

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **January 18, 2005**

RE: **Analysis Report**

Balances As Of:	<u>1/12/05</u>	<u>1/14/04</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,333,475	\$25,339,246
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$4,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$28,818,707	\$22,750,559
USD	\$5,003,020	\$8,433,994
<u>GENERAL PURPOSE SCHOOL FUND</u>	\$25,250,424	\$38,771,091

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

– RESOLUTIONS –

RESOLUTION NO. RS2004-647 (WALLACE & GILMORE) – This resolution appropriates \$4,000 from the contingency account of the general fund of the general services district to Ujima House, Inc., to provide partial funding for its program services. Ujima House, Inc., is a nonprofit organization that provides services to victims of domestic violence, consisting of temporary housing, clothing, food, crisis intervention/counseling, and education services.

The contingency account of the general fund has typically been reserved by the council for emergency purposes. The operating budget for fiscal year 2004-2005 set aside \$50,000 in the contingency account to be used for such emergencies. On October 19, 2004, the Council appropriated \$26,000 from the contingency account of the general fund to Ujima House, Inc. Then, on December 7, 2004, the Council appropriated another \$20,000 from the contingency account to Exchange Club Family Center, Inc., leaving a balance in the account of \$4,000. This resolution appropriates the remaining contingency account balance to Ujima House, Inc.

As the Council is aware, state law allows local government to make grants to nonprofit organizations, provided that certain information is submitted by the organization proving their eligibility for such funds. Ujima house, Inc., has submitted a statement as to the proposed use of Metro funding, a letter from the Internal Revenue Service evidencing its tax exempt status, and a copy of its annual audit in compliance with state law.

RESOLUTION NO. RS2005-666 (JAMESON) – This resolution sets a public hearing for the February 1, 2005, council meeting for a proposed amendment to the Five Points redevelopment plan. State law requires that a public hearing be held prior to final approval of an amendment to a redevelopment plan. This resolution also requires a notice of the public hearing be published in the January 17, 24, and 31, 2005, issues of *The Tennessean*.

Ordinance No. BL2005-510, which is on first reading, provides for the amendment to the plan. An analysis of the amendment will be provided when the ordinance is on second reading.

RESOLUTION NO. RS2005-667 (BRILEY) – This resolution provides a proposed amendment to the Metropolitan Charter that would create a department of audit within the Metropolitan Government. The charter currently provides that the finance department has the duty of conducting periodic audits of the finances of Metro departments, offices, and agencies. The finance department currently has a division of internal audit that conducts and oversees Metro audits. This charter amendment would remove this duty from the finance department and vest this authority with a separate department of audit.

Pursuant to this charter amendment, a department of audit would be created to periodically inspect and audit the financial records, and to conduct or oversee periodic performance audits of the various departments and agencies of the Metropolitan Government to “promote effective and efficient government operations and services.” The department of audit would be responsible for any additional duties and responsibilities as may be prescribed by ordinance. The department of audit would be headed by a director of audit that would be appointed by the mayor and confirmed by the council. The initial term of the director of audit would commence upon appointment and end August 31, 2009. Each additional term would be for four years, so that each term would end two years into (continued on next page)

RESOLUTION NO. RS2005-667 (continued)

a mayor's term. The charter amendment would require that the director of audit be a certified public accountant with experience in governmental auditing and knowledge of the generally accepted governmental audit standards.

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. This resolution provides that the date for holding the referendum election on this Charter amendment is to be the August general election in 2006, since there are no regular elections to be held in 2005. 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 election must be filed with the election commission not less than 60 days prior to the August election. Thus, this resolution should be deferred indefinitely.

RESOLUTION NO. RS2005-668 (COLE & NEIGHBORS) – This resolution authorizes the department of finance to accept two donations for the use and benefit of the caring for children program. Pursuant to Ordinance No. BL2003-57, the department of finance is authorized to accept donations for the caring for children program subject to approval of the council by resolution. Such donations are to be used to purchase food, clothing, supplies, and other similar items. This resolution accepts the donation of \$25 from Gayle Barbee, and accepts \$100 from Brush Hill Cumberland Presbyterian Church.

RESOLUTION NO. RS2005-669 (COLE & NEIGHBORS) – This resolution approves an extension of an amendment to a contract between the Metropolitan board of health and STD Free, Inc., for services regarding the prevention of sexually transmitted diseases. In September 2004, the council approved the initial contract with STD Free, Inc. Pursuant to this contract, STD Free, Inc., is to 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., was to be compensated at the rate of \$146,000 per year, payable quarterly, to provide these services. The term of this contract was from August 1, 2004, through July 31, 2005, with a possible extension of four additional one-year terms.

