

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **January 19, 2010**

RE: **Analysis Report**

Balances As Of:	<u>1/13/10</u>	<u>1/13/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$24,150,556	\$27,892,850
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$25,156,761	\$19,718,317
USD	\$22,180,965	\$13,510,632
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$27,354,208	\$52,554,640

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

– RESOLUTIONS –

**RESOLUTION NO. RS2010-1088** (STEINE & COLE) – This resolution approves the issuance of tourism tax revenue bonds not to exceed \$650,000,000 by the convention center authority for the construction of a new convention center, and approves an intergovernmental project agreement between Metro, the CCA and MDHA. A separate analysis of the convention center financing proposal is provided at the end of this analysis.

**RESOLUTION NO. RS2010-1089** (CRAFTON) – This resolution calls a county-wide referendum to ascertain the “will of the people” regarding the issuance of bonds by the convention center authority for the construction of a new convention center. The Metropolitan Charter provides that the council may, if it desires, call an election for the purpose of ascertaining the will of the people regarding the issuance of debt payable from any taxes or other revenues of the Metropolitan Government. Therefore, this Charter section can be read as authorizing the council to call a referendum to essentially poll the public regarding whether debt to build the convention center should be issued.

This ordinance would call the referendum and appropriate \$300,000 from the convention center fund to pay for the referendum. The ballot language for the referendum would read, “Do you favor the expenditure of funds and/or revenues of the Metropolitan Government for the purpose of constructing a new convention center in downtown Nashville, Tennessee?” The date for the referendum election is left blank in the resolution, so an amendment would be needed to add the date before the resolution moves forward.

The council office is of the opinion that this resolution has no binding legal effect regarding the council's ability to consider the resolution approving the financing for the convention center or the convention center's ability to proceed if the debt issuance is approved by the council. The debt for the convention center is being issued by the convention center authority, not the Metropolitan Government. While state law and the Charter do provide a mechanism for a binding public referendum regarding general obligation bonds issued by the Metropolitan Government, no such mechanism exists for the proposed convention center debt. Under the state Convention Center Authorities Act of 2009, the convention center authority has the power to issue revenue bonds (not general obligation bonds) for the construction of a convention center subject only to the approval of the council by resolution. Any decision by the council to hold the referendum would not preclude the council from also approving the issuance of convention center authority revenue bonds at the same meeting. Further, the results of any “will of the people” referendum called by the council would have no legal impact on the financing or construction of the convention center.

It is also questionable whether the council can legally appropriate funds from the convention center fund to pay for a referendum. The state laws creating the tourism accommodation taxes that make up the convention center fund expressly provide that the funds can only be used for the purpose of paying costs incurred in the construction of a convention center with a cost in excess of \$400 million. The first resolution authorizing MDHA to undertake “pre-development activities” towards the construction of a new convention center (Resolution No. RS2008-143) did not specifically define what types of activities these include. However, the resolution approving the intergovernmental project agreement with MDHA for the pre-development project (RS2008-698) is specific in its scope. The pre-development project includes: (1) land (continued on next page)

**RESOLUTION NO. RS2010-1089** (continued)

acquisition; (2) relocation expenses for businesses located on the parcels to be acquired; (3) clearing of these parcels, including utility relocation; (4) site preparation and infrastructure improvements; and (5) the continuation of the planning and design of the convention center. In addition, these tax revenues have already been pledged for the MDHA property acquisition debt.

If the council intends to proceed with holding the referendum, the council office suggests the resolution be amended to appropriate the funds from the undesignated fund balance, which was the funding source for the English Only referendum.

The director of finance has refused to certify that funds are available for this resolution.

**RESOLUTION NO. RS2010-1090** (STEINE) – This resolution approves an application for a federal stimulus grant in the amount of \$5,975,400 from the U.S. department of energy to the general services department for the purpose of reducing fossil fuel emissions and improving energy efficiency. Metro received an initial \$250,000 grant for this program in August 2009 to develop an energy efficiency and conservation strategy plan in order to qualify the government for this additional grant. These funds will be used to implement priority projects of the green ribbon committee throughout the Metropolitan Government. Projects to be funded include HVAC improvements, energy efficient lighting improvements and water conservation measures at a number of libraries and fire stations, bikeways, waste reduction, and new traffic signals.

