

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **February 17, 2009**

RE: **Analysis Report**

Balances As Of:	<u>2/11/09</u>	<u>2/13/08</u>
<u>GSD 4% RESERVE FUND</u>	* \$27,892,850	\$21,556,153
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$19,996,217	\$23,492,102
USD	\$13,510,632	\$15,945,572
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$52,554,640	\$61,508,540

\* Assumes estimated revenues in fiscal year 2009 in the amount of \$12,223,834

**– RESOLUTIONS –**

**RESOLUTION NO. RS2009-609** (FORKUM & TODD) – This resolution authorizes the director of public property administration to exercise an option to purchase three parcels of property for use as part of Peeler Park. The first tract to be acquired consists of 257.73 acres and is located on Neelys Bend Road. The remaining two tracts are located on Menees Road and consist of 64.21 acres and 60.397 acres, respectively. This property is to be acquired at a total cost of \$2,700,000, although the funding has yet to be approved by the council. If the council does not adopt this resolution prior to February 28, 2009, the grantors of the option will have the right to terminate the option. The grantors also have the right to terminate the option if Metro does not provide adequate proof of funding for the purchase price or the board of parks and recreation has not approved the acquisition prior to April 30, 2009. Once approved by the council, Metro will have until June 30, 2009 to exercise the option.

The exercising of this option has been approved by the board of parks and recreation and by the planning commission.

**RESOLUTION NO. RS2009-632** (GILMORE) – This resolution appropriates \$590,000 in community development block grant (CDBG) funds for streetscape improvements in the 8<sup>th</sup> and Lafayette (SoBro) neighborhood strategy area. CDBG funds are designated by federal law to be used for affordable housing activities and for neighborhood community improvement projects. Plans for these improvements are available for review at the offices of the Metropolitan development and housing agency.

**RESOLUTION NO. RS2009-633** (FORKUM) – This resolution approves an application for a grant in the amount of \$100,000 from the Tennessee arts commission for general operating support of the Metropolitan Nashville arts commission. There is a required local match of \$100,000 to be provided from the Metro arts commission's budget.

**RESOLUTION NO. RS2009-634** (FORKUM & TOLER) – This resolution approves an application for a grant in the amount of \$60,000 from the International City/County Management Association to the public library. If awarded, these funds will be used to pay for consulting services, technology, and general expenses associated with the planning and implementation for the proposed consolidation of the Metropolitan public libraries and the Metro Nashville public schools (MNPS) libraries. The grant project narrative outlines a merger of staffing functions between the MNPS libraries and public libraries effective in August 2010.

**RESOLUTION NOS. RS2009-635 & RS2009-636** (FORKUM) – These two resolutions approve amendments to 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, are 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 grants are from August 1, 2008 through June 30, 2009.

**Resolution No. RS2009-635** approves an amendment to the program grant by increasing the amount of the grant by \$78,400, for a new grant total of \$178,400.

**Resolution No. RS2009-636** approves an amendment to an administrative grant by increasing the amount of the grant by \$7,840, for a new grant total of \$17,840.

**RESOLUTION NOS. RS2009-637** (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) for programs to assist the Sheet Metal Workers' Local Union No. 177 with training for entry-level applicants. These funds are to upgrade the skills of 40 apprentices. Specifically, the funds are to be used to provide training in OSHA safety, sheet metal industry mathematics, welding, blueprint reading, computer-aided drawing, operation of equipment, and field installation techniques. The grant term was originally from April 16, 2008 through December 31, 2008. This resolution extends the term of the grant through March 31, 2009.

**RESOLUTION NO. RS2009-638** (BENNETT & FORKUM) – This resolution accepts a donation in the amount of \$141.00 from Fred's Corporation to the Metropolitan Nashville fire department.

**RESOLUTION NO. RS2009-639** (BENNETT & FORKUM) – This resolution approves an application for a grant in the amount of \$125,000 from the U.S. department of justice to the Metropolitan police department for the gang resistance education and training (GREAT) program. The GREAT program is a school-based curriculum taught by police officers to middle school students. The primary goal of GREAT is to prevent youth delinquency, violence and gang membership. These grant funds will be used as follows:

- \$46,393 in personnel costs and fringe benefits
- \$21,589 in travel expenses for officers to attend training in Los Angeles, CA; Orlando, FL; and Portland, OR
- \$41,944 for supplies, including T-shirts and other incentives
- \$8,348 for the summer camp program
- \$18,000 in indirect costs

There will be a required local match in the amount of \$11,275 to be provided through the police department's operating budget.

