

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **June 15, 2004**

RE: **Analysis Report**

| Balances As Of: | <u>6/9/04</u> | <u>6/11/03</u> |
|--|---------------|----------------|
| <u>GSD 4% RESERVE FUND</u> | \$37,452,900 | \$14,672,007 |
| <u>CONTINGENCY ACCOUNTS</u> | | |
| GSD | \$50,000 | \$50,000 |
| USD | \$50,000 | \$50,000 |
| <u>GENERAL FUND</u> | | |
| GSD | \$24,762,257 | \$35,852,664 |
| USD | \$8,433,994 | \$13,910,490 |
| <u>GENERAL PURPOSE SCHOOL FUND</u> | \$38,771,091 | \$53,181,288 |

– BILL ON PUBLIC HEARING –

ORDINANCE NO. BL2004-256 (GILMORE) – This ordinance is the operating budget of the Metropolitan Government for the fiscal year 2004-2005. The proposed budget filed by the mayor provides for the following proposed funding:

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| • General Fund of the General Services District | \$576,575,400 |
| • Schools Fund of the General Services District | \$510,531,400 |
| • Schools Debt Service Fund | \$55,172,200 |
| • Debt Service – General Services District | <u>\$96,645,700</u> |
| TOTAL GENERAL SERVICES BUDGET | <u>\$1,238,924,700</u> |

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| • General Fund of the Urban Services District | \$95,819,700 |
| • Debt Service – Urban Services District | <u>\$22,116,700</u> |
| TOTAL URBAN SERVICES DISTRICT BUDGET | <u>\$117,936,400</u> |

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| INTERFUND TRANSFER: GSD GENERAL FUND TO GSD DEBT SERVICE | (\$3,356,100) |
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| INTERFUND TRANSFER: SCHOOLS FUND TO GSD GENERAL FUND | (\$2,591,700) |
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| TOTAL OPERATING BUDGET | \$1,349,480,300 |
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The substitute budget adopted by the council for the current fiscal year is \$1,352,210,300. The mayor's proposed budget is a decrease of \$2,730,000 from the FY 2004 budget, or 0.2%. The property tax revenues for FY 2005 for the GSD are projected to be \$501,958,700, which is an increase of \$965,830 over what was projected for FY 2004. The property tax revenues for FY 2005 for the USD are projected to be \$69,799,500, which is \$2,257,500 less than was projected for FY2004. Local option sales tax revenues are projected to be \$246,168,500, which is approximately \$9.3 million higher than was estimated for the FY 2004 budget.

The proposed FY 2004-2005 does not appropriate any money from the unappropriated fund balance of the GSD. The FY 2003-2004 budget appropriated \$35,707,900 from the unappropriated fund balance, which left an estimated unappropriated fund balance of 5.1%. The Council has a long-standing policy of maintaining the unappropriated fund balance for the general fund at 5% or greater. The unappropriated fund balance is currently just under 5%. The proposed FY 2004-2005 budget will leave an estimated unappropriated fund balance of \$28,600,000, or 5.0% of the FY 2005 budget.

This budget represents a cut to a number of departments in order to fill the approximate \$80 to \$100 million budget gap noted by the administration at the mid-year financial update in January 2004. Reductions in departmental budgets from the amount appropriated in the FY2003-2004 substitute budget ordinance include the following:

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|------------------------|-----------------------------------|
| • Police Department | \$1,014,800, a decrease of 0.86% |
| • Health Department | \$603,300, a decrease of 1.4% |
| • Public Library | \$1,735,800, a decrease of 8.8% |
| • Parks and Recreation | \$2,907,800, a decrease of 10.15% |
| • Planning Commission | \$632,900, a decrease of 16.8% |

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ORDINANCE NO. BL2004-256 (continued)

- Codes Administration \$37,300, a decrease of 0.54%
- Public Works \$5,562,600, a decrease of 10.23%
- Finance Department \$1,573,800, a decrease of 16.61%
- Mayor's Office \$526,100, a decrease of 13.86%
- Subsidy to General Hospital \$3,525,800, a decrease of 15.0%
- Subsidy to Bordeaux Hospital \$1,386,200, a decrease of 15.0%

The proposed budget also includes an increase in the operating budget for some departments. Some of increases are as follows:

- Fire Department \$152,000, an increase of 0.17%
- Emergency Communication Center \$152,700, an increase of 1.57%
- District Attorney \$193,700, an increase of 5.0%
- Subsidy to Metro Transit Authority \$450,000, an increase of 3.8%
- Sheriff's Office \$8,629,600, an increase of 23.03%

The proposed budget anticipates \$9,916,300 in budget adjustment savings. Although this amount is appropriated as an expenditure, this savings is shown as a reduction in the expenditure portion of the budget.