STD Free, Inc. has proposed to modify the contract so that they can be compensated bi-annually instead of quarterly, and that the term of the contract correspond with the calendar year rather than the fiscal year. This resolution approves these modifications so that the term of the contract begins January 1, 2005, and ends December 31, 2005, with four additional extension terms of one year each.

RESOLUTION NO. RS2005-670 (NEIGHBORS & RYMAN) – This resolution approves an amendment to a grant from the Tennessee emergency management agency to the Metropolitan Government for the purchase of domestic preparedness public safety equipment. The original grant was approved in 2003 and was for a term expiring December 31, 2004. The grant provided \$250,000 in federal funds to purchase air purifying respirators (APRs), APR canisters, and radiological detection equipment. This resolution amends the grant to extend the grant term until December 30, 2005.

RESOLUTION NOS. RS2005-671 & RS2005-672 – These two resolutions initiate the rezoning of property for the purpose of waiving the zoning application fee. The Metropolitan zoning code provides that zoning application fees may be waived for “large area rezonings initiated by the planning commission or metropolitan council to implement the general plan.” The department of law has recently interpreted this code section to mean that zoning application fees may not be waived upon the request of individual council members, but only by the council as a whole. Ordinance No. BL2004, 409, currently on second reading, would amend this code section to allow individual members of council to waive zoning application fees in certain circumstances.

Resolution No. RS2004-671 (ADKINS) initiates the rezoning of 1,359.61 acres of property located between the boundaries of Hill Road to the south, Blackman Road to the north, Seven Mile Creek to the east, and the CSX railroad tracks to the west, from R10, R15, R20 and R40 districts to RS10, RS15, RS20 and RS40.

Resolution No. RS2004-672 (WILLIAMS) initiates the rezoning of 31.42 acres of property located at Vailwood Drive and Skyline Drive from R20 to RS20.

RESOLUTION NO. RS2005-673 (WALLACE) – This resolution approves property located at 1722 Villa Place to be used as a historic bed and breakfast homestay to be operated by Susan Allen. Ms. Allen has filed a request for a special exception with the board of zoning appeals to use this property as a historic bed and breakfast. Pursuant to the Metro zoning code, the council must approve such historic bed and breakfast locations prior to the board of zoning appeals taking action. Such facilities must first be approved by the Metro historic zoning commission and must be owner occupied.

Pursuant to the Metro code of laws, if the council does not adopt or defeat this request within sixty (60) days it shall be deemed approved by the council.

RESOLUTION NO. RS2005-674 (NEIGHBORS) – This resolution accepts \$15,034.82 in compromise and settlement of the Metropolitan Government’s property damage claim against Saul Levinson. On August 18, 2004, a Metro public works ready response truck was assisting a stranded motorist in the emergency lane of Ellington Parkway. Mr. Levinson’s vehicle struck the rear of the public works truck causing \$15,034.82 in damage. This amount is to be deposited into the appropriate fund and account as determined by the director of finance.

RESOLUTION NO. RS2005-675 (JAMESON & BRILEY) – This resolution authorizes Viridian Development Company, LLC, to install an entry canopy and multiple balconies over the right-of-way at 411 Church Street for the new Viridian apartment building. The Metropolitan code allows the council to grant aerial encroachments by resolution rather than ordinance. Viridian Development Company has agreed to indemnify the Metropolitan Government for any claims arising from the installation or maintenance of the encroachments, and is required to furnish a certificate of public liability insurance naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2004-409 (SHULMAN) – This zoning text change amends the code to provide for the waiver of application fees for certain rezonings initiated by the planning commission and members of 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 that further the general plan. The department of law has recently interpreted this provision to mean that only the council as a whole, not an individual member of council, may initiate a zoning application in order to have the fee waived. In addition, the current language in the code does not define “large area.” This has caused some confusion in the past since it is sometimes unclear whether a proposed zone change qualifies as a “large area rezoning”.

This ordinance would provide that the zoning application fee may be waived for any rezoning of fifty or more parcels introduced by the planning commission to implement the general plan. This ordinance would also add a new provision to the code that would allow a waiver of zoning application fees for any rezoning request of fifty or more parcels introduced by individual members of council for the purpose of rezoning the property to a single-family (RS) district, or for the purpose of applying the urban design overlay district, historic preservation district, neighborhood conservation district, or urban zoning overlay district.

