

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **August 3, 2004**

RE: **Analysis Report**

Balances As Of:	<u>7/29/04</u>	<u>7/30/03</u>
<u>GSD 4% RESERVE FUND</u>	Unavailable	\$15,584,828
<u>CONTINGENCY ACCOUNTS</u>		
GSD	Unavailable	\$50,000
USD	Unavailable	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>	Unavailable	Unavailable

– RESOLUTIONS –

RESOLUTION NO. RS2004-406 (GILMORE) – This resolution approves a tree bank schedule promulgated by the urban forester. The zoning text provides for establishment of the tree bank when money is contributed to a tree bank when due to soil type, topography, or unusual nature of the site, the growth of trees could not be accomplished under the tree ordinance. Sites located in the CC, MUI or CF districts, or in any other district where there is not adequate required yard space to accommodate the total number of required replacement trees can utilize the tree bank provision. Funds received in the tree bank are utilized to purchase and plant trees on public land. The Metro Code provides for tree density units, which is based upon area and caliper of trees. The fee schedule begins at \$350.00 for one unit (two small trees) and extends to \$250.00 per tree density unit when more than 400 units of tree density are calculated.

RESOLUTION NO. RS2004-417 (TYGARD) – This resolution amends the recently created task force to determine the best use for the development of the former Nashville thermal transfer site by extending its time to make its report to the council. The original resolution required that they report their findings to the council within sixty days of convening. The chairman of the task force asked for additional time to file its written report prior to expiration of the sixty days. This resolution formally extends the deadline for filing of the report to council to August 15, 2004.

RESOLUTION NO. RS2004-418 (GILMORE) – This resolution amends a previously approved agreement between the Metropolitan Government and Volunteer State Community College, which provided clinical experience for students within the emergency medical services division of the Metro fire department. This amendment is housekeeping in nature and requires that all the parties agree to follow the Health Insurance Portability and Accountability Act of 1996 (HIPAA) requirements. As council is aware, this law prohibits people from disclosing certain health information unless specifically authorized.

RESOLUTION NO. RS2004-419 (NEIGHBORS & GILMORE) – This resolution authorizes the acceptance of a grant between the state department of children's services and the Metro juvenile court to provide case management and family support services. The purpose of this grant is to provide such services to children at high risk of custody, and their families. The grant is in the amount of \$579,110. This grant is for a term of one year beginning July 1, 2004, and ending June 30, 2005.

RESOLUTION NO. RS2004-420 (ISABEL & GILMORE) – This resolution approves an agreement between the U.S. bureau of alcohol, tobacco and firearms (ATF) and the Metropolitan Government to reimburse Metro a maximum of \$119,996 under the contract for overtime costs and other costs, such as training, travel and equipment, incurred by the Metro police department. The police department provides police officers in a joint operation with the ATF and they have agreed to reimburse us for the overtime and related costs. This agreement is for a term beginning upon execution and runs through September 30, 2007, and provides that this agreement may be amended by resolution.

RESOLUTION NO. RS2004-421 (LORING, GREER & OTHERS) – This resolution approves an annual joint funding agreement between the U.S. department of interior, geological survey, and the department of water and sewerage services for the installation and operation of six flow gauging stations and a ADVN gage on the Cumberland River, two water quality sampling and monitoring sites on the Cumberland River, one site on the Stones River, and one site on Mill Creek. Testing is done on a regular basis to evaluate the water quality impact due to the operation of its water and wastewater facilities for Metro Government, and to get accurate and detailed information to evaluate the time and amount of pollutants discharged into streams. This contract, which is an annual contract, is for one year beginning July 1, 2004, at a total cost of \$165,000, one-half of which is paid by Metro Government and one-half funded by the federal government. Ordinance No. BL2001-870 provided that this type contract may be approved by resolution of the council.

RESOLUTION NO. RS2004-422 (NEIGHBORS & GILMORE) – This resolution approves an application by United Way of Nashville on behalf of the Kindergarten Readiness Council, to the U.S. department of health and human services for an Early Learning Opportunities Act grant. The purpose of the grant is to provide early learning activities to school age children and families in Davidson County. The Metropolitan Government is participating through the mayor's office of children and youth solely to provide an in-kind match in the amount of \$22,683. This program provides up to \$1 million in funding. The project funding time for this program is September 1, 2004, through February 28, 2006. Metro Government's only obligation is in providing it's in-kind match.

