

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **April 6, 2004**

RE: **Analysis Report**

Balances As Of:	<u>3/31/04</u>	<u>3/26/03</u>
<u>GSD 4% RESERVE FUND</u>	\$27,816,720	\$8,795,324
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$24,729,757	\$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. RS2004-210 (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.

An amendment to this resolution will likely be offered by the sponsor that would do the following: (1) eliminate the requirement that the consultant be a certified public accountant; (2) add a requirement that the consultant have a business degree; and (3) substitute the Council executive committee's oversight of the RFP and selection of the consultant with three members of the budget and finance committee.

RESOLUTION NO. RS2004-232 (WALLACE) – This resolution provides an amendment to the Metropolitan Charter to require that all appointees to fill vacancies in department director positions be confirmed by the Council. This amendment amends twelve sections of the Charter and would include the filling of vacancies in the following department head positions created by the Charter: police chief, fire chief, director of the department of public works, director of the department of water and sewerage services, director of health, executive director of the planning department, chief traffic engineer, director of parks and recreation, director of social services, chief librarian, and the director of personnel.

The Council, pursuant to the Charter, may only adopt two resolutions during the term of the Council that submit amendments to the voters for ratification. This amendment to the Charter must be adopted by 27 affirmative votes of the Council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. This resolution provides that the date for holding the resolution is the November 2004 presidential election. State law requires that the election be held within 45-60 days after the Council adopts the resolution submitting amendments to the voters for ratification. Thus, this resolution should be deferred in order to avoid the calling of a special election.

RESOLUTION NO. RS2004-233 (CRAFTON) – This resolution authorizes the reapplication for a zoning change from R80 district to RS20 district and the provisions of a planned unit development (PUD) for property located at 7515 Old Charlotte Pike. This zone change and PUD failed to receive 21 affirmative votes at the March 16, 2004 Metro Council meeting. The Metropolitan Code provides that a reapplication to amend the official zoning map, which has been previously disapproved by the Council, cannot be considered for a period of one year following the last action of the Council, unless the Council reinitiates the zoning. This resolution will allow the Council to reconsider this zone change and applicable PUD in the ordinary rezoning process prior to the one-year period.

RESOLUTION NO. RS2004-235 (JAMESON & COLE) – This resolution approves a grant agreement in the amount of \$500,000 between the state department of transportation and the Metropolitan development and housing agency (MDHA) for implementation of the proposed Rolling Mill Hill Cumberland River greenway connection and streetscape improvements. In 2003, the Council declared the Rolling Mill Hill property to be surplus and approved the transfer of the property to MDHA for redevelopment as a mixed-use development. The property is located along Hermitage Avenue, Franklin Street, and Peabody Street. This resolution accepts \$500,000 in federal funds, passing through the state department of transportation, to be used for this project. The grant contract provides that construction is to be at least 50% completed within one year from its commencement. There is no required local match for this grant. The project will consist of the design and construction of a multi-use greenway from Riverfront Park southward along the Cumberland River to the Rolling Mill Hill redevelopment site. The project will also include design and construction of streetscape improvements to enhance the corridor along Hermitage Avenue.

RESOLUTION NO. RS2004-236 (ALEXANDER) – This resolution authorizes the mayor to enter into a supplemental licensing agreement with CSX Transportation allowing the department of water and sewerage services to install water lines in the railroad right-of-way at the Antioch Pike crossing. The original agreement was entered into in June of 1999. This supplemental agreement changes the location of the pipeline and requires Metro water and sewerage services to procure railroad protective liability (RPL) insurance from CSX Transportation to cover the cost of adding this crossing and construction activities to CSX's railroad protective liability policy for the period of construction.

RESOLUTION NO. RS2004-237 (WHITE) – This resolution authorizes Summit Medical Center to install and maintain aerial fiber optic cables from Summit Medical Center to Summit Medical Office Building. The cables will be attached to six utility poles along Old Hickory Boulevard and crossing the entrance ramp to I-40. Summit Medical Center has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the cables and is required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party. This resolution has been approved by the planning commission.

