

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **August 17, 2004**

RE: **Analysis Report**

Balances As Of:	<u>8/11/04</u>	<u>8/13/03</u>
<u>GSD 4% RESERVE FUND</u>	* \$17,412,297	\$15,666,712
<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

* Assumes estimated revenues in fiscal year 2005 in the amount of \$18,738,500.

– RESOLUTIONS –

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.

A separate analysis regarding proposed amendments to the Charter is attached to this analysis.

RESOLUTION NO. RS2004-255 (COLEMAN) – This resolution provides an amendment to the Metropolitan Charter to require that a member of the metropolitan board of education be appointed by the mayor to the planning commission.

A separate analysis regarding proposed amendments to the Charter is attached to this analysis.

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. The substitute budget adopted by the council for this fiscal year did not fund this study.

Until the annual audit is completed (generally in November or December of each year) the amount in the funds is not definite. As a result, council traditionally has not approved appropriations from these funds until they are certified.

RESOLUTION NO. RS2004-394 (WALLACE) – This resolution provides an amendment to the Metropolitan Charter to clarify that the office of mayor is subject to term limits of two terms.

A separate analysis regarding proposed amendments to the Charter is attached to this analysis.

RESOLUTION NO. RS2004-402 (NEIGHBORS & GILMORE) – This resolution approves a contract for privatization of the information technologies division of general hospital. The hospital authority has decided that it is economically advantageous to contract with outside vendors for information technology services, which previously had been provided by the information technologies division of its own information technologies and telecommunications department. The hospital authority will contract with McKesson Information Solutions, LLC of Alpharetta, Georgia.

Section 4.12.095 of the Metropolitan Code requires that any contract which privatizes governmental services will not be effective until the contract has been approved by council by resolution with 21 affirmative votes. This provision is applied if more than two or more employees of the Metropolitan (continued on next page)

RESOLUTION NO. RS2004-402 (continued)

Government would lose employment or the contract has a value of more than \$100,000 annually. This contract for these services is for a term of five years and provides for three annual renewals, unless six months notice is given by either party not to renew. The initial amount of the contract is for \$189,174 per month or \$2,273,688 annually. The total amount for the five-year period is \$11,368,440.

Information technology services provided to the hospital are directly related to health care management and are very sophisticated. This privatization contract with McKesson is the result of a year long project to identify the appropriate company to meet the specialized needs of Metro General Hospital in a cost effective and efficient manner. Six companies that provide IT services to hospitals were contacted and interviewed. Two of the companies were not interested, and of the remaining four, the field was narrowed down to two based on their lower cost and ability to meet the hospital's needs. McKesson was finally selected and approved by the hospital authority board of trustees based on their expertise. McKesson is the only single-source provider of the necessary bar-coding and scanning information technologies that Metro General Hospital needs to reduce potential errors and protect patient confidentiality. More than half of the hospitals in the U.S. are currently using McKesson's information technologies.

Eight employees will be offered employment by McKesson under the term of the contract. These employees will be offered employment at least as much as their current salary and are to receive all benefits of similar employees of McKesson who perform the same services. In fact, McKesson offers additional benefits not previously offered to the General Hospital IT staff, such as college tuition reimbursement opportunities.

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. RS2004-436 (COLEMAN, FOSTER & TOLER) – This resolution accepts the southeast community plan 2004 update adopted by the planning commission on July 22, 2004. The southeast community plan, formerly known as the subarea 12 plan, is one of fourteen subarea plans making up the general plan, which is used by the planning commission in its decision making process regarding zoning. This plan update is the result of nine community meetings held between March and June 2004. This resolution is simply a memorializing of the plan by the council, as the plan has no binding effect on zoning decisions made by the council.

