

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **June 5, 2007**

RE: **Analysis Report**

Balances As Of:	<u>5/30/07</u>	<u>5/31/06</u>
<u>GSD 4% RESERVE FUND</u>	* \$985,007	\$1,629,890
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$30,435,193	\$26,413,198
USD	\$12,243,660	\$8,770,800
<u>GENERAL PURPOSE SCHOOL FUND</u>	\$37,488,829	\$17,566,775

\* Assumes estimated revenues in fiscal year 2007 in the amount of \$719,924

**– BILLS ON PUBLIC HEARING –**

**ORDINANCE NO. BL2007-1398** (RYMAN & JAMESON) – This ordinance is the operating budget of the Metropolitan Government for the Fiscal Year 2007-2008. The proposed budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 706,019,800
• Schools Fund of the General Services District	577,998,800
• Schools Debt Service Fund	61,057,900
• Debt Service – General Services District	<u>97,786,900</u>
<b>TOTAL GENERAL SERVICES DISTRICT BUDGET</b>	<b>\$1,442,863,400</b>
• General Fund of the Urban Services District	\$ 106,909,300
• Debt Service – Urban Services District	<u>19,231,400</u>
<b>TOTAL URBAN SERVICES DISTRICT BUDGET</b>	<b>\$ 126,140,700</b>
<b>TOTAL OPERATING BUDGET</b>	<b>\$1,569,004,100</b>

The substitute budget adopted by the council for the current fiscal year is \$1,506,054,500. The mayor's proposed budget is an increase of \$62,949,600 or 4.2%.

\$5,395,200 is appropriated from the total GSD unappropriated fund balance, compared to a total of \$10,035,900 in the current year's budget. For the total USD unappropriated fund balance, no funds are appropriated for use, compared to \$8,547,900 in the current year's budget.

The proposed budget funds a modification to the existing pay plan to provide a 3% across the board pay increase for all Metro employees, but does away with the incremental step raises for employees that are not included as part of the open range classifications. We are currently in the second year of a three-year pay plan. The existing pay plan was to provide a 2% across the board pay raise for Metro employees, plus the incremental step raises. The budget includes \$9,912,500 in the GSD General Fund and \$1,274,400 in the USD General Fund for these pay plan improvements. In order for the modified pay plan to become effective, it must be approved by the civil service commission and the council. The civil service commission approved the mayor's recommended pay plan amendment on May 29, 2007 by a vote of 3-2. If the pay plan is not approved by the council, approximately \$4.9 million will have to be cut from the budget to offset the additional expenses associated with funding the current pay plan.

The proposed budget also includes negative expenses in order to balance the total budget requirements. The budget provides for a negative expenditure in the amount of \$16,938,500 in the GSD for budget adjustment savings, as compared to \$14,651,000 in the current budget. The USD includes a negative expense of \$2,264,700 for budget adjustment savings, which is the same as the current fiscal year. The budget includes several non-recurring appropriations that are contingent upon revenues at the end of the 2007 fiscal year exceeding the budget requirements by \$5,395,000. These contingent appropriations are as follows:

• NFP Grants	\$1,300,000
• Administration Relocation Expenses	\$215,000
• Audit Consultants	\$500,000
• Park Maintenance	\$1,250,000

- Police Overtime \$1,065,000
- Fire Overtime \$1,065,000

Internal service fees for the departments of finance, human resources, general services, and information technology are included in this budget as part of the ongoing effort to implement full cost recovery within Metro Government. These fees appear as increased expenditures in the operational budgets of various departments, paid to these four departments in their various internal service funds. This internal service fee structure is consistent with the requirements of Federal OMB Circular A-87. This establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments. The purpose is to establish a process whereby central service costs can be identified and assigned on a reasonable and consistent basis. Increases in some of the internal service fund departments are as follows:

- Employee Safety and Risk Management \$1,514,900, or 8.6%
- Real Property Services \$388,700, or 19%
- 311 Call Center \$735,100, or 93.8%
- Facilities Maintenance and Security \$8,687,200, or 64.7%

The budget includes modest or no gains in the budget for many of the General Fund departments, with a few exceptions. The budget provides significant increases in the police department, fire department, parks department and health department budgets. The proposed budget also includes a substantial increase in the subsidy for the Metro action commission. These improvements are as follows:

- Police Department – Increase of \$13,160,900, or 9.8%. This includes \$1,105,600 for overtime costs, \$1,590,400 for an information technology program, and a \$1,510,100 increase in the facilities maintenance and security internal service charges.
- Fire Department – Increase of \$9,542,200, or 9.3% for the combined GSD and USD functions. This includes the \$1,065,000 overtime contingent appropriation, which is discussed above.
- Parks Department – Increase of \$4,116,600, or 12.9%. This includes the \$1,250,000 contingent appropriation for maintenance expenses, which is discussed above, plus \$1,285,800 to provide an additional 26 full-time equivalent (FTE) staff persons in the community centers, \$589,000 for 12 FTEs in the natural resources program, and \$191,400 for 5 FTEs in the facility admissions program.
- Health Department – Increase of \$3,355,900, or 9.7%. This includes \$1,598,700 for inmate healthcare, \$168,200 for the medical examiner, \$277,100 for the health care access program, and \$230,000 for the clinic services and immunization program.
- Metro Action Commission – Increase of \$1,143,200, or 37.3%.

This budget includes a subsidy of \$49,797,100 for the hospital authority, which is the same as the subsidy for the current fiscal year. The administration has submitted an extension of the due date on the outstanding loan the hospital authority has with the Metropolitan Government in the amount of \$6,748,700. This loan extension is the subject matter of Resolution No. RS2007-2011.

There are several appropriations from the hotel occupancy tax that were not included in the fiscal year 2007 budget. The appropriations are from the portion of the hotel occupancy tax funds designated for tourist related activities. The additional appropriations include:

- Arena subsidy \$4,817,900
- Metropolitan Transit Authority \$1,500,000
- Municipal Auditorium subsidy \$500,000
- Country Music Association grant \$1,000,000
- Arts Commission cultural study \$372,000

- Regional Transportation Authority subsidy \$400,000

The operational support for schools is increased by \$14,768,700 to \$577,998,800 for the Schools General Purpose Fund, which is an increase of 2.6%. This does not include any additional funds the state appropriates as part of the BEP revisions. There is also a separate line in the ordinance appropriating \$8,053,600 for administrative support for Metro schools. The budget provides that these funds are appropriated to pay for general fund administrative activities supporting Metro schools and as compensation to Metro schools for property located at 2233 Winford Avenue for the future construction of a head start center. The council office would caution that any direct reimbursement for internal service costs might be considered a violation of at least the intent of A-87 to assign these costs on a consistent basis.

No money is appropriated from the fund balance of the Schools General Purpose Fund for operational increases in FY07, leaving this fund with a projected balance of \$45,753,300, or 7.9% of the operational budget. According to state law, this balance must remain above 3%.

The budget ordinance is amendable on third reading.

**ORDINANCE NO. BL2007-1450** (RYMAN & LORING) – This ordinance adopts the capital improvements budget for 2007-2008 through 2012-2013. A separate analysis will be provided for the capital improvements budget prior to third reading. The capital improvements budget is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the council, except in the case of a public emergency.

This budget is amendable on third and final reading. The Charter requires the council to adopt the capital improvements budget not later than June 15th of each year. An adjourned meeting of the Council will be held June 12, 2007 at 7:00 p.m. for the purpose of approving the capital improvements budget within the time limit required by the Charter. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the Mayor, and then be adopted by resolution of the council receiving twenty-seven (27) affirmative votes.

#### – RESOLUTIONS –

**RESOLUTION NOS. RS2007-1846 & RS2007-1943** (FOSTER) – These two resolutions provide proposed amendments to the Metropolitan Charter. The Council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. The council adopted one such resolution on September 19, 2006. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. This resolution provides that the date for holding the referendum election on the Charter amendment is to be the August 2, 2007 general election. State election law requires that elections on questions submitted to the people must be held between 45 and 60 days after adoption of the resolution placing the question(s) on the ballot. Thus, Charter amendments must be approved by the Council at the June 5, 2007 council meeting in order to make the August 2, 2007 ballot.

