

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **September 16, 2008**

RE: **Analysis Report**

Balances As Of:	<u>9/9/08</u>	<u>8/15/07</u>
<u>GSD 4% RESERVE FUND</u>	* \$30,751,910	\$26,540,553
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>	Unavailable	Unavailable

* Assumes estimated revenues in fiscal year 2009 in the amount of \$23,705,700

– RESOLUTIONS –

RESOLUTION NO. RS2008-407 (MAYNARD & COLE) – This resolution approves an intergovernmental agreement between the state department of finance and administration and the Metropolitan social services commission to provide home-delivered meals to TennCare eligible elderly and disabled persons. The term of this contract is from July 1, 2008 through June 30, 2009. This agreement will allow Metro social services to be reimbursed for home delivered meals provided to TennCare eligible recipients at the cost rates established by the state. Metro also receives grant funding from the Greater Nashville Regional Council for the home delivery meal program.

State law allows such intergovernmental agreements to be approved by resolution.

There is a substitute for this resolution that appropriates the funding for the contract in addition to approving the terms of the agreement.

RESOLUTION NO. RS2008-431 (GOTTO) – This resolution proposes an amendment to the Metropolitan charter to require council approval prior to the use of eminent domain to acquire interests in real property on behalf of the Metropolitan Government, or any of its departments, boards, commissions, or agencies. Technically, the council is already vested with the power of eminent domain, and no department can condemn property without the council's authorization. However, the council can and has delegated this authority to the Metropolitan development and housing agency (MDHA) through the adoption of redevelopment districts under state law.

Under this amendment, no Metro department or agency could commence condemnation proceedings after August 5, 2010 (the date of the next general election at which the amendment could be considered) unless the council specifically authorizes the use of eminent domain to acquire the particular property by ordinance. This requirement would apply to MDHA on a prospective basis to any redevelopment plan or urban renewal plan adopted after August 5, 2010. Each new redevelopment plan would be required to include a provision specifically reserving the power of eminent domain to the council. The amendment further provides that the council may adopt ordinances to further the intent of the charter amendment and to aid in its implementation.

The council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. These resolutions provide that the date for holding the referendum election on the Charter amendments is to be the August 5, 2010 general election. The Charter provides that resolutions proposing amendments to the Charter must be filed at least 80 days prior to the election. State election law provides that resolutions requiring the holding of elections on questions submitted to the people must be adopted between 45 and 60 days prior to the election. Thus, this resolution should be deferred indefinitely to avoid holding a special election.

RESOLUTION NO. RS2008-432 (FORKUM) – This resolution appropriates \$60,300 from the unappropriated fund balance of the general fund to four nonprofit organizations that had applied for funds through the community enhancement grant program. The fiscal year 2008-2009 operating budget for the Metropolitan Government appropriated a total of \$2 million for three categories of community enhancement grants: \$750,000 for domestic violence programs; \$750,000 for education and after school programs; and \$500,000 for community service programs. In August 2008, the council adopted Resolution No. RS2008-386 appropriating these funds to 26 nonprofit organizations that were selected to receive funding by the three review panels selected by the mayor, vice mayor and chair of the council budget and finance committee. All three review panels scored each application within their particular category. However, the domestic violence panel chose to recommend funding for two nonprofits that scored lower than certain organizations that were not chosen to receive funding.

This resolution appropriates the following amounts from the unappropriated fund balance to four of the five nonprofits that received a higher score:

- \$15,600 to Prevent Child Abuse TN
- \$15,300 to Exchange Club Family Center, Inc.
- \$14,700 to CASA
- \$14,700 to Tennessee Coalition Against Domestic & Sexual Violence

State law provides that the Metropolitan Government may appropriate funds to qualifying nonprofit organizations either as part of the annual operating budget or by resolution of the council. All such organizations must enter into a contract with the Metropolitan Government outlining how the funds will be expended.

The council office would point out that the Metropolitan Government has established a policy of maintaining a minimum unappropriated fund balance of five percent. Specifically, in 1989 the council adopted Resolution No. R89-959 to adopt a policy recommended by the finance director and approved by the mayor to maintain an amount equal to 5% of the GSD general fund, the USD general fund and the general purpose school fund. Further, the Metro office of management and budget Policy No. 8, with an effective date of July 1, 2006, provides that an amount equal to 5% of the six budgeted funds should be maintained in the fund balance as a reserve “to protect the financial position of the government in the event of unexpected emergencies or unforeseen downturns in revenue collection.” According to the fiscal year 2008-2009 operating budget adopted by the council in June 2008, the unencumbered fund balance for the GSD general fund is estimated to be \$15 million, which is only 2.2% of the FY2008 budget. Therefore, this resolution is inconsistent with the Metropolitan Government’s policy previously approved by the council. The purpose of the policy is to give the credit rating agencies some assurance that the Metropolitan Government understands the importance of maintaining adequate reserves.

