at the county workhouse (continued on next page)

RESOLUTION NO. RS2004-220 (continued)

to clean up trash along the roadsides. The program uses work crews made up of misdemeanor offenders supervised by a correctional officer to pick up trash six days per week. The grant specifies that \$76,300 of the grant funds must be used for litter prevention education, which will be undertaken by the Metro beautification bureau. The term of this grant is from July 1, 2003, through June 30, 2004.

RESOLUTION NO. RS2004-221 (HUGHES & GILMORE) – This resolution authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation (TDOT) for the construction of a bridge on Old Hickory Boulevard over Whites Creek. In order to construct the bridge, it is necessary that a part of the water and sewer distribution and collection system be relocated. Pursuant to this agreement, Metro will pay \$3,140 out of the water and sewer extension and replacement fund to the state to perform the work for this utility relocation. These funds will be deposited into the local government investment pool program so that the funds can earn interest until they are used by TDOT.

RESOLUTION NO. RS2004-222 (NEIGHBORS & GILMORE) – This resolution approves a grant in the amount of \$60,000 from the state department of health to the Metropolitan board of health to administer telephone surveys to assess the knowledge and attitudes regarding influenza immunization and disease. Pursuant to the grant provisions, Metro board of health employees will conduct 4,000 telephone surveys. Participants will be randomly selected from adult residents throughout Tennessee, but a minimum of 1,000 surveys shall be completed from each of the state's three grand divisions. The final data shall be provided to the state department of health by April 1, 2004.

RESOLUTION NO. RS2004-223 (GILMORE) – This resolution compromises and settles the lawsuit of Norma Sue Patterson and Tommy Patterson, Jr., against the Metropolitan Government for the amount of \$65,000. On November 26, 2000, Mrs. Patterson fell and broke her ankle as she was exiting the Banquet Building at the Fairgrounds while attending the flea market. The doorway that Mrs. Patterson exited opened to an immediate drop in elevation due to the location of two steps outside the exit. The steps located outside of the exit door do not meet our current building code, nor did they meet the building code in effect in 1976 when the steps were constructed. The building code required that exit doorways open to a landing and not open immediately upon stairs. The steps were not colored to distinguish them from the pavement, nor were they coated with a non-slip material.

As a result of the fall, Mrs. Patterson suffered a broken ankle requiring three surgeries to repair. She incurred \$37,527.26 in medical expenses, \$2,430.25 in lost wages and \$1,500 in caregiver expenses. Since the steps were not constructed in conformance with the standard building code, Metro is guilty of negligence per se. Thus, the plaintiff is not required to prove that Metro had notice of the defective conditions. Statements from several doctors indicate that the medical expenses were reasonable and necessary. The department of law recommends settling this lawsuit in the amount of \$65,000 to be paid from the self-insured liability fund. This will compensate the plaintiff for her medical bills, lost wages, and pain and suffering, and for the loss of consortium for her husband.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2003-3 (GILMORE) – 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 to taking action on the matter. If adopted, this ordinance would require the Council to approve the siting of all landfills, solid waste disposal facilities, and solid waste processing facilities before a state permit for the facility could be issued and construction commenced.

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 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.”

Based on the interpretation of the above definitions, the Jackson Law would apply to facilities such as sanitary landfills, construction and demolition landfills, recycling centers that reduce the volume of or separate waste, and waste transfer stations that sort and separate waste. 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 (continued on next page)

ORDINANCE NO. BL2003-3 (continued)

not require Metro approval if the provisions of the Jackson Law are adopted. The Jackson Law would not apply to landfills that already have a state permit and are in operation unless the facility sought to enlarge its size by lateral expansion or new construction.

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. An identical bill to adopt the provisions of the Jackson Law was pending with the Council for several months in 2003 before it was withdrawn by its sponsor.

