

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **June 3, 2008**

RE: **Analysis Report**

Balances As Of:	<u>5/14/08</u>	<u>5/30/07</u>
<u>GSD 4% RESERVE FUND</u>	* \$3,740,451	\$985,007
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$23,429,103	\$30,435,193
USD	\$15,945,572	\$12,243,660
<u>GENERAL PURPOSE SCHOOL FUND</u>	\$61,509,540	\$37,488,829

* Assumes estimated revenues in fiscal year 2008 in the amount of \$23,722,200.
(Does not include pending 4% appropriations totaling \$18,150,702.)

– BILLS ON PUBLIC HEARING AND SECOND READING –

ORDINANCE NO. BL2008-174 (COLE) – This ordinance is the operating budget of the Metropolitan Government for the Fiscal Year 2008-2009. The budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 691,052,300
• Schools Fund of the General Services District	627,227,300
• Schools Debt Service Fund	58,895,700
• Debt Service – General Services District	<u>85,957,900</u>
TOTAL GENERAL SERVICES DISTRICT BUDGET	\$1,463,133,200
• General Fund of the Urban Services District	\$ 100,444,700
• Debt Service – Urban Services District	<u>13,086,700</u>
TOTAL URBAN SERVICES DISTRICT BUDGET	\$ 113,531,400
TOTAL OPERATING BUDGET	\$1,576,664,600

The substitute budget adopted by the council for the current fiscal year is \$1,559,728,500. The mayor's proposed budget is an overall increase of \$16,936,100 (+1.1%), although there is a reduction of \$14,537,800 in the appropriation from the general fund of the GSD. The GSD general fund provides the funding for the majority of the general government operations.

\$31,394,900 is appropriated from the total GSD unappropriated fund balance, compared to a total of \$14,334,400 in the current year's budget. This includes an appropriation in the amount of \$19,264,100 from the schools unappropriated fund balance. No funds are appropriated for use from the USD unappropriated fund balance, as compared to \$1,397,800 in the current year's budget.

The proposed budget does not fund any modification to the existing pay plan for all Metro employees, but does fund incremental step raises for employees that are not included as part of the open range classifications. The budget includes \$2,894,700 in the GSD General Fund and \$347,100 in the USD General Fund for these incremental increases.

The proposed budget does not include any "Budget Adjustment Savings" in order to balance the total budget requirements as was done the previous several years. The FY08 budget provided for a negative expenditure in the amount of \$16,938,500 in the GSD and \$2,264,700 in the USD for these budget adjustment savings. \$165,000 of the appropriations in this budget is contingent upon passage of legislation that will provide for additional probation fee revenue, which is the subject matter of Ordinance No. BL2008-176 presently on third reading.

One of the most substantive changes in the mayor's proposed FY09 budget is the elimination of certain "internal service fees". The departments of finance, human resources, general services, information technology services, and internal audit were funded almost entirely from internal service fees in the FY08 budget. These fees appeared as increased expenditures in the operational budgets of various departments, paid to these five departments in their various internal service funds. For FY09, the number of functions being charged to the departments by these internal service fees will be reduced by approximately 40%. The changes to these internal service fund functions are as follows:

- Finance Services Returned to the GSD

- Human Resources Returned to the GSD
- Internal Audit Returned to the GSD
- Payment Services Absorbed by Finance (GSD)
- Real Property Services Absorbed by General Services (GSD)
- 311 Call Center Absorbed by Public Works (GSD)
- Shared Business Office Eliminated

After these reductions are made, the remaining internal service fund functions are as follows:

- Treasury
- Information Technology
- Fleet Management
- Building Operations
- Radio
- Postal
- Surplus Property

In addition to the internal service fees, the FY08 budget included a safety and risk management fund under control of the legal department. This was funded through premiums charged to the other departments. For FY08, these charges totaled \$19,097,400. This fund was used to implement a centralized safety and risk management program for the entire Metro government. It was also used as the funding source for other funds such as injury-on-duty (IOD) medical claims, self-insured liability, property insurance, etc. For FY09, this fund is being eliminated. Safety programs will revert back to the various departments. The other funding that was previously routed through safety and risk management will now be made through direct general fund appropriations.

Another important change in the mayor's proposed budget is a new system for appropriating most grants to non-profit organizations. The intent is to award funds to those agencies that best meet the priorities of the city while reducing the total amount of the grants by \$369,400. Grant applications will be reviewed and approved in three categories, as follows:

- Domestic violence agencies \$750,000
- Education and afterschool care \$750,000
- Community service agencies \$500,000

The budget includes reductions averaging approximately 5% for many of the general fund departments, with a few exceptions. These reductions were originally projected to result in the layoff of as many as 200 Metro employees, but this number has been substantially reduced over the past two months. The budget does provide funding for new initiatives within the budgets for the juvenile court, fire department, and codes department. These improvements are as follows:

- Juvenile court – Increase of \$500,000 for a new truancy center. This will be used to provide enhanced truancy reduction and educational neglect services. The goal is to help more children to stay in school until graduation.
- Fire department – Increase of \$2,326,700 to fund, transparently through the budget, the staffing required for three ambulances as recommended by the EMS audit. The fire department is also receiving an additional \$1,821,000 to pay for overtime costs typically incurred by the department.
- Codes department – Increase of \$100,000 to pay for a new electronic plan system to increase their efficiency and to provide better availability of information as needed. However, the codes

department budget does include a reduction of three property standards inspector positions totaling \$167,500.

