

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **September 20, 2005**

RE: **Analysis Report**

Balances As Of:	<u>9/14/05</u>	<u>9/15/04</u>
<u>GSD 4% RESERVE FUND</u>	* \$32,286,466	\$13,088,374
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	Unavailable	Unavailable

* Assumes estimated revenues in fiscal year 2006 in the amount of \$20,680,663.

– RESOLUTIONS –

RESOLUTION NO. RS2005-921 (SUMMERS) – This resolution authorizes Zander Insurance Group, Inc., to install aerial telephone feeder cable to join 212 Oceola Avenue with 223 Oceola Avenue. Zander Insurance Group has agreed to indemnify the Metropolitan Government for any claims arising from the installation or maintenance of the aerial encroachment, and will be required to furnish a certificate of public liability insurance naming Metro as an insured party.

RESOLUTION NO. RS2005-927 (BRILEY & BRADLEY) – This resolution establishes a task force on telecommunications innovation to explore the feasibility of using Metropolitan Government resources to provide broadband technology and advanced telecommunications services to the public. The task force is to be made up of twelve members appointed by the vice mayor, and is to include representatives from the following: the director of the department of information technology systems or his designee; members of the business, technology, and telecommunication communities; persons with a background in community technology; persons with expertise in telecommunications and technology law; citizens with an interest in technology and telecommunications; and three members of council. The purpose of the task force will be to examine the feasibility of using Metropolitan Government resources in a network available to the public that would allow public data access and transmission, and to make recommendations to the council about which technologies the city should pursue. The task force is to submit its final report to the council within 180 days.

RESOLUTION NO. RS2005-931 (NEIGHBORS & COLE) – This resolution approves an annual grant in the amount of \$285,840 from the state department of human services to the Metro social services commission for adult homemaker services. These services to be provided include protective supervision, teaching of homemaker skills, household management, shopping and household tasks, and personal care. The homemaker program is for elderly persons and adults with mental and/or physical disabilities who need assistance in performing daily living activities. The term of this grant is from July 1, 2005, through June 30, 2006. There is a required local match of \$71,460 to be provided from the operating budget of the department of social services.

RESOLUTION NOS. RS2005-951 & RS2005-952 – These two resolutions set public hearings for the creation of and amendments to redevelopment plans administered by the Metropolitan Development and Housing Agency. The hearings will be held Tuesday, October 18, 2005 at 7:00 p.m. in the council chamber to receive public input on the redevelopment plans. The proposed plans will be submitted to the council for approval by ordinance.

Resolution No. RS2005-951 (Wallace & Whitmore) sets the public hearing for the creation of the Jefferson Street redevelopment plan. This resolution should be amended, as the body of the resolution purports to set a public hearing on an amendment to the Phillips-Jackson Street redevelopment plan, which is the subject matter of Resolution No. RS2005-952.

Resolution No. RS2005-952 (Wallace) sets the public hearing on an amendment to the Phillips-Jackson Street redevelopment plan.

RESOLUTION NO. RS2005-953 (NEIGHBORS) – This resolution approves a loan agreement between the state school bond authority and the Metropolitan Government for qualified zone academy bond (QZAB) funding in the amount of \$6,350,000. State law authorizes the Tennessee school board authority to issue qualified zone academy bonds, and loan the proceeds of the bonds to local governments at low interest rates for the benefit of local public schools. The proceeds of these loans can only be used for the renovation/rehabilitation of buildings or to purchase equipment. In order to qualify for QZAB funding, each school that is to receive funds must have a written commitment from a private entity to contribute ten percent of the funding for each project. The application to participate in this program and receive these bond funds was approved by the Council in April 2005. The Nashville Alliance for Public Education has agreed to pay at least ten percent of the cost for the projects.

This resolution approves the formal loan agreement between the Metropolitan Government and the state school bond authority to receive these funds. These funds will be used to repair and renovate existing science labs, as well as to convert existing science classroom space into laboratories at the following schools:

- | | |
|-----------------------------|------------------------------|
| Glenduff High School | Maplewood High School |
| Pearl Cohn High School | Stratford High School |
| Whites Creek High School | Antioch Middle School |
| Bailey Middle School | Bellevue Middle School |
| Brick Church Middle School | Cameron Middle School |
| Dalewood Middle School | Donelson Middle School |
| Dupont Hadley Middle School | Dupont Tyler Middle School |
| Ewing Park Middle School | Goodlettsville Middle School |
| H.G. Hill Middle School | Head Middle School |
| J.T. Moore Middle School | Jerre Baxter Middle School |
| Joelton Middle School | John Early Middle School |
| Litton Middle School | Martha Vaught Middle School |
| McKissick Middle School | McMurray Middle School |
| Neely’s Bend Middle School | Rose Park Middle School |
| Two Rivers Middle School | W.A. Bass Middle School |
| West End Middle School | Wharton Middle School |
| Wright Middle School | |

Pursuant to the loan agreement, the Metropolitan Government agrees to pledge its full faith and credit and unlimited taxing power, as well as the state-shared taxes received by the Metropolitan Government, to cover the principal payments on the bonds and administrative expense. There is no interest to be paid on the bonds. The principal payments will be made annually beginning in 2006 and extending through 2023. All of the loan funds are to be expended for renovation of the classrooms within two and one-half years. The Metropolitan Government agrees to indemnify the state school bond authority, to the extent legally permissible, against any loss arising out of the acceptance of the funds or administration of the loan agreement.

RESOLUTION NO. RS2005-954 (NEIGHBORS) – This resolution authorizes the issuance and sale of general obligation bonds in an amount not to exceed \$225,000,000 to retire the Metropolitan Government’s outstanding general obligation commercial paper. In June 2003, the council approved a commercial paper program from the Metropolitan Government to finance construction costs for (continued on next page)

RESOLUTION NO. RS2005-954 (continued)

capital projects on a short-term basis until long-term bonds are issued. The commercial paper program essentially took the place of bond anticipation notes and capital outlay notes, which are other forms of short-term financing. Under Metro's commercial paper program, the principal amount of commercial paper outstanding at any time may not exceed \$150,000,000. Commercial paper has been used as interim funding for various capital projects contained in the mayor's capital spending plans approved by the council. In addition, commercial paper was used to fund various improvements to the district energy system (DES).

This resolution authorizes the sale of general obligation bonds to retire the outstanding commercial paper maturing within ninety days after the delivery of these bonds. These general obligation bonds will have a term of twenty years, and will be awarded to the bidder whose bid results in the lowest true interest cost to the Metropolitan Government. General obligation bonds are secured by and payable from ad valorem taxes. The proceeds of the bonds to be issued pursuant to this resolution will only finance projects previously approved by the council. The council approved a similar general obligation bond resolution in April 2005 in an amount not to exceed \$175,000,000 to retire outstanding commercial paper and to finance the construction of improvements to the district energy system.

RESOLUTION NOS. RS2005-955 THRU RS2005-959 (NEIGHBORS) – These five resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. These projects were included as part of the mayor's capital spending plan, but held until adequate funding was in place. The total amount of these five resolutions is \$1,265,600. The balance in the general fund reserve fund as of September 14, 2005, was \$33,552,066. This consists of unrealized revenue for fiscal year 2006 in the amount of \$20,680,663. The resolutions provide that "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis.

Resolution No. RS2005-955 appropriates \$1,200 from the general fund reserve fund to the clerk and master for a case management system. The amount of the appropriation included in this resolution is incorrect. The correct amount is \$1,200,000. Therefore, this resolution should be withdrawn and a new resolution offered in its place, which will require suspension of the council Rules to have the resolution considered as a late item.

Resolution No. RS2005-956 appropriates \$783,300 from the general fund reserve fund to the general sessions court for televisions, a digital audio recording system, removal of a public address and audio system, electronic docket display, and a traffic school management system.

