

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **September 21, 2004**

RE: **Analysis Report**

Balances As Of:	<u>9/15/04</u>	<u>8/13/03</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,088,374	\$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</u>		
<u>SCHOOL FUND</u>	Unavailable	Unavailable

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

– RESOLUTIONS –

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.

RESOLUTIONS NO. RS2004-476, RS2004-477 & RS2004-478 – These three resolutions appropriate funds from the general fund of the general services district to three nonprofit organizations. These funds were included as part of the appropriations in the substitute operating budget adopted by the Council in June 2004. State law provides that the legislative body of a municipality may appropriate funds for financial aid of 501(c)(3) nonprofit organizations. In order for nonprofit organizations to receive such funding from the Metropolitan Government, state law requires that certain information be filed with the Metropolitan Clerk consisting of a copy of an annual audit, a description of the nonprofit's program that serves the residents of the community, the proposed use of government funds, and proof that the organization maintains a current 501(c)(3) tax exempt status.

Resolution No. RS2004-476 (Gilmore) approves a grant in the amount of \$50,000 to Citizens for Affordable Housing, Inc., to provide partial funding for its program services. The fiscal year 2004-2005 substitute operating budget ordinance adopted by the Council appropriated a total of \$100,000 as a contribution for affordable housing. This resolution appropriates \$50,000 of this amount to Citizens for Affordable Housing, Inc., which is an organization that provides services to enable residents of low rent housing to become physically and mentally self-sustaining citizens.

As stated above, state law unambiguously requires that nonprofit organizations receiving grants from municipalities submit a copy of an annual audit. In lieu of an annual audit, Citizens for Affordable Housing, Inc., has provided a copy of its form 990 tax return for 2003 and a copy of its balance sheet. The Council Office is of the opinion that a copy of the tax return and balance sheet does not meet the state law audit requirement. The finance department has accepted the tax return in lieu of an audit relying upon a Tennessee Attorney General opinion from 1991. However, the Attorney General Opinion relied upon by the finance department expressly states that “[i]t is the opinion of this Office that T.C.A. §6-54-111(c) requires a non-profit organization receiving financial assistance from a municipality to file an annual report of its business affairs, including a copy of its annual audit, with the city clerk.” While the opinion does go on to state that such an audit does not have to be prepared by an independent accountant, an audit is still required. The opinion states that guidelines adopted by the municipality could clarify the type of audit required, but the Council has not adopted any such guidelines.

Resolution No. RS2004-477 (Neighbors) approves a grant in the amount of \$50,000 to Nashville Housing Fund, Inc., to provide partial funding for its program services. Nashville Housing Fund, Inc., is a nonprofit organization that provides screening and information to prospective homeowners, and provides free counseling services to get low to moderate income families and individuals started in the home ownership process. Nashville Housing Fund, Inc., has submitted all of the information required by state law, including a copy of its annual audit.

Resolution No. RS2004-478 (Whitmore & Wallace) approves a grant in the amount of \$60,000 to Hadley Park Junior Tennis Development, Inc., to provide partial funding for its program services. Hadley Park Junior Tennis Development, Inc., is a nonprofit organization that provides opportunities for tennis lessons and competitions for the youth of Nashville and Davidson County.

In lieu of a copy of an annual audit, the department of finance has accepted a financial report certified by the treasurer of Hadley Park Junior Tennis Development, Inc. The Council Office is of the opinion that the copy of the financial report does not meet the state law requirement of an audit.

A housekeeping amendment should be offered for this resolution to make a technical correction in the legal name of the entity receiving the funds.

RESOLUTION NO. RS2004-479 (GILMORE) – This resolution approves the issuance of public improvement revenue refunding bonds in an amount not to exceed \$78,000,000. In February 1996, the Council authorized the issuance of revenue bonds by the Sports Authority to pay the costs of constructing the football coliseum. The Sports Authority now desires to refund the outstanding portion of these bonds to obtain a more favorable interest rate. This bond issue does not pledge the property tax revenues of the Metropolitan Government, but instead pledges certain revenues consisting of payments in lieu of taxes, parking revenues, lease payments from TSU for its football games, and certain non-tax fees and revenues of the Metropolitan Government. Since Metro revenues are part of the pledged revenue sources backing the bonds, the Council is required to authorize the issuance of the refunding bonds.