This budget includes a subsidy of \$47,307,200 for the hospital authority. This is a reduction of \$2,489,900 from the subsidy for the current fiscal year. Per RS2008-144, the hospital authority received a third extension of the reimbursement date for the outstanding loan from Metro Government. In addition, the line of credit amount was increased by \$11,500,000 to fund operations through June of 2008. This includes a contingency of \$4,100,000 due to the uncertainty of how the state would disburse essential access payments. Also, payments from the state's inmate healthcare contractor, First Medical Management, were reduced by about 50% due to a change in their interpretation of the contract. If the entire \$11,500,000 increase in the line of credit is used, the total owed to Metro by the hospital authority for operation expenses would be \$31,948,700.

There are several appropriations from the hotel occupancy tax that are included in the proposed budget. These appropriations are as follows:

- Sister Cities \$40,000
- Sports Council \$100,000
- Sommet Center subsidy \$7,351,500
- Farmer's Market \$258,000
- Municipal Auditorium subsidy \$871,500
- Country Music Hall of Fame \$100,000
- Partnership 2010 \$300,000
- Regional Transportation Authority subsidy \$764,900
- Convention Center subsidy \$800,100
- Opryland Tourist Development Zone \$399,600
- Adventure Science Center \$200,000
- Metropolitan Transit Authority \$500,000
- Metro Arts Commission \$150,000

The proposed budget for the Schools General Purpose Fund is \$627,227,300, which is an increase of \$35,681,100 over this year's budget. There is also a separate line in the ordinance appropriating \$750,300 for administrative support for Metro schools, down from \$3,642,500 in the current budget. \$19,264,100 of the proposed increase in the Schools General Purpose Fund budget would come from their unappropriated fund balance. Even with this appropriation, the reserve fund is projected to have a balance of \$52,735,900 at the end FY09, or 8.4% of the operational budget. According to state law, this balance must remain above 3%.

The budget ordinance is amendable on third reading.

ORDINANCE NO. BL2008-229 (COLE, GOTTO & RYMAN) – This ordinance adopts the capital improvements budget for 2008-2009 through 2013-2014. 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 10, 2007 at 6:30 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.

– BILL ON PUBLIC HEARING AND THIRD READING –

ORDINANCE NO. BL2008-213 (GILMORE) – This ordinance amends the Metropolitan code to increase the rate of special assessment for the Gulch central business improvement district (GCBID). Central business improvement districts are permitted under state law and allow the imposition of an additional assessment on all property located within the area to provide enhanced services such as promotion and marketing, advertising, health and sanitation, public safety, security services, recreation, cultural enhancements, and business recruitment and retention in the district. Under state law, 51% of all real property owners must petition the government to create the district, representing two-thirds of the assessed value within the area seeking designation. The council approved the creation of an initial downtown CBID in 1998. In August 2006, the council approved the creation of a separate GCBID for “the Gulch” area of downtown Nashville, which consists of approximately twenty blocks whose boundaries are, basically, Interstate 40 to the west and south, Broadway to the north, the CSX railroad right-of-way to the northeast, and 8th Avenue South to the east.

The ordinance creating the GCBID provided an assessment equal to fifteen cents (\$0.15) per \$100 of assessed value. This special assessment is essentially an additional property tax levy that is collected by Metro at the same time other property taxes are collected. The Gulch district management corporation board, which acts as the management agency for the GCBID, has approved a resolution increasing the assessment from fifteen cents (\$0.15) per \$100 of assessed value to ninety-one cents (\$0.91) for calendar year 2009. This rate is to decrease over the subsequent three years as follows:

- Forty-three cents (\$0.43) per \$100 of assessed value for calendar year 2010
- Twenty-five cents (\$0.25) per \$100 of assessed value for calendar year 2011
- Twenty cents (\$0.20) per \$100 of assessed value for calendar year 2012 and subsequent years

The resolution requesting the increase was approved at an election by the property owners within the area of the GCBID in accordance with state law.

By state law, the council must approve the increase in the rate of special assessment before it becomes effective, and must hold a public hearing prior to the vote on third and final reading.

– RESOLUTIONS –

RESOLUTION NO. RS2008-129 (COLE & CRADDOCK) – This resolution approves an application for a grant from the U.S. department of homeland security to the Metropolitan Nashville fire department

for three fire prevention and awareness programs. The fire department is seeking \$635,610 in federal funds for the following programs:

1. The creation of a citizen advisory council to teach the fire department personnel about the various cultures in Nashville and their fire prevention knowledge.
2. A safety and fire education program targeting 50,000 students from grades 3 through 12. The fire department currently has three full-time elementary teachers that will train 3,000 teachers about the program.
3. A program to train fire personnel on the basics of fire investigation.

There will be a required local match of \$158,903 to be provided through the fire department's operating budget. If the grant is awarded, the grant agreement must be approved by the council by resolution.

