

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **July 21, 2009**

RE: **Analysis Report**

Balances As Of: 7/15/09 7/9/08

GSD 4% RESERVE FUND * \$28,140,635 \$41,892,960

GENERAL FUND UNDESIGNATED FUND BALANCE

GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable

GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE

Unavailable	Unavailable
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* Assumes estimated revenues in fiscal year 2010 in the amount of \$22,813,907

– RESOLUTIONS –

RESOLUTION NO. RS2009-839 (FORKUM & COLE) – This resolution appropriates funds to 24 nonprofit organizations selected to receive funding through the community enhancement grants. The fiscal year 2009-2010 operating budget for the Metropolitan Government appropriated a total of \$1.8 million for three categories of community enhancement grants. Specifically, the budget appropriated \$675,000 for domestic violence programs, \$675,000 for education and after school programs, and \$450,000 for community service programs. This is the second year in which nonprofit organizations are funded through a competitive process as opposed to simply being named in the budget ordinance with little or no documentation as to how the funds were to be spent.

A total of 52 nonprofit organizations submitted applications by the deadline. Three review panels considered and scored the applications and have recommended that 24 agencies receive funding of between \$13,600 and \$256,100. A detailed list of the nonprofit agencies receiving the funding and the amount each agency is to receive is attached to this analysis.

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.

RESOLUTION NO. RS2009-840 (FORKUM & BENNETT) – This resolution approves an annual grant in the amount of \$434,333 from the state department of children's services to the juvenile court to provide case management and family support services to children at high risk of custody and their families. The grant will be used to fund case manager positions in the community-based probation division of the juvenile court. These intervention services are provided to youth at risk of custody due to delinquency, status offenses, or unruly behavior. The programs funded by this grant are to provide services to 535 children. The term of this grant is from July 1, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-841 (BENNETT & FORKUM) – This resolution approves a federal Byrne Justice Assistance grant in the amount of \$327,382 from the Tennessee department of finance and administration to the Davidson County sheriff's office to provide funding for three re-entry specialists for offenders who are within 90 to 120 days of release. The term of the grant is from July 1, 2009 through June 30, 2011.

RESOLUTION NO. RS2009-842 (BENNETT & FORKUM) – This resolution approves an application for a grant in the amount of \$150,000 from the U.S. department of justice to the Metropolitan public defender to pay the salary of an associate public defender to work on complex criminal cases, such as those that carry a sentence of life without parole or the death penalty. This grant will provide funding for the attorney position for 18 months.

RESOLUTION NO. RS2009-843 (FORKUM) – This resolution approves a grant in the amount of \$1,000 from the Tennessee Supreme Court, administrative office of the courts, to the state trial courts for interpreter services for divorcing parents whose primary language is not English. The interpreter services to be provided through this grant will be during the mediation stage of the divorce proceedings. The term of the grant is from July 1, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-844 (FORKUM & BENNETT) – This resolution approves a grant in the amount of \$25,000 from the Tennessee administrative office of the courts, to the state trial courts for interpreter services for indigent defendants with limited English proficiency. The interpreter services to be provided through this grant will only be available to those defendants involved in a legal proceeding in which they have a constitutional or statutory right to appointed counsel. The term of the grant is from July 1, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-845 (BENNETT & FORKUM) – This resolution approves a grant in the amount of \$1,000,000 from the state department of finance and administration to the Davidson County drug court. The drug court is a diversionary program that provides supervision and treatment for non-violent drug offenders. These funds will be used for the continuation of the residential drug court program. The term of the grant is from July 1, 2009 through July 1, 2011.

RESOLUTION NO. RS2009-846 (BENNETT & FORKUM) – This resolution approves a federal Byrne Justice Assistant grant in the amount of \$500,000 from the Tennessee department of finance and administration to the Davidson County drug court. These federal stimulus funds will be used to provide supervision and treatment services to non-violent felony offenders with substance abuse problems. This grant will provide the salary and benefits for the drug court employees providing the services plus the cost of food for the participants. The term of the grant is from July 1, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-847 (MCGUIRE & FORKUM) – This resolution approves a federal stimulus grant in the amount of \$1,829,860 from the Tennessee department of human services to the Metropolitan action commission to assist low income individuals in meeting basic needs. Not less than 95 percent of these funds may be used to provide direct services to clients including employment services, primary health services, housing, nutrition, and emergency services. The term of the grant is from June 9, 2009 through September 30, 2010.