As stated above, the aggregate principal amount of the refunding bonds cannot exceed \$75,000,000, but may not be less than \$37,000,000. In addition, the resolution provides that the minimum present-value savings shall not be less than three percent. If it is determined after negotiations for the sale of the bonds that the savings will not be sufficient to make the sale worthwhile, then the refunding bonds will not be issued by the Sports Authority.

In addition to approving the issuance of the refunding bonds and pledging the revenues as security for the bonds, this resolution approves Metro's execution of a supplemental trust indenture and authorizes the distribution of an official statement in connection with the sale of the bonds.

RESOLUTION NO. RS2004-480 (MURRAY) – This resolution appropriates \$534,503 in community development block grant (CDBG) funds for the construction of site work and infrastructure improvements in the Sam Levy target area related to the redevelopment of the Sam Levy Homes. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community projects. Plans for this project are available for review at the offices of the Metropolitan development and housing agency.

RESOLUTION NO. RS2004-481 (GILMORE) – This resolution approves a grant in the amount of \$874,959 from the state department of human services to the Davidson County juvenile court to establish and enforce child support guidelines concerning children born out of wedlock. Pursuant to the grant agreement, the juvenile court referees will hear such child support cases and paternity hearings on an expedited basis. The referees will take testimony, evaluate the evidence, and establish child support orders based on the state child support award guidelines. The term of this

grant is from July 1, 2004, through June 30, 2005, with a possible extension of four additional one-year terms. There is a required local match of \$450,737 to be provided from the juvenile court's operating budget.

RESOLUTION NO. RS2004-482 (GILMORE) – This resolution approves an annual grant in the amount of \$50,585 from the state arts commission to the Metro arts commission for the current fiscal year. The funds will be used to make grants to not-for-profit organizations. There is a required local match in the amount of \$50,585 to be provided from the Metro arts commission budget. These funds are provided in addition to the other funds provided in the operating budget for arts grants. The term of the grant is from July 1, 2004, through June 30, 2005.

RESOLUTION NO. RS2004-483 (GILMORE) – This resolution approves a grant in the amount of \$6,000 from the University of Tennessee to the Metro department of human resources to provide professional development, supervisory, and management training for Metro employees. The term of the grant is from July 1, 2004 through June 30, 2005.

RESOLUTION NOS. RS2004-484 & RS2004-485 (GILMORE) – These two resolutions approve annual grants from the state department of labor and workforce development, under the provisions of the Workforce Investment Act of 1998, to provide funding to the Nashville career advancement center (NCAC) to prepare adults and dislocated workers for re-entry into the labor force, and to offer training to those facing serious barriers to productive employment. These are essentially federal pass-through funds that provide operating funds for NCAC. The term of the two grants is from July 1, 2004, through June 30, 2006, with a possible one-year extension.

Resolution No. RS2004-484 approves a dislocated worker grant in the amount of \$353,659.74.

Resolution No. RS2004-485 approves an adult worker grant in the amount of \$214,240.71.

RESOLUTION NO. RS2004-486 (GILMORE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide funding for administrative costs of its employment programs and services. This resolution increases the amount of the grant by \$63,100.05 for a total grant award of \$183,795.28.

RESOLUTION NO. RS2004-487 (NEIGHBORS) – This resolution approves an amendment to a contract between the Metropolitan Government and Acton Mobile Industries for the lease of two mobile offices for the benefit of the health department. The original contract was approved by the Council in April 2002 and is set to expire September 30, 2004. This resolution extends the term of the contract until September 30, 2005, with a possible extension of an additional eighteen-month period. The other provisions of the contract remain unchanged. The Metropolitan Code of Laws requires that all contracts with an annual rental amount in excess of \$5,000 be approved by resolution of the Council.

RESOLUTION NO. RS2004-488 (NEIGHBORS & GILMORE) – This resolution approves a contract between the Metropolitan board of Health and STD Free, Inc., for services regarding sexually transmitted diseases. Pursuant to this contract, STD Free, Inc., will provide a variety of services to the health department regarding sexually transmitted diseases, including organizing and developing a STD prevention community coalition, providing awareness and educational interventions, and advising the health department regarding appropriate approaches to reducing the transmission of sexually transmitted diseases in the Nashville area. STD Free, Inc., will be compensated at the rate of \$146,000 per year to provide these services. The term of this contract is from August 1, 2004, through July 31, 2005, with a possible extension at the discretion of the purchasing agent of four additional one-year terms. As required by the contract, STD Free, Inc., has provided the required certificate of liability insurance in the amount of \$1 million per occurrence naming the Metropolitan health department as additional insured.