RESOLUTION NO. RS2004-437 (GILMORE) – This resolution supplements and amends several prior resolutions issuing general obligation multi-purpose refunding bonds, and awards the sale of \$56,440,000 in series 2004 general obligation public improvement refunding bonds. This resolution is of the same subject matter as three prior resolutions in May and June of 2004, which were withdrawn due to unfavorable market conditions. 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 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. RS2004-438 (NEIGHBORS & OTHERS) – This resolution authorizes the continued employment of Donald W. Jones as special counsel and director of the Council Office. This resolution approves the contract of the Council Office director for a term of four years beginning October 1, 2004, which has been approved by the vice mayor and the executive committee of the council. The continued contract is a renewal of the existing contract that expires September 30, 2004. Mr. Jones' salary and benefits remain the same as the current contract.

RESOLUTION NO. RS2004-439 (GILMORE) – This resolution appropriates \$17,042 from the general fund reserve fund (4% fund) for the purchase of equipment for the Metropolitan clerk's office and for the installation of electrical outlets at the Council desks in the Council Chamber. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The required information sheet detailing these expenditures is attached to this analysis.

RESOLUTION NO. RS2004-440 (GILMORE) – This resolution approves a contract between the Metropolitan Government and Imagistics International, Inc. (formerly Pitney Bowes) for the lease of copiers. The Metropolitan Code of Laws provides that the lease of equipment in excess of \$5,000 per year must be approved by resolution of the Council. The Code further provides that the Metro purchasing agent may make purchases using contracts entered into by the state department of general services in compliance with state law. The state has previously entered into a contract with Imagistics International to lease copiers for various state departments and Metro desires to take advantage of this contract for Metro departments.

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RESOLUTION NO. RS2004-440 (continued)

The term of this contract is for one year and is to terminate on August 31, 2005. This contract may not be extended. The contract includes a one year warranty that covers the equipment and software. Metro may terminate this contract upon thirty days written notice. Pursuant to the contract, Imagistics agrees to maintain commercial general liability insurance in the amount of \$1 million per occurrence and agrees to indemnify Metro from any claims, damages, or injuries arising from the negligent or intentional acts of Imagistics.

RESOLUTION NOS. RS2004-441, RS2004-442 & RS2004-443 (MURRAY) – These three resolutions appropriate community development block grant (CDBG) funds for various streetscape, infrastructure, and facility improvements. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community improvement projects. Plans for these projects are available for review at the offices of the Metropolitan development and housing agency.

Resolution No. RS2004-441 appropriates \$500,000 in CDBG funds for the construction of streetscape work and infrastructure improvements in the Dickerson Road commercial district.

Resolution No. RS2004-442 appropriates \$50,000 in CDBG funds for a public plaza in the Edgehill neighborhood strategy area.

Resolution No. RS2004-443 appropriates \$300,000 in CDBG funds for streetscape improvements and for outdoor community facilities at Ross Elementary School in the Maxwell neighborhood strategy area.

RESOLUTION NO. RS2004-444 (GILMORE) – This resolution approves a grant in the amount of \$33,183.72 from the state emergency management agency to the Metropolitan Government for reimbursement of overtime costs associated with critical infrastructure terrorism prevention activities. The term of this grant is from December 21, 2003, through February 28, 2005. Pursuant to the terms of the grant, Metro may use these funds to conduct assessments of critical infrastructure sites, and for terrorist prevention activities, exercises, and training.

RESOLUTION NO. RS2004-445 (GILMORE) – This resolution approves a grant in the amount of \$104,429 from the state emergency management agency to the Metropolitan Government to prepare a multi-hazard mitigation plan. The purpose of the multi-hazard mitigation plan is to reduce risks from natural hazards. The plan is to include a risk assessment describing the type, location, and extent of all natural hazards and a description of Metro's vulnerability to such hazards. The plan is also to include a mitigation strategy for reducing the potential risks identified in the risk assessment. The term of this grant is from March 22, 2004 through March 22, 2006. There is a required local match of \$33,581.

RESOLUTION NO. RS2004-446 (GILMORE) - This resolution approves an amendment to a grant in the amount of \$280,000 from the U.S. department of health and human services to the mayor's office of emergency management to sustain the Metropolitan Medical Response System (MMRS). The MMRS program was created by the federal government in 1997 to enhance the planning and preparedness of metropolitan areas to respond to a terrorist attack. The U.S. department of (continued on next page)

RESOLUTION NO. RS2004-446 (continued)

homeland security now has the responsibility of implementing the MMRS program. The term of the original grant was from September 30, 2003, through September 29, 2004. This resolution extends the term of the grant until May 31, 2005 and substitutes the federal emergency management agency in place of the U.S. department of health and human services.

