

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **October 18, 2005**

RE: **Analysis Report**

Balances As Of:	<u>10/12/05</u>	<u>10/13/04</u>
<u>GSD 4% RESERVE FUND</u>	*\$31,010,163	\$13,400,009
<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 \$21,037,500.

- 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 also expressly prohibits the acceptance of meals provided to the entire council by persons or organizations that have had or are likely to have matters pending with the council.

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 council office would be required to assist in the preparation of the reports, although the individual Council Members would remain responsible for (continued on next page)

ORDINANCE NO. BL2005-659 (continued)

the validity of all information provided. 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 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.
2. Financial interest for Members of Council and their immediate family members of 5% or more in any business with offices in Davidson County.
3. Council member's or family member's ownership of property located in Davidson County.
4. 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.
5. Financial interests in any litigation involving the Metropolitan Government.
6. 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 have been several proposed amendments that would accomplish the following:

- Delete the disclosure requirements for family members' interests.
- Limit the disclosure of family members' interests to spouses only.
- Delete the disclosure of business ownership interests and debts.
- Change the required monthly disclosures to semi-annually.

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ORDINANCE NO. BL2005-659 (continued)

- Require Members of Council to file duplicate copies of materials filed with the election commission with the Metropolitan clerk.
- Change the method of appointment of members to the board of conduct so that members would be appointed by the mayor and confirmed by the council.

The council executive committee has scheduled an information session on November 1, 2005, on this ordinance and a related state law. The council office would recommend this ordinance be deferred until the second meeting in November.

ORDINANCE NO. BL2005-796 (BRADLEY) – This ordinance adopts the 2002 edition of the National Electric Code, the 2000 edition of the International Residential Code for One and Two-Family Dwellings, and the 2003 edition of the American National Standard Code of Accessible and Useable Buildings and Facilities, to make them a part of the Metro building code. The Metropolitan Government adopts the most recent editions of the building codes approximately every three years. Metro is currently operating under the 1999 edition of the National Electrical Code and the 1998 edition of the Code of Accessible and Useable Facilities. Adoption of the most recent editions will help bring the government into conformity with the ADA guidelines. This ordinance has been recommended by the director of codes administration.

ORDINANCE NO. BL2005-799 (FORKUM, RYMAN & CRADDOCK) – This ordinance authorizes the director of public property administration to acquire four parcels of property by negotiation or condemnation for the construction of a new fire hall in the Neely’s Bend Road area. These four parcels are located on Larkin Springs Road and consist of a total of 2.61 acres. Any future amendments to this ordinance may be approved by resolution of the council receiving twenty-one affirmative votes.

This ordinance has been approved by the planning commission.

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- BILLS ON PUBLIC HEARING (SECOND READING) -

ORDINANCE NO. BL2005-797 (WALLACE & WHITMORE) – This ordinance approves the Jefferson Street redevelopment plan to be administered by the Metropolitan development and housing agency (MDHA). Redevelopment plans are a tool authorized by state law to remove urban blight and rehabilitate blighted areas. Various redevelopment plans have been approved by the council over the years, including the Capitol Mall plan, the Five Points plan, the Arts Center plan, the Phillips-Jackson Street plan, and the East Bank plan.

The Jefferson Street redevelopment plan area consists of the area surrounding a two-mile section of the Jefferson Street corridor that stretches from 12th Avenue to 28th Avenue. Presently, this area is a mixture of residential, mixed-use, institutional, commercial, retail, and office uses. The general condition of the area is blighted as a result of overgrown vacant lots and dilapidated buildings. Once adopted, this redevelopment plan will allow for the acquisition of land by negotiation or condemnation for redevelopment purposes, as well as the demolition and relocation of existing residences and businesses as necessary. MDHA will provide assistance to individuals and businesses that are displaced by the implementation of the plan.

Councils in the past have not permitted MDHA to use condemnation authority without a resolution adopted by council on a specific parcel of property. This type of redevelopment plan is the method approved by the U.S. Supreme Court that has raised a great deal of concern over property rights.