RESOLUTION NO. RS2004-489 (NEIGHBORS & GILMORE) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metro board of health to provide primary healthcare services to homeless persons. The original amount of the grant for fiscal year 2003/2004 was \$159,385, and \$212,513 for fiscal year 2004/2005. This resolution increases the amount of the grant by \$17,400 for a total grant award of \$389,298.

RESOLUTION NO. RS2003-490 (NEIGHBORS & GILMORE) – This resolution approves an annual grant in the amount of \$450,800 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care, homemaker, meal delivery, and caregiver support services. These funds are used to assist persons who are homebound or unable to perform at least one instrumental activity of daily living. The term of this grant is from July 1, 2004 through June 30, 2005, with a possible one-year extension. There is a required local match of \$38,422.23 to be provided from the operating budget of the social services commission.

RESOLUTION NO. RS2004-491 & RS2004-492 (NEIGHBORS & GILMORE) – These two resolutions approve amendments to a grant from the U.S. department of health and human services to the Metropolitan board of health for a community access program. The original grant approved in December 2003 was for \$529,601. These grant funds are used to improve and expand access to medical services, substance abuse services, mental health services, and dental services for residents of Davidson County who are uninsured. These two resolutions simply increase the amount of the grant by using unexpended funds from prior grant awards.

Resolution No. RS2004-491 increases the grant award in the amount of \$41,888.

Resolution No. RS2004-492 increases the grant award by \$63,280 for a total grant award of \$634,769.

RESOLUTION NO. RS2004-493 (NEIGHBORS & GILMORE) – This resolution approves a grant in the amount of \$20,000 from the state department of human services to the Metropolitan social services commission to provide meals to eligible children. This grant is part of the federal Child and Adult Care Food Program. Metro social services will be reimbursed for the meals at the rate of reimbursement established by the USDA. The term of this grant is from October 1, 2004, through September 30, 2005.

RESOLUTION NO. RS2004-494 (DREAD & GILMORE) – This resolution sets a public hearing on the acceptance of a local law enforcement block grant from the U.S. department of justice to be held at the October 5, 2004 council meeting. Certain law enforcement block grant awards require public hearings due to the conditions of the grant award.

Resolution No. RS2004-495 is the resolution approving the grant that is the subject matter of the public hearing.

RESOLUTION NO. RS2004-495 (DREAD & GILMORE) – This resolution accepts a local law enforcement block grant from the U.S. department of justice to the Metropolitan Government for the benefit of the police department, the parks department, the district attorney's office, the public defender's office, juvenile court, the state trial courts, justice integration services, the sheriff's office, and the public schools, and appropriates the funds to these various departments. The participating departments will pay a total local match of \$76,997 from their respective department budgets. The police department will oversee and manage the grant.

This resolution needs to be deferred until the October 5, 2004 Council meeting so that the required public hearing can be held prior to the approval of the grant.

RESOLUTION NO. RS2004-496 (DREAD & GILMORE) – This resolution approves a grant in the amount of \$256,000 from the U.S. department of justice to the Metropolitan Government for the Metro police department to partner with the Metro public schools for gang resistance training. These funds are for the gang resistance education and training (GREAT) program. The goal of the GREAT program is to enable law enforcement officers to provide instruction to school-aged children in life-skill competencies, gang awareness, and anti-violence techniques. These funds will be used to provide at least 13 classes for local middle and junior high schools.

RESOLUTION NO. RS2004-497 (DREAD & GILMORE) – This resolution approves a grant in the amount of \$58,665 from the U.S. department of justice drug enforcement administration (DEA) to the Metropolitan police department for reimbursement of overtime pay to Metro officers participating in the Middle Tennessee drug enforcement taskforce. The drug enforcement taskforce is comprised of four Metro police officers and five DEA agents who gather intelligence data and conduct undercover operations related to illegal drug trafficking. Pursuant to this grant, the DEA will reimburse Metro for overtime payments made to the police department officers assigned to the task force. The term of this grant is from the date of its execution through September 30, 2005.