RESOLUTION NO. RS2008-433 (GILMORE & FORKUM) – This resolution appropriates \$275,000 from the Gulch CBID fund of the general services district to reflect the change in the rate of special assessment recently approved by the council. In June 2008, the council enacted Ordinance No. BL2008-213 to increase the rate of special assessment for the Gulch central business improvement district (GCBID) 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 based upon the increase in property values resulting from the projected revitalization of the Gulch area. The fiscal year 2008-2009 operating budget appropriated \$75,000 to the GCBID, which was based on the previous assessment rate.

This resolution is essentially a housekeeping matter to appropriate the additional \$275,000 to be generated by the increased assessment rate to the Gulch central business improvement district.

RESOLUTION NO. RS2008-434 (FORKUM & BENNETT) – This resolution approves a direct appropriation grant in the amount of \$25,000 from the Tennessee department of finance and administration to the Davidson County drug court. The drug court is a diversionary program that provides supervision and treatment of non-violent drug offenders. These funds will be used for the operational expenses of the drug court program.

RESOLUTION NO. RS2008-435 (FORKUM) – This resolution approves an amendment to and extension of a contract between the Metropolitan board of health and Catholic Charities of Tennessee, Inc., to provide care coordination for the Bridges to Care Program. Bridges to Care (BTC) is a program that links uninsured residents of Nashville to a network of safety net providers to help improve access to medical, dental, mental health and substance abuse care. The program also provides assistance with prescription drugs and transportation to healthcare providers.

This amendment extends the term of the contract through June 30, 2009 and increases the amount of compensation to be paid to Catholic Charities by \$61,314, for a total compensation amount of \$340,000.

RESOLUTION NOS. RS2008-436, RS2008-437 & RS2008-439 (FORKUM) – These three resolutions approve clinical affiliation agreements between the Metropolitan board of health and Belmont University and Middle Tennessee State University (MTSU), respectively, to provide clinical experience to nursing students. Pursuant to these agreements, the Metro health department will provide clinical training experiences to nursing students as part of their public health training. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. The term of the agreements are for five years, but may be terminated by either party upon 30 days written notice. Belmont is required to maintain professional liability insurance with a single limit of not less than \$2 million per occurrence and \$4 million aggregate. Since MTSU is self-insured through the state of Tennessee, there is no separate insurance requirement contained in that agreement.

Metro participates with several colleges and universities to provide clinical experience students.

Resolution No. RS2008-436 approves a clinical affiliation agreement with Belmont for clinical training for graduate nursing students.

Resolution No. RS2008-437 approves a clinical affiliation agreement with MTSU for clinical training for undergraduate nursing students.

Resolution No. RS2008-439 approves a clinical affiliation agreement with Belmont for clinical training for undergraduate nursing students.

RESOLUTION NO. RS2008-438 (FORKUM) – This resolution approves an amendment to a contract between the Metropolitan board of health and Vanderbilt University for the health department's participation in the Tuberculosis Trials Consortium. Vanderbilt has received a grant from the U.S. department of health and human services for this project. This resolution extends the term of the contract through September 30, 2008, and increases the compensation for the health department for a total contract amount of \$80,800. The amendment also modifies the scope of services for the contract. Vanderbilt is providing two full-time employees for the program to conduct studies and enroll patients. The health department is providing office space and administrative support.

RESOLUTION NO. RS2008-440 (FORKUM) – This resolution approves a contract between the Metropolitan board of health and the University of Pittsburgh for access to the National Retail Data Monitor. The University of Pittsburgh created and maintains a database known as the National Retail Data Monitor to collect and analyze over-the-counter drug sales to identify disease outbreaks. This database service is made available by the university to local health departments for public health surveillance. Pursuant to this contract, the board of health will pay an annual fee of \$2,607 to access the system. The term of the contract is for one year, but may be extended for up to four additional one-year periods.

RESOLUTION NO. RS2008-441 (FORKUM) – This resolution approves an extension and amendment to a contract between the Metropolitan board of health and the Campus for Human Development to provide room and board for homeless persons participating in substance abuse treatment at the downtown clinic. This resolution extends the contract for a partial term beginning July 1, 2008 and ending October 31, 2008. The Campus for Human Development will receive \$16,667 to provide these housing services for the extended term.

RESOLUTION NO. RS2008-442 (FORKUM) – This resolution approves a third amendment to a contract between the Metropolitan board of health and the Campus for Human Development for the operation of an educational day center for the homeless. This resolution extends the contract for one year for a new contract term of July 1, 2008 through June 30, 2009. The amendment does not change the amount Campus for Human Development is to be paid to operate the center under the original contract, which is \$150,000.

RESOLUTION NO. RS2008-443 (FORKUM) – This resolution approves a grant in the amount of \$42,434 from the state department of mental health and developmental disabilities to the Metropolitan health department to provide services related to the treatment of drug and/or alcohol dependent adults. These funds will be used for outpatient treatment, hospitalization, residential treatment, and detoxification services. The grant funds are to provide services to persons that have no other financial means of obtaining alcohol and drug abuse treatment. The term of the grant is from July 1, 2007 through June 30, 2008.