This resolution was deferred by the council in February 2008 to track with the budget. The mayor's proposed fiscal year 2009 budget eliminates the funding for the three classroom teachers within the fire department for the Learn Not to Burn program.

RESOLUTION NOS. RS2008-296 & RS2008-297 – These two resolutions approve contracts between the state department of transportation and the Metropolitan Government for the resurfacing of Mt. View Road and Hamilton Church Road. These are typical contracts with the state for road resurfacing authorized under the state-aid highway system program.

Resolution No. RS2008-296 (Cole & Evans) approves a contract for the resurfacing of a 3.28 mile section of Mt. View Road from Bell Road to Hamilton Church Road. The total cost of this project is \$618,700, with Metro providing \$29,169.85 in cash and \$125,505.15 as an in-kind contribution, and the state providing the balance of \$464,025.

Resolution No. RS2008-297 (Wilhoite, Evans & Cole) approves a contract for the resurfacing of a 3.28 mile section of Hamilton Church Road from Murfreesboro Road to Lavergne-Couchville Pike. The total cost of this project is \$724,400, with Metro providing \$34,154.12 in cash and \$146,945.88 as an in-kind contribution, and the state providing the balance of \$543,300.

There are two proposed housekeeping amendments for these resolutions.

RESOLUTION NO. RS2008-299 (EVANS) – This resolution authorizes the Metropolitan Government to participate in a mutual aid agreement with participating public and private utilities regarding coordination and response to emergencies. The Tennessee Water/Wastewater Agency Response Network (TnWARN) has recommended that Metro participate in such an agreement. By executing the agreement, Metro will be able to request mutual aid and assistance, as well as receive requests for aid, from other participating members.

In the event of an emergency in Davidson County, Metro will be able to request assistance from other participating utilities consisting of personnel, equipment and/or supplies. If we make a request for aid, we will be responsible for reimbursing the participating utility providing the aid for their food, shelter, personnel, and equipment costs. Likewise, if we elect to provide aid, we will be entitled to reimbursement for the same costs. We will not be obligated to render aid, and if we choose to do so, our employees will remain under the control of Metro's supervising officials.

State law allows governmental entities to enter into these type mutual aid agreements to provide emergency and disaster assistance.

RESOLUTION NOS. RS2008-301 through RS2008-306 (COLE) – These six resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The total amount of these six resolutions is \$18,150,702.

The balance in the general fund reserve fund as of May 28, 2008, was \$3,740,451. This consists of unrealized revenue for fiscal year 2008 in the amount of \$23,722,200. The resolutions provide that “The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund.” Copies of the supporting information sheets required by Ordinance No. O86-1534, as well as additional information provided by the department of general services regarding the vehicles to be purchased, are attached to this analysis.

Resolution No. RS2008-301 appropriates \$750,000 from the general fund reserve fund to the fire department for miscellaneous equipment and furniture.

Resolution No. RS2008-302 appropriates \$13,740,502 from the general fund reserve fund to the general services department for preventive maintenance, major maintenance, miscellaneous roof repairs, replacement vehicles, police department motorcycles, and water/back flow projects for various Metro buildings.

Resolution No. RS2008-303 appropriates \$100,000 from the general fund reserve fund to the health department for miscellaneous equipment and furnishings.

Resolution No. RS2008-304 appropriates \$1,310,200 from the general fund reserve fund to information technology services for computer hardware. These funds will be used to replace 1,060 computers.

Resolution No. RS2008-305 appropriates \$1,000,000 from the general fund reserve fund to the police department for miscellaneous computer hardware and software.

Resolution No. RS2008-306 appropriates \$1,250,000 from the general fund reserve fund to the public library for new and replacement books and materials.

RESOLUTION NO. RS2008-323 (COLE) – This resolution appropriates \$4,148,100 in supplemental appropriations from the unappropriated fund balance and other sources to various departments to balance their fiscal year 2007-2008 operating budgets.

The amount of \$1,218,500 is to be appropriated from the unappropriated fund balance of the general fund of the general services district as follows:

- o \$595,000 to the trustee’s office for credit card processing fees
- o \$209,000 to the trustee for the senior property tax relief program
- o \$77,600 to the fire department for equipment and medical supplies

- o \$336,000 as an additional subsidy for the Metropolitan transit authority as a result of increased fuel costs

The amount of \$2,161,100 is to be appropriated from the unappropriated fund balance of the general fund of the urban services district as follows:

- o \$284,600 to the trustee's office for the senior property tax relief program
- o \$1,627,200 to the fire department for overtime
- o \$249,300 to the fire department for fringe benefits

The amount of \$68,500 is to be appropriated from the community education unappropriated fund balance for various community education expenses.

The amount of \$700,000 is to be appropriated to the department of public works from the parking garage revenue. These funds will be used to cover expenses associated with operating the parking garage.

This resolution is to be deferred to track with the budget.

RESOLUTION NO. RS2008-324 (COLE) – This resolution approves an amendment to a grant from the state department of finance and administration, office of criminal justice programs, for the Davidson County drug court program. The drug court is a diversionary program that provides supervision and treatment of non-violent drug offenders.