RESOLUTION NO. RS2009-848 (MCGUIRE & FORKUM) – This resolution approves a grant in the amount of \$800,000 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care, homemaker, and meal delivery services. These funds are used to assist persons who are homebound or unable to perform at least one instrumental activity of daily living. This grant will provide \$7.41 per meal delivered, \$20.52 per hour for personal care services, and \$20.44 per hour for homemaker services. The term of the grant is from July 1, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-849 (MCGUIRE & FORKUM) – This resolution approves a grant in the amount of \$619,454 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, the performance of essential shopping and household tasks, meal preparation, and caregiver assistance and instruction. The homemaker program is for elderly persons and adults with mental and/or physical disabilities who need assistance in performing daily living activities. The term of this grant is from July 1, 2009, through June 30, 2011. There is a required local match of \$154,863 to be provided from the operating budget of the department of social services.

RESOLUTION NO. RS2009-850 (MCGUIRE & FORKUM) – This resolution approves a grant in the amount of \$745,672 from the U.S. department of health and human services to the Metropolitan board of health to maintain a Healthy Start site. The purpose of the Healthy Start program is to provide a one-stop service center for pregnant and parenting women to provide assistance regarding child health. These funds will be used to provide access to adequate prenatal and well child healthcare, and to promote child development. The term of the grant is from June 1, 2009 though May 31, 2010.

RESOLUTION NO. RS2009-851 (MCGUIRE & FORKUM) – This resolution approves an annual grant in the amount of \$390,100 from the state department of health to the Metropolitan board of health to provide family planning services in accordance with state law. Local health departments are required by state law to provide contraceptive procedures, supplies, and information to all persons eligible for free medical services. The term of the grant is from July 1, 2009 through June 30, 2010. This grant award consists of \$350,000 in federal funds and \$40,100 in state funds.

RESOLUTION NO. RS2009-852 (MCGUIRE & FORKUM) – This resolution approves an annual grant in the amount of \$171,000 from the state department of health to the Metropolitan board of health to provide renal intervention services. These grant funds will be used to pay the partial salary of a nurse coordinator through June 30, 2014 to provide case management services to at least 45 persons who are at risk of developing end stage renal disease. At risk individuals are defined as persons who are diabetic and/or hypertensive and who demonstrate early signs of kidney damage.

RESOLUTION NO. RS2009-853 (BENNETT & FORKUM) – This resolution approves a grant in the amount of \$163,578 from the state department of finance and administration to the Metropolitan police department for the continuation of funding for a crisis counselor through fiscal year 2011-2012. The crisis counselor provides crisis intervention to victims of sexual assault, therapy services to crime victims, and follow-up services. The term of the grant is from July 1, 2009 through June 30, 2012. There is a required local match of \$40,895.

RESOLUTION NO. RS2009-854 (FORKUM & BENNETT) – This resolution accepts a grant in the amount of \$1,000 from Wal-Mart Stores, Inc., to the Metro police department for the EI Protector program.

RESOLUTION NO. RS2009-855 (FORKUM & BENNETT) – This resolution approves an application for a bulletproof vest partnership grant in the amount of \$120,060 from the U.S. department of justice to the Metropolitan Government. These funds will be used to purchase 414 new bulletproof vests for various public safety agencies. There will be a required match of \$120,060 once the grant is awarded. The vests will be distributed as follows: 369 for the police department; 38 for the sheriff's department; and 7 for the juvenile court.

RESOLUTION NO. RS2009-856 (TODD & FORKUM) – This resolution approves a grant in the amount of \$55,900 from Greenways for Nashville to the Metropolitan parks department to provide funding for the salary for the executive coordinator of greenways. The term of the grant is from July 1, 2009 through June 30, 2010. There is a required match of \$3,100 to be provided by the parks department to cover the administrative costs.

RESOLUTION NO. RS2009-857 (MITCHELL) – This resolution authorizes the director of public property administration to acquire approximately 124 acres of property from Friends of Warner Park to be used as an extension of Edwin Warner Park. This property is to be acquired at a total cost of \$1.5 million. The funding for the acquisition is part of the fiscal year 2010 capital spending plan approved by the council in June. The council recently authorized the acquisition of 382 acres of property for \$2.7 million as an addition to Peeler Park, which was also included as part of the fiscal year 2010 capital spending plan.

Pursuant to the unexecuted quit claim deed attached to the resolution, the property may only be used for park land, and no school buildings/facilities, libraries, athletic fields, golf courses, pools, public safety buildings, residential buildings, or commercial facilities may be constructed on the premises. Further, Friends of Warner Park will be entitled to the naming rights for this property to be a part of Edwin Warner Park. The deed provides that the primary name of the property is to be "The Burch Reserve of Edwin Warner Park".

The council office recommends that an executed copy of the deed be attached to this resolution to ensure Metro's right to purchase the property for \$1.5 million. The Metro code provides that land may be purchased by Metro for non-right-of-way purposes upon the execution of an option to sell the property at a fixed price, which is subject to the approval of the council by resolution. The transaction is not technically the exercising of an option. However, an executed deed will serve the purpose of an option, which the Metropolitan Government can choose to accept or not.

