

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **October 20, 2009**

RE: **Analysis Report**

| Balances As Of:  | <u>10/14/09</u> | <u>10/15/08</u> |
|--|-----------------|-----------------|
| <u>GSD 4% RESERVE FUND</u>                                 | * \$24,135,406  | \$30,751,910    |
| <u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>              |                 |                 |
| GSD  | Unavailable     | Unavailable     |
| USD  | Unavailable     | Unavailable     |
| <u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u> |                 |                 |
|  | Unavailable     | Unavailable     |

\* Assumes estimated revenues in fiscal year 2010 in the amount of \$23,023,700

– RESOLUTIONS –

**RESOLUTION NOS. RS2008-431, RS2009-989 & RS2009-990** – These three resolutions propose amendments to the Metropolitan Charter. 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. The council has already used one of its two opportunities to place Charter amendments on the ballot this term.

Resolution No. RS2008-431 provides that the date for holding the referendum elections on the Charter amendment is to be the August 5, 2010 general election. The other two resolutions include a special election date of January 14, 2010. 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, these resolutions must be deferred until the second meeting in November if the Charter amendments are to be placed on a special election ballot in January 2010.

These Charter amendments have been referred to the charter revision commission.

**Resolution No. RS2008-431** (Gotto) proposes an amendment to the 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.

**Resolution No. RS2009-989** (Crafton) proposes two amendments to the Charter to require a referendum election prior to the issuance of bonds or pledging Metro revenue for capital projects in excess of \$250 million. The Charter currently provides that a referendum election can be held for general obligation bonds upon the filing of a petition signed by six percent of the registered voters protesting the issuance of the bonds. This is the method used to challenge the issuance of the debt for the Titans stadium, which was ultimately approved by the voters. The Charter also provides that the council may call an election “for the purpose of

ascertaining the will of the qualified electors” with respect to the issuance of any Metropolitan government bonds. However, no such mechanism for a referendum exists when the debt is to

be in the form of revenue bonds issued by an instrumentality of the government, such as the sports authority or the convention center authority.

The first amendment included as part of this resolution would require a referendum prior to the issuance of any tax bonds or revenue bonds for the construction of an individual capital project with a total cost in excess of \$250 million. "Revenue" would include property taxes, sales taxes, hotel occupancy taxes, tourist accommodation taxes, and other fines and fees collected by Metro. This referendum requirement would not apply to the board of education, Nashville electric service, or for essential infrastructure projects of Metro water services or the department of public works.

The second amendment is broader than the first amendment in that it would require a referendum prior to the pledge of any Metro revenues for a capital project in excess of \$250 million, regardless of whether the Metropolitan Government is issuing the debt or not. The same exceptions as noted above would apply to this amendment.

There is a housekeeping amendment for one of the amendments correcting a typographical error.

Only one of the amendments should be submitted to the ballot, as they both deal with the same subject matter.

**Resolution No. RS2009-990** (Gotto) proposes an amendment to the Charter to require council approval of the pay plan for all of the executive and administrative employees of the electric power board (NES). The Charter grants extremely broad authority to the electric power board over the Nashville electric system. The Charter provides that neither the mayor nor the council can exercise any authority over the NES board except as specifically provided in the Charter.

This amendment would require NES to submit its proposed pay plan for all executive and administrative employees to the council for approval by a resolution receiving 21 affirmative votes before the plan could become effective. If the resolution failed to receive council approval, the plan would be submitted to the civil service commission to prepare a pay plan to be submitted to the mayor and council in the same manner as the pay plan for general government employees. The amendment defines "executive and administrative employees" as those employees whose primary duty involves the management, administration, and/or business operations of NES, and who are not represented as part of a collective bargaining agreement.

**RESOLUTION NO. RS2009-983** (GILMORE) – This resolution authorizes Westview Condominium Association, Inc., to install, construct and maintain an awning encroachment over the right-of-way at 180 9<sup>th</sup> Avenue North. This awning will extend four feet over the sidewalk. Westview Condominium Association has agreed to indemnify the Metropolitan Government from

all claims in connection with the construction and maintenance of the awning, and is required to post a \$1 million certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party. Ordinance No. O87-1890 authorizes aerial encroachments to be approved by resolution rather than by ordinance.