There will be no required local match if this grant is awarded.

**RESOLUTION NO. RS2010-1091** (STEINE) – This resolution approves an application for a grant in the amount of \$200,000 from Cities of Service to the mayor's office to fund a "chief service officer" position for two years. This is to be a position in the mayor's office that will develop and implement a comprehensive services plan aimed at increasing volunteerism efforts. The purpose of the position is to help leverage Nashville's community and institutional resources to address problems in public education and the environment.

**RESOLUTION NO. RS2010-1092** (STEINE) – This resolution approves an amendment to a grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds.

MDHA has contracted with the Metropolitan historical commission to review MDHA proposals and identify historic properties potentially affected by each proposal.

This resolution extends the term of the grant through March 31, 2010, and increases the amount of the grant by \$20,000.

**RESOLUTION NO. RS2010-1093** (STEINE & GOTTO) – This resolution appropriates \$180,000 in grant funds from the state department of transportation to the Metropolitan planning commission for a transportation and land use planning project. This project involves four tasks. The first task is to work with the Metropolitan transit authority, the public works department and the state for improved downtown transit circulation. The second task is the exploration of transit-oriented development concepts along strategic corridors. The third task is to evaluate the historic pikes in Nashville, with an initial emphasis on Gallatin Pike, to coordinate land use and transportation planning policies. Finally, the project involves the exploration of alternative bridge designs.

The term of the grant is from December 1, 2009, through November 30, 2011. There is a required match of \$10,000 to be provided by the planning department.

**RESOLUTION NO. RS2010-1094** (STEINE & BAKER) – This resolution approves a grant in the amount of \$4,869 from the Community Foundation of Middle Tennessee to the Davidson County sheriff's department, working with Metro animal control, to teach inmates how to build dog houses. This grant is to support the sheriff's office PAWS program, which teaches inmates to train and care for animals. The grant funds will be used to build dog houses for families who adopt pets from Metro animal control that need assistance with housing for the pet.

**RESOLUTION NO. RS2010-1095** (BAKER & STEINE) – This resolution approves an application for a grant in the amount of \$8,754,320 from the U.S. department of homeland security to the Metropolitan Nashville fire department to hire 80 new firefighters. These new firefighter positions would increase staffing levels on 20 fire engines from three to four. The federal government would pay the salaries and benefits of the firefighters for two years. Metro would be obligated to continue to fund the positions for one additional year, which would increase the fire department's budget by \$5,004,600 in 2013. After the third year, there will be no requirement that we continue to fund these positions.

This is similar to a grant approved by the council in October 2009 for the hiring of fifty police officers.

**RESOLUTION NO. RS2010-1096** (BAKER & STEINE) – This resolution approves an amendment to a federal Byrne Justice Assistant grant from the Tennessee department of finance and administration to the Davidson County drug court. These federal stimulus funds are to be used to provide supervision and treatment services to non-violent felony offenders with substance abuse problems. This grant provides 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.

This amendment increases the amount of the grant by \$175,000 for a new grant total of \$675,000.

**RESOLUTION NO. RS2010-1097** (STEINE) – This resolution approves an application for a grant in the amount of \$7,000 from the state arts commission to the Metropolitan board of parks and recreation to supplement the Big Band dance program in Centennial Park. This program provides free big band dances to the public. The parks department is requesting this funding for the purpose of continuing the dance program this year. There would be a required local in-kind match of \$7,000 to be provided by the parks department.

**RESOLUTION NO. RS2010-1098** (STEINE) – This resolution approves a grant in the amount of \$8,200 from the National Center for Civic Innovation to the finance department for the government performance reporting trailblazer program. These funds will be used to support publication of performance reporting and for gathering public input on ways to improve government performance reporting. Specifically, the finance department will use the funds to solicit public feedback regarding the performance information to be presented on the Metro website detailing the performance of the various Metro departments.

