

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **July 17, 2007**

RE: **Analysis Report**

Balances As Of:	<u>7/11/07</u>	<u>7/13/06</u>
<u>GSD 4% RESERVE FUND</u>	* \$25,262,684	\$24,861,880
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	Unavailable
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>	Unavailable	Unavailable

* Assumes estimated revenues in fiscal year 2008 in the amount of \$23,677,593

– RESOLUTIONS –

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

\$66,763,000 of the proceeds are to fund public school projects. There is a housekeeping amendment to reflect that the GSD school debt service funds will be used to pay this portion of the bond issue.

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. RS2007-2079 (WALLACE) – This resolution removes Mr. Don Driscoll as a member of the industrial development board (IDB). Don Driscoll was elected by the council to serve on the IDB in 2003 for a term expiring August 23, 2009. However, Mr. Driscoll no longer lives in Davidson County. State law requires that members of the IDB be duly qualified electors and taxpayers of the Metropolitan Government.

Rule 44 of the council rules of procedure allows the council to remove members of boards and commissions by resolution.

RESOLUTION NO. RS2007-2080 (RYMAN, TOLER & OTHERS) – This resolution adopts a property tax freeze program, as provided by state law. In 2006, the voters of the state of Tennessee voted to amend the state constitution to enable local governments to provide for a property tax freeze program for certain homeowners 65 years of age and older. The constitutional amendment authorized the Tennessee general assembly to set eligibility limits for the property tax freeze program based upon income.

The general assembly has enacted the legislation contemplated by the constitutional amendment, which was signed by the governor in June 2007. The state legislation provides that the legislative body of any county or city may freeze the property taxes for persons age 65 and older whose total annual income from all sources does not exceed the average income of persons between the ages of 65 and 74 in the county, which for Davidson County is \$34,260. The maximum amount of land for which the taxes could be frozen is five acres. Taxpayers seeking relief under this program would be required to apply for it annually. If a senior citizen purchases a principal residence in Davidson County after their 65th birthday, their taxes would not increase beyond the amount imposed in the year the person purchased the property. If the assessed value of property increases as a result of improvements made after the implementation of this tax freeze program, the taxes would be increased accordingly to reflect the improvements.

In accordance with state law, the property tax relief program authorized by this resolution would apply to tax years beginning July 1, 2008.

RESOLUTION NO. RS2007-2081 (BROWN & RYMAN) – This resolution supplements and amends Resolution No. RS2007-2066 and awards the sale of water and sewer revenue refunding bonds in a principal amount not to exceed \$42,000,000. The council authorized the issuance of the water and sewer refunding bonds on June 19, 2007. These bonds have been advertised and are ready to be sold to the lowest bidder. This water and sewer refunding bond package is estimated to save the Metropolitan Government in excess of \$1 million over the life of the bonds due to the current favorable interest rates. Only revenues generated by water and sewer customers will be used to pay the obligations on these bonds and the bonds will not constitute a debt of the Metropolitan Government that would compel the use of tax revenues.

A substitute resolution will be offered awarding the sale to the bidder with the lowest true interest cost to the Metropolitan Government.

RESOLUTION NO. RS2007-2082 (RYMAN & WILHOITE) – This resolution appropriates \$6,054,600 from the schools unappropriated fund balance to the board of education to provide additional operating funds for the Metro schools. The substitute operating budget for the 2008 fiscal year shifted \$4,411,100 in the line item providing administrative support for Metro schools to fund the original pay plan improvements for Metro employees previously approved by the council. This modification makes the schools responsible for paying approximately \$4.4 million of their internal service fees instead of the Metropolitan Government covering these costs.

The substitute budget realized an additional \$13,500,000 in revenue for the schools from the State of Tennessee as part of the revised BEP formula recently adopted by the state legislature, which brought the total appropriation for the schools to \$591,546,200. Pursuant to the board of education's agreement with the Metro Nashville Education Association, the board needed a total appropriation of

\$593,189,705 to trigger an increase in the cost-of-living raise for teachers and support staff to three percent.

State law provides that funds from the accumulated fund balance for the public education system can be appropriated for use upon recommendation by the board of education. In order to trigger the cost-of-living pay raise, as well as pay for the \$4.4 million in administrative support for the schools, the board of education unanimously voted on June 29, 2007 to request the council to appropriate \$6,054,600 from the schools unappropriated fund balance. State law requires a minimum balance of 3% in this fund. After the appropriation provided in this resolution, the unencumbered schools fund balance would still be 7.1%.

The director of finance has refused to sign this resolution as to the availability of funds. Although the funds are clearly available in the schools unappropriated fund balance for this appropriation, the director of finance is of the opinion that the use of non-recurring funds to pay for recurring expenses is not a sound financial policy. A copy of the finance director's letter is attached to this analysis.

RESOLUTION NO. RS2007-2083 (RYMAN & BURCH) – This resolution approves the waiver of benefit overpayments made to 47 survivors of Metro disability pensioners, which were caused by employee benefit board staff errors. These errors occurred several years ago when the mainframe payroll system converted to the FASTnet system. The Metropolitan Code permits the benefit board to waive such overpayments provided that the beneficiary was without fault or knowledge of the error and would be deprived of income for living expenses if forced to repay the amount of overpayment. The total amount of the overpayments made to the pensioners is \$8,104.56, with individual overpayments ranging from \$41.52 to \$433.56.

The employee benefit board has approved these waivers and they must be approved by the council before they become final. This resolution is the result of an on-going program of the employee benefit board that reviews all pension payments to assure our pensioners are being paid the correct amount. If the pensioners are underpaid, the back payments are automatically paid without council approval.

RESOLUTION NO. RS2007-2084 (LORING, TYGARD & RYMAN) – This resolution designates the Gaylord Opryland property as a tourist development zone and secondary tourist development zone for the purpose of financing an expansion to the Opryland convention center facility. An analysis of this resolution is included as part of the separate analysis regarding the financing for the Gaylord expansion at the end of this document.

RESOLUTION NO. RS2007-2085 (MURRAY & RYMAN) – This resolution sets a public hearing for the creation of the Skyline Redevelopment Plan administered by the Metropolitan development and housing agency. This proposed plan is the subject matter of Ordinance No. BL2007-1567 presently on first reading. The public hearing will be held Tuesday, August 7, 2007 at 7:00 p.m. in the council chamber to receive public input on the redevelopment plan.

RESOLUTION NO. RS2007-2086 (RYMAN & BURCH) – This resolution approves an amendment to a grant in the amount of \$100,320 from the state department of economic and community development to the Nashville career advancement center (NCAC) to assist with the recruitment and training of employees at Gateway Pro Partners, LLC (Gateway Computers). The funds are available to

businesses that create new jobs through the expansion of new facilities. Under the terms of this grant, the Middle Tennessee career center, which is operated by NCAC, is managing the recruitment campaign for Gateway Computers based upon a hiring schedule of 240 employees. The career center will also provide on-the-job training for approximately 60 employees. This resolution extends the term of the grant from June 30, 2007 through December 31, 2007.

The wording of Section 1 of this resolution is not consistent with the caption. An amendment should be prepared that specifically approves the amendment to this particular grant.