This resolution has been approved by the planning commission.

**RESOLUTION NO. RS2009-991** (MOORE, LANGSTER & GILMORE) – This resolution appropriates \$1,316,347 in federal stimulus community development block grant funds (CDBG) as recommended by the Metropolitan development and housing agency (MDHA). Funding was allocated to the U.S. department of housing and urban development (HUD) as part of the American Recovery and Reinvestment Act of 2009 (the federal economic stimulus package), who in turn made a one-time allocation of \$1,316,347 in CDBG funds to MDHA.

This resolution appropriates these funds as follows:

- \$469,712 for infrastructure improvements along Jefferson Street
- \$175,000 for a new career development services program for low-income youth and young adults, and a pilot employment and placement program for low-income adults with an emphasis on residents of public housing
- \$300,000 for energy improvements to the Southside Enterprise neighborhood facility that will be used for the employment and placement program
- \$240,000 for historic preservation improvements at the Amqui Station Train Depot
- \$131,635 for administrative costs

**RESOLUTION NO. RS2009-992** (STEINE) – This resolution appropriates \$4,137,000 from the general fund reserve fund (4% fund) to twelve departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. These projects were included as part of the mayor's capital spending plan, but held until adequate funding was in place. The total amount of the resolution is \$4,137,000. The balance in the general fund reserve fund as of October 14, 2009, was \$24,135,406. This consists of unrealized revenue for fiscal year 2009 in the amount of \$21,198,094. The resolution provides that "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis. The following departments and agencies are to receive funding:

- Assessor of Property – \$100,600 for miscellaneous office equipment.
- Bordeaux long-term care – \$211,400 for a nurse call system, a bulk oxygen system, computer upgrades and mattresses.
- Fire Department – \$300,000 for computer hardware and software to be used in suppression vehicles.
- General Hospital – \$654,900 for miscellaneous equipment and computer hardware.
- General Services Department – \$260,000 for water and backflow devices, universal keying system, and E911 mechanical equipment replacement.
- Information Technology Services Department – \$890,000 for miscellaneous computer hardware and software, and replacement equipment.
- Knowles Home – \$57,500 for a Direct TV system, heat and air conditioning units, and a conventional oven.
- Municipal Auditorium – \$200,000 for new portable flooring, replacement scoreboard, and dressing room renovation.
- Parks and Recreation Department – \$518,000 for new force main sewer system at Percy Warner golf course, fitness equipment and flooring at Centennial Sportsplex, roofing and

building repairs, tennis court repairs, miscellaneous golf course maintenance equipment, and miscellaneous equipment for bike share project.

- Police Department – \$294,300 for computer equipment, projectors, screens, and speakers.
- Public Library – \$300,000 for fire alarm systems at various branch libraries, security cameras at branch libraries, an upgrade of the security camera recorder at the main library, carpet replacement at the Bordeaux branch, and microfilm readers/tables.
- Public Works Department – \$350,300 for replacement parking meters, replacement mowers for alley crews, and new waste wood grinder.

**RESOLUTION NO. RS2009-993** (STEINE, HUNT & MAYNARD) – This resolution authorizes the financing of a sewage treatment project through a loan in the amount of \$1,000,000 from the state of Tennessee, and approves the necessary agreements associated with the project. This resolution authorizes the submission of the loan application and approves the loan agreement with the state department of environment and conservation and the Tennessee local development authority. The proceeds of this loan must be spent on sewer projects performed during a period beginning 60 days before the execution of the loan agreement and ending on December 15, 2009. The funds from this loan will be used to pay for the refurbishment of the sewage treatment works at the Central, Dry Creek, and Whites Creek Plants; a sewer pumping station; and the Central combined sewer overflow pumping station.

The loan agreement is for a term of 30 years and is to be repaid from sewer rates. The agreement provides that \$157,587 is to be set aside as a reserve for debt service.