This is essentially an extension of a 2007 grant in the amount of \$12,500 through March 1, 2010, so that the remaining \$8,200 can be spent.

**RESOLUTION NO. RS2010-1099** (STEINE) – This resolution approves a grant in the amount of \$113,197 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide skills shortage program funds to establish programs assisting older youth in Wilson County. NCAC administers the skills shortage program for the state in workforce investment area 9, which includes Davidson, Wilson, Trousdale, and Rutherford Counties.

**RESOLUTION NOS. RS2010-1100 & RS2010-1101** (STEINE) – These two resolutions approve amendments to grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide skills shortage program funds to the Plumbers and Pipefitters Union and TRW Automotive. The amendments simply extend the grant terms through June 30, 2010.

**Resolution No. RS2010-1100** extends the term of a grant in the amount of \$112,426. The Plumbers and Pipefitters Union will use \$49,260 of the funds to train 23 provisional journeymen and 20 journeymen plumbers in the plumbing trade. The union will be responsible for a \$28,000 match for the grant.

**Resolution No. RS2010-1101** extends the term of a grant in the amount of \$11,243 for NCAC administrative support of the skills shortage program.

**RESOLUTION NO. RS2010-1102** (STEINE) – This resolution approves an amendment to a community services block grant from the Tennessee department of human services to the Metropolitan action commission to assist low income individuals in meeting basic needs. These grant funds are 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.

This resolution increases the amount of the grant by \$130,428.56, for a new grant total of \$1,960,288.56.

**RESOLUTION NO. RS2010-1103** (STEINE & TYGARD) – This resolution appropriates \$965,949 in federal stimulus funds from the U.S. department of health and human services to the Metropolitan action commission to support the head start program. The head start program in Nashville provides early childhood education services to approximately 1,500 three and four year olds from economically disadvantaged families. These funds will be used to provide head start program services, as well as for staff technical assistance and training.

**RESOLUTION NO. RS2010-1104** (STEINE & TYGARD) – This resolution approves a contract and a business associate agreement between the board of health and Meharry Medical College to provide training opportunities for students. The Metro health department will provide clinical training experiences to students enrolled in Meharry's public health graduate program. 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. Meharry is required to maintain professional liability insurance with a single limit of not less than \$1 million per occurrence and \$3 million aggregate.

The business associate agreement with Meharry is basically to ensure the confidentiality of protected health information in order to comply with HIPPA.

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

**RESOLUTION NO. RS2010-1105** (STEINE, HUNT & JERNIGAN) – This resolution authorizes the Metropolitan Government to enter into a contract with the Old Hickory Utility District for the acceptance and treatment of its sewage flow. Metro has contracts with a number of other municipalities and utility districts to transport and treat their sewage. The previous contract with the Old Hickory Utility District has expired, and Metro water services has negotiated new uniform sewage treatment rates with the various municipalities and utility districts.

This new contract is for a term of ten years, but may be extended upon agreement of the parties. Under this new contract, the utility district will pay \$1.17 per hundred cubic feet up to a maximum number of gallons for each point of connection. If the sewage flow exceeds the maximum level, the price will be 125% of this price for the excess amount of flow. The contract includes a built in annual adjustment for the sewage treatment price. For years two through five and seven through ten, the adjustment will be based upon the percentage increase or decrease in the service charge index published by the National Association of Clean Water Agencies. The adjustment in year six of the contract will be determined by a rate consultant mutually acceptable to both parties.

The contract also provides that Old Hickory Utility District will make a retroactive payment to Metro for wholesale sewer treatment service rendered from July 1, 2007, to the present. The payment for the period from July 1, 2007, through June 1, 2009, will be at the rate of \$0.83 per 1,000 gallons of flow. The rate for services rendered from June 1, 2009, through the effective date of this contract will be \$1.17 per hundred cubic feet of flow. The payment is to be made in a lump sum after deducting the actual amounts paid during this period.