**Resolution No. RS2007-1846** provides a proposed amendment to the Metropolitan Charter to require that a special election be held to fill vacancies in the office of mayor and district councilmember whenever more than one year is remaining in the unexpired term. The Charter currently provides that a vacancy in the office of mayor is to be filled by a special election if more than nine months remain prior to the next general election. However, the same Charter section was amended in 1996 to provide that vacancies in the offices of councilmembers and the vice mayor remain vacant until the next general election.

**Resolution No. RS2007-1943** would amend the term limits provision in the Charter to allow members of council serving less than two years of a council term to be eligible to serve two additional four-year terms. The Charter currently provides that members of council are prohibited from serving if they have served more than a single term during the previous two terms of office. Thus, serving any part of a council term counts as one of the two terms a member of council can serve. This amendment would provide that as long as a member of council serves less than one-half of a term, it would not be counted as a term for purposes of term limits.

**RESOLUTION NO. RS2007-1941** (MURAY) – This resolution appropriates \$25,000 in community development block grant (CDBG) funds for various streetscape improvements in the Maxwell neighborhood strategy area. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community improvement projects. Plans for these projects are available for review at the offices of the Metropolitan development and housing agency.

**RESOLUTION NO. RS2007-1944** (LORING & RYMAN) – This resolution, as amended, approves a new fee schedule associated with the review and processing of certain zoning applications by the planning department. The Metropolitan zoning code provides that standardized fee schedules may be established to partially defray the processing and administration costs for zoning applications. Such a fee schedule must be approved by resolution of the council in order to be effective. An independent consultant hired by Metro has previously recommended fee increases for various Metro departments to help defray the full cost of services provided. This resolution provides that the new fee schedules proposed by the planning department are based upon the full cost fee recommendation. The previous fee schedule, which was adopted by the council in June of 2006, included a graduated scale for property in excess of five acres. The new fee schedule contains a flat zoning application fee that is not tied to the number of acres being rezoned.

Some of the notable fee increases over and above last year's increases are as follows:

1. Base zone change increase from \$1,200 base fee to \$1,400.
2. Specific Plan zone change increase from \$1,600 base fee to \$6,195.
3. Overlay districts increase from \$1,600 base fee to \$1,975 (includes historic overlays and planned unit development districts)
4. Urban design overlay districts increase from \$1,800 base fee to \$8,845.
5. Adds a new fee for community plan amendments of \$4,670.
6. Zoning text change increase from \$1,000 to \$1,180.

Since this fee increase is necessary to balance the mayor's proposed budget, failure to approve the fee increase will necessitate a reduction in the budget to offset the lower revenues. This resolution is estimated to generate \$773,658 in additional revenue.

There is an amendment to this resolution substituting the fee schedule.

**RESOLUTION NO. RS2007-2008** (RYMAN) – This resolution appropriates \$1,187,000 from the unappropriated fund balance of the general fund of the general services district to the trustee’s office and the transportation licensing commission to balance their budgets for the current fiscal year. The appropriations are as follows:

- Trustee’s Office: \$680,000 to cover the merchant fees associated with the processing of property tax payments made by credit cards.
- Transportation Licensing Commission: \$7,000 to cover fingerprint checks on applicant drivers.

In addition to the above supplemental appropriations, this resolution appropriates \$500,000 from the unappropriated fund balance of the general fund to W.O. Smith School of Music. As the council will recall, the mayor’s 2006-2007 capital spending plan included a \$500,000 grant from bond funds to W.O. Smith. In March 2007, Metro’s bond counsel opined that state law does not allow Metro to grant the proceeds of general obligation bonds to the W.O. Smith School. This resolution is an effort to provide this grant for the school out of Metro’s unappropriated fund balance, which is essentially the savings account of the Metropolitan Government. The council has set a policy of maintaining a minimum of 5% of the general fund in the unappropriated fund balance. The balance in the unappropriated fund balance is \$30,435,193, which is 4.5% of the general fund.

The council office recommends that this resolution be deferred to track with the operating budget ordinance.

**RESOLUTION NO. RS2007-2009** (RYMAN) – This resolution determines to issue \$217,262,043 in GSD general obligation bonds and \$23,357,825 in USD general obligation bonds to provide funding for various projects contained in the mayor’s capital spending plan. This is the first step in the process toward the ultimate sale of the bonds by public bid to provide the necessary financing for the projects. The general obligation bonds to be issued provide funding for some 46 GSD projects, and the USD bonds will provide funding for 7 projects. This debt will be paid from the debt service of the GSD and the USD.

Some of the projects to be financed with the bonds include:

- Software replacement for Bordeaux long-term care
- Exhibit hall floor resurfacing and an air compressor at the convention center
- Major building maintenance projects
- ADA improvements to Metro facilities
- Renovations to the 222 building
- Design and construction of a new west police precinct
- Planning funds for a new police crime lab
- Construction of a Goodlettsville branch library
- Planning and land purchase for the Bellevue branch library
- Renovations of the Children’s Theatre
- Software and equipment for General Hospital
- Equipment replacement and systems upgrade for ITS
- Grants to MDHA to fund \$5 million in capital costs for both the Nashville Symphony Hall and the African American Museum
- Technological upgrades for the public schools
- Vehicle replacement for the public schools
- Further implementation of the parks master plan
- Installation of a gas collection system at the capped Bordeaux landfill

- Bridge replacements
- Road construction, repair and maintenance

A detailed list of all capital projects to be funded by this bond issue, including the estimated cost for each project, is attached to this analysis.

**RESOLUTION NO. RS2007-2010** (RYMAN) – This resolution authorizes the issuance and sale of bond anticipation notes in an amount not to exceed \$400,000,000 in the form of commercial paper, which will allow Metro to issue short-term debt prior to the issuance of general obligation bonds. The purpose of this resolution is to make several changes to our current commercial paper program. In June 2003, the council adopted Resolution No. RS2003-1496, which authorized a commercial paper program for the Metropolitan Government as a form of short-term financing for capital projects to cover interim construction costs while awaiting the appropriate time to issue the long-term bonds. This program allows Metro to issue variable rate tax-exempt commercial paper with varying mature dates ranging from 1 day to 270 days. Resolution No. RS2003-1496 provided that no more than \$200 million in commercial paper could be outstanding at any one time. The resolution further provided that the state comptroller would administer Metro’s commercial paper program. Metro currently pays a fee to the state for its services equal to 0.0025% of the principal amount of the authorized commercial paper.

This resolution would make several significant changes to the commercial paper program, all of which were recommended by Metro’s outside financial advisor, Public Financial Management, Inc. (PFM). First and foremost, it would increase maximum principal amount of commercial paper that can be outstanding at any one time from \$200 million to \$400 million. This will allow for more flexibility in determining when to issue long-term bonds. The interest rates on commercial paper are often lower than the interest rate for long-term bonds. By allowing more commercial paper to be outstanding at a given time, Metro will be able to take advantage of the lower rates and prolong the issuance of the long-term debt.

Second, the resolution removes the restrictions that not more than \$50 million of commercial paper may be issued on a single day. These restrictions were to ensure that Metro could meet the liquidity requirements, meaning that Metro has the cash on hand to redeem the outstanding commercial paper. In light of the uncertainty surrounding the recent charter amendment purportedly restricting Metro’s ability to raise property taxes, it is possible that Metro will not have the cash on hand to redeem the commercial paper. This resolution will allow Metro to use a third-party bank as a surety for the commercial paper to provide the liquidity. PFM solicited bids from outside banks to provide the third-party liquidity. Of the seven bids that were submitted, PFM recommends the selection of State Street/CALSTRS/CALPRS as the liquidity provider based upon the lowest cost to Metro.

Finally, the resolution would do away with the outsourcing of the management of certain aspects of the commercial paper program to the state comptroller. Rather, these functions would be managed by Metro in-house with the assistance of PFM.

The commercial paper issued pursuant to this resolution will be available to provide interim financing for any project for which bonds have been authorized, as well as the payment of prior notes and the payment of the principal on the outstanding commercial paper. Commercial paper issued pursuant to this resolution is a general obligation of the Metropolitan Government for which the full faith and credit of the Metropolitan Government is pledged.