State law allows this loan agreement to be approved by resolution.

**RESOLUTION NOS. RS2009-994 & RS2009-995** – These two resolutions authorize the issuance of water and sewer revenue bonds in the amount of \$500 million and bond anticipation notes in the amount of \$200 million for capital improvements to the water and sewer system. On March 17, 2009, the council enacted Ordinance No. BL2009-407, commonly known as the Clean Water Infrastructure Program ordinance, which approved a water and sewer rate increase necessary to rehabilitate Metro's aging water and sewer infrastructure to meet federal and state environmental requirements. These resolutions are the next step toward funding these infrastructure projects.

**Resolution No. RS2009-994** (Steine, Maynard & Hunt) is the initial resolution providing the preliminary authorization for the issuance and sale of water and sewer revenue bonds in an amount not to exceed \$500 million. Only revenues generated by water and sewer customers will be used to pay the obligations on these bonds and the bonds will not constitute a debt of the Metropolitan Government that would compel the use of tax revenues.

**Resolution No. RS2009-995** (Hunt, Steine & Maynard) authorizes the issuance and sale of water and sewer revenue bond anticipation notes in an amount not to exceed \$200,000,000 in the form of commercial paper, which will allow Metro to issue short-term debt prior to the issuance of the long-term water and sewer revenue bonds. This resolution authorizes the issuance of variable rate tax-exempt commercial paper with varying maturity dates ranging from 1 day to 270 days at a maximum interest rate of 12% per annum. The resolution also

approves a dealer agreement with Morgan Stanley & Co., and standby note purchase agreements with U.S. Bank and JP Morgan Chase who are serving as the liquidity facilities.

The five-year capital plan for Metro water services is attached to this analysis, which provides a list of the projects to be funded through this bond authorization.

**RESOLUTION NO. RS2009-996** (BAKER, STEINE & MAYNARD) – This resolution approves a grant in the amount of \$150,000 from the U.S. department of justice to the Metropolitan public defender to hire an experienced 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 additional attorney position will help the public defender's office handle their extremely high case load. The term of this grant is from October 1, 2009, through March 31, 2011. This grant will provide funding for the attorney position for 18 months.

**RESOLUTION NO. RS2009-997** (STEINE, BAKER & MAYNARD) – This resolution approves an agreement between the U.S. bureau of immigration and customs enforcement (ICE) and the Davidson County sheriff's office (DCSO) for the continuation of the 287(g) program, which provides for the training and use of sheriff's office employees to identify and process immigration offenders in our correctional facilities. ICE is a component of the U.S. department of homeland security. Pursuant to federal law, ICE is authorized to enter into written agreements with local governments to enable qualified personnel to perform certain functions of immigration officers. Section 287(g) of the 1996 amendments to the Immigration and Nationality Act provides for a voluntary program that state and local governments may participate in to increase the enforcement of immigration laws. Local governments that are accepted into the program receive training to identify, process, and detain illegal immigrants they encounter during their regular activities. The Davidson County sheriff's office has participated in the 287(g) program since 2007.

Pursuant to this agreement, DCSO correctional officers may continue to be nominated, trained, and certified to perform certain immigration enforcement functions. In order to be eligible for participation in the program, all candidates must have prior experience supervising inmates. Further, officers participating in the 287(g) program are to be assigned to this function for at least two years. These correctional officers must complete a training program taught by ICE and pass a test about the enforcement of immigration laws and policies. The training includes the scope of immigration officer authority, relevant immigration law, Civil Rights laws, public outreach and complaint procedures, liability issues, and cross-cultural issues. Once the officers are trained and certified, they will be authorized to perform the following functions:

- To interrogate any person believed to be an illegal alien and to process for immigration violations those individuals who are convicted of felony offenses.
- To serve warrants of arrest for immigration violations.
- To complete the required criminal alien processing.
- To prepare charging documents for the signature of an ICE officer.
- To issue immigration detainers.
- To detain and transport arrested aliens to ICE-approved detention facilities.