Resolution No. RS2005-957 appropriates \$159,500 from the general fund reserve fund to the juvenile court for furniture, fixtures and equipment for existing courtrooms and referees, and for security cameras and recorders.

Resolution No. RS2005-958 appropriates \$7,600 from the general fund reserve fund to the trustee for office equipment.

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RESOLUTION NOS. RS2005-955 THRU RS2005-959 (continued)

Resolution No. RS2005-959 appropriates \$314,000 from the general fund reserve fund to the Metro clerk for an electronic voting system, computers, a copier and scanner, heavy-duty work tables, two-wheel hand trucks, a manual pallet truck, and heavy duty rolling ladders.

RESOLUTION NO. RS2005-960 (NEIGHBORS & BRILEY) – This resolution approves the waiver of benefit overpayments made to a pensioner in the Metro employee benefit system, which was caused by employee benefit board staff errors. The Metropolitan Code of Laws permits the benefit board to waive such overpayments provided that the beneficiary was without fault or knowledge of the error and would be deprived of income for living expenses if forced to repay the amount of overpayment. The overpayments made to the pensioner total \$1,626.37. The employee benefit board has approved the waiver and it must be approved by the Metropolitan Council before it becomes final. The employee benefit board has a continuing program that reviews all pension payments to assure our pensioners are being paid the correct amount. If the pensioners are underpaid, the back payments are automatically paid without Council approval.

RESOLUTION NO. RS2005-961 (COLE & NEIGHBORS) – This resolution approves a grant in the amount of \$82,400 from the state department of health to the Metropolitan board of health for food safety services. These federal pass-through funds will be used to pay the salary of an environmental specialist with experience in restaurant inspections and food safety whose primary responsibility will be to participate in multi-state consortium projects through the center for disease control. The term of the grant is from July 1, 2005 through December 31, 2006.

RESOLUTION NO. RS2005-962 (COLE & NEIGHBORS) – This resolution approves an amendment to a grant agreement between the U.S. environmental protection agency and the board of health relative to the comprehensive air pollution program. This amendment decreases the amount of funding by \$88,872 for a new total of \$350,055. In addition, this amendment decreases the amount of the required Metro match by \$45,850 for a new total match of \$253,765. The other terms of the grant agreement will remain unchanged.

RESOLUTION NO. RS2005-963 (COLE & NEIGHBORS) – This resolution approves a grant in the amount of \$84,600 from the state department of health to the Metropolitan board of health to provide community intervention services. The term of the grant is from July 1, 2005 through December 31, 2005. The health department will use these funds to provide community prevention intervention services for at-risk children under thirteen years of age to help reduce substance abuse, pregnancy, violence, and drop-out rates.

RESOLUTION NO. RS2005-964 (COLE & NEIGHBORS) – This resolution approves a grant in the amount of \$6,000 from the state department of health to the Metropolitan board of health to purchase and distribute child safety seats to low-income families. These funds will be disbursed on a quarterly basis.

RESOLUTION NO. RS2005-965 (COLE & NEIGHBORS) – This resolution approves an annual grant in the amount of \$130,200 from the state department of health to the Metropolitan health department

for alcohol and drug abuse diagnosis, prevention, rehabilitation, and treatment services. The term of the grant is from July 1, 2005 through June 30, 2006. These funds will be used for assessments, outpatient services, and partial hospitalization services.

RESOLUTION NO. RS2005-966 (COLE & NEIGHBORS) – This resolution approves an amendment to an annual grant in the amount of \$450,800 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care, homemaker, meal delivery, and caregiver support services. These funds are used to assist persons who are homebound or unable to perform at least one instrumental activity of daily living. This amendment increases the amount of the grant by \$357,500, for a total grant award of \$808,300. The amendment also increases the amount of the required local match by \$30,350, for a total match of \$68,772.23 to be provided from the operating budget of the social services commission.

RESOLUTION NO. RS2005-967 (WILHOITE & NEIGHBORS) – This resolution approves an annual grant in the amount of \$1,385 from the Tennessee secretary of state to the Nashville public library for participation in the interlibrary loan system. These federal pass-through funds are used to purchase library materials for the statewide on-line interlibrary loan system. The term of the grant is from September 1, 2005 through June 30, 2006, with a possible extension of four additional one-year periods.

RESOLUTION NO. RS2005-968 (WILHOITE & NEIGHBORS) – This resolution approves an annual grant in the amount of \$278,000 from the state department of state to the Nashville public library system for general library services, library services to the hearing impaired, and materials for the disadvantaged. The term of this grant is for one year beginning July 1, 2005, and extending through June 30, 2006, with a possible extension of four additional one-year periods. The grant funds will be divided as follows: \$91,000 for general library services to provide access to and circulation of library materials, \$182,000 for the deaf and hard of hearing, and \$5,000 for materials for the disadvantaged.

RESOLUTION NO. RS2005-969 (NEIGHBORS) – This resolution approves an annual grant in the amount of \$17,500 from the state administrative office of the courts to the state trial courts for the coordination of parenting plans, divorce education, and mediation services. The term of this grant is from July 1, 2005 through June 30, 2006. These funds will be used to provide on-call mediation services for divorce cases involving minors, providing interpreters for non-English speaking divorcing parents, and the development of guardian ad litem curriculum.

RESOLUTION NO. RS2005-970 (NEIGHBORS) – This resolution approves a grant in the amount of \$878,009 from the state department of human services to the Davidson County juvenile court to establish and enforce child support guidelines concerning children born out of wedlock. Pursuant to the grant agreement, the juvenile court referees will hear such child support cases and paternity hearings on an expedited basis. The referees will take testimony, evaluate the evidence, and establish child support orders based on the state child support award guidelines. The term of this grant is from July 1, 2005, through June 30, 2006, with a possible extension of four additional one-year terms. There is a required local match of \$452,309 to be provided from the juvenile court's operating budget.

RESOLUTION NO. RS2005-971 (RYMAN & NEIGHBORS) – This resolution approves a grant in the amount of \$9,000 from the state commission on children and youth to the juvenile court to improve juvenile court services. The term of the grant is from July 1, 2005 through June 30, 2006. These

grant funds will be used to pay for alternative placement and transportation services, and to develop other alternatives to jail for children, including emergency foster homes, crisis intervention, home detention, and attendant care.

RESOLUTION NO. RS2005-972 (NEIGHBORS) – This resolution approves a grant in the amount of \$100,000 from the state department of finance and administration, office of criminal justice programs, to the Davidson County drug court to partially fund the residential substance abuse treatment program. These funds will be used to pay the salary of an aftercare counselor, to provide drug tests, and to purchase other supplies for the program. The term of the grant is from July 1, 2005 through June 30, 2007, with a possible extension of two additional one-year periods. There is a required match of \$16,667 to be provided through the drug court’s budget.

RESOLUTION NO. RS2005-973 (RYMAN & NEIGHBORS) – This resolution approves a grant in the amount of \$58,932 from the Cal Turner Family Foundation to the Davidson County sheriff’s office to purchase materials for pre-trial release parenting programs. These funds will be used to purchase reality babies and materials for a parenting program to help men develop parenting skills and enhance their ability to interact with young children.

RESOLUTION NO. RS2005-974 (NEIGHBORS & RYMAN) – This resolution approves a grant in the amount of \$94,897 from the state department of finance and administration to the Davidson County sheriff’s office for a substance abuse treatment program for high custody female offenders. The term of this grant is from July 1, 2005 through June 30, 2007, with a possible extension of two additional one-year periods. There is a required match of \$31,634 to be provided through the sheriff’s office budget. These funds will be used to pay the salary of a treatment counselor to identify and treat high level custody long-term female offenders in the sheriff’s office correction system. The program is designed for women who are multiple offenders and will be operated at the new women’s correctional facility.