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**RESOLUTION NO. RS2010-1105** (continued)

The contract also provides that Metro will operate an industrial pretreatment program within the area served by the utility district. The costs of providing this program will be offset by user and permit fees.

**RESOLUTION NO. RS2010-1106** (JAMESON, STEINE & OTHERS) – This resolution approves an agreement between the state department of transportation and the Metropolitan department of public works for improvements to Korean Veterans Boulevard (formerly Gateway Boulevard). The project will consist of the widening of Korean Veterans Boulevard from two lanes to six lanes between 4<sup>th</sup> and 8<sup>th</sup> Avenues. The project will also include the construction of a median, sidewalks, and bike lanes.

TDOT is providing \$14,206,010 in federal pass-through funds, which represents 80% of the project. Metro will be responsible for the remaining 20% (\$3,551,503) to be provided through general obligation bond funds allocated for road construction. TDOT will be responsible for providing any right-of-way or easements necessary for the project. All contractors on the project must be on the state's pre-qualified contractor list. The project is to be completed not later than October 2012.

Although this project has been contemplated for a number of years, the project has been redesigned to accommodate and facilitate the development of the proposed Music City Center.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2009-600** (JERNIGAN) – This ordinance amends the Metro beer code to require that notice be sent to the district councilmember upon the filing of an application for a caterer’s beer permit, a special events beer permit, or a temporary beer permit with the beer board. All persons or businesses desiring a beer permit must file an application under oath with the beer board stating, among other things, that no one with a five percent or greater ownership interest in the company has been convicted of a crime involving moral turpitude or an alcoholic beverage related crime within the past 10 years. The application must also include the location where beer is to be sold with floor plans and diagrams. The beer board then submits the application to the police department for a background check.

This ordinance would require the beer board to notify the district councilmember within three days after the filing of a caterer’s beer permit, special events beer permit, or temporary beer permit application. The councilmember would have five days in which to submit written comments or concerns about possible community concerns associated with the sale of beer by the applicant and/or at the proposed temporary or special event.

There is a proposed amendment for this ordinance that would add a definition for “temporary permit” to the code and would require that a copy of the application be submitted to the district councilmember upon request.

**ORDINANCE NO. BL2009-601** (JERNIGAN) – This ordinance amends the Metro Code to allow disabled drivers to park on both sides of 11 streets in the Old Hickory area. The Code currently provides that the department of public works has the authority to post signs stating no parking is allowed on streets that are 20 feet or less, or that parking is only allowed on one side of the street with a width of 30 feet or less. A number of streets in Old Hickory Village are narrow and, therefore, parking is currently not allowed on both sides of the street. This ordinance would allow persons with a valid disabled driver placard or license plate to park on both sides of the following streets, in either direction:

1. Berry Street
2. Birdsall Street
3. Bryan Street
4. Clarke Street
5. Cleves Street
6. Debow Street
7. Dodson Street
8. Elliston Street
9. Jones Street
10. Lawrence Street
11. Overton Street

This ordinance was deferred indefinitely by the traffic and parking commission.



**ORDINANCE NOS. BL2009-602 & BL2010-613** (CLAIBORNE) – These two ordinances amend the Metro Code pertaining to the moving of houses or other structures. The code currently requires persons desiring to move a house to obtain a permit from the department of codes administration. Once a house has been moved from its foundation, it must be moved from the site within 30 days. The owner of the house then has 90 days after it is moved to make the necessary improvements to the structure to bring it up to code standards, although the department of codes administration may grant extensions upon the showing of delay caused by matters beyond the control of the owner or house mover.

Although these timeframes are expressly provided in the code, many house movers fail to follow these provisions and houses have been left for months after they have been moved from the foundation and had the brick or siding removed.

**Ordinance No. BL2009-602** would prohibit a person from obtaining another house moving permit if they have been found guilty of violating the house moving code provisions or failing to satisfy the conditions of a permit within the past 12 months. This ordinance should either be withdrawn or deferred indefinitely in light of Ordinance No. BL2010-613, which concerns the same subject matter.