The operating budget for schools is increased by \$25,300,000, for a total of \$510,531,400, an increase of 1.5%. In the schools fund of the GSD, \$11,262,400 is appropriated from the unappropriated fund balance, as compared to \$24,975,700 in FY 2003-2004. This will leave an estimated unappropriated fund balance of \$44,737,600, or 8.8%% of the FY 2004-2005 schools budget. The current school fund unappropriated fund balance is \$38,771,091, which is estimated to increase by \$5.9 million even after the appropriation by this year's budget.

The budget ordinance is amendable on third and final reading.

– RESOLUTIONS –

RESOLUTION NO. RS2004-325 (GILMORE) – This resolution establishes a \$1.00 litigation tax to be used solely for jail construction and upgrades. State law allows counties, upon adoption of a resolution by a 2/3 majority vote of the county legislative body, to levy a privilege tax not to exceed ten dollars on litigation in all civil and criminal matters to be used exclusively for the purposes of jail construction, renovation, or to retire debt on jail construction and courthouse renovation. Such levy can only be in effect until all expenses for construction have been paid or until the debt has been retired.

This resolution would impose a \$1.00 litigation tax on all litigation effective January 1, 2005, to be used exclusively for funding jail construction, renovation and upgrade projects. In keeping with state law, this resolution expressly provides that no such litigation tax shall be paid in suits instituted by the State or the Metropolitan Government on behalf of any individual who is indigent.

The finance department anticipates new revenues of \$200,000 from this tax.

RESOLUTION NO. RS2004-347 (WALLACE, TYGARD & OTHERS) – This resolution appropriates \$75,000 from the unappropriated fund balance of the general services district to fund a best practices study. This appropriation would provide funds to employ necessary consultants to conduct a Best Practices Study of the Council Office. Such study would include a study of the current Council Office, current staffing of the Council Office, and the need for additional staffing.

Rule 15 of the Council Rules of Procedure provides that "no resolution or ordinance involving the appropriation or expenditure of money, upon being filed, shall be placed on the agenda by the Metropolitan Clerk until the Director of Finance has furnished a statement of the availability of funds." The director of finance has provided a statement that the funds are not available for this appropriation. The Council has established a policy of maintaining a minimum unappropriated fund balance of five percent. As the unappropriated fund balance is currently below this five percent threshold, appropriating these funds for this purpose would violate the longstanding policy set by the Council. The proposed operating budget for 2004-2005, on public hearing and second reading, estimates a five percent balance as required by the Council policy.

RESOLUTION NO. RS2004-348 (RYMAN & GILMORE) – This resolution supplements and amends several prior resolutions issuing general obligation multi-purpose refunding bonds, and awards the sale of \$56,270,000 in series 2004 general obligation public improvement refunding bonds. This resolution is of the same subject matter as Resolution No. RS2004-302, which was withdrawn at the May 18, 2004 Council meeting, and Resolution No. RS2004-327, which was withdrawn at the June 1, 2004, Council meeting. The resolutions to be amended by this refunding bond resolution consist of the following:

Resolution No. RS2001-510, adopted on February 6, 2001, authorized the issuance of general obligation multi-purpose refunding bonds in an amount not to exceed \$291,000,000. Resolution No. RS2001-786, adopted on October 16, 2001, amended Resolution No. RS2001-510 by increasing the amount refunded to \$336,000,000 so that additional maturities on other series of bonds could be refunded to result in additional savings to Metro. Finally, Resolution No. RS2002-1190, adopted on October 1, 2002, amended these prior resolutions to authorize the refunding of additional bonds in the amount of \$108,690,000.

This resolution amends these prior resolutions to make certain changes to the terms of the bonds in order to sell the bonds on terms more favorable to the Metropolitan Government. In addition, this Resolution issues \$56,270,000 in refunding bonds to refund the general obligation public improvement bonds, series 1996A. Due to today's favorable market interest rates, it is deemed to be in the best interest of the Metropolitan Government to issue these refunding bonds. The series 1996A bonds to be refunded have maturity dates ranging from November 2006 through November 2016. These refunding bonds are direct general obligations supported by the full faith and credit of the Metropolitan Government and are to be paid from property tax revenues.

These bonds have been advertised and bids will be accepted from prospective buyers. Assuming the bond market is favorable, a substitute resolution will be filed awarding the sale of the bonds to the bidder offering the lowest true interest cost to the Metropolitan Government once all bids are in.