The planning commission has made no recommendation regarding this zoning text change. 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 October 5, 2004. Thus, the 30 days have elapsed since the referral of this ordinance to the planning commission, effectively resulting in an approval of the ordinance by the commission.

There is a housekeeping amendment for this ordinance correcting a section number. There may also be a proposed amendment that would delete the fifty parcel minimum requirement for a fee waiver and substitute a fixed acreage, such as five acres, instead.

ORDINANCE NO. BL2004-421 (COLE) – This ordinance, as amended, amends the Metropolitan code of laws to provide reporting requirements for nonprofit organizations receiving grants from the Metropolitan Government. State law requires that all organizations desiring financial assistance from the Metropolitan Government submit “a copy of an annual audit”, but this state law provision does not define the term “audit”. As a result, there has been some confusion as to the type of financial information that nonprofit organizations must submit in order to receive grants from the Metropolitan Government. The finance department has in the past been willing to accept other information in lieu of an audit, such as a copy of a tax return, for some start-up nonprofit entities. However, the department of law has recently interpreted the state law provision in question to require that such nonprofit entities file an annual audit with the Metropolitan Clerk before obtaining governmental funding. The legal opinion issued by a Metropolitan Attorney quotes a Tennessee Supreme Court case in which the Court states that “an audit, as the term is commonly use, is ... the methodical examination of records with intent to verify the accuracy.” A Tennessee Attorney General opinion from 1991 states that although an audit is required, the audit does not have to be prepared by an independent accountant. The Attorney General opinion further provides that the local legislative body can adopt regulations to clarify the type of audit required.

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ORDINANCE NO. BL2004-421 (continued)

In an effort to clarify the type of information required, this ordinance amends the code to include a specific list of information that must be submitted to the Metropolitan Government prior to the disbursement of any grant funds to nonprofit organizations. This ordinance is modeled after a law currently in place in Knoxville, Tennessee. Pursuant to this ordinance, all nonprofit organizations would be required to submit the following information:

- A copy of its corporate charter or other articles, constitution, bylaws, or instruments of organization.
- A copy of a letter from the Internal Revenue Service evidencing the fact that the organization is a nonprofit, tax-exempt organization.
- A statement of the nature and extent of the organization's program that serves the residents of the metropolitan government.
- The proposed use of the funds to be provided by the metropolitan government.
- The proposed budget of the organization.
- A copy of the organization's audit for the most recent fiscal year. The ordinance defines the term "audit" as "a formal examination of the organization's accounting records and financial situation in accordance with the generally accepted auditing standards issued by the American Institute of Certified Public Accountants."

This ordinance expressly exempts nonprofit civic and charitable organizations receiving grants from the arts commission, as these appropriations are governed by another specific code section.

ORDINANCE NO. BL2004-434 (WALLACE) – This ordinance amends the Metro procurement code to require that all contracts for consulting and performance auditing services be approved by resolution of the council receiving twenty-one affirmative votes. Certain contracts are already required to be approved by the council under the procurement code, such as contracts regarding the collection or disposal of waste with an annual payment in excess of \$500,000. The Metropolitan Government frequently contracts with various firms and individuals to perform consulting and auditing services for the government, including legal services, financial advisory services, architectural services, and engineering services. This ordinance would require council approval before such contracts could be entered into.

There is a housekeeping substitute for this ordinance correcting the chapter number in the caption.

ORDINANCE NO. BL2004-435 (NEIGHBORS & HAUSSER) – This ordinance, as amended, increases the rate schedule wrecker companies may charge for providing emergency towing services. Under the Metropolitan code of laws, "emergency towing" occurs in one of three situations: (1) When a vehicle is parked or stopped in violation of any Metro ordinance; (2) When a vehicle is obstructing traffic flow; or (3) When a vehicle is disabled by an accident and is obstructing traffic such that its removal or storage for safekeeping is necessary in the interest of public safety and protection of property. Wrecker companies are specifically licensed by the transportation licensing commission to provide emergency towing services. The commission has divided Davidson County into various emergency towing zones, which are serviced by certain companies. In order for a wrecker company to be licensed to provide emergency towing services, it must state under oath that it will provide 24-hour service, that it will be equipped with a two-way radio, and that it will provide a direct line of communication for the police department. This ordinance provides for various rate increases regarding emergency towing services.