**RESOLUTION NO. RS2007-2011** (RYMAN & GILMORE) – This resolution approves a second extension of the reimbursement date for the outstanding loan from the Metropolitan Government to the Hospital Authority in the amount of \$6,748,700. In April of 2006, the council approved an additional loan to the Hospital Authority in the amount of \$6,748,700 to allow General Hospital to remain open through June 30, 2006. At the time of the April 2006 loan, the Hospital Authority had a previous loan balance of \$13.7 million, which was after Metro essentially forgave \$50 million in Hospital Authority debt in fiscal year 2006. This loan was to be secured by the receivables of the Hospital Authority and was to be repaid by June 30, 2006. The council amended the April loan resolution to require council approval of any renewal or extension of the loan. In July 2006, the council approved an extension of the loan, which was to be repaid not later than June 30, 2007. The hospital authority is again unable to repay the loan by the end of this fiscal year.

This resolution extends the term of the loan until June 30, 2008, for a total outstanding loan amount of \$20,448,700. In addition to extending the reimbursement date for the loan, the resolution purports to give the director of finance the authority to enter into a new note for the same amount and under the same terms for the fiscal year beginning July 1, 2007, which would be secured by the hospital authority's net assets in addition to the account's receivable, as was provided in the original loan agreement. The council office recommends that this resolution be amended to clarify that the new note is to take the place of the prior note, and is not to exceed the total indebtedness as of July 1, 2007. Otherwise, an argument could be made that this resolution gives the finance director the authority to double the amount of the loan.

Based upon the information provided in the 2006 Comprehensive Annual Financial Report (CAFR), the annual certified audit of the Metropolitan Government, it is unlikely that the Hospital Authority will be able to repay this loan any time in the foreseeable future. The CAFR notes that General Hospital had a net deficit as of June 30, 2006 in the amount of \$10 million. The CAFR further states that General Hospital may be unable to continue as a going concern due to its lack of sufficient cash flow. Specifically, the CAFR notes that General's Hospital's ability to remain in operation is "dependent upon its ability to generate sufficient cash flow to meet its obligations on a timely basis and ultimately to attain a level in which operating revenues and revenue from the Metropolitan Government exceed operating expenses."

**RESOLUTION NO. RS2007-2012** (PEPPER & RYMAN) – This resolution approves an application for a grant in the amount of \$9,000 from the state commission on children and youth for the benefit of the juvenile court. These funds will be used to provide training opportunities to juvenile court staff.

**RESOLUTION NO. RS2007-2013** (RYMAN & GILMORE) – This resolution approves an amendment to Regulation 8 of the Metropolitan board of health relative to the inspection of light-duty motor vehicles, and approves an amendment to the contract with SysTech International, LLC for services relating to the emission testing program. Under regulations promulgated by the environmental protection agency (EPA), the Metropolitan Government is required to test motor vehicles for emissions to ensure compliance with the federal Clean Air Act. The emissions testing program in Davidson County was originally adopted in 1981, and amended in 2001 to increase the fee from \$6 to \$10 per vehicle. In December 2006, the council approved a contract with SysTech for the operation of the automobile emission testing program. Under the prior contract, vehicles were charged \$10.00 per test, with \$1.80 being returned to the Metropolitan Government to offset costs associated with administering the program. Under the new contract with SysTech, the test fee was to remain at \$10.00, but the amount returned to Metro would increase from \$1.80 to \$4.50 per test.



At the request of the council, the board of health reviewed the fees charged for the inspections and has determined that the fee should be decreased to \$9.00 per test. This resolution simply amends Regulation No. 8 and the contract with SysTech to reflect the decreased amount. This resolution is not subject to being amended by the council, as all modifications to Regulation No. 8 must first be approved by the board of health.

**RESOLUTION NO. RS2007-2014** (BROWN & RYMAN) – This resolution authorizes the mayor to apply for state wastewater grants and loans to fund various wastewater projects in Davidson County. The federal government, through the environmental protection agency (EPA), has entered into a grant agreement with the state to enable the state to provide assistance to local wastewater agencies in construction of water pollution abatement projects. This resolution approves an application for this pass-through funding for various water pollution projects.

Ordinance No. BL2002-1136 authorizes the application for such loans to be approved by resolution of the council. The loans for the following pollution abatement projects will be repaid from the operation and maintenance fund of the department of water and sewerage services over the next four to five years:

- Annual SSO manhole rehabilitation
- Area-wide SSO rehabilitation continuation
- Flow monitoring
- 28<sup>th</sup> Avenue sewer system rehabilitation – phases 1 and 2
- Barker Road / Omo EQ basin
- Basswood / West Park EQ basin
- Hermitage area sewer system rehabilitation
- Hurricane Creek pump station improvements
- Visco Drive overflow corrections
- Whites Creek WWTP disinfection/optimization
- Washington regulator improvements
- Whites Creek pump station improvements
- Lakewood area sewer system rehabilitation
- Inglewood sewer system rehabilitation – phase 4

**RESOLUTION NO. RS2007-2015** (BROWN & RYMAN) – This resolution authorizes the mayor to enter into a supplemental licensing agreement with Nashville and Eastern Railroad Corporation to increase the rental fee paid for the sewer line in the railroad right-of-way at M.P. 1.14. This resolution approves an increase in the annual rental fee from \$313.95 to \$345.35, to be adjusted every three years hereafter based upon the consumer price index. These rental fees are to be paid from the water and sewer operation and maintenance fund.

**RESOLUTION NO. RS2007-2016** (BROWN) – This resolution authorizes the Metropolitan Government to enter into an interlocal agreement with the Nolensville/College Grove Utility District to provide water service to a parcel of property in Williamson County known as the McFarland PUD. Under state law, municipalities are authorized to enter into interlocal agreements with other public agencies for joint undertakings, subject to approval by the local legislative body. The contract provides that the cost of connecting the property to Metro’s water distribution lines will be at the sole

expense of the developer. Metro will bill the new customer(s) in Williamson County at Metro water services' published water rates.

**RESOLUTION NOS. RS2007-2017 & RS2007-2018** – These two resolutions approve an application and corresponding agreement for a fast track infrastructure development program (FIDP) grant in the amount of \$688,704 from the state department of economic and community development to the Metropolitan Government to install network, telecommunications infrastructure and data cabling for Accredo Health Group, Inc. The FIDP 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. These funds are available to businesses that create new jobs through the expansion of 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.

**Resolution No. RS2007-2017** (Isabel, Ryman & Brown) approves the state FIDP grant application pertaining to technology infrastructure improvements for Accredo Health Group, Inc. Accredo is constructing a new division headquarters and distribution facility, which will retain 120 jobs in Nashville and create 148 new jobs between 2007 and 2010. Accredo, which is a subsidiary of Medco

Health Solutions, provides specialized pharmacy services pursuant to agreements with biotechnology drug manufacturers related to the treatment of chronic diseases. Accredo is constructing a new facility in the MetroCenter area. Metro is applying for \$688,704 in state funds for the purpose of funding network improvements, telecommunications infrastructure, and data cabling at the new facility. There is a required match of \$459,136, which is to be provided by Accredo. No Metropolitan Government funds are pledged for this grant.

**Resolution No. RS2007-2018** (Ryman & Brown) approves an agreement with Accredo Health Group, Inc. regarding the implementation and funding of the grant. Accredo is required to maintain commercial liability insurance in the amount of \$1 million per occurrence, and agrees to indemnify the Metropolitan Government for claims arising out of the performance of the agreement. The term of the agreement is from its effective date through June 31, 2012.

**RESOLUTION NOS. RS2007-2019** (BROWN, COLEMAN & RYMAN) – This resolution approves an amendment to a fast track infrastructure development program grant from the state department of economic and community development for improvements to the Gateway Pro Partners, LLC, parking lot expansion project. The grant was previously awarded in the amount of \$343,000 to fund the addition of a 200 space, 19,000 square foot parking lot at the Gateway facility. This resolution increases the amount of the grant by \$152,125, for a new grant award of \$495,125. The resolution also increases the amount of the required match to be provided by Gateway from \$616,408 to \$717,824.

**RESOLUTION NO. RS2007-2020** (RYMAN & PEPPER) - This resolution approves a grant in the amount of \$1,000 from Limited Brands to the sheriff's office for a shoplifting offenders education program. These funds will be used to purchase curriculum, notebooks, videos, and other visual

teaching aids to be used as part of a shoplifter's class taught by the sheriff's office offender re-entry center.