The following uses will be permitted within the project area:

- Single-family, two-family, and multi-family residential
- Hotels/motels
- Churches
- University-related facilities
- Schools and daycares
- Offices
- Medical offices/hospitals
- General retail not including liquor sales or adult-oriented products
- Service retail
- Restaurants not featuring drive-through service
- Nightclubs not including adult entertainment
- Theaters
- Cultural facilities
- Public facilities and parks

As with all redevelopment districts, proposed site plans and landscaping plans must be submitted to and approved by the MDHA design review committee prior to the issuance of any building permits for a development. The design of all new development should complement the scale, massing, and general character of the existing development. Billboards and general advertising signs will be prohibited. Developers will be entitled to appeal any decision of the design review committee to the MDHA administrative appeals board. In addition to the site and design approval, no demolition of a building or structure shall occur without the consent of MDHA.

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ORDINANCE NO. BL2005-797 (continued)

Pursuant to the terms of the plan, MDHA intends to use the tax increment financing tools authorized by state law. Tax increment financing requires that the additional property taxes generated as a result of a redevelopment plan go to the redevelopment area for additional improvements, rather than to the Metropolitan Government general fund. The total property tax revenues to be received from the area are estimated to be \$220,000 this year. MDHA is estimating a future increase in the

value of property to be redeveloped in excess of \$25 million. This would provide for a total net annual increase in tax dollars of approximately \$500,000. The amount of debt backed by tax increment financing shall not exceed \$3 million.

This redevelopment plan will be in effect until December 31, 2035. The plan may only be amended with the approval of MDHA and by ordinance enacted by the council. However, once part of the property has been sold or contracted for sale by MDHA, the plan cannot be amended in any way that will adversely affect the undeveloped property without the consent of the owner or parties to the contract.

ORDINANCE NO. BL2005-798 (WALLACE) – This ordinance approves a third amendment to the Phillips-Jackson Street Redevelopment Plan. This redevelopment plan was first adopted in 1993 and amended in 1999 and 2001. The plan is basically for the redeveloped area surrounding the Bicentennial Mall, between Interstate 40 and Interstate 65 and the Cumberland River, to Hume Street. The Phillips-Jackson Street Redevelopment district provides for general residential, mixed use, public use (which is the Bicentennial Mall and the Farmers Market), commercial services, and general business uses.

This amendment extends the expiration date for the plan from December 31, 2024 to December 31, 2030. In addition, the amendment increases the amount of project costs to be financed through tax increment financing from \$4 million to \$11 million, with a final maturity on the bonds on or before December 31, 2030.

- BILLS ON PUBLIC HEARING (THIRD READING) -

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 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 (continued on next page)

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

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.

State law requires that the council hold a public hearing on both the plan of services and the annexation ordinance prior to their adoption on third and final reading.

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.

– RESOLUTIONS –

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. RS2005-1019 (MCCLENDON) – This resolution supplements and amends Resolution No. RS2005-954 and awards the sale of the Metropolitan Government’s general obligation bonds, series 2005C, in the amount of \$214,255,000 to finance the retirement of a portion of Metro’s commercial paper and additional capital projects. Resolution No. RS2005-954, adopted on September 20, 2005, authorized the issuance of the bonds, and this resolution simply awards the sale to the lowest bidder. In June of 2003, the council authorized a commercial paper program for the Metropolitan Government. Commercial paper is a form of short-term financing used to cover interim construction costs of capital projects until long-term bonds are issued and sold for the projects. Pursuant to Metro’s commercial paper program authorized by state law, only \$150 million in commercial paper can be outstanding at any given time.

This resolution authorizes the sale of bonds to pay off \$150 million in commercial paper and the issuance of debt for \$60 million in new capital projects. The \$60 million in new debt is for capital projects previously approved by the council as part of the mayor’s capital spending plans. The resolution also ratifies the preliminary official statement in connection with the issuance of these bonds. This bond issue pledges the full faith and credit of the Metropolitan Government and the bonds are to be paid from ad valorem taxes levied on property within Davidson County. These bonds will mature in the year 2026.

A substitute resolution will be filed awarding the sale to the bidder offering the lowest true interest cost to Metro.

RESOLUTION NOS. RS2005-1020 & RS2005-1021 – These two resolutions appropriate funds from the general fund reserve fund (4% fund) to two Metropolitan Government departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis.

Resolution No. RS2005-1020 (McClendon) appropriates \$27,000 from the general fund reserve fund to the county clerk to purchase cash drawers and office chairs.

Resolution No. RS2005-1021 (Neighbors) appropriates \$500 from the general fund reserve fund to the transportation licensing commission to purchase a small office safe, paper shredder, and audio recording equipment.