RESOLUTION NO. RS2004-498 (DREAD & GILMORE) – This resolution approves a grant in the amount of \$3,536,966 from the Tennessee emergency management agency to the Metropolitan Government to sustain key homeland security programs. These grant funds will be used to complete an initial strategy implementation plan to detect, prevent, and protect citizens from the threat of terrorism, and to respond to terrorist attacks. These are federal pass through funds from the 2004 Homeland Security Appropriations Act. The term of this grant is from April 1, 2004, through September 30, 2005. There is no required local match for this grant.

RESOLUTION NO. RS2004-499 (WALLACE & GILMORE) – This resolution approves and ratifies a prior 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 was actually from July 1, 2003 through June 30, 2004, but was never filed with the Metropolitan Clerk nor approved by the Council. As the Council is aware, all grants to the Metropolitan Government must be approved by resolution of the Council, and certainly should be approved prior to acceptance of the funds and the expiration of the grant term. The \$85,000 grant for the current fiscal year was approved in June 2004. This resolution accepts the fiscal year 2003-2004 grant and ratifies the prior submission of the grant.

RESOLUTION NO. RS2004-500 (WALLACE & GILMORE) – This resolution approves a prior grant award in the amount of \$139,035 from the state department of environment and conservation to the Metropolitan Government to purchase recycling dumpsters and educational material. The term of the grant is from April 1, 2004, through May 1, 2005. This grant agreement was signed by the mayor on February 26, 2004 but has yet to be approved by the Council. This resolution approves the grant and ratifies the prior execution of the grant. There is a required local match of \$139,035 for this grant.

RESOLUTION NO. RS2004-501 (WALLACE) – This resolution authorizes the Metropolitan Government to enter into an interlocal agreement with the Pleasant View utility district to transfer the water service at 7616 Old Clarksville Pike, which is located in Cheatham County, to Metro. 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. The contract provides that the cost of connecting 7616 Old Clarksville Pike to Metro's water distribution lines will be at the sole expense of the property owner.

RESOLUTION NO. RS2004-502 (WHITE & GILMORE) – This resolution authorizes the mayor to enter into a supplemental licensing agreement with the Nashville and Eastern Railroad Corporation to increase the rental fee paid for the sewer line at M.P. O.H. 0.98 in the railroad right-of-way. The Metropolitan Government has entered into numerous of these agreements with the railroad to allow Metro water and sewerage services to construct water and sewer lines. This license agreement is in perpetuity with an annual license fee that increases every three years based upon the national consumer price index average. This resolution approves an increase in the annual rent from \$51.84 to \$54.95.

RESOLUTION NO. RS2004-503 (GILMORE) – This resolution accepts \$7,365.78 in compromise and settlement of Metro's claim against James Beasley. On December 23, 2002, James Beasley was attempting to pull out of a private driveway onto Lebanon Road near the intersection of Spence Lane when he struck a Metro police motorcycle. The driver of the motorcycle incurred medical bills totaling \$4,607.11 and lost wages of \$6,441.00. Mr. Beasley's insurance company maintains that the Metro officer driving the motorcycle was comparatively at fault. This resolution settles the lost wages and medical bills paid by Metro for \$7,356.78, which is approximately 2/3 of the total amount. The property damage claim to the motorcycle has previously been settled. The department of law recommends this settlement.

RESOLUTION NO. RS2004-504 (GILMORE) – This resolution settles the lawsuit of Cynthia Frye against the Metropolitan Government for the amount of \$23,000. On August 12, 2002, Ms. Frye went to the Metro action commission building located at 1624 Fifth Avenue to look at the job board. While exiting the building, Ms. Frye fell on a defective step resulting in a herniated disc and nerve damage in her right leg. Although no reports of a defective step had been made prior to the accident, several Metro action commission staff persons entered by way of the broken step everyday and indicated that the step had been broken for some time.

Ms. Frye incurred medical bills totaling \$7,775.75 and is currently seeing a pain specialist. Ms. Frye is not claiming any lost wages as a result of the accident. The department of law recommends settling this lawsuit in the amount of \$23,000, which will reimburse Ms. Frye for her medical bills and provide approximately \$15,200 to compensate for her pain and suffering. This amount will be paid from the self-insured liability fund.

