

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **February 15, 2005**

RE: **Analysis Report**

Balances As Of:	<u>2/9/05</u>	<u>2/11/04</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,333,475	\$24,696,921
<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.

– RESOLUTIONS –

RESOLUTION NO. RS2005-679 (WALLACE) – This resolution provides a proposed amendment 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, this resolution should be deferred indefinitely.

This proposed amendment to the Charter 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. RS2005-689 (BRILEY) – This resolution extends the expiration date of the juvenile curfew ordinance until June 30, 2010. The juvenile curfew ordinance, in its most recent form, was adopted in 1999. The ordinance makes it unlawful for any person under the age of 18 to be on public property or private property without the consent of the owner between the hours of eleven p.m. and five a.m., Sunday through Thursday, and twelve midnight to five a.m. Friday and Saturday during the months of September through May. The curfew for the months of June through August is twelve midnight to five a.m. seven days a week. The curfew ordinance also provides that parents may be cited for knowingly permitting their child to violate the curfew and be subject to a fifty-dollar fine.

The ordinance currently includes a sunset provision, which provides that the curfew ordinance will expire on June 30, 2005 unless extended by resolution of the Council. The ordinance states that the sunset provision is included in order to ensure that the effectiveness and necessity of the curfew are reviewed periodically. According to information provided to the Council Office by the police department, the following number of *citations* for curfew violations have been issued between 2000 and 2004:

2000: 310
2001: 63
2002: 235
2003: 261
2004: 757

In 2004, 1,232 males and 602 females were *arrested* for violations of the curfew and/or loitering ordinances.

RESOLUTION NO. RS2005-690 (MURRAY, WHITMORE & OTHERS) – This resolution appropriates \$500,000 in community development block grant funds for improvements to the Cleveland Park Community Center building and grounds in the Cleveland Park neighborhood strategy area. Ordinance Nos. BL2001-868, BL2002-1230, and BL2003-64 approved the applications for the community block grant program, which included funds allocated for the Cleveland Park neighborhood strategy area. The expenditure of these funds for this purpose has been recommended by the Cleveland Park citizen advisory committee.

RESOLUTION NO. RS2005-691 (JAMESON, COLE & NEIGHBORS) – This resolution approves an amendment to a lease agreement between Metro social services and the Martha O'Brien Center for office space at 711 South Street to be used as a family resource center. This resolution extends the term of the lease agreement until June 30, 2007. The rental amount will remain at \$600 per month, as it has been for a number of years.

RESOLUTION NO. RS2005-692 (COLE & NEIGHBORS) – This resolution approves an annual grant in the amount of \$1,295,800 from the state department of health to the Metropolitan health department for sexually transmitted disease services and HIV/AIDS prevention and surveillance. This is essentially a federal pass-through grant that pays the salaries of health department employees to provide these services. Pursuant to the grant agreement, the funds are to be used for active surveillance of HIV/AIDS cases, diagnostic and treatment services, and disease intervention services. The term of this grant is from January 1, 2005 through December 31, 2005.

RESOLUTION NO. RS2005-693 (NEIGHBORS & COLE) – This resolution accepts a grant in the amount of \$7,500 from the state department of agriculture to the Metropolitan health department to provide low cost sterilization of dogs and cats. These low cost services will be provided to those persons who cannot normally afford such services. The term of the grant is from July 1, 2004 through June 30, 2005.

RESOLUTION NO. RS2005-694 (COLE) – This resolution approves amendments to Regulation 8 of the Metropolitan board of health relative to the inspection of light-duty motor vehicles. Under regulations promulgated by the environmental protection agency (EPA), the Metropolitan Government is required to test motor vehicles for emissions to ensure compliance with the federal Clean Air Act. This emissions testing program in Davidson County was originally adopted in 1981, and amended in 2001 to increase the fee from \$6 to \$10 per vehicle. The EPA requires that states and local enforcement areas promulgate regulations at least as stringent as those established by the EPA. The EPA stated that it would defer making a determination as to whether the Metro Nashville area should be designated as a non-attainment area provided that an Early Action Compact (EAC) is entered into. As a result, the Tennessee air pollution control board has entered into an EAC for clean air. One of the conditions of the EAC is a new ozone standard that lowers the amount of allowable ozone in the air. In order to fulfill the requirements of the EAC, the Tennessee air pollution control board has chosen to make more types of vehicles subject to the vehicle inspection program. Thus, the Metro regulations need to be amended to reflect this change.