ORDINANCE NO. BL2004-169 (RYMAN, WALLACE & GILMORE) – This ordinance approves the extension of two contracts between the Metropolitan Government and the City of Goodlettsville to provide sewer service. In 1967 Goodlettsville and the Metropolitan Government entered into a forty-year contract whereby Metro agreed to provide sewer transportation and treatment services to Goodlettsville. Metro and Goodlettsville entered into another agreement in 1994 to expand Goodlettsville’s sewer collection system and to improve sewer service. This 1994 agreement had a three-year option agreement, which would make the termination date June 30, 2007. The long-term agreement with Goodlettsville, as well as agreements with other area municipalities, were negotiated as a result of a federal mandate to clean up streams and rivers. Metro was the main entity involved in the sewer improvements, and thus has paid most of the costs for system improvements. The terms of the current long-term contract greatly favored Goodlettsville to the detriment of Metro. Goodlettsville desired to extend the long-term contract on the same terms, but Metro water and sewer would not agree to such an extension unless Metro was reimbursed for the capital expenditures it has made for Goodlettsville’s system.

Goodlettsville is considering constructing their own treatment facility, but the permit process for doing so is quite lengthy. As a result, Goodlettsville desires to extend these agreements for one year to allow them more time to pursue the permit process, should they elect to do so. Metro is also in the process of reviewing the treatment costs to ensure that any new such agreements are fair to Metro. This ordinance would extend the existing two agreements for one year to allow additional time for the permit and review process.

ORDINANCE NO. BL2004-170 (WALLACE) – This ordinance amends the Metropolitan Code of Laws to require that parking lots and garages used for special event parking place a sign indicating the fee to be charged for such special event parking at the entrance of the parking lot or garage. Many of the commercial garages already display such a sign, but many lots that only offer paid parking to the public for special events do not. This ordinance would require that the sign be of an adequate size to be clearly visible and legible to the motoring public.

ORDINANCE NO. BL2004-171 (WHITE & WALLACE) – This ordinance abandons a sewer easement encumbering real property owned by Fox Ridge Homes, Inc., for the Rivers Edge/Jackson Downs project. Fox Ridge Homes, Inc., has installed a new sewer line, which adequately serves the lots and neighboring properties. This easement is no longer being used by the department of water and sewerage services. Any future amendments to this ordinance may be approved by resolution of the Council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-172 (GILMORE & WALLACE) – This ordinance authorizes the director of public property administration to acquire easements to real property, by negotiation or condemnation, for the Harding Place 8” sanitary sewer extension in connection with the Tennessee Department of Transportation’s widening of Murfreesboro Pike. Easements are to be required for property located at 1824 Murfreesboro Pike, and 1821 and 1823 Old Murfreesboro Pike. The estimated cost for the acquisition of these easements is \$4,500, which is to be paid from the water and sewer extension and replacement fund. Amendments to this ordinance may be approved by resolution of the Council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-173 (CRAFTON) – This ordinance amends the Metropolitan Code of Laws to conform Metro’s residency requirements for a certificate of compliance for a retail liquor license to be the same as the state requirements for the issuance of a retailer’s liquor license. The Metro Code currently requires that any person seeking a certificate of compliance to sell packaged liquor must have been a resident of the area of the Metropolitan Government for at least two years before the issuance of such a certificate. The Code also provides that if the application is for a corporation, then all of the capital stock must be owned by individuals who have been a resident of the area of the Metropolitan Government for at least two years, and no stock may be transferred to any person that has not been a Davidson County resident for two years.

The state law, on the other hand, only requires that applicants for retailer’s liquor license be residents of the State of Tennessee for two years. This ordinance would amend the Metro Code to conform to the state residency requirement. This ordinance also adds a provision found in the state law prohibiting a person owning stock in a liquor store from obtaining a certificate of compliance if he/she has any interest in another business licensed to engage in the sale or distribution of liquor.

ORDINANCE NO. BL2004-174 (SUMMERS & WHITMORE) – This ordinance authorizes the director of public property administration to accept the grant of easements for use in connection with the development of the Richland Creek greenway. These perpetual easements will be utilized as part of Metro’s greenway system with a pathway for bicycles or pedestrian travel, nature trail, and/or natural area. Easements are to be accepted from the following property owners:

- Lionhead Condo Homeowners Association 0.38 acres
- St. Mary Villa 0.71 acres
- Nashville Electric Service 2.34 acres
- CBL/Lionhead Village, LLC 0.03 acres
- State of Tennessee 11.51 acres
- U.S. Army Reserves 2.14 acres

This ordinance has been approved by the planning commission and referred to the board of parks and recreation.