RESOLUTION NO. RS2004-505 (GILMORE) – This resolution accepts \$7,670 in compromise and settlement of Metro's claim against Judy M. Mayes. On November 11, 2003, a Metro police officer was sitting in his patrol car with the blue lights activated in the left eastbound lane of I-24 near Spring Street working a traffic accident. Ms. Mayes slid into the rear of the patrol car, causing substantial property damage to the patrol car and minor injury to the officer. The estimate to repair the 2000 Chevrolet Impala patrol car was \$8,698.89. The department of law recommends settling the property damage portion of the claim for \$7,670. There is still an outstanding claim for the Metro officer's medical bills and lost wages.

RESOLUTION NO. RS2004-506 (GILMORE) – This resolution accepts \$7,395.83 in compromise and settlement of Metro's claim against Joel Perez. On July 22, 2004, Mr. Perez made a left turn on Gallatin Road in front of a car driven by an employee of the fire department resulting in extensive property damage to the Metro vehicle and personal injuries to the Metro employee. The estimated cost of repairs for the Metro vehicle is \$7,395.83. The department of law recommends settling this claim for the amount of the property damage. This resolution does not settle any claims for medical bills or lost wages.

RESOLUTION NO. RS2004-507 (GILMORE) – This resolution accepts \$23,068.61 in settlement of Metro's claim against Warner Music Group/Deaton Flanigen Productions. On April 15, 2004, Warner Music Group/Deaton Flanigen Productions was filming the video for Big & Rich's song "Save a Horse". As part of the filming, horses and mules were brought onto the Shelby Street pedestrian bridge. The iron shoes worn by the horses and mules resulted in \$23,068.61 in damage to the deck of the bridge. The department of law recommends settling this claim for the amount of the damage to the bridge.

RESOLUTION NO. RS2004-508 (GILMORE) – This resolution compromises and settles the lawsuit of Nettie G. Williamson against Metropolitan Government for the amount of \$7,699.22. On August 8, 2003, Ms. Williamson was traveling eastbound on Main Street when an unidentified driver pulled out in front of her causing her to slam on her brakes. A Metro water department employee was traveling behind Ms. Williamson and struck the rear of her vehicle. Ms. Williamson sustained a lumbar strain, left shoulder strain, and contusion. Her medical bills totaled \$3,734, and her vehicle sustained property damage totaling \$199.32. The department of law recommends settling this lawsuit for the amount of the medical bills and property damage, plus \$3,766 to compensate for her pain and suffering. The \$7,699.22 settlement is to be paid from the self-insured liability fund. No disciplinary action was taken against the Metro employee involved in this accident.

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- BILLS ON SECOND READING -

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 second 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 for a dog owner to fail 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. BL2004-341 (BRADLEY) – This ordinance authorizes the director of public property administration to acquire an easement, by negotiation or condemnation, to property located at 3461 Hamilton Church Road to permit the construction of water mains, sanitary sewers, and stormwater improvements for the Off-site Tillman subdivision. The estimated cost for this easement is \$1,500, and is to be paid from the water and sewer extension and replacement fund. The acquisition of additional easements for this project may be approved by a resolution adopted by the Council.

There is a housekeeping amendment to be offered for this ordinance correcting a typographical error in the proposal number.

ORDINANCE NO. BL2004-344 (WALLACE) – This ordinance would amend the Metropolitan Code of Laws to reduce the number of years of service for eligibility of elected officials to continue to participate in the Metro healthcare plan from eight years to four years. The Council Office is of the understanding that this ordinance is to be withdrawn by the sponsor.

ORDINANCE NO. BL2004-345 (MURRAY & MCCLENDON) – This ordinance amends the Metropolitan Code of Laws to require that the front entrances of new single-family homes face a public or private street. This ordinance would prevent constructing homes on narrow lots that face another home, instead of facing the street. This ordinance would not apply to single-family homes located in agricultural or residential zoning districts with a minimum 80,000 square foot lot, nor would it apply to commercial areas.

ORDINANCE NO. BL2004-346 (MCCLENDON) – 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 amends the property standards section of the Code to provide that fences may only be constructed using the following materials:

1. Woven wire.
2. Wrought iron.
3. 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, dry-stack stones, or stones and mortar.
4. 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.

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ORDINANCE NO. BL2004-346 (continued)

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 painted, stained or preserved in a manner to maintain the fence in good structural condition. This ordinance expressly does not apply to temporary construction fencing, temporary tree protection fencing, temporary festival fencing, prison fencing, and to any fence located within the AR, AG, R80 and RS80 zoning districts.