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ORDINANCE NO. BL2004-435 (continued)

First, this ordinance would allow the transportation licensing commission to set the licensing rates for emergency towing companies based on the volume of emergency towing operations performed within the particular emergency service zone. The current licensing fee is a flat \$500.00. Second, this ordinance increases the fees that may be charged for performing various emergency towing services, including the maximum towing fees to transport vehicles to the Metro impound lot, the maximum labor charges, and storage fees. The current fee schedule makes a distinction between vehicles less than 5,000 pounds, and those over 5,000 pounds. This ordinance amends this provision to distinguish between vehicles over and under 7,000 pounds. This ordinance also adds a provision that would allow "waiting time" charges not to exceed ½ the allowable labor rates whenever wreckers are required to wait at the scene until emergency personnel have completed their work. Emergency wrecker companies are also allowed to charge an additional 25% over the base fee whenever the use of outside labor and equipment is required.

Attached to this analysis is a document detailing the changes to be made by this ordinance in the fee schedule. The current fee is crossed out and the proposed new fee is underlined.

ORDINANCE NO. BL2004-452 (GILMORE & JAMISON) – This ordinance grants an easement to BellSouth Communications, Inc., at the southwest corner of Owen Bradley Park in the Music Row area. BellSouth is purchasing this 18'x20' easement for \$7,000 to be used as a platform pad supporting metal cabinets that will allow BellSouth to convert fiber optic communication lines to copper wire communication lines. BellSouth is required to fully landscape the area around the easement pursuant to the approval of the department of parks and recreation. This ordinance further grants the authority to the director of parks and the director of public property administration to execute the appropriate documents to carry out the grant of this easement. Any amendments to this easement grant may be approved by resolution of the Council.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2004-497 (NEIGHBORS) – This ordinance approves an agreement between the Metropolitan Government and the Nashville District Management Corporation (NDMC) for the administration of the central business improvement district (CBID). The CBID was created by ordinance in 1998, as authorized by state law, to allow the imposition of an assessment of all real property owners in the area to provide enhanced services. The 1998 ordinance provided that the CBID was to expire January 1, 2003, unless extended by petition of the property owners in the CBID and approved by the council. In June of 2002, the council received the petition from the property owners and extended the term of the CBID until December 31, 2007. The 1998 ordinance establishing the CBID also created a district management corporation to administer the CBID, as provided in the state enabling legislation. The ordinance authorized the mayor to execute a memorandum of agreement with the district management corporation, which was done. However, the agreement expired in 2003 and was not renewed when the CBID term was extended. Thus, it is necessary to approve a new memorandum of agreement with NDMC for the administration of the CBID.

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ORDINANCE NO. BL2004-497 (continued)

The language in this agreement closely resembles the language in the ordinance creating the district management corporation, which is codified in Title 2 of the Metropolitan code of laws. The agreement provides that NDMC will provide all program administration for the CBID including maintaining parking facilities, constructing and maintaining public improvements, acquiring real property, and providing the following services: promotion and marketing; advertising; health and sanitation; public safety; security; recreation; cultural enhancements; design assistance; and business recruitment and retention in the district. All of the services provided by NDMC are paid from the special assessment of \$0.15 per \$100 of the assessed value of property within the district. NDMC must provide a monthly financial report to the mayor and the director of finance. NDMC must also provide a fidelity bond in the amount of \$100,000 ensuring their proper handling of money.

This agreement is set to expire on December 31, 2005, and may be extended for up to two additional one-year terms. The agreement further provides that the terms of this memorandum of agreement, and the obligations under the agreement, shall govern the time between the expiration of the prior agreement and the effective date of the new agreement.

ORDINANCE NOS. BL2004-498, BL2004-499 & BL2004-500 – These three ordinances provide amendments to the Metro beer permit laws.

Ordinance No. BL2004-498 (DREAD) would create a caterer's beer permit. The code currently provides for four types of beer permits: wholesaler's permit, retailer's "off-sale" permit, retailer's "on-sale" permit, and a retailer's special events permit. A wholesaler's permit is issued to distributors, manufacturers, and brewers of beer. A retailer's off-sale permit is issued for establishments such as grocery stores and markets that sell beer for consumption off of the premises. A retailer's on-sale permit is issued to restaurants for consumption on the premises. A special events permit is issued for on premises consumption upon the premises of the seller for a specified period of time and in conjunction with certain types of activities. Currently, a caterer must obtain a special events permit for each catered event if they want to serve beer.

