

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **February 1, 2005**

RE: **Analysis Report**

Balances As Of:	<u>1/26/05</u>	<u>1/14/04</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,333,475	\$25,050,401
<u>CONTINGENCY ACCOUNTS</u>		
GSD	- 0 -	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$28,814,961	\$22,725,560
USD	\$5,003,020	\$8,433,994
<u>GENERAL PURPOSE</u> <u>SCHOOL FUND</u>	\$25,250,424	\$38,771,091

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

– BILL ON PUBLIC HEARING –

ORDINANCE NO. BL2005-510 (JAMESON) – This ordinance approves a second amendment to the Five Points redevelopment plan. This redevelopment plan was approved in 1989 and last amended in 1991. This ordinance makes several technical changes to the plan clarifying that this is a redevelopment plan, not an urban renewal plan. This amendment also would allow residential uses in the areas designated as “neighborhood commercial”. Finally, this ordinance amends the section of the plan allowing owners to develop his/her own property without the threat of eminent domain in accordance with the state law governing urban renewal. Since this is not an urban renewal plan, this provision is being replaced with a provision that allows certain properties to be exempt from acquisition if the owner agrees to enter into an agreement with MDHA to develop the property in accordance with the plan.

This ordinance has been referred to the planning commission.

– RESOLUTIONS –

RESOLUTION NOS. RS2005-667 & RS2005-679 – These two resolutions provide proposed amendments to the Metropolitan Charter. The Council, pursuant to the Charter, may only adopt two resolutions during the term of the Council that submit amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the Council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. 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, these resolutions should be deferred indefinitely.

Resolution No. RS2005-667 (Briley) proposes an 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 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.

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RESOLUTION NOS. RS2005-667 & RS2005-679 (continued)

Resolution No. RS2005-679 (Wallace) proposes an amendment to the Charter that would require vacancies in the offices of district councilmember, councilmember-at-large, and vice mayor to be temporarily filled by the council until the next general election. The Charter currently provides that a vacancy in the office of mayor is to be filled by a special election if more than nine months remain prior to the next general election. However, the same Charter section was amended in 1996 to provide that vacancies in the offices of councilmembers and the vice mayor remain vacant until the next general election. Pursuant to this Charter amendment, the council would elect a person to temporarily fill a vacancy in the office of councilmember or vice mayor until the next general election, at which time the voters would elect a person to fill the vacancy for the remainder of the term.

RESOLUTION NO. RS2005-680 (NEIGHBORS) – This resolution approves a grant agreement in the amount of \$214,500 from the state board of probation and parole to the Metropolitan Government for funding of the Davidson County community corrections program. The term of this grant is from December 15, 2004 through December 14, 2005, with a possible extension of up to four additional one-year terms. Pursuant to the contract, the Davidson County community corrections program is to provide an alternative punishment program for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. Specifically, these funds will be used to pay the salaries of three case officers.

RESOLUTION NOS. RS2005-681 AND RS2005-682 (NEIGHBORS) – These two resolutions approve an application for a fast track infrastructure development program (FIDP) grant from the state department of economic and community development, and an agreement with the Louisiana-Pacific Corporation in connection with the relocation of Louisiana-Pacific's corporate headquarters. The FIDP, formerly known as the Tennessee industrial infrastructure program, is a state program in which the Metropolitan Government, the Greater Nashville Regional Council, and private businesses participate to obtain grant funds for infrastructure improvements. The funds are available to businesses that create new jobs through the expansion of new facilities. In November 2004, the council enacted Ordinance No. BL2004-382, which transferred the administration of this program from the industrial development board and the mayor's office of economic development to the department of public works.

Louisiana-Pacific Corporation, one of the largest manufacturers of building materials in the country, is relocating its corporate headquarters from Portland, Oregon to the Bank of America Plaza located at 414 Union Street in downtown Nashville. Louisiana-Pacific will eventually take up approximately 75,000 square feet of space on the 15th, 16th, 20th, and 21st floors of the building. Most of the senior managers and key corporate staff of the company will be moving to Nashville. It is estimated that over the next five years Louisiana-Pacific will bring \$19 million in salaries and 188 new jobs to Nashville, with an average salary of \$102,061 per job.