RESOLUTION NO. RS2004-349 (GILMORE) – This resolution supplements and amends Resolution No. RS2004-326 and awards the sale of the Metropolitan Government's general obligation multi-purpose improvement bonds, series 2004, in an amount not to exceed \$75,000,000 to finance the retirement of a portion of Metro's commercial paper. Resolution No. RS2004-326, adopted on June 1, 2004, authorized the issuance of the bonds, and this resolution simply awards the sale to the lowest bidder. In June of 2003, the Council authorized a commercial paper program for the Metropolitan Government. Commercial paper is a form of short-term financing for capital projects whereby the commercial paper is issued as needed to cover interim construction costs until long-term debt in the form of bonds are issued and sold for the project. Commercial paper was issued to cover approximately \$68 million in construction costs of various capital projects authorized by the initial bond resolutions from the mayor's 2001 and 2002 capital spending plans. This resolution authorizes the sale of bonds to pay off the commercial paper maturing through October 8, 2004.

This \$75 million bond issue pledges the full faith and credit of the Metropolitan Government and the bonds are to be paid from ad valorem taxes levied on property within Davidson County. These bonds are to bear interest at a rate not exceeding a true interest cost of 5.5% per annum and are to mature over a period of 25 years.

A substitute resolution will be filed awarding the sale to the bidder offering the lowest true interest cost to Metro once all bids are in.

RESOLUTION NO. RS2004-350 (GILMORE) – This resolution supplements certain prior resolutions by approving certain terms and provisions and ratifying certain actions of the NES power board relating to the issuance of the series 2004 revenue bonds in an amount not to exceed \$110,000,000. On May 18, 2004, the Council approved the issuance of NES revenue bonds in an amount not to exceed \$110,000,000 to provide funds for capital system improvements to the electric system. Although NES has complete control and authority over the operation of the electric system, pursuant to the Metropolitan Charter it cannot issue debt without permission of the Metropolitan Government. These bonds are to be paid solely from the revenue of NES and will not be an obligation of the Metropolitan Government or be guaranteed by the taxing authority of the Metropolitan Government. This resolution simply supplements the prior NES bond resolution by ratifying the electric power board's action regarding the bonds and approving the official statement.

RESOLUTION NO. RS2004-351 (WILLIAMS) – This resolution approves a second amendment to a contract between the Metropolitan Government and the Vanderbilt Child and Family Policy Center for services in developing the Council afterschool initiative. The purpose of the initiative is to work with the Madeline Initiative and Vanderbilt to develop a plan to increase out-of-school time programming and resources.

This resolution extends the term of the contract to September 30, 2004, and provides for additional services to be performed by the child and family policy center. These additional services include the following:

- Assisting the department of information technology services in providing maps on the Council web page of out-of-school activity services available by council districts.
- Development of a strategic plan to make out-of-school programs affordable and accessible to children in Davidson County.

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RESOLUTION NO. RS2004-351 (continued)

- Encouraging the board of education to apply for federal grants to provide expanded academic enrichment opportunities for children attending low-performing schools.
- Support efforts of the Nashville Youth Alliance and Metro schools to work together to develop appropriate outcomes for out-of-school time programs to increase academic achievement and quality of life.

RESOLUTION NO. RS2004-352 (GILMORE) – This resolution approves the seventh 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 \$6,250, for a total grant award of \$2,579,609.

RESOLUTION NO. RS2004-353 (GILMORE) – This resolution approves an application for a grant from the state commission on children and youth to the juvenile court for \$400,191 in federal pass-through juvenile accountability block grant funds. These funds will be used to prevent and intervene in juvenile delinquency through various court and community-based services, including the Save Our Children counseling program, the family retreat weekend program, the Frank Reed, Jr., tutorial program, the hiring of additional juvenile court staff, and funding pre-trial services for juveniles. There is a required match of \$44,466 to be funded through the juvenile court's operating budget.

RESOLUTION NO. RS2004-354 (WALLACE & GILMORE) – This resolution approves an annual grant in the amount of \$85,000 from the state department of environment and conservation to the Metropolitan Government to provide assistance in maintaining and operating a permanent household hazardous collection site. The term of this grant is from July 1, 2004, through June 30, 2005.

RESOLUTION NO. RS2004-355 (WALLACE & GILMORE) – This resolution approves an amendment to an annual grant from the state department of environment and conservation to the department of public works for the purpose of collecting and disposing of waste tires from residents. Metro operates this program without requiring tip fees for the disposal of the tires. The majority of the tires collected under this program have typically been disposed of by Metro's subcontractor, and only a small portion of tires has been collected at Metro's convenience centers. The original grant was in the amount of \$435,625, with a term beginning July 1, 2003, and extending through June 30, 2004. This resolution increases the amount of the grant to \$580,625, and extends the term of the grant until June 30, 2005.