**RESOLUTION NO. RS2007-2021** (RYMAN & PEPPER) – This resolution approves an application for a bulletproof vest partnership grant in the amount of \$193,807.38 from the U.S. department of justice to the Metropolitan Government. These funds will be used to purchase 333 new bulletproof vests for various public safety agencies. There will be a required match of \$96,903.69 once the grant is awarded. The vests will be distributed as follows: 298 for the police department; 12 for the sheriff's department; 20 for the juvenile court; and 3 for the parks department.

**RESOLUTION NO. RS2007-2022** (RYMAN & PEPPER) – This resolution approves an application for a grant from the U.S. department of homeland security to the Metropolitan Nashville fire department to purchase equipment for firefighters. The fire department is seeking a grant award of \$1,745,720 to purchase self-contained breathing apparatuses, a firefighter accountability system, and a firefighter personal escape rescue system. If awarded, there will be a required local match of \$349,144, which will come through a mixture of capital and operating funds.

**RESOLUTION NO. RS2007-2023** (PEPPER & RYMAN) – This resolution approves an application for a fire inspector program grant in the amount of \$553,368 from the U.S. department of homeland security to the Nashville fire department. If awarded, these funds will be used to train 300 fire personnel as certified fire inspectors. The training program will last 16 weeks and will consist of both formal classroom and on-line instruction. The grant funds would be used to pay for the cost of the training, as well as a \$750 stipend for the fire personnel attending the training. These funds will also be used to develop a curriculum to train 600 Metro school teachers in the Learn Not to Burn program. There will be a required local match of \$138,342 to be provided through the fire department's operating budget.

**RESOLUTION NO. RS2007-2024** (PEPPER & RYMAN) – This resolution approves an application for a Solving Cold Cases with DNA grant in the amount of \$499,992.74 from the U.S. department of justice to the police department. These funds will be used to pay overtime for six detectives and two supervisors to work on cold cases that involve DNA evidence. The funds will also be used to pay for travel expenses and DNA lab testing for these cases. If awarded, there will be an indirect cost local match in the amount of \$119,998.25 to be provided by the police department.

**RESOLUTION NOS. RS2007-2025 & RS2007-2026** (RYMAN & GILMORE) – These two resolutions approve amendments to contracts between the Metropolitan board of health and two dentists to provide dental services to the homeless at the Downtown Clinic. These amendments extend the term of the contracts through June 30, 2008, and provide modifications to some of the contract terms.

**Resolution No. RS2007-2025** approves an amendment to the contract with Anissa Burgess, DDS. In addition to extending the term, the amendment provides that Dr. Burgess will treat patients up to a maximum of 17 hours per week and increases the amount of the compensation by \$14,640 for a total contract amount of \$53,040.

**Resolution No. RS2007-2026** approves an amendment to the contract with Douglas Cornish, DMD. In addition to extending the term, the amendment provides that Dr. Cornish will treat patients up to a maximum of six hours per week and increases the amount of the compensation by \$3,360 for a total contract amount of \$18,720.

**RESOLUTION NO. RS2007-2027** (RYMAN & GILMORE) – This resolution approves a contract between the Metropolitan health department and the United Way of Metropolitan Nashville to arrange for assistance in the planning, development and delivery of services for individuals infected with or affected by HIV/AIDS. Under the terms of this contract, the United Way will coordinate case management, medical, nursing, dental, diagnostic, rehabilitation, and home health services for persons eligible under the Ryan White Treatment Modernization Act of 2006. In addition, the United Way will provide support services such as transportation services, attendant care, homemaker services, day care, nutrition services, and housing referral services for these persons. The term of the contract is from April 1, 2007, through February 29, 2008, with a possible extension of four additional one-year periods. United Way will be paid \$1,046,965 to perform the services under this contract. United Way must maintain commercial liability insurance with limits of not less than \$2 million per occurrence naming the Metropolitan Government as an additional insured, and agrees to indemnify the Metropolitan Government from any claims arising out of the performance of the contract.

**RESOLUTION NO. RS2007-2028** (RYMAN & GILMORE) – This resolution approves a contract between the Metropolitan board of Health and STD Free, Inc., for services regarding sexually transmitted diseases. Pursuant to this contract, STD Free, Inc. will provide a variety of services to the health department regarding sexually transmitted diseases, including the submission of a syphilis elimination plan and the collection of data necessary to report progress toward the state syphilis elimination objectives. The term of the contract is from January 1, 2007 through December 31, 2007, with a possible extension of four additional one-year terms. STD Free, Inc. will be compensated at the rate of \$119,000 per year to provide these services.

**RESOLUTION NO. RS2007-2029** (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$84,300 from the state department of health to the Metropolitan health department for tobacco prevention services. The term of the grant is from July 1, 2007, through June 30, 2008. These grant funds will be used to develop a comprehensive annual action plan to prevent initiation of tobacco use among young people, promote quitting among adult and youth tobacco users, and partner with community organizations to implement counter-marketing campaigns. There is a required local match of \$16,900 to be provided through the health department's operating budget.

**RESOLUTION NO. RS2007-2030** (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$550,600 from the state department of health to the Metro health department to provide a TennCare outreach program for enrolled children. These funds will be used to pay salaries and indirect costs of health department employees to conduct community outreach activities designed to reach pre-teen and teen populations, and to conduct "Welcome to TennCare" meetings for new recipients.

**RESOLUTION NO. RS2007-2031** (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$399,000 from the state department of health to the Metro health department to fund the help us grow successfully (HUGS) program. The services to be provided by this program include regular home visits and periodic health status, developmental, behavioral, and nutritional assessments. The term of the grant is from July 1, 2007 through June 30, 2008.

**RESOLUTION NO. RS2007-2032** (GILMORE & RYMAN) – This resolution approves an annual grant in the amount of \$20,000 from the state department of health to the Metropolitan health department for rape prevention education services. The term of the grant is from July 1, 2007, through June 30, 2008. These federal pass-through funds will be used for educational seminars, the preparation of informational material, the operation of hotlines, training programs for college students, and to prepare an annual action plan to be submitted to the state.

**RESOLUTION NO. RS2007-2033** (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$1,398,900 from the state department of health to the Metropolitan health department for tuberculosis (TB) outreach and control services. These funds will be used to operate the health department’s tuberculosis program consisting of direct patient care, the monitoring of existing and suspected TB cases, and operation of the TB clinic. The term of the grant is from July 1, 2007 through June 30, 2008. Almost \$850,000 of these funds will be used to pay the salaries of the 22 health department employees providing these services.

**RESOLUTION NO. RS2007-2034** (GILMORE & RYMAN) - This resolution approves a grant in the amount of \$814,000 from the state department of health to the Metropolitan board of health to provide care coordination services for the children’s special services program. These funds will be used to pay the salaries of health department personnel in the children’s special services program whose duties include making financial and medical eligibility determinations for enrolled children, comprehensive pediatric and developmental assessments, audiology and speech pathology services, as well as administrative and clinical support. This grant is comprised of \$367,100 in state funds and \$446,900 in federal funds. The term of the grant is from July 1, 2007 through June 30, 2008.

**RESOLUTION NO. RS2007-2035** (GILMORE & RYMAN) – This resolution approves an annual contract between the Metropolitan board of health and the state health department to provide for laboratory services for testing particulate matter and other environmental tests. The federal Clean Air Act requires that local government test for particulate matter 2.5 microns or greater in size using licensed testing facilities. The state’s facility possesses the required license for these tests. The term of this contract is from July 1, 2007 through June 30, 2008. Pursuant to this contract, Metro will pay \$24 per test to be billed monthly.

**RESOLUTION NO. RS2007-2036** (GILMORE & RYMAN) – This resolution approves a housekeeping amendment to an annual grant 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.

This amendment simply replaces the language in the grant contract pertaining to public accountability, which requires grantees to post signs on their premises stating that the agency is a recipient of taxpayer funding and providing a telephone number for the state comptroller's office to report improper activity.

**RESOLUTION NO. RS2007-2037** (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$48,021 from the Susan G. Komen Breast Cancer Foundation to the Metropolitan board of health for the Witness Project of Davidson County. The Witness Project is a volunteer organization of breast and cervical cancer survivors that witness to African American women about the importance of regular cancer screenings. The project seeks to reach 500 women over the age of 40 through churches and other community forums. It is estimated that at least 30 presentations will be held over the term of the grant, which is to be effective through April 1, 2008.