The department of law has requested real property services to provide an appraisal of the property to be acquired. According to the property assessor's records, the total assessed value of the eight parcels to be purchased is \$506,805. Additional property adjacent to this property is to be donated to Metro once Friends of Warner Park has secured enough pledges to pay down the debt on the property.

This transaction has been approved by the board of parks and recreation and by the planning commission.

RESOLUTION NO. RS2009-858 (FORKUM, DOMINY & OTHERS) – This resolution approves an annual joint funding agreement between the department of water and sewerage services and the U.S. department of interior – geological survey for the continuation of a program of water resources investigation. The federal government will provide \$79,600 for this program, with a local match of \$102,000 to be provided by the department of water and sewerage services. This annual contract provides streamflow monitoring at six sites and continuous water-quality monitors at four sites within the area of the Metropolitan Government. The term of the contract is from July 1, 2009, through June 30, 2010.

RESOLUTION NO. RS2009-859 (FORKUM) – This resolution approves a federal stimulus grant in the amount of \$296,531 through the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide training to workers at three companies. NCAC is a federally funded agency whose purpose is to improve the quality of the workforce in Davidson, Wilson, Rutherford, and Trousdale counties. The term of the grant is from May 12, 2009 through June 30, 2010. The employers must provide a 25% match to be eligible for the federal funding. These funds will be used as follows:

- o \$100,000 to upgrade the skills of 14 employees at MetoKote Corporation in Wilson County. MetoKote provides custom protective coating to a wide variety of industries.
- o \$97,700 to train 143 employees at Perma-Pipe, Inc. in welding, safety, and how to use new equipment. Perma-Pipe, located in Wilson County, provides pre-insulated piping to a wide array of industries.
- o \$71,874 to upgrade the skills of 267 employees at Xerox Corporation located in Davidson County. These funds will be used to provide various technical training to Xerox workers.

No Metropolitan Government funds are used for this training.

RESOLUTION NO. RS2009-860 (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 training to Bridgestone employees. This amendment increases the amount of the grant by \$110,000, for a new grant total of \$220,000, and extends the term of the grant from June 30, 2009 through June 30, 2010.

RESOLUTION NO. RS2009-861 (FORKUM) – This resolution approves an amendment to a grant in the amount of \$110,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to make resources available to Asurion. Asurion, which recently relocated its global corporate headquarters to Nashville, is the largest provider of wireless roadside assistance services and wireless headset insurance programs in North America. This amendment extends the term of the grant from June 30, 2009 through June 30, 2010.

RESOLUTION NOS. RS2009-862 & RS2009-863 (FORKUM) – These two resolutions approve amendments to grants totaling \$196,240 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. NCAC will use the funds to contract with Nashville State Community College to provide the training. Zeledyne is the owner of the Nashville Glass Plant located at 7200 Centennial Boulevard.

These two resolutions extend the terms of the grants from June 30, 2009 to June 30, 2010.

Resolution No. RS2009-862 approves an extension of the administrative grant in the amount of \$17,840.

Resolution No. RS2009-863 approves an extension of the program grant in the amount of \$178,400.

RESOLUTION NO. RS2009-864 (FORKUM) – This resolution authorizes the department of law to compromise and settle the lawsuit of Stephanie Peete, as next of kin of the estate of Frederico Becerra, Jr., against the Metropolitan Government for the amount of \$250,000. On July 15, 2004, six fire department employees responded to a medical emergency call claiming that Mr. Becerra was having epileptic seizure. Mr. Becerra was in a chair when the EMS personnel arrived and they attempted to question him. The EMS crew stated that Mr. Becerra was combative, although this is disputed by a neighbor who witnessed the incident. The neighbor stated that Mr. Becerra simply told the EMS workers to leave him alone.

After Mr. Becerra dropped to the floor on his stomach, the EMS crew proceeded to restrain him by his wrists and ankles in an effort to check his vital signs. Mr. Becerra resisted the EMS crew's efforts for seven to ten minutes, at which time he stopped breathing. Mr. Becerra was transported to Tennessee Christian Medical Center where he was pronounced dead upon arrival. The Metro medical examiner's office ruled the cause of death as seizure disorder, with an enlarged heart being listed as a secondary cause of death.

Metro's medical expert concurred with the finding of the medical examiner regarding the cause of death. However, the plaintiff's expert opined that the cause of death was a "respiratory compromise" caused by the restraint.

Ms. Peete filed suit against the Metropolitan Government alleging that the fire department was negligent in restraining Mr. Becerra, in failing to monitor his condition, and in failing to provide specific training on restraining patients. The EMS personnel will testify that they never received any training about how to properly restrain patients and there was no written protocol regarding restraint. The lawsuit is seeking damages for physical injuries, pain and suffering, and wrongful death. Mr. Becerra was 38 years old at the time of his death, with a life expectancy of 25 to 35 more years. His only income was \$12,000 a year in social security disability payments. This would lead to a loss of lifetime income of approximately \$330,000.