There will be an amendment offered for this ordinance to include chain link fencing as permissible along with woven wire, and to clarify that this ordinance does not take precedent over any provisions regarding fencing in the Zoning Code.

ORDINANCE NO. BL2004-347 (GILMORE) – This ordinance approves a contract between the state department of children's services (DCS) and the juvenile court to provide juvenile detention services for children in the custody of DCS. Pursuant to this contract, the juvenile court will provide temporary short-term detention services for children under DCS custody who have been placed in detention. The juvenile court will be reimbursed \$125 per day per child not to exceed \$5,000 per year. The detention services to be provided by the juvenile court include room and board, education services, and case management and coordination. The term of the contract is from February 1, 2004, through June 30, 2008. The maximum liability of DCS under the contract is \$25,000 over the life of the contract.

ORDINANCE NO. BL2004-348 (HAUSSER) – This ordinance authorizes the director of public property administration to acquire easements to property for curb and gutter improvements, sidewalk construction, and the planting of a grass strip from Kirkwood Avenue to Clayton Avenue. Property interests are to be acquired for property located at 1000 Clayton Avenue, 2909 12th Avenue South, and another parcel located on 12th Avenue South identified only by parcel number. This ordinance provides that future property interests for this project may be acquired by resolution of the Council receiving 21 affirmative votes. Funding is available for this project from the GSD multi-purpose improvement bonds of 2002.

ORDINANCE NO. BL2004-350 (JAMESON) – This ordinance amends the Metropolitan Code of Laws to repeal the existing ordinance prohibiting the operation of pinball machines by minors. The Code currently prohibits owners of pinball machines from allowing persons under the age of 18 to play pinball machines or loiter near machines. This ordinance has been part of the Code for many years, presumably because pinball machines were once often used as gambling devices. However, the primary use of pinball machines today is simply for amusement, not illegal activity.

ORDINANCE NO. BL2004-351 (DREAD) – This ordinance amends the Metropolitan Code of Laws to provide for a taxicab passenger's Bill of Rights. The taxicab bill of rights has been adopted in major tourist destination cities such as New York City and Las Vegas. The transportation licensing commission has already adopted a version of the taxicab passenger's bill of rights. This ordinance simply codifies the bill of rights with some minor changes and additions. Pursuant to this ordinance, taxicab passengers have the following rights:
(continued on next page)

1. A professional driver who is licensed and knowledgeable about major routes, destinations, and attractions in Nashville and Davidson County;
2. A driver who knows and obeys all traffic laws and ordinances related to taxicabs;
3. A driver who speaks and understands English and is courteous providing passenger assistance as well as a safe ride;
4. A quality taxicab that is mechanically free of problems and is clean both in the passenger areas as well as the trunk area;
5. Smoke and incense-free air while in the taxicab;
6. A silent trip without the driver engaging in personal wireless telephone calls;
7. Air conditioning and heat upon request;
8. Direct the destination and the route to be traveled;
9. To refuse to tip; and
10. A receipt upon request.

This ordinance requires that the above rights be posted in each taxicab in plain view of all passengers effective December 1, 2004.

ORDINANCE NO. BL2004-352 (COLEMAN) – This ordinance amends the Metropolitan Code of Laws to require all Metro departments, boards, and commissions to develop a Title VI implementation plan and to submit annual compliance reports. Title VI of the Civil Rights Act of 1964 prohibits organizations and agencies that receive federal funds from discriminating on the basis of race, color, or national origin. Since The Metropolitan Government receives federal funding for various government programs, Metro must comply with the provisions of Title VI. This ordinance would require each Metro department, board, commission, and agency to develop a Title VI implementation plan. The ordinance further would require such departments, boards, commissions, and agencies to submit annual compliance reports and implementation plan updates to the director of personnel at the end of every fiscal year. The annual report is to be distributed to the mayor and to each member of council. The ordinance provides that federal funds should be used to the extent legally available to cover any increased costs incurred by departments, boards, and commissions in developing the plan and preparing the report.