RESOLUTION NO. RS2007-2087 (RYMAN & BURCH) – This resolution approves a grant in the amount of \$220,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults for re-entry into the labor force and to provide training for those facing serious barriers to employment. The term of the grant is from July 1, 2007 through June 30, 2008. This grant will be used to provide funding for employers to deliver training to incumbent workers. Only employers that are approved by the state department of labor and workforce development will be eligible to receive these funds.

RESOLUTION NO. RS2007-2088 (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$58,162 from the U.S. department of housing and urban development to the Metro board of health for the implementation of a homeless management information system. These funds will be used to manage a database and to input data regarding homeless visits at the downtown clinic, Matthew Walker health center and the Siloam clinic. The term of this grant is for a one year period. There is a required local match of \$13,848.

RESOLUTION NO. RS2007-2089 (GILMORE & RYMAN) – This resolution approves an amendment to a grant from the U.S. environmental protection agency to the Metropolitan board of health for the operation of the air pollution control program of the health department. The health department is responsible for enforcing the provisions of the federal clean air act within the jurisdiction of the Metropolitan Government. The term of the grant is from October 1, 2006 through September 30, 2007. This resolution increases the amount of the grant award by \$260,081, for a total grant award of \$411,881. There is a required local match of \$290,556 to be provided from the health department's budget.

RESOLUTION NO. RS2007-2090 (RYMAN & GILMORE) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metro board of health to enhance access to a comprehensive continuum of community-based care for low income individuals and families with HIV. The original grant was in the amount of \$2,541,621, with a term commencing April 1, 2007, and ending February 29, 2008. This amendment increases the amount of the grant by \$938,981, for a new grant total of \$3,480,602. These grant funds are used to provide a number of medical and support services for HIV patients.

RESOLUTION NO. RS2007-2091 (RYMAN & GILMORE) – This resolution approves an amendment to a grant in the amount of \$121,000 from the state department of health and human services to the Metro board of health to provide healthcare services to homeless persons at the downtown clinic. The resolution provides that the amendment increases the grant award in the amount of \$17,000 for a total grant award of \$824,543.

This resolution should be amended to attach the correct grant award.

RESOLUTION NO. RS2007-2092 (RYMAN & PEPPER) – This resolution approves a grant in the amount of \$951,189 from the state department of human services to the Davidson County juvenile court to establish and enforce child support guidelines concerning children born out of wedlock. Pursuant to the grant agreement, the juvenile court referees will hear such child support cases and paternity hearings on an expedited basis. The referees will take testimony, evaluate the evidence, and establish child support orders based on the state child support award guidelines. The term of this grant is from July 1, 2007, through June 30, 2008. There is a required local match of \$490,007 to be provided from the juvenile court's operating budget.

RESOLUTION NO. RS2007-2093 (PEPPER & RYMAN) – This resolution approves an application for a grant in the amount of \$105,190 from the Tennessee commission on children and youth to the Metropolitan juvenile court through the juvenile accountability incentive block grant program. There will be a required local match of \$11,688 to be provided through the juvenile court's operating budget. This grant has been received by the juvenile court for the past several years. The proceeds of the grant are used to fund two community-based probation officer positions and one part-time intake probation officer.

RESOLUTION NO. RS2007-2094 (RYMAN & PEPPER) – This resolution approves an amendment to a grant in the amount of \$1,395,687 from the state department of finance and administration to the Davidson County drug court to provide treatment to persons addicted to methamphetamine. These grant funds are used by the drug court to pay the costs of providing services to thirty additional methamphetamine offenders as part of the drug court program. This resolution extends the term of the grant through June 30, 2008, and redistributes the grant award between fiscal years 2006, 2007 and 2008.

The wording of Section 1 of this resolution is not consistent with the caption. An amendment should be prepared that specifically approves the amendment to this particular grant.

RESOLUTION NO. RS2007-2095 (PEPPER & RYMAN) – This resolution approves an application for an Edward Byrne Memorial Justice Assistance Grant in the amount of \$897,864 from the U.S. department of justice to the Metropolitan Government. These federal funds would be for the benefit of the following departments: police, drug court, sheriff, public schools, district attorney, justice information system (JIS), juvenile court, public defender, and parks. The grant funds will be distributed as follows:

1. **District attorney:** \$90,966.10 to pay the part-time salary of a case investigator for four years to work under the direction of the Grand Jury.
2. **Public defender:** \$14,885.76 to employ a part-time law clerk to assist the attorneys assigned to the juvenile division.
3. **Juvenile court:** \$27,946.15 to retain a probation officer to work in conjunction with a warrant officer to provide monitoring and case management of gang members on pretrial release.
4. **Drug court:** \$134,305.00 for operational costs of the drug court program.
5. **JIS:** \$45,342.45 to purchase hardware and operating systems.

6. **Sheriff:** \$114,146.21 to employ a community outreach director and to acquire safety equipment.
7. **Police:** \$261,563.81 for technology purchases and upgrades to enhance officers' ability to respond to calls for service.
8. **Schools:** \$103,147.23 to install additional closed-circuit television cameras in schools.
9. **Parks:** \$15,744.48 to purchase computers for the patrol vehicles.

RESOLUTION NO. RS2007-2096 (RYMAN & PEPPER) – This resolution accepts a grant in the amount of \$117,656 from the Tennessee emergency management agency to the Metropolitan Government for emergency management functions. This grant is federal pass-through funding used to subsidize the emergency management program. The term of the grant is from October 1, 2006 through September 30, 2007.

RESOLUTION NOS. RS2007-2097 & RS2007-2098 (WILLIAMS, RYMAN & BROWN) – These two resolutions approve agreements with the City of Forest Hills for the distribution of street and road funds for road repairs by Forest Hills during the 2005-2006 and 2006-2007 fiscal years. The City of Forest Hills, along with the satellite cities of Oak Hill and Belle Meade, maintain the roads within their corporate limits instead of Metro public works. The cities of Goodlettsville and Berry Hill do not participate in such contracts with Metro because they do not turn over their state tax revenues to Metro. Ordinance No. O87-1935 established a procedure for the distribution of street and road funds to the eligible satellite cities, and provided that these annual contracts are to be ratified by resolution of the Metro Council with 21 affirmative votes.

Pursuant to these agreements, the City of Forest Hills will be paid \$83,000 for each of the two-year periods.

Resolution No. RS2007-2097 approves the contract for fiscal year 2006.

Resolution No. RS2007-2098 approves the contract for fiscal year 2007.

RESOLUTION NOS. RS2007-2099 THROUGH RS2007-2101 – These three resolutions authorize various entities to install, construct and maintain aerial encroachments into the right-of-way. Ordinance No. O87-1890 allows such aerial encroachments to be approved by resolution of the council rather than ordinance. The entities have agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and are required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party.

Resolution No. RS2007-2099 (JAMESON) authorizes MR Hotels, LLC, d/b/a Hampton Inn & Suites, to install a marquis awning sign over the sidewalk at the corner of 4th Avenue South and Korean War Veterans Boulevard at the entrance to the Hampton Inn & Suites located at 310 – 4th Avenue South.

Resolution No. RS2007-2100 (WALLACE) authorizes 2020 West End Associates, LLC to install awnings extending over the right-of-way, which will be attached to a retail building currently under construction at 2020 West End Avenue.