RESOLUTION NO. RS2004-238 (GILMORE) – This resolution approves an application for a grant from the federal emergency management agency to the Metropolitan fire department in the amount of \$238,693 to upgrade the fire department's self-contained breathing apparatus by replacing the regulators and upgrading the face pieces. If the grant is awarded, there will be a required local match of \$102,297. This upgrade is necessary to bring the fire department in compliance with the National Fire Protection Association (NFPA) requirements.

RESOLUTION NO. RS2004-239 (GILMORE & NEIGHBORS) – This resolution approves an amendment to a grant agreement between Meharry Medical College and the Metropolitan health department to conduct research as part of the grant for Asthma Disparities in Cohorts at Risk for Morbidity. Meharry received a grant for this program and contracted with the Metro health department to perform certain research functions. The original grant was in the amount of \$18,992 with a term commencing September 30, 2002, and ending August 1, 2003. This resolution extends the grant for one year and provides an additional \$18,992.

RESOLUTION NO. RS2004-240 (GILMORE & NEIGHBORS) – This resolution accepts a grant from the U.S. environmental protection agency (EPA) to the Metropolitan Government in the amount of \$151,439 to maintain and strengthen a comprehensive air pollution program. The Metropolitan board of health is the monitoring and enforcement agency for air quality in Nashville and Davidson County under the provisions of the federal Clean Air Act. There is a required local match of \$116,222 for this grant. This is a two-year grant to be paid as follows: \$113,579 with a local match of \$87,167 for FY 2004-2005, and \$37,860 with a local match of \$29,055 for FY 2005-2006.

RESOLUTION NO. RS2004-241 (GILMORE) – This resolution settles the lawsuit of David Greer, Ethel Greer, Thomas David Greer, and Tony Lane Greer against the Metropolitan Government for the amount of \$85,000. On December 17, 2001, Margaret Greer died after crashing through a previously damaged guardrail on Franklin Limestone Road and landing upside down in a creek below. The road conditions were wet on the date of the accident and it is estimated, based on the visible skid marks at the accident scene, that Ms. Greer was traveling below the speed limit when she hit the guardrail. If the guardrail had been functional, the vehicle would have remained on the roadway.

The plaintiffs sued the Metropolitan Government alleging that Metro was negligent in not repairing the defective guardrail. The work orders for this guardrail show that it had been damaged and repaired four times from October 1997 to July 2001. The work orders also show that in 2001 the guardrail was again reported as damaged on August 1st, October 12th, October 31st, November 5th, November 8th, and again on December 17th, but was not repaired until the day after this accident. There is no indication as to why the guardrail was not repaired until five months after it was reported to be defective. The normal process is that once a guardrail is reported as being damaged, an inspector examines the guardrail and issues a work order, which is then submitted to the foreman to schedule the work.

The plaintiffs have alleged that Metro had actual notice of the defective condition causing the injury based on the work orders and also constructive notice of the dangerous character of this area due to the number of crashes. The department of law recommends settling this lawsuit for \$85,000 due to the fact that Metro was repeatedly notified of the defective condition and did not repair the guardrail until five and one-half months after the damage was first reported. This amount is to be paid from the self-insured liability fund.

RESOLUTION NO. RS2004-242 (GILMORE) – This resolution settles the lawsuit of Jerry and Sue Hensley, as surviving next of kin of Jeffrey Hensley, against the Metropolitan Government in the amount of \$62,500. On October 10, 2001, at 3:20 a.m., a Metro police officer observed a Suburban driven by Jeffrey Hensley speeding on I-24. The officer attempted to pull the vehicle over, but the driver refused to stop. An eleven minute pursuit took place before Jeffrey Hensley entered a cul-de-sac in a residential neighborhood, ran over a mailbox, and the front of his vehicle came to rest against a tree. Two police officers stopped behind him expecting him to flee on foot. Instead, Jeffrey Hensley put the vehicle in reverse, striking the patrol car, then put the vehicle in forward attempting to get away. One officer stated that as the vehicle came toward him he believed he was about to be struck so he fired three shots at the front of the vehicle and ran to the right side of the vehicle. The officer continued to fire down the driver's side and rear of the vehicle as it (continued on next page)

RESOLUTION NO. RS2004-242 (continued)

passed him. When the other officer heard the shots, he opened fire at the passenger side of the vehicle. The vehicle came to a stop several hundred feet down the road. It was determined that Jeffrey Hensley was fatally wounded by two of the shots fired at the driver's side of the vehicle. None of the shots fired at the front or back of the vehicle struck Mr. Hensley. The incident was partially recorded by a camera inside the patrol car. No disciplinary action was taken against either officer.