RESOLUTION NO. RS2004-356 (GILMORE) – This resolution approves a grant in the amount of \$1,422.33 from the U.S. department of justice to the Metropolitan Government to purchase bulletproof vests for the benefit of the police department and the sheriff's office. There is a required match of \$1,480.33 for this grant. The price per vest is \$290.00.

RESOLUTION NO. RS2004-357 & RS2004-358 (GILMORE & NEIGHBORS) – These two resolutions approve annual grants from the state department of human services to the Metropolitan Government to provide various services to refugees. The terms of the grants are from July 1, 2004 through June 30, 2005. These grants are essentially federal pass-through funding for refugee assistance. Some of the services to be provided include English language training, employer outreach activities, citizenship preparation classes, school orientation programs, basic educational services, and cultural sensitivity training.

Resolution No. RS2004-357 approves a grant in the amount of \$347,289 to provide services to refugees with special needs.

Resolution No. RS2004-358 approves a grant in the amount of \$353,090 to provide employability services, social adjustment services, and English language training to refugees.

RESOLUTION NO. RS2004-359 & RS2004-360 (GILMORE & NEIGHBORS) – These two resolutions approve annual grants from the state department of human services to Metropolitan Government for the benefit of Metro social services to provide adult day care and homemaker services. The terms of the grants are from July 1, 2004, through June 30, 2005. The services to be provided under these grants are for the benefit of adults who are not capable of full independent living.

Resolution No. RS2004-359 approves a grant in the amount of \$164,600 to provide adult day care services to eligible clients. The services to be provided include work activities, nutritional services, life enrichment activities, continuing education, counseling, speech and hearing therapy, health monitoring, transportation, and physical and psychological examinations. These services are to be provided to adults who are not capable of full independent living as a result of physical disability, developmental disability, emotional impairment, and/or frailty. There is a required match of \$41,150 for this grant that is to be provided from the social services commission's budget.

Resolution No. RS2004-360 approves a grant in the amount of \$285,840 to provide homemaker services to eligible clients. The services to be provided include the teaching of homemaker skills, household management, essential shopping, household tasks, and personal care. A total of 12,761 hours of homemaker services will be provided using these grant funds. A required local match of \$71,460 will be provided from the social services commission's budget.

RESOLUTION NOS. RS2004-361 THRU RS2004-372 (GILMORE) – These twelve resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The required information sheets detailing these expenditures are attached to this analysis. These resolutions are part of the mayor's 2004-2005 capital spending plan. The council office recommends deferring these resolutions until the second meeting in July to track with the other previously deferred legislation comprising the remainder of the capital spending plan.

Resolution No. RS2004-361 appropriates \$120,000 from the general fund reserve fund to purchase a security locking system for the detention center, and for building repairs and renovations to the juvenile justice center for the Davidson County juvenile court.

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RESOLUTION NOS. RS2004-361 THRU RS2004-372 (continued)

Resolution No. RS2004-362 appropriates \$350,000 from the general fund reserve fund to purchase upgrade kits for electronic voting machines for the Davidson County election commission.

Resolution No. RS2004-363 appropriates \$695,800 from the general fund reserve fund to fund building reconfiguration for the new city hall, and for building repairs and improvements to Lindsley Hall for the finance department.

Resolution No. RS2004-364 appropriates \$20,397,900 from the general fund reserve fund to fund major maintenance for facilities and grounds of various general services buildings, and to purchase motor vehicles for the general services department (\$900,000 for major maintenance and \$19,497,900 for motor vehicles).

Resolution No. RS2004-365 appropriates \$3,700,000 from the general fund reserve fund to fund building and facility improvements per Tri-Data Study recommendations for the fire department.

Resolution No. RS2004-366 appropriates \$203,200 from the general fund reserve fund to purchase replacement chairs in the dispatch center; reallocation of workstations and office space; long-term recorder expansion; MOSCAD interface to CAD; and headsets for the emergency communications center.

Resolution No. RS2004-367 appropriates \$38,700 from the general fund reserve fund to purchase human resources/health records information imaging equipment; imaging and data licenses; and for building reconfigurations for transfer of pension services to human resources for the human resources department.

Resolution No. RS2004-368 appropriates \$3,376,000 from the general fund reserve fund to purchase equipment, hardware and software for implementation of social services audit recommendations; computer equipment for the tech revolving fund; and computer remote devices to be used by the codes administration for the information technology services department.

Resolution No. RS2004-369 appropriates \$2,150,000 from the general fund reserve fund to fund building improvements and for building repairs and renovations to the MAC-head start facilities for the Metro action commission.