Resolution No. RS2007-2101 (JAMESON) authorizes Equipment Finders, Inc., to install a phone line across Davidson Street.

– 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. BL2007-1389 (GILMORE & MURRAY) – This ordinance amends the Metro Code to require the health department to notify the public upon the spraying of airborne pesticides. Specifically, this ordinance would require the health department to take the following actions in the event it is determined that pesticide spraying is necessary:

1. Post signs informing neighborhood residents that the department of health will be spraying airborne pesticides not less than forty-eight (48) hours prior to spraying pesticides in the area. Upon request, provide residents written notice by email, U.S. mail, or telephone informing them when airborne pesticides will be sprayed in their neighborhood.
2. Provide a 300-foot buffer zone around property that is on the “no-spray list”. The buffer will not be required if the director of health determines that an emergency situation exists as a result of high mosquito populations and life threatening human infection has been documented in the area scheduled to be sprayed.
3. Airborne pesticides are not to be sprayed within 48 hours of any air quality alert.

The health department currently honors requests from individual homeowners that do not wish to have their property sprayed for mosquitoes. Individuals can contact the health department by phone or email to request that they be placed on the no-spray list.

The director of finance has refused to certify that funds are available to implement this ordinance. According to the finance director's letter, this ordinance would cost at least \$35,300 annually to administer. A copy of the finance director's letter is attached to this analysis.

There is a proposed substitute for this ordinance making some changes regarding the method and procedures for notification.

ORDINANCE NO. BL2007-1451 (SUMMERS, ISABEL & HUNT) – This ordinance, as amended, amends the Metro Code to require nonprofit organizations receiving funding from the Metropolitan Government to make their board meetings open to the public whenever the board is deliberating the expenditure of Metro funds. Nonprofit organizations are currently required by federal law to make their Form 990 tax returns available for public inspection. However, there is no requirement that board meetings be open.

This ordinance would require every nonprofit organization receiving funding through the general fund or the hotel/motel occupancy tax to make all meetings of their board of directors open to the public whenever the allocation or expenditure of Metro funds is being deliberated by the board. Failure to abide by these requirements would result in a forfeiture of the funds provided by Metro to the organization during the current fiscal year.

The council office would point out that in addition to grants made to nonprofit organizations, Metro has a number of contracts with nonprofit organizations to provide services for the government. This ordinance could impact the willingness of these organizations to enter into future contracts with the Metropolitan Government.

ORDINANCE NO. BL2007-1453 (DREAD & COLE) – This ordinance amends the beer permit provisions in the Metro Code to allow the council to exempt establishments from Metro's minimum distance requirements to obtain a beer permit. The code currently prevents a beer permit from being issued to an establishment located within 100 feet from a church, school, park, daycare, or one or two family residence. However, the council in July of 2003 enacted Substitute Ordinance No. BL2003-1353 establishing an exemption from the minimum distance requirements for restaurants located on property subject to a planned unit development (PUD) that already have a state on-premises liquor consumption license. Substitute Ordinance No. BL2003-1353 was essentially a compromise bill in an effort to take a step toward enabling restaurants with a state liquor license to obtain an on-sale beer permit without meeting the established distance requirements in the code.

This ordinance would exempt a restaurant or retail establishment from the minimum distance requirements upon the adoption of a resolution by the Metro Council receiving 21 affirmative votes approving the exemption.

The council has considered legislation to exempt certain establishments from the minimum distance requirements on several occasions, but the legislation has never been approved by the council. The council making individual exemptions to applicants could give rise to equal protection issues under the U.S. Constitution.

ORDINANCE NO. BL2007-1455 (SHULMAN) – This ordinance, as amended, establishes a transportation "working group" whose responsibility will be to determine the needs of Nashville as it relates to mass transit. This working group is to be created by the vice mayor with the assistance of

members of council. The group is to consist of representatives from Metro transit agencies, members of council, and representatives from groups interested in mass transit. The working group will be charged with assessing the following:

- Current mass transit programs in Nashville
- Studies that have been completed regarding the mass transit needs in Nashville
- Staffing responsibilities and budgetary needs for mass transit
- Public funding requirements and potential sources of funding for mass transit
- Mass transit programs in other cities of a comparable size to Nashville

The working group is to make its recommendation to the mayor and the council not later than January 31, 2008.

ORDINANCE NO. BL2007-1459 (JAMESON & RYMAN) – This ordinance authorizes the transfer of the thermal site property to the Metropolitan development and housing agency (MDHA) for redevelopment as a public amphitheatre, green space, and mixed-use commercial and residential development. In February 2006, the council enacted BL2005-878, which 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, the mayor is proposing transferring the property to MDHA for the construction of an amphitheatre in place of the ballpark. Although the prior ordinance authorized the transfer of the property to the IDB, the ownership and control of the property still remain with the Metropolitan Government. This ordinance would repeal the part of the prior ordinance authorizing the transfer of the property to the IDB. Instead, the property would be transferred to MDHA conditioned upon the following:

- The property must be developed as an amphitheatre and mixed-use commercial and residential development within four years from the date of transfer. If the project is not completed within four years, ownership of the property will revert to the Metropolitan Government.
- The property must be used as an amphitheatre for at least 40 years. If at any time during the 40 years the property ceases to be used as an amphitheatre, the property will revert to the Metropolitan Government, however, MDHA, at its option, may pay Metro the fair market value of the property as determined by three appraisers and retain the property.

Future amendments to this ordinance may be approved by resolution of the council.

This ordinance is of the same subject matter as Ordinance No. BL2007-1433 on third reading, which simply repeals the provisions of the prior ordinance declaring the property as surplus and authorizing the transfer to the IDB. This ordinance is also of the same subject matter as ordinance No. BL2007-1562, on first reading, which would transfer the property to MDHA for development as either an amphitheatre or public facility with associated green space.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2007-1468 (BROWN) – This ordinance authorizes the acquisition of an easement for property located at 6713 Quiet Lane in Williamson County to allow for the completion of

a project by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2007-1544 (WALLACE, ISABEL & OTHERS) – This ordinance approves a lease agreement between Belmont University and the board of parks and recreation for the development and shared use of Rose Park. Belmont proposes to construct athletic facilities for its baseball, softball, soccer and track teams within the 25-acre Rose Park. These facilities will be used by Belmont for games and practices, and are to be shared by Belmont, Metro and the Edgehill community.

While Belmont will not pay any set rental amount for use of the park, the lease provides that Belmont will construct the athletic facilities on the property, as well as build a concessions building, locker rooms, and improvements to common areas, all at its own expense. Metro will have the authority for scheduling the dates and times of Belmont and community events. Belmont is to schedule its events with Metro at least six months in advance. Metro will make reasonable efforts to schedule Belmont's first choice of intercollegiate competitions. Metro will be responsible for scheduling events sponsored by other school, neighborhood and community groups. Belmont estimates that the sports fields will be available for community uses at least 80 percent of the time during the park's regular operating hours.