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RESOLUTION NO. RS2005-694 (continued)

The Metropolitan Code of Laws requires that all amendments to these vehicle inspection regulations be ratified by the Council. This amendment essentially makes two changes to the regulations. First, the definition of light-duty motor vehicle is modified to include all motor vehicles with a gross vehicle weight of less than 10,500 pounds. The current regulations define light-duty motor vehicle as a vehicle weighing less than 8,500 pounds. Second, this amendment would remove the exemption for diesel powered light-duty motor vehicles. Thus, all gasoline and diesel powered light-duty motor vehicles manufactured in 1975 or later would be required to be tested. The testing fee will remain at \$10 per vehicle.

Failure to adopt these regulations could result in a substantial loss of federal funding for clean air programs in the Nashville area.

RESOLUTION NO. RS2005-695 (WILHOITE, WILLIAMS & OTHERS) – This resolution approves the participation of the Metropolitan Government in the Dolly Parton Imagination Library Project. The Dollywood Foundation established the Imagination Library to promote early childhood educational development. Under this program, every child under the age of five whose parent or guardian has registered them to participate will be mailed a book each month. The Tennessee general assembly has appropriated \$2 million to implement this program across the state, which will be managed initially by the state department of education, and then partially funded by the Governor’s Books From Birth Foundation.

Pursuant to this resolution, the Metropolitan Government agrees to arrange for the funding of one-half of the costs of implementing the Imagination Library in Davidson County by contacting and recruiting various civic groups and businesses as sponsoring organizations. The Governor’s Foundation will be responsible for funding the remaining one-half of the monthly costs. The sponsoring organizations will be responsible for registering eligible children and for providing a written list to the Dollywood Foundation prior to the 9th day of each month for participation in the program for the following month.

This resolution expressly provides that the Metropolitan Government will have no financial obligations or liability as a result of its participation in the Imagination Library program.

RESOLUTION NO. RS2005-696 (MCCLENDON, WILHOITE & OTHERS) – This resolution appropriates a grant of \$50,000 from the general fund of the general services district to the Vanderbilt Women’s Social Policy and Research Center for the purposes of conducting a study regarding the impact of healthcare services, transportation services, the outsourcing of social services, and affordable housing on women in Nashville. The Council appropriated \$50,000 in the substitute operating budget adopted in June 2004 for a Women’s Study Impact Project. However, the budget did not expressly state which entity was to receive the funds. As the Council is aware, the Metropolitan Government has the authority under state law to appropriate grants to nonprofit organizations, provided certain information is provided by the organization that evidences their eligibility for such grant funds. Vanderbilt University has submitted a statement as to the proposed use of Metro funding, a letter from the Internal Revenue Service evidencing its 501(c)(3) status, and a copy of its annual audit is on file with the finance department in compliance with state law.

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RESOLUTION NO. RS2005-696 (continued)

This study is to include the following components:

Health Services Study - Impact of Potential Hospital Closures and TennCare Reform on Nashville Women

1. Establish a baseline for comparison including (a) the users of Bordeaux and General Hospital; (b) persons eligible for charity services from area hospitals; and (c) what the eligible TennCare population was prior to any TennCare or hospital reforms taking place.
2. Examine the available data on the demographics of Nashville's entire population to determine which subgroups will be affected by (a) TennCare and (b) hospital closures based on assumptions about eligibility, geographic distribution and health services use.
3. Identify the new eligibility criteria for TennCare, as announced by Governor Bredesen, and attempt to determine which subsets of the population of Nashville women will face either loss of health insurance or reduction in health insurance. Further, if data is available, Contractor will analyze the impact on women by race.
4. Estimate the financial impact of TennCare reforms on Metro General and Bordeaux Hospitals based upon the assumption that the hospitals will stay open.
5. With guidance from the Women's Caucus of the Metropolitan Council, examine other options that are available to the population affected by TennCare reforms, and what the net effect on this population would be should Bordeaux and General Hospital close.
6. Dependent on time constraints in completing steps one through five, outline the potential impact of TennCare reforms and the closure of Bordeaux and General Hospital on the area's five largest private hospitals, given the constraints and data availability from these hospitals. The Women's Social Policy and Research Center will attempt to determine which institutions, if any, will compensate for the loss of health care to the indigent population caused by such changes. They will also attempt to determine the costs to these institutions for such compensation.