RESOLUTION NO. RS2008-444 (FORKUM) – This resolution approves an application for a grant in the amount of \$501,000 from the U.S. department of housing and urban development to Metro social services for the Rapid Re-Housing Program. If awarded, these funds will be used to serve 25 households with dependent children that have been living in emergency shelters or on the streets for at least seven consecutive days. The grant would be for a three-year period, with \$50,100 per year being used to pay the salary of a case manager, and the remainder of the funds being spent on rent subsidies for eligible homeless families for a three to six month period. Metro social services will act as an advocate for those eligible clients with a history of eviction, past criminal charges and poor credit to help them obtain private rental housing. There will be a required local match of \$37,575 to be provided through the social services operating budget.

RESOLUTION NO. RS2008-445 (FORKUM) – This resolution approves an annual grant in the amount of \$4,940,000 from the state department of health to the Metro board of health to administer environmental health programs. These funds are used for the inspection of hotels, food service establishments, tattoo studios, body-piercing establishments, swimming pools, organized camps, child care facilities, juvenile institutions, and group homes. Instead of a one-year grant term, as in previous years, this grant agreement provides a payment of \$1,230,000 per year through June 30, 2012.

RESOLUTION NO. RS2008-446 (FORKUM) – This resolution approves a grant in the amount of \$211,298 from the U.S. department of health and human services to the Metro board of health to enhance access to community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients. The grant is for a term of August 1, 2008 through July 31, 2009.

RESOLUTION NO. RS2008-447 (FORKUM) – This resolution approves an amendment to an annual grant from the state department of health to the Metropolitan board of health for food safety services. These federal pass-through funds are to be used to pay the salary of an environmental specialist with experience in restaurant inspections and food safety whose primary responsibility will be to participate in multi-state consortium projects through the center for disease control. This resolution increases the amount of the grant by \$42,900, for a new grant total of \$97,800.

RESOLUTION NO. RS2008-448 (MOORE & FORKUM) – This resolution approves an amendment to the account-based self-insured medical benefits plan for Metro employees and pensioners. In October 2006, the council enacted Ordinance No. BL2006-1180, as amended, approving a change to the benefits provisions in the code to authorize the employee benefit board to adopt additional types of self-insured medical plan design structures. This ordinance included a provision that that no new self-insured medical benefit plan could become effective until it is ratified by resolution of the council. In October 2007, the council adopted Resolution No. RS2007-1 to approve a new account-based self-insured medical benefit plan adopted by the employee benefit board, which is administered by CIGNA. This plan is based upon a health reimbursement account (HRA) of \$1,000 for an individual or \$2,000 per family. The HRA is

basically an imaginary "account" that is created for each plan participant in which the foregoing amounts are added on an annual basis. Balances remaining in this account are carried forward and added to the new beginning balance for the next year. Medical costs are paid at 100% of the usual and customary charges until the account is exhausted. It is possible to have additional funds added to the account for completion of a health assessment and participation in certain wellness programs. Preventive care services, such as regular check-ups, physicals, etc., are covered at no cost to the participant. Once the HRA is exhausted, participants are responsible for 100% of their medical bills up until the deductible of \$500 for individual coverage and \$1,000 for family coverage. After the deductible has been met, the participant pays 10% of medical charges until the out-of-pocket maximum has been paid.

This resolution approves an increase in the amounts Metro will contribute into the health reimbursement account. The new contribution amounts will be \$1,100 annually for individual coverage and \$2,200 per year for family coverage.

RESOLUTION NO. RS2008-449 (MOORE, BAKER & FORKUM) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide funding for a disability navigator to help people with disabilities access employment services. These funds were initially used to train an existing NCAC employee to serve as a disability navigator. This person in turn trains other NCAC employees to enable the career center to be more adept at meeting the employment needs of people with disabilities.

This resolution increases the amount of the grant by \$42,857, for a new total grant award of \$152,857, and extends the term of the grant through June 30, 2009.

RESOLUTION NO. RS2008-450 (FORKUM & BAKER) – This resolution accepts a grant in the amount of \$165,000 from the state department of labor and workforce development to the Nashville career advancement center for the incumbent worker training program. These federal funds, under the Workforce Investment Act of 1998, are used to train employees of businesses that apply for and receive the training assistance. The private businesses participating in the program are responsible for providing matching funds. The term of the grant is from July 1, 2008 to June 30, 2009.

RESOLUTION NOS. RS2008-451 & RS2008-452 (BAKER & FORKUM) – These two resolutions approve grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide training to employees of Zeledyne, LLC through the state incumbent worker training program. These federal funds, under the Workforce Investment Act of 1998, will be used to provide cross training to Zeledyne's employees for glass building projects. NCAC will use the funds to contract with Nashville State Community College to provide the training. Zeledyne is the new owner of the Nashville Glass Plant located at 7200 Centennial Boulevard. The term of the grant is from August 1, 2008 through June 30, 2009.

Resolution No. RS2008-451 approves an administrative grant in the amount of \$10,000.