Belmont will be entitled to all revenue generated as a result of Belmont events such as ticket sales, concessions and advertising. Belmont will have the authority to put up game day signs on the interior fences of the fields, which must be removed on non-game days. Belmont will also be responsible for installing one or more electronic scoreboards, for which they will be entitled to all of the advertising revenue. All nighttime Belmont events must be scheduled in time to be completed and the lights turned off by 10:30 p.m. An exception is to be made for games that go into overtime, extra innings, etc. All sound amplification on the property must be turned off by 10:00 p.m.

Belmont will be responsible for the repair and maintenance of the facilities caused by ordinary wear and tear. Metro will be responsible for damages occurring in connection with a community event. Belmont will be responsible for paying all utilities and for upkeep and janitorial service during its respective sports' competitive seasons. Further, Belmont will be required to provide security personnel and traffic control both on and near the park at its own expense. Belmont will also be required to maintain property damage insurance for the full value of the improvements, as well as premises liability insurance in the amount of \$2 million per person naming Metro as an additional insured. Belmont agrees to indemnify Metro for any claims arising from Belmont's negligence or fault.

The term of this lease is for forty years, but may be terminated by either party upon one year's written notice. If Metro terminates the lease early, Metro will be required to pay Belmont the fair value of the improvements Belmont made to the property.

This lease agreement has been approved by the board of parks and recreation and referred to the planning commission.

ORDINANCE NO. BL2007-1545 (WALLACE) – This ordinance amends the Metropolitan Code to require Metro employees driving Metro-owned vehicles to be CPR certified. These Metro employees would have 180 days from the enactment of this ordinance to obtain the required CPR certification.

The department of general services, with the assistance of the health department, would be required to provide the CPR training classes to the employees. The ordinance would not apply to employees that are unable to perform CPR due to a medical condition.

The director of finance has refused to certify that funds are available for this ordinance. According to the finance director's letter, the cost of providing the training would be \$330,000, plus an additional \$339,356 in employee time. A copy of the letter is attached to this analysis.

ORDINANCE NO. BL2007-1546 (DREAD, JAMESON & DOZIER) – This ordinance amends the Metropolitan Code of Laws to require after hours clubs to obtain a permit from the beer permit board. According to documentation prepared by the police department, after hours clubs have had a high number of calls for police assistance, and numerous shootings have taken place outside some of the establishments. After hours clubs are currently not regulated by any Metro agency unless they serve beer or are considered sexually oriented businesses. Therefore, it is difficult for police and other Metro agencies to make sure these clubs are being operated in a safe manner.

This ordinance would require owners and operators of after hours establishments to obtain a permit from the department of codes administration. The ordinance defines "after hours establishments" as commercial establishments open to the public after 3:00 a.m. that allow customers to bring alcoholic beverages onto the premises, or nightclubs marketed to teenagers and open to persons under the age of 18 without the presence of a parent or legal guardian. Applicants would be required to pay a one-time permit application fee of \$250 plus the cost for providing background checks. The application must provide the name of the applicant, name and location of the business, and the name of any person or entity having at least a five percent ownership interest in the establishment. There would be a \$100 renewal fee for the permit.

Pursuant to this ordinance, no permit could be issued for any after hours establishment if any person having at least a five percent ownership interest in the establishment has been convicted during the past ten years of a crime of moral turpitude or if the establishment has had a beer permit revoked within the past five years. In addition, it would be unlawful for an after hours establishment to allow any indecent or violent act to occur on the premises, to allow persons under the age of eighteen to loiter about the premises when alcoholic beverages are being consumed, or to allow anyone under the age of 21 to consume alcohol on the premises. Failure by a permit holder to abide by this provision would make the permit holder strictly liable for property damage or injury caused by anyone under the age of twenty-one that was consuming alcohol on the premises.

After hours establishments would also be responsible for providing an adequate number of security guards to patrol the premises, including parking facilities used by the establishment. In addition, the establishment would be required to submit a security plan to the police department at the time the application is filed, which plan is to be monitored by the police department on an ongoing basis. If the police department determines that the security plan is no longer sufficient, a new plan must be submitted within seven days or the permit is to be revoked. Further, the ordinance provides that the police department is to regularly enter these establishments to ensure they are complying with the requirements of the ordinance. The ordinance also includes a detailed appeals process in the event a permit is denied or revoked.

This ordinance is similar to Ordinance No. BL2007-1016, which was deferred indefinitely in June 2006, that would have placed the regulatory authority for after hours clubs with the beer board.

ORDINANCE NO. BL2007-1547 (DREAD) – This ordinance makes some minor revisions to the taxicab provisions in the Metro Code, which were requested by the transportation licensing commission. First, the ordinance clarifies the purpose and intent of the code provisions pertaining to towing firms located outside Davidson County that occasionally deliver vehicles within the county. The code currently exempts such towing firms occasionally doing business unless they both pick up and deliver vehicles within Davidson County. This ordinance would clarify that the code provisions governing the licensing of tow trucks would not apply to firms occasionally doing business within the area of the Metropolitan Government unless they pick up or deliver vehicles in the county more than five times in a month. Second, the ordinance clarifies that the transportation licensing commission has the authority to suspend or revoke a firm’s license to perform nonconsent tows if they have been found to be in violation of the requirements of the code.

ORDINANCE NO. BL2006-1548 (HODGE & FOSTER) – This ordinance abandons an unnumbered alley from Alice Avenue southward to the dead end. This section of alleyway runs parallel to Nolensville Road at the intersection of Alice Avenue, between South 14th Street and South 15th Street. This closure has been requested by Ingleia Latino Americano Unida, which is the church that owns one of the adjacent properties. The Metropolitan Government will retain all easements. Consent of the affected property owners are 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. BL2006-1549 (WALLACE) – This ordinance establishes a procedure for the delivery of legislation adopted by the council to the mayor’s office. The Metropolitan clerk is responsible for all legislation that is filed for consideration by the council. Once legislation is approved by the council, it is delivered by the clerk to the mayor for his consideration in accordance with the Charter. The Charter provides that the mayor typically has 10 days in which to approve or veto legislation before it becomes effective without his signature. However, if less than 10 days remain between the date the legislation is delivered and the next regular council meeting, then the mayor essentially has another two weeks in which to make a decision regarding the legislation. The Charter does not include a procedure for the delivery of legislation to the mayor. The council will recall that this was an issue regarding the timing of the mayor’s veto of the newsrack legislation.

This ordinance would require the clerk to deliver legislation adopted by the council to the mayor not later than the next business day, regardless of whether the mayor is out of the city or is otherwise unable to review the legislation at the time it is delivered.

The council office would point out that the clerk would be in violation of this ordinance anytime the council suspends its rules to consider late items or amendments offered from the floor that have not been prepared prior to the council meeting. For example, the council recently suspended its rules to approve a resolution modifying a council discretionary fund appropriation to MDHA. This resolution was not prepared until the day after the council meeting, and was not signed by the sponsor until two days after the meeting.

ORDINANCE NO. BL2007-1550 (PEPPER, GOTTO & OTHERS) – This ordinance authorizes a rental inspection program in accordance with state law, and designates certain areas within Davidson County as rental inspection districts. In 2006, the Tennessee General Assembly enacted enabling legislation for a local rental inspection program. The state law authorizes local legislative bodies to

adopt a residential rental dwelling inspection ordinance to address properties within designated areas that are deteriorated or in the process of deteriorating. The purpose of the ordinance is to prevent further deterioration of these properties and to protect the health, safety and welfare of the inhabitants.