**Ordinance No. BL2010-613** adds a new section to the building code specific to house moving. Under this ordinance, if the house is moved to another location within Davidson County, the applicant would be required to file an application for a foundation permit at the time the house moving permit application is filed. The house would have to be moved to its new foundation or to a location outside of Davidson County within 45 days after the permit is obtained. If a house is moved outside of the county, it could not be moved back in unless another permit is obtained and would have to be permanently affixed to its new foundation within 30 days. All houses being moved would be required to be covered with an appropriate house wrap.

Once a house is moved to its new foundation, the owner would have 150 days to bring the house up to code. The codes department could grant one 60-day extension upon a showing of delay beyond the owner's control. Like BL2009-602, this ordinance would prohibit a person from obtaining another house moving permit if they have been found guilty of violating the house moving code provisions or failing to satisfy the conditions of a permit within the past 12 months.

**ORDINANCE NO. BL2009-605** (JAMESON & HUNT) – This ordinance abandons a 15 foot water and sewer easement for property located at 714 Ramsey Street. This easement, which contains a private sanitary sewer line at the proposed East River Apartments, is no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2009-606** (BENNETT) – This ordinance amends the Metro Code to prohibit the outdoor sale of animals. The code already prohibits mobile vendors from selling goods or wares along the roadside, which includes animals. However, there is no specific provision applicable just to animals.

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**ORDINANCE NO. BL2009-606** (continued)

This ordinance, modeled after an ordinance in Lebanon, Tennessee, would prohibit the outdoor sale or gifting of dogs, cats, or other domestic animals in any outdoor public place. Included within the definition of "outdoor public place" are public rights-of-way and public or private parking lots. The ordinance exempts the Metro health department and 501(c)(3) nonprofit organizations whose primary purpose is the care and adoption of animals. The ordinance also exempts persons selling or giving away animals on their own property.

**ORDINANCE NO. BL2009-607** (GOTTO & STEINE) – This ordinance grants a telecommunications franchise to Access Fiber Group, Inc., in accordance with the Metro Code. In January 2008, the council adopted Resolution No. RS2007-64 to grant Access Fiber Group, a Birmingham, Alabama-based company, permission to install and maintain approximately 26 miles of fiber optic cable on existing utility poles in Davidson County for the sole purpose of serving the Bank of New York facility at 420 Woodfolk Avenue. Resolution No. RS2007-64 included a provision prohibiting Access Fiber from providing local telecommunications service, and in the event the company decided to provide such service, it would be required to obtain a telecommunications franchise. Access Fiber now desires to provide telecommunications service in Davidson County.

This ordinance grants Access Fiber a fifteen year franchise. The company will be required to pay five percent of its gross revenues to the Metropolitan Government as consideration for granting the franchise. Access Fiber is also required to provide a bond in the amount of \$500,000 guaranteeing the company's performance of its obligations under the franchise, as well as a \$1,000,000 certificate of liability insurance naming the Metropolitan Government as additional insured.

The application for this franchise has been approved by the planning commission.

**ORDINANCE NO. BL2009-608** (STEINE & HUNT) – This ordinance approves a utility relocation contract between the department of water and sewerage services and the state department of transportation (TDOT) to relocate certain department of water and sewerage services' facilities required by TDOT's Murfreesboro Road bridge project over Mill Creek. The total cost of the utility relocation project is estimated to be \$250,340, with TDOT being responsible for 100% of the costs.

This is a typical agreement entered into by Metro and TDOT for the relocation of utilities associated with TDOT improvement projects.

**ORDINANCE NOS. BL2009-609 & BL2009-610** – 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.

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**ORDINANCE NOS. BL2009-609 & BL2009-610** (continued)

**Ordinance No. BL2009-609** (Toler & Hunt) purportedly abandons a 10-inch public utility drainage easement for property located at 450 Kinhawk Drive. This ordinance should be withdrawn and re-filed as the easement to be abandoned is actually a 10-foot drainage easement.