This resolution increases the amount of the grant by \$500,000 for a total grant award of \$1,500,000, and extends the term of the grant for one year through June 30, 2009. These funds are anticipated revenue in the state trial courts' budget, and will be used for the residential drug court program.

RESOLUTION NO. RS2008-325 (MAYNARD & COLE) – This resolution approves an application for a grant in the amount of \$576,000 from the Greater Nashville Regional Council to the Metropolitan social services commission for nutrition and transportation services. These grant funds are essentially federal pass-through funds that will be used for continuation of a program to provide nutritious meals to low-income handicapped and elderly individuals in Nashville. The funds will be used to provide the food and transportation for congregate meals, as well as at-home delivery of hot meals to various areas that have a high concentration of low-income elderly residents.

If awarded, there will be a local match of \$45,100 to be provided through the social services' operating budget.

RESOLUTION NO. RS2008-326 (MAYNARD & COLE) – This resolution approves an application for a grant in the amount of \$301,765 from the state department of human services to the Metro social services commission for adult homemaker services. These services to be provided include assistance with personal care, help with simple healthcare routines, assistance in obtaining medical care, as well as the performance of essential shopping and household tasks. The homemaker program is for elderly persons and adults with mental and/or physical disabilities who need assistance in performing daily living activities. There will be a required local match of \$75,441 to be provided from the operating budget of the department of social services.

RESOLUTION NO. RS2008-327 (MAYNARD & COLE) – This resolution approves an application for a renewal of a grant in the amount of \$415,000 from the Greater Nashville Regional Council to the Metropolitan social services commission for personal care, homemaker and meal delivery services. These federal pass-through funds will be used to provide home delivered meals to homebound persons, as well as homemaker and personal care services. Metro social services is to be reimbursed \$6.74 per meal and \$21.50 per hour for homemaker and personal care services under this grant.

RESOLUTION NO. RS2008-328 (COLE & MAYNARD) – This resolution approves an annual grant in the amount of \$735,200 from the state department of health to the Metro board of health to provide an array of local health services. The term of the grant is from July 1, 2008 through June 30, 2009. These grant funds are typically used to pay the salaries of health department administration employees.

RESOLUTION NO. RS2008-329 (COLE & MAYNARD) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan board of health for bioterrorism preparedness services. These federal pass-through funds are used for the continued employment of a regional hospital coordinator, an emergency response coordinator, a toxicologist, a network technical specialist, and an environmental epidemiologist; for collaboration by the health department with emergency personnel and hospitals regarding emergency preparedness; and the continued development of a regional public health preparedness plan and communications system.

This resolution increases the amount of the grant by \$28,800, for a total grant award of \$906,300, and changes the end date of the grant term from August 30, 2008 to July 31, 2008.

RESOLUTION NO. RS2008-330 (COLE) – This resolution approves an amendment to a grant from the state department of finance and administration, office of criminal justice programs, to the Metropolitan police department for the Internet Crimes Against Children unit. This grant funds the salary and benefits for an investigator and two detectives, as well as technology and equipment for a functioning internet crime lab. This program is modeled after a program instituted by the Knoxville police department with the purpose of targeting internet child predators.

This resolution increases the amount of the grant by \$600,000 for a total grant award of \$950,000, and extends the term of the grant for two years through June 30, 2010.

RESOLUTION NO. RS2008-331 (COLE) – This resolution approves an amendment to a grant in the amount of \$146,940 from the state emergency management agency to the Metropolitan Government to fund the purchase and demolition of a home located at 4808 Milner Drive, which is located in the Seven Mile Creek floodplain. This property is being acquired on a voluntary basis and Metro will be required to provide matching funds consisting of 25% of the purchase price (\$48,980) to be provided from the stormwater division of Metro water services.

This resolution approves a housekeeping amendment to the grant that does not change any of the substantive portions of the contract.

RESOLUTION NO. RS2008-332 (COLE & EVANS) – This resolution authorizes the Metropolitan Government to enter into an interlocal agreement with the Nolensville/College Grove Utility District to transfer water service for the Nolensville Road Home Depot development in Williamson County. 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.

Metro water services has entered into similar agreements with the Nolensville/College Grove Utility District to provide water service to parcels in Williamson County. Metro already provides sewer service to properties served by the utility district.

RESOLUTION NO. RS2008-333 (STANLEY, COLE & FOSTER) - This resolution authorizes the director of public property to exercise an option for the acquisition of a conservation easement to widen part of the Stones River greenway. The easement is to be acquired for 1.1 acres of property located at 1176 Stones River Road in Hermitage. Metro is to pay \$11,000 for this easement.

The Metro Code authorizes options to purchase interests in real property to be approved by resolution of the council. This resolution has been approved by the planning commission.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2008-175 (COLE) – This ordinance adopts the property tax levy for the fiscal year 2008-2009. 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 \$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 three cents from the general fund of the USD to the debt service fund of the USD. This shift is estimated to be the equivalent of \$4.5 million, which will be used to make payments on debt issued by the Metropolitan Government for capital projects in the urban services district. The overall tax levy, however, is the same as last year.