RESOLUTION NO. RS2005-975 (RYMAN, SHULMAN & NEIGHBORS) – This resolution approves a grant in the amount of \$163,944 from the state department of transportation to the Davidson County sheriff’s office for litter and trash pick-up along roads and highways, and litter prevention education. This grant will be used to fund the administration of a continuing program for the use of inmates at the county workhouse to clean up trash along the roadsides. The grant specifies that \$49,100 of the funds must be used for litter prevention education. The term of the grant is from July 1, 2005 through June 30, 2006.

RESOLUTION NO. RS2005-976 (NEIGHBORS & RYMAN) – This resolution approves an Edward Byrne Memorial Justice Assistance Grant in the amount of \$1,003,778 from the U.S. department of justice to the Metropolitan Government. These federal funds will benefit the following departments:
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RESOLUTION NO. RS2005-976 (continued)

police, drug court, sheriff, public schools, district attorney, justice information system (JIS), juvenile court, public defender, and parks. There is a required local indirect cost match of \$100,377.80. The grant funds will be distributed as follows:

1. **District attorney:** \$101,696.57 to hire "cold case" investigators to work with prosecutors to determine additional avenues of investigation on cases more than three years old.
2. **Public defender:** \$16,641.72 to employ a social worker to assist the attorneys assigned to the juvenile division.
3. **Juvenile court:** \$31,242.83 to retain a warrant officer who will function as a "gang specialist".
4. **Drug court:** \$150,148.37 for food, drug tests, and supplies for the drug court program.
5. **JIS:** \$50,691.14 to upgrade server hardware and operating software used to provide criminal data.
6. **Sheriff:** \$127,661.15 to employ a community outreach director and to purchase technology and security equipment for operation of the jails.
7. **Police:** \$292,418.45 to update the mobile data computers on the patrol units.
8. **Schools:** \$115,314.70 to install additional closed-circuit television cameras in schools, and for the wireless transmission of video to law enforcement laptop computers.
9. **Parks:** \$17,635.28 to purchase computers for the patrol vehicles.

RESOLUTION NOS. RS2005-977 & RS2005-979 (NEIGHBORS & BRILEY) – These two resolutions approve amendments to annual grants from the state department of labor and workforce development, under the provisions of the Workforce Investment Act of 1998, to provide funding to the Nashville career advancement center (NCAC) to prepare adults, youth, and dislocated workers for re-entry into the labor force, and to offer training to those facing serious barriers to productive employment. These are essentially federal pass-through funds that provide operating funds for NCAC. The term of the two grants is from April 1, 2005, through June 30, 2007.

Resolution No. RS2005-977 approves an amendment to an administration grant previously awarded in the amount of \$43,395.80. This amendment increases the amount of the grant by \$187,246.50 for a new total of \$230,642.30.

Resolution No. RS2005-979 approves an amendment to a youth worker grant previously awarded in the amount of \$390,562.20. This amendment increases the amount of the grant award by \$937,348.20, for a new total of \$1,327,910.40.

RESOLUTION NO. RS2005-978 (NEIGHBORS & BRILEY) – This resolution approves a grant from the state department of labor and workforce development, under the provisions of the Workforce Investment Act of 1998, in the amount of \$19,000 to provide funding to the Nashville career advancement center (NCAC) to prepare adults, youth, and dislocated workers for re-entry into the labor force, and to offer training to those facing serious barriers to productive employment. These are essentially federal pass-through funds that provide program funds for NCAC.

RESOLUTION NO. RS2005-980 (WILHOITE & NEIGHBORS) – This resolution approves an amendment to a grant from the state department of transportation (TDOT) to the Metropolitan board of parks and recreation for the design and construction of the Stones River and Mill Creek greenways. (continued on next page)

RESOLUTION NO. RS2005-980 (continued)

The grant consisted of \$8,200,000 in federal pass-through funds, with a required local match of \$2,050,000, which was provided through general obligation bonds. The contract was set to expire on October 1, 2003. TDOT executed an amendment to the contract to modify some of the standard terms related to the use of state-owned right-of-way, but this amendment was inadvertently never submitted to the Council for approval. The board of parks and recreation and TDOT believed the amendment was in effect and have proceeded accordingly. This resolution ratifies the prior amendment and deletes the expiration date.

RESOLUTION NO. RS2005-981 (RYMAN, WHITE & OTHERS) – This resolution authorizes the mayor to enter into a joint funding agreement with the U.S. department of interior – geological survey for the continuation of a program of water resources investigation. The federal government will provide \$82,500 for this program, with a local match of \$94,300 to be provided by the department of water and sewerage services. This annual contract provides streamflow monitoring and flood control analysis at various sites within the area of the Metropolitan Government.

RESOLUTION NO. RS2005-982 (TUCKER, SHULMAN & NEIGHBORS) – This resolution approves a grant in the amount of \$337,426.70 from the state department of transportation to the Metropolitan Government for the replacement of the bridge on Brick Church Lane over Ewing Creek. This is a typical bridge replacement agreement with the state whereby the state provides eighty percent of the construction costs and Metro pays the remaining twenty percent. Metro's required local match for this grant is \$84,356.68. The project is to be completed not later than July 1, 2007.

RESOLUTION NO. RS2005-983 (CRADDOCK & DREAD) – This resolution approves an application for a grant from the state emergency management to the Metropolitan Government to fund the purchase and demolition of a home located in a repetitively flooded area. If awarded, these funds will be used to acquire and demolish a home located at 5008 West Durrett Drive, which is located in the Seven Mile Creek floodplain. The total estimated cost for this acquisition is \$176,550, with seventy-five percent of the cost (\$132,412.50) being provided through federal pass-through funds, and twenty-five percent of the cost (\$44,137.50) provided by the Metropolitan Government. This home will be acquired on a voluntary sale basis.

RESOLUTION NO. RS2005-984 (JAMESON) – This resolution authorizes Coyote Ugly Saloon & Grill to install and maintain a projection sign above the sidewalk at 154 2nd Avenue North. The sign to be installed will read "Coyote Ugly Saloon & Grill", and will measure seven feet deep by ten feet tall. Coyote Ugly Saloon & Grill has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the encroachments, and is required to post a \$300,000 certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party. Ordinance O87-1890 authorizes aerial encroachments to be approved by resolution rather than ordinance.

This resolution has been referred to the planning commission.

RESOLUTION NO. RS2005-985 (NEIGHBORS & BRILEY) – This resolution modifies the existing master list of architectural and engineering firms. The Metropolitan Code of Laws requires that all contracts for professional services of architects and engineers be with firms included on the master list. This resolution adds the firm Hethcoat and Davis, Inc., of Brentwood, Tennessee to the master list.

RESOLUTION NO. RS2005-986 (NEIGHBORS) – This resolution accepts \$101,196.15 in settlement of the Metropolitan Government's claim against Kmart Corporation. Kmart filed a chapter 11 bankruptcy petition in January 2002. The Metropolitan Government filed a proof of claim with the bankruptcy court in the amount of \$105,138.62 for back taxes owed by Kmart for the years 2001 and 2002 for seven parcels of property, including penalties and interest. The base tax amount owed is \$71,645.88. To date, penalties and interest on the back taxes total \$44,325.40. Kmart has agreed to pay a lump sum payment of \$101,196.15 to settle the matter. This represents the full amount of the back taxes plus 12% interest. This does not include the penalties and attorney fees, a majority of which would likely not be allowed by the court if objected to by Kmart.

The department of law recommends accepting the lump sum payment of \$101,196.15 to settle this matter. It has already been determined that Metro is not entitled to \$10,311.39 of the \$14,775 in penalties because these penalties accrued on 2001 taxes, which was prior to Kmart's filing for bankruptcy protection. With this settlement, Metro is only surrendering approximately \$4,400 in penalties for the 2002 tax year, which it may or may not be entitled to.