**RESOLUTION NO. RS2007-2038** (GILMORE & RYMAN) – This resolution approves an annual grant in the amount of \$1,235,000 from the state department of health to the Metro board of health to administer environmental health programs. These funds are used for the inspection of hotels, food service establishments, tattoo studios, body-piercing establishments, swimming pools, and organized camps. The term of the grant is from July 1, 2007 through June 30, 2008.

**RESOLUTION NO. RS2007-2039** (JAMESON, RYMAN & GILMORE) – This resolution approves a second amendment to a lease agreement between Metro social services and the Martha O'Brien Center for office space at 711 South Street used as a family resource center. This resolution extends the term of the lease agreement until June 30, 2010. The rental amount will remain at \$600 per month, as it has been for a number of years.

**RESOLUTION NO. RS2007-2040** (RYMAN) – This resolution approves a grant in the amount of \$20,000 from the state department of labor and workforce development to the Nashville career advancement center to collaborate with the Nashville Area Chamber of Commerce to assess the needs of industries in the area and to align the training needs of businesses that need qualified workers. The term of the grant is from May 1, 2007 through May 1, 2008. In order to assess Nashville's current and future workforce needs, the funds will be used to evaluate the region's targeted economic clusters, review the occupational mix for the existing labor market, and to review demographic trends affecting the existing labor supply. A project steering committee will be created with representatives from the chamber of commerce, area business leaders, educational institutions and workforce development boards to determine the scope of work of the project.

**RESOLUTION NO. RS2007-2041** (ISABEL & RYMAN) - This resolution approves a grant in the amount of \$20,000 from the state department of state to the Nashville public library for the purchase of library management software. There is a required local match of \$20,000 for this grant. The term of this grant is from March 1, 2007 through August 31, 2007.

**RESOLUTION NO. RS2007-2042** (RYMAN & ISABEL) – This resolution approves an amendment to a grant from the Tennessee secretary of state to the Nashville public library for interlibrary loans. These grant funds are used to reimburse the Nashville public library for costs in lending our books to other libraries. This resolution extends the term of the grant until June 30, 2008, and increases the amount of the grant by an additional \$3,747, for a total grant award of \$5,184.

**RESOLUTION NO. RS2007-2043** (RYMAN) – This resolution authorizes the department of law to settle the lawsuit of Robert Lynam, Kathleen Lynam, and the Anesthesiologists Professional Assurance Corporation against the Metropolitan Government for the amount of \$22,500. On January 21, 2004, a Metro police officer approached a Ford Explorer driven by John Curtis, who was suspected of engaging in illegal drug trafficking in east Nashville. Mr. Curtis initially pulled over, but as the officer exited his patrol car Mr. Curtis sped off. Mr. Curtis had two minor collisions in east Nashville with other vehicles while trying to get away. Mr. Curtis crossed the James Robertson Parkway bridge at a speed of 80 miles per hour and turned left onto 8<sup>th</sup> Avenue South. The police department took precautions during the chase to block off intersections to protect other citizens and a police sergeant tried to go to the path of the pursuit to lay down spike strips, but was unable to lay down the strips before Mr. Curtis passed him. Mr. Curtis ran the red light at Broadway and struck a vehicle driven by Robert Lyman. The suspect died at the scene of the accident.

Mr. Lyman suffered a rotator cuff tear, a bicep tendon rupture, and neck strain as a result of the collision. He had surgery on June 10, 2004, and was given an impairment rating of 6% to the body as a whole. Mr. Lyman incurred \$32,830 in medical and rehabilitation expenses. Upon filing suit against Metro, Mr. Lyman consented to being evaluated by Metro’s doctor who actually assigned a higher impairment rating of 8% to the body as a whole.

Although the police department followed all of the proper procedures in this pursuit, the department of law is of the opinion that Metro would likely be apportioned 20-25% of the fault if the case went to trial. Therefore, the department of law recommends settling this lawsuit in the amount of \$22,500, which will be paid from the self-insured liability fund.

There was no disciplinary action taken against any of the officers involved in this pursuit since it was found to be within the department’s pursuit policy.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2005-637** (WALLACE) – This ordinance amends the Metropolitan Code of Laws to permit parking within the central business improvement district (CBID) between the hours of 6:00 p.m. and 6:00 a.m. Thursday evenings through Sunday evenings in places where signs would otherwise prohibit parking. This would essentially allow parking in no standing zones and loading zones.

This ordinance has been disapproved by the traffic and parking commission.

**ORDINANCE NO. BL2005-651** (WALLACE) – This ordinance amends the Metropolitan Code of Laws to limit the types of traffic violations for which a vehicle may be towed by the Metropolitan police department. Presently, the code provides that any vehicle which is parked, stopped, or

standing in violation of any ordinances, except overtime parking, may be towed by the police department. This ordinance would provide that vehicles can be towed only when parked in violation of an ordinance or regulation and are (1) causing a safety hazard, (2) blocking pedestrian or vehicle access to property or a street, alley, or driveway, or (3) disrupting the flow of traffic.

This ordinance does not affect the authority to tow vehicles in violation of obstructing the orderly flow of traffic, that are parked on thoroughfares more than 48 hours without current registration, or that are disabled so as to obstruct traffic.

**ORDINANCE NO. BL2006-1250** (SUMMERS) – This ordinance abandons the right-of-way for Ridgefield Court. This closure has been requested by Ensworth School. Consent of the affected property owners is on file with the department of public works. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2006-1266** (GILMORE) – This ordinance, as amended, would reinstate the waiver of the 2.5% processing fee for senior citizens paying their property taxes by credit or debit card, effective July 1, 2007. State law mandates that local governments collect a credit or debit card processing fee not to exceed 5% when collecting funds on behalf of the government. However, this state law allows local governments to waive this processing fee, which the Metropolitan Government elected to do by ordinance in 2001. In June of 2006, the council approved an amendment to the 2001 ordinance to repeal the fee waiver for processing the credit and debit card payments, except in the case of point of sale transactions. A point of sale transaction is where the goods or services are purchased directly from Metro face-to-face or “over the counter”, such as payment for greens fees at Metro golf courses. The fee waiver was eliminated as a result of an abuse by rental property managers that pay a large amount of property taxes by credit card. The credit card companies charge a fee for certain payments made by credit card, which Metro was having to absorb.

This ordinance would reinstate the credit card processing fee waiver only for property taxes paid by credit or debit cards by property owners 62 years of age and older. All other non-face-to-face transactions, including property tax payments made by phone or Internet by persons under 62 years of age, would still be charged a 2.5% processing fee added when paying by credit or debit card. The additional \$1 million savings to be realized from the credit card processing fee was used to balance the fiscal year 2007 operating budget.

The director of finance has refused to certify that funds are available for this ordinance since waiving the processing fee for senior citizens making property tax payments over the phone or Internet by credit card would substantially reduce the estimated \$1 million savings. Further, it would be very difficult for the trustee to verify whether property owners making payments over the phone were 62 years of age or older.

The council office would point out that a supplemental appropriation in the amount of \$680,000 is required to balance the trustee’s budget for the current fiscal year as a result of the credit card processing fees absorbed by the trustee for point of sale transactions. This ordinance would further exacerbate this situation in the next fiscal year.

**ORDINANCE NO. BL2007-1384** (COLE & BRILEY) – This ordinance amends the Metro Code to prohibit certain activities involving the disposal of excavated fill material occurring within the drainage



area of a designated scenic river under the Tennessee Scenic Rivers Act of 1968. State law currently prohibits landfills for the disposal of solid or hazardous wastes from being located within two miles from the center of a Class II scenic river, which includes the Harpeth River in Davidson County. The purpose of this state law is to protect these scenic rivers from possible pollution due to the proximity of landfills. However, state law does not prohibit the use of fill material such as rock and stumps, that are not considered solid waste, within two miles of a scenic river.

In addition to what is already prohibited by state law, activities that involve the use of excavated fill material that occur within two miles of a scenic river would be prohibited if one or more of the following conditions exist:

1. The activity is not primarily related to a construction site under common operation that is covered under the State of Tennessee's construction general permit. The state permit does not grant coverage for potential discharge of pollutants that would cause degradation to scenic rivers.
2. The operator of the disposal fill activity site and the operator of the source fill material site is not the same.
3. The disposal fill activity is a commercial operation serving multiple unrelated construction projects by different operators.
4. The disposal fill activity operates beyond the completion of the construction activity it supports.
5. The applicant fails to describe in a comprehensive storm water pollution prevention plan appropriate controls and measures that will be implemented to control for discharges from all activities related to the excavation and disposal of fill material.