RESOLUTION NO. RS2004-447 (FOSTER, WALLACE & GILMORE) – This resolution approves an application for a grant from the state emergency management agency for phase two of the Seven Mile Creek home buyout project. Metro has previously received both state and federal funding for the acquisition of parcels that are in danger of flooding due to their close proximity to the Seven Mile Creek floodway. This resolution approves an application for a grant award of \$96,630 with a \$32,210 local match to purchase property located at 4955 Edmonson Pike. There are voluntary sales by homeowners.

RESOLUTION NO. RS2004-448 (NEIGHBORS & GILMORE) – This resolution approves an annual grant in the amount of \$130,200 from the state department of health to the Metropolitan health department for alcohol and drug abuse diagnosis, prevention, rehabilitation, and treatment services. The term of the grant is from July 1, 2004, through June 30, 2005. The majority of these grant funds are federal pass through funds, with the remainder of the funds coming from the state. There is no required local match.

RESOLUTION NOS. RS2004-449, RS2004-452, RS2004-453 (NEIGHBORS & GILMORE) – These three resolutions approve annual grants relating to the implementation of the governor's community prevention initiative for children program. The program seeks to reduce teen substance use, pregnancy, violence, and school dropout rates. These grants are for a one year term, commencing July 1, 2004 and ending June 30, 2005.

Resolution No. RS2004-449 approves a grant agreement in the amount of \$62,650 between the Metropolitan board of health and Kids on the Block of Middle Tennessee for the Choices, Control and Consequences program in elementary schools. This program will be presented to fourth graders at Glenn, Kirkpatrick, Rosebank, and Ross elementary schools. The program is designed to encourage self-awareness, positive self-esteem, leadership, anger management, and positive decision making.

Resolution No. RS2004-452 approves a grant agreement in the amount of \$82,000 between the Alcohol and Drug Council of Middle Tennessee and the Metropolitan board of health for the "Cool Tools" anger management and conflict resolution program. This program targets children ages 6 to 9 and is designed to teach children the tools necessary to reduce disruptive and anti-social behaviors.

Resolution No. RS2004-453 approves a grant agreement in the amount of \$24,599 between Centerstone Community Mental Health Centers, Inc., and the Metropolitan board of health for the "Project PEER Power" program. This program provides in-school violence prevention services to fourth grade children.

RESOLUTION NO. RS2004-450 (NEIGHBORS & GILMORE) – This resolution approves a continuation contract between the state department of children’s services (DCS) and the Metropolitan health department to provide vaccinations, testing, and x-rays to DCS employees. Pursuant to the contract, the Metro health department will administer the following: hepatitis B vaccinations to 135 DCS employees at a cost of \$105 each; tuberculosis risk assessments and TB tests to 135 DCS employees at a cost of \$10 each; and 42 chest x-rays to health department employees at a cost of \$30 each. Metro will be reimbursed \$16,785 to provide these services. The term of the contract is from July 1, 2004 through June 30, 2009.

RESOLUTION NO. RS2004-451 (NEIGHBORS & GILMORE) – This resolution approves a grant agreement in the amount of \$218,200 between the state department of health and the Metro health department to fund staffing for the commodity supplemental food program. This is a federal program that provides nutritious food to eligible low-income clients who are vulnerable to inadequate nutrition. The term of the grant is from October 1, 2004 through September 30, 2005.

RESOLUTION NO. RS2004-454 (NEIGHBORS & GILMORE) – This resolution approves an annual grant in the amount of \$650,300 from the Greater Nashville Regional Council to the Metropolitan social services commission for nutrition and transportation services. These grant funds are essentially federal pass-through funds to provide nutritious meals to low-income handicapped and elderly individuals in Nashville. The funds will be used to provide the food and transportation for congregate meals, as well as at-home delivery of hot meals to various areas that have a high concentration of low-income elderly residents. There is a required local match of \$65,188.44 to be provided from the social services commission’s operating budget.