RESOLUTION NO. RS200-989 (WALLACE) – This resolution appropriates \$75,000 from the unappropriated fund balance of the general services district to fund a best practices study. This appropriation would provide funds to employ necessary consultants to conduct a Best Practices Study of the council office. Such study would include a study of the current council office, current staffing of the council office, and the need for additional staffing.

Rule 15 of the Council Rules of Procedure provides that "no resolution or ordinance involving the appropriation or expenditure of money, upon being filed, shall be placed on the agenda by the Metropolitan clerk until the Director of Finance has furnished a statement of the availability of funds." The director of finance has provided a statement that the funds are not available for this appropriation. The council has established a policy of maintaining a minimum unappropriated fund balance of five percent. The substitute budget adopted by the council for this fiscal year did not fund this study.

It is estimated that the unappropriated fund balance will be close to five percent, but the exact amount will not be determined until the audit is completed later this year. Adoption of this resolution could be deemed by credit rating agencies as a violation of the previous council policy adopted by resolution.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2005-659 (BRILEY, JAMESON & OTHERS) – This ordinance, as amended, amends the Metropolitan Code of Laws by repealing the existing “Standards for Ethical Conduct” for Members of Council and replacing the provisions with new “Standards of Conduct”. This ordinance is the final product of the ethics review task force, which was created by the council in February 2004 to review the current ethics laws and to make recommendations regarding changes to the laws. The task force recently completed its work and has recommended that this ordinance be enacted into law.

As stated above, the code currently contains provisions pertaining to ethical conduct of Members of Council. The Code contains general conflict of interest provisions that require a Member of Council who has or is likely to have a conflict of interest in connection with a matter pending before the council to recuse him/herself from taking further action on the matter. The code also prohibits the solicitation or acceptance of gifts or benefits intended to influence a vote or given as a result of a vote. The Code exempts gifts or benefits that are provided to all Members of Council. The current law further prohibits Members of Council from benefiting from contracts with the Metropolitan Government and from exerting influence as a Council Member, which would interfere with the performance or exercise of judgment of an officer or agency of the government. Members of Council are also prohibited from representing any person or entity for compensation before any Metro legislative or administrative officer or agency of the Metropolitan Government.

The ordinance would substitute the current ethics laws applicable to Members of Council with new standards of conduct. The ordinance contains some standards that are similar to the current ethics laws, such as a prohibition on soliciting or accepting benefits that might reasonably tend to influence a Member to act improperly or to influence a vote, and a prohibition on using council positions improperly to secure unwarranted privileges. In addition, this ordinance includes a blanket prohibition on Members of Council accepting “anything of value”, which includes money, gifts, benefits, advances, etc. The ordinance does contain exceptions not considered “anything of value”, including compensation paid by an employer, fees earned from outside employment, and lawful campaign contributions. This ordinance would also prohibit Members of Council from using Metropolitan Government property or information for personal use, or from providing services for compensation to a person or entity having business before the Metropolitan Government unless it is the Member’s primary source of income and he/she discloses the interest. Further, Members of Council would be prohibited from accepting promotional items in excess of \$25, and meals, tickets, admissions to events, or travel expenses in excess of \$100 from a single source in a given year. The ordinance expressly excludes meals provided to the entire council as long as the sponsoring organization has filed a notice with the Metropolitan clerk at least ten days in advance, and the organization has no matter pending or scheduled to come before the council at the next meeting.

Probably the most significant aspects of this ordinance are the required disclosure provisions. The current ethics law does not contain any disclosure requirements for Members of Council, although Members are required to file annual campaign finance disclosures with the election commission pursuant to state election law. This ordinance would require Members of Council to file annual disclosure statements and monthly benefit reports. The annual disclosure statement would include the following information:

1. Sources of income for Members of Council and their immediate family members. Attorneys or doctors whose source of income is their practice would be required to name the practice and any individual client that accounts for 15% or more of the individual’s income, unless such disclosure would violate applicable laws and/or rules of professional conduct. If the individual
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ORDINANCE NO. BL2005-659 (continued)

2. relies on the protections allowing them to refrain from disclosing client names, that individual would be required to file a certification as to the number of clients the individual has not disclosed and the laws or rules the individual relied upon.
3. Financial interest for Members of Council and their immediate family members of 5% or more in any business with offices in Davidson County.
4. Council Member's or family member's ownership of property located in Davidson County.
5. Council Member's or family member's position with any for-profit or non-profit entity, labor group, or educational or other institution, regardless of whether income is received for such position. This would include membership on boards of charitable organizations.
6. Financial interests in any litigation involving the Metropolitan Government.
7. Debts in excess of \$5,000 owed to any one creditor, excluding debts owned to family members or established financial institutions in the ordinary course of business (i.e. car loans, mortgages, etc.).

This annual disclosure statement must be amended within 30 days of the occurrence of any material change to the disclosures. In addition, Members of Council having a direct or indirect personal interest in any legislation would be required to notify the vice mayor and the clerk as far in advance as reasonably possible.

Members of Council would also be required to file a monthly benefit reporting statement listing all benefits received, including meals, admissions, tickets to events, and travel expenses. This would not include disclosure of meals furnished to the council as described above.

This ordinance would also abolish the council board of ethical conduct and replace it with the "council board of conduct". This board would have the same functions as the current board. The size of the board would be increased from 5 to 7, with the addition of one member selected by the Tennessee Society of Certified Public Accountants, and one member selected by the Nashville Neighborhood Alliance. The complaint and investigation procedures are essentially the same as the current procedures, but include detailed hearing procedures to be followed by the board in the event the board calls a hearing on the complaint.

The council office would remind the council that this ordinance is the result of months of meetings by the ethics review task force, which was selected by the council and included the director of the council office as a member. The task force held two public hearings for input from citizens and Council Members prior to submitting the final version of the proposed ordinance.

There may be a proposed amendment adding a delayed effective date of October 1, 2007.

ORDINANCE NO. BL2005-725 (KERSTETTER) – This ordinance amends the Metropolitan Code of Laws to expand the hours of the juvenile curfew. The current curfew makes it unlawful for children 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. This ordinance would remove the distinction between the school year and the summer, and make the hours of the curfew eleven p.m. to five a.m. Sunday through Thursday, and midnight to five a.m. on Friday and Saturday.

ORDINANCE NO. BL2005-728 (BURCH & ALEXANDER) – This ordinance amends the Metropolitan Code of Laws to prohibit soliciting employment within the right-of-way. This ordinance is modeled after ordinances that have been enacted in several California cities. This ordinance would make it unlawful for any person to stand along a street and actively solicit employment from any person in a motor vehicle, and would likewise prohibit persons in motor vehicles from actively soliciting employment of any person along a street. The Metro Code already prohibits persons from standing within the Metro right-of-way for purposes of soliciting employment or contributions, but does not extend to persons seeking out workers.

There is a substitute for this ordinance substituting the word “street” with the word “right-of-way”, as is provided in the definitions section of the ordinance, and adding some recitals regarding the intent of the ordinance.

ORDINANCE NO. BL2005-729 (ALEXANDER & HART) – This ordinance repeals the provisions in the Metropolitan Code of Laws prohibiting the sale and use of fireworks within Davidson County. The Metro Code currently makes it unlawful for anyone to sell or use fireworks unless the fireworks are for a public fireworks display. In order to hold a public fireworks display, a permit must be obtained from the Metro fire marshal and the applicant must provide a \$100,000 indemnification bond.

The council office would point out that in addition to the fireworks provisions in the Metropolitan Code of Laws, a private act adopted by the Tennessee general assembly in 1947 prohibits the sale and use of fireworks within counties “having a population of not less than 250,000 and not more than 260,000 inhabitants, according to the Federal Census of 1940, or any subsequent Federal Census.” At the time this private act was adopted, Davidson County fell within the population limits of the act, but has since surpassed 260,000 inhabitants. In addition, a state law of general application prohibits the sale of fireworks in all counties having a population of greater than 200,000. Thus, a state law change would be required before the provisions of the ordinance allowing the sale of fireworks could become effective.