The state liquor laws provide for a caterer's license for the sale of alcoholic beverages other than beer for caterers that maintain a "permanent catering hall" (i.e., restaurant). This ordinance would allow a caterer to obtain a caterer's beer permit provided that the applicant has already obtained a state caterer's liquor license. Should a permit holder cease to hold a valid state caterer's liquor license, the caterer's beer permit shall be deemed to be revoked. In addition, as with the state law, only caterers that maintain a permanent catering hall would be eligible for the caterer's beer permit, and the caterer must have a valid on-sale beer permit for the catering hall. All caterers holding a caterer's beer permit will be required to give advanced notice to the beer board of the date, time, and location of each catered event for which beer is to be served. No caterer's permit may be used on any premise that has had a retailer's on-sale permit revoked within the past year. This would prevent a restaurant that has had a beer permit revoked from allowing a caterer to come in and sell beer at the restaurant.

This ordinance would also exempt caterers from the minimum distance requirements applicable to other beer permits, which prevent the issuance of a permit for an establishment located within 100 feet of a church, school, or residence. By exempting the caterers from the distance requirements, a caterer would be allowed to sell beer at a catered event in a residence or on other premises that would be prevented from obtaining a beer permit.

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ORDINANCE NOS. BL2004-498, BL2004-499 & BL2004-500

Council should remember that state regulations are not concerned about distance requirements from schools, parks, residences and churches. Creating a beer permit based on state requirements allows holders of such permits to bypass Metro standards.

Ordinance No. BL2004-499 (DREAD) would allow an applicant that has had a prior beer permit revoked to obtain a new permit after a one year period. The code currently prevents applicants that have had a beer permit revoked from obtaining another permit for ten years. The code section applies to sole proprietorships with one location as well as corporations that have multiple establishments in Davidson County. Thus, under the current code, if a company has a beer permit revoked at any one of its stores, it cannot obtain a beer permit for a new location for a ten year period. This ordinance would reduce this time period to twelve months.

Ordinance No. BL2004-500 (MURRAY) would amend the distance requirements in the beer laws to prohibit the issuance of a retailer's off-sale permit for an establishment located within 100 feet of another off-sale permit holder. As stated above, the code currently prohibits the issuance of a beer permit for an establishment located within 100 feet of a church, school, or single or two-family residence. This ordinance would extend this provision to prohibit applicants that are located within 100 feet of another store that sells beer from obtaining a beer permit. This ordinance would only apply to establishments selling beer for consumption off premises, not to restaurants.

ORDINANCE NO. BL2004-501 (TYGARD, CRAFTON & WILHOITE) – This ordinance authorizes the director of public property administration to accept a quitclaim deed for property in Bellevue owned by the Harpeth Youth Soccer Association (HYSA) for the benefit of the board of parks and recreation. Metro plans to lease this property back to HYSA for use in connection with recreational and youth soccer activities. This ordinance would essentially remove the HYSA property from the property tax rolls while still allowing the property to be used by HYSA for its soccer activities.

This ordinance has been approved by the board of parks and recreation and the planning commission.

ORDINANCE NO. BL2004-502 (FOSTER, RYMAN & OTHERS) – This ordinance authorizes the director of public property administration to execute a second amendment to the declaration of reciprocal easements and restrictive covenants, and grant a permanent access easement and temporary construction easement across fire station #10 located at Nippers Corner on Old Hickory Boulevard. BSM Nippers, LLC is the owner of commercial property adjacent to the Metro fire station located at 15530 Old Hickory Boulevard. BSM Nippers desires to construct access and parking improvements on the fire hall property for the benefit of a new Publix grocery store in Nippers Corner. In order to accomplish this, it is necessary that the declaration of easements and restrictive covenants for these properties, which are recorded with the register of deeds, be amended to grant the easements. The fire department has determined that the granting of the proposed access easement and temporary parking easement will not adversely affect the usage of the fire hall property.

The value of the easements was determined to be \$25,521, which will be paid to the Metropolitan Government by BSM Nippers, LLC. The access and parking easement, which will be in perpetuity, is (continued on next page)

ORDINANCE NO. BL2004-502 (continued)

for an area totaling 12,797 square feet. The temporary construction easement is over another 19,272 square feet of the fire hall property, and will allow BSM Nippers, LLC to reconfigure the access drive

and to construct additional parking on the property. BSM Nippers is required to maintain the paving and other improvements it installs in a good condition, and is required to maintain commercial general liability insurance in the amount of \$2 million naming the Metropolitan Government as an additional insured.