RESOLUTION NO. RS2005-1022 (NEIGHBORS) – This resolution approves a grant in the amount of \$2,500 from the state arts commission to the Metropolitan arts commission to conduct a feasibility study for a cultural plan of Davidson County. The term of this grant is from July 1, 2005 through June 30, 2006.

RESOLUTION NO. RS2005-1023 & RS2005-1024 (NEIGHBORS) – These two resolutions approve annual grants from the state arts commission to the Metro arts commission for the current fiscal year.

Resolution No. RS2005-1023 approves a state arts commission grant in the amount of \$47,000. There is a required local match in the amount of \$47,000 to be provided from the Metro arts commission budget. The funds will be used for general operating support of the arts commission, not as pass-through funding for other arts organizations.

Resolution No. RS2005-1024 approves a state arts commission grant in the amount of \$50,585 for the Arts Build Communities program. These funds will be used to make grants to non-profit organizations for community arts projects. These funds are provided in conjunction with the \$2 million provided by the operating budget to provide arts grants. There is a required local match in the amount of \$42,997 to be provided from the Metro arts commission budget.

This resolution should be amended to delete the provision stating that these funds are for general operating support of the arts commission.

RESOLUTION NO. RS2005-1025 (FORKUM) – This resolution approves an application for a grant in the amount of \$133,500 from the Bill and Melinda Gates Foundation to the Nashville public library to replace public access computers. If awarded, these grant funds will be used to replace computers purchased with Gates Foundation funds in 2000. The Gates Foundation is awarding \$1,500 for each public access computer granted under the previous program.

RESOLUTION NO. RS200-1026 (DOZIER) – This resolution approves an annual grant in the amount of \$5,000 from the state department of transportation to the Metropolitan Government for the sober ride project. The sober ride project is a service that provides free rides home on New Year's Eve and St. Patrick's Day to Davidson County residents too intoxicated to drive. These federal pass-through funds will be used to purchase car signs and advertising for the program. The term of the grant is from October 1, 2005, through September 30, 2006.

RESOLUTION NOS. RS2005-1027 THROUGH RS2005-1030 – These four resolutions approve two applications for fast track infrastructure development program (FIDP) grants from the state department of economic and community development, and two agreements with private entities that will benefit from the grant funds. The FIDP, formerly known as the Tennessee industrial infrastructure program, is a state program in which the Metropolitan Government, the Greater Nashville Regional Council, and private businesses participate to obtain grant funds for infrastructure improvements. The funds are available to businesses that create new jobs through the expansion of new facilities. In November 2004, the council enacted Ordinance No. BL2004-382, which transferred the administration of this program from the industrial development board and the mayor's office of economic development to the department of public works.

A similar application and agreement was approved in February 2005 relative to the relocation of Louisiana-Pacific Corporation's corporate headquarters to downtown Nashville. The agreements clarify that the private beneficiaries are solely responsible for the matching funds and additional costs, and that no Metro funds will be used for these projects. In addition, the agreements provide (continued on next page)

RESOLUTION NOS. RS2005-1027 THROUGH RS2005-1030

that if the state funds are later reclaimed or withdrawn, the contractors will be solely responsible for the repayment of such funds. Further, the contractors agree to indemnify the Metropolitan Government for claims arising out of the performance of these agreements. The term of these agreements are from their effective date through June 30, 2006.

Resolution No. RS2005-1027 (Loring & Dozier) approves the state FIDP grant application pertaining to the relocation of the Fraternal Order of Police headquarters. Metro is applying for \$44,573 in state funds for the purpose of constructing a sewer line to serve the new National Fraternal Order of Police headquarters to be located at the intersection of Marriott Drive and Ermac Drive, near the junction of I-40 and Briley Parkway. The Fraternal Order of Police currently has its temporary headquarters in Nashville and will be moving into its new building in March 2006. There is a required match of \$29,716, which is to be provided by the Fraternal Order of Police. No Metropolitan Government funds are pledged for this grant. If awarded, these funds will be used to install 450 linear feet of sanitary sewer line at the site.

Resolution No. RS2005-1028 (Loring, Toler & Dozier) approves an agreement with the Fraternal Order of Police regarding the implementation and funding of the grant.