**ORDINANCE NO. BL2007-1399** (RYMAN & JAMESON) – This ordinance adopts the property tax levy for the fiscal year 2007-2008. The Metropolitan Charter requires that the council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax proposed by the mayor is in assessed value, which represents \$4.04 per \$100 assessed value in the general services district (GSD) and an additional \$0.65 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.69 in the USD.

This proposed property tax levy shifts one cent from the general fund of the GSD to the debt service fund of the GSD. Last year, seven cents were transferred from the debt service fund to the general fund to provide additional funding for the general government operations. This shift is estimated to be the equivalent of \$1.5 million. The overall tax levy, however, is the same as last year.

**ORDINANCE NO. BL2007-1432** (GOTTO) – This ordinance amends the Metro Code to require that all grant applications that are subject to approval of the council be approved by the council before the application is submitted to the grantor. The application for certain grants involving federal funds must be approved by the local legislative body before the grant can be awarded. Due to the time constraints involved with meeting grant application deadlines, Metro departments frequently submit the application prior to it being approved by the council. If the council does not approve the grant application then the application is withdrawn.

This ordinance would prohibit Metro departments from submitting such a grant application until it is approved by the council. The director of the Metro department, agency, board or commission seeking the grant funds would be required to provide a written statement to the council at the time

the resolution approving the application is filed evidencing that the grant application has not been submitted.

The director of finance has refused to certify that funds are available for this ordinance. According to the finance director's letter, the council has approved six grant applications since July 2006 totaling \$1.2 million whose applications were submitted to the grantor prior to council approval. Only one of these grants was approved by the council prior to the cutoff date for the grant application. Therefore, if this ordinance had been in effect, Metro would have been ineligible for \$854,679.34 in grant funding. The average timeframe for submitting grant applications once the grant announcement is made is 50 days. In many cases, it is not possible for departments to prepare a grant proposal, complete the application, and have it approved by the council within this 50 day period.

There is an amendment to this ordinance that would codify the existing practice regarding the submittal of grant applications required to be approved by the council.

**ORDINANCE NO. BL2007-1433** (SUMMERS) – This ordinance amends Ordinance No. BL2005-878, as amended, by repealing the provisions of the ordinance that declared the thermal site property to be surplus and authorized the director of public property administration to convey the property to the industrial development board for construction of a new minor league baseball stadium and mixed-use development. In February 2006, the Council approved a memorandum of understanding (MOU) between the Metropolitan Government, the Nashville Sounds, the industrial development board (IDB), the Metropolitan development and housing agency (MDHA), and Struever Bros. Eccles & Rouse regarding the construction of a new \$43 million minor league baseball stadium and mixed-use development on the former thermal site property. As provided in the MOU, the IDB was to be the entity that actually owned the stadium.

Now that the ballpark deal has collapsed, this ordinance would repeal the part of the prior ordinance declaring the thermal site as surplus property and authorizing the transfer of the property to the IDB. Thus, the property would remain under the control and ownership of the Metropolitan Government for use in future projects.

The director of finance has refused to certify that funds are available for this ordinance. According to the finance director's letter, Metro's legal counsel has indicated that there is legal support for an argument that the cure period for default by the parties would extend beyond April 16, which was the expiration date in the MOU. A copy of the finance director's letter is attached to this analysis.

The council office would point out that Ordinance No. BL2007-1459, currently on first reading, would repeal the provisions of Ordinance No. BL2005-878 transferring the property to the IDB, and would transfer the property to MDHA for mixed-use development and the construction of an amphitheatre instead. This directly contradicts the position previously taken by the administration regarding the opportunity to cure.

**ORDINANCE NO. BL2007-1434** (DREAD) – This ordinance amends the Metro Code provisions pertaining to the penalties for the violation of certain laws applicable to wrecker drivers. The code prohibits wrecker drivers from engaging in certain activities while operating a wrecker, such as: cruising for vehicles in need of wrecker services; answering a wrecker call in an area outside of the zone to which he is assigned; driving to an accident scene without being summoned by the police,

performing emergency towing from a public street without authorization from a police officer; or charging more than the permitted rates. The current penalty for violating these provisions is a fine.

In addition to fining the driver, the ordinance would require the transportation licensing commission to suspend the driver's permit for any wrecker driver found guilty of engaging in these prohibited practices. The duration of the suspension would be as follows:

- 1<sup>st</sup> offense - one week suspension
- 2<sup>nd</sup> offense - one month suspension
- 3<sup>rd</sup> offense - one year suspension

**ORDINANCE NO. BL2007-1440** (EVANS, TOLER & JAMESON) – This ordinance amends the Metro Code to codify the storm water division of the department of water and sewerage services (MWS), and to lay the groundwork for a separate storm water user fee to act as a funding mechanism for the storm water division. The charter delegates the authority for the construction and maintenance of storm sewers to the department of public works. In 2002, MWS entered into a memorandum of understanding with the public works department transferring the personnel and operational activities associated with storm water functions to MWS. However, the terms of this agreement are not codified.

This ordinance makes numerous changes to the code provisions governing the storm water program. First, the ordinance adds a definition for storm water facilities. The term is currently not defined in the code. Second, the ordinance specifically creates a storm water division within MWS. This division, in coordination with the department of public works, the department of codes administration and the finance department, is to have responsibility for compliance with the federal Clean Water Act

and the National Pollution Discharge Elimination System regulations. The storm water division will also be responsible for developing storm water management plans, developing the financing for storm water facilities, collecting fees for the division, and developing written regulations. The ordinance expressly provides that it shall not constitute a transfer of the authority from public works to MWS for the design, construction, maintenance, repair and cleaning of storm sewers, which is delegated to public works by the charter. This ordinance also provides that MWS may accept storm water management responsibilities for the satellite cities within Davidson County upon a written contract with the municipality, which is subject to approval of the council.

The most significant aspect of this ordinance is the creation of a funding mechanism for the storm water division. The division is currently funded through the water and sewer rates paid by customers of MWS. State law allows municipalities maintaining storm water facilities to establish a graduated storm water user's fee. Such a fee must be based upon the user's actual or estimated use of the municipality's storm water facilities. This ordinance provides that the storm water division may collect storm water user fees, subject to future approval of the council by ordinance. The ordinance directs the director of MWS to develop a complete business plan for the storm water division and, after a rate study, recommend a fee schedule for the funding of the storm water division to the council no later than February 1, 2008. The ordinance also requires the director of MWS to submit an annual report to the council providing an update on the status of the storm water program, the fee structure imposed to fund the program, long-range plans to implement this ordinance, and the status of on-going projects to control storm water runoff.

The council office would point out that Metro cannot legally require customers living within the city limits of satellite cities such as Belle Meade, Forest Hills, Berry Hill and Goodlettsville to pay such a stormwater user fee unless the satellite cities elect to be subject to the fee.

As stated above, this ordinance does not actually set any fees to be charged. Once a rate study has been completed, a storm water user’s fee may go into effect upon being approved by the council by ordinance subject to the state law advertisement requirements for storm water user fees.

**ORDINANCE NO. BL2007-1441** (RYMAN) – This ordinance sets the rates for sewage transportation and treatment service provided by the department of water and sewerage services to certain other municipalities. Metro has contracts with various other municipalities to transport and treat their sewage. Some of these contracts have expired, and there is a dispute between Metro and several of the municipalities as to what rates should be paid. This ordinance simply establishes the rates that are to be charged to those cities with whom we no longer have a valid contract. The rates to be charged are as follows:

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Belle Meade	\$1.49	\$1.51	\$1.54	\$1.56
Brentwood	\$1.15	\$1.18	\$1.21	\$1.24
Millersville	\$1.32	\$1.34	\$1.37	\$1.40
LaVergne	\$1.41	\$1.43	\$1.46	\$1.48

These rates are included as part of the 2007-2008 operating budget ordinance currently pending with the council. The council office is of the opinion that setting sewer treatment rates is beyond the scope of the operating budget. Therefore, the council office prepared this ordinance as a separate item.

This ordinance is necessary to place the Metropolitan Government on record as establishing the rates to be charged to these satellite cities. Failure to enact this ordinance could result in a loss of revenue to the department of water and sewerage services and could negatively impact the Metropolitan Government’s legal position if future litigation results from the dispute over the charges.