A major difference between the prior agreement and the new agreement is that the new agreement provides a tiered approach to determine the priority for arrest and detention. Level 1 priority offenses include major drug offenses and/or violent offenses (murder, rape, etc.).

Level 2 priority will be given to minor drug offenses and/or property crimes (burglary, theft, fraud, etc.). All other arrestable offenses will receive the lowest level of priority. Whenever deemed appropriate, DSCO will utilize an alternative to detention, such as electronic monitoring and/or personal reporting, for lower level defendants. ICE officials will assume custody of individuals only after they have served their sentence of incarceration. ICE will also assume custody of illegal immigrants with prior criminal convictions when immigration detention is required, or when ICE decides detention is otherwise necessary on a case-by-case basis. ICE may decline to detain aliens whose detention is not required by federal statute. DCSO will not continue to detain an alien after the alien is eligible for release, except for a period not to exceed 48 hours. If ICE determines that it is necessary, the sheriff's office will provide detention of incarcerated aliens, for a reimbursable fee, upon completion of their sentences.

The sheriff's office will carry out all of the functions under the agreement at its own expense, including providing interpreter services. ICE will be responsible for providing the training and the computer equipment necessary to support the 287(g) investigative functions, and for supervising the DCSO employees participating in the program. All participating sheriff's office employees will be covered under the Federal Tort Claims Act and will enjoy the same defenses and immunities from personal liability available to ICE officers.

One of the primary points of negotiation in this agreement concerns the release and disclosure of information. The agreement provides that DCSO will coordinate with ICE regarding the release of information, and will not disclose any information that it agrees is protected from release by federal law. If there is a disagreement as to whether such information is protected, DCSO may go ahead and release the records after notifying ICE of the intended release date.

This agreement will be in effect for a three year period from the date of signing, but may be terminated by either party upon written notice. The cost of this program is absorbed by the sheriff's department except for limited reimbursement.

**RESOLUTION NO. RS2009-998** (STEINE, HUNT & MAYNARD) – This resolution approves an annual grant in the amount of \$163,077 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. These grant funds 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 application specifies that \$48,900 of the funds will be used for litter prevention education. The term of the grant is from July 1, 2009 through June 30, 2010.

**RESOLUTION NO. RS2009-999** (STEINE, BAKER & MAYNARD) – This resolution appropriates \$269,065.06 in grant funds from the state bureau of TennCare to the Nashville fire department to purchase computer equipment to process medical data. These funds are part of a \$750,000 appropriation from the TennCare reserves that were to be divided among the four largest cities in Tennessee.

**RESOLUTION NO. RS2009-1000** (TYGARD, STEINE & MAYNARD) – This resolution appropriates \$5,900 in grant funds from Nashville Electric Service (NES) to the Metropolitan action commission (MAC) for the Watt Ads Energy Fund program. This program was

established by NES to provide assistance with emergency repairs for heating and cooling equipment. MAC received a three-year grant from NES last year, and the anticipated funding from the grant was appropriated in the fiscal year 2010 budget. However, NES has sent \$5,900 more to MAC under this program than was estimated. Thus, the council needs to appropriate the funds to MAC by resolution.

**RESOLUTION NO. RS2009-1001** (TYGARD, STEINE & MAYNARD) – This resolution approves a grant in the amount of \$217,794 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, 2009 through July 31, 2010.

**RESOLUTION NO. RS2009-1002** (TYGARD, STEINE & MAYNARD) – This resolution approves an annual grant in the amount of \$2,691,100 from the state department of health to the Metro health department for operation of the Women, Infants and Children (WIC) program in Nashville to provide nutritious food to low-income women, infants, and children. These federal funds are used to pay the salaries and benefits of the health department employees administering the WIC program. The term of the grant is from October 1, 2009, through September 30, 2010.

**RESOLUTION NO. RS2009-1003** (TYGARD, STEINE & MAYNARD) – This resolution approves a grant in the amount of \$2,007,100 from the state department of health to the Metro board of health for services in response to the H1N1 flu virus. These funds will be used to provide vaccinations for the virus at mass vaccination clinics. Approximately \$200,000 of these funds will be for the salary and benefits of the health department employees providing the vaccinations, with \$1,700,000 used to purchase vaccinations and supplies. The grant is for a term of August 1, 2009 through July 31, 2010.