Resolution No. RS2005-1030 (Toler & Greer) approves the state FIDP grant application to assist in the relocation of Expressway Park Drive. Purity Dairies, Inc., desires to build a new cooler building adjacent to its existing facility on Murfreesboro Road. In order to construct the new building, the existing Expressway Park Drive will have to be relocated. Metro is applying for \$165,150 in state funds for the purpose of relocating water lines and replacing a culvert to serve the Purity Dairies, Inc. property. Purity Dairies, Inc., was established in 1925, and has maintained its present location on Murfreesboro Road since 1945. Purity currently has 593 employees, and is expected to add an additional 50-70 jobs. In addition to the economic benefits, relocation of this roadway will also improve security risks, as Purity Dairies has been identified by the U.S. department of homeland security as a "key terrorist potential target".

If awarded, these funds will be used to relocate the old eight-inch water main into the new road. The new water main will be approximately 1,410 linear feet. In addition, the funds will be used to dig up and replace an existing 275-foot-long culvert. There is a required match of \$110,100, which is to be provided by Purity Dairies, Inc. No Metropolitan Government funds are pledged for this grant.

Resolution No. RS2005-1029 (Toler & Greer) approves an agreement with Purity Dairies, Inc., regarding the implementation and funding of the grant.

RESOLUTION NO. RS2005-1031 (GREER & TOLER) – This resolution approves an application for a grant from the state department of transportation (TDOT) for assistance in the relocation of Expressway Park Drive. Pursuant to state law, TDOT is authorized to contract with local governments for the construction and maintenance of roadways to provide access to industrial areas and to facilitate the expansion of industry. The Metropolitan Government is seeking grant funding under this state program to relocate Expressway Park Drive so that Purity Dairies, Inc. can construct a new cooler building adjacent to its present facilities. If awarded, TDOT will be responsible for the entire construction costs association with the roadway relocation. The Metropolitan Government will be responsible for providing the right-of-way for the project.

RESOLUTION NO. RS2005-1032 (COLEMAN, FOSTER & TOLER) – This resolution authorizes the director of public property administration to exercise option agreements to purchase two parcels of property in connection with the Seven Mile Creek home buyout program. The Metropolitan

Government has received federal and state funding to fund a substantial part of this program, which allows for the purchase and demolition of properties that have either been vacated or are in danger of flooding due to their proximity to a floodplain. The properties to be acquired and the cost for each are as follows:

- 4955 Edmonson Pike \$117,500 (Metro’s share = \$29,375)
- 412 Brookview Estate Drive \$112,500 (Metro’s share = \$28,125)

RESOLUTION NO. RS2005-1033 (JAMESON) – This resolution authorizes the council codes, fair and farmers market committee, and the planning, zoning and historical committee to conduct a joint investigation regarding the circumstances surrounding the demolition of the historic Evergreen home, which was the former site of the Jim Reeves museum, located at 5007 Gallatin Pike. On September 22, 2005, the Evergreen home was demolished after a demolition permit was issued, and then subsequently revoked, on the same day.

Pursuant to the Metropolitan Charter, the council is authorized to conduct formal investigations, and subpoena witnesses and records, upon adoption of a resolution receiving 30 votes. Any hiring of personnel to assist with this investigation would require subsequent legislation. The resolution provides that the committees shall make a report of their findings to the full council after the investigation is completed.

If this resolution is adopted, it would be the first time legislation was approved authorizing a formal investigation by the council in the history of the Metropolitan Government.

RESOLUTION NO. RS2005-1034 (NEIGHBORS) – This resolution authorizes the department of law to accept \$17,500.00 in compromise and settlement of its property damage and subrogation claim against Clarence C. Hurt. On November 11, 2003, Mr. Hurt was traveling in the left southbound lane of Murfreesboro Road when his line of traffic stopped due to a traffic accident further down the road. A Metro motorcycle police officer responded to the accident and alleges that his emergency equipment was activated. As the officer motioned to a police cruiser following behind him, Mr. Hurt made an unexpected left turn into the path of the officer resulting in a collision. The Metro officer received multiple injuries, including a broken leg and knee sprain, and incurred medical bills totaling \$2,834. In addition, the officer missed four months of work, resulting in lost wages paid by the Metropolitan Government in the amount of \$18,471.00. Further, the accident caused \$6,523 in property damage to the Metro motorcycle.

