

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **February 16, 2010**

RE: **Analysis Report**

Balances As Of:	<u>2/10/10</u>	<u>2/11/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,232,956	\$27,892,850
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$25,160,041	\$19,996,217
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 –

SUBSTITUTE RESOLUTION NO. RS2010-1109 (TYGARD & STEINE) – This resolution approves an intergovernmental agreement between the Metropolitan Government and the Metropolitan Nashville hospital authority to make changes to the hospital authority's employee benefits system. The Metropolitan Government entered into a contract with the hospital authority when the authority was created in 1999 to facilitate the transfer of duties from the board of hospitals. The intergovernmental agreement states that Metro is to provide the same services it provided to the board of hospitals, including benefits and civil service administration. Since the transfer in 1999, employees of the hospital authority have been a part of the Metropolitan Government's employee benefit system.

In an effort to reduce costs and to be more competitive with other hospitals, the hospital authority is proposing that all new employees hired after the effective date of this resolution receive only group dental and optional medical insurance benefits administered by Metro. All pension, disability, injury-on-duty (workers compensation), life insurance, and retiree medical benefits for new employees will be administered by the hospital authority under a new plan. Existing hospital authority employees will retain their current benefits administered by the Metropolitan Government.

RESOLUTION NOS. RS2010-1118 & RS2010-1119 – These two 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.

The resolutions provide that the date for holding the referendum election on the Charter amendments is to be the August 5, 2010 general 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 should be deferred indefinitely until closer to the August general election.

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

Resolution No. RS2010-1118 (Tygard) proposes an amendment to the Charter to allow wine sales in groceries county-wide if the Tennessee General Assembly enacts such legislation. The Charter currently prohibits any liquor stores from being located within the general services district (GSD). The Charter makes no distinction between the sale of wine and liquor, so in the event the Tennessee General Assembly enacted legislation allowing wine sales in groceries, such sales within the GSD would still be prohibited by the existing Charter language. This Charter amendment would allow retail food stores licensed by the state for the sale of wine to sell wine within the entire area of the Metropolitan Government.

The council office would point out that there are two separate versions of the wine sales in groceries legislation pending in the Tennessee General Assembly. One version would simply create a new category of state liquor licenses specifically applicable to wine sales in retail food (continued on next page)

RESOLUTION NOS. RS2010-1118 & RS2010-1119 (continued)

stores. Another version would require local governments to essentially opt-in to the provisions allowing wine sales in food stores using the local option referendum mechanism included in state law. The local option laws require that a petition be filed with the election commission to get the matter on the ballot. Thus, this Charter amendment would have no effect if the latter version of the state law was enacted.

Resolution No. RS2010-1119 (Forkum) proposes to amend the Charter to allow Metro school teachers to teach in the community education program and to allow Metro employees to serve as part-time substitute teachers or coaches in the Metro public school system. The Charter currently prohibits employees from holding more than one position with the Metropolitan Government, except that school personnel can work for other departments in between school years. This precludes Metro employees, such as police officers, from serving as athletic coaches or substitute teachers while off duty. The language also prohibits Metro school teachers from teaching community education classes in the evenings.

This Charter amendment would create two new exceptions to address these situations. Certificated school personnel could be employed on a part-time basis to teach community education classes and Metro employees could be employed part-time by the board of education to lead, teach, or coach students in extracurricular activities and/or to serve as substitute teachers.

RESOLUTION NO. RS2010-1120 (STEINE) – This resolution determines to issue \$3,500,000 in GSD general obligation bonds to provide funding for a new patient records system for General Hospital. This new records system will comply with the electronic health records requirements of the American Recovery and Reinvestment Act of 2009, which will enable the hospital to receive certain federal incentive payments. This is the first step in the process toward the ultimate sale of the bonds by public bid. The resolution provides that no technology is to be purchased until the finance director has conducted a cost-benefit analysis as to the most efficient use of the bond funds and has authorized the expenditure.

RESOLUTION NO. RS2010-1121 (STEINE) – This resolution appropriates \$10,917,600 from the general fund reserve fund (4% fund) to nine departments. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The balance in the general fund reserve fund as of February 10, 2010, was \$24,150,556. This consists of unrealized revenue for fiscal year 2010 in the amount of \$12,194,218. 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:

Bordeaux Long-Term Care – \$126,700 to purchase various medical equipment.

Fire Department – \$400,000 for mobile data terminals in ambulances, kitchen equipment and supplies, facility maintenance, safety equipment, a scanner, and smoke detectors for the fire prevention public education program.

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RESOLUTION NO. RS2010-1121 (continued)

General Hospital – \$270,400 for miscellaneous medical equipment and furniture.

General Services Department – \$7,730,000 for miscellaneous facility equipment, maintenance, and vehicle replacements.

Information Technology Services Department – \$390,000 for power failure protection and firewall upgrades.

Knowles Home – \$2,900 for a fryer and microwave.

Police Department – \$400,000 for computer equipment, modular furniture, computer desk chairs, and bulletproof vests.

Public Library – \$1,000,000 for an HVAC system for the computer server room, and new and replacement books and materials.