RESOLUTION NO. RS2004-455 (WHITMORE & GILMORE) – This resolution approves a third amendment to a grant from the Tennessee secretary of state to the Nashville public library for interlibrary loans. The original grant was approved in 2001 and has been extended and increased twice. These federal pass-through funds are used to reimburse the Nashville public library for costs in lending our books to other libraries. This resolution extends the term of the grant until September 30, 2005 and increases the amount of the grant by an additional \$1,653.

RESOLUTION NO. RS2004-456 (GILMORE) – This resolution approves a grant agreement in the amount of \$2,459,274 from the state board of probation and parole to the Metropolitan Government for funding of the Davidson County community corrections program. The term of this grant is from July 1, 2004 through June 30, 2007, and Metro is to receive \$819,785 per year to fund the program over the life of the grant. Pursuant to the contract, the Davidson County community corrections program is to provide an alternative punishment program for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs.

RESOLUTION NO. RS2004-457 (GILMORE) – This resolution approves a grant in the amount of \$40,000 from the state administrative office of the courts to the state trial courts for the coordination of parenting plans, divorce education, and medication services. The term of this grant is from July 1, 2004 though June 30, 2005. These funds will be used to provide on-call medication services for divorce cases involving minors, preparation of education videos for parents attending court-ordered mediation, and to provide interpreters for divorcing parents.

RESOLUTION NOS. RS2004-458 & RS2004-459 – These two resolutions authorize the Metropolitan Government to enter into interlocal agreements with several utility districts to purchase drinking water in the event of an emergency or special need. Under state law, municipalities are authorized to enter into interlocal agreements with other public agencies for joint undertakings, subject to approval by the local legislative body. These agreements provide that Metro water and sewerage services and the other utility districts subject to the agreements may obtain water on a temporary basis in the event of an emergency. The district receiving the water will be billed by the supplying district accordingly.

Resolution No. RS2004-458 (Brown) approves an interlocal agreement between Metro, Old Hickory Utility District, and the City of Lakewood to purchase drinking water in an emergency. The Metropolitan Government has previously acquired the water systems of First Suburban Water Utility District and Rayon City Water Company. Both of these utility districts were parties to a similar interlocal agreement with Old Hickory Utility District and the City of Lakewood for emergency purposes. Metro, Old Hickory and Lakewood desire to continue to allow for the interconnection of their water systems to meet emergency and special needs. This agreement provides that the parties do not intend for the agreement to provide a continuous flow of water between the parties' systems.

Resolution No. RS2004-459 (Wallace) approves an interlocal agreement between Metro and the West Wilson Utility District. The agreement provides that Metro or West Wilson Utility District will furnish any available water to the other in a time of emergency or special need only to the extent that the ability of each to serve its other customers will not be materially diminished. This agreement may be terminated by either party upon 180 days written notice.

RESOLUTION NO. RS2004-460 (RYMAN) – This resolution authorizes O'Charley's, Inc., to install and maintain an aerial encroachment/sign at 110 Coley Davis Court in the Bellevue area. O'Charley's has agreed to indemnify the Metropolitan Government for any claims arising from the installation or maintenance of the sign, and will be required to furnish a certificate of public liability insurance naming Metro as an insured party.

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- 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.

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.
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.

This ordinance should be withdrawn. Ordinance No. BL2004-346, currently on first reading, deals with the same subject matter as this ordinance, but amends the property standards section of the code, rather than the building code, so that the provisions can be enforced retroactively.

ORDINANCE NO. BL2004-294 (GREER) – This ordinance abandons an alley from the east margin of 8th Avenue South to 140 feet east of 8th Avenue South, between Lynwood and Alloway Streets. This closure has been requested by Kevin King on behalf of the 1512 Company, the adjacent property owners. Metro will retain all easements. This ordinance has been approved by the planning commission and the traffic and parking 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.