The department of law recommends settling this lawsuit for \$250,000 to be paid out of the judgments and losses fund. Since there is conflicting testimony as to the combative nature of the patient, no written protocol regarding restraint, and the EMS crew's testimony that they

never received proper training, it is possible that a jury could return a larger verdict against the Metropolitan Government.

No disciplinary action was taken against any of the Metro employees since they were not found to have violated departmental policies. However, the fire department now has a written protocol on the procedures for restraining combative patients, and employees now receive training on the protocol.

RESOLUTION NO. RS2009-865 (FORKUM & BENNETT) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's claim against Wackenhut Corporation in the amount of \$400,000. The Metropolitan Government filed a lawsuit against Wackenhut in September 2008 to recover damages arising from the theft of two laptop computers from the election commission's offices on December 24, 2007, containing the names, addresses, and social security numbers of all of the registered voters in Davidson County. Reports at the time indicated that the confidential information had not been encrypted and the password to access one of the computers was possibly taped to the outside of the computer. As required by state law, Metro notified all of the voters by mail at a cost of \$235,000 about the potential compromising of their confidential information. And Metro retained the services of Debix at a cost of \$538,000 to offer free identity theft protection for those voters that chose to take advantage of the service. Subsequently, the laptop computers were recovered and no confidential information had been accessed or compromised.

Wackenhut has the contract with Metro to provide security services at various Metro facilities, which includes the election commission offices. Wackenhut, in turn, subcontracted a portion of the security services to SSC, who was responsible for providing the security at the time of the incident. On January 16, 2008, Metro hired Kraft CPAs, PLLC, to audit Wackenhut's records pertaining to the security contract. The audit revealed billing irregularities and noncompliance with the Metro contract. Wackenhut reimbursed Metro \$21,575 for these billing irregularities, but none of Metro's other costs were reimbursed.

The lawsuit filed by Metro is to recover the following expenses totaling \$822,384.10:

- o Mailed notification of the theft \$235,757.35
- o Kraft audit of Wackenhut records \$48,387
- o Debix identity theft protection \$538,239.75

The department of law recommends settling the lawsuit against Wackenhut for an additional payment to Metro of \$400,000. If this case went to trial, it is possible that the court would determine that the cost of the identity theft protection was not directly related to Wackenhut's actions since there was an intervening criminal act and Metro negligently handled the confidential information. Further, the Metro security cameras at the location were inexplicably turned off, which hindered the police department in its investigation, and the computers were left out in the open of a ground floor office building with glass windows. The council office concurs with the department of law's recommendation to accept the settlement.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2008-350 (HODGE, BURCH & OTHERS) – 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 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.

There is a proposed substitute for this ordinance recommended by the fire department, the codes department, and Metro water services that adopts the International Fire Code with a number of local amendments. Some of the changes included within the substitute that may be of interest to the council are as follows:

- The NFPA life safety code would continue to apply to government buildings, schools, daycares, healthcare occupancies, and residential board and care occupancies.
- The substitute specifies that whenever there is a conflict between the building code and the fire code, the more stringent provision shall apply. This is the method the fire marshal and codes department have been using for some time.
- The substitute includes some special exemptions from the more stringent fire-flow requirements for existing building lots, which includes infill lots in an established subdivision. Single and two-family homes less than 3,600 square feet on existing building lots would be exempt from the fire-flow requirements contained in Appendix B of the IFC as long as such existing building lots either (1) meet the Insurance Services Office (ISO) fire-flow requirements; (2) have a fire hydrant within 500 feet that flows at least 750 gallons per minute with 20 psi pressure; (3) have a fire hydrant within 500 feet and a secondary fire hydrant within 1,000 feet, even if such hydrants do not pump 750 gallons per minute; or (4) they meet the fire-flow requirements that were set forth by the fire marshal at the time the subdivision plat was approved. Single and two-family dwellings exceeding 3,600 square feet constructed on existing building lots must either meet the ISO requirements or Appendix B of the IFC.
- Bars and nightclubs with an occupancy exceeding 200 persons would be required to retrofit with sprinklers not later than September 30, 2012. This essentially gives these establishments an additional three years in which to retrofit. However, those establishments that have a history of violations for overcrowding or unpermitted pyrotechnics would be required to retrofit upon being ordered to do so by the fire marshal.

- o High rises would continue to be required to retrofit with sprinklers immediately, as was required a number of years ago. However, those high rises that have yet to come into compliance with the sprinkler retrofit requirement would have until September 30, 2012 if they have a fire watch in place and are equipped with a standpipe and hose system.