SUBSTITUTE ORDINANCE NO. BL2008-206 (CRADDOCK & COLE) – This substitute ordinance amends the Metropolitan code of laws to include certain employees of the sheriff’s department in the fire and police pension plan. Certain public safety employees receive more favorable retirement benefits than other Metro employees due to the physical and mental demands of the job. While these benefits were traditionally provided only to police officers and fire fighters, the law was amended in 2003 to add sheriff’s department correctional officers and parks special police (park rangers) based upon the degree of danger involved in these positions.

Some employees within the sheriff's office are performing many of the same duties as correctional officers, but since they do not have the title of correctional officer, are not entitled to the enhanced pension benefit. This ordinance would include the additional employees of the sheriff's office that perform public safety duties as part of the police/fire pension plan. The ordinance adds a definition for "sheriff's officer" as part of the police/fire pension plan, which includes sheriff's office employees that spend a majority of their workday engaged in direct inmate contact in a secured environment or armed agents responsible for serving civil process, orders of protection, body attachments, or performing evictions. An actuarial determination of the cost of adding these additional sheriff's office employees in the police and fire pension plan has been made and the study and formulating committee and employee benefit board have determined that these additional employees should be eligible to receive the public safety benefits. This ordinance is the final step in a process that was initiated in 2002.

One important distinction between the pension benefits provided by this ordinance and those received by policemen and firemen is that these sheriff's office employees will only be entitled to receive the enhanced benefit (or receive credit under the plan) for the time they are actually performing the duties listed above. Thus, a sheriff's officer that is promoted to a manager would no longer be entitled to the benefit since he/she would no longer be in direct contact with inmates or serving process. The new manager would receive credit under the enhanced plan for the time he/she served as a sheriff's officer, but would not continue to accrue time under the plan.

The actuarial information on this pension change is on file with the council office. This pension change will result in an annual increase in the Metro contribution rate of approximately 0.09% of total covered compensation.

ORDINANCE NO. BL2008-214 (JAMESON) – This ordinance authorizes the imposition of a \$45.00 litigation tax on all criminal cases in Davidson County and designates CASA, Inc. as the agency to receive the funds. State law allows local governments to impose a \$45.00 "victims assistance assessment" to create a program or fund an existing program that assists victims of crime and their families. The state enabling legislation provides that the types of programs that can be funded through the assessment include "rape crisis centers, domestic violence shelters, victim of crime hotlines and information programs, individual, group and family counseling services, crisis intervention programs, support groups and other similar programs designed to assist victims of crime, their families or survivors." CASA of Nashville, which is an acronym for Court Appointed Special Advocate, is an organization that provides trained community volunteers to advocate for abused and neglected children in court.

This \$45.00 assessment, which is in addition to all other taxes, court costs, and fines, will be collected by the criminal court clerk from any person who enters a guilty plea or is found guilty of committing a criminal offense for which a maximum possible punishment exceeds \$500 and for which jail time is possible. This means that a criminal defendant does not actually have to be fined more than \$500 or sentenced to jail in order for the assessment to apply. The first \$3.00 of the assessment will be retained by the criminal court clerk to defray processing and handling costs associated with collecting the assessment. The remaining \$42.00 will be distributed to CASA, Inc.

At the time this ordinance was prepared and filed, state law provided that only one existing program could be funded with this litigation assessment and required that the program to be funded be specifically named in the legislation authorizing the litigation assessment. However, this statute was

amended in May 2008 to allow local governments to fund multiple programs with the victims assistance assessment.

ORDINANCE NO. BL2008-218 (COLE & GARRETT) – This ordinance, as amended, repeals Ordinance No. BL2001-777 pertaining to the waiver of credit card processing fees. Credit card companies charge merchants a fee for accepting the cards at their places of business. Since Metro accepts certain credit cards for the payment of a variety of fees and services, Metro is charged the processing fee in the same manner as other merchants. State law requires that local governments set and collect a debit and credit processing fee equivalent to the amount the government is charged when these methods are used for payments, provided the processing fee charged these persons cannot exceed five percent of the payment collected. However, oddly enough, the state law was amended to allow governments to waive this processing fee if they wish to do so. In 2001, the Council enacted Ordinance No. BL2001-777 to waive the credit/debit card processing fee. It was the thought at the time of enactment that waiving the fee would encourage persons owing money to the Metropolitan Government to pay in a more timely manner, which would result in quicker payments to Metro. However, the fee waiver has been costing the Metropolitan Government millions of dollars a year.

In 2006, the council amended the 2001 ordinance to partially repeal the fee waiver for non-point-of-sale transactions. A point of sale transaction is one 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. Non-point-of-sale transactions include those payments made by phone or Internet. The 2006 ordinance authorized a 2.5% processing fee to be charged for all non-point-of-sale transactions.

Although the partial repeal of the fee waiver in 2006 helped reduce Metro’s expenses associated with the credit/debit card processing fees, the Metropolitan Government continues to absorb a significant financial loss in paying these fees for customers that use credit cards to pay fees and property taxes. This ordinance simply repeals Ordinance No. BL2001-777 in its entirety so that Metro will no longer be subsidizing persons making payments by credit or debit card.

ORDINANCE NO. BL2008-224 (STANLEY) – This ordinance amends the Metro property standards code to prohibit the excessive accumulation of wood/chips. The Metro Code currently prohibits the accumulation of trash and debris on residential property, but does not specifically address the dumping of large amounts of mulch for use as fill material.