**RESOLUTION NO. RS2009-640** (FORKUM & BENNETT) – This resolution approves an application for a donation of a Polaris Ranger ATV from U.S. Smokeless Tobacco Company to the Metropolitan Nashville police department. U.S. Smokeless Tobacco Company is giving away an ATV to a qualifying public safety organization. If the grant is approved, the \$10,299 ATV would be used by the police Special Operations-Hazardous Devices Unit.

**RESOLUTION NO. RS2009-641** (BENNETT) – This resolution approves an amendment to a contract with Stericycle, Inc. for the collection of medical waste. Pursuant to the contract, Stericycle is paid \$15.00 per medical waste container it collects. Medical waste is picked up at various health department locations, the police evidence dock, the clinic for Metro Water

Services, the fire stations, and public schools. The term of this contract extends through November 20, 2012.

This contract amendment adds the police forensic lab located at 501 Second Avenue North as a pick-up location.

**RESOLUTION NO. RS2009-642** (MCGUIRE & FORKUM) – This resolution approves a grant in the amount of \$116,000 from the state department of health to the Metropolitan health department for health promotion services. These federal funds will be used to pay the salaries of the health department employees that provide various health promotion programs with the goals of reducing health disparities and addressing core functions of public health. The term of the grant is from July 1, 2008, through June 30, 2009.

**RESOLUTION NO. RS2009-643** (MCGUIRE & FORKUM) – This resolution approves a second amendment to a grant from the U.S. environmental protection agency to the Metropolitan board of health for operation of the air pollution control program of the health department. The health department is responsible for enforcing the provisions of the federal clean air act within the jurisdiction of the Metropolitan Government, and these funds are used to help defray the cost of our air pollution control program. This resolution increases the amount of the grant by \$280,795, for a total grant award of \$681,931. This grant amendment does not increase the required local match of \$560,000 to be provided from the health department's budget.

**RESOLUTION NO. RS2009-644** (FORKUM & MCGUIRE) – This resolution approves an amendment to an annual grant from the U.S. department of health and human services to the Metro board of health to enhance access to a comprehensive continuum of community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients. The grant is for a term commencing April 1, 2008 and extending through March 31, 2009. This amendment authorizes the carryover of \$33,213 from the previous grant period to the current grant period, for a new total grant award of \$3,565,291.

**RESOLUTION NO. RS2009-645** (FORKUM & TOLER) – This resolution approves a grant from the Coca Cola Company to the department of public works of 75 special event recycling bins. These bins will be placed at various special events around Nashville, such as Titans football games, Sounds games, the Earth Day celebration, and downtown music festivals.

**RESOLUTION NO. RS2009-646** (TOLER) – This resolution is an annual, routine housekeeping matter required by state law that classifies all public roads in Davidson County. By adoption of this resolution, those roads and alleys listed on the street and alley acceptance and maintenance map under Ordinance No. BL2008-346, including any changes since the adoption of the map, will be officially classified as public roads.

**RESOLUTION NO. RS2009-647** (FORKUM) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's property damage claim against Alford L. Williams for the amount of \$5,835.55. On October 16, 2008, Mr. Williams pulled in

front of a Metro police car at the intersection of Shelby Avenue and South 14<sup>th</sup> Street, causing damage to the hood, bumper, radiator, and grill of the police vehicle. This resolution settles the claim for the total amount of the repair costs for the police car.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2008-350** (HODGE, BURCH & EVANS) – This ordinance amends the Metro Code by adopting the 2006 edition of the International Fire Code in place of the National Fire Prevention Association (NFPA) fire code and life safety code, which were adopted pursuant to Ordinance No. BL2007-1390 in April 2007. As part of Ordinance No. BL2007-1390, the council adopted several local amendments to the NFPA fire code and life safety code that are more restrictive than the national standard and the state requirements. The state of Tennessee has recently adopted the 2006 International Fire Code as the standard for use throughout the entire state, which became effective on December 20, 2008.

Local governments that enforce their own fire codes have the authority under state law to adopt a code that is at least as restrictive as the state standards. Thus, local government regulations can be more restrictive than the state standards but cannot be less restrictive. This ordinance simply adopts the state standards with no local amendments, other than to specify that the fire flow requirements will be based on the methodology described in the Insurance Services Office's fire flow formula. The state standards provide that fire flow requirements must be determined by an approved method.

State law requires local governments to adopt a code edition that is within six years of the latest published editions.

The fire department has proposed a number of modifications to this ordinance, which the department believes are in the interest of public safety. The proposed changes are attached to this analysis.