Jerry and Sue Hensley filed suit in federal court against the Metropolitan Government and the officer firing the fatal shots. The Metropolitan Government was sued under the theory of deliberate indifference to the proper training, supervision, and disciplining of the officer. Metro prevailed on its motion for summary judgment and the case was appealed to the 6th Circuit Court of Appeals. The officer moved for summary judgment on the basis of immunity and self-defense, which motion was denied. The officer appealed this decision to the 6th Circuit Court of Appeals.

The 6th Circuit Court of Appeals ordered that the case be sent to mediation. As a result of several mediation conferences, the settlement in question was proposed and accepted by the parties. Pursuant to the settlement, the Metropolitan Government will contribute \$62,500 and the officer will contribute \$2,500, for a total settlement of \$65,000. The department of law recommends settling the lawsuit due to the potential damages that could be awarded were Metro and the officer to lose at trial, and due to the costs of continuing to litigate the case. It is important to note that since this lawsuit was brought in federal court under §1983 of the Civil Rights Act, the statutory governmental tort liability limits do not apply. This settlement is to be paid from the judgment and losses fund.

RESOLUTION NO. RS2004-243 (GILMORE) – This resolution accepts \$5,034.43 in compromise and settlement of the Metropolitan Government's claim against Brent Hoorst. On January 8, 2004, a Metro police officer was stopped in the left lane of Old Hickory Boulevard with his blue lights activated assisting a motorist whose car had broken down. The road conditions were hazardous because of snow and sleet. Mr. Hoorst came over a hill traveling at an excessive rate of speed given the road conditions, saw the police car in the left lane, and spun out after trying to stop. His vehicle collided with the police car and the stranded vehicle. The impact with the police car caused the car to strike the officer. The police officer was taken to Metro General Hospital suffering from soft tissue injuries to his neck and back. No one else was injured in the accident. This resolution only settles Metro's claim for \$5,034.43 in property damage to the patrol car.

RESOLUTION NO. RS2004-244 (GILMORE) – This resolution settles the lawsuit of Loretta and Vincent Berry against the Metropolitan Government for the amount of \$50,000. Loretta Berry was employed as a non-civil service secretary at the Sheriff's Office. On June 20, 2000, Ms. Berry slipped and fell in the Criminal Justice Center while walking down a hallway where inmates were mopping the floor. There were "wet floor" signs in the hallway, but the incident report indicates that the inmates were using too much water while mopping. Ms. Berry was treated for a neck/back injury and had surgery to repair a torn rotator cuff. The medical bills paid by Metro total \$45,000.

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RESOLUTION NO. RS2004-244 (continued)

Ms. Berry's treating physician assessed her as having a 34% permanent disability rating to the body as a whole and she is restricted to lifting less than 10 pounds and sitting and standing less than three hours a day. Although Ms. Berry had a preexisting injury to her back that was aggravated as a result of this fall, the disability rating did not include any assessment for her pre-existing condition. Ms. Berry is no longer employed with the Sheriff's Office for reasons unrelated to this injury.

The department of law recommends settling this lawsuit due to the extensive medical treatment Ms. Berry's injury required and the large disability rating. The terms of this settlement were reached at a judicial settlement conference. The \$50,000 settlement is to be paid from the self-insured liability fund.

RESOLUTION NO. RS2004-245 (GILMORE) – This resolution settles the lawsuit of Mary A. Tackett against the Metropolitan Government for the amount of \$7,500. On June 6, 2001, Ms. Tackett was injured in a traffic accident at the intersection of Burkitt Road and Old Burkitt Road. A co-defendant driver entered into the path of Ms. Tackett resulting in the collision. The stop sign controlling the intersection was not present at the time of the collision. Ms. Tackett sued the Metropolitan Government alleging that Metro was negligent in failing to properly maintain a stop sign at the intersection. Although Metro did not have actual notice that the stop sign was down, Metro would likely be deemed to have constructive notice since the sign had been downed and replaced 11 times since June 1998. The testimony from public works also shows that public works deemed this intersection to be dangerous, which would support the argument that Metro had constructive notice. The plaintiff has a witness that will testify that the sign had been down for at least one month prior to the accident, although the missing sign was never reported to public works.