ORDINANCE NO. BL2005-731 (MCCLENDON & NEIGHBORS) – This ordinance approves a contract between the Metropolitan Government and Loss Prevention Specialists, Inc. for the recovery of funds belonging to the Metropolitan Government. Loss Prevention Specialists is one of the largest civil recovery providers in the country, specializing in locating and recovering funds owed to companies and governments. Loss Prevention Specialists has identified \$13,607 belonging to the Metropolitan Government and has contacted Metro proposing to recover this sum for a 20% finder’s fee. This contract provides that the company will locate and remit these funds in exchange for the finder’s fee. Future amendments to this agreement may be approved by resolution of the council.

There is an amendment to this ordinance to clarify that Loss Prevention Specialists, Inc., would not have the authority to negotiate or enter into any settlement agreement on behalf of the Metropolitan Government.

ORDINANCE NOS. BL2005-767 & BL2005-768 (COLEMAN) – These two ordinances adopt a plan of services and approve the extension of the boundaries of the urban services district to include 2,577 parcels of property, consisting of 4,419 total acres, located east of Interstate 24 in Council District 32. The Metropolitan Charter provides that general services district property may be annexed (continued on next page)

ORDINANCE NOS. BL2005-767 & BL2005-768 (continued)

into the urban services district, in accordance with state law annexation procedures, whenever such areas come to need urban services. State law requires that a plan of services be considered by the planning commission and then be adopted by the council after public hearing, before an ordinance to extend the boundaries of the urban services district can be approved on final reading. The planning commission considered the proposed plan of services and made its recommendations on June 23, 2005. One of the planning commission's recommendations was that the plan be submitted to the office of management and budget in the finance department to examine the total capital costs and estimates for the debt service. The Council Office submitted the plan to the finance department, and received a response that the estimated costs provided by the department of public works and NES fairly represent the costs associated with the annexation. The planning commission also recommended that a small area in District 33 be included as part of this annexation if the council proceeds to annex the property in District 32. However, the plan of services was prepared solely for the District 32 property. Thus, any additional extension of the USD boundaries the council deems necessary would need to be accomplished through a separate annexation process.

These parcels to be annexed into the urban services district already receive police protection, fire protection, and water and sewer service at essentially the same levels as USD properties. Therefore, the only additional services that will be rendered under the plan of services are street lighting, trash collection, and recycling. The Charter requires that in order for such property to be annexed into the urban services district, the Metropolitan Government must be able to provide these additional services within one year after property taxes become due. Pursuant to the plan of services, the annual cost to the Metropolitan Government to provide these additional services to the area to be annexed are as follows:

Trash disposal: \$55,432.02 annually
Trash collection: \$146,768.40 annually
Trash carts: \$12,935.52 annually
Recycling collection: \$39,801.60 annually
Recycling carts: \$12,935.52 annually
Street lighting capital costs: \$2,129,000
(The project will consist of the installation of approximately 600 new poles, 110 transformers, 180,000 feet of conductor cable, and 1,110 new lights.)
Electricity/maintenance: \$504,000 annually

Total Capital Cost: \$2,129,000.00
Total Annual Cost: \$771,873.06

Estimates regarding the amount of additional property revenue this annexation would generate range between \$1,128,000 and \$1,156,100 annually.

The council office would point out that the Charter prohibits liquor stores from being located in the general services district. Thus, this proposed annexation into the urban services district would allow liquor stores in certain commercial areas of the annexed area.

These two ordinances should be deferred after adoption on second reading to comply with the state notification requirements for the public hearing on the ordinances, which will be held on third and final reading.

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ORDINANCE NOS. BL2005-767 & BL2005-768 (continued)

Ordinance No. BL2005-767 adopts the proposed plan of services for the annexation.

Ordinance No. BL2005-768 extends the boundaries of the urban services district to include the additional area in District 32.

ORDINANCE NO. BL2005-769 (NEIGHBORS) – This ordinance amends the Metropolitan Code of Laws to authorize the Metropolitan public health department to require connection to the public sewer system when public health concerns are identified. The code currently requires that all new buildings connect to the public sewer at their own expense where sewer access is available, and allows the director of the department of water and sewerage services to require existing buildings to connect when access becomes available. This ordinance would amend the sewer system regulations to enable the health department to require sewer connections as well.

ORDINANCE NO. BL2005-770 (WILHOITE) – This ordinance would allow the Nashville fire department to accept donations upon approval of a resolution adopted by the council. Currently, all donations made to the Metropolitan Government must be approved by ordinance, even though the amount of the donation may only be a few hundred dollars. In 2002, the council enacted an ordinance allowing grants to be approved by resolution rather than ordinance to help speed up the grant process. This ordinance is modeled after the 2002 ordinance in an effort to expedite the acceptance of donations made to the fire department.

ORDINANCE NO. BL2006-771 (NEIGHBORS & RYMAN) – This ordinance authorizes the acceptance of the donation of a horse to the Metropolitan Government for the use and benefit of the police department. This Tennessee Walking Horse, named Sunfire's Storm Chaser, is being donated by Mr. Ben Downing of Dayton, Ohio.

ORDINANCE NO. BL2005-772 (NEIGHBORS & RYMAN) – This ordinance authorizes the Metropolitan Government to donate a surplus 1981 Massey Ferguson tractor to Andrew Jackson Police Youth Camp, Inc., for use at its camp facility. This tractor has been declared to be surplus by the board of parks and recreation. The Metropolitan Government has determined that the tractor is no longer needed for governmental purposes.

ORDINANCE NO. BL2005-773 (TOLER) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Centex Homes to provide sewer service to the Hills of Concord Place and Villas of Concord Place subdivisions in Davidson County. The developer has agreed to contribute \$44,000 toward the cost of the projects in aid of construction for 22 single-family home connections. These funds are to be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement 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. BL2005-774 (HAUSSER) – This ordinance abandons a public right-of-way easement encumbering property located at 2218 Ashwood Avenue. In 1944, a judicial court decree

issued by the Davidson County Chancery Court referenced a public right-of-way easement encumbering this property. The court decree referencing the public right-of-way was recorded with the register of deeds, however, this section of right-of-way was never accepted by the Metropolitan Government and was never recorded on the official map. This ordinance simply abandons Metro's interest in this unbuilt right-of-way.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2005-775 (HAUSSER & NEIGHBORS) – This ordinance abandons an eight-inch, ten-inch, and twelve inch sanitary sewer line and easement located at 29th Avenue South and Vanderbilt Place. A relocated sewer line will be replacing the eight-inch and ten-inch lines. The existing lines are no longer being used by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2005-776 (CRADDOCK, SUMMERS & OTHERS) – This ordinance would amend the ethics provisions of the Metropolitan code of laws to prohibit Members of Council from accepting gratuitous meals from organizations and agencies. The prohibition would apply for agencies that have had or are likely to have matters pending with the council. As discussed in the analysis for Ordinance No. BL2005-659 above, the new standards of conduct ordinance recommended by the ethics review task force would expressly allow councilmembers to accept meals that are provided to the entire council. Should the council wish to adopt Ordinance No. BL2005-659, but also prohibit the acceptance of meals, Ordinance No. BL2005-659 would need to be amended to that effect. Ordinance No. BL2005-659 and this ordinance should not both be adopted, as they amend the same section of the code.

ORDINANCE NO. BL2005-777 (WALLACE) – This ordinance amends the Metropolitan Code of Laws provisions governing grant funding by the Metropolitan Government to nonprofit organizations. Earlier this year, the council enacted Ordinance No. BL2004-421 to clarify the information that must be provided by nonprofit organizations to obtain grant funding from the Metropolitan Government, in accordance with state law. State law requires that the nonprofit organization have a current tax-exempt status from the IRS, and that an audit be submitted prior to obtaining the funds. Ordinance No. BL2004-421 included a list of information that must be provided, such as proposed use of the funds, a copy of the organizations charter or bylaws, a statement regarding the nature of the organization's programming, and a copy of the organization's budget.