**Ordinance No. BL2009-610** (Moore & Hunt) abandons an 8-inch sanitary sewer line and easement located at Morning Star Missionary Baptist Church, 19 Hart Street, and accepts a relocated 8-inch sewer line and easement.

**ORDINANCE NO. BL2010-611** (MITCHELL & WILHOITE) – This ordinance amends the Metro procurement code to establish mandatory “best value contracting” procedures for contracts associated with the construction and development of the new convention center and hotel. The best value contracting provisions would set forth a required rating system for proposals submitted by contractors. The rating system would assign a 25% weight for each of the following four categories: price, past performance, the contractor’s management plan, and the project staffing plan. The points allocated for the project staffing plan would in part be based upon the number and percentage of craft personnel that have completed apprenticeship programs registered with the U.S. department of labor, and whether the company provides health insurance to its employees. The ordinance requires that the proposals be evaluated by a technical evaluation team consisting of at least three Metro employees experienced in construction contracting. The evaluation team would score each of the proposals using the four categories referenced above.

The ordinance also would require all contractors to prelist their subcontractors when subcontracts are valued at \$10,000 or more. Metro would be required to prepare a contractor performance evaluation report once the construction work on each contract is complete. The ordinance also provides that best efforts are to be made to ensure 20% minority participation, and that preference is to be given to local firms.

The council office is of the opinion that this ordinance would not be legally binding upon the convention center authority, as the convention center authority derives its powers from state law. If the financing plan is approved by the council, the convention center will be built by the convention center authority, which will have the sole responsibility for overseeing procurement. The council office would also point out that giving preference to local firms can sometimes create problems under the Privileges and Immunities Clause and the Equal Protection Clause of the U.S. Constitution.

The director of finance has refused to certify the availability of funds for this ordinance since the financial impact is unknown at this time.

**ORDINANCE NO. BL2010-612** (BAKER & DOMINY) – This ordinance amends the Metropolitan Code pertaining to vehicles left running while unattended. The Code currently makes it unlawful to leave a vehicle unattended without first turning off the engine and removing the key from the ignition. The purpose of this law is to prevent auto thefts.

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**ORDINANCE NO. BL2010-612** (continued)

This ordinance would essentially exempt vehicles that have remote starting devices where the doors remain locked while unattended. There is a proposed amendment that would allow any vehicle to remain idling on private residential property while unattended as long as the keys are not left in the ignition.

A similar ordinance that would have allowed a vehicle on private property to remain idling while unattended when the outside temperature is below forty degrees was deferred indefinitely in March of last year.

**ORDINANCE NO. BL2010-614** (STEINE & CLAIBORNE) – This ordinance amends the Metro Code abolishing the Public, Educational and Governmental (PEG) access oversight committee, providing for the dissolution of the Community Access Corporation (CAC), and creating a new Education, Community and Arts Television Corporation to take the place of the Metropolitan Educational Access Corporation (MEAC) that would fulfill the functions of these other entities. The purpose of this ordinance is to consolidate the various education, community, and arts television functions under one entity.

The PEG access oversight committee was created in 1995 for the purpose of coordinating access to the government access cable channels in an effort to better serve the community. The PEG committee has no oversight or control of any of the programming on the channels.

The CAC was created by the council in 1984 to have the responsibility for program production and the day-to-day operation of the public access channels. The CAC is a separate non-profit corporation and hires a staff to operate the community access channel, which is channel 19 on Comcast. The CAC board consists of thirteen members, seven of whom are appointed by the mayor and confirmed by the council.

MEAC was created by the council in 2001, and is structured in essentially the same manner as CAC. MEAC is a non-profit corporation whose directors are appointed by the mayor and approved by the council. The function of MEAC is to have responsibility for program production and management of the educational access channels, which are currently channels 9 and 10 on Comcast.