This ordinance authorizes the codes department to inspect residential rental units within the rental inspection districts that are deteriorated or in the process of deteriorating. The ordinance defines "deteriorated" as any structure that (1) because of physical condition, use or occupancy, is a public nuisance or an attractive nuisance; (2) is a fire hazard or otherwise is unsafe; (3) has had the utilities removed or disconnected so that the property is unfit for human habitation; or (4) because of neglect or lack of maintenance, has become a place for the accumulation of trash or a haven for rodents. The rental inspection districts established by the ordinance are to remain in effect for 10 years, but may be extended by the council. The director of the department of codes administration is to make reasonable efforts to notify rental property owners within the districts of the enactment of this ordinance and that they are required to notify the codes department if they are maintaining a dwelling unit used for rental purposes. There is to be no penalty for the failure to register unless the codes department has given the property owner actual or written notice to do so. There is no registration fee or inspection fee that will be charged to property owners for implementation of this ordinance.

The ordinance authorizes the codes department to inspect any property they deem to be deteriorating to ensure that the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire and health codes. The codes department can require follow-up inspections as necessary. The ordinance, as well as the state enabling legislation, provides that the codes inspectors may only enter the property with the consent of the occupants or with a valid search warrant. If, after inspection, the property is found to be in compliance with the applicable codes, the property owner gets a four-year exemption from future inspections. However, this exemption can be revoked if the property becomes in violation of the applicable codes.

This ordinance establishes the following areas as rental inspection districts:

- a. Urbandale - Nations
- b. Sylvan Heights
- c. Hadley Washington - Meharry
- d. North Nashville - Buena Vista - Metrocenter
- e. Napier - Trimble - Wedgewood / Houston
- f. Airport - Murfreesboro Pike
- g. Edgefield - Shelby Hills
- h. Cleveland Park - McFerrin Park
- g. Greenwood – Eastwood
- h. Vanderbilt – 21st
- i. Hermitage
- j. South Madison
- k. Madison Park
- l. Edenwold

The ordinance provides that the codes director may schedule a phased implementation of this ordinance for the above districts over a three year period.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2006-1551 (ISABEL & TOLER) – This ordinance declares Metropolitan Government-owned property located in the 2nd council district to be surplus and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. This ordinance has been approved by the planning commission. This ordinance approves the disposition of the following properties:

Map/Parcel No.	Address/Location
060-09-0 009.0	Old Matthews Road
070-04-0 157.00	Hobart Street
070-04-0 158.00	Hobart Street
070-04-0 159.00	Hobart Street
070-04-0 161.00	Hobart Street
070-08-0 017.00	Lincoln Street
070-08-0 033.00	Hobart Street
070-08-0 040.00	McKinley Street
070-08-0 051.00	McKinley Street
070-08-0 052.00	McKinley Street
070-08-0 067.00	McKinley Street
070-08-0 081.00	McKinley Street
070-08-0 082.00	McKinley Street
070-08-0 083.00	McKinley Street
070-08-0 093.00	Free Silver Road
070-08-0 149.00	West Trinity Lane
059-05-0 011.00	Vistaview Drive
059-16-0 215.00	Old Matthews Road
071-09-0 113.00	Cross Street
071-09-0 114.00	Cross Street
071-09-0 115.00	Cross Street

ORDINANCE NO. BL2007-1552 (WALLACE, HUNT & OTHERS) – This ordinance amends the Metro Code to establish a comprehensive commercial nondiscrimination program. This ordinance is essentially identical to a program utilized by the Memphis City Schools. The objective of the program is to promote open competition in Metro’s procurement process and to protect Metro from “becoming a passive participant in any unlawful discrimination.” This objective is accomplished through the designation of local small business enterprises (LSBEs), which include local businesses that maintain a limited amount of gross annual revenues and/or total number of employees.

LSBEs seeking to participate in the program must submit a notarized form to the purchasing agent’s division of minority and small business assistance (DMSBA), which is a part of the finance department. Contractors seeking to do business with Metro would be required to submit several documents before they will be allowed to submit proposals. First, contractors would be required to submit a promise of nondiscrimination stating that they (1) agree to adopt Metro’s equal opportunity in contracting policies; (2) will attempt certain good faith efforts to solicit LSBE participation; and (3) will not engage in discriminatory conduct. Failure of a contractor to fulfill these promises will constitute a material breach of contract, which may result in cancellation of the contract, suspension, and/or debarment. Second, contractors would be required to submit a statement of successful

subcontractors and a statement of interested subcontractors/vendors. Third, the contractor would be required to submit a statement of bid proposals/price quotations giving the potential subcontractor's name race, gender, national origin, business size and price quotation.

To demonstrate good faith efforts, contractors would be required to deliver written notice of the proposal to at least three LSBEs. The DMSBA is to maintain a list of qualified LSBEs that contractors can utilize. Contractors will also be required to divide the contract into small, economically feasible segments that could be performed by a LSBE. If a LSBE is rejected, the contractor must submit a written explanation for the rejection to the DMSBA. Contractors will be required to keep detailed records of all correspondence regarding the project for at least five years.

The DMSBA will be responsible for verifying the certification of LSBEs, maintaining an up-to-date database of LSBEs, monitoring utilization of LSBE participation in Metro procurement contracts, and investigating written complaints. The DMSBA will be required to submit an annual report to the council outlining a summary of the purchases and contracts placed with the LSBEs and the relative percentage of the total purchases and contracts for that period.

This ordinance provides that in the event the semiannual review by the DMSBA shows an underutilization of LSBEs, the DMSBA may implement "goals" for selected contracts, which would be race conscious measures to increase minority business participation. This would allow the inclusion of LSBEs as an additional factor in the evaluation of proposals. If goals are established, then all contractors would be required to use good faith efforts to achieve the goals. Progress toward the goals would be based on the percentage of the dollar amount of the work performed by the LSBE.

This ordinance also provides for a prompt payment program and a mobilization fee to assist LSBEs. The prompt payment program would require all Metro contractors to pay their subcontractors a minimum of their pro rata share of progress payments made by Metro to the prime contractor. Any payments not made in accordance with this prompt payment program will accrue interest at the rate of 10% per year, or at the rate provided in the written contract. The purchasing agent may also implement a mobilization fee on an individual basis to assist LSBEs in financing. If prime contractors are required to pay this fee, they would be given credit for the mobilization fee on the final pay application. The awarding of an up-front mobilization fee would be considered payment for services and would be deducted from the final payment of the contract.

The council office would point out that the U.S. Supreme Court in recent years has limited the ability of local governments to implement race-based measures to increase minority participation in the procurement process. The Fourteenth Amendment Equal Protection clause has been interpreted by the U.S. Supreme Court to require that cities have a compelling governmental interest in order to legislate on the basis of racial classifications. Such legislation and/or policies are analyzed by the courts using a strict scrutiny standard of review. In order to survive strict scrutiny, the government must submit evidence identifying specific instances of discrimination. A generalized assertion of past discrimination is inadequate.