This ordinance has been referred to the planning commission. Any future amendments to the declaration of the easements may be approved by resolution of the Council.

ORDINANCE NOS. BL2004-503 & BL2004-504 – These two ordinances abandon existing sewer lines and easements that are to be replaced by private sewer lines of equal size. The department of water and sewerage services is no longer using these sewer lines and easements. These two ordinances have been approved by the planning commission.

Ordinance No. BL2004-503 (Loring) abandons an existing 8" sewer line and accompanying easement at Heartland Christian Tower on Fernbrook Lane.

Ordinance No. BL2004-504 (Cole) abandons an existing 36' sewer line and accompanying easement in connection with phase 1, section 2 of the Cumberland Meadows subdivision on Eastland Avenue.

ORDINANCE NO. BL2005-505 (BRADLEY & COLE) – This ordinance adds a new section to the Metropolitan code of laws to prohibit high grass, weeds and debris. The current excessive growth ordinance was enacted by the council in 2002 after extensive discussion between councilmembers, various Metro departments, and concerned citizens. The code currently prevents the "excessive growth of any vegetation, including trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter or garbage ... so as to endanger the health safety or welfare of the citizens." The code includes a rebuttable presumption that the growth of grass or underbrush of twelve inches or higher is a nuisance. However, these code provisions do not apply to owner-occupied residences or to any parcel of property maintained in keeping with a landscape plan or design on file with the Metro beautification and environment commission.

This new ordinance provides that all exterior property shall be maintained free from weeds in excess of twelve inches. "Weeds" are defined as all grasses, annual plants and vegetation, but does not include trees, shrubs, cultivated flowers and gardens. The ordinance further declares the accumulation of debris, trash, litter or garbage to be a public nuisance. This ordinance also adopts the provisions of the new section into the property standards code.

This ordinance essentially provides an attempt to enforce the mowing of lots without an appeal to an administrative board.

There is a proposed substitute ordinance that will exempt parks and greenways from this ordinance and property in a "natural state", subject to an intentional design on file with the beautification bureau.

ORDINANCE NO. BL2005-506 (WALLACE) – This ordinance amends the Metropolitan code of laws to allow meter maids to enforce the code provisions requiring dog owners to clean up excrement left by the dog. The council recently enacted an ordinance requiring dog owners to clean up excrement left by their dog on public property or on another person's private property, or be subject to a fifty

dollar fine. Under the code, the police department is responsible for the enforcement of all Metro ordinances. A meter maid patrol is provided for in the code with the primary duty of enforcing parking laws and regulations. The code provides that the training, equipment, and salaries of meter maids shall be borne by the traffic and parking commission, which is a part of the department of public works operating budget. This ordinance would grant authority to meter maids to enforce this one additional ordinance pertaining to dog excrement.

There is a housekeeping amendment for this ordinance that would clarify the section of the code regarding the clean up of dog excrement that is to be enforced by meter maids.

ORDINANCE NO. BL2005-507 (GOTTO) – This ordinance renames John Hager Road as “John Hagar Road”. This would correct an error in the spelling of John Hagar Road on the official street and alley acceptance and maintenance map.

This ordinance has been referred to the planning commission and the ECD board.

ORDINANCE NO. BL2005-508 (NEIGHBORS & SHULMAN) – This ordinance amends the Metropolitan code of laws provisions pertaining to the surcharge that is charged by the department of water and sewerage services for treating ammonia that is placed into our sewer system. The code currently includes a formula for collection of this surcharge that is essentially based upon the payments for costs to treat biological oxygen demand (BOD). The current surcharge is 4.6 times the rate to treat BOD. By law, these fees must relate to the actual cost of the service and cannot be used to generate revenue.

This ordinance would delete the formula for determining the amount of the ammonia surcharge, and would add a provision allowing the department of water and sewerage services to set the amount of the surcharge on an annual basis, based on the actual cost of treatment.

The council office would caution the practice of delegating fee setting to departments.

ORDINANCE NO. BL2005-509 (NEIGHBORS) – This ordinance authorizes the Metropolitan Government to enter into a lease agreement with the Metropolitan Nashville airport authority (MNA) for the lease 38.6 acres of the old Genesco warehouse property located at 1415 Murfreesboro Road. This MNA-owned property is commonly known as the MNA Warehouse and Distribution Center. According to the director of public property administration, this property will be used to relocate various Metro programs. The first priority for this space will be to relocate the programs currently located at Rolling Mill Hill. These include the Metro surplus warehouse and e-bid program, fleet management, radio shop, EMS, and the police department office of professional accountability. The Metropolitan clerk’s records management program will also relocate to this space. In addition, there are plans to consolidate several warehouses currently at other leased locations whose leases are expiring, and to relocate other programs of the department of general services.