This ordinance would prohibit owners and occupants of property of one-half acre in size or greater from covering more than five percent of the total lot area with wood chips/mulch. Such property owners could continue to use mulch for landscaping purposes as long as they do not exceed the five percent maximum lot coverage. Since mulch is biodegradable, it is questionable why anyone would attempt to use it as fill material. In any event, at least one residential property owner has been dumping large quantities of mulch on their property to fill in the yard. This ordinance exempts commercial establishments engaged in the sale of mulch, as well as Metro’s mulch facility at the old Bordeaux landfill.

A similar ordinance that would have regulated the dumping of mulch on residential property was deferred indefinitely in March 2008.

ORDINANCE NO. BL2008-225 (COLE) – This ordinance approves a clinical affiliation agreement between the Davidson County drug court and Vanderbilt University to provide student clinical instruction and training to nursing students. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. The term of the agreement is for five years, but may be terminated by either party upon 30 days written notice. Vanderbilt University will be required to provide assurance that the students are covered by health and professional liability insurance, and the schools agree to assume responsibility for all of their students participating in the program.

Metro is a participant in similar clinical experience programs through the Metro health department.

ORDINANCE NO. BL2008-226 (COLE) – This resolution approves a lease agreement between the Metropolitan Government and Square Investment Holdings, L.P., for the lease of office space in the Washington Square building. Metro has been leasing 40,222 square feet of space in the Washington Square building for the district attorney's office since 1993. The current lease agreement is set to expire on November 30, 2008.

Under the new agreement, Metro will continue to lease 40,222 square feet on the fourth and fifth floors of the Washington Square building for the district attorney's office, plus an additional 18,800 square feet on the sixth floor for the department of law. The new term of the lease will be from December 1, 2008, through November 30, 2018, with an option to renew for an additional five year term. The base rent for the additional term will be \$14.85 per square foot for the first three years (\$876,476.70 annually), and \$15.85 per square foot for the years 2012 and 2013, and \$17.85 per square foot thereafter. As part of this lease agreement, Investment Holdings will make several improvements to the premises consisting of the following: replacement of the carpet and baseboards on the fourth and fifth floors; repainting the fourth and fifth floors; replacement of the millwork in the kitchen; upgrade the public restrooms on the fourth and fifth floors; renovation of Metro's reception space on the fourth floor to accommodate additional work stations; and extensive renovation to the sixth floor to accommodate the department of law.

The landlord is to provide air conditioning and janitorial services, but all other utility expenses will be paid by Metro. Metro will have three parking spaces in the basement at a cost of \$150 per month per space, and ten additional parking spaces in the garage across the street at a monthly cost of \$135 per space. Metro will also have access to a storage bin in the basement at a cost of \$85 per month.

The lease also grants Metro two options to expand the leased square footage. The first option, which has an exercise date of January 1, 2009, will be to lease 2,858 additional square feet. The second option will be to lease 2,859 square feet, with an exercise date of September 1, 2012. If the options are exercised, Metro will be given an improvement allowance of \$15 per square foot for the first option space and \$18 per square foot for the second. Further, Metro will have the continuing right of first refusal to lease this additional space outside of the option exercise periods.

In the event funding for the lease is discontinued by Metro after 2013, Metro has the right to terminate the lease upon six months written notice and payment of the unamortized portion of the improvements made by Investment Holdings, LP. Under the previous lease, Metro had the right to terminate upon six months notice without being tied to the termination of funding.

This lease agreement has been approved by the planning commission.

ORDINANCE NO. BL2008-227 (BAKER & COLE) – This ordinance declares a parcel of Metropolitan Government-owned property located off of Cockrill Bend Boulevard 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. This parcel was owned by the former Metropolitan port authority, which was dissolved in 1999. All of the port authority's property was transferred to the Metropolitan Government, but Metro has no need for this parcel. The proceeds of the sale will be credited to the general fund.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-228 (GILMORE & EVANS) – This ordinance abandons an 84-inch brick combination sewer line and easement in connection with the Griffin Plaza project located at 12th Avenue South and Pine Street. This sewer line and easement is no longer being used by the department of water and sewerage services.

This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2008-169 (COLE, BENNETT & BARRY) – This ordinance, as amended, amends the zoning code provisions applicable to financial institutions and check cashing, title loan, pawnshops, and cash advance establishments. Although these types of establishments are separately regulated by state law, the zoning code currently makes no distinction between these uses. Check cashing, title loan, and cash advance establishments are all considered “financial institutions” under the zoning code, although this term is not defined in the code. Pawn shops are considered retail establishments. Financial institutions are currently permitted by right in most of the mixed-use, office, commercial, and shopping center districts. The use is permitted with conditions in the MUN, ON and CN districts, with a requirement that such establishments not exceed 2,500 square feet of floor area.

This ordinance simply makes a distinction in the zoning code between the financial institutions, check cashing, title loan, pawnshops, and cash advance uses. The definition of financial institution in the ordinance would include establishments that provide a variety of financial services, including banks, credit unions and mortgage companies. The definitions of check cashing, title loan, pawnshop and cash advance reference the state law provisions that regulate these different types of establishments. The uses would be either permitted by right or permitted with conditions in the same districts as financial institutions and retail establishments currently are. Thus, although the different types of establishments will be considered separate uses, their treatment under the zoning code will remain the same.