**ORDINANCE NOS. BL2007-1442 through BL2007-1444** (RYMAN) – These three ordinances approve various fee increases required to balance the mayor’s proposed fiscal year 2007-2008 operating budget. If these fee increases are not enacted, the council will be required to reduce general fund expenditures in the substitute budget to offset the lost revenue in order to fulfill the Charter requirements of adopting a balanced budget. The council office recommends that the council take action on these ordinances prior to the date when the budget will be considered on third and final reading so that any necessary changes can be made in the substitute budget.

**Ordinance No. BL2007-1442** increases the handling fee assessed by Metro Government departments for dishonored checks. Metro currently charges a \$10.00 handling fee against the maker or drawer of a dishonored check. State law allows the payee of checks drawn on accounts with insufficient funds to charge a handling fee of up to \$30.00. This ordinance increases Metro’s handling fee from \$10.00 to \$30.00, which is the maximum amount allowed under state law. The recitals in the resolution state that the actual administrative costs incurred by the Metropolitan Government for

handling dishonored checks is \$40.00. This ordinance is estimated to generate additional revenue in the amount of \$100,000.

**Ordinance No. BL2007-1443** increases the fees associated with alarm system permits through the Metro clerk's office. The current fee schedule is sufficient to pay for the cost associated with administering the issuance and renewal of permits, but it is not sufficient to cover the costs to the police department of responding to false alarms. Metro currently charges a \$25.00 fine for false alarms, which is the maximum allowed under state law.

This ordinance would make the following fee increases:

1. Increase the annual fee for processing residential alarm permits from \$10.00 to \$20.00.
2. Increase the annual fee for processing commercial alarm permits from \$25.00 to \$50.00.
3. Increase the annual fee for processing appeals of alarm system permit revocation notices from \$50.00 to \$75.00.
4. Increase the annual fee for processing appeals of alarm system permit reinstatement requests and hearings from \$50.00 to \$75.00.

This ordinance is estimated to generate additional revenue in the amount of \$700,000.

**Ordinance No. BL2007-1444** approves an increase in the amount per mile to be charged by the division of emergency ambulance and rescue service for the transportation of patients to hospitals. The last increase in the rate charged for patient transportation was in 2004, when the rate increased from \$280.00 to \$650.00, with an additional charge of \$5.00 per mile. This ordinance would increase the transportation fee from \$5.00 to \$13.00 per mile. The basic charge of \$650.00 will remain unchanged.

The council office would point out that these fees are almost entirely paid by private insurance, Medicare, TennCare, and workers compensation programs. At the time the fee was last increased in 2004, individuals were paying less than 10% of the total payments for the service. All persons needing ambulance services are provided such services without regard to their ability to pay.

This ordinance is estimated to generate additional revenue in the amount of \$554,100.

**ORDINANCE NO. BL2007-1445** (RYMAN) – This ordinance amends the Metro Code to exempt the leases of certain equipment and motor vehicles from being submitted to the council for approval. The code currently provides that all leases for equipment or automobiles by the various Metro departments and agencies, exclusive of the board of education, must be approved by resolution of the Metropolitan Council if the expenditure for the lease exceeds \$5,000 per year. This ordinance would exempt leases for equipment (other than office equipment) and motor vehicles used for seasonal construction or repair work such as street and road paving and construction projects.

**ORDINANCE NO. BL2007-1446** (WHITE & RYMAN) – This resolution authorizes the director of public property administration to convey a temporary construction easement to Phillips Development, LLC for the construction of a road across the Stone Hall property. In February 2007, the council approved an option agreement to purchase the Stone Hall property located at 1014 and 1015 Stones River Road to be used by the department of parks and recreation as a nature center and as part of the Stones River Greenway, and approved the grant of a conservation easement for the property to The Land Trust for Tennessee, Inc.

This ordinance approves a temporary construction easement for the construction and maintenance of a connection road between Lebanon Pike and Ravenwood Country Club. The easement also will allow the developer to construct ADA compliant restrooms on the property, which are to be completed no later than February 8, 2008.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2007-1447** (WHITE & RYMAN) – This ordinance approves a contract between the Metropolitan Government and the U.S. department of army corps of engineers for improvements to the J. Percy Priest Dam. The J. Percy Priest Dam was constructed in 1971 to help control flooding from the Stones River. Metro water services has raised concerns with the corps of engineers regarding the water quality in the Stones River. As a result, the corps of engineers has agreed to fund 75 percent of the costs associated with a project that will enable the regulated release of water from the dam and help restore the quality of the environment. The project will consist of the

placement of a minimum flow aeration valve, connecting pipes, upstream standpipe intake, and a gate valve. This total estimated project cost is \$686,000, with Metro contributing \$171,500 as its 25% share of the cost. Metro will have the opportunity to review and comment on all contract solicitations and proposed contract modifications for the project. Metro is required by the agreement to perform or ensure performance of all necessary utility and roadway relocations, and to construct the required improvements to enable the disposal of dredged or excavated material.

**ORDINANCE NO. BL2007-1448** (NEIGHBORS) – This ordinance readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before October 18, 2006.

### **– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2005-596** (WALLACE) – This ordinance closes Alley No. 530 from Jefferson Street north to the I-40 right-of-way.

This ordinance has been approved by the planning commission and the traffic and parking commission. The department of public works has not received documentation regarding consent of the affected property owners. Adoption of this ordinance prior to receiving such documentation could result in legal liability to the Metropolitan Government.

**ORDINANCE NO. BL2007-1367** (SUMMERS, TYGARD & WILHOITE) – This zoning text change, as amended, would provide a mechanism for the planning commission to classify a planned unit development (PUD) as inactive when no construction has taken place on the property within six years. This ordinance is designed to be a compromise to two competing PUD review bills (BL2005-629 & BL2006-1259), both of which have been deferred indefinitely.

This ordinance provides that the planning commission may review any PUD on its own initiative or at the request of a member of council or property owner within the PUD area to determine whether

development activity has occurred within six years from the date of enactment of the PUD or the most recent amendment to the PUD by the council. If it is determined that no development activity has occurred in the past six years, the planning commission is to recommend legislation to the council to either renew the PUD, cancel the PUD, or amend the PUD along with necessary changes to the base zoning. The planning commission would have 90 days after the review process commences in which to hold a public hearing and make a recommendation to the council. If the planning commission fails to act within 90 days, the commission shall be deemed to have made a recommendation to renew the PUD without alteration.

In order for a PUD to be classified as inactive, the following three criteria must be satisfied:

1. Six or more years have elapsed, as described above.
2. Construction has not begun on the PUD as a whole. The ordinance provides that "construction" includes physical improvements such as water/sewer line installation and/or the pouring of foundations, as well as required off-site infrastructure improvements. Site clearing, temporary construction material storage, and the placing of temporary structures on the property would not be considered construction.
3. No right-of-way acquisition or construction has begun on off-site improvements required by the council as a condition of the PUD.

If, after reviewing the PUD, the planning commission determines that the PUD is not inactive, a re-review shall not be initiated for at least one year. Once the council receives a recommendation from the planning commission regarding an inactive PUD, the council will have six months in which to re-approve, amend, or cancel the PUD. Failure by the council to enact legislation within the six month period will result in the developer being able to develop the property in accordance with the existing PUD plan. This would not prohibit the council from enacting another ordinance during the six month time period to cancel or modify the PUD.

The effective date clause in this ordinance states "this ordinance shall take effect 270 days after its passage ..." The Charter provides that no ordinance shall take effect for twenty days after its passage, unless the ordinance states that the welfare of the Metropolitan Government requires that it take effect *sooner*. This ordinance should be amended to include the traditional effective date clause.

This ordinance has been approved by the planning commission.

There is a proposed substitute that would correct the error in the effective date clause and repeal the amendment placed on the bill on second reading.

**SUBSTITUTE ORDINANCE NO. BL2007-1374** (BRILEY, COLE & OTHERS) – This substitute ordinance, as amended, amends Title 16 of the Metropolitan Code to require sustainable building design standards for new and renovated Metropolitan Government buildings and facilities. Sustainable building design standards encompass the following broad topics: efficient management of energy and water resources, management of material resources and waste, protection of environmental quality, protection of occupant health and indoor environmental quality, reinforcement of natural systems, and integrating the design approach. Although the Metropolitan Government has made a concerted effort over the past seven years to reduce energy consumption in Metro facilities and to promote site sustainability, there are no sustainable building provisions expressly contained in the building code.