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ORDINANCE NO. BL2005-509 (continued)

The initial term of the lease is for a ten-year period commencing in January 2005 and ending December 31, 2014. The lease agreement may be extended for six additional periods of five years

each, for a total potential term of forty years. The lease provides that the agreement is not binding until the federal aviation administration approves the lease. The leased premises may only be used for warehousing and office space. Pursuant to the lease agreement, Metro will pay rent through December 31, 2009 in the amount of \$600,191.40 per year, payable in monthly installments of \$50,015.95. After January 1, 2010, the rent amount will increase to the lesser of 103.5% of the base rent or the most recent annual base rent multiplied by the percentage increase in the consumer price index. Metro will get credit against the base rent for tenant improvements not to exceed 50% of the monthly installment of the base rent.

Metro will be leasing the premises "as-is", meaning that MNAA makes no representations or warranties as to the condition of the premises. Metro is responsible for all repair and maintenance of the premises, and must pay for all utilities. Metro has the right to make improvements and alterations to the property subject to the approval of MNAA, which approval may not be unreasonably withheld. Metro must maintain general liability insurance covering the premises in the amount of \$1 million per occurrence, and must maintain fire and extended insurance coverage for all improvements in an amount not less than \$10 million aggregate, naming MNAA as an additional insured. In the event of a casualty, Metro will be responsible for any deficiency between the restoration cost and the insurance proceeds received.

MNAA has the right under the lease agreement to terminate the lease in the event the property is needed for airport expansion. MNAA must give Metro eighteen months to relocate, must pay relocation costs, and must pay Metro for the amount of Metro's improvements to the property that were not previously reimbursed by credits against the base rent.

Future amendments to this lease agreement may be approved by resolution of the council receiving twenty-one affirmative votes. This resolution has been approved by the planning commission.

This ordinance must be deferred pursuant to Rule 8 of the Council Rules of Procedure, as the district council member was not notified about this ordinance and did not sign the ordinance or designate another council member to sign on his behalf.

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- BILLS ON THIRD READING -

ORDINANCE NO. BL2004-431 (GREER) – This zoning text change, as amended, would require the planning commission to notify the district councilmember of all requests to modify a planned unit development (PUD) within five business days of receiving the request. The zoning code currently does not require that district councilmembers be notified about PUD plans. The code makes a distinction between major and minor modifications to a PUD plan. Major modifications require council approval by ordinance, whereas minor modifications only require approval of the planning commission, or in many cases can be handled administratively upon approval of the executive director of the planning commission. Modifications to PUDs that must be approved by council include:

- Land area being added or removed.
- Modification of special performance criteria or design standards set forth in the enacting ordinance.
- A change in land use beyond that permitted by the underlying zoning district.

The planning commission can consider all minor modifications subject to the following limitations:

- The change does not alter the basic development concept of the PUD.
- The boundary of the PUD is not expanded.
- There is no change in the general PUD classification (i.e. residential to commercial).
- There is no deviation from special performance criteria or design standards.
- No new vehicle access point to an existing street is proposed.
- There is no change from a PUD approved exclusively for single family homes to any other type of residential structure.
- The total floor area of commercial property is not increased more than ten percent.
- The range of permitted uses is not expanded beyond that allowed in the underlying zoning district.

According to the planning commission staff analysis, minor modifications that are approved by the executive director of the planning commission include restriping a parking lot, moving the location of a dumpster, modifications to landscaping, and small additions. This ordinance would require that notification be sent to district councilmembers of all PUD modifications, regardless of the magnitude of the modification.

This ordinance has been disapproved by the planning commission.

SUBSTITUTE ORDINANCE NO. BL2004-432 (LORING) – This zoning text change amends the definition of “business school” to include institutions that offer four-year and/or postgraduate degrees. Under the zoning code, business schools are allowed in certain commercial zoning districts in which colleges and universities are not allowed. Since business schools do not have athletic fields and dormitory facilities, it is appropriate that they be permitted in more intense commercial districts. However, the current definition of business school is limited to enterprises offering training in a service such as secretarial, cosmetology, commercial artist, and computer software.