**RESOLUTION NO. RS2009-1004** (STEINE & MAYNARD) – This resolution approves a third amendment to a lease agreement between the state and the Metropolitan Government for use of a portion of the Tennessee Preparatory School (TPS) campus at 1200 Foster Avenue for the Nashville School of the Arts magnet. The original lease was approved by the council in 2003, and extended in 2008. Metro and the state now desire to extend the term of the lease for an additional six months through June 30, 2010.

Metro is not required to pay any “rent” for the premises, but is responsible for providing the “fair market value for use” of the premises. This includes the payment of all utilities, as well as routine operating and maintenance expenses. The board of education is still in negotiations with the state to secure a long term lease for the TPS property for use by the magnet school. This would include granting the school board the authority to make additions or renovations to the existing building.

The ordinance approving the initial lease agreement provided that any amendments or renewals to this lease must be approved by resolution of the Metropolitan Council receiving twenty-one affirmative votes.

This resolution has been approved by the planning commission.



**RESOLUTION NO. RS2009-1005** (STEINE & MAYNARD) – 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 make training and recruitment resources available to private companies. Under the terms of this federal pass-through grant, the Tennessee career center, which is operated by NCAC, will manage the recruitment campaign for Standard Candy based upon a hiring schedule of 210 new jobs. The term of the grant is from August 1, 2009 through June 30, 2010.

This amendment to the grant increases the grant award from \$55,000 to \$93,896, and adds Mountain City Meat Company as a beneficiary of the employment services. The additional \$38,896 will be used to train existing employees of Mountain City Meat Company and to assist in the creation of 104 new jobs.

No Metropolitan Government funds or local tax revenues are used in this grant.

**RESOLUTION NO. RS2009-1006** (HUNT, STEINE & MAYNARD) – This resolution approves an amendment to seven contracts between the state department of transportation (TDOT) and the Metropolitan department of public works for the receipt of federal stimulus funds for infrastructure projects in Davidson County. The projects to be funded with the stimulus money under these agreements are as follows:

- o Sidewalks on West End Avenue \$544,006
- o Multi-modal traffic signals \$1,000,000
- o Various intersection improvements \$1,000,000
- o Roadway resurfacing \$7,334,125
- o Signal timing \$1,000,000

These amendments add standard form language required by the American Reinvestment and Recovery Act that the state was unaware of at the time the contracts were submitted to the council for approval. The amendments do not change the overall funding for the projects.

Ordinance No. BL2002-945 allows such contracts with TDOT to be approved by resolution.

**RESOLUTION NO. RS2009-1007** (CLAIBORNE, HUNT & OTHERS) – This resolution approves an application for a Transportation Enhancement Program grant from the state department of transportation for sidewalk improvements along the north side of Lebanon Road from McGavock Pike to Old Lebanon Road. This application is being submitted by the department of public works. The application requests funding in the amount of \$1,159,463.95 to construct 2,100 linear feet of sidewalk along Lebanon Road as recommended by the strategic plan for sidewalks and bikeways.

There will be a required local match of \$300,989.64 if this grant is awarded.

**RESOLUTION NO. RS2009-1008** (STEINE, HUNT & MAYNARD) – This resolution authorizes the director of public property administration to exercise an option to purchase a flood prone property located at 381 Wimpole Drive for \$177,000. This purchase is part of the department

of water services' on-going program to purchase flood prone properties using federal grant funds.

This resolution has been approved by the planning commission.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2009-545** (COLE & STEINE) – This ordinance amends the Metro Code to authorize a ticket tax on tickets sold for events at LP Field. In 1977, the Tennessee General Assembly enacted a law to allow the Metropolitan Government to impose a ticket tax for the privilege of attending events at the “municipal stadium” in an amount not to exceed 10% of the amount charged to spectators attending the event. The state law defines “municipal stadium” as a structure built after 1977 using general obligation or revenue bonds with a seating capacity of at least 30,000 spectators used primarily for sporting events. This law became effective upon the approval of Ordinance No. O77-711 by more than the required two-thirds majority vote. This state statute was amended this year to cap the amount of the tax at \$3.00 per ticket.