**ORDINANCE NO. BL2008-352** (CRAFTON) – This ordinance amends the Metropolitan Code to reduce the amount of water/sewer capacity fees for connection to the water and sewer system. 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 \$1,000 was enacted for all new single-family equivalent connections to the public water supply system. In addition, the 2006 ordinance increased the capacity charge on all new single-family equivalent connections to the public sewer system from \$500 to \$2,000. These fees were re-authorized in June 2007.

Since the enactment of these capacity fee increases, many developers and 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. In an effort to provide some relief to these businesses, the council approved Ordinance No. BL2008-215 in June 2008 to allow certain water/sewer customers to pay these fees in even monthly installments over a three year period.

This ordinance would abolish the capacity charge for water connections and would reduce the sewer capacity fee from \$2,000 to \$500. This would essentially take the code back to its status prior to June 2006. This ordinance also provides that those customers who were on an installment plan pursuant to Ordinance No. BL2008-215 would have their remaining water capacity fee balance forgiven, and would receive credit for the amount they have paid toward

the reduced sewer capacity fee. Any remaining balance on their sewer capacity fee installment plan would be forgiven once the reduced capacity fee has been paid in full.

The finance director has submitted a letter to the council as to why he is unable to certify funds are available for this ordinance, as required by Rule 15 of the Council rules of procedure. A copy of the finance director's letter is attached to this analysis.

Ordinance No. BL2009-407, which is currently on first reading, would reduce the current capacity charges by fifty percent.

**ORDINANCE NO. BL2009-382** (CLAIBORNE & BENNETT) – This ordinance amends the Metropolitan Code provisions pertaining to the fees charged for the impoundment and boarding of dogs found running-at-large. The Code currently provides that all dogs found running-at-large by the Metro animal care and control division of the health department are to be impounded. The current fees for the impoundment and boarding, which have been left unchanged since 1989, are as follows:

<b>Offense</b>	<b>Impoundment</b>	<b>Boarding</b>
First	\$11.00	\$4.00 per day
Second	\$25.00	\$4.00 per day
Third	\$50.00	\$4.00 per day

According to information provided by the health department, the current fee schedule is insufficient to cover the department's expenses incurred through the impoundment and care of the animals.

This ordinance would establish the following fees, which would be subject to future modification with approval of the board of health and ratification of the council by resolution:

<b>Offense</b>	<b>Impoundment</b>	<b>Boarding</b>
First	\$50.00	\$18.00 per day
Second	\$50.00	\$28.00 per day
Third	\$50.00	\$28.00 per day

These boarding fees are in line with the average fees charged by private boarding facilities in Nashville.

The ordinance also provides that the revenue generated by the ten dollar differential in boarding fees between the first and subsequent offenses would be used to fund animal education and welfare programs of the animal care and control division. Further, the director of health would be authorized to have impounded dogs implanted with an electronic microchip at the owner's expense, which will allow the animal and owner to be identified if the dog is picked up again.

This ordinance has been recommended by the health department.

There is a substitute for this ordinance eliminating the differential in boarding fees between the first and second offenses, and setting a flat boarding fee that is based upon the actual cost to the health department to provide the service. A portion of all boarding fees would be set aside

for animal education and welfare programs. The metropolitan government is prohibited by law from charging more than our costs to provide the particular service.

**ORDINANCE NO. BL2009-383** (FORKUM) – This ordinance approves a contract between the Metropolitan Government and the Tennessee Coalition Against Domestic and Sexual Violence to provide enhanced victim notification services. The U.S. Department of Justice has awarded a grant to the Tennessee Coalition Against Domestic and Sexual Violence to implement a victim information and notification system. Pursuant to this contract, the sheriff's office will provide the Coalition and its contractor (Appriss, Inc.) with access to its facilities for installation of the victim notification system and training of personnel necessary to operate the system. There will be no cost to Metro to participate in this program. The term of the contract is from January 1, 2009 through June 30, 2010.



**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2008-351** (GOTTO) – This ordinance amends the Metro Code to set maintenance standards for railroad bridges. The code currently gives the traffic and parking commission the authority to survey all railroad crossings and to require the railroads to take corrective action to prevent accidents. The code also sets maximum speeds for trains operating within the area of the Metropolitan Government. Further, the code requires railroad bridges built over the Metro right-of-way to be constructed according to plans approved by the director of public works. However, the code includes no standards for the ongoing maintenance of railroad bridges.