SUBSTITUTE ORDINANCE NO. BL2009-442 (RYMAN & BAKER) – This ordinance, as substituted, amends the Metro Code by amending the 2006 National Fire Prevention Association (NFPA) fire code and life safety code, as recommended by the firefighters union. Ordinance No. BL2008-350, which was deferred indefinitely on May 19, 2009, would adopt the 2006 edition of the International Fire Code in place of the National Fire Prevention Association (NFPA) fire code and life safety code. Rather than adopting a new fire code, this ordinance proposes to amend the existing fire code to address some of the concerns that have been raised regarding the current code pertaining to fire-flow requirements and sprinkler retrofitting.

Many of the substantive changes proposed in this ordinance are addressed in the proposed substitute to be offered for Ordinance No. BL2008-350. This ordinance would give bars and nightclubs providing live music with an occupancy load of more than 200 persons until June 1, 2012 to retrofit for sprinklers. The proposed substitute for Ordinance No. BL2008-350 would give such establishments with an occupancy load of more than 200 until September 30, 2012. The high rise provisions are essentially the same as are included in the proposed substitute for BL2008-350, requiring those high rises that have yet to come into compliance with the sprinkler retrofit requirement to have until September 30, 2012 to install the sprinklers if they have a fire watch in place and are equipped with a standpipe and hose system. The ordinance also includes similar provisions pertaining to the exception from the fire-flow requirements for new homes constructed on infill lots, provided such homes are within 500 feet of a fire hydrant that flows at least 750 gallons per minute (or have a secondary hydrant within 1,000 feet if the first hydrant pumps less than 750 gallons per minute).

ORDINANCE NO. BL2009-481 (HARRISON) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before March 17, 2009. Municipal Code Corporation has the contract with Metro to codify all ordinances enacted by the council, as well as to update and maintain the on-line version of the code. The council periodically readopts the code to make sure the printed and online versions are kept up to date.

ORDINANCE NO. BL2009-482 (COLEMAN, FORKUM & OTHERS) – This ordinance amends the Metro procurement code pertaining to performance and payment bonds that Metro construction contractors must provide. The code currently requires contractors to submit a performance bond and payment bond for all construction contracts in excess of \$1,000. This has been a barrier for small and disadvantaged businesses seeking Metro construction contracts because it is sometimes difficult for them to obtain such bonds.

This ordinance raises the amount of the contracts for which bonds are required from \$1,000 to \$100,000.

ORDINANCE NO. BL2009-484 (FORKUM) – This ordinance approves a lease agreement between the Metropolitan Government and Joe and Sung Cha Suarez, d/b/a Take-A-Break, for the continued lease of space for a snack shop in the 222 Third Avenue North building. The lease agreement will be for an initial term expiring on April 30, 2010, with an option to continue on a month-to-month basis. The rent for the premises will be \$170 per month. The spaces is being leased “as is”, and the tenants will be responsible for any damage done to the building. The tenants must maintain commercial general liability insurance in the amount of \$1 million per occurrence.

This lease agreement has been approved by the planning commission. Future amendments to the lease may be approved by resolution.

ORDINANCE NO. BL2009-485 (CLAIBORNE & TOLER) – This ordinance abandons 1,240 feet of an existing 8-inch water main and three fire hydrants, and abandons 720 feet of an existing 8-inch sewer line and two manholes located on Piedmont Natural Gas property on Century Boulevard. These water and sewer lines and easements no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-486 (TODD & TOLER) – This ordinance abandons a 10-foot water and sewer easement at 915 Otter Creek Road. This utility easement is no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-487 (MOORE, GILMORE & FORKUM) – This ordinance declares three parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. This ordinance approves the disposition of the following properties:

<u>Address – Location</u>	<u>Council District</u>
6641 Brookmont Terrace	23
420 Humphreys Street	17
1719 Jo Johnston Avenue	19

ORDINANCE NO. BL2009-488 (MCGUIRE & FORKUM) – This ordinance approves an amendment to the intergovernmental agreement between the Metropolitan Government and the hospital authority. This agreement, which was approved in 1999, set forth the duties and funding for the hospital authority. One of the provisions in the agreement required the hospital authority to maintain commercial general liability insurance in the amount of \$20 million and professional liability insurance in the amount of \$20 million for general hospital and the clinic. The hospital authority now desires to reduce these insurance requirements to \$10 million and to add the Bordeaux Long Term Care and Knowles Home facilities to the insurance policies.

This ordinance simply approves an amendment to accomplish the hospital authority’s desires regarding the insurance coverage.

ORDINANCE NO. BL2009-489 (MAYNARD, BARRY & JERNIGAN) – This ordinance amends the Metropolitan Code to prohibit handguns in Metro parks. For many years, the Metro Code and state law expressly prohibited firearms within local parks. The Tennessee General Assembly recently enacted a law to allow handgun carry permit holders to possess their handguns while in any state or local park, natural area, nature trail, greenway, etc. However, the state bill was amended to allow local governments to opt out of the law.