This ordinance would consolidate all of these functions into one new organization to be called the Nashville Education, Community, and Arts Television Corporation (NECAT) in an effort to provide more accountability. This action is the result of a recent audit of MEAC, PEG and CAC performed by the department of finance that found a number of serious deficiencies. The most noteworthy problems involve MEAC, especially its former executive director. The audit indicates that more than \$45,000 in MEAC funds were misappropriated and over \$18,000 in improper commissions were paid to the executive director due to a lack of board oversight and proper internal controls. If the findings in the audit are true, the actions taken by the former executive director of MEAC likely amount to criminal theft and/or fraud. For example, it appears the former executive director used MEAC funds for personal expenses including a vacation, costs for obtaining a passport, payments to his landlord for his personal residence, payments to his son, cable television service at his home, and questionable cash withdrawals from ATMs. A Suburban SUV belonging to MEAC was also noted as missing.

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**ORDINANCE NO. BL2010-614** (continued)

While the vast majority of the problems stem from MEAC's former executive director, the audit also noted deficiencies with the other organizations, including poor control over inventorying assets and payroll processing issues. The audit recommended that a new organization be created to manage the activities of the three existing entities.

Under this ordinance, NECAT will be responsible for establishing rules and regulations regarding the use and schedule of the public access channels, to hire employees, and for defining the mission for each of the channels. NECAT will be required to submit an amended and restated corporate charter for approval by resolution of the council within 90 days after the effective date of this ordinance. The seven existing members of the MEAC board will continue to serve until the expiration of their term. NECAT will also be responsible for obtaining an annual audit from an independent accounting firm approved by the director of finance.

All production facilities will be managed and operated by the Metro department of information technology services (ITS) staff. NECAT will not have any authority over government access television (Metro3), which is operated by ITS. The council office would point out that the Metropolitan Government will have no control over the content of any programming on the education, arts, and community access channels.

This ordinance is to be deferred to the second meeting in February to allow for a special joint meeting of the budget & finance and the personnel-public information committees.

**ORDINANCE NO. BL2010-615** (CRADDOCK & HUNT) – This ordinance authorizes the Metropolitan Government to assume and take over all functions, assets, and liabilities of the Madison Suburban Utility District. Madison Suburban provides water service to customers in the Madison and Goodlettsville areas. Metro water services already provides sewer service in the Madison area and has an agreement with Goodlettsville to treat its sewage. State law permits Metro to acquire utility and other public service districts that operate within the area of the Metropolitan Government. In 2003, Metro took over the water facilities of the First Suburban Utility District. This action had been contemplated by an agreement entered into in 1994 when Metro took over the sewer function of the utility district.

Under this ordinance, Metro water services would be directed to take over all functions, rights, duties, property, assets, and liabilities associated with Madison Suburban's water distribution system. The ordinance includes a provision ratifying any future action taken by Metro water services to facilitate the takeover.

Unlike the First Suburban take over, Madison Suburban has not requested this action and no contract has been negotiated with Metro. The director of finance has refused to certify that funds are available for this ordinance until a detailed study of the Madison Suburban system is done to determine the feasibility of the takeover.

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2009-586** (JAMESON & GILMORE) – This ordinance, as amended, creates a new zoning district called the “Downtown Code” (DTC) applicable to 823 acres of downtown Nashville. Most downtown properties are currently zoned commercial core (CC) or core frame (CF) permitting an array of high intensity uses. A smaller number of parcels are zoned for industrial and mixed-uses.

The DTC is a 99-page document that will govern the future development of downtown. The purpose of the DTC is to allow a broad range of non-residential and residential uses, reduce reliance on automobiles for transportation, create a better pedestrian streetscape, create open space, and to promote infill development. In order to accomplish these goals the DTC provides greater development rights, allows additional uses, and grants height bonuses for developing open space and workforce housing. The DTC divides the downtown area into 15 sub-districts, with each sub-district having its own set of guidelines for setbacks, height, width, and depth.