Resolution No. RS2008-452 approves a program grant in the amount of \$100,000.

RESOLUTION NOS. RS2008-453 & RS2008-454 (BAKER & FORKUM) – These two resolutions approve annual grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults and dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. The grant terms are from July 1, 2008 through June 30, 2010. These grants provide part of the operating funding for the NCAC.

Resolution No. RS2008-453 approves an adult worker grant in the amount of \$301,395.

Resolution No. RS2008-454 approves a dislocated worker grant in the amount of \$482,867.

RESOLUTION NO. RS2008-455 (FORKUM) – This resolution approves an annual grant in the amount of \$278,000 from the state department of state to the Nashville public library system for general library services, library services to the hearing impaired, and materials for the disadvantaged. The term of this grant is for one year beginning July 1, 2008, and extending through June 30, 2009, with a possible extension of four additional one-year periods.

RESOLUTION NO. RS2008-456 (FORKUM) – This resolution approves a grant in the amount of \$4,920 from the state arts commission to the Metropolitan board of parks and recreation to supplement the Big Band dance program in Centennial Park. This program provides free big band dances to the public. The term of the grant is from July 1, 2008 through June 30, 2009. There is a required match of \$4,920 to be provided through the parks department's operating budget.

RESOLUTION NO. RS2008-457 (FORKUM & BENNETT) – This resolution approves an amendment to a grant in the amount of \$89,565 from the state emergency management agency to the Mayor's office of emergency management to complete a multi-hazard mitigation plan. The purpose of the multi-hazard mitigation plan is to reduce risks from natural hazards. The plan is to include a risk assessment describing the type, location, and extent of all natural hazards and a description of Metro's vulnerability to such hazards. The plan is also to include a mitigation strategy for reducing the potential risks identified in the risk assessment.

This grant amendment makes some technical changes to the grant contract regarding the required quarterly progress reports and specifies the content to be included in the hazard mitigation plan. There is no change in the amount of funding.

RESOLUTION NO. RS2008-458 (FORKUM & BENNETT) – This resolution approves an amendment to a grant from the state department of finance and administration to the Metro police department for the Victims of Crime Act victim assistance grant project. The grant was originally in the amount of \$163,578, to be paid in annual increments of \$54,526 over a term of July 1, 2006 through June 30, 2009. A local match in the amount of \$13,632 was required for each year of the grant term. Due to a reduction in federal funding, it is necessary that the grant be amended to decrease the amount of the award from \$54,526 to \$47,983 for fiscal year

2009, and to decrease the amount of the in-kind match from \$13,632 to \$11,996. These funds are used to pay the partial salary and benefits of a full-time police crisis counselor to provide support for victims of violent crimes, including crisis intervention, counseling, and therapy services.

RESOLUTION NO. RS2008-459 (FORKUM & BENNETT) – This resolution accepts the donation of \$5,000 from Del Monte Milk-Bone and the Kroger Company to the Metropolitan Nashville police department to purchase a dog for the police department K-9 unit. Pursuant to Ordinance No. BL2006-1015, donations of items valued at \$5,000 or less may be approved by resolution rather than ordinance.

RESOLUTION NO. RS2008-460 (FORKUM & BENNETT) – This resolution approves an amendment to a contract in the amount of \$168,000 from the Tennessee emergency management agency to the mayor's office of emergency management to subsidize the Metro emergency management program. The funds are used to provide for the planning and administration of emergency management training exercises, and to purchase emergency management equipment. There is a required dollar-for-dollar grantee participation match of \$168,000.

This resolution extends the term of the grant for one month from September 30, 2008 through November 30, 2008. The amendment also incorporates certain additional documents to assist in the event of a discrepancy or ambiguity regarding Metro's responsibilities under the contract.

RESOLUTION NO. RS2008-461 (FORKUM & BENNETT) – This resolution approves an application for a child sexual predator program grant in the amount of \$145,505 from the U.S. department of justice to the Metropolitan police department. These grant funds will be used to pay a contracted civilian to enter data and maintain the sexual predator registry, as well as to purchase computer equipment for use by the contracted person. The funds will also be used to pay overtime wages to three detectives monitoring sexual offenders to ensure such persons are in compliance with the sex offender registration laws.

RESOLUTION NO. RS2008-462 (BENNETT & FORKUM) – This resolution approves an annual grant in the amount of \$192,344 from the state department of transportation to the Davidson County sheriff's office for litter and trash pick-up along roads and highways, and litter prevention education. This grant will be used to fund the administration of a continuing program to use misdemeanor offenders under the custody of the sheriff's office to pick up roadside litter. The grant specifies that \$57,700 of the funds must be used for litter prevention education. The term of the grant is from July 1, 2008 through June 30, 2009.

RESOLUTION NO. RS2008-463 (GOTTO & FORKUM) – This resolution approves a grant in the amount of \$6,457 from the state historical commission to the Metro historical commission to research and update historic property inventories, and for historic design review. If awarded, these grant funds will be used to identify historic properties in subarea 4

(Madison/Goodlettsville) and subarea 7 (West Nashville/Belle Meade/Charlotte Avenue), and to help develop policies to protect these properties. The grant funds will also be used to send Metro historical commission staff to the National Alliance of Preservation Commission's training workshop to be held in Franklin, Tennessee.