This ordinance would require railroads owning and/or maintaining bridges within the area of the Metropolitan Government to keep the bridges in good structural condition and to paint all metal surfaces to inhibit rust and corrosion. All existing surfaces with rust or corrosion must be stabilized and painted to prevent future rust or corrosion.

State law requires that all ordinances affecting railroads be submitted to the commissioner of the Tennessee department of transportation, and that no such ordinance is to be effective until fifteen days after the registered agent of the railroad has been served with a copy of the ordinance.

The council office would point out that this ordinance is arguably preempted by federal law. Railroads engage in interstate commerce, and as such fall within the jurisdiction of the U.S. Congress under the Commerce Clause of the United States Constitution. Further, two federal statutes expressly preempt state and local regulation of railroads in the areas of safety and rail facility operations. There is a case currently pending in federal court regarding a local ordinance in Cayce, South Carolina that required railroads to paint their bridges. This South Carolina case is in the early stages of litigation, so we do not know how the court will rule. Thus far, the City of Cayce has not defended the railroad's position that the ordinance is preempted. Rather, the City is arguing that the federal court should abstain from hearing the case until the state court matters are resolved.

In addition to the federal preemption issue, there is a question as to whether the Metropolitan Government would be responsible for a portion of the expenses associated with painting bridges owned by the Cheatham County Rail Authority and the Nashville & Eastern Rail Authority, since Metro was involved in the creation of these entities.

The council office is continuing to research these legal issues. Given the substantial costs involved in painting railroad bridges, enactment of this ordinance would most certainly result in litigation.

**ORDINANCE NO. BL2009-375** (GILMORE) – This ordinance renames a portion of Jackson Street between 9<sup>th</sup> Avenue North and Rosa L. Parks Boulevard as "Locklayer Street". This name change was requested by the residents in the area, since this one-block section of Jackson Street is really an extension of Locklayer Street, and the discrepancy could cause confusion for motorists and emergency personnel.

This name change has been approved by the traffic and parking commission.

**ORDINANCE NOS. BL2009-376 and BL2009-377** (TOLER) – These two ordinances abandon sanitary 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. BL2009-376** abandons an 8” sanitary sewer line and corresponding easement in connection with the Centennial Medical Center project located at 24<sup>th</sup> Avenue North and Charlotte Avenue.

**Ordinance No. BL2009-377** abandons an 8” sanitary sewer line and easement for the House of God Church project located at 2717 West Heiman Street. This ordinance also accepts a relocated 8” sewer line and easement, as well as two manholes.

**ORDINANCE NOS. BL2009-378** (HARRISON, GOTTO & OTHERS) – This ordinance authorizes the acceptance of easements for various stormwater projects in Davidson County. These easements are being acquired at no cost to the Metropolitan Government. This ordinance has been approved by the planning commission.

This ordinance authorizes the acceptance of 25 easements for the following properties:

<u>Property Address</u>	<u>Council District</u>
Tennyson Avenue, unnumbered	10
2556 and 2560 Jordan Ridge Drive	1
217 Donelson Pike	14
1501 Corporate Place	32
7661 Highway 70 South	22
377 Athens Way	2
744 East Argyle Avenue	17
544 McMurray Drive	27
110 One Mile Parkway	10
2712 Shacklett Drive	15
3544 Dickerson Pike	3
Tulip Grove Road, unnumbered	12
7240 and 7254 Centennial Place	20
2195 Nolensville Pike	17
East Campbell Road, unnumbered	10
101 East Campbell Road	10
Briley Park Boulevard South, unnumbered	3
3366 Briley Park Boulevard South	3
1112 Brick Church Pike	2
715 Massman Drive	15
590 Cheron Road	4
431 Old Hickory Boulevard	4
105 Linda Court	4
7100 Charlotte Pike	35
4806 Trousdale Drive	26
104 Gupton Court	1

**ORDINANCE NO. BL2009-379** (TOLER, FORKUM & RYMAN) – This ordinance authorizes the director of public property administration to acquire four parcels of property required for the construction of the water department’s Dry Creek project. The following properties are to be acquired: 35 Edenwold Road; 51 Edenwold Road; Edenwold Road, unnumbered; and Myatt Drive, unnumbered. The estimated cost of the acquisition is \$227,500, which will be paid out of the water and sewer extension and replacement fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2009-380** (DUVALL, FORKUM & TOLER) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Beazer Homes to provide a public pressure sewer extension through the construction of a sewerage pump station and force main for Beazer’s development at the Bradburn Village subdivision. The \$100,000 construction cost of the pump station will be at the sole expense of the developer.