This resolution is to be withdrawn at the request of the administration.

RESOLUTION NO. RS2004-423 (GILMORE) – This resolution authorizes the department of law to compromise and settle the claim of Ron D. Harris against the Metropolitan Government in the amount of \$8,300, and provides that this amount be paid from the self-insured liability fund. This claim is the result of an automobile accident that occurred at the intersection of Long Hollow Pike and Cartwright Street on November 12, 2003. A Metro police officer made a left turn from Long Hollow Pike onto Cartwright Street in front of the claimant's vehicle, causing the crash. Mr. Harris suffered a chest contusion and some neck and back sprains. This settlement is for personal injuries, which include \$2,788.09 for medical expenses, and \$5,511.91 for pain and suffering. Metro has previously settled the property damage claim of \$2,720.11. Our police officer received a written reprimand.

RESOLUTION NO. RS2004-424 (GILMORE) – This resolution authorizes the department of law to compromise and settle the claim of the Metropolitan Government against Clematis Ashley Jarrett and Clement Jarrett in the amount of \$15,000. This claim of Metro Government is the result of an accident that occurred along the roadside of Hamilton Church Road when Ms. Jarrett, a minor, drove her vehicle into the back of a Metro garbage truck, causing it to strike a Metro employee who had been riding on the back of the truck, breaking both his ankles. Mr. Jarrett is the owner of the private vehicle. A lawsuit was filed by our employee and Metro joined to recover its damages. Metro has been paid \$502.61 for damages to the garbage truck.

This matter was submitted to mediation and, as a result, an offer was made to pay our employee \$60,000, plus pay Metro \$15,000. The \$15,000 paid to Metro will reimburse Metro Government's partial medical costs and for in-line-of-duty payments to Mr. Walker.

- BILLS ON SECOND READING -

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.

There is a proposed amendment that would require such signs be posted when the work is to last 20 days or more and limits application to metropolitan government and its agencies.

SUBSTITUTE ORDINANCE NO. BL2004-245 (BRILEY & GILMORE) – This substitute ordinance amends the Metropolitan Code of Laws to include public notification requirements for Metro boards and commissions. This ordinance would require the department of information systems to maintain a website calendar listing the date, time, location, and agenda of all meetings of Metro boards and commissions. This calendar is to be updated on a weekly basis and is to be accessible from the Nashville.gov website. The ordinance requires each board and commission to submit a list of all meeting dates, times, and agendas to the department of information systems. The information is to be posted on the website not later than 10 days prior to the scheduled meeting date for a board or commission, and not later than 5 days prior to the meeting of a subcommittee.

The ordinance also requires the Metropolitan Government to make available to the newspapers each Friday a list of all board and commission meeting times, locations, and agendas for the upcoming week. There is an emergency exception from this notice requirement that would allow a board or commission to consider an item not included in the notice to the press. There is also an exception from the notice requirement that would allow the benefit board to add an individual to the agenda so long as the subject matter of the addition only concerns that particular individual to be added.

In addition, the ordinance provides that any member of the public, upon request, shall be entitled to receive written notice by mail of the meeting time, date, location, and agenda of any Metro board or commission. Failure to receive such written notice shall not be considered a lack of adequate notice as long as all other means of notification required by law have been followed. The provisions of this ordinance are not to take effect until January 1, 2005.

ORDINANCE NO. BL2004-253 (WALLACE) – This ordinance amends the Metropolitan Code of Laws to require that all individuals and firms engaged in tree care and removal activities, whether on private or public property, obtain a permit from the urban forester. The Code currently provides that all individuals and firms conducting tree care and removal as a business are required to have a permit to engage in such tree care and removal activities. The permit is to be issued by the urban forester upon proof by the applicant that he or she has successfully completed a test of tree knowledge given by the International Society of Arboriculture, and proof that he or she or his or her firm has a minimum of three hundred thousand dollars of liability insurance. The permit fee is twenty-five dollars per year.

The Code currently includes an exception from the above permit requirements for performing work on private trees unless the tree is a hazard tree. The Code states that the intent of the permit provisions is that “the provisions be applicable only to public trees and for the protection of public utility distribution lines.” This ordinance would remove the exception for private tree work.