Public Works Department – \$597,600 for parking meters, recycling boxes, roll-off boxes, and a front-loader truck.

RESOLUTION NO. RS2010-1122 (STEINE) – This resolution approves 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. RS2010-1123 (STEINE) – This resolution approves a grant in the amount of \$25,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to collaborate with the Nashville Area Chamber of Commerce to conduct a targeted labor market opportunities study. This study will involve an assessment of the occupational mix for the existing labor market, making employment forecasts, and meeting with industry stakeholders to validate the results. The term of the grant is from January 4, 2010, through April 30, 2010.

RESOLUTION NO. RS2010-1124 (STEINE & BAKER) – This resolution approves an intergovernmental agreement between the U.S. marshals service and the Metropolitan Government for the reimbursement of overtime expenses incurred by the police department as part of the district fugitive task force. The task force is directed and coordinated by the U.S. marshals service for the purpose of locating and apprehending fugitives. The agreement provides that Metro will be reimbursed for participating officers’ overtime, as well as for certain expenses incurred.

RESOLUTION NO. RS2010-1125 (STEINE & HUNT) – This resolution authorizes the Metropolitan Government to enter into a contract with the City of Millersville 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. Metro water services has negotiated new uniform sewage treatment rates with the various municipalities and utility districts, which is the subject matter of this contract.

This 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 Millersville 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.

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. RS2010-1126 (STANLEY, STEINE & HUNT) – This resolution approves a second amendment to a contract between the state department of transportation (TDOT) and Metro public works for the widening of Central Pike from Lebanon Road to the west end of Stoner Creek Bridge, including the reconstruction of the railroad underpass structure over Central Pike. The original contract was approved by the council in 1999 by Ordinance No. O99-1563.

The contract was amended in August 2009 to reflect the use of \$4,169,870 in American Recovery and Reinvestment Act (ARRA) funds for the project. This resolution approves an amendment that incorporates additional ARRA requirements pertaining to traffic control and subcontracts, moves funds from right-of-way acquisition to construction costs, and adds a utility phase for the project.

Ordinance No. O99-1563 allows amendments to the contract and additional agreements related to the project to be approved by resolution.

RESOLUTION NO. RS2010-1127 (STEINE & MATTHEWS) – This resolution approves a grant in the amount of \$100,203 from the Friends of Warner Park to the Metropolitan parks department to provide staffing for the Warner Parks Center. These funds will be used to continue the following staff positions at the center:

- Office support specialist \$38,556
- Parks police officer overtime \$5,000
- Part-time seasonal waterer \$7,520
- 7 part-time maintenance positions \$24,127
- 2 part-time naturalists \$24,000

There will be a required match of \$23,686.03 to be provided through the parks department's budget to cover the benefit costs for the full-time employees.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2009-585 (CRAFTON & DUVALL) – This ordinance would restrict the use of the Tennessee State Fairgrounds property to the uses that were in effect as of October 1, 2009. The Metropolitan Government is the owner of the 129-acre fairgrounds property, which is currently under the control and operation of the Metropolitan board of fair commissioners. The fair board was originally created by a private act of the Tennessee General Assembly in 1909 for the purpose of establishing, maintaining, and operating a fair. The fairgrounds was leased to the State of Tennessee for a 99 year term in 1911, but this lease was terminated in 1923, making the Metropolitan Government the fee simple owner of the property. As a result of declining revenue from the fairgrounds, the fair board, at the recommendation of the mayor, voted in October 2009 to continue operation of the fairgrounds through June 30, 2010, and to explore alternative accommodations for events held at the fairgrounds. Subsequently, the mayor recommended that all events at the fairgrounds other than the racetrack and the fair itself be continued through December 31, 2010.

This ordinance would restrict the fairgrounds property from being used for anything other than a fair, racetrack, expo center (including flea markets, trade shows, conferences, special events, Christmas Village, etc.), storage facility for the Davidson County Election Commission, headquarters for senior citizens centers, Metropolitan Nashville Public School bus parking, public health vaccination dispensing, and as a site for emergency management coordination, which are the current uses of the property. The ordinance would also require the fair board to explore the feasibility of a partnership with a private corporation for the redevelopment of a portion of the fairgrounds property as a corporate center. This public-private partnership is to include the creation of a master development plan whereby the private entity would agree to assist with the redevelopment of the Metro-owned property for fairgrounds purposes in exchange for obtaining the portion of the property necessary for construction of a corporate center at a below-market value price.

There is a proposed amendment that would remove the requirement pertaining to the exploration of a public-private partnership for development of the site.

The council office would point out that council approval will be required prior to the transfer or redevelopment of the fairgrounds property, whether this ordinance is approved or not.

ORDINANCE NO. BL2010-621 (RYMAN) – This ordinance amends the Metro Code to prohibit holders of revoked towing licenses from performing towing services in Davidson County even on an occasional basis, and to require approval by the transportation licensing commission prior to performing nonconsent tows. The Code exempts out-of-county wrecker services from having to obtain a license to operate from the transportation licensing commission if they perform five or less tows a month within Davidson County. Within the past several years, two towing firms that have had their licenses revoked by the transportation licensing commission have relocated to adjacent counties and continue to perform tows in Davidson County. This ordinance would prohibit any such firm that has had their license revoked from performing any tows in Davidson County, regardless of the frequency.