ORDINANCE NO. BL2004-176 (WALLS) – This ordinance closes a 322-foot portion of 50th Avenue North between Tennessee Avenue and Kentucky Avenue. Metro has determined that there is no future need for this portion of the street for governmental purposes. This closure has been requested by Donna Pollack, for the Alice W. Jew Foundation, and Marie Elkins and John A. Davis, the other abutting property owners. Metro will retain all easements.

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

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- BILLS ON THIRD READING -

ORDINANCE NO. BL2003-105 (SUMMERS) – This ordinance abandons and relocates a portion of an 8” sewer line and easement on property owned by Browning & Bacon Properties, LLC located at West End and Craighead Avenues. The existing sewer line and accompanying easement are no longer being used by the department of water and sewerage services. This abandonment is conditioned upon the installation and acceptance by Metro water and sewer of the proposed relocation. Any future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-121 (ADKINS, SHULMAN & OTHERS) – This ordinance amends the Zoning Code to increase the area from the subject property for which notices are mailed to the public regarding zoning change requests. The current Code requires that notice of zoning change requests be mailed to property owners located within a certain distance from the subject property at least 21 days before a public hearing. The distances range between 300 to 500 feet from the subject property, depending on the intensity of the zoning change request. This ordinance would double these distances for which notices would be sent to property owners. This ordinance would provide for the mailing of notices to property owners based on the distance from the subject property as follows:

<u>From</u>	<u>To</u>	<u>Distance</u>
Agricultural or Residential	Industrial	1,000 feet
Agricultural or Residential	Institutional, mixed-use, office, commercial or shopping center	800 feet
All other -----		600 feet

The planning department has determined that this ordinance would result in an increase of approximately two-thirds more notices being mailed to property owners. This ordinance would have a significant cost increase based on staff time, paper, and postage. The Zoning Code provides that the planning commission may develop fee schedules to defray such costs subject to Council approval. The planning commission has approved this ordinance.

ORDINANCE NO. BL2004-123 (ISABEL) – This ordinance closes Alley #1059 and an unnumbered alley located between North Avondale Circle and Avondale Circle. This closure has been requested by Gene and Teresa George, the adjacent property owners. Metro will retain all easements. This ordinance has been approved by the planning commission and traffic and parking commission.

This ordinance needs to be amended to only close the unnumbered alley and a new sketch must be attached to the amendment. There was not an intention to close Alley #1059. This will require a suspension of the rules as this ordinance is on third reading.

ORDINANCE NO. BL2004-125 (ISABEL, WHITMORE & OTHERS) – This ordinance names the new north police precinct station in honor of retired Captain William David Bodenhamer. The Metro Code of Laws provides that no building of the Metropolitan Government may be named except pursuant to an ordinance enacted by the Council. The Code further requires that biographical information regarding the person in honor of whom the building is named be attached to the ordinance. The last ordinance naming a Metro building was enacted in 1997, which named the fire station located at 4201 Gallatin Road in honor of the late Chief Russell Campbell.

ORDINANCE NO. BL2004-126 (SUMMERS & SHULMAN) – This ordinance declares a parcel of property owned by the Metropolitan Government located off of Woodmont Boulevard to be surplus, and authorizes the director of public property administration to sell the property for the highest and best price. 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. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-129 (BRILEY) – This ordinance approves a license agreement between the Metropolitan Government and United States Filter Corporation for the use of U.S. Filter's patented process related to the removal of sulfides from flow in sewer lines. Nashville has been a customer of U.S. Filter for over twenty years, and in consideration of this long-term relationship, U.S. Filter is granting the license for the nominal fee of \$1.00 per year. The patented sulfide removal process is used as part of Metro Water Services' wastewater odor control program. This license is to expire not later than December 9, 2008.

ORDINANCE NO. BL2004-134 (WALLACE & BRILEY) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Tiara Development to provide sewer service to phase 3 of the Willowmet Subdivision in Williamson County. Tiara Development has agreed to contribute \$52,000 in lieu of construction for a total of 26 single-family connections. This is a typical participation agreement entered into by the Metropolitan Government acting through the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

ORDINANCE NO. BL2004-156 (BRILEY) – This ordinance amends the Zoning Code to include "recycling facility" as a use permitted with conditions. The Zoning Code currently considers recycling facilities as waste transfer stations, which are required to obtain a special exception permit from the board of zoning appeals. In order to obtain a special exception permit, the facility must be located on a minimum ten-acre lot and the location must be approved or disapproved by the Council within sixty days before the board of zoning appeals can take action.