ORDINANCE NO. BL2004-288 (LORING, WHITMORE & OTHERS) – This zoning text change, as amended, creates a new land use “Public Facility”. Such use is defined by this ordinance as a facility

or structure owned by metropolitan government which provides services or activities including administrative offices, health care, indoor storage of non-flammable items, training and other such activities. Public facilities will be permitted in most commercial and industrial zones and will be permitted with conditions in residential and mixed-use limited and neighborhood zones. This will essentially allow buildings originally constructed in residential areas to be used as other facilities by the board of public education, such as storage sites. The location of a public facility would require specific site approval by council by resolution prior to the zoning administrator issuing occupancy use. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-302 (GREER) – This ordinance would make it a violation of the Metro Code if a dog owner fails to cleanup and remove any excrement left by their dog on public or private property.

There is a proposed amendment that would make it a violation to fail to do so on public or private property that is not owned or controlled by the dog owner. This would, therefore, exempt the provision from the dog owner's own property.

ORDINANCE NO. BL2004-303 (WILHOITE) – This ordinance provides that the Metropolitan department of public works shall be responsible for signage on private streets and roads that abut the public right-of-way and that are in close proximity to public streets.

The council office believes that this ordinance is invalid and should not be adopted, as it provides for expenditure of funds on private property, which violates the constitutional prohibition of "lending of credit". Private streets are permitted under Tennessee law and the Metro Code, however, maintenance of such streets, which would include signage, is the responsibility of the owner. Typically, once a subdivision or development is constructed that has private streets, responsibility is transferred to the homeowners association. Today, most private streets are in a planned unit development. Metro requires that prior to approval of a planned unit development, that a mechanism must be in place to assign maintenance of all streets and roads that are private.

ORDINANCE NO. BL2004-304 (NEIGHBORS & GILMORE) – This ordinance approves the transfer of the operation of the J.B. Knowles Home for the Aged to the hospital authority, and the lease of the home, the property of which is located at 1010 Camilla Caldwell Lane. The Metro Charter permits transfer of operation of the J.B. Knowles Home (commonly referred to as the Knowles Home) to the board of hospitals by ordinance. The council in 1999 created, under state law, the hospital authority for Nashville and Davidson County and transferred property of the board of hospitals to the new hospital authority.

All employees of the Knowles Home are to retain the same civil service status that they currently enjoy, and any positions that are proposed to be non-civil service or any decision to change a position from civil service to non-civil service cannot take place unless approved by ordinance of the council. Such employees being transferred would receive the same annual salary and any future changes in salary shall be in accordance with the pay plan developed and adopted by the hospital authority. The transferred employee would receive the same pension and health benefits they currently receive.

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ORDINANCE NO. BL2004-304 (continued)

The lease amount is for \$1.00 per year beginning July 1, 2004, and running for a term of five years. The ordinance provides the lease agreement may be amended by resolution of the council adopted by 21 votes.

ORDINANCE NO. BL2004-306 (WALLACE) – This ordinance would make it a violation of the Metro Code for dog owners to fail to cleanup or remove excrement on any public property. This ordinance is similar to Ordinance No. BL2004-302, which is also on second reading, except that it applies only to public property.

ORDINANCE NO. BL2004-307 (BRADLEY) – This ordinance changes the name of Oakwood Forest Drive to “Dover Glen Drive”, from the intersection of Oak Forest Drive, 250 feet south to its terminus. This name change has been approved by the planning commission and the emergency communications district (911) board.

ORDINANCE NO. BL2004-308 (GREER & WALLACE) – This ordinance closes Alley No. 688, west of 1st Avenue South, south of Hart Street. This closure has been requested by Donell Wordlaw on behalf of Morning Star Baptist Church. All easements are to be retained by the Metropolitan Government. This ordinance has been approved by the planning commission and the traffic and parking commission.

Information regarding affected property owner consent is on file with the planning department staff.