Resolution No. RS2004-370 appropriates \$660,000 from the general fund reserve fund to purchase auditorium roof maintenance; A/C and HVAC repairs; emergency generator; and dome air filters for the municipal auditorium.

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RESOLUTION NOS. RS2004-361 THRU RS2004-372 (continued)

Resolution No. RS2004-371 appropriates \$4,611,300 from the general fund reserve fund to purchase books, magazines and information materials and services for the main library and branches; equipment and installation for branch automation; data/video projection system and digital recording system for main library auditorium and conference center; and upgrades to existing integrated system countywide/system wide and enhancements for the public library.

Resolution No. RS2004-372 appropriates \$150,000 from the general fund reserve fund to fund building improvements for life/safety issues, and salt bin foundation for the public works department.

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- BILLS ON SECOND READING -

ORDINANCE NO. BL2004-179 (BRILEY & WILHOITE) – This ordinance, as amended, 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 take effect July 1, 2004.

This ordinance must receive twenty-seven (27) affirmative votes on third reading to be adopted.

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. BL2004-235 (SHULMAN & WALLACE) – This ordinance amends the Metropolitan Code of Laws to require persons engaged in excavation, sidewalk construction, or paving work in the Metro public right-of-way to post a sign indicating the expected commencement and completion date for the project. The sign is to be of an adequate size to be visible to the motoring public.

ORDINANCE NO. BL2004-238 (MCCLENDON, GREER & OTHERS) – This ordinance amends the Metropolitan Code of Laws to set criteria regarding the types of permissible materials that may be used in the construction of fences. The Code currently provides that fences are to be constructed in accordance with the building code. The Code designates the type of fences that are prohibited, but does not include the type of materials that may be used in the construction of fences. Fences that are prohibited by the Code include electric fences, the use of barbed wire below six feet on a fence, and fences containing barbs or sharp projections on top of the fence if the fence is located within five feet of the property line.

This ordinance provides that fences may only be constructed using the following materials:

1. Woven wire.
2. Wood, vinyl, steel, or aluminum slats of no more than 1" by 6" in width hung vertically, horizontally, or diagonally between steel, wood, or vinyl posts no further than ten feet apart.
3. Masonry consisting of brick, concrete block, split-face block, or stones and mortar.

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ORDINANCE NO. BL2004-238 (continued)

4. New plastic or other synthetic material treated in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents.
5. Decorative-type split rail or dry-stack stone may be used for decorative fences.

The ordinance further provides that metal fences must be constructed of new materials manufactured and/or treated in a manner to prevent rust or corrosion. Wood fences must be constructed of new materials and painted, stained or preserved in a manner to maintain the fence in good structural condition.

There will be an amendment proposed to permit used materials, to require maintenance of fences, and to exempt agriculturally zoned properties from the provisions.

ORDINANCE NO. BL2004-257 (GILMORE) – This ordinance adopts the property tax levy for the fiscal year 2004-2005. The Metropolitan Charter requires that the council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax levy proposed by the mayor is identical to the property tax levy adopted for fiscal year 2003-2004. The property tax proposed by the mayor is in assessed value, which represents \$3.84 per \$100 assessed value in the general services district (GSD) and an additional \$0.74 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.58 in the USD.

ORDINANCE NO. BL2004-258 (JAMESON) – This ordinance amends the Metro Code by reducing the number of false alarms permitted during a permit year prior to a penalty being imposed, and increasing the amount of the penalty. The number of false burglar alarms is reduced from five to three, the number of false robber/panic alarms is reduced from three to two, and the number of false fire alarms is reduced from three to two during a permit year, prior to a penalty being imposed. In addition, the penalty will be increased from \$25 per violation of a false alarm provision to \$50.

ORDINANCE NO. BL2004-259 (MCCLENDON, HAUSSER & JAMESON) – This ordinance amends the Metro Code relative to graffiti to make it unlawful to sell graffiti implements to minors. This ordinance provides that no person or firm shall sell or cause to be sold to any person under the age of eighteen graffiti implements. The code defines "graffiti implements" as aerosol paint containers, felt tip markers (greater than 1/8 inch), and graffiti sticks. The "graffiti stick" is a device that contains paint, chalk, wax, or similar substance capable of being applied by pressure leaving a mark of at least 1/8 inch in width, and which is not water soluble. Presently, it is unlawful to have graffiti implements in your possession in any public facility, recreation facility or public building, and within 100 feet of any underpass, bridge abutment, or similar type of infrastructure, unless authorized by the Metropolitan Government.