There is a proposed substitute ordinance that removes the private sign responsibility, but provides for more useful signage to promote public safety.

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.

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.

There is a proposed substitute ordinance that makes some technical changes and changes the term of the lease to January 1, 2028. The planning commission has approved this ordinance.

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 NOS. BL2004-340 & BL2004-342 – These two ordinances authorize the director of public property administration to acquire utility easements by negotiation or condemnation for the purpose of constructing water mains, sanitary sewers, reservoirs, and stormwater improvements. The cost of the easements to be acquired will be paid from the waster and sewer extension and replacement fund. The ordinances provide that the acquisition of additional easements for these projects may be authorized by a resolution adopted by the Council.

These two ordinances have been approved by the planning commission.

Ordinance No. BL2004-340 (Gotto & Gilmore) authorizes the acquisition of utility easements on two parcels of property located on Tulip Grove Road in connection with the Tulip Grove Pointe construction project. The estimated cost for this easement acquisition is \$1,500.

Ordinance No. BL2004-342 (White) authorizes the acquisition of a utility easement on property located at 3803 Central Pike in connection with the construction of a new water main from K.R. Harrington Water Plant to Hickory Hill Lane, and from Cumberland Water Plant to Summit Hospital. The estimated cost for this easement is \$15,000.

ORDINANCE NO. BL2004-343 (Bradley) – This ordinance approves a revision to a transmission line easement agreement between the Tennessee Valley Authority and the Metropolitan Government, and authorizes the acceptance of \$14,500 from the Tennessee Valley Authority. In 1949, Metro inherited a transmission line easement upon the acquisition of property located at 2087 Hobson Pike in Antioch. This ordinance simply approves an update to the agreement. Pursuant to the agreement, Metro is granting a 100 foot-wide permanent easement to the Tennessee Valley Authority in exchange for \$14,500 for the purposes of maintaining electricity transmission line structures on the property.

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- **BILLS ON THIRD READING** -

SECOND 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. This ordinance requires all boards and commissions to develop a policy, approved by the legal department, for providing adequate notice of all meeting times, dates, locations, and agendas. This policy is to include a procedure for submitting this information to the department of information systems for posting on the website calendar.

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
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ORDINANCE NO. BL2004-288 (continued)

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. BL2004-289 (DREAD, FOSTER & OTHERS) – This zoning text change amends the sidewalk provisions to grant relief to developers of property from having to install sidewalks in certain circumstances. The zoning code currently requires a developer of a multifamily or nonresidential project to install sidewalks along collector and arterial streets in front of the property. If sidewalks already exist, they must be brought into ADA compliance. The zoning code does not require sidewalks if the value of the project is less than 25% of the value of the overall property or if the value of multiple projects over a five-year period is less than 50% of the value. In addition to this exemption stated in the Code, developers can seek a variance from the board of zoning appeals for sidewalk relief.

This ordinance adds a couple of additional exemptions. The first additional exemption is that sidewalks would not be required if the total building square footage of any one expansion is less than 25%, or the total square footage of multiple expansions over a five year period is less than 50%, of the value of the property. The second exemption would be for property located outside the urban services district and the area surrounding the property within a one mile radius is developed at an average density of three or less units per acre. Thus, developers would be excused from constructing sidewalks for developments located in predominantly rural and low-density areas.

This ordinance also replaces the criteria for determining the locations in which sidewalks must be constructed. The ordinance provides that when sidewalk relief is granted pursuant to the sidewalk relief provisions of the subdivision regulations, any revision to the final plat may reflect the relief granted and shall be signed by the planning director, and any performance bond for sidewalk construction shall be released. The planning staff has raised an issue as to whether this provision violates Tennessee law since the planning commission has the sole authority under state law regarding subdivision regulations. The ordinance also provides exceptions from the sidewalk provisions if certain physical conditions exist. These exceptions are similar to the relief provisions in the subdivision regulations, except that the exceptions in this ordinance would be mandatory, whereas they are discretionary in the subdivision regulations. First, sidewalk relief must be granted when drainage ditches are present and sidewalks cannot be constructed without installing stormwater facilities. Second, sidewalk relief must be granted when there are cross-slopes of greater than 9% and the department of public works certifies that construction of sidewalks on both sides of the streets create a hazardous condition or be impracticable. Third, no sidewalks would be required when the surrounding area has sidewalks only on the opposite side of the road from the development and no sidewalks exist on the development side. Finally, any development that does not extend for the entire block of the street would not be required to install sidewalks unless existing sidewalks would fill in the block.