There will be a required local match of \$4,305 to be provided from the historic commission operating budget.

RESOLUTION NO. RS2008-464 (FORKUM) – This resolution authorizes the department of law to settle the Metropolitan Government's claim against Affiliated Computer Services, Inc., d/b/a ACS Government Systems, Inc. ("ACS"), in the amount of \$1,100,000. Metro entered into a contract with ACS in July 2004 for computer software and hardware to manage the traffic violations process in the circuit court clerk's office. Metro paid a total of \$917,820 for the system, consisting of \$633,120 for the software licensing, \$197,000 for training and \$87,300 for completion of the project plan. Once the system was installed, it failed to perform at the level Metro required. Numerous attempts were made to work with ACS to correct the system, but it never performed to Metro's expectations. Metro sent a notice of default to ACS in December 2005. On September 28, 2006, Metro terminated the contract and returned the software since ACS still had not corrected the problems.

Metro filed suit against ACS in January, 2007 to recover the \$917,820 Metro had paid for the system. Metro amended its complaint in March 2008 to add prejudgment interest and punitive damages for the misrepresentation allegation, as well as treble damages and attorney fees under the Tennessee Consumer Protection Act. ACS countersued Metro for approximately \$1.6 million in unbilled services and future services that were contracted for.

The total damages to Metro as a result of this defective computer system is \$1.4 million, including our outside attorney fees, expert witness fees, and court reporter costs. ACS has agreed to pay Metro \$1.1 million to settle this lawsuit, as well as dismiss its counterclaim against Metro.

The department of law recommends accepting the \$1.1 million settlement since outside counsel and expert witness fees would substantially increase if the matter went to trial.

RESOLUTION NO. RS2008-465 (FORKUM) – This resolution authorizes the department of law to settle the personal injury claim of Sean Woodard against the Metropolitan Government in the amount of \$7,000. On December 22, 2007, a Metro police officer was traveling north on Gallatin Pike when he was dispatched to a call in the opposite direction. The officer activated his blue lights and attempted to turn around in the middle of the road. The officer turned in front of a motorcycle driven by Mr. Woodard, who was unable to avoid hitting the patrol car. Mr. Woodard was thrown over the handlebars of the motorcycle causing personal injuries. His medical bills as a result of the accident total \$3,053.53.

The department of law recommends settling this claim for the amount of the medical bills plus \$3,949.47 for pain and suffering to be paid from the self-insured liability fund.

The police officer involved in this accident received disciplinary action consisting of a written reprimand.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2008-284 (TYGARD & COLE) – This ordinance increases the rates wrecker companies may charge for providing emergency towing services. Under the Metropolitan code, “emergency towing” occurs in one of three situations: (1) When a vehicle is parked or stopped in violation of any Metro ordinance; (2) When a vehicle is obstructing traffic flow; or (3) When a vehicle is disabled by an accident and is obstructing traffic such that its removal or storage for safekeeping is necessary in the interest of public safety and protection of property. Wrecker companies are specifically licensed by the transportation licensing commission to provide emergency towing services. The commission has divided Davidson County into various emergency towing zones, which are serviced by certain companies.

This ordinance provides for various rate increases regarding emergency towing services. The last increase in these fees was in February 2005. These fee increases were initially proposed by the Davidson County Zone Towing Association, which represents the sixteen emergency wrecker services. The transportation licensing commission held two public hearings on these increases, and is recommending the increases to the council based upon the public safety concerns associated with the prompt removal of vehicles blocking our roads and highways. According to information provided by the transportation and licensing commission director, accidents occurring because of traffic congestion resulting from an earlier crash account for 18 percent of all traffic fatalities in the U.S. and pose a serious safety risk to police officers and first responders.

The fee adjustments in this ordinance will bring these fees closer in line with the rates charged in other municipalities. Since these fees were last adjusted in 2005, the cost of diesel fuel has more than doubled and the cost of new wrecker equipment has risen by 30 percent. A document showing the specific changes in the various fees is attached to this analysis. A summary of the changes is as follows:

- A \$20.00 increase in the rates charged by class A wreckers (light vehicle emergency towing)
- A \$30.00 increase in the rates charged by class B wreckers (for larger trucks and vans)
- A \$50.00 increase in the rates charged by class C wreckers (for heavy tractor-trailers and buses)
- A \$25.00 increase in the hourly labor rates
- A new “lien holder notification fee” not to exceed \$10.00 to recover a portion of the direct expenses incurred by the wrecker companies to meet the state requirements for disposal of abandoned vehicles
- A flat fee of \$2,500 in the event air bags are used to upright overturned tractor-trailer trucks. This fee would only directly impact those independent operators that do not have insurance.
- A \$5.00 increase in the daily storage fees

- A \$10.00 increase in the “drop fee” to remove a vehicle from the wrecker before it is towed
- A new rate schedule for towing large vehicles off of private property

ORDINANCE NO. BL2008-286 (COLE & HUNT) – This ordinance creates several positions within the division of internal audit for the Metropolitan Government, enabling them to be a part of the employee pay plan. The Metropolitan Charter requires that newly created positions be approved by ordinance upon recommendation from the mayor and the civil service commission. This ordinance creates the positions of internal auditor 1 and 2; senior internal auditor; principal internal auditor; and internal audit manager. These new internal audit positions will be in the classified service of the Metropolitan Government.