ORDINANCE NO. BL2004-353 (JAMESON) – This ordinance amends the Metropolitan Code of Laws by making various technical and procedural changes regarding burglar and fire alarm permits, violations, revocations, and appeals. This is essentially a housekeeping ordinance. Most of the changes in this ordinance reflect current procedures and practices. For example, the Code currently provides that owners of alarm systems are to give notice to the police department or fire department and obtain a permit. However, all alarm permits are handled through the Metropolitan clerk's office. Thus, this ordinance amends the code to require notice be given to the clerk. The Code also requires that a law enforcement officer or fire officer notify a permit holder if a request for revocation of the permit has been filed based on excessive false alarms. This ordinance amends this provision to reflect the current practice whereby notification of revocation requests are to be sent by the Metropolitan clerk. Finally, this ordinance would provide that a permit holder may send a designee to respond to an alarm activation.

ORDINANCE NO. BL2004-354 (ISABEL) – This ordinance amends the Metropolitan Code of Laws to require that notices of violations of the property standards code be either personally served or sent via certified mail. The Code currently provides that notices of violations must be personally served or sent via certified or first class mail. This ordinance removes the first class mail option.

ORDINANCE NO. BL2004-355 (WHITMORE) – This ordinance provides the Metropolitan Government's consent to the name change of the entities operating the football coliseum. Metro and the sports authority have previously entered into contracts with Cumberland Stadium, LP, Tennessee, LP, and Cumberland Suites, LP regarding the ownership, operation and leasing of the coliseum for use by the Titans. These agreements consist of a development agreement, stadium lease, and a guarantee agreement. The three limited partnerships that are a party to these agreements have decided to merge into three corporations. The surviving entities will be Cumberland Stadium, Inc., Tennessee Football, Inc., and Dream Suites, Inc. The surviving entities will acquire all of the assets and assume all of the liabilities of the respective limited partnerships. These name changes do not affect the liabilities or obligations of the Metropolitan Government regarding the coliseum in any way. The sports authority has consented to these mergers.

ORDINANCE NO. BL2004-356 (MCCLENDON) – This ordinance readopts the Metropolitan Code to include all ordinances enacted on or before May 18, 2004.

ORDINANCE NO. BL2004-357 (WILLIAMS) – This ordinance abandons an existing utility and drainage easement encumbering two parcels of property on Sherwood Drive. The department of water and sewerage services is no longer using this easement. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2004-358 – BL2004-365 – These eight ordinances authorize the director of public property administration to accept easements for various stormwater projects in Davidson County. All of these easements to be accepted have been executed by the respective property owners and such easements are necessary for the completion of the stormwater projects.

Ordinance No. BL2004-358 (McClendon) accepts easements encumbering properties located at 734 Wildview Drive and 913 Drummond Drive in connection with the Wildview Drive stormwater project.

Ordinance No. BL2004-359 (Williams) accepts easements encumbering properties located at 3926, 3920, and 3932 Cross Creek Road in connection with the Cross Creek Road stormwater project.

Ordinance No. BL2004-360 (Shulman) – This ordinance accepts easements encumbering properties located at 4210 and 4212 Hillsboro Road in connection with the Craighead Patterson Properties stormwater project.

Ordinance No. BL2004-361 (Shulman) – This ordinance accepts an easement encumbering property located at 1808 Woodmont Boulevard in connection with the First Universal Church stormwater project.

Ordinance No. BL2004-362 (Tucker) – This ordinance accepts an easement encumbering property located at 3913 Brick Church Pike in connection with the Brick Church Pike stormwater project.

Ordinance No. BL2004-363 (Tucker) – This ordinance accepts an easement encumbering property located at 3188 Robwood Drive in connection with the Robwood Drive stormwater project.

Ordinance No. BL2004-364 (White) – This ordinance accepts an easement encumbering property located at 2032 Hickory Hill Lane in connection with the Hickory Hill Lane stormwater project.

Ordinance No. BL2004-365 (Tucker) – This ordinance accepts an easement encumbering properties located at 4800, 4744, 4740, 4736, 4732, and 4728 Indian Summer Drive in connection with the Indian Summer Drive stormwater project.

ORDINANCE NO. BL2004-366 THRU BL2004-369 (WALLACE & GILMORE) – These four ordinances authorize the Metropolitan Government to enter into participation agreements to provide public water and sewer service to three developments in Williamson County. The Owl Creek trunk and Mill Creek trunk sewer projects were constructed anticipating participation from developers in Williamson County for connection to the sewer system. These are typical participation agreements entered into by the Metropolitan Government acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend public water and sewer service. The developers will provide funds as a contribution-in-aid of construction to be deposited into the water and sewer extension and replacement fund.