The plaintiff suffered injury to her back that required surgery to fuse two of her vertebrae. She incurred medical bills totaling \$27,881, property damage totaling \$13,000, and \$2,500 in lost wages. The plaintiff has already settled the lawsuit as to the co-defendant. The department of law recommends settling the lawsuit for \$7,500, representing only a small portion of the fault. This amount is to be paid out of the self-insured liability fund.

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- BILLS ON SECOND READING -

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.

SUBSTITUTE ORDINANCE NO. BL2004-175 (ALEXANDER & GILMORE) – This substitute ordinance amends the Metro Code of Laws provisions relating to the fee schedule for Codes permits and inspections. The fee schedules used by the department of codes administration have been in place for a number of years. The last increase in fees for permits was in 1992, and some permit fees have not been increased in over 40 years. As a result of last year’s audit of the department of codes administration, Maximus was retained to examine the fees charged by the codes department and the fire marshal and determine how much the fees needed to be increased to achieve “full cost recovery”. The increases provided in this substitute ordinance incorporate the recommendations of Maximus. A detailed analysis of these increases, as well as Maximus’s Executive Summary, have been previously provided to the Council by the director of the department of codes administration.

It is important to note that state law prohibits charging fees for services that exceed the actual costs of the services provided. Thus, Metro is limited to the “full cost recovery” system of setting fee schedules. This substitute ordinance sets new fee schedules for building permits, gas/mechanical permits, plumbing permits, electrical permits, inspection and re-inspection fees, fees for the examination of plans, as well as administrative fees. Maximus estimated that these fee increases would allow the department of codes (continued on next page)

SUBSTITUTE ORDINANCE NO. BL2004-175 (continued)

administration to recover an additional \$1.5 million of its cost in providing permitting and inspection services. A document comparing the current fee schedules in the Code of Laws with the new schedules is included as an attachment to this analysis.

ORDINANCE NO. BL2004-177 (ISABEL, RYMAN & OTHERS) – This ordinance amends the Metropolitan Code of Laws to prohibit the use of mobile telephones while operating a bus or van transporting children, except in the case of an emergency. The stated purpose of the ordinance is to protect the safety of children in Nashville and Davidson County being transported on a bus or van. This prohibition on the use of mobile phones would apply to persons operating a school bus or other bus or van transporting children with a seating capacity of fifteen or more persons. The ordinance defines emergency as a situation where the driver of the bus or van needs to report that the vehicle is disabled, that medical attention is necessary for a passenger, that police intervention is necessary, or to report a disabled vehicle or accident on the roadway. The ordinance also contains a provision expressly excluding the application of the ordinance to a person transporting his/her own family.

ORDINANCE NO. BL2004-178 (GILMORE, RYMAN & OTHERS) – This ordinance amends the Metropolitan Code of Laws to require that plumbers be “licensed” as opposed to “certified”, and to include additional provisions regarding apprenticeship programs and penalties for violations. The Code includes three classifications of plumbers: master plumber, journeyman plumber, and apprentice plumber. The Code currently requires that all three classifications be examined, certified, and registered. This Ordinance would require that such plumbers be “licensed” instead of certified. The ordinance also specifies what type of work is considered “plumbing work” for which a plumber must be licensed. Such work includes plumbing construction, renovation, installation, alteration, extension, removal, reparation, maintenance, or servicing.

This ordinance also adds an additional provision to the definition of “apprentice plumber.” The Code currently defines apprentice plumber as “an individual who holds a current and valid metropolitan apprentice plumber’s certificate of registration duly issued by the board of plumbing examiners and appeals; one who is regularly employed as an apprentice by a registered and bonded metropolitan plumbing contractor and who works at the trade of plumbing under the direct supervision and in the immediate presence of a metropolitan master or journeyman plumber.” This ordinance would expand the definition to include enrollment in an apprenticeship program registered with the U.S. department of labor, bureau of apprenticeship and training, which consists of a minimum 8,000 hours of practical experience combined with a minimum of 1,000 hours of classroom training.