This ordinance would amend the definition of business school to include enterprises offering four-year and/or postgraduate degrees, provided that no student housing or athletic facilities are offered at the site, such as the Nashville School of Law, Draughtons Junior College, and other similar institutions.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-433 (NEIGHBORS) – This ordinance approves the annual contract between the Metropolitan Government and the emergency communications district (ECD) relative to operation of the enhanced-911 service for fiscal year 2004-2005. The contract specifies certain services to be provided by the department of public works and the department of information technology services. The department of public works will maintain an updated street and house number system, and the department of information technology services will provide day-to-day staff and support services for the ECD board. Metro will also train its employees who will operate the system. The ECD is to pay the public works department \$4,826 for its services, and is to pay \$37,885 to the department of information technology services for its services. The contract provides that Metro is to be reimbursed for its training costs as well.

ORDINANCE NOS. BL2004-436 THRU BL2004-451 & BL2004-453 THRU BL2004-456 – These twenty ordinances authorize the acceptance of easements for various stormwater projects in Davidson County. All of these easements have been executed by the respective property owners and are being donated at no cost to the Metropolitan Government. These easements will be filed in the office of the register of deeds to evidence their acceptance. These twenty ordinances accepting easements have all been approved by the planning commission.

Ordinance No. BL2004-436 (Summers & Hausser) accepts an easement for property located at 4801 Alabama Avenue.

Ordinance No. BL2004-437 (Toler) accepts an easement for property located at 1101 Banbury Lane.

Ordinance No. BL2004-438 (Jameson) accepts easements for property located at 1614 and 1616 Boscobel Street.

Ordinance No. BL2004-439 (Gilmore) accepts easements for property located at 4637 and 4641 Bull Run Road.

Ordinance No. BL2004-440 (White) accepts an easement for property located at 3528 Central Pike.

Ordinance No. BL2004-441 (Toler) accepts easements for property located at 6625, 6621, 6613, 6617, 6609, and 6605 Christiansted Lane.

Ordinance No. BL2004-442 (Loring) accepts an easement for property located at 590 Claridge Drive.

Ordinance No. BL2004-443 (Ryman) accepts an easement for property located at 1245 Dickerson Pike.

Ordinance No. BL2004-444 (Tucker) accepts easements for property located at 3534 and 3530 Dickerson Pike.

Ordinance No. BL2004-445 (Alexander & Neighbors) accepts an easement for property located at 121 Dowdy Court.

Ordinance No. BL2004-446 (Cole) accepts an easement for property located at 1100 Kirkland Avenue.

(continued on next page)

ORDINANCE NOS. BL2004-436 THRU BL2004-451 & BL2004-453 THRU BL2004-456

(continued)

Ordinance No. BL2004-447 (Isabel) accepts an easement for property located at 3006 Hillside Road.

Ordinance No. BL2004-448 (Toler) accepts an easement for property located at 6775 Holt Road.

Ordinance No. BL2004-449 (White) (as amended) accepts an easement for property located at 2879 Lincrest Drive.

Ordinance No. BL2004-450 (Tygard) accepts an easement for property located at 8116 Highway 100.

Ordinance No. BL2004-451 (Adkins) accepts an easement for property located at 3758 Nolensville Pike.

Ordinance No. BL2004-453 (Walls) accepts an easement for property located at 6309 Robertson Avenue.

Ordinance No. BL2004-454 (Hausser) accepts an easement for property located at 2021 24th Avenue South.

Ordinance No. BL2004-455 (Shulman) accepts an easement for property located at 910 Tower Place.

Ordinance No. BL2004-456 (Summers & Hausser) accepts an easement for property located at 4021 Woodmont Boulevard.

ORDINANCE NO. BL2004-457 (MURRAY & SHULMAN) – This ordinance, as amended, abandons a 6” and 12” water line and easements, and an 8” sewer line and easement for the Sam Levy Homes Hope VI development. These water and sewer lines will be replaced by a new public 8” and 12” water line, and a new public 8” sewer line.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2004-458 (TOLER) – This ordinance authorizes United Telephone Company to install and maintain an underground communications cable at Burkitt Road and Battle Road. United Telephone Company has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the underground cable, and is required to furnish a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party. This ordinance is only effective so long as United Telephone Company does not offer local telecommunications service. Should the company elect to provide local telephone service, they would be required to obtain a franchise from the Metropolitan Government.

This ordinance has been approved by the planning commission.