ORDINANCE NO. BL2008-288 (EVANS & COLE) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with McFARLINWOODS, LLC, to provide a public pressure sewer extension through the construction of a pump station and force main at the McFarlin Woods subdivision located off of Oak Creek Drive. The project will consist of the construction of 600 linear feet of sewer main plus the pump station. The construction of the pump station will be at the sole expense of the developer, and the developer agrees to contribute \$60,000 to fund the additional operation and maintenance costs for the proposed pump station and force main.

ORDINANCE NOS. BL2008-289 & BL2008-290 – These two ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. The ordinances provide that future amendments may be approved by resolution of the council. These ordinances have been approved by the planning commission.

Ordinance No. BL2008-289 (Harrison & Evans) abandons an 8” sanitary sewer line and 1” water line, along with the corresponding easements at the Woods at Monticello subdivision located off of West Trinity Lane. The existing water and sewer lines will be replaced by new lines on the property.

Ordinance No. BL2008-290 (Evans) abandons a public utility drainage easement at the Harding Academy sports field project located on Harding Road.

ORDINANCE NOS. BL2008-291, BL2008-295 & BL2008-296 – These three ordinances abandon portions of Metro right-of-way no longer needed for government purposes. The ordinances do retain all Metro easements. These three ordinances have been approved by the traffic and parking commission and the planning commission.

Ordinance No. BL2008-291 (Holleman) abandons a portion of Alley No. 1215 between 42nd Avenue North and 43rd Avenue North. This closure has been requested by L & L Properties, the owner of all adjoining parcels.

Ordinance No. BL2008-295 (Toler) abandons a portion of Trousdale Drive from Hill Road northward to a dead end. This closure has been requested by Lyman H. Hines, an adjacent

property owner. Consent of the affected properties is on file with the department of public works.

Ordinance No. BL2008-296 (Langster, Ryman & Gotto) abandons a portion of 30th Avenue North from Felicia Street to Alley No. 945, located between 28th Avenue North and 31st Avenue North. This closure has been requested by Dr. Andrea Hayes, an adjacent property owner, to allow for the development of a medical office building. Consent of the affected property owners is on file with the department of public works.

ORDINANCE NO. BL2008-292 (RYMAN) – This ordinance amends the Metropolitan Code to clarify the types of work for which a plumbers’ license is required, and to include additional specifications for the three license classifications. In June 2004, the plumbing provisions in the Metro Code were overhauled to require that plumbers be “licensed” as opposed to “certified”, and to include additional provisions regarding apprenticeship programs and penalties for violations. The Code includes three classifications of plumbers that must obtain a license: master plumber, journeyman plumber, and apprentice plumber. The Code also includes a description of the type of work that is considered “plumbing work” for which a plumber must be licensed in one of the above categories. Such work includes plumbing construction, renovation, installation, alteration, extension, removal, reparation, maintenance, or servicing, or any plumbing installation for which a permit is required. The code expressly exempts individual property owners doing plumbing work at their own residence from having to obtain a plumbers’ license.

Apparently, there is some disagreement among the plumbing industry and the department of codes administration regarding the interpretation of the Code provisions setting forth the types of work for which a plumbers’ license must be obtained. The council office is of the understanding that the codes department only requires a license when a plumber or contractor attempts to pull a permit for plumbing work. Thus, individuals performing plumbing repairs for which no permit is required do not have to obtain a plumbers’ license.

This ordinance basically adds a specific definition for “plumbing work” that does not include the phrase “for which a permit is required”, as provided in the existing code. The new definition of “plumbing work” would mean “the construction, renovation, installation, alteration, extension, removal, reparation, maintenance, or servicing of any plumbing system.” This ordinance also adds specifications for each of the three licensing classifications. Every plumbing business in Davidson County would be required to employ at least one master plumber licensed by either the Metro plumbing examiners and appeals board or the state of Tennessee. A journeyman plumber would work under the direction of a master plumber. An apprentice plumber would work under the direct supervision of a master or journeyman plumber.

ORDINANCE NO. BL2008-293 (COLEMAN & EVANS) – This ordinance amends the Metropolitan Code provisions pertaining to water and sewer billing procedures and due dates. Under the current code, the department of water and sewerage services issues a bill once the meter is read. The bill is then due fifteen days after issuance. Since water meters cannot feasibly be read on the same day every month, a customer’s due date will fluctuate slightly based upon the date the bill is sent.