Ordinance No. BL2004-366 approves a participation agreement between Metro and CPS Land, LLC, to provide sewer service to phase two of the Bridgeton Park subdivision. CPS Land, LLC, has agreed to contribute \$52,000 in lieu of construction for a total of 26 single-family connections.

Ordinance No. BL2004-367 approves a participation agreement between Metro and CPS Land, LLC, to provide sewer service to phase three of the Bridgeton Park subdivision. CPS Land, LLC, has agreed to contribute \$60,000 in lieu of construction for a total of 30 single-family connections.

Ordinance No. BL2004-368 approves a participation agreement between Metro and Cates Kottas Development Company, LLC, to provide sewer service to the Bent Creek subdivision. The total cost of the sewerage system extensions is \$1,566,000. Cates Kottas Development Company, LLC, has agreed to contribute \$1,346,000 in aid of construction for a total of 783 single-family connections. Metro water services will pay the remaining \$220,000 toward this project.

Ordinance No. BL2004-369 approves a participation agreement between Metro and Cates Kottas Development Company, LLC, to provide sewer service to the Brookfield Estates subdivision. The total cost of the sewerage system extensions including the upsizing of the sewer line is \$72,000. Cates Kottas Development Company, LLC, has agreed to contribute \$30,000 in aid of construction for a total of 36 single-family connections. Metro water services will pay the remaining \$30,000 toward upsizing the 10" sewer line.

ORDINANCE NO. BL2004-370 (FOSTER, NEIGHBORS & GILMORE) – This ordinance authorizes the director of public property administration to acquire property located on Cotton Lane, by negotiation or condemnation, for the construction of a new Head Start center in the Nolensville Road area for the benefit of the Metro action commission. The property consists of 5.46 acres and has an appraised value of \$72,600.

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- **BILLS ON THIRD READING** -

ORDINANCE NO. BL2004-235 (SHULMAN & WALLACE) – This ordinance, as amended, amends the Metropolitan Code of Laws to require any Metro department, agency, contractor, or public utility engaged in excavation, sidewalk construction, or paving work in the Metro public right-of-way that is estimated to last more than twenty days 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. BL2004-288 (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. BL2004-289 (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
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ORDINANCE NO. BL2004-289 (continued)

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 would 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.

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 amendment to this ordinance.

SUBSTITUTE ORDINANCE NO. BL2004-303 (WILHOITE) – This substitute ordinance provides that the Metropolitan department of public works shall be responsible for signage of public streets and roads to ensure that there is no duplication of street and road names that might compromise public safety. The ordinance further provides that the department of public works is to indicate the street address range on certain signs when necessary to assist in locating addresses for public safety and emergency services.

SUBSTITUTE ORDINANCE NO. BL2004-304 (NEIGHBORS & GILMORE) – This substitute ordinance approves the transfer of the operation of the J.B. Knowles Home for the Aged to the hospital authority, and approves the lease of the home, 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.
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SUBSTITUTE ORDINANCE NO. BL2004-304 (continued)

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 ending January 1, 2028, which mirrors the term of the Meharry General Hospital lease. The ordinance provides the lease agreement may be amended by resolution of the council adopted by 21 votes.

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 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. BL2004-339 (WALLACE) – This zoning text change amends the Code to require that all fee waivers for zoning applications be approved by resolution of the Council. The Zoning Code currently provides that fees for processing zoning applications shall be waived for any large area rezonings initiated by the planning commission or the Council. Due to this current Code provision, it is sometimes unclear whether a proposed zone change initiated by a member of council qualifies as a "large area rezoning". This ordinance would enable the Council to make a determination on a case-by-case basis as to whether a zoning application fee should be waived.

The planning commission voted to make no recommendation regarding this ordinance, as this is essentially a Council issue. Section 18.02 of the Metropolitan Charter provides that no zoning ordinance may be approved by the Council on second reading unless the planning commission has made a recommendation or 30 days have elapsed since the referral of the ordinance to the planning commission. This ordinance was referred to the planning commission on August 3, 2004. Thus, the 30 days have elapsed since the referral of this ordinance to the planning commission, and the lack of recommendation effectively results in an approval of the ordinance by the commission.

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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