In accordance with the state law opt-out provisions, this ordinance states that persons with handgun permits are prohibited from possessing the gun while within a park that is owned or operated by the Metropolitan Government. This would include all park facilities and greenways. The ordinance also directs the parks department to erect the required signage stating that handguns are prohibited.

ORDINANCE NO. BL2009-490 (LALONDE & GOTTO) – This ordinance approves an exchange of easement rights between the Metropolitan Government and Blakemore Primitive Baptist Church for properties located at 2401 and 2411-B Blakemore Avenue. The church property is next to Fannie Mae Dees Park. Due to a previous closing of an alley and the widening of Blakemore Avenue, vehicles must travel across the Metro property in order to access the church. And park patrons must cross part of the church's property in order to access the parking area for Fannie Mae Dees Park.

This ordinance will officially exchange perpetual easements between the church and Metro. Metro is granting the church an easement for ingress and egress to their property along the Metro asphalt driveway. Metro is also granting an easement for the purpose of parking or landscaping on a section of property between the driveway and the church's property line. The church will be required to prohibit its members from parking on the Metro property unless expressly authorized by the parks department. In return, the church is granting Metro an easement for access to the parking area located at the rear portion of the church's property.

Amendments to this ordinance may be approved by resolution. This ordinance has been approved by the parks board and by the planning commission.

ORDINANCE NO. BL2009-491 (STANLEY & COLEMAN) – This ordinance amends the Metropolitan Code to prohibit commercial vehicles on local streets. The code currently allows the traffic and parking commission to set load limits for vehicles on local streets and to erect signs giving the load limits. Failure to abide by the load limitations results in a fifty dollar fine. There is an exception to the load limitations for delivering and picking-up materials and merchandise.

This ordinance would expressly prohibit commercial vehicles from operating on any local street or minor local street unless such vehicle is making a delivery or pick up, regardless of whether the traffic and parking commission has set a load limitation or not. The ordinance defines "commercial vehicle" as a truck tractor and/or semi-trailer used to transport goods.

This ordinance has been referred to the traffic and parking commission. This ordinance cannot be approved on second reading until the traffic and parking commission has made a recommendation or thirty days have passed since its referral.

ORDINANCE NO. BL2009-492 (GOTTO) – This ordinance adopts the property identification maps for the Metropolitan Government identifying property as of January 1, 2009, as the official maps for the identification of real estate for tax assessment purposes. These maps are adopted on an annual basis.

ORDINANCE NO. BL2009-493 (COLEMAN, FORKUM & TOLER) – This ordinance approves an agreement between the Metropolitan Government and Summerfield Village, LLP pertaining to funding for storm water infrastructure improvements. Summerfield has developed property in the vicinity of Murfreesboro Road and Pin Hook Road. As a requirement for approval of the development, Summerfield secured a performance bond to guarantee the construction of on-site storm water infrastructure improvements. Summerfield has completed all of the improvements with the exception of a contribution in the amount of \$182,000 for storm water improvements in the vicinity of the project.

This agreement accepts \$182,000 from Summerfield for storm water projects to be completed by Metro water services near the development. In exchange for the payment, Metro agrees to release Summerfield from its remaining bond obligation.

ORDINANCE NOS. BL2009-494 (COLE & TOLER) – This ordinance authorizes the acquisition and acceptance of three permanent drainage easements required for use in public projects to be completed by the department of water and sewerage services. Easements are being acquired for property located at 1611 Cahal Avenue and 1608 and 1610 Emerson Street. 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. BL2009-495 & BL2009-496 – These two ordinances abandon water and sewer 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. BL2009-495 (Foster & Toler) abandons a 20-foot public utility easement for property located at 544 McMurray Drive.

Ordinance No. BL2009-496 (Toler) abandons a 10-foot drainage easement for property at 8212 Ramstone Way. The ordinance also approves an adjustment of a 16-inch sewer manhole vent located on the property.

ORDINANCE NO. BL2009-497 (GILMORE & TOLER) – This ordinance abandons the easement retained by Metro when the old 11th Avenue South right-of-way was abandoned in 2006. Ordinance No. BL2006-930 abandoned a portion of the 11th Avenue South and 12th Avenue South right-of-way at the request of the Metropolitan development and housing agency. The ordinance retained all easements, but the 11th Avenue easement is no longer being used by the department of water and sewerage services. This ordinance simply abandons the easement.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-498 (STANLEY) – This ordinance amends the noise restrictions in the Metropolitan Code to add additional restrictions regarding noise from businesses that are contiguous to residential property. The noise ordinance currently prohibits the use of sound amplification equipment outside of the downtown area that is plainly audible from the boundary line of the nearest residentially occupied property. Downtown businesses are prohibited from mounting speakers to the exterior of a building or operating speakers outside the premises. Downtown restaurants with outdoor seating areas are exempt from this prohibition, provided the sound from the speakers does not exceed 85 decibels.