One key change between the existing downtown zoning and the proposed DTC, is that the DTC would allow single and two-family residences in the downtown area. The DTC also would increase the permitted maximum building height for much of downtown. The 2<sup>nd</sup> Avenue and Broadway area would continue to have an eight-story height limitation to protect the historic nature of the area. The DTC gives special attention to pedestrian-oriented design, and designates the ground level of buildings for “active uses”, which include retail, office, residential, institutional, and recreational uses. Further, the DTC includes development standards to provide for the creation of urban neighborhoods where residents can live, work, and shop.

This ordinance also includes standards for environmental sustainability and energy efficiency by encouraging pedestrian activity and by providing height bonuses for developments that achieve a LEED Silver rating.

There is a proposed amendment to this ordinance pertaining to the signage requirements.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2009-587** (JAMESON & GILMORE) – This is a housekeeping ordinance that amends the Metro Code to remove any non-zoning references to the commercial core (CC) zoning district, which is to be replaced by the new “downtown code” (DTC) that is the subject matter of Ordinance No. BL2009-586. Numerous sections outside of the zoning code reference the CC district, which, if not amended, would cause confusion once the district is replaced by the new DTC district.

**ORDINANCE NO. BL2009-599** (MOORE, LANGSTER, & GILMORE) – This ordinance authorizes the mayor to submit the 2010-2014 consolidated plan for housing and community development programs for the Metropolitan Government to the U.S. department of housing and urban development (HUD). This five year consolidated plan was prepared by the Metropolitan development and housing agency (MDHA) and is to be administered by MDHA. The plan includes the allocation of funds received from HUD for community development block grants (CDBG), the HOME investment partnerships program, the emergency shelter grant program (ESG), and the housing opportunities for persons with AIDS (HOPWA).  
(continued on next page)

**ORDINANCE NO. BL2009-599** (continued)

**CDBG** funds are based on federal funding in the amount of \$4,900,000. The largest portion of the CDBG funds are to be spent on a neighborhood improvement program (\$1,225,000), a community economic development program (\$400,000), a community services program (\$735,000), and a homeowner emergency repair program (\$1,115,000). The neighborhood improvement program provides resources to nonprofit organizations, to fund neighborhood infrastructure projects, and to enhance the aesthetics of qualifying neighborhoods. The community economic development program provides financing options to businesses located in low-income areas to make improvements to their property, to provide assistance to local businesses to create jobs, and to assist in the creation and sustainability of small businesses. The community services program provides financial assistance to nonprofit organizations that provide services to enhance quality of life. The homeowner emergency rehabilitation program provides funds to correct plumbing, roofing, electrical, and HVAC problems that threaten the health or safety of the occupants.

The actual expenditure of CDBG funds will be submitted to the council for approval by resolution.

**HOME** funds are to provide a mixture of owner-occupied and rental rehabilitation (\$840,000), down payment assistance (\$500,000), and assistance to developers to increase the affordable housing stock (\$1,380,000).

**ESG** funds (\$220,000) are allocated to local homeless shelter providers to help cover operational expenses and essential services. Local matching funds required under this program must be provided by the local non-profits that participate in the program.

The **HOPWA** program (\$795,000) provides housing related assistance for low-income persons with AIDS and their families.

The ordinance expressly provides that none of these funds will be used for any property acquisition involving the use of eminent domain.

**ORDINANCE NO. BL2009-603** (HUNT) – This ordinance approves the routine adoption of the additions, deletions, and/or other amendments to the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government made during the previous year. These amendments are submitted annually by the department of public works. The map shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2009-604** (COLEMAN, STEINE & MATTHEWS) – This ordinance authorizes the director of public property administration to accept the donation of three parcels of property in the vicinity of Murfreesboro Pike and Hobson Pike for use as part of the parks system. The first parcel consisting of 16 acres was donated by Old Hickory Commons, LLC. The remaining two tracts totaling approximately 6 acres were donated by TWD I Partnership.

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

The deeds that are attached to this ordinance were executed by the donors in 2005, but the parks department would not agree to accept the property until the construction of the subdivision was far enough along that sufficient access to the property was available.