ORDINANCE NO. BL2004-260 (WALLACE & GILMORE) – This ordinance amends the Metro Code to increase fees for permits related to obstructions, excavations, right-of-way closures, and meter

occupancies by the department of public works. Public works has determined the cost of issuing such permits has increased more than the cost currently imposed. The fee for cutting trenches is increased from \$35 to \$55 each; the fee for obstructions is increased from \$10 to \$55 per day; the fee for permitting construction-type trailers on the right-of-way is increased from \$1,000 per year to \$2,000 per year.

The fee for taking a parking meter out of operation is increased from \$7.50 to \$15 per meter day. Fees for temporary closure of right-of-way will increase from basically \$15 to \$55 for five days or less, and \$10 per day if closure is longer than five days. Right-of-way closures of 90 days are prohibited unless specifically approved by the Metropolitan Government.

It is anticipated in the mayor's proposed budget that this fee increase will result in an additional \$300,000 per year.

ORDINANCE NO. BL2004-261 (WALLACE & NEIGHBORS) – This ordinance amends the Metro Code of Laws to prohibit high grass and weeds within the area of the Metropolitan Government. Currently, the code does not specifically address the height of grass and weeds on owner-occupied property. Specifically, under this ordinance enforcement may be conducted by the codes administration and the health department personnel. The health code provisions have been authorized by state law.

The new provisions provide that an owner may be cited for having grass in excess of 12" or more above the ground if it is visible from any public way or within 150 feet of the property line. Such high grass is declared to be a public nuisance. There are a number of exceptions to this code provision, including parks, greenways, street rights-of-way and streambeds or banks, heavily wooded lots, steep slopes which are covered with growing vegetation to prevent soil erosion, or certain landscaping growth. This ordinance further amends the code to allow both the department of health and the department of codes administration to enforce provisions of this code.

ORDINANCE NO. BL2004-262 (GILMORE) – This ordinance proposes to increase traffic school fees and fees charged by the planning commission for zoning applications, reviews and mandatory referrals. These fees are to become effective January 1, 2005. A review of the fees relative to the traffic school and the DUI school are not increased by this ordinance as filed, as the proposed increases are a restatement of the current charges. A substitute ordinance will be filed that states the new increased fees.

Attached to this analysis is a schedule of the new fees for zoning applications, which also upon adoption will be available at the office of the Metro clerk.

The mayor's proposed budget anticipates an increase of \$495,000 on the traffic school fee increases, and \$139,000 on the zoning fee increases.

ORDINANCE NO. BL2004-263 (GILMORE) – This ordinance authorizes the mayor's office of children and youth to accept and appropriate cash donations for the purpose of underwriting the costs

of the 2004 Mayor's Summit on Children and Youth. This summit was held March 9-10, 2004, at the Nashville Convention Center, with the purpose of bringing policymakers, experts, youth, and advocates together to analyze issues facing Nashville's youth. Centerstone, HCA Foundation, and Vanderbilt's Children's Hospital have pledged a total of \$12,500 to help underwrite the costs of the summit. The funds pledged by each donor are as follows:

- Centerstone \$2,500.00
- HCA Foundation \$5,000.00
- Vanderbilt Children's Hospital \$5,000.00

ORDINANCE NO. BL2004-264 (GILMORE) – This ordinance authorizes the mayor's office of neighborhoods to accept cash and in-kind donations for its Spring Into Health Festival that was held May 15, 2004. The purpose of the festival was to encourage Nashvillians to engage in healthy activities and to increase the capacity of the neighborhood groups and associations to address issues and concerns in their communities. Following are donations that covered the costs of the festival:

- Vanderbilt University \$2,500.00
- Coca-Cola Corporation 25 cases of canned product
- McDonald's Corporation 1,000 Step-O-Meters, 1,000 Dasani bottled waters, 1,000 Be Our Guest cards for premium salads, and 300 side salads

ORDINANCE NO. BL2004-265 (MCCLENDON) – This ordinance amends a contract approved in 1989 between the Metropolitan Government and Book Publishing Company by changing the name of the contractor. In 1989 Metro enter into a contract with Book Publishing Company to provide for codification of the Metropolitan Code and Charter. Book Publishing Company has been acquired by Matthew Bender & Company, Inc., and this ordinance merely amends the June 6, 1989 contract by substituting the name. The division of Matthew Bender & Company, Inc., that codifies the code is LexisNexis Municipal Codes.

There will be an amendment proposed that would provide that future amendments to the contract may be approved by resolution.

ORDINANCE NO. BL2004-266 (WALLACE & GILMORE) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Tennessee Contractors, Inc., to provide public sewer service to Phase 5 of the Fountainbrooke subdivision in Williamson County. This is a typical agreement enter into by Metro acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend or upgrade public water and sewer services. Pursuant to this agreement, Tennessee Contractors, Inc., has agreed to pay the cost of ten single-family home connections at a total cost not to exceed \$20,000. These funds are to be deposited into the water and sewer extension and replacement fund.