This ordinance would further restrict commercial noise outside the downtown area to prohibit the use of any outdoor amplification between the hours of nine p.m. and seven a.m. if the business is located within fifty linear feet from a residentially occupied property.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2009-432 (JAMESON & DOMINY) – This zoning text change would eliminate the historic bed and breakfast overlay district and would make such use a special exception (SE) and permitted (P) use in certain zoning districts. Prior to August 2005, historic bed and breakfast establishments were permitted by special exception. In response to a particular establishment, the council enacted Ordinance No. BL2005-701 to remove historic bed and breakfasts from the jurisdiction of the board of zoning appeals and place it solely with the council through the creation of a new historic bed and breakfast homestay zoning overlay district.

This ordinance essentially reinstates bed and breakfast homestays as a special exception use in the residential and office districts, and as a use permitted by right in the mixed-use and commercial districts. The conditions for those districts in which the use would be a special exception are essentially the same as the conditions for the current overlay. The historic zoning commission must approve the existing structure, as well as any future exterior improvements. The property must be owner-occupied, contain no advertising, and restrict meal service to overnight guests only. The fire marshal must also certify that the structure is safe for operation as a bed and breakfast.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-459 (BENNETT) – This ordinance, as amended, amends the Metropolitan beer code to add the state law requirements under the Responsible Vendor Act of 2006. The state legislature adopted the Responsible Vendor Act with the purpose of reducing the off-premises sale of beer to persons under the age of twenty-one, to encourage vendors to be prudent in their selling practices of beer, and to reduce the sanctions that may be imposed in administrative proceedings by local beer boards against those vendors who voluntarily comply with responsible practices. The state law allows vendors to become certified by the state alcoholic beverage commission as “responsible vendors” in order to obtain favorable treatment when faced with a first offense related to the sale of beer to minors. In order to become certified, the vendor must require all clerks to successfully complete a responsible vendor training program within 61 days of being hired. The vendor must also provide instruction to its employees regarding methods for dealing with underage customers and procedures for refusing to sell to minors.

Once a vendor has been certified by the state as a responsible vendor, the beer board would be limited to assessing a penalty of \$1,000 for a first offense charge of selling to a minor, and would be unable to suspend or revoke the license for the first offense. Suspension or revocation would be an option if a business certified as a responsible vendor has one or more such offenses within a twelve month period. Those vendors that do not participate in the responsible vendor program could be fined up to \$2,500 for a first offense, or have their beer permit suspended or revoked. The state must be notified whenever the beer board takes disciplinary action against a responsible vendor.

This ordinance modifies the Metro beer code to essentially bring the code up to date in light of the Responsible Vendor Act, and to clarify the penalties that can be assessed.

ORDINANCE NO. BL2009-464 (HOLLEMAN, BARRY & OTHERS) – This zoning text change amends the sign provisions in the zoning code to add some specific height requirements for LED signs in the districts where they are currently permitted by right. This ordinance would impose a sliding scale for the height of LED signs based upon the distance from any agriculturally or residentially-zoned property. Signs four feet or less in height could not be less than 100 feet from such property. Each additional foot in height would require an additional 25-foot setback. As an example, a sign between five and six feet in height could not be less than 150 feet from any agriculturally or residentially-zoned property.

It is important to point out that this ordinance has no impact on Ordinance No. BL2009-463 (the LED Sign Task Force ordinance), which would allow electronic display signs as a special exception use in certain areas where they are currently prohibited.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-468 (MOORE) – This ordinance abandons an unnumbered alley from W. Argyle Avenue northeasterly to Alley No. 658. According to the application to close the alley filed by Delia Seigenthaler, this alley is currently not being maintained by Metro and is frequented by drug users. The Metropolitan Government will retain all easements. Signatures of the affected property owners consenting to the alley closure are on file with the department of public works. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NOS. BL2009-469 (JAMESON) – This ordinance abandons a portion of North Second Street from Howerton Avenue northwestward to the dead end. This closure has been requested by Elm Hill Development Corporation. This section of right-way is no longer needed for government purposes. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2009-477 (TYGARD) – This zoning text change creates a new land use for small wind energy facilities (windmills). This ordinance is similar to an ordinance modeled after the small wind energy system ordinance adopted in Carroll County, Maryland that was deferred indefinitely by the council in September of 2008.

According to the definitions in the ordinance, small wind energy systems are equipment used to convert or transfer wind energy into electricity. The zoning code currently does not allow small wind energy systems as a permitted use. This ordinance would allow small wind energy facilities as a use permitted with conditions in all zoning districts. Small wind energy facilities are defined as those consisting of one tower and turbine, and having a rated capacity of not more than 100 kilowatts. Facilities with two or more towers and turbines that produce more than 100 kilowatts would be considered large wind energy facilities. The large facilities would only be permitted as part of a specific plan (SP) district adopted by the council.