Transportation Study

1. Identify and describe changes in Metro's public transportation services since 2003, including changes in fees and in services provided.
2. Determine the characteristics of the population affected by these changes in relation to the overall population in Nashville, given the constraints of available data.
3. Determine other options that are available to this population.
4. Describe the net effect of these changes on that population.

Housing Study

1. Examine the distribution of women in Nashville by income, race, and family type, focusing on the distribution of women above and below 80% of the median income in Nashville. ("Affordable housing" is commonly defined as housing that can be purchased by people earning 80% or less of the median income in Nashville).
2. Determine the amount of income that Nashville women have available to put toward housing based on a cost-of-living analysis for Nashville.

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RESOLUTION NO. RS2005-696 (continued)

3. Examine the available housing stock in Nashville, including property for sale and for rent, and determine the ability of women to afford the available properties.
4. Examine differences between women and men, and differences between various subgroups of women, in their ability to access affordable housing.
5. Determine whether support services exist to aid women in affording housing, who is eligible for these support services, and who uses these support services.

Social Services Outsourcing Study

1. Conduct a literature review on the effects of contracting out public programs.
2. Collaborate with the Women’s Caucus to identify those programs within the Metro Public Health Department and Metro Social Services Department that are targeted for outsourcing and prioritize which of these programs to study.
3. Identify the services that exist by program, and determine what the total eligible population is for each program.
4. Examine the available data on the demographics of Nashville’s entire population to determine which subgroups are eligible to use the programs, and how much of the eligible population is using the programs, given the constraints of available data.
5. If the services are being sufficiently utilized relative to the eligible population, the Center will conduct highly targeted case studies of the effects of outsourcing in similar jurisdictions that have contracted out social services.
6. If these services are being underutilized, the Center will examine the underlying reasons for this underutilization.

RESOLUTION NO. RS2005-697 (WALLACE, SHULMAN & NEIGHBORS) – This resolution approves a contract between the state department of transportation (TDOT), CSX Transportation, Inc. (CSX), and the Metropolitan Government regarding the demolition of the Demonbreun Street bridge. In August 2004, the Council approved a contract between TDOT and Metro for the replacement of the Demonbreun Street bridge, whereby TDOT is to pay 80% of the costs, through federal funds available for bridge rehabilitation, and Metro is to pay the remaining 20%. This agreement brings CSX into the process as it pertains to demolition of the bridge located on railroad property.

Most of the provisions of this agreement involve obligations between CSX and TDOT. The agreement grants TDOT an easement allowing this bridge project to proceed over the railroad property. The agreement also provides for the reimbursement of railroad work required by this project. CSX has estimated the cost of equipment, material, and labor in connection with the bridge project to be \$516,500, which is to be reimbursed by TDOT. These costs include the following:

- \$40,000 Relocation of communications cable
- \$65,000 Relocation of signal cable
- \$12,000 Preliminary engineering
- \$72,000 Construction engineering/inspection
- \$14,000 Accounting and miscellaneous expenses
- \$218,500 Flagging costs for 190 days
- \$95,000 Shuttle service for 190 days for CSX employees from parking lot to their workplace.

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RESOLUTION NO. RS2005-697 (continued)

In addition, a letter from CSX to TDOT dated February 5, 2005, which is attached as an exhibit to this legislation, states that Metro is to provide alternate parking for CSX employees that normally park in the area to be designated a construction zone for this bridge demolition and replacement. This lot is to contain at least 75 spaces, be secured with fencing, and include a security guard present 24 hours per day.

RESOLUTION NO. RS2005-698 (TUCKER) – This resolution authorizes MTA Distributors, Inc., to install and maintain aerial fiber optic cables along Hickory Hills Boulevard. The cables will be attached to existing utility poles for a distance of 394 feet on the west side of Hickory Hills Boulevard, north of the intersection of Westcap Road. MTA Distributors has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the cables and is required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party. This resolution has been approved by the planning commission.

There will be a housekeeping amendment to correct the proposal number in the resolution.