The contract between the Tennessee Titans and the Metropolitan Government for the use and operation of the coliseum requires the Metropolitan Government to pay \$1 million annually for capital improvements to LP Field. This contract also provides that a special tax cannot be imposed on tickets until after the 10<sup>th</sup> season of professional football played in the stadium.

This ordinance would impose a \$2.00 privilege tax upon the privilege of attending any event at LP Field between June 14, 2010, and December 31, 2020. If the \$2.00 tax would exceed ten percent of the face value of the ticket, then the tax will be limited to ten percent of the ticket price. This tax will not apply to tickets to Tennessee State University football games. The ordinance provides that the promoter of the event may deduct up to two percent of the tax collected as an administrative fee. The ordinance also provides that taxes collected by the promoter that are not remitted by the due date are subject to a penalty of one percent each month the taxes are delinquent, plus interest of eight percent per year.

The ordinance provides that all of the proceeds from this tax must be used exclusively to defray the cost of “constructing, operating, renovating, expanding, or improving” the stadium, or for the payment of debt service on the bonds issued to construct the stadium.

Although state law allows a ticket tax of up to \$3.00 per ticket, bond counsel has advised that the amount of the tax and the duration it is imposed must be limited in order for the bonds issued for the construction of the stadium to remain tax exempt. Bonds issued by local governments to finance facilities that have significant non-governmental use cannot be tax exempt if more than ten percent of the debt service is provided in connection with the non-governmental use. Since LP Field is used primarily for Titans football games (a significant non-governmental use), the amount of the ticket tax will be treated as a private payment, subject to the ten percent cap. Bond counsel and Metro's financial advisor have advised Metro that a \$2.00 per ticket tax that sunsets in 2020 will not cause private payments to exceed the ten percent limit and, therefore, will not adversely affect the tax exempt status of the stadium bonds.

As owner of LP Field, it is in the best interest of the Metropolitan Government that this ticket tax be approved. It is estimated that approximately sixty percent of the Titan's season ticket holders live outside of Davidson County. Imposing this ticket tax will allow those persons using the stadium to help pay for its maintenance, as opposed to the general tax dollars of the Metropolitan Government.

As this ordinance is a tax measure, it is amendable on third reading pursuant to the council rules of procedure.

**ORDINANCE NO. BL2009-546** (MOORE, TYGARD & BAKER) – This ordinance amends the Metro Code pertaining to the storage and disposal of scrap tires. The code currently prohibits the storage of tires in a manner where stagnant water may collect, and requires persons storing tires to take the necessary measures to prevent the breeding or harborage of insects, rodents and other pests. The code also requires commercial trucks used in the collection or transporting of used tires to include the name and phone number of the owner on the side or rear of the vehicle. Further, state law requires all new tire dealers to collect a tire disposal fee from the customer. However, the Metro code does not directly address the storage and disposal of used tires.

This ordinance would expressly put the burden upon a property owner or occupier of property to ensure the responsible handling and disposal of scrap tires. No more than five scrap tires would be allowed on any property in a residential zoning district. A dealer of new or used tires would be required to keep all scrap tires in a covered or enclosed area up to a maximum of 500 tires on the property. The ordinance would also require tire dealers to maintain records regarding the disposal of scrap tires including the name, address, phone number and vehicle identification number of the waste tire transporter and the number of tires transported.

This ordinance would be enforceable by the police department, the department of public works, the department of codes administration, and the department of health. A person found in violation of the ordinance would be subject to a \$50.00 fine per violation, with each unlawfully disposed scrap tire being considered a separate violation. In addition to the monetary penalty, the court would have the authority to order the violator to clean up the property and could enter an injunction preventing the further accumulation of scrap tires. The ordinance gives Metro the authority to suspend the issuance of permits until the property owner comes into compliance.