The only real effect the council office sees this ordinance having would be to prohibit or limit pawnshops, check cashing, and cash advance establishments as part of an adopted specific plan (SP) district. Although some SPs, such as the SP for the Gallatin Pike corridor, prohibit pawnshops and title loan businesses, the zoning code does not presently include a definition of these types of uses.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-176 (COLE) – This ordinance approves an increase in the probation supervision fees for probation services provided by the general sessions court. This fee was established in 1991 at a rate of \$20 per month. The fee was increased to \$25 per month as part of the revenue enhancements associated with the fiscal year 2006-2007 budget, which was expected to result in \$516,000 in increased revenue.

This ordinance increases the probation supervision fee from \$25 to \$35 per month. The ordinance provides that the cost of operating the division of probation has increased since the fee was last increased in 2006. The proposed operating budget for next fiscal year includes \$165,000 in additional revenue from this fee increase used to balance the budget. By law, the Metropolitan Government cannot charge more in fees than the cost of providing the governmental service.

This ordinance is to be deferred to track with the budget.

ORDINANCE NOS. BL2008-207 through BL2008-209 – These three ordinances authorize the Metropolitan Government to enter into participation agreements to provide public pressure sewer extensions through the construction of sewerage pump stations and force mains. The construction of the pump stations will be at the sole expense of the developers.

Ordinance No. BL2008-207 (Gotto, Evans & Cole) approves a participation agreement with Towering Oaks Developing Group, LLC for the construction of a pump station and force main for its development at the Towering Oaks subdivision. The developer agrees to contribute \$150,000 to fund the additional operation and maintenance costs for the proposed pump station and force main.

Ordinance No. BL2008-208 (Evans & Cole) approves a participation agreement with Old South Properties, Inc. the construction of a pump station and force main for its development at Old Hickory Pumping Station. The developer agrees to contribute \$70,000 to fund the additional operation and maintenance costs for the proposed pump station and force main.

Ordinance No. BL2008-209 (Stanley, Cole & Evans) approves a participation agreement with Beazer Homes for the construction of a pump station and force main for its development at the Villages of Riverwood subdivision. The developer agrees to contribute \$362,000 to fund the additional operation and maintenance costs for the proposed pump station and force main.

ORDINANCE NO. BL2008-210 (EVANS & COLE) – This ordinance abandons an 8" sanitary sewer line and easement that is no longer needed by the department of water and sewerage services at the West Nashville Heights Church of Christ located at 6833 Old Charlotte Pike and 825 Templeton Drive. This sewer line will be converted to a private service line on the property. The ordinance provides that future amendments may be approved by resolution of the council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2008-211 (RYMAN, EVANS & OTHERS) – This ordinance authorizes the negotiation, acquisition and acceptance of easements required for the installation of grinder pumps to be completed by the department of water and sewerage services. The easements have been executed by the respective property owners for the following properties:

- 65 Harbor Cove Drive
- 326 Dry Creek Road
- 950 Forest Acres Court
- 3821 Leona Pass
- 3809 Leona Pass
- 3829 Leona Pass
- 508 Pauls Trail
- 640 Gaylemore Drive
- 812 Leona Pass
- 2554 Miami Avenue
- 2514 Miami Avenue
- 3817 Leona Pass
- 3808 Leona Pass

The ordinance provides that future amendments may be approved by resolution of the council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2007-212 (MATTHEWS, COLE & OTHERS) – This ordinance authorizes the acceptance of 21 easements for various stormwater projects in Davidson County. Easements are to be accepted for the following properties:

- 140 3rd Avenue South
- 5948, 5946, 5944, 5942, 5940, 5938, 5936, 5934, 5932, 5930, 5928, 5926, 5924, 5922, and 5920 Obrien Avenue
- 2028 and 2022 West End Avenue
- 3127B Parthenon Avenue
- 8050 Highway 100
- 4601 Ashland City Highway
- 2141 Fairfax Avenue
- 618 Thompson Lane
- Valley View Road, unnumbered
- 550 Great Circle Road
- 2806 Dickerson Pike
- 314 Natchez Court
- 301B Madison Street
- Cato Road, unnumbered
- Murfreesboro Pike, unnumbered
- 480 Hogan Road
- 405 Northcrest Drive
- 3851 Industrial Parkway
- 1949 Old Hickory Boulevard
- 4349 Shady Dale Road
- 3901 Granny White Pike
- 112 17th Avenue North
- Hayes Street, unnumbered

ORDINANCE NO. BL2008-215 (COLE, EVANS & OTHERS) – This ordinance amends the Metropolitan Code provisions pertaining to water/sewer capacity and tap fees. In June 2006 and June 2007, the council approved certain “revenue enhancements” necessary to balance the department of water and sewerage services’ operating budget. One aspect of these revenue enhancements included an increase in tap fees and capacity fees. In 2006, a new “capacity charge” of \$500 was enacted for all new single-family equivalent connections to the public water supply system. This fee was expected to generate \$1.28 million in new revenue. In addition, the 2006 ordinance increased the capacity charge on all new single-family equivalent connections to the public sewer system from \$500 to \$1,000 per connection, which was expected to generate \$3.75 million in annual revenue for the water department. A year later, the capacity charges were doubled to \$1,000 per unit of flow for water connections and \$2,000 per unit of flow for sewer connections. This fee increase was anticipated to generate \$2,900,000 in additional revenue for fiscal year 2008. The 2007 ordinance also increased the tap fees for water and sewer connections between 34 and 41 percent.