This ordinance also includes a payment in lieu of construction if the sidewalk construction for the area is in the capital improvements budget. Once funds are paid into the "sidewalk bank", the ordinance provides that the funds must be expended within 24 months of receipt on sidewalk construction within the same school district as the development. The ordinance provides that the cost of "ancillary roadway improvements", such as stormwater facilities, would not be included as part of the calculation of the amount to be contributed. It is important to note that stormwater facilities are often a large part of the cost of sidewalk installation.

(continued on next page)

ORDINANCE NO. BL2004-289 (continued)

Finally, this ordinance provides that sidewalks shall not be required on cul-de-sac or dead-end turn around streets. The planning staff has also raised the issue of whether this provision violates Tennessee law regarding the authority of the planning commission over subdivision regulations, as stated above.

This ordinance has been disapproved by the planning commission. There is a proposed substitute ordinance.

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. BL2004-309 (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.

Supplemental Analysis of Proposed Charter Amendments

RESOLUTION NOS. RS2004-232, RS2004-255 & RS2004-394 – These three resolutions provide proposed amendments to the Metropolitan Charter. 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. Each proposed 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. These three resolutions provide that the date for holding the referendum is the November 2004 presidential election. State election law requires that resolutions requiring the holding of elections on questions submitted to the people which are to be held at the regular November election must be filed with the election commission not less than 60 days prior to the November election. Thus, any Charter amendments proposed for the November 2, 2004 ballot must be approved by the Council at the August 17, 2004 Council meeting.

Resolution No. RS2004-232 (WALLACE) – This resolution amends the Metropolitan Charter to require that all appointees to fill vacancies in department director positions be confirmed by the Council. Presently, on the director of law and the finance director are subject to Council confirmation. 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 charter revision commission did not recommend approval of this amendment.

Resolution No. RS2004-255 (COLEMAN) – This resolution provides an amendment to the Metropolitan Charter to require that a member of the metropolitan board of education be appointed by the mayor to the planning commission. The planning commission would remain at ten members, but one of the ten members would be required to be a member of the board of education. The board of education member appointed to the planning commission by the mayor would be subject to confirmation by the Council and would serve for a term of two years.

The charter revision commission recommended approval of this amendment with a modification. The commission recommended that either a member of the board of education, or a person recommended to the mayor by the board of education, serve on the planning commission. Under state law and the Metro Charter, all members of the planning commission must be appointed by the mayor and confirmed by Council. The Council Office is of the opinion that while the board of education would not have the legal authority to designate a person to serve on the planning commission, it would be legally permissible for the Charter to provide that the board may recommend a person to the mayor to serve, provided that the mayor retains the discretion to appoint and the Council retains the ability to confirm such person.

Resolution No. RS2004-394 (WALLACE) – This resolution provides an amendment to the Charter to clarify that the office of mayor is limited to two consecutive terms. When the Charter was adopted in 1963, the office of mayor was limited to three consecutive four-year terms. The office of mayor was the only office that was term-limited by the Charter. In 1994, the Charter was amended by petition and referendum election to provide that all elected offices created by the Charter are limited to two consecutive four-year terms. However, the 1994 Charter amendment initiated by the citizens did not address the specific Charter provision related to the term limit for the office of mayor. Therefore, an undetermined legal question remains as to whether the later term limit provision trumps the prior term limit provision regarding the office of mayor, or whether the office of mayor continues to have a term limit of three consecutive terms. This Charter amendment would provide that the office of mayor is limited to two terms, in accordance with the general term limit provision adopted in 1994.

The charter revision commission did not recommend approval of this amendment and recommended that the “For the Ballot” language be modified.