This ordinance would require all new construction and renovations in excess of 5,000 square feet or exceeding \$2 million for which the planning or construction commences after August 1, 2007, to

pursue LEED certification through the U.S. Green Building Council (USGBC) and to develop a strategy for LEED Silver certification. LEED is an acronym for Leadership in Energy and Environmental Design, which uses a green building rating system developed by the USGBC. The rating system contains prerequisites and credits in six categories: sustainable site planning, improving energy efficiency, conserving materials and resources, embracing indoor environmental quality, safeguarding water, and innovation in design. There are currently four different rating levels for LEED certification: Certified, Silver, Gold, and Platinum.

This ordinance would apply to all Metropolitan Government departments, agencies, boards and commissions. However, the LEED certification requirements would not apply to Metro facilities that are to remain predominately unoccupied or to serve "specialized functions" such as thermal transfer functions, solid and/or toxic waste disposal functions, water and wastewater treatment functions, warehouse/storage functions, and mechanical functions. Facilities required to be LEED certified under this ordinance would have to submit proof of the project's LEED registration prior to receiving a building permit from the department of codes administration.

**ORDINANCE NO. BL2007-1382** (COLE & RYMAN) – This ordinance, as amended, amends the Metro Code to implement standards of conduct for all Metropolitan Government elected officials, employees and members of boards and commissions. As part of the state ethics legislation enacted by the Tennessee General Assembly last year, all local legislative bodies must enact comprehensive (continued on next page)

ethics provisions applicable to all elected officials, members of boards and commissions, and employees not later than June 30, 2007. This ordinance is modeled after the standards of conduct ordinance for members of council prepared by the Ethics Review Task Force, which was approved by the council in 2005 with several amendments.

This ordinance would consolidate all of the ethics provisions in the code into one chapter. In addition to the current chapter pertaining to standards of conduct for members of council, the code includes ethics provisions applicable to board and commission members. Although Metro employees are not currently covered by an ethics ordinance, the Mayor's executive order on ethics applies to all Metro employees.

Although the language of this ordinance makes the provisions applicable to "employees", the word employee is broadly defined to include all elected officials and board/commission members, as well as Metro employees. As with the current council ethics ordinance, this ordinance includes a blanket prohibition on employees accepting "anything of value", which includes money, gifts, benefits, advances, etc. The ordinance does contain exceptions not considered "anything of value", including the following: (1) compensation paid by an employer; (2) fees earned from outside employment; (3) hospitality extended for a purpose unrelated to government business; and (4) lawful campaign contributions. This ordinance would also prohibit employees 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 person's primary source of income and he/she discloses the interest. Further, employees 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, as amended, also includes the “meal ban” provisions from the existing council ethics ordinance, which would be applicable to all employees, board and commission members, and elected officials covered by this ordinance. This meal ban would prohibit the acceptance of any gratuitous food or beverages from any individual, entity or organization that (1) is currently performing services or has performed services in the past for the Metropolitan Government for compensation; (2) is seeking to enter into a contractual relationship with the Metropolitan Government to perform services for compensation; (3) currently has a matter pending with the Metropolitan Council or other Metropolitan board or commission; (4) has had a matter pending with the Metropolitan Council or other board or commission in the past; or (5) is likely to have a matter pending with the Metropolitan Council or other board or commission in the future.

This ordinance would also require certain officials and employees to file annual disclosure statements and benefit reports that are very similar to the existing disclosures submitted by members of council. The disclosure requirements would apply to the mayor, all employee’s in the mayor’s office, the council office, the holders of all elected offices authorized or created by the Charter, and all directors, assistant directors and associate directors of Metro departments, agencies, boards and commissions. The information that must be disclosed is very similar to what must be disclosed on the state disclosure of interest statement, which all local elected officials must submit annually.

The annual disclosure statement would include the following information for employees and their spouses:

1. Sources of income. This only requires the disclosure of the source of income, not the amount received.
2. Financial interest of 5% or more in any business with offices in Davidson County.
3. Ownership of property located in Davidson County.
4. A 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 ordinance contains a 60-day delayed implementation provision for the filing of the first annual disclosure statement after the ordinance is enacted. This annual disclosure statement must be amended within 30 days of the occurrence of any material change to the disclosures.

Complaints against employees and officials covered by this ordinance would be handled as follows:

- Complaints against elected officials or members of boards/commissions would be filed with the board of conduct. The complaint and investigation procedures are essentially the same as under the current code provisions applicable to members of council.
- Complaints regarding ethics violations by employees other than elected officials or members of boards or commissions are to be made to the authority that appointed the person to the position. Decisions of the appointing authority regarding violations of this ordinance by employees within the classified service may be appealed to the civil service commission in accordance with the civil service rules.

The council office would remind members of council that state law mandates that the council enact a comprehensive ordinance not later than June 30 of this year. Failure to enact such an ordinance by June 30 would make council members subject to removal from office.

**ORDINANCE NO. BL2007-1402** (DREAD) – This ordinance, as amended, amends the Metropolitan Code to require taxicab drivers and other drivers of vehicles for hire to provide proof of CPR certification prior to obtaining a driver's permit from the transportation licensing commission. The code requires all drivers of vehicles for hire with a seating capacity of less than nine persons to obtain a driver's permit before operating a taxicab or other similar vehicle on Metro streets. In order to obtain the driver's permit, the applicant must provide at least four references, a statement of their prior experience, an employment history and their educational background. This ordinance would add a new requirement that the applicant provide proof of a valid CPR certification and automated external defibrillator (AED) certification. These certifications must be valid throughout the duration of the license. Drivers holding a valid driver's permit at the time this ordinance is enacted would have 90 days to obtain the required certifications.

**SUBSTITUTE ORDINANCE NO. BL2007-1431** (BRILEY) – This zoning text change would limit the height of each story for single and two-family homes within the urban zoning overlay (UZO) to 14 feet, floor to ceiling. The code currently provides that homes in the UZO cannot exceed three stories. However, there is no limitation in the code regarding the height of each story. The effect of the three-story limitation is that some residences in the UZO are substantially taller than the surrounding homes. This ordinance would exclude up to seven feet of an exposed basement from being counted toward the height. The maximum height would be measured from the natural grade to the eave or roof deck.

**SUBSTITUTE ORDINANCE NO. BL2007-1436** (WHITMORE) – This ordinance amends the Metropolitan Code to place additional restrictions on the parking and storage of motor vehicles on residential property. The property standards code currently prohibits the storage of inoperable or unregistered motor vehicles. Further, no vehicle may openly be in a major state of disassembly or disrepair.

This ordinance would require that all motor vehicles openly stored on residential property contain an engine, radiator, hood, all doors, trunk lid, bumpers, fenders, four wheels with inflated tires, all windows, front and rear windshields, a battery, a gas cap, and a complete exhaust system. The ordinance includes an exception for vehicles that are missing no more than two of these parts.

**ORDINANCE NOS. BL2007-1437 & BL2007-1438** – These two ordinances authorize the Metropolitan Government to enter into utility relocation contracts with the state department of transportation (TDOT) to relocate certain department of water and sewerage services' facilities. These utility relocations are necessary for the TDOT projects to proceed. Metro will be reimbursed for its engineering costs associated with the relocations. These are typical agreements entered into by Metro and TDOT for the relocation of utilities associated with state highway improvement projects.

**Ordinance No. BL2007-1437** (Wilhoite and Ryman) approves a utility relocation contract required for the Harding Pike extension project. The estimated project cost to TDOT for relocating the utilities is \$245,859. Metro will be reimbursed in the amount of \$19,939 for engineering costs.

**Ordinance No. BL2007-1438** (Loring & Ryman) approves a utility relocation contract required for the construction of a bridge over Mill Creek. The estimated project cost to TDOT for relocating the utilities is \$139,294.68. Metro will be reimbursed in the amount of \$16,119.68 for engineering costs.

**ORDINANCE NO. BL2007-1439** (WALLACE) – This ordinance abandons an unpaved portion of Alley No. 205 between Jefferson Street and Madison Street, and Alley No. 221 between 5<sup>th</sup> Avenue North and Alley No. 205. This alley closure has been requested by John Beasley, the developer and adjacent property owner. All easements are being retained by Metro Government. Consent of the affected property owners is on file with the department of public works.

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