This ordinance further adds penalty provisions for violations. The Code currently provides that the board of plumbing examiners and appeals has the authority to revoke or suspend a certificate upon proof that a plumber violated the provisions of the certification or registration requirements, violated a rule or regulation of the board, practiced fraud or deception in making an application, is incompetent to perform plumbing services, allowed his/her certificate to be used by another to perform plumbing services, or is guilty of other unprofessional or dishonorable conduct. This ordinance adds two additional grounds justifying suspension or revocation: (1) Where a plumber permits himself or his company

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ORDINANCE NO. BL2004-178 (continued)

to represent itself as being in the business of plumbing if it doesn't employ a master plumber; (2) Knowingly took out a permit for plumbing work to be performed by a person without a plumber's license. In addition to suspension or revocation, this ordinance also authorizes the board to impose penalties, including but not limited to stop work orders, fines, and suspension of work privileges. The ordinance further provides that the board shall have the authority to enforce the applicable Code provisions through the use of work-site inspections and unannounced work-place inspections. This Council Office is of the opinion that this provision should be amended to grant this authority to the department of codes administration, as such authority would exceed the powers granted to the board of plumbing examiners and appeals by Section 2.92.090 of the Metropolitan Code of Laws.

A housekeeping amendment is required for this ordinance to correct a typographical error in a section number.

ORDINANCE NO. BL2004-179 (BRILEY & WILHOITE) – This ordinance authorizes the imposition of a \$1.00 litigation tax on all cases in the general sessions and juvenile courts to provide funds which will be used exclusively for victim mediation centers duly certified under state law. State law allows local governments to impose such a tax, provided that all of the revenue is distributed monthly to qualified mediation centers. Presently, the Victim Offender Reconciliation Program (VORP) qualifies under state law as a mediation center, though others might also qualify to receive these funds.

This ordinance provides that this tax will be taxed as part of the court costs. Revenues generated from the tax will be collected by the court clerks and remitted to the Metropolitan treasurer. Such revenue will then be distributed monthly to qualified center(s) pro rata on a monthly basis based on the number of cases referred by the Davidson County district attorney's office and general sessions court. The ordinance provides that this litigation tax shall not take effect until July 1, 2004.

A housekeeping amendment should be offered for this ordinance to correct a typographical error.

ORDINANCE NO. BL2004-180 (KERSTETTER & GILMORE) – This ordinance provides for a one-time early retirement incentive to employees of the Metropolitan Government eligible to retire on or before June 30, 2004. It is estimated that this early retirement incentive will realize a fiscal benefit for FY2004-2005 and thereafter by reducing overall employee salaries. Although there have been two prior incentive programs involving early retirement, this is the first time that this type of early retirement incentive payment program has been proposed. The mechanics of the early retirement incentive are as follows:

An eligible employee electing to accept the early retirement incentive will be paid \$500 for each year of employment with the Metropolitan Government. The \$500 payment will be prorated for any part of a year that the employee has worked. The retirement incentive will be paid from the savings generated by the various departments, not from the pension plan itself. Any employee who accepts this retirement benefit will be ineligible for rehire with the Metropolitan Government. If for some reason an employee does return to full or part-time employment with Metro, the employee will be required to refund the incentive payment. The last work date for employees accepting the payment shall be not later than (continued on next page)

ORDINANCE NO. BL2004-180 (continued)

June 30, 2004. The ordinance does contain a public safety extension whereby the last day of public safety personnel accepting the incentive may be extended not later than December 31, 2004 if such employee is necessary to assure public safety.

The director of finance has indicated that this \$500 per year of service payment is the maximum amount that could be paid to keep the program cost neutral. The department of human resources has stated that there are approximately 600 Metro employees eligible for normal retirement, and another 1,600 have some eligibility for early retirement.