This ordinance would require nonprofit organizations seeking grant funding from the Metropolitan Government to make their request not later than April 15th, for funding in the next fiscal year's operating budget. In addition, the amount of grants made by the Metropolitan Government to nonprofit organizations would be limited to twenty percent of the organization's total operating budget.

ORDINANCE NO. BL2005-778 (TYGARD) – This ordinance renames a portion of Temple Road between Marler Road and Templegate Drive as "Claxton Court". This renaming is necessary since Temple Road has been relocated. This ordinance has been referred to the planning commission and approved by the ECD board.

ORDINANCE NO. BL2005-779 (WALLACE) – This ordinance abandons a 19-foot wide section of Garfield Street right-of-way between 8th Avenue North and Nassau Street. This closure has been requested by Century 21 Seals. The Metropolitan Government will retain all easements.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2005-780 (WHITE) – This ordinance names a private drive in the Noel Cove subdivision “Noel Cove Circle”. This ordinance was requested by Councilman White in an effort to assist emergency personnel in locating residences in this subdivision.

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

ORDINANCE NO. BL2005-781 (WALLACE) - This ordinance authorizes Christ Church Cathedral to install and maintain two light poles in the sidewalk at 900 Broadway to improve visibility. Christ Church Cathedral has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the light poles, and is required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2005-782 AND BL2005-783 (SHULMAN) – These two ordinances authorize the Metropolitan Government to enter into participation agreements 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 aid 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. BL2005-782 approves a participation agreement with Cates-Kottas Development to provide sewer service to the Bennington subdivision – phase 1 in Williamson County. The developer has agreed to pay \$80,000 for a total of 40 single-family connections.

Ordinance No. BL2005-783 approves a participation agreement with Waggoner Development, LLC, to provide sewer service to the Galestone subdivision – Phase 1E subdivision in Williamson County. The developer has agreed to pay \$126,000 for 63 single-family connections.

ORDINANCE NO. BL2005-784 (SHULMAN) – This ordinance approves a contract with the state department of transportation for the installation of traffic signals at the southbound off-ramp of Ellington Parkway at Cleveland Street. Pursuant to this contract, the state will install the signals, and

Metro will maintain and provide electricity for the signals. Future amendments to this contract may be approved by resolution of the council.

ORDINANCE NOS. BL2005-785 & BL2005-786 (SHULMAN) – These two ordinances approve contracts between the Metropolitan Government and the state department of transportation for bridge replacements. Pursuant to these contracts, the state department of transportation will cover 80 percent of the estimated costs for the replacements using federal highway funds. The remaining 20 percent will be paid by Metro, as well as any amounts exceeding the estimated costs. Metro will be responsible for relocating water and sewer utilities, but the state will be responsible for obtaining the relocation of other non-government utilities. Future amendments to these contracts and any additional contracts associated with these projects may be approved by resolution of the council.

Ordinance No. BL2005-785 approves a contract for the replacement of the bridge on Westlawn Drive over Branch LM0.41. The estimated cost of the project is \$515,000, with Metro paying \$103,000 of the cost.

Ordinance No. BL2005-786 approves a contract for the replacement of the bridge on Battery Lane over Brown’s Creek. The estimated cost of the project is \$645,000, with Metro paying \$129,000 of the cost.

ORDINANCE NO. BL2005-787 (WALLACE) – This ordinance approves a contract between the state department of transportation (TDOT), CSX Transportation, Inc., and the Metropolitan Government regarding the replacement of the Demonbreun Street bridge. In August 2004, the Council approved a contract between the Metropolitan Government and TDOT for the replacement of the viaduct bridge on Demonbreun Street over 11th Avenue North and the CSX Railroad tracks. This ordinance approves the contract with CSX, which is necessary in order for the project to proceed. Since the bridge will be over CSX right-of-way, TDOT must have the consent of the railroad to construct the bridge. This is essentially an agreement between TDOT and CSX, with Metro being a party simply because it owns the bridge structure and roadway. A similar contract with CSX was approved by the Council in February 2005. This new contract includes the revised cost estimates for the railroad work.

Pursuant to this contract, CSX agrees to allow TDOT to construct the bridge in accordance with the construction and right-of-way plans submitted to CSX. In addition, TDOT agrees to reimburse CSX in the amount of \$394,232 for the railroad work that must be done on the project. TDOT must require that its contractor carry a performance bond guaranteeing the completion of the bridge, and maintain liability and property damage insurance. Metro agrees that it will have the legal and financial responsibility for maintaining the bridge once it is completed. This ordinance also provides that all future contracts with CSX pertaining to bridge and roadway projects may be approved by resolution of the Council, rather than by ordinance. Negotiating with the railroad for these types of projects is often a time-consuming process. This will better able the department of public works to adhere to construction schedules for roadway construction projects where CSX permission is required.

ORDINANCE NO. BL2005-788 (COLEMAN) – This ordinance readopts the Code of the Metropolitan Government to include all ordinances enacted on or before May 17, 2005.

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- BILLS ON THIRD READING -

ORDINANCE NO. BL2005-667 (WILHOITE, WALLACE & OTHERS) – This ordinance names the new criminal courts building on Second Avenue North the “Justice A.A. Birch Building”. In August 2003, the council approved Resolution No. RS2003-1593, which “declared” this building the “Beverly Briley Building”, but did not officially name the building in conformance with the requirements of the Code. The Metro Code of Laws provides that no building of the Metropolitan Government may be named except pursuant to an ordinance enacted by the council. Justice Birch began his career in Davidson County as an assistant public defender from 1963 to 1966, and then served as an assistant district attorney from 1966 to 1969. He then served from 1969 to 1987 as a general sessions judge and a criminal court judge. He was appointed to the court of criminal appeals in 1987 and was later appointed to the Tennessee Supreme Court in 1993.

ORDINANCE NO. BL2005-712 (JAMESON) – This zoning text change amends the bulk standards table to permit an increased impervious surface ratio (ISR) and increased building height at the setback line for properties located within mixed-use zoning districts. This ordinance would also remove the need for a landscape buffer yard when the rear of the property abuts an alley. The bulk standards table in the zoning code establishes standards relating to the size and placement of structures within each of the zoning classifications. This includes height restrictions, floor area ratios, impervious surface ratios, and building setbacks. The code currently limits the maximum height of buildings within mixed-use districts based on linear feet. This zoning text change would amend the table to base the allowable maximum height of these buildings at the setback line on number of stories, instead. Thus, the maximum height would be three stories in the MUN and MUL districts, and five stories in the MUG and MUI districts. This ordinance would also increase the maximum ISR in the MUN district from sixty percent to eighty percent. The ISR sets the maximum percentage of the property that can be covered with rooftops or pavement.

In addition, this ordinance would remove the authority of the board of zoning appeals (BZA) to grant variances for maximum building heights for property located within a redevelopment district. Instead, such authority would be vested with the MDHA design review committee. The council office would caution the council against approving such change in authority. Before the board of zoning appeals can grant a variance, the variance request is advertised in the paper, signs are posted on the property, the district councilmember and neighborhood groups are notified, and a public hearing is held on the variance. Allowing MDHA to grant variances on building heights would eliminate the public’s input as to whether the variance is appropriate.

Finally, this ordinance would eliminate the required rear buffer yard when the property abuts an alley. The code currently exempts property within the urban zoning overlay from the landscape buffer yard requirements when the zoning boundary falls along a public street.