**ORDINANCE NO. BL2009-547** (MITCHELL & STEINE) – This ordinance amends the Metro Code regarding the parking of vehicles near fire hydrants. The code currently prohibits parking within 15 feet of a fire hydrant. However, some fire hydrants are set back further from the street than 15 feet. Thus, vehicles may be legally parked in front of some fire hydrants, which can impede emergency access to the hydrant. In addition to the existing 15-foot prohibition, this ordinance would prohibit parking within a “fire hydrant clear zone,” which is defined as the area 15 feet to either side of a line extending perpendicular from the road to the hydrant.

**ORDINANCE NO. BL2009-548** (STEINE, DOMINY & OTHERS) – This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for fiscal year 2009-2010. State law allows county legislative bodies to appropriate funds for a tax relief program and establish guidelines for participation in the program and the disbursement of such funds. The council appropriated \$2,047,700 in the current fiscal year’s operating budget for a property tax relief program for the elderly, which is the same amount as the previous fiscal year.

This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$25,360 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2010.

This tax relief program, which is separate from the tax freeze for seniors, has been in place for a number of years.

**ORDINANCE NO. BL2009-549** (STEINE & HUNT) – This ordinance approves a new contract in lieu of a performance bond between the Metropolitan Government and the state department of environment and conservation regarding the maintenance of the closed thermal ash monofill solid waste facility. State law requires that all owners of closed landfills either put up a performance bond or execute a contract agreeing to pay a penalty if the site is not adequately maintained. The Metropolitan Government has entered into contracts with TDEC in lieu of a performance bond as assurance of financial responsibility for our solid waste facility maintenance duties. The amounts of the financial responsibility are adjusted on an annual basis as a result of inflation or reductions in post-closure costs.

Metro first entered into a contract with the state for the maintenance of the thermal ash monofill phase 2 in 1993. The phase 3 agreement was approved in 1997. Both of these agreements have been amended a number of times, and Metro and the state desire to combine the two amended agreements into one contract. Combining these contracts will better enable the department of public works to monitor the correct annual adjustment amounts for the financial assurance. This new agreement simply provides that Metro will continue to maintain the site and monitor for environmental hazards. Metro would be subject to a monetary penalty in the amount of \$1,177,567.76 only if it failed to adequately maintain the site.

**ORDINANCE NO. BL2009-550** (MATTHEWS) – This ordinance approves an agreement between the Metropolitan Government and Dennis and Tammy Roth pertaining to easement rights for McCabe Park property located adjacent to 4906 Colorado Avenue. Metro has permitted the Roths access across the park property for a number of years. Metro is now in the process of constructing a greenway and installing a fence next to this property. This agreement grants the Roths an exclusive easement for ingress and egress across the Metro property to 4906 Colorado Avenue, and grants an easement for the purpose of parking or landscaping on the Metro property. This agreement will terminate if 4906 Colorado Avenue is ever redeveloped. The Roths agree to indemnify the Metropolitan Government from any liability associated with the use of the easement. 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. BL2009-551** (MATTHEWS) – This ordinance authorizes the director of public property administration to accept a quitclaim deed to an old steel truss bridge on Lebanon Road crossing the Stones River. The state has agreed to donate this bridge and the land the bridge sits on for the benefit of the parks department. This bridge will be used as part of the Stones River greenway. This ordinance has been approved by the board of parks and recreation and the planning commission.

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2009-525** (CRADDOCK & JERNIGAN) – This ordinance, as amended, amends the Metropolitan Code to require booting companies to obtain a license from the transportation licensing commission in order to operate within the area of the Metropolitan Government. In June 2009, the council enacted Ordinance No. BL2009-434 to prohibit private companies from engaging in the practice of “booting” vehicles. This ordinance is an attempt to relax the outright prohibition and allow booting, provided the company is licensed and follows the specific requirements of this ordinance.