ORDINANCE NO. BL2004-181 (NEIGHBORS & GILMORE) – This ordinance approves a memorandum of agreement, as well as an amendment to such agreement, between the Davidson County community service agency (DCCSA) and the Metropolitan Government for funding of the administration of the caring for children’s program. The DCCSA is a governmental entity created by state law that is funded through the state department of children services. Metro has in the past provided administrative services to the DCCSA through the Metro department of health, Metro social services, and currently through the finance department. The DCCSA has entered into a grant agreement with the state department of children’s services for funding of the program, which funding has been transferred to the department of finance to administer the program.

The memorandum of agreement and the amendment to the agreement approved by this ordinance provides that DCCSA will provide funding in the amount of \$5,393,654 for the administration of the caring for children program. Over \$4.4 million of these funds are to provide case management and family support services. The remaining services to be provided include assistance in the reunification of children in state custody with their families, emergency residential services, adoption services, independent living, and needs assessment. The responsibility of the Metropolitan Government is for administrative services only. The actual services provided by this program are through outside contractors.

ORDINANCE NO. BL2004-182 (MCCLENDON) – This ordinance readopts the Metropolitan Code to include all ordinances enacted on or before December 2, 2003.

ORDINANCE NO. BL2004-183 (SHULMAN) – This ordinance amends the Metropolitan Code of Laws to require the board of parks and recreation to designate an area of Elmington Park as a “dog friendly zone.” The Code currently provides that a dog may only be brought into a park if the dog is on a leash not exceeding three feet in length. This ordinance would allow dogs to run freely in this designated area without being on a leash.

ORDINANCE NO. BL2004-184 (SHULMAN) – This ordinance would require the director of finance to provide certain financial information to the Council and the board of education regarding the operating budget for schools. The ordinance simply provides that prior to the submission of the schools’ operating budget to the board of education, the director of finance shall provide to the members of the board and the council information regarding the revenues available, including available fund balances.

ORDINANCE NO. BL2004-185 (WALLACE) – This ordinance classifies the public roads in Davidson County, as required by state law. Each year, the Council approves the adoption of all additions and deletions to the official street and alley maintenance and acceptance map. State law also requires that a list of all county roads and a summary of the changes be submitted to and classified by county legislative bodies. This ordinance adopts the official street and alley acceptance and maintenance map, as supplemented, as the road classification for Davidson County. Any amendments to this list and future lists regarding road classification may be approved by resolution of the Council.

ORDINANCE NOS. BL2004-186 & BL2004-187 (WALLACE & GILMORE) – These two ordinances authorize the Metropolitan Government to enter into participation agreements with developers to provide sewer service to subdivisions in Williamson County. These are typical agreements 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. The funds received as part of these agreements are to be deposited into the water and sewer extension and replacement fund.

Ordinance No. BL2004-186 approves a participation agreement with CK Development to provide sewer service to phases 1 and 3 of the Brookfield Estates subdivision. CK Development has agreed to pay the cost of 29 single-family connections at \$2,000 per connection for a total amount not to exceed \$58,000.

Ordinance No. BL2004-187 approves a participation agreement with John Ring, Tennessee Contractors, Inc., to provide sewer service to phase 4 of the Fountainbrooke subdivision. John Ring, Tennessee Contractors, Inc., has agreed to pay the cost of 14 single-family connections at \$2,000 per connection for a total amount not to exceed \$28,000.

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- BILLS ON THIRD READING -

ORDINANCE NO. BL2004-123 (ISABEL) – This ordinance, as amended, closes 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.

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.

SUBSTITUTE ORDINANCE NO. BL2004-156 (BRILEY) – This substitute 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.

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 legally occupied 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. Opaque fencing at least eight feet in height will be required along all zoning districts permitting residential use. For facilities not adjacent to zoning districts permitting residential uses, the entire facility must be enclosed by an eight-foot tall chain link fence;
5. All sorting and separation activity must take place within an enclosed structure;
6. The enclosed areas of recycling facilities must have concrete floors, and high traffic areas around the facilities must be paved;

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SUBSTITUTE ORDINANCE NO. BL2004-156 (continued)

7. The hours of operation will be limited from 7:00 a.m. to 6:00 p.m. for any facility adjacent to a zoning district permitting residential uses; and
8. Light and glare must be directed on-site for facilities adjacent to a zoning district permitting residential uses.

This ordinance has been approved by the planning commission.

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. BL2004-174 (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.

p:billstrd