Resolution No. RS2005-681 approves the state grant application. Metro is applying for \$300,000 in state funds, to assist Louisiana-Pacific Corporation in making power, telecommunications, and network infrastructure improvements. There is a required match of \$934,500, which is to be provided by Louisiana-Pacific. No Metropolitan Government funds are pledged for this grant. If awarded, these funds will be used to install a new backup power supply for the corporation's data (continued on next page)

RESOLUTION NOS. RS2005-681 AND RS2005-682 (continued)

center, the installation of an isolated ground, the installation of wiring for data and telecommunications networks and security systems, and wiring and hardware for the conference room audio and visual systems.

Resolution No. RS2005-682 approves an agreement with Louisiana-Pacific regarding the implementation and funding of the grant. The agreement clarifies that Louisiana-Pacific is solely responsible for the matching funds and additional costs, and that no Metro funds will be used for this project. In addition, the agreement provides if the state funds are later reclaimed or withdrawn, Louisiana-Pacific is solely responsible for the repayment of such funds. The term of this agreement is to expire June 30, 2006.

RESOLUTION NOS. RS2005-683 AND RS2005-684 – These two resolutions ratify agreements between the Metropolitan Government and the cities of Belle Meade and Forest Hills for the distribution of street and road funds for road repairs by the individual cities. These satellite cities have agreed to maintain the roads within their corporate limits. The cities of Goodlettsville and Berry Hill do not participate in such contracts with Metro because they do not turn over their state tax revenues to Metro. Ordinance No. O87-1935 established a procedure for the distribution of street and road funds to the eligible satellite cities and provided that these annual contracts are to be ratified by resolution of the Metro Council with 21 affirmative votes. The eligible cities are paid \$0.15 per square yard of streets and roads to be maintained. A similar agreement with the City of Oak Hill will be forthcoming.

Pursuant to these agreements, the amounts the individual cities will receive for fiscal year 2004-2005 are as follows:

Resolution No. RS2005-683 (Neighbors & Whitson) – City of Belle Meade – \$51,000

Resolution No. RS2005-684 (Neighbors & Williams) – City of Forest Hills – \$83,000

RESOLUTION NO. RS2005-685 (BROWN) – This resolution approves property located at 1200 Riverside Road to be used as a historic bed and breakfast homestay to be operated by Mark D. Branstetter. Mr. Branstetter 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. RS2005-686 (NEIGHBORS) – This resolution accepts \$9,221.24 in compromise and settlement of the Metropolitan Government's property damage claim against Lara Aniceto. On August 7, 2004, a Metro police officer was working a traffic accident on Gallatin Pike with the blue lights activated when his parked police car was struck by Gaudencio Arrizon Catalan. There were no injuries as a result of the accident, but the police car sustained \$9,221.24 in damage. This resolution settles the claim for the damage to the car.

- **BILLS ON SECOND READING** -

SUBSTITUTE ORDINANCE NO. BL2004-434 (WALLACE) – This substitute 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.

ORDINANCE NO. BL2004-452 (WALLACE, GILMORE & OTHERS) – 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 approved by the planning commission.

ORDINANCE NOS. BL2004-498 AND BL2004-499 – These two 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 (continued on next page)

ORDINANCE NOS. BL2004-498 AND BL2004-499 (continued)

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.

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.

There is a proposed amendment for this ordinance that would prohibit caterers from selling beer using this permit within 100 feet of a church or school, unless the catered event is held by the church or private school for its benefit.

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.

There is a proposed amendment that would allow the beer board, in its discretion, to extend this time period up to five years based on the circumstances surrounding the prior revocation. The council office would caution against giving administrative boards and commissions such discretion without some measurable criteria to follow.

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.

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ORDINANCE NO. BL2005-505 (continued)

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, as well as 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. BL2005-508 (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 (continued on next page)

ORDINANCE NO. BL2005-509 (continued)

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.

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.

ORDINANCE NO. BL2005-511 (RYMAN, BRILEY & OTHERS) – This ordinance amends the disability pension section in Metropolitan Code of Laws by modifying the definition of "disability" to reflect the interpretation given by the employee benefit board since 1963. The benefit board has the responsibility under the Metro Charter for managing the benefit and retirement plans for Metro employees, including disability pensions. Since 1963, the benefit board has determined an employee to be "disabled" when he/she is unable to perform the duties of any occupation within the Metropolitan Government that is offered at a pay rate equal to or greater than the employee was receiving at the time of disability. Police officers and fire fighters are considered disabled if they can no longer perform the duties of a police officer or fire fighter.