Since the enactment of these capacity fee increases, several small businesses have been required to pay substantial sums of money for water/sewer connections, both for new construction and for renovations of existing buildings where water/sewer capacity is expected to increase (i.e., a former retail establishment being renovated for a restaurant use). This ordinance will allow certain water/sewer customers to pay these fees in even monthly installments over a three year period. Water customers using connections to the public water system no larger than 1 ½ inches and with expected usage averaging 5,000 gallons or less per day, other than single-family residential developments or combined single-family and commercial developments, will be allowed to make equal monthly installments without interest for 36 months. Sewer customers using a four-inch, six-inch or eight-inch connection with expected sewer usage of 5,000 gallons per day or less (excluding single-family residential developments or combined single-family and commercial developments) will also be authorized to pay the tap and capacity fees over 36 months.

In addition to authorizing a payment plan, this ordinance includes a provision that clarifies what constitutes a new connection for purposes of the capacity fees. A new connection is to include an increase in water or sewer use of ten percent or more through an existing connection as compared to the average flow for the previous three years. Thus, a new connection does not necessarily mean new construction. Although the ordinance is currently being interpreted in this manner by the water department, this revised language will take away any ambiguity.

This ordinance also includes enforcement provisions for failure to pay the capacity charge. In the event of nonpayment, the water department will be allowed to discontinue water/sewer service. The code already allows the discontinuation of service for the nonpayment of tap fees, but capacity fees were not specifically mentioned. Further, failure to pay the capacity fees will constitute a lien against the property. Although the existing code includes the lien provision for the nonpayment of tap fees, it is questionable whether the Metropolitan Government has this authority under state law.

ORDINANCE NO. BL2008-217 (JAMESON) – This ordinance, as amended, amends the Metropolitan building code to establish a “green permit”. In June 2007, the Council enacted Substitute Ordinance No. BL2007-1374 to require sustainable building design standards for new and renovated Metropolitan Government buildings and facilities. However, the code does not provide for any protocol or standards for sustainable private buildings to be designated by the Metropolitan Government as being “green”. In response to requests from certain developers and architects interested in sustainable buildings, the Council requested the Vice Mayor by resolution in February

2008 to appoint a Green Permit Task Force to make recommendations to the Council regarding the appropriate sustainable building protocol for the codes department to use in recognizing private sustainable buildings. This task force was appointed by the Vice Mayor, and made a recommendation in April that green permits be issued for buildings that meet certain standards.

The purpose of this ordinance is to implement the recommendations of the Green Permit Task Force. Pursuant to the ordinance, the department of codes administration would be required to issue a "green" certificate of occupancy if the applicant provides proof of certification by an outside organization as a sustainable building. For residential development, the applicant would have to submit proof of certification from either the U.S. Green Building Council's LEED certification program or the EarthCraft House green building program. Commercial developments would be required to provide proof of LEED certification, as well as compliance with the U.S. Green Building Council's water conservation qualifier, which requires that the building reduce water consumption by twenty percent.

Since the applicant will be required to be certified as a sustainable building using an outside organization, there will be no additional costs to the codes department in issuing the green permit. All the codes department will be required to do is to verify the certification. While the green permit will not result in any particular incentives from Metro, such as a reduction in permit fees, developers will be able to market their building as green, which is becoming more and more popular with environmentally conscious companies and prospective homeowners.

ORDINANCE NO. BL2008-219 (COLE) – This ordinance authorizes the Metropolitan Government to accept a donation of \$10,000 for the use and benefit of the Davidson County drug court program. A donor who wishes to remain anonymous has made an unrestricted \$10,000 cash donation to the drug court. All donations in excess of \$5,000 must be approved by the council by ordinance.

ORDINANCE NOS. BL2008-220 through BL2008-222 – These three ordinances abandon certain alley rights-of-way within the area of the Metropolitan Government. Consent of the affected property owners is on file with the department of public works. These ordinances have been approved by the planning commission and the traffic and parking commission.

Ordinance No. BL2008-220 (Harrison) abandons Alley No. 2007 extending southward from Fern Avenue to a dead end. This alley is located between Brick Church Pike and Evergreen Avenue. This closure has been requested by Dale & Associates on behalf of the property owner.

Ordinance No. BL2008-221 (Gilmore) abandons Alley No. 232 from Pine Street northeastward to Alley No. 233. This alley is located between 12th Avenue South and I-40. This closure has been requested by Littlejohn Engineering Associates on behalf of the adjoining property owners.

Ordinance No. BL2008-222 (Gilmore) abandons Alley No. 442 from Division Street northward to a dead end between 17th Avenue South and 18th Avenue South. This closure has been requested by Kennedy Capital Group, LLC.