ORDINANCE NO. BL2004-267 (GREER) – This ordinance abandons the existing 40-foot easement encumbering property located on Cherry Street. An existing water line and easement will no longer be used by the department of water and sewerage services when the water line is relocated. This abandonment shall not be effective until the water and sewerage services department accepts the new line. This ordinance has been approved by the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2004-194 (SUMMERS) – This ordinance renames a section of Concord Park Road located at the northeast terminus of Concord Park E. as “Concord Park E.” This road is in the vicinity of the Woodmont Boulevard and Woodmont Lane intersection. This name change has been approved by the planning commission and has been referred to the Emergency Communications District board.

SUBSTITUTE ORDINANCE NO. BL2004-221 (LORING, SUMMERS & HAUSSER) – This substitute zoning text change deletes the existing provisions regarding contextual street setbacks in the urban zoning overlay (UZO) district and substitutes these provisions with new contextual street setback provisions. The contextual street setback provisions were added to the Code as part of Ordinance No. BL2000-364, which established the UZO. Ordinance No. BL2000-364 states in part that the purpose of the UZO is to preserve and protect “existing development patterns that predate the mid-1950’s and ensuring the compatibility of new development.” The current contextual setback provisions for the UZO allow buildings to be built closer than the minimum setbacks for the base zoning district, up to the edge of the right-of-way, when existing buildings on neighboring lots or corner lots facing the same intersection are located closer to the street than the base zoning would allow. In addition, for lots in the R, RS, and lower density multi-family zoning districts, if two-thirds or more of the buildings on a block do not meet the minimum setback requirements for the base zoning then new buildings constructed along that block may be constructed as close to the street as the closest front façade on the block. There is no requirement that only adjacent buildings built before 1950 be used in determining the appropriate setback.

This substitute ordinance establishes new street setback provisions for the UZO. Some of the important changes from the existing UZO setback provisions are as follows:

1. Pursuant to this ordinance, the UZO setback provisions would only apply within mixed use, office, industrial, and higher density multi-family residential zoning districts.
2. If the site is within a zoning overlay district, redevelopment district, or part of a design plan adopted by the Council, then those design guidelines for the placement of buildings shall apply.
3. If the site is not within an area having an adopted design plan or design guidelines and the building types and setbacks of existing buildings are characteristic of a different zoning type from what the property is zoned, and if it is determined that implementation of the current zoning will change the development character within the district, then the contextual setback provisions shall apply.
4. Lots with buildings of a different building type are not to be used as the basis for setbacks. When using the UZO setbacks, the building would not automatically be allowed to be constructed at the street line. Instead, consistency is required with the setbacks of the existing buildings of the same building type.
5. Civic buildings are not to be used as the contextual basis for setbacks of non-civic buildings, and vice versa. A civic building is defined in the ordinance as a building designed and constructed for community use by governmental, educational, cultural, public welfare, religious, or transportation organizations.

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SUBSTITUTE ORDINANCE NO. BL2004-221 (continued)

6. The setback is to be consistent with the street setbacks of pre-1950 buildings. Buildings constructed in 1950 or later are not to be used in determining the setback.
7. If the underlying zoning of the property is for the purpose of changing the development character of the area (transitional zoning), then the UZO contextual setbacks would not apply and the setbacks provided for the existing zoning district would be used.

This substitute ordinance addresses the legal concerns that the Council Office had about the original ordinance regarding the discretion of the planning staff and the zoning administrator to determine whether the UZO setbacks should apply to a particular piece of property. The substitute contains a provision that the determination of the appropriate street setbacks shall be made based on fixed criteria as described above.

This zoning text change has been approved by the planning commission.

ORDINANCE NO. BL2004-225 (SUMMERS) – This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit the codes department from issuing a permit until all necessary easements held by the Metropolitan Government have been abandoned. This would apply whenever a developer is seeking to build on land encumbered by an easement held by the Metropolitan Government, and there is no future governmental need for the easement. Easements held by the Metropolitan Government can only be abandoned by ordinance enacted by the Metropolitan Council.

ORDINANCE NO. BL2004-239 (HAUSSER) – This ordinance abandons a 6" water line and easement encumbering real property at The Enclave at Hillsboro Village. A private water line will replace the existing 6" water line. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-246 (WALLACE, GILMORE & TUCKER) – This ordinance authorizes the acquisition of property by negotiation or condemnation for the expansion of Hume-Fogg Academic High School located at 8th Avenue North and Broadway. The property to be acquired is on 8th Avenue, directly behind Hume-Fogg.