This ordinance basically makes two changes to the code. First, the ordinance would require that a customer's due date be on the same day each month. The code allows the water department to divide their service area into different meter reading or billing districts for the purpose of systematically and efficiently reading meters and billing accounts. This ordinance would require that once a customer is placed in a billing district, his/her bill shall be due on the same day of the month each month. Second, the ordinance extends the due date from fifteen days to twenty-five days. Thus, the bill must be sent to the customer at least twenty-five days prior to the fixed due date, which must be the same day of the month.

The director of finance has refused to certify that funds are available for implementation of this ordinance. According to information provided by the department of water and sewerage services, this ordinance would require hiring more meter readers, as well as working on weekends and holidays. The finance director's letter notes that the administration is currently working with the water department on a plan to address water rates, and that this proposed legislation should more properly be addressed as part of the overall review of rates and charges.

ORDINANCE NOS. BL2008-294 (TOLER & FORKUM) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with McFARLINWOODS, LLC to provide public sewer service to sections 5 and 6 of the McFarlin Woods subdivision in Williamson County. Back in 1998, the department of water and sewer services expanded two trunk sewer lines in anticipation of private developments tying on to the system. Pursuant to this agreement, the developer will contribute \$60,000 toward the cost of the project in aid of construction for a total of 30 single-family home connections. These funds are to be deposited into the water and sewer extension and replacement fund.

This is a typical participation agreement entered into by the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service. The properties benefiting from the sewer connections become regular customers of Metro water services and pay the same sewer rates as customers in Davidson County.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2008-259 (CRADDOCK, PAGE & OTHERS) – This ordinance amends the Metropolitan noise ordinance to add a "plainly audible" standard for determining violations and adding certain restrictions pertaining to motor vehicle noise. The current noise ordinance provides maximum decibel levels for the operation of sound amplification equipment. The code prohibits amplified noise in excess of 55 db(A) between 9:00 a.m. and 9:00 p.m. or fifty db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property. In order for a person to be cited under the current law, a police officer has to take a measurement using a decibel meter. This makes enforcement of the noise ordinance difficult, as all officers do not carry decibel meters. Further, some citizens

have complained that the maximum decibel levels in the ordinance are too high, while others have complained that the levels are unreasonably low.

A review of recently-enacted noise ordinances evidences a trend toward using a “plainly audible” standard, as opposed to fixed decibel levels. This ordinance simply removes the references to specific decibel levels in the noise ordinance and substitutes such levels with a provision prohibiting amplified noise that is plainly audible from the adjacent property line. If the amplified sound is on public property or within the public right-of-way, the operator would be in violation if the sound was plainly audible fifty feet or more from the source of the sound. The ordinance defines “plainly audible” as any sound which clearly can be heard by unimpaired auditory senses. The ordinance continues the existing exemption for downtown properties.

This ordinance also adds provisions regulating motor vehicle engine and exhaust noise. The code currently prohibits excessive car stereo noise, but contains no provisions applicable to the vehicle itself. This ordinance would prohibit a person from operating a motor vehicle that is not equipped with a muffler in good working order to prevent excessive noise. Further, the ordinance would prohibit the use of a “cut-out, by-pass, or similar muffler elimination unit”, or the operation of a motor vehicle with devices that amplify motor noise or motor vehicle exhaust noise. Finally, the ordinance would prohibit the operation of a motor vehicle if the exhaust noise is plainly audible at 200 feet.

ORDINANCE NOS. BL2008-260 through BL2008-262 – These three ordinances abandon portions of Metro right-of-way no longer needed for government purposes. The ordinances do retain all Metro easements.

Ordinance No. BL2008-260 (Gilmore) abandons a portion of Alley No. 236 from 16th Avenue South northeastward to a dead end between Broadway and McGavock Street. This closure has been requested by Climer and Associates on behalf of Beaman Automotive, which owns the property on both sides of the alley. This ordinance has been approved by the traffic and parking commission and the planning commission.

Ordinance No. BL2008-261 (Baker) abandons a portion of 58th Avenue North between 60th Avenue North and California Avenue. This closure has been requested by Frank Bessire, an adjacent property owner. Consent of the affected property owners is on file with the department of public works. This ordinance has been approved by the traffic and parking commission and the planning commission.

Ordinance No. BL2008-262 (Langster) abandons a portion of Alley No. 699 from Acklen Park Drive to the dead end between Long Boulevard and I-440. This closure has been requested by Wills-Brooks Investments, an adjacent property owner. Consent of the affected property owners is on file with the department of public works. This ordinance has been approved by the traffic and parking commission, but was disapproved by the planning commission.

ORDINANCE NO. BL2008-263 (JAMESON & EVANS) – This ordinance authorizes the director of public property administration to acquire utility easements by negotiation or condemnation for the purpose of constructing water mains, sanitary sewers, reservoirs, and stormwater improvements. This easement is necessary for the water department’s Washington CSO control facility project. Easements are to be acquired for the following six parcels:

- 111 North 2nd Street
- 140 North 1st Street
- 110 North 1st Street
- Main Street, unnumbered
- 5 Main Street
- James Robertson Parkway, unnumbered

The total cost of the easements to be acquired is estimated to be \$12,000, which will be paid from the water and sewer extension and replacement fund. The ordinance provides that the acquisition of additional easements for this project may be authorized by a resolution adopted by the council.