The director of finance has refused to certify that funds are available for this ordinance. According to the finance director's letter, this ordinance would require additional funding of at least \$250,000 to implement, plus the addition of two full-time positions in the DMSBA. A copy of the letter is attached to this analysis. There is a housekeeping substitute for this ordinance, as a prior draft version of the ordinance was inadvertently filed.

ORDINANCE NO. BL2007-1553 (WALLACE) – This ordinance abandons the right-of-way for Alley No. 106 from 8th Avenue North to Alley No. 113, and Alley No. 113 from Church Street to Commerce Street. This closure has been requested by the U.S. General Services Administration to allow for construction of a new U.S. Courthouse. Consent of the affected property owners is on file with the department of public works. All easements will be retained by the Metropolitan Government. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2007-1554 (WALLACE) – This ordinance abandons portions of right-of-way for Coffee Street from Alley No. 519 northeastward to the dead end, Nassau Street from Coffee Street to I-65, and Alley No. 516 from Coffee Street to I-65. These closures have been requested by the St. Cecilia Congregation, the abutting 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.

ORDINANCE NOS. BL2007-1555 & BL2007-1556 (LORING, TYGARD & RYMAN) – These two ordinances approve a funding mechanism for the financing of an \$80 million portion of the proposed expansion of the Gaylord Opryland hotel and convention center. These ordinances, along with two resolutions, make up the total legislative package for this project. A separate analysis of the Gaylord proposal is included with this analysis.

ORDINANCE NO. BL2007-1557 (JAMESON) – This ordinance authorizes the collection of four tourist accommodation taxes to create a funding mechanism for the construction of a new downtown convention center. This legislation essentially incorporates the provisions of the state enabling legislation for these four taxes into the Metro Code. The new taxes that would be collected under this ordinance are as follows:

1% increase in hotel/motel tax

This ordinance would increase the hotel/motel tax by one percent to be used to finance the construction of a convention center. The current hotel/motel tax is five percent of the room rate charged by the hotel or motel. One cent of the tax is already dedicated for the construction, operation and financing of a convention center. This ordinance would increase the total tax to six percent, with two cents being designated specifically for the construction of a convention center. An additional cent would be for tourist-related activities, which may include funding a convention center.

Additional hotel occupancy privilege tax

This ordinance would add a new \$2.00 tax upon the occupancy of each hotel room within the area of the Metropolitan Government. This tax could only be used for the purpose of paying construction costs of a new publicly-owned convention center with a cost in excess of \$400 million. Revenues from this tax could also be used for the operation, promotion, management and marketing of a new convention center. This tax would terminate once the outstanding debt on the convention center has been retired.

Tax on vehicles leaving the airport

This ordinance would add a new \$2.00 tax on the privilege of contracted vehicles exiting the Nashville airport. This would include taxis, limos, and shuttle vans. The operator of the contracted vehicle would be responsible for keeping accurate records to determine the amount of the tax due. Failure to pay this tax would be a Class C misdemeanor under state law. Persons owing delinquent taxes would be liable for interest in the amount of 8% per year, plus an additional penalty of 1% per month, as

provided in the state enabling legislation. As with the additional hotel occupancy tax, this tax could only be used for the purpose of paying construction costs of a new publicly-owned convention center with a cost in excess of \$400 million, and would terminate once the convention center debt is paid off.

Tax on rental cars

This ordinance would add a tax of one percent of the gross proceeds derived from the lease or rental of any passenger vehicle, truck or trailer for a period of five days or less. This tax would not apply to any automobile rented as a replacement vehicle when the renter's vehicle is being repaired, nor would it apply to car dealers. This tax could only be used for the purpose of paying construction costs of a new publicly-owned convention center with a cost in excess of \$400 million, and would terminate once the convention center debt is paid off.

The council office would point out that although this legislation does not approve the construction of a new convention center, the revenues derived from these new taxes could only be used for the construction of a convention center. Thus, the next council would likely feel pressure to approve the new convention center since the tax is already being collected and cannot be used for any other purpose.

This ordinance also would require contractors building a new convention center to pay their employees the prevailing wage rate that state contractors are required to pay. Further, Metro would be required to actively solicit minority-owned businesses for participation in the construction of a new convention center. At the time the state enabling legislation for the convention center funding was enacted, a provision was added requiring entities soliciting bids for the construction of a convention center using public financing to actively solicit bids from minority owned businesses. Such entities building a convention center using public funds must strive to maximize the participation of minority owned businesses through both prime and second tier business contracting opportunities. Metro will be required to monitor the results of minority owned business participation and submit a quarterly report to the state comptroller.

A housekeeping amendment should be offered for this ordinance correcting some references to state law subsections.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2006-1065 (WALLACE) – This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit chain link fences along arterial and collector streets. The code currently prohibits the use of barbed or razor wire on fences along sidewalks within the urban services district. This ordinance would essentially prohibit any chain link fence along the right-of-way of a collector or arterial street, which are the classifications used for the major streets and roads in Davidson County. This ordinance would apply to both the urban services district and the general services district, and would prohibit chain link fences in both commercial and residential areas. The ordinance expressly exempts temporary fencing and fences used around places of incarceration.

The council office would point out that this ordinance could result in a substantial cost to the Metropolitan Government, especially schools, if Metro facilities were required to have stone, brick or wood fences. A list of all arterial and collector streets, as well as a map showing the streets, has previously been provided to the council.

Ordinance No. BL2007-1456, which is also on third reading, would prohibit chain link fences along certain streets within the downtown interstate loop. Only one of these two ordinances should be enacted since they concern the same subject matter.

ORDINANCE NO. BL2006-1266 (GILMORE & WALLS) – 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 was required to balance the trustee’s budget for fiscal year 2007 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 current fiscal year.

SUBSTITUTE ORDINANCE NO. BL2007-1364 (EVANS) – This zoning text change would substitute the regulations pertaining to historic home events and historic bed and breakfast homestays. The purpose of this ordinance is to be an alternative to Ordinance No. BL2006-1206, which has been deferred indefinitely, that would add more stringent standards applicable to historic home events. Under the zoning code, “historic home events” must be permitted by the board of zoning appeals (BZA) as a special exception use. The zoning code defines historic home event as “the hosting of events such as, but not limited to, weddings or parties for pay at a private home which has been judged to be historically significant by the historic commission.” The code includes certain criteria that must be met in order for property to be allowed to hold these home events, such as parking standards, limited meal service, and a requirement that the home be owner-occupied. There are currently only four properties permitted as a historic home event use in a residential area.