This acquisition has been approved by the board of public education and the planning commission.

The adoption of this ordinance on second reading should be rescinded, under Rule 35, in order to comply with Metropolitan Code § 2.24.240 I, which requires a public hearing prior to adoption on second reading. Otherwise the adoption of this ordinance will not be valid. After the adoption on second reading is rescinded, the planning commission staff shall cause the appropriate notice to be made and a hearing will be held in the council chambers by the planning committee prior to re-adoption on second reading. Rule 35 requires twenty-seven votes to rescind action.

ORDINANCE NO. BL2004-247 (GILMORE) – This ordinance approves the lease of 102 acres of property owned by the State located at 3000 Morgan Road in Joelton to be used as a public park. This State-owned property was formerly known as the Tennessee Youth Center. The term of the (continued on next page)

ORDINANCE NO. BL2004-247 (continued)

lease is from August 1, 2004, through July 31, 2024, with a possible twenty-year extension. The property is only to be used by Metro as a public park. Metro has the right to demolish any existing structures and construct additional buildings and make other improvements at its sole expense. Metro agrees to indemnify the State, to the extent legally permissible under the Governmental Tort Liability Act, for any claims resulting from the use and operation of the premises. Metro also agrees to maintain adequate self-insurance for damage to the property.

No rental payments are required to be paid by Metro for the lease of this property. Any amendments to the lease agreement are to be approved by resolution of the Council receiving 21 affirmative votes. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-248 (ISABEL & GOTTO) – This ordinance, as amended, authorizes the placement of automatic teller machines (ATMs) by the Metro Police Department Employees Credit Union in the North Nashville, Hermitage, and South police precincts. The credit union will be allowed to lease space for one year at a rental cost of \$500.00. The credit union will be required to maintain \$2 million in liability insurance naming the Metropolitan Government as additional insured.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-249 (LORING) – This ordinance authorizes the Metropolitan Government to enter into an encroachment agreement with Colonial Pipeline Company in connection with the construction of a 48" water main to transport water from the Omohundro water treatment plant. The agreement provides certain restrictions on the types and methods of encroachments that are permitted. Pursuant to the agreement, Metro assumes responsibility for property damage and personal injury resulting from the encroachment activity.

Future amendments to this agreement may be approved by resolution of the Council.

ORDINANCE NO. BL2004-250 (JAMESON, GILMORE & WALLACE) – This ordinance authorizes the department of water and sewerage services to enter into a participation agreement with B.I.G. Development, Inc., for the lining of the sewer along 1409 Fatherland Street. The department of water and sewerage services desires to install gunite lining and protection of the brick sewer at 1409 Fatherland Street, and B.I.G. Construction, Inc., has agreed to contribute \$4,750.00 toward this project.

ORDINANCE NO. BL2004-251 (CRADDOCK & GILMORE) – This ordinance accepts an amount not to exceed \$3,500 from Skyline Medical Center for the purpose of having an appraisal conducted for the Old Due West landfill. Skyline Medical Center has expressed interest in leasing the 35-acre Old Due West landfill site located at 801 Old Due West Avenue in Madison. In order to determine the fair market lease value of the property, an appraisal of the property needs to be conducted. This ordinance simply accepts the funds from Skyline Medical Center to be used to pay for the appraisal.

ORDINANCE NO. BL2004-252 (GILMORE & WALLACE) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Tennessee Contractors, Inc., to provide public sewer service to Phase 2 of the Fountainbrooke subdivision in Williamson County. This is a typical agreement entered into by Metro acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend or upgrade public water and sewer services. Pursuant to this agreement, Tennessee Contractors, Inc., has agreed to pay the cost of 36 single-family home connections at a total cost not to exceed \$72,000. These funds are to be deposited into the water and sewer extension and replacement fund.

ORDINANCE NO. BL2004-254 (TYGARD & SHULMAN) – This ordinance abandons a section of surplus right-of-way along the north side of River Road from Overall Creek extending 1,000 feet east. There is no future governmental need for this 0.92-acre section of surplus right-of-way. Metro will retain all easements. This abandonment has been requested by the Harpeth Valley Utility District.

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

ORDINANCE NO. BL2004-255 (LORING & GILMORE) – This ordinance adopts the capital improvements budget for 2004-2005 through 2009-2010. A separate analysis will be provided for the capital improvements budget. The capital improvements budget is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the Council, except in the case of a public emergency. This budget is amendable on third and final reading. The Charter requires the Council to adopt the capital improvements budget not later than June 15th of each year. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the Mayor, and then be adopted by resolution of the Council receiving twenty-seven (27) affirmative votes.

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