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ORDINANCE NO. BL2010-621 (continued)

This ordinance also modifies the nonconsent towing provisions in the Code to require express approval by the transportation licensing commission. The Code currently only requires firms to provide 72 hours written notice to the commission prior to engaging in nonconsent towing. The Code requirements for nonconsent towing are much more stringent than those for general towing services. This ordinance would eliminate the simple notice requirement and substitute it with a requirement that the commission take action to authorize nonconsent towing. This will help ensure that towing firms meet the additional safety requirements prior to engaging in nonconsent towing.

This ordinance has been brought at the recommendation of the transportation licensing commission.

ORDINANCE NO. BL2009-622 (JERNIGAN) – This ordinance amends the Metro building code to require that notice be sent to the district councilmember prior to the issuance of a permit for the erection of a temporary structure. The building codes require that a permit be obtained from the department of codes administration prior to erecting a tent or other temporary structure greater than 120 square feet in size that is intended for use by ten or more persons.

This ordinance would require the codes department to notify the district councilmember upon the filing of a temporary structure permit and allow the councilmember three business days to submit written comments or concerns about possible community concerns associated with the permit.

ORDINANCE NO. BL2010-623 (HOLLEMAN) – This ordinance abandons a portion of Brighton Road between Montgomery Bell Avenue and Wilson Boulevard. This closure has been requested by Montgomery Bell Academy for the expansion of its campus. Montgomery Bell Academy is the owner of all adjacent property along this right-of-way. Metro public works has determined that this section of right-of-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. BL2010-624 (TOLER & HUNT) – This ordinance abandons a 10-foot drainage easement at 450 Kinhawk Drive. 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. BL2010-625 (LANGSTER, GILMORE & OTHERS) – This ordinance authorizes the acceptance of 28 easements for various stormwater projects in Davidson County. These easements are being acquired at no cost to the Metropolitan Government. This ordinance has been approved by the planning commission. Easements are being accepted by the property owners for the following properties:

Property Address / Council District

- 2855 Logan Street – 16
- 2050 Lucas Lane – 5
- Lucas Lane, unnumbered – 5
- 1st Avenue, North, unnumbered – 19
- 2nd Avenue, North, unnumbered – 19
- 1512 – 2nd Avenue, North – 19
- 234-B Davenport Drive – 29
- 3183 Hamilton Church Road – 33
- Century Boulevard, unnumbered – 15
- 1318 World Baptist Center Drive – 2
- 1715 Broadway – 19
- 4200 Kenilwood Drive – 16
- 7102 Highway 70 South – 22
- 1007 Murfreesboro Pike – 13
- 331 Great Circle Road – 2
- 714 Ramsey Street – 6
- 201 North 8th Street – 6
- 2300 Patterson Street – 21
- 3822 Cleghorn Avenue – 25
- 2126 Abbott Martin Road – 25
- 5144 Hickory Hollow Parkway – 32
- 19 Hart Street – 17
- 6604 Charlotte Pike – 20
- 100 Airpark Center East – 29

– BILLS ON THIRD READING –

ORDINANCE NO. BL2009-575 (MITCHELL) – This ordinance renames Old River Road Pike, extending between two sections of River Road Pike, as “Horton Hollow Lane”. The realignment of River Road Pike caused several sections of Old River Road Pike to remain. This name change was requested by a resident in the area because visitors and delivery vehicles often have difficulty locating property on Old River Road Pike, and the residents are concerned that this could cause a delay in emergency services.

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

ORDINANCE NO. BL2010-612 (BAKER & DOMINY) – This ordinance, as amended, 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.

This ordinance would allow vehicles to be left running on private residential property as long as the doors remain locked, no key is in the ignition, and the vehicle is incapable of being driven without the key 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.

SUBSTITUTE ORDINANCE NO. BL2010-614 (STEINE & CLAIBORNE) – This ordinance, as substituted, 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.

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SUBSTITUTE ORDINANCE NO. BL2010-614 (continued)

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.

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 120 days after the effective date of this ordinance. Four of the seven existing members of the MEAC board will continue to serve on the new board until the expiration of their term. This will allow seven new members to be appointed for a total membership of eleven.

NECAT will 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.

ORDINANCE NO. BL2010-616 (PAGE) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before August 24, 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. BL2010-618 (HARRISON) – This ordinance abandons a portion of Alley No. 1609 extending from 24th Avenue North to a dead end. The applicant, T. Pool Manager, LLC, is the owner of all of the affected properties. This alley is no longer needed for right-of-way purposes. The ordinance also abandons any utility easements held by Metro. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2010-619 (GILMORE) – This ordinance renames McLemore Street, located between 10th Avenue North and Rosa L. Parks Boulevard, as “YMCA Way”. McLemore Street is a one block street that runs along the side of the downtown YMCA. This name change has been requested by the YMCA of Middle Tennessee. Although the Metro Code prohibits the naming of streets for the purpose of promoting a private business, Metro public works has decided that the YMCA is a charitable organization rather than a business.

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