This ordinance would create two separate categories of historic home events. The standard historic home event use would only be permitted in residential areas as part of a neighborhood landmark overlay district. The use would be permitted by right in all other zoning districts. The second category of historic home event uses would be called a “limited historic home event”. A limited historic home event would be permitted by special exception (SE) in residential districts, requiring approval of the board of zoning appeals (BZA). The ordinance establishes new standards for the BZA to consider in determining whether to grant an SE use for a limited historic home event. These new standards are as follows:

1. Applicants and holders of special exception permits would expressly be expected at all times to comply with the property standards code, zoning regulations, and restrictions placed upon the applicant by the BZA.
2. Once Metro takes three or more zoning and/or codes enforcement actions against the special exception permit holder, the zoning administrator is to request a show cause hearing before the BZA to consider revocation of the permit. Further, a show cause hearing is to be requested if the zoning administrator becomes aware that the permit holder has not adhered to promises made to the BZA at the time the permit was granted.
3. Events with 30 or fewer people, including servers and other staff, may take place outside the historic home.
4. No more than 100 people would be allowed at an event under any circumstances. The BZA would have the authority to further limit the number of patrons at the event.
5. All interior and exterior work must be done in accordance with the U.S. Secretary of the Interior standards for the treatment of historic properties. The applicant may utilize the Metro historic zoning commission staff to ensure compliance with these standards.
6. All guest parking must either be on-premises or a shuttle service must be used for off-premises parking.
7. The historic home event may take place between the hours of 8:00 a.m. and 9:00 p.m. Monday through Thursday, and 9:00 a.m. through 11:00 p.m. on Friday and Saturday. Events would not be allowed on Sundays.
8. No amplified music would be allowed.
9. Meal and beverage service is limited to those guests invited by the host.
10. The home must be owner-occupied, and a site plan must be submitted detailing the personal living space, event preparation areas, and event location areas.
11. A historic home event permit may last no more than five years.

12. The BZA is to consider past codes and zoning enforcement actions taken against the property owner.
13. The SE use must be compatible with the general plan, and the planning commission is to make a recommendation to the BZA regarding its plan compatibility.
14. The limited historic home events must take place inside the historic structure.
15. All signs on the property must be no larger than four square feet.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2007-1430 (EVANS) – This zoning text change would add to the review and enforcement provisions to be used by the board of zoning appeals (BZA) in determining whether to grant a special exception (SE) use permit, and would clarify the role of the historic zoning commission in the review and approval of the neighborhood landmark (NL) zoning overlay. SE uses are not permitted by right, but are only allowed if they are approved by the BZA. Some examples of special exception uses in residential zoning districts include historic home events, day care facilities, churches, and recreational centers. In order for the BZA to grant a special exception permit, the applicant must prove that all of the code requirements for the SE use have been met. The code currently requires applicants to show that the proposed use will not adversely impact abutting properties, that features of historical significance will be preserved, and that traffic will not be negatively impacted. This ordinance would add some additional requirements that applicants for an SE use would have to meet in order to obtain the permit from the BZA. All of these provisions are included as part of Substitute Ordinance No. BL2006-1364, which is also on third reading. However, the council office is of the opinion that these provisions exceed the scope of the caption of Ordinance No. BL2006-1364, as that bill is limited to historic home event uses. This ordinance essentially copies the provisions from the substitute ordinance into a new ordinance with a broader caption.

This ordinance would add the following new general requirements for uses permitted by special exception:

1. The BZA would be required to consider past codes and zoning enforcement actions taken against the property owner.
2. The SE use must be compatible with the general plan, and the planning commission is to make a recommendation to the BZA regarding its plan compatibility.
3. Applicants and holders of special exception permits would expressly be expected at all times to comply with the property standards code, zoning regulations, as well as the guarantees and representations they make to the BZA.
4. Once Metro takes three or more zoning and/or codes enforcement actions against the special exception permit holder, the zoning administrator is to request a show cause hearing before the BZA to consider revocation of the permit. Further, a show cause hearing is to be requested if the zoning administrator becomes aware that the permit holder has not adhered to promises made to the BZA at the time the permit was granted. The show cause hearing would be publicly advertised in the same manner as other BZA hearings.
5. The BZA would be prohibited from granting variances to the general or specific standards of an SE permit.

This ordinance would also specify the manner in which the U.S. Secretary of the Interior standards apply to the treatment of historic properties. Compliance with these standards would be required before any changes could be made to any property that is listed on the National Register for Historic Places or is eligible for listing on the historic register. Finally, the ordinance would require that any

existing or proposed NL overlay district be reviewed by the historic zoning commission to ensure that it complies with the applicable guidelines.

This ordinance has been approved by the planning commission with a recommended amendment.

SUBSTITUTE ORDINANCE NO. BL2007-1432 (GOTTO) – This substitute ordinance amends the Metro Code to codify the procedure currently in place for the submittal of grant applications that are subject to approval of the council. 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 sometimes submit the application prior to it being approved by the council.

This ordinance would require Metro departments to make every effort to obtain council approval prior to submitting grant applications to the grantor. In the event there is insufficient time to obtain council approval before the grant application deadline, the application may be filed contingent upon approval by the council. In the event the council does not approve a grant application that has been previously submitted, the application is deemed null and void and any funds received from the grantor shall be returned by the Metropolitan Government.

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, which is on second 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. BL2007-1435 (ISABEL) – This ordinance, as amended, amends the Metro Code to allow customers that have overpaid for water and sewer services to be reimbursed by the department of water and sewerage services upon request rather than having a credit applied to their

bill. The code currently provides that customer's charges are to be adjusted in the event of a malfunctioning meter or a concealed leak. This ordinance would require the department of water and sewerage services to reimburse customers upon request in the event the customer has paid an amount greater than the actual water or sewer usage due to an incorrect meter or a concealed leak. This ordinance does not change the method for determining the amount of the credit or reimbursement. If the customer has been overcharged due to a concealed leak, the customer would either be given a credit or reimbursement in an amount equal to 50% of the excess caused by such leak above the average monthly bill for the previous year.

ORDINANCE NO. BL2007-1440 (EVANS, TOLER & OTHERS) – This ordinance, as amended, 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 director of MWS would also be required to provide the council with the amount water rates could be decreased to offset the additional revenue generated by the storm water user fee. Further, the ordinance would require 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 the satellite cities such as Belle Meade, Forest Hills, Berry Hill and Goodlettsville to pay a storm water 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. BL2007-1452 (DREAD) – This ordinance would prohibit the “booting” of vehicles within the area of the Metropolitan Government. Certain wrecker companies operating within the Nashville area have agreements with businesses to place a disabling device on vehicles parked on their private property without authorization or without paying the required parking fee. The code does not expressly prohibit this activity.

This ordinance would prohibit anyone other than the vehicle owner, lien holder or police officer from placing a boot on a vehicle within the area of the Metropolitan Government. The ordinance defines “booting” as the attachment of any device to a vehicle that prohibits the vehicle from being driven. This ordinance was recommended by the director of the transportation licensing commission.

ORDINANCE NO. BL2007-1456 (WALLACE) – This ordinance amends the Metropolitan Code to prohibit chain link fences along arterial and collector streets. The code currently prohibits the use of barbed or razor wire on fences along sidewalks within the urban services district. This ordinance would essentially prohibit any chain link fence along the right-of-way of a collector or arterial street within the downtown interstate loop. The ordinance specifies that the downtown interstate loop is I-65 to the north, I-24 to the east, I-65 to the south, and I-40 to the west. This ordinance would prohibit chain link fences in both commercial and residential areas within these boundaries. The ordinance expressly exempts temporary fencing and fences used around places of incarceration.

This ordinance is of the same subject matter as Ordinance No. BL2006-1065, which is also on third reading. The differences between the two ordinances is that this ordinance is limited to the downtown area.

ORDINANCE NO. BL2007-1458 (COLEMAN, PEPPER & OTHERS) – This ordinance authorizes the director of public property administration to acquire eight parcels of property by negotiation or condemnation for the construction of a new fire hall in the Hobson Pike/Antioch area. These eight parcels are located on Cedarmont Drive, Cedar Valley Drive, and Cedar Drive, and consist of a total of 3.06 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.