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ORDINANCE NO. BL2004-156 (continued)

The purpose of this ordinance is to make a distinction between waste transfer stations and facilities that merely sort and separate recyclables. This ordinance adds a definition of “recycling facility”, which includes any facility that separates, processes, converts, treats, or otherwise prepares non-putrescible waste for recycling. Non-putrescible waste consists of material that is not capable of decomposing. This ordinance adds the use “recycling facility” as permitted with conditions (PC) in industrial-zoned areas. The facilities would be required to meet certain conditions in order to operate as a recycling facility. These conditions include the following:

1. A minimum lot size of one acre;
2. A building setback of at least 150 feet from a residential zoning district or residential structure;
3. Driveway access can be from a local street as long as the street is not bounded by any residential zoning district from the driveway to an intersection with a collector or major street;
4. Landscape buffering will be required along residential zoning districts and the facility must be enclosed by an eight-foot-tall chain link fence; and
5. All sorting and separation activity must take place within an enclosed structure.

This ordinance has been approved by the planning commission, however, the planning commission has recommended that the ordinance be amended to incorporate the following changes:

1. The enclosed areas of recycling facilities have concrete floors, and high traffic areas around the facilities be paved.
2. The hours of operation be limited from 7:00 a.m. to 6:00 p.m. for any facility adjacent to a zoning district permitting residential uses.
3. That light and glare be directed on-site for facilities adjacent to a zoning district permitting residential uses.
4. That opaque fencing at least eight feet high be used for facilities adjacent to a zoning district permitting residential uses.
5. That the term “completely enclosed building” be defined.
6. That the minimum distance requirement for a “residential structure” only apply to structures that are legally occupied.
7. That the required street standard be lessened.

A substitute will be offered for this ordinance incorporating the planning commission’s recommendations.

ORDINANCE NO. BL2004-157 (GILMORE) – This ordinance, as amended, amends the Metropolitan Code of Laws regarding the financial reporting requirements for cable television franchisees. The Code requires that cable television franchise holders submit certain reports regarding their operation. The reports that are currently required to be provided include a summary of the previous year’s activities in development of the cable television system, a summary of complaints, a fully audited and certified financial report, an annual statement of all capital expenditures, and a statement of future construction plans. The division of internal audit and the department of information technology services have determined that Metro does not need an audited financial statement, but only needs a financial report supported by an opinion of an independent certified public accountant.
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ORDINANCE NO. BL2004-157 (continued)

This ordinance amends the Code to remove the requirement that an audited financial statement be provided, and substitutes this provision with a requirement that an annual statement of gross revenues and franchise fees be provided. This statement is to be prepared by the franchisee's chief financial officer and certified by its chief operating officer and chief financial officer. This financial report must be examined by an independent certified public accountant approved by the director of finance and the accountant must give an opinion as to the information contained in the report.

The CATV special committee has approved this modification of the cable television franchise ordinance.

ORDINANCE NO. BL2004-158 (WALLACE) – This ordinance grants an easement to Colonial Pipeline Company to property located at 1600 Second Avenue North, and accepts \$1,000 in consideration for granting the easement. This property is already encumbered by an existing utility easement held by Colonial Pipeline Company. This ordinance grants an easement to an additional 300 square foot area to permit the expansion of a gas pipeline. The \$1,000 payment is to be deposited into the water and sewer revenue fund. Future amendments to this ordinance may be approved by resolution of the Council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-159 (GILMORE & SHULMAN) – This ordinance authorizes the director of public property administration to acquire easements to real property, by negotiation or condemnation, in connection with the Omohundro 48" water main construction project. Easements are to be acquired for property located at 1400 Pumping Station Road, 70 Fesslers Lane, and 905 Visco Drive. The estimated cost for the acquisition of these easements is \$4,500, which is to be paid from the water and sewer extension and replacement fund. Amendments to this ordinance may be approved by resolution of the Council. The planning commission has approved the acquisition of these easements.