ORDINANCE NO. BL2004-309 (WHITMORE, TYGARD & CRAFTON) – This ordinance authorizes the director of public property to accept a perpetual easement along the Harpeth River adjacent to Old Harding Pike and Morton Mill Road. This property will be part of the Metro Government greenway system. The property contains approximately 24 acres. The property is being transferred to Metro by the Riverside Homeowners Association, which is the owner. The greenway will be used primarily for a walking path and will be open to the public at large. It does have some restrictions, in that horseback riding, motor vehicles, boating, picnics, and other such activities will be prohibited.

ORDINANCE NO. BL2004-310 (WALLACE & GILMORE) – This ordinance authorizes the mayor to enter into a contract with the state department of transportation for replacement and rehabilitation of the Demonbreun Street bridge over 11th Avenue North and the CSX Railroad. Under this contract Metro will be responsible for 20% of the cost, with 80% of the funding being provided by federal funds under the Highway Bridge Reconstruction and Rehabilitation Program. The estimated cost at this time for this replacement bridge, which was recently closed, is \$8.3 million. This ordinance provides that any amendments to the contract may be approved by resolution. Under this contract Metro is 100% responsible for any utility relocations required. This is a typical bridge replacement contract with the state.

ORDINANCE NO. BL2004-311 (LORING) – This ordinance adopts the property identification maps for the Metropolitan Government identifying property as of January 1, 2004, as the official maps for the identification of real estate for tax assessment purposes. These maps are adopted on an annual basis.

- **BILLS ON THIRD READING** -

ORDINANCE NO. BL2004-246 (WALLACE, GILMORE & OTHERS) – 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.

ORDINANCE NO. BL2004-297 (NEIGHBORS & GILMORE) – This ordinance approves amendment number two to the memorandum of agreement between the Davidson County community service agency (DCCSA) and the Metropolitan Government for funding of the administration of the caring for children program. The DCCSA is a governmental agency created by state law that is funded through the state department of children services. The DCCSA currently has a grant agreement with the state department of children services that expires June 30, 2003, however, it is expected to be extended through June 30, 2004. The purpose of this amendment is to more specifically identify the children and families services portion of the grant for the stated purpose of increasing the maximum funds provided by the DCCSA for needs assessment, and equally decrease the maximum funds provided by the DCCSA for adoption services. Currently, the grant provides \$5,393,654 for the caring for children program, which will be reallocated to include specific allocations, the largest of which is for case management in the amount of \$3,343,083. Adoption services funding will be set at \$40,400, and needs assessment will be set at \$162,788. The other portion of this grant is allocated to reunification services of children to their parents, independent living services, and emergency residential services.

The finance department provides basic administration services under this grant.

ORDINANCE NO. BL2004-298 (NEIGHBORS, WHITSON & GOTTO) – This ordinance would require that effective January 1, 2005, and every three years thereafter, that the director of finance review all permits fees and other fees charged by the Metropolitan Government and submit a report to the council within ninety days. This report to the council would state the current amount of the fee generated annually; the purpose of the fee; the cost to the department or agency providing the service; a comparison of the fee to surrounding counties of a similar size and population to Metro; and any recommendations for increases or adjustments to the fee.

This report would provide information to the council to address and assess fee increases to generate additional revenue. Council must remember that such fee charges must bear a relationship to the services actually provided or could be deemed to be a tax and, therefore, could not be assessed. This proposes to provide for a program for reviewing of all fees and charges by the council to adjust such fees and charges where appropriate.

ORDINANCE NO. BL2004-299 (DREAD & GILMORE) – This ordinance authorizes the Metro police department to accept a donation from the Community Foundation of Middle Tennessee of equipment for use in law enforcement and investigation purposes. This equipment is primarily cameras, recorders, wireless transmitting and receiving systems, video and audio recorders, and sophisticated digital cameras.

ORDINANCE NO. BL2004-300 (GILMORE) – This ordinance amends Ordinance No. BL2004-262 recently adopted by the council increasing the fees for the general sessions court traffic safety school and approving a new fee schedule for certain zoning-related applications for the planning commission. The original ordinance required that the fee increases were to be effective January 1, 2005. This ordinance amends BL2004-262 to allow that these fee increases take effect immediately upon adoption of this ordinance. The budget adopted in June 2004 anticipated these fees would be in effect the entire year. The council could not amend the original ordinance to allow the effective date to be July 1, 2004, as the effective date was part of the caption. Captions cannot be amended once adopted on first reading, except in zone change ordinances.

p:billstrd