The council office would point out that the property description in the recitals of the ordinance do not match the exhibit. There is an amendment to correct this error, which will require suspension of the rules since the bill is on third reading.

This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2007-1465 (RYMAN & WHITMORE) – This ordinance declares Metropolitan Government-owned property located in various council districts to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. This ordinance approves the disposition of the following properties:

<u>Address – Location</u>	<u>Council District</u>
4426 Providence Heights	27
1815 – 6 th Avenue North	19
600 Southgate	17
910 – 11 th Avenue North	19
893 Granada Avenue	5
2129 – 11 th Avenue North	2
1601 Wheless Street	19
0 Boscobel Street	6
5789 River Road	35
307 Grace Street	5
0 South 9 th Street	6
22 North Hill Street	17
1819 Jo Johnston Avenue	19
800 Meridian Street	5
14 Decatur Street	17
60 Robertson Street	17
62 Robertson Street	17
97 Maury Street	17
65 Robertson Street	17
91 Robertson Street	17
16 Decatur Street	17
919 McFerrin Avenue	5
1404 – 10 th Avenue North	19
1403 – 19 th Avenue North	19
509 Fisk Street	19
0 Hobart Street	2
708 Oneida	5
2405 Jefferson Street	21
1015 North 6 th Street	5
1604 Arthur Avenue	19
1608 Arthur Avenue	19
1722 Arthur Avenue	19
1704 Arthur Avenue	19
1000 – 33 rd Avenue North	21
1904 Herman Street	19
605 – 26 th Avenue North	21
821 Lischey Avenue	5
606 – 40 th Avenue North	21
Total	38

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2007-1531 (JAMESON) – This zoning text change would allow the floor area of parking garage liner buildings to be exempt from the calculation of the floor area ratio (FAR) for the garage. “Liner buildings” are buildings that are shallow in depth but wide to the street, and used to hide parking garages from the street view. This ordinance would allow the first 20 feet of depth of liner buildings within the CC, CF, ORI and mixed-used zoning districts that house office, residential or other non-parking commercial uses to be exempt from the FAR calculation. A minimum of 50% of the wall area of the street level must be glazed. This will provide an incentive to developers to hide their parking garages from view by allowing the buildings to be larger than would otherwise be permitted.

This ordinance has been approved by the planning commission.

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **July 17, 2007**

RE: **Analysis Report:
Gaylord Opryland Proposal**

Gaylord is proposing to construct a \$400 million expansion to its existing Opryland Hotel and Convention Center facilities. This addition will add 400,000 square feet of convention space and a new 400-room hotel. Gaylord estimates that this expansion project will attract an additional 400,000 tourists per year, will create 1,300 new jobs, and will bring \$34.6 million in additional state and local tax revenue. Gaylord is seeking Metro's assistance in securing \$80 million of the construction price as an incentive for constructing the project in Nashville. Gaylord proposes to transfer the Opryland property to the industrial development board (IDB), who will in turn lease the property back to Gaylord. Gaylord will be required to make payments in lieu of taxes (PILOT payments) to the IDB in an amount equal to what the property taxes would be if Gaylord had legal title to the property. The IDB will issue revenue bonds in the amount of \$80 million, which would be secured by the PILOT payments and the additional tax revenues generated from the new project. In addition, Gaylord will be able to use a portion of the hotel occupancy taxes generated on the property to pay off the debt on the expansion. Further, Gaylord will be allowed to capture the increased sales taxes generated from the expansion toward payment of the debt.

The deal is structured to result in no risk to the Metro taxpayers for repayment of the bonds, and Metro is to receive the same amount of property and sales taxes it is currently receiving from the Opryland property. Only the increased revenues generated by the expansion will be applied toward the debt service.

Ordinance No. BL2007-1555 authorizes an additional one percent hotel occupancy tax to be levied on the Opryland Hotel and redirects two percentage points of the existing hotel occupancy tax derived from the Gaylord Tourist Development Zone. The Tennessee General Assembly recently modified the state law pertaining to the hotel occupancy taxes to allow the Metropolitan Government to impose an additional one percent tax either throughout Davidson County or in a tourist redevelopment zone. The tax can be imposed throughout Davidson County to help fund the construction of a new convention center. In the alternative, the additional tax can be imposed within a tourist development zone for improvements within that zone. Resolution No. RS2007-2084 would declare the Opryland property to be a tourist development zone, thus authorizing the additional one percent to be used for the repayment of Gaylord's debt.

In the event the Council approves Ordinance No. BL2007-1557, which would levy the additional one percent hotel occupancy tax county-wide, the tax authorized by this ordinance will be reduced and the county-wide one percent tax generated from the Opryland facility would be used to repay the Gaylord debt.

This ordinance also provides that two percentage points of the existing hotel occupancy tax derived from the Gaylord Tourist Development Zone are to be deposited into Metro's general fund to be used for debt service on the expansion, but only to the extent that the tourist accommodation tax from the tourist development zone exceeds the proceeds for the prior fiscal year by three percent.

Ordinance No. BL2007-1556 authorizes the IDB to accept payments in lieu of ad valorem taxes (PILOT payments) for the Opryland Hotel and Convention Center, which payments are to be used to pay the debt on the bonds for the Gaylord expansion project. State law grants the council the power to delegate to the IDB the authority to negotiate and accept PILOT payments, provided that the payments are in furtherance of the IDB's purpose. The purpose of the IDB under state law is to maintain and increase employment opportunities by promoting industry, trade and commerce through the inducement of commercial enterprises to locate or remain in the state. The IDB will have the authority to accept PILOT payments from Gaylord for 25 years, which will be the life of the bonds. The ordinance provides that the IDB cannot negotiate and accept such PILOT payments until the state commissioner of economic development and the comptroller of the treasury have determined that it is in the best interest of the state to do so. Further, the final version of the PILOT agreement must be approved as to legality by the Metro director of law.

This ordinance also requires Gaylord to ensure that minority-owned businesses are solicited for participation in the expansion project for both prime contractor and subcontractor opportunities. At the time the state law was amended to allow for the use of public funds to help finance the construction of the Gaylord expansion project, as well as the proposed downtown convention center, a provision was added to the state law requiring entities soliciting bids for the construction of a convention center using public financing to actively solicit bids from minority owned businesses. Such entities building a convention center using public funds must strive to maximize the participation of minority owned businesses through both prime and second tier business contracting opportunities.

There is a substitute for this ordinance that clarifies that the PILOT payments will be pledged to the payment of the debt service and required reserves on the IDB bonds on an annual basis, and that excess amounts not needed for debt service or reserves will be deposited into the Metro general fund.

Resolution No. RS2007-2084 designates the Opryland Hotel and Convention Center property as a tourist development zone and a secondary tourist development zone to allow for the increased sales tax revenues generated by the Opryland expansion to be used for debt service on the project.

This resolution should be deferred to track with the two ordinances.

There will be an additional resolution providing for the handling of the PILOT payments, hotel occupancy taxes, and state and local sales taxes pertaining to the Opryland Hotel and Convention Center, which will be filed for the August 7th council meeting.