The ordinance includes three pages of conditions that would be applicable to small wind energy facilities. These conditions include the following:

- The maximum height of the facility would be 15 feet above the maximum building height allowed under the base zoning district.
- The facility must be setback the greater of one and one-half times the height of the tower from the nearest property line or a distance equal to the height of the facility from any occupied buildings.
- No guy wires or anchors could be closer than five feet from the property line.
- An information sign identifying the owner of the facility and a contact phone number must be placed on the facility.
- No lighting of the facility will be permitted.
- The facility cannot generate noise in excess of 60 decibels measured from the closest occupied building.
- Nashville Electric Service must approve the site plan before the facility can operate.
- The applicant must provide a removal bond or other form of financial security to ensure that the facility will be removed when it ceases to be used for a year.

In addition to the above conditions, the ordinance requires someone desiring to install a windmill to submit a very detailed site plan prepared by a licensed engineer. The site plan must include 12 specific requirements contained in the ordinance. These include identification of all existing buildings on site and within 600 feet of the site's boundary; the location of the proposed tower and associated infrastructure; existing tree cover; the location of other windmills within 2,000 feet of the proposed location; proposed landscaping changes; tower foundation blueprints signed by a licensed engineer; a statement from a licensed engineer that the wind turbine will meet the noise standards in this ordinance; an electrical diagram; documentation regarding the manufacturer of the facility; color photos showing how the facility will look when completed; and an operation and maintenance plan.

If the purpose of this ordinance is to encourage the placement of wind energy facilities in the county to further Metro's goal of becoming the "greenest city in the southeast", it is questionable whether this ordinance lives up to its purpose. The complex conditions included in the bill would likely act as a deterrent to the average person seeking to install a windmill on his/her property. However, if the purpose is to protect the neighbors from any possible negative impact associated with the windmill, then this ordinance certainly offers plenty of protection.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-478 (PAGE) – This zoning text change amends the definitions of "automobile repair" and "automobile service" as it relates to used tire shops. In March 2006, the council enacted Ordinance No. BL2006-972 making most automotive uses no longer permitted in the commercial zoning districts. Rather, such uses have to be approved individually by the council as part of an SP district. Although Ordinance No. BL2006-972 addressed most automotive uses, it did not apply to automobile service establishments. The zoning code currently defines "automobile service" as property used for "the replacement of any part, or repair of any part, to an automobile that does not require removal of the engine head or pan, engine transmission or differential, including, but not limited to oil change and lubrication, cooling, electrical, fuel and exhaust systems, wheel alignment and balancing, brake adjustment, relining and repairs, mufflers, batteries, tire services and sales, shock absorbers, installation of stereo equipment, car alarms or cellular phones." The dismantling, rebuilding,

reconditioning, or salvage of automobiles is considered "automobile repair", which is required to be within an adopted SP district. Used tire shops are considered "automobile service" establishments under the current definitions, and thus are not required to be within a SP district.

This ordinance would add "the reconditioning, repairing, sale, mounting, or installing of used tires" to the definition of "automobile repair" to require used tire shops to be located within a SP district. New tire sales would be considered "automobile service" and would continue to be allowed in most of the commercial districts.

This ordinance would make every existing used tire shop in Nashville a nonconforming use, which could impact the owner's ability to remodel his/her business or obtain financing for improvements.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2009-479 (HOLLEMAN, BARRY & OTHERS) – This zoning text change creates a new land use for community gardening. Community gardens are typically found in urban areas and are a place for an individual or group of individuals to grow and harvest crops. The code currently considers such activity to be "agricultural activity", which is only allowed by right in the agricultural zoning districts and as an accessory use in the larger-lot residential zoning districts, with a condition that the lot be at least five acres and be outside of the urban services district. This essentially prohibits the use of community gardens in most areas of Nashville.

This ordinance would separate community gardening into two categories: commercial and non-commercial. Commercial community gardens would include the growing and harvesting of crops for commercial sale. Non-commercial community gardening applies to crops grown for the use and consumption of the growers. The ordinance would allow non-commercial community gardens to be permitted by right in the agricultural districts, the single and two-family districts, the commercial districts, and the industrial districts. Commercial community gardens would be a permitted use in the AR2a, R80, RS80, R40, and R40 districts; a use permitted with conditions in the R20, RS20, R15, and RS15 districts; and as a special exception use in the RS7.5, RS5, RS3.75, R10, R8 and R6 zoning districts.

The ordinance includes a number of conditions for commercial community gardens, such as lighting limitations, regulations regarding the on-site storage of compost, landscaping requirements, and drainage requirements, as well as parking standards to reduce traffic congestion.

This ordinance has been approved by the planning commission.