RESOLUTION NO. RS2005-699 (NEIGHBORS) – This resolution accepts \$5,263.24 in compromise and settlement of the Metropolitan Government's property damage claim against Hitesh Patel. On October 18, 2004, a Metro police officer had his police vehicle parked on the shoulder of I-65 while he was investigating a traffic accident. Mr. Patel was traveling in the left lane and lost control of his vehicle and slid into another vehicle, which resulted in a collision with the parked police car. Both drivers were given traffic citations for driving too fast under the conditions. The police car was a total loss, with a value of \$5,555.24. There were no injuries as a result of this accident. The department of law recommends settling the claim for damage to the police car in the amount of \$5,263.24.

RESOLUTION NO. RS2005-700 (NEIGHBORS) – This resolution accepts \$6,237.92 in compromise and settlement of the Metropolitan Government's property damage claim against Dorothy Woods. On October 31, 2004, a Metro police officer had his police vehicle parked in the right lane of Russell Street while working traffic for a Titans game. Clinton Sharpe was traveling north on Russell Street towards South First Street in a vehicle owned by Dorothy Woods when he struck the parked police car. The damage to the police car was estimated to be \$6,237.92. There were no injuries as a result of this accident. Mr. Sharpe was charged with driving under the influence of drugs or alcohol. The department of law recommends settling the claim for damage to the police car in the amount of \$6,237.92.

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- BILLS ON SECOND READING -

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.

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. 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 (continued on next page)

ORDINANCE NO. BL2005-506 (continued)

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. BL2005-522 (NEIGHBORS & JAMESON) – This ordinance approves an agreement between the Metropolitan Government and Stahlman Redevelopment Partners, LLC, for the use of up to 175 parking spaces in the new courthouse garage. In August 2001, the Council declared the Stahlman Building to be surplus property and transferred ownership of the building to the Metropolitan development and housing agency (MDHA) for the purpose of converting the building to an apartment housing complex. MDHA has entered into a development agreement with Stahlman Redevelopment Partners, LLC, to redevelop the building for retail and residential use. Since the building does not have adequate parking, it is necessary that the developer locate other parking to serve the needs of the residents. The Metropolitan Government is currently constructing a new multi-level parking garage in front of the courthouse, and Metro has engaged in extensive negotiations with the Stahlman Building developer for the use of parking spaces for a fee in the new garage.

This agreement is for a period of forty years commencing July 1, 2006. Stahlman Partners will be using a federal housing administration loan to finance the building conversion, and the federal insured loan requires the parking agreement to be forty years. Should the loan be paid off, the term of the parking agreement will revert to twenty years, with an optional extension of two additional ten year periods. The rental rate is to be \$115 per space, and is to be adjusted annually based upon the percentage increase or decrease in the consumer price index. In the event of casualty damage to the garage, the rent will be abated until the unusable spaces are made available by Metro. Metro is guaranteeing a number of parking spaces equal to 1.2 times the number of residential units in the Stahlman Building, not to exceed 175. Metro is responsible for the maintenance and daytime security of the garage. The Metropolitan Government will not be responsible for any damage to or loss of any personal property belonging to tenants, and Stahlman Partners has agreed to hold the Metropolitan Government harmless for any such damage or loss of personal property up to its liability insurance limits.

An enclosed parking garage less than one block from the new courthouse garage charges \$150 a month for accessible parking 24 hours a day, seven days a week.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2005-529 (NEIGHBORS) – This ordinance approves an agreement with the Tennessee Performing Arts Center Management Corporation (TPAC) for reimbursement of the Deaderick Street sidewalk design and construction costs. The mayor's 2004 capital spending plan that was approved by the council included funds for the rehabilitation of 6,508 square feet of sidewalks located on Sixth Avenue North and Deaderick Street to bring them up to federal ADA standards. While TPAC was renovating portions of the interior and exterior of the building, it incurred (continued on next page)

ORDINANCE NO. BL2005-529 (continued)

costs for the survey, design, and construction of new exterior sidewalks. This ordinance approves an agreement with TPAC that reimburses them for the sidewalk construction costs that Metro would have spent anyway. Pursuant to this agreement, Metro will pay TPAC's incurred expenses of \$32,140.