In order to obtain a license, the following would have to be provided to the commission:

1. Proof of a liability policy in the amount of \$500,000 naming the Metropolitan Government as additional insured.
2. Payment of a \$500 licensing fee. All fees received by the commission are to be used to defray the expenses of the commission in enforcing this ordinance.
3. A statement that the applicant is of a good moral character.
4. The names and addresses of at least two references regarding the applicant's financial responsibility.
5. The names and addresses of all employees of the company.

This ordinance would also require all employees of a booting service that will be installing and removing the booting devices to obtain a permit from the commission. This permit would be for a two-year period at a fee of \$150 plus \$40 for a background check. Future increases in the fee could be approved by resolution of the council. This employee permit must be carried by the employee while on duty. Employees would be required to wear an identification badge including the employee's name, company name, and permit number.

In addition to the permitting and licensing provisions, this ordinance sets forth a number of standards pertaining to the equipment used and the operation of the booting service. Each vehicle operated by the booting company would be required to include the company name on both sides of the vehicle and must be equipped with all of the equipment deemed by the commission to be necessary for the safe operation of the booting service. A notice would be affixed to the driver side window of every vehicle for which a booting device is installed. This notice must include a warning to the driver not to move the vehicle, the reason the booting device was installed, the 24-hour telephone number of the booting service, and the fee to remove the booting device, which cannot exceed fifty dollars.

This ordinance also includes a number of prohibited acts, which would allow for the suspension or revocation of a booting license. These prohibited acts include:

1. Towing a booted vehicle from private property if the boot has been on the vehicle for less than 24 hours.
2. Towing a booted vehicle from an attended commercial parking lot if the boot has been on the vehicle for less than four hours, or from an unattended commercial lot if the boot has been on for less than six hours.
3. Charging a booting fee in addition to the towing fee.
4. Failure to remove the boot within one hour after being called by the owner of the vehicle.

Commercial parking lots would not be allowed to use a booting service unless a permanently affixed sign is on the property advising drivers that violators will be booted with a maximum

charge of fifty dollars. The sign must also include the number for the booting company. Further, unattended commercial parking lots would be prohibited from booting a vehicle unless such vehicle has two or more unpaid parking violations on the company's lots.

Finally, the ordinance includes a hearing process in the event a license is denied, suspended, or revoked.

License/permit fees charged by the Metropolitan Government cannot exceed the cost to the government for providing the service. The council office recommends that the council obtain a statement from the director of the transportation licensing commission or from the finance department as to the reasonableness of the \$500 annual license fee before approving the ordinance on third reading.

**ORDINANCE NO. BL2009-540** (PAGE) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before June 10, 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. BL2009-541** (STEINE, BAKER & LANGSTER) – This ordinance approves a clinical affiliation agreement between Davidson County community corrections and Vanderbilt University to provide student clinical instruction and training to nursing students. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. The term of the agreement is for five years, but may be terminated by either party upon 30 days written notice. Vanderbilt University will be required to provide assurance that the students are covered by health and professional liability insurance and that they have received the necessary vaccinations. Vanderbilt agrees to assume responsibility for all of its students participating in the program. Metro is a participant in similar clinical experience programs through the Metro health department and the Davidson County drug court.

**ORDINANCE NO. BL2009-542** (BENNETT, STEINE & HUNT) – This ordinance authorizes the department of water and sewerage services to acquire a utility easement for property located at 4100 Saunders Avenue as part of the Nashville Commons at Skyline project. This acquisition will consist of a temporary construction easement and permanent water line easement at an estimated cost to Metro water services of \$1,500. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2009-543** (HUNT) – This ordinance abandons an 8-inch water line and easement and accepts a replacement 8-inch line and easement for airport authority property located at One Terminal Drive. This ordinance has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

**ORDINANCE NOS. BL2009-544** (HUNT & STEINE) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Patricia A. Wahl to provide public sewer service to property located on Rocky Fork Road in Williamson County. In 1998, the department of water and sewer services expanded the Mill Creek trunk sewer lines in anticipation of private developments tying on to the system. Pursuant to this agreement, Patricia A. Wahl will contribute \$6,000 toward the cost of the project in aid of construction for a total of 3 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.