This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2008-264 through BL2008-266 – These three ordinances authorize the acceptance of easements for various stormwater projects in Davidson County. These easements are being acquired at no cost to the Metropolitan Government. The planning commission has approved these three ordinances.

Ordinance No. BL2008-264 (Cole & Evans) authorizes acceptance of easements for the following eight properties:

- 1435 Litton Avenue
- 2909 Glenmeade Drive
- Glenmeade Drive, unnumbered
- 2910 Glenmeade Drive
- 2916 Murray Circle
- 2918 Murray Circle
- 2932 Glenmeade Drive
- 2934 Glenmeade Drive

Ordinance No. BL2008-265 (Bennett & Evans) authorizes acceptance of easements for the following four properties:

- 109 Dellway Drive
- 111 Dellway Drive
- 2700 A Brunswick Drive
- 2703 Brunswick Drive

Ordinance No. BL2008-266 (Coleman, Gilmore & Others) authorizes acceptance of easements for the following 25 properties:

- 860 Visco Drive
- 2930 Old Franklin Road
- Lombardia Court, unnumbered
- 1900 Lombardia Lane
- Bell Road, unnumbered
- 304, 306 and 308 White Bridge Road

- 3823 Cleghorn Avenue
- 185 and 199 Anthes Drive
- 218 Crestview Drive
- 2970, 2984, 2990, and 2994 Baby Ruth Lane
- 8000 Highway 100
- 25 Vantage Way
- 515 Spruce Street
- 600 Garfield Street
- 214 Welch Road
- 411 and 417 E Palestine Avenue
- 111 and 113 Kenner Avenue

ORDINANCE NO. BL2008-267 (GILMORE & EVANS) – This ordinance, as amended, abandons a ten-foot public utility drainage easement that is no longer needed by the department of water and sewerage services for property located at 1320 Rosa L. Parks Boulevard. The ordinance provides that future amendments may be approved by resolution of the council. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2008-268 through BL2008-270 – These three ordinances authorize the Metropolitan Government to enter into participation agreements with private developers to provide public sewer service to properties in Davidson and Williamson Counties. Back in 1998, the department of water and sewer services expanded two trunk sewer lines in anticipation of private developments tying on to the system. Pursuant to these agreements, the developers will contribute \$2,000 per single-family connection to the sewer system in aid of construction. These funds are to be deposited into the water and sewer extension and replacement fund. These are typical participation agreements entered into by the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service. The properties benefiting from the sewer connections become regular customers of Metro water services and pay the same sewer rates as customers in Davidson County.

Ordinance No. BL2008-268 (TOLER & COLE) approves a participation agreement with Burkitt Place Development, LLC, to provide public sewer service to phase 2F of the Burkitt Place subdivision in Davidson and Williamson Counties. The contractor has agreed to contribute \$42,000 toward the cost of the project in aid of construction for a total of 21 single-family home connections.

Ordinance No. BL2008-269 (COLE & EVANS) approves a participation agreement with Jim Haley to provide public sewer service to phase 4 of the Haley Industrial Park in Williamson County. Mr. Haley has agreed to contribute \$10,000 toward the cost of the project in aid of construction for a total of five industrial lot connections.

Ordinance No. BL2008-270 (EVANS & COLE) approves a participation agreement with Beazer Homes Corporation to provide public sewer service to phase 4 of the Ballenger Farms subdivision in Williamson County. The developer has agreed to contribute \$208,000 toward the cost of the project in aid of construction for a total of 104 single-family home connections.

ORDINANCE NO. BL2008-282 (GILMORE) – This zoning text change amends the zoning code to allow microbreweries as a permitted use in the core frame (CF) and industrial zoning districts. The zoning code currently considers the manufacturing of alcoholic beverages as a “medium manufacturing” use, which is only permitted in the industrial zoning districts. Prior to the adoption of the current zoning code in 1997, alcoholic beverages could be manufactured in the CF district, provided less than 5,000 barrels per month were produced. The CF district is basically the area surrounding the immediate downtown area, which only encompasses part of four council districts (6, 17, 19 and 21) and includes 3,405 parcels.

This ordinance would create a new use called “microbrewery”, which would be permitted by right in the CF, IR (industrial restrictive) and IG (industrial general) zoning districts. The ordinance defines “microbrewery” as the production of alcoholic beverages in quantities not to exceed 5,000 barrels per month.

This ordinance has been approved by the planning commission with a recommended amendment. The planning commission recommends that the ordinance be amended to restrict microbreweries to the production of beer only. Since the definition of “beer” in the Metro code is dependant upon the concentration of alcohol in the beverage (5% or less), the definition of microbrewery should be tailored to address the various types of beer these businesses produce.