ORDINANCE NO. BL2005-530 (BRILEY & NEIGHBORS) – This ordinance amends the employee benefit provisions of the Metropolitan Code of Laws to enable the benefit board to provide incentives for employees participating in special medical benefit programs. The Code currently provides that doctors listed as preferred providers (PPOs) in the plan are paid at 80% of the reasonable and customary charges, and non-PPO providers are paid at 60% of the reasonable and customary charges. This ordinance would allow the benefit board to modify these percentages to provide incentives for employees to participate in special pilot benefit programs.

ORDINANCE NO. BL2005-531 (BRILEY) – This ordinance amends the Metropolitan Code of Laws to make the ordinance prohibiting loitering during school hours applicable to students that have been suspended or expelled from school. The Code currently prohibits a child under the age of 18 who is subject to the state compulsory school attendance law from loitering in public places during school hours. No child may be taken into custody for violation of this provision until an investigation with the proper school officials has been made to determine if the child is required to be at school. However, the language of this section does not expressly apply to students that are suspended or expelled. Instead, expelled or suspended students may be loitering around the school grounds, but are not in violation of the Code because they are not "required" to be at school.

This ordinance is a result of discussions between the juvenile court and the police department regarding suspended and expelled students loitering around school premises. This ordinance would provide that a child under the age of 18 who is subject to the state compulsory attendance law, but who is suspended or expelled from school, or otherwise in violation of the compulsory attendance law, is prohibited from loitering in public places.

ORDINANCE NO. BL2005-532 (COLEMAN) – This ordinance readopts the Code of the Metropolitan Government to include all ordinances enacted on or before November 16, 2004.

ORDINANCE NO. BL2005-533 (WALLACE) – This ordinance abandons an unbuilt 63-foot portion of Alley #618, located near the intersection of Jo Johnston Avenue and Fisk Street. This closure has been requested by Dr. Jeffrey K. Moore and Jola Moore, the owners of the six surrounding parcels.

This ordinance has been approved by the planning commission and the traffic and parking commission.

- BILLS ON THIRD READING -

SUBSTITUTE 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 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 rezoning requests initiated by members of council in the following circumstances:

1. To rezone property from a greater intensity residential use to a lesser intensity residential use (i.e. an "R" district to an "RS" district); or
2. To rezone property from an office, commercial, or industrial district (excluding mixed-use districts) to a residential or residential single-family district; or
3. To apply the urban design overlay district, historic preservation district, neighborhood conservation district, or urban zoning overlay district to the property.

The provision in the Code allowing the planning commission to waive the fee for large area rezonings that implement the general plan is not affected by this substitute ordinance.

A request was made of the Council Office at the February 1, 2005, Council meeting to provide information regarding the actual costs incurred by the metropolitan planning department for processing zone change applications. Ordinance No. BL2004-262, as amended by Ordinance No. BL2004-300, increased the fees for the processing and review of zoning applications in response to the audit recommendations of Maximus. Ordinance No. BL2004-262 increased zoning application fees from \$400 to \$800 for a base rezoning. There is an additional fee of \$10 per acre up to 100 acres, and \$5 per acre for rezonings over 100 acres. The planning department has provided the Council Office with a copy of a report issued by Maximus regarding the various fees charged by the planning department. According to this report, the average zoning request requires approximately 24 hours of planning department staff time and 6 hours of public works staff time, at an average cost of \$1,298.05 per application. Attached to this analysis are the summary pages from the Maximus analysis. The full 42-page report is available in the Council Office, which can be copied for Members of Council desiring further information.

The adoption of this ordinance could result in a substantial loss of revenue that supports meeting the costs of handling zoning applications.

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.

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.

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), as amended, 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.

The minimum distance requirements applicable to other beer permits regarding churches and schools would apply to a caterer’s beer permit issued pursuant to this amended ordinance. Caterers would be prohibited from using this permit to sell beer within 100 feet of a church or school, unless the catered event is held by the church or private school for its own benefit. Caterers would be exempt from minimum distance requirements applicable to single and two-family residences.

Ordinance No. BL2004-499 (DREAD), as amended, 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.

This ordinance would also 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.

SUBSTITUTE ORDINANCE NO. BL2005-505 (BRADLEY & COLE) – This substitute 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, ornamental grasses and gardens. The ordinance also exempts parks and greenways, as well as property in a “natural state”, subject to an intentional design on file with the beautification bureau. 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.

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.

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.

(continued on next page)

ORDINANCE NO. BL2005-509 (continued)

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. BL2005-510 (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 approved by the planning commission.

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.

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.