Properties in redevelopment districts are subject to compliance with both the restrictions of the district plan, administered by MDHA, and the zoning regulations, administered by the zoning administrator. Giving MDHA the ability to grant variances of the zoning ordinance is another method to remove power from the council and could allow some developers an advantage over other property owners.

This ordinance has been disapproved by the planning commission in its current form. If the ordinance is amended to incorporate the commission’s recommendations, then the bill is to be treated as an approved bill. There are two proposed amendments to this ordinance incorporating the (continued on next page)

ORDINANCE NO. BL2005-712 (continued)

planning commission's recommendations. One of the amendments would allow an alternate standard for the maximum allowable building height to be established as part of a redevelopment plan approved by the council, rather than granting the authority to MDHA to grant variances. The other amendment would add a maximum height requirement at the setback line for stories in the mixed-use districts.

SUBSTITUTE ORDINANCE NO. BL2005-713 (WILHOITE) – This zoning text change would require that all delinquent property taxes be paid and all Metro liens on the property be satisfied before the planning department could accept a zoning application. The council rules of procedure already require that delinquent property taxes be paid prior to a zoning bill's consideration on second reading. For the past year, the planning department has been rejecting zoning applications at the time of submittal when delinquent property taxes are owed on the property to be rezoned. This ordinance would essentially codify the council rule and planning department procedure. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2005-718 (HART) – This ordinance amends the Metropolitan Code of Laws to prohibit the parking of boats and trailers in the front yards of residential property. In June 2002, the council amended the code to prohibit the parking of motor vehicles in yards, but did not address boats and trailers. This ordinance would require that all trailers and watercraft stored on private single-family and two-family residential property be parked on a paved or graveled driveway, or behind the rear façade of the structure.

ORDINANCE NO. BL2005-730 (SHULMAN) – This ordinance amends the Metropolitan Code of Laws to require the finance department to provide each member of council a monthly revenue collections report for the Metropolitan Government. The report is to contain the prior month's revenue collections and collections for the year-to-date, broken down by category. The Metropolitan Charter already requires the director of finance to submit a monthly financial report to the mayor, for presentation to the council, showing the financial condition of the various funds of the Metropolitan Government including estimated revenues and revenues received.

There is a proposed amendment to this ordinance modifying the type of information that is to be included in the report and including a sample format for the report. Since this ordinance is on third reading and is not a zoning matter, unanimous consent of the council will be required in order for this amendment to be adopted.

ORDINANCE NO. BL2005-732 (NEIGHBORS & RYMAN) – This ordinance authorizes the mayor's office of emergency management to accept donations for the 2005 Emergency Preparedness Challenge to be held in Nashville on September 23-24, 2005. The Emergency Preparedness Challenge is a local terrorism preparedness exercise for emergency providers in Davidson, Williamson, Wilson, and Sumner Counties. This exercise will involve approximately 1,000 first responders and 3,000 volunteers to serve as patients. State law authorizes local political subdivisions of the state to accept donations through the local legislative body for the purpose of emergency preparedness. This ordinance would authorize the office of emergency management to accept "donations in the form of services, equipment, supplies, materials, and funds" to use for the 2005 Emergency Preparedness Challenge. The ordinance provides that any funds not expended for this purpose shall be used by the office of emergency management for any subsequent emergency management exercise. The council office would point out that acceptance of donations in this method is contrary to the council's policy of requiring identification of the donation and the donor in the legislation.

ORDINANCE NO. BL2005-733 (JAMESON) – This ordinance accepts the donation of \$3,000 from the Nashville downtown partnership to the department of public works for the installation of railings along planters located within the right-of-way of the downtown area. Public works has already installed railings along planters on the Broadway sidewalk at Third Avenue North and Fourth Avenue North as part of a pilot project. The downtown partnership has agreed to provide \$3,000 for six additional planter railings. The department of public works will provide the labor for the installation of the railings. The ordinance further provides that if the funds are not expended for this purpose within one year, then the unexpended funds will be returned to the downtown partnership.

ORDINANCE NO. BL2005-734 (WALLS, NEIGHBORS & SHULMAN) – This ordinance approves a contract with the state department of transportation for the installation of traffic signals at Briley Parkway and Centennial Boulevard. Pursuant to this contract, the state will install the signals and Metro will maintain and provide electricity for the signals. Future amendments to this contract may be approved by resolution of the council.

ORDINANCE NOS. BL2005-735, BL2005-736 & BL2005-739 – These three ordinances authorize the director of public property administration to accept easements for various stormwater projects in Davidson County. All of these easements are being acquired at no cost to the Metropolitan Government.

Ordinance No. BL2005-735 (White & Walls) accepts easements encumbering properties located at 5008, 5010, 5012, and 5014 Bonnavista Drive. This ordinance has been approved by the planning commission.

Ordinance No. BL2005-736 (Isabel, Forkum & others) accepts easements encumbering the following properties:

- 1013 River Bluff Drive
- 2975 Armory Drive
- 2627 Brick Church Pike
- 3901 Central Pike
- Nolensville Pike unnumbered

This ordinance has been referred to the planning commission.

Ordinance No. BL2005-739 (Gotto & Cole) accepts easements encumbering the following properties:

- 2604 Pennington Avenue
- 1125 Cahal Avenue
- 1817 Cahal Avenue
- 1124 Richard Lee Circle

This ordinance has been referred to the planning commission.

ORDINANCE NOS. BL2005-737 & BL2005-738 – These two ordinances abandon sections of public right-of-way that are no longer needed by the Metropolitan Government. These two ordinances have been approved by the planning commission.

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ORDINANCE NOS. BL2005-737 & BL2005-738 (continued)

Ordinance No. BL2005-737 (Cole), as amended, abandons a portion of Otay Street from Northview Avenue westward to the railroad right-of-way. This closure has been requested by the planning commission in an effort to make the official street and alley maintenance and acceptance map conform to the GIS property maps maintained by the planning commission. Metro will retain all easements.

Ordinance No. BL2005-738 (Jameson) closes alley #318 from South 11th Street to alley #292. This closure has been requested by Martin Corner, G.P. Consents of the affected property owners are on file with the department of public works.

ORDINANCE NO. BL2005-762 (LORING, COLEMAN & JAMESON) – This zoning text change creates a new zoning district called the specific plan (SP) district. The zoning code currently contains various base zoning districts, which are essentially categories of zoning based on the size of the property and permissible land uses. This ordinance would create a new zoning district that would be applicable to any property in Davidson County, regardless of the proposed use of the property and the surrounding area. The SP district is designed to be an alternative zoning process to address the unique characteristics of an individual property through a site specific plan. This would provide some flexibility for developers seeking to deviate from the set design and use standards for the other base zoning districts. In exchange for this flexibility, the developer would be required to abide by a strict site plan, which would give the neighborhood and council members some guarantee as to how the property will be developed. For some time, district council members have used the planned unit development (PUD) overlay in an effort to add conditions to developments. However, many of the conditions that have been added to PUDs are simply not enforceable.

Prior to submitting a rezoning application for the SP district, the developer would be required to meet with the planning director for guidance on the proposed development plan. The development plan, which must be submitted at the time of the zoning application, would be required to show the purpose and intent of the site specific plan, the plan's consistency with the general plan, a list of allowable land uses, illustrations of allowable building types, and a construction schedule. Any proposed SP district within a historic overlay or eligible for listing on the national registry of historic places would first have to be reviewed by the historic zoning commission before being considered by the planning commission. The ordinance provides that after reviewing a proposed SP district, the planning commission can approve, disapprove, or "approve with conditions." If the planning commission makes a conditional approval, the ordinance provides that the application would not be deemed approved until the applicant provides all prescribed amendments to the application. The Council Office is of the opinion that under the Metropolitan charter and applicable state zoning laws, any conditional approval by the planning commission would be treated as an approved bill, regardless of whether the conditions had been satisfied.