Contrary to this long-standing interpretation by the benefit board, the language in the code clearly provides otherwise. The code currently provides that a person is disabled if he is unable to perform the duties of any occupation within Metro offered to him at the same or greater rate of pay only for a two-year period. After two years, the employee is only considered disabled if he is incapable of (continued on next page)

ORDINANCE NO. BL2005-511 (continued)

engaging in *any* business or occupation so that the sum of his earnings does not exceed 100% of his earnings at the time of disability. This ordinance would amend these code provisions to delete the two-year time period, reflecting the prior interpretation by the benefit board.

This ordinance must be deferred to allow the benefit board time to conduct an actuarial study. Pursuant to Rule 36 of the Council Rules of Procedure, any legislation that affects the Metro pension plan must be referred to the benefit board for an actuarial study before the matter can be considered by the council. The benefit board has 90 days from the date of referral to complete the study.

ORDINANCE NOS. BL2005-512 THRU 2005-516 – These five 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 ordinances accepting easements have all been approved by the planning commission.

Ordinance No. BL2005-512 (McClendon & Neighbors) accepts an easement for property located at 485 Allied Drive.

Ordinance No. BL2005-513 (Tucker) accepts an easement for property located at 3438 Dickerson Pike.

Ordinance No. BL2005-514 (Alexander & Neighbors) accepts an easement for property located at 3211 Franklin Limestone Road.

Ordinance No. BL2005-515 (Tygard) accepts an easement for property located at 9770 Highway 96.

Ordinance No. BL2005-516 (Greer) accepts an easement for property located at 310 Newsome Street.

ORDINANCE NO. BL2005-517 (HAUSSER & NEIGHBORS) – This ordinance abandons a 6” water line and associated easements for property at Dixie Place between 21st and 22nd Avenues South in the Vanderbilt area. Water service to this property will be afforded by a new private water line to be installed. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2005-518 AND BL2005-519 – These two ordinances authorize the Metropolitan Government to enter into a participation agreement with private developers to provide sewer service to subdivisions in Williamson County. These developers have agreed to contribute \$2,000 per connection toward the cost of the projects in lieu of construction. These funds are to be deposited into the water and sewer extension and replacement fund. These are typical participation agreements entered into by the Metropolitan Government acting through the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

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ORDINANCE NOS. BL2005-518 AND BL2005-519 (continued)

Ordinance No. BL2005-518 (Shulman) approves a participation agreement with the Jones Company of Tennessee to provide sewer service to the Arlington Heights subdivision in Williamson County. The developer has agreed to pay \$84,000 for 42 single-family connections.

Ordinance No. BL2005-519 (Neighbors & Shulman) approves a participation agreement with Beazer Homes Corporation to provide sewer service to the Ballenger Farms subdivision in Williamson County. The developer has agreed to pay \$82,000 for 41 single-family connections.

ORDINANCE NO. BL2005-520 (SHULMAN) – This ordinance approves the adoption of the additions, deletions, and/or other amendments to the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government. These amendments are submitted annually by the department of public works. The map shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro. The map was last amended on December 16, 2003, by Ordinance No. BL2003-63.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2005-521 (WILHOITE) – This ordinance renames a portion of Long Hunter Court as “Nashboro Greens”. This is a private road that intersects with and then runs parallel to Longhunter Lane. The planning commission has sent notices to the affected residents regarding this name change.

This ordinance has been approved by the planning commission and the ECD board.

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- BILLS ON THIRD 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 provide additional circumstances in which the fee could be waived.

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.

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 (continued on next page)

ORDINANCE NO. BL2004-435 (continued)

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. BL2004-497 (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.

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 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. (continued on next page)

ORDINANCE NO. BL2004-501 (continued)

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 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 approved by 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. BL2005-507 (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.

This ordinance should not be adopted until the notification process to residents on the street has been completed. Further, this ordinance must be deferred if the planning commission and the ECD board have not made a recommendation prior to the February 1st council meeting.