The Metro police officer involved in the accident filed suit in the Davidson County circuit court against Mr. Hurt. A mediation was held on August 29, 2005, which resulted in a settlement agreement whereby Mr. Hurt would pay a total of \$62,500 to settle all claims. By approving this resolution, the Metropolitan Government agrees to accept \$17,500 in settlement of its total subrogation claim of \$27,829. The department of law recommends accepting this amount, as there are disputed issues regarding whether the officer’s emergency equipment was activated and as to the speed of the vehicles at the point of impact.

RESOLUTION NO. RS2005-1035 (NEIGHBORS) – This resolution accepts \$17,758.12 in compromise and settlement of the Metropolitan Government’s claim against Ron Walters. On September 8, 2004, a Metro parking enforcement vehicle was slowing to merge onto James Robertson Parkway from 8th Avenue North when the vehicle was rear-ended by Ron Walters. As a result of the injuries to the Metro employee, the Metropolitan Government has paid medical bills totaling \$11,359.65, lost wages totaling \$5,197.73, and other expenses totaling \$1,200.74. The department of law recommends settling this claim for the entire amount of the medical costs, lost wages, and expenses. The property damage to the Metro parking vehicle in the amount of \$4,670.92 has already been reimbursed.

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- BILLS ON THIRD READING -

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. BL2005-763 (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 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.

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ORDINANCE NO. BL2005-763 (continued)

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.
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.

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ORDINANCE NO. BL2005-763 (continued)

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.

There are several additional proposed amendments to this ordinance that would accomplish the following:

- Limit the prohibition on tree topping to tree service businesses only.
- Delete the tree topping provision from this ordinance entirely, in lieu of Ordinance No. BL2005-837, which simply amends Title 2 of the Code to include the provisions as recommended by the council office, instead of being part of a zoning text change bill.
- Delete the requirement that the applicant post a bond.
- Delete the requirement that the required underground sprinklers be fully automated.

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 ordinance can be adopted on third and final reading as if the ordinance had been approved by the commission.

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 NOS. BL2005-789, BL2005-790 & BL2005-791 – These three ordinances authorize the director of public property administration and the director of parks to accept easements for use in connection with the development of Metro’s greenway system. These ordinances have been approved by the planning commission.

Ordinance No. BL2005-789 (White) accepts a conservation greenway easement from Donelson Christian, Inc. for 1.48 acres of property for use in the development of the Stone’s River greenway.

Ordinance No. BL2005-790 (White) accepts a conservation greenway easement from the Donelson Civitan Foundation for 12.85 acres of property for use in the development of the Stone’s River greenway and construction of a footbridge over the Stones River.

Ordinance No. BL2005-791 (Shulman) accepts a conservation greenway easement from UniFirst Corporation for 1.48 acres of property for use in the development of the Stone’s River greenway.

ORDINANCE NOS. BL2005-792 & BL2005-793 (NEIGHBORS & 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 (continued on next page)

ORDINANCE NOS. BL2005-792 & BL2005-793 (continued)

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. BL2005-792 approves a participation agreement with Tiara Development to provide sewer service to the Willowmet subdivision – phase 5 in Williamson County. The developer has agreed to pay \$78,000 for a total of 39 single-family connections.

Ordinance No. BL2005-793 approves a participation agreement with Beazer Homes Corporation to provide sewer service to the Ballenger Farms subdivision – Phase 3 in Williamson County. The developer has agreed to pay \$190,000 for 95 single-family connections.

ORDINANCE NO. BL2005-794 (RYMAN & NEIGHBORS) – This ordinance approves the annual contract between the Metropolitan Government and the emergency communications district (ECD) relative to operation of the enhanced-911 service for fiscal year 2005-2006. The contract specifies certain services to be provided by the department of public works and the department of general services. The department of public works will maintain an updated street and house number system, and the department of general services will provide day-to-day staff and support services for the ECD board. Metro will also train its employees who will operate the system. In previous contracts, the department of information technology services provided the staffing and support services for the board. The ECD is to pay the public works department \$4,826 for its services, and is to pay \$37,885 to the department of general services for the staffing and support. The contract provides that Metro is to be reimbursed for its training costs as well.

ORDINANCE NO. BL2005-795 (JAMESON) – This ordinance renames a portion of Shelby Avenue, between 3rd Avenue South and 4th Avenue South, as “Symphony Place”. This section of roadway is directly north of the new symphony hall that is under construction, and has not been used as road for many years due to its location under the Shelby Street bridge. This ordinance has been approved by the planning commission and the ECD board.

p:billstrd