Once the planning commission makes a recommendation on an SP district, the bill would move through the council in the same manner as other zoning bills. After an SP district is approved, minor modifications to the plan could be approved by the planning director, much as minor modifications to PUDs are handled. Major modifications, such as a change in design standards or land uses, would require council approval. The ordinance expressly provides that the board of zoning appeals would not have the authority to grant variances within an SP district. The ordinance also provides that the

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ORDINANCE NO. BL2005-762 (continued)

planning commission is to review each SP development plan every four years and make a recommendation to the council as to whether the SP district should remain on the property or whether the property should be rezoned to another base zoning district.

The council office would point out that this ordinance is a major departure from the rest of the zoning code, whose foundation consists of various base zoning districts that provide some consistency in land use patterns throughout the county. Although the council would have the final vote in approving an SP district, this ordinance would give the planning department even greater authority in determining the appropriate use of property in the county, which has traditionally been in the purview of the council. In addition, these "specific plans" would be very difficult to enforce by the zoning administrator, as each property would essentially have its own zoning code that would only apply to that particular property. The process could be deemed "spot zoning" if not enforced over large areas.

The council office is of the opinion that requiring a design plan as part of a rezoning bill and imposing conditions are a violation of state law. The Tennessee Code Annotated, as part of the granting of zoning power to county and municipal governments, limits zoning ordinances to the regulation of the following: (1) the location, height and size of buildings and other structures; (2) the percentage of lots which can be occupied; (3) the size of yards and open spaces; (4) the density and distribution of population; and (5) the uses of property. A separate statute provides for design standards as part of historic zoning districts, however, this statute does not extend to design restrictions as part of other zoning ordinances. Although the zoning code currently includes various design-related provisions, this ordinance extends the design standards and design review process into uncharted territory.

ORDINANCE NO. BL2005-763 (LORING, JAMESON & MCCLENDON) – This zoning text change makes various modifications to the tree and landscaping provisions of the zoning code. The tree ordinance is a set of regulations and standards for landscaping, buffering, and tree placement for developments. The provisions of the existing tree ordinance only apply to commercial and multi-family developments, not single or two-family homes. This ordinance has been brought forth at the recommendation of the urban forester and the tree advisory committee. The modifications to the existing tree ordinance include the following:

1. This ordinance would make it unlawful to "top" a tree within Davidson County. Topping a tree is defined by the ordinance as a severe cutting back of the limbs to stubs so as to remove the canopy and disfigure the tree. The code currently prohibits the topping of trees only on public property, which is consistent with the purpose of the chapter. This ordinance would attempt to extend this prohibition to all trees, both on public and private property. This provision would not apply to trees damaged by storms or trees located under utility wires where other pruning practices are impracticable, as determined by the urban forester.

The council office is of the opinion that this provision should not be part of this ordinance. As stated above, the tree provisions in the zoning code do not apply to single and two-family dwellings. However, this provision would amend Chapter 2.104 of the Metro code, not the zoning code. Chapter 2.104 of the code establishes the duties of the urban forester, and provides a permit process for arborists performing tree work and for the removal of public trees. The code gives the urban forester authority for the general oversight and
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ORDINANCE NO. BL2005-763 (continued)

maintenance of public trees. If the council wishes to ban the topping of all trees, this ordinance is not the best mechanism to do so. The council office recommends including such provisions in a separate ordinance for that specific purpose.

2. The ordinance would allow the urban forester to require a developer to post a performance bond to cover the cost of implementing the landscape plan. The department of codes administration already requires permit bonds in order to obtain a building permit. Performance bonds are typically used for road and infrastructure construction requirements to ensure that roads are built to Metro standards, since Metro usually accepts the roads for maintenance once they are constructed.

The council office is of the opinion that requiring a performance bond for landscaping plans adds an unnecessary provision to the code. The permit bond that is already required is sufficient to address the concerns regarding the completion of landscaping plans.

3. This ordinance would require that no more than fifty percent of the trees in any one planting area be of the same tree species.
4. This ordinance would delete the interior planting exemption for service loading areas or tractor-trailer loading, staging or parking areas. Instead, the interior planting requirements for tractor-trailer loading and parking areas could be adjusted to combine multiple smaller tree islands into larger, but fewer, tree islands.
5. The ordinance would require that watering for landscaping be accomplished by fully automatic underground irrigation systems. The code currently requires watering to be via an underground sprinkler or an outside hose attachment.

The council office would point out that adding a requirement for automatic sprinklers would substantially increase the construction costs for developments, including public schools. The Council Office recommends amending this ordinance to delete the words "fully automatic", which would still require underground irrigation systems, but such systems could be operated manually.

6. The ordinance would prohibit the staking or guying of trees unless absolutely necessary.
7. The ordinance would prohibit undeveloped property of a given parcel from being counted toward the tree density requirement. The urban forester would have the authority to permit additional credit to be applied to a required landscape area when a landmark or specimen tree located on the property is protected.
8. The ordinance would increase the width of the required perimeter landscape strips from five feet to eight feet whenever the strip is adjacent to a public street or used to separate a driveway or parking area from adjacent property.
9. The ordinance would add a minimum height of eighteen inches for evergreen shrubs required to be planted within perimeter landscaping strips that front a street right-of-way. The code currently does not set a minimum height for such shrubs.

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10. Prior to the urban forester making a landscaping inspection, the design professional who prepared the landscape plan would be required to certify in writing that he/she has inspected the landscaping and that it has been installed in accordance with the plan. This essentially codifies a practice already in place within the codes department.

A housekeeping amendment should be offered for this ordinance prior to its adoption on third reading to make some technical corrections. In addition, the planning department staff has recommended an amendment to the buffering table.

This ordinance was referred to the planning commission on August 2, 2005. Since more than thirty days have elapsed since the referral of this ordinance to the planning commission, the council can proceed with the public hearing and adopt the ordinance on second reading.

ORDINANCE NO. BL2005-764 (SHULMAN) – This ordinance transfers a telecommunications franchise granted to ICG Access Services, Inc., to Xspedius Communications. In October 1994, the Council approved five ordinances that granted franchises to five different companies to operate telecommunication systems using fiber optic cable. The five franchises were primarily for the purpose of serving hotels, motels, hospitals, and office buildings. One of these franchises was granted to ICG Access Services, Inc., which has recently sold all of its southeast business and assets, to Xspedius Communications. ICG’s southeast markets included Nashville, Atlanta, GA, Birmingham, AL, Charlotte, NC, and Louisville, KY.

In order for Xspedius to take over the Nashville operations, it is necessary that the franchise be transferred from ICG to Xspedius. The Metropolitan Code of Laws provides that no telecommunications franchise may be transferred without the written permission of the Metropolitan Government by ordinance of the Council. Xspedius has agreed to fulfill all of the obligations of the existing franchise and has furnished a franchise bond in the amount of \$250,000 to protect the Metropolitan Government.

ORDINANCE NO. BL2005-765 (ISABEL, MURRAY & OTHERS) – This ordinance approves an agreement between the U.S. Army and the water department for the Cowan Street streambank protection project. The project will consist of minimal clearing, bioengineering, and the placing of quarry run stone along the bank of the Cumberland River. The estimated cost of this project is \$430,000, with Metro water services being responsible for 35% of the cost. Any amendments to this agreement must be approved by resolution of the council.

ORDINANCE NO. BL2005-766 (ISABEL, MURRAY & OTHERS) – This ordinance authorizes the negotiation of and acceptance of deeds of perpetual channel improvement easements in connection with the Cowan Street river bank protection project. The State of Tennessee, Steve Meadows, and C I Partners, LLC have granted these easements to the Metropolitan Government for the purpose of protecting the existing sewer line and the river bank along the east bank of the Cumberland River. Perpetual channel easements are being granted for the following three parcels: 1311 Vashti Street, 800 Cowan Street, and property at Lyle H. Fulton highway bridge. This ordinance has been approved by the planning commission.