MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **April 6, 2010**

RE: **Analysis Report**

Balances As Of:	**3/31/10**	**4/1/09**
GSD 4% RESERVE FUND	***** $13,232,956	$28,317,051
GENERAL FUND UNDESIGNATED FUND BALANCE		
GSD	$25,160,041	$19,998,867
USD	$22,180,965	$13,510,632
GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE		
	$27,354,208	$52,554,640

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

– RESOLUTIONS –

RESOLUTION NO. RS2010-1162 (PAGE) – This resolution sets the date for the 2010 State of Metro Address. The Charter requires the mayor to personally address the council on the state of the Metropolitan Government not later than May 25th of each year. This resolution sets the address for April 29, 2010, at 10:00 a.m. at Riverfront Park.

RESOLUTION NO. RS2010-1163 (BAKER & STEINE) – This resolution approves an amendment to a grant in the amount of $200,000 from the state department of finance and administration to the juvenile court. The purpose of the original grant, approved in June 2009, was to provide funding for a juvenile drug court case manager and a family drug court case manager. This amendment allows the funds to be used for two community-based probation officers instead. The term of the grant is from July 1, 2009, through June 30, 2011.

RESOLUTION NO. RS2010-1164 (HOLLIN, STEINE & MATTHEWS) – This resolution approves an application for a grant in the amount of $15,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan board of parks and recreation for summer enrichment programs for youth. MDHA has funding available for these activities as part of the federal community development block grant program. These funds will be used to provide recreational, educational, social, and cultural art activities for youth in the Cleveland Park neighborhood between June 7 and August 9, 2010. There is a required in-kind match of $20,400.

RESOLUTION NO. RS2010-1165 (STEINE & HUNT) – This resolution approves the financing for a wastewater facilities project to expand the sewer collection system connecting the Holt Road and Nolensville Historic District areas in Nolensville, Tennessee with the Metro water services (MWS) sewer system. The project will be funded through a loan from the state wastewater facilities revolving loan fund. The purpose of this loan fund is to facilitate compliance with state and federal environmental regulations by providing low-cost loans to water and sewer systems in Tennessee through the Tennessee local development authority.

The council approved Resolution No. RS2009-977 in October 2009, authorizing Metro to borrow $1,080,000 for this project, with the state forgiving $432,000 of the principal through the use of federal stimulus funds. The remaining loan balance and interest is to be paid through a special assessment charged by Nolensville to the customers benefitting from the extended sewer system. Subsequently, it has been determined that the project will cost $324,000 more than the approved funding.

This resolution approves an additional loan agreement to secure the funding for the $324,000 to complete the project. The Town of Nolensville is exploring options for funding the debt service on the additional amount, which may include the same special assessment method as the previous loan agreement. Metro will not draw down the funds until the method of repayment is determined. This resolution simply allows MWS to secure the funding.

State law allows these agreements to be approved by resolution.

RESOLUTION NO. RS2010-1166 (MATTHEWS & STEINE) – This resolution approves an annual grant in the amount of $42,500 from the state department of health to the Metropolitan health department for tobacco use prevention services. These federal pass-through funds are used to pay part of the salary of a program coordinator to help prevent initiation of tobacco use among young people, promote quitting among adult and youth tobacco users, and partner with community organizations to implement counter-marketing campaigns. The term of the grant is from March 30, 2010 through March 29, 2011. There is a required local match in the amount of $7,300 to be provided through the health department's operating budget.

RESOLUTION NO. RS2010-1167 (STEINE & MATTHEWS) – This resolution approves a grant in the amount of $16,785 from the state department of children's services (DCS) to the board of health for administration of the Hepatitis B vaccine, Tuberculin skin tests, and chest x-rays to DCS employees. The health department will provide the vaccination and skin tests to 135 DCS employees and chest x-rays to 42 employees. The state will pay $1,107.81 per year for fiscal years 2010 through 2014.

RESOLUTION NO. RS2010-1168 & RS2010-1169 (STEINE & TYGARD) – These two resolutions approve an amendment to an existing contract and a renewal of another contract between the Metropolitan health department and the United Way of Metropolitan Nashville to arrange for assistance in the planning, development and delivery of services for individuals infected with or affected by HIV/AIDS. Under the terms of these contracts, the United Way provides a number of planning, administrative, and direct HIV/AIDS services under the provisions of the Ryan White Treatment Modernization Act of 2006. The funds paid to United Way under these contracts are federal pass-through funds provided for the program.

Resolution No. RS2010-1168 approves the renewal of a contract for services provided individuals infected with or affected by HIV/AIDS. The contract renewal is for a term of March 1, 2010 through February 28, 2011. The United Way will be paid $1,476,022 to provide these services.

Resolution No. RS2010-1169 approves a seventh amendment to a contract for services provided to minority individuals infected with or affected by HIV/AIDS. The amendment increases the amount United Way is to be paid from $3,717,199 to $3,732,511 for providing the services.

RESOLUTION NO. RS2010-1170 (STEINE & TYGARD) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan health department for tuberculosis (TB) control, outreach and prevention services. This grant is used to operate the health department's tuberculosis program consisting of direct patient care, the monitoring of existing and suspected TB cases, and operation of the TB clinic. The term of the grant is from July 1, 2009 through June 30, 2010. This amendment decreases the amount of the grant by $66,500 for a new grant total of $1,332,400.

RESOLUTION NO. RS2010-1171 (STEINE & TYGARD) – This resolution approves a grant in the amount of $125,000 from the state department of health to the Metro health department for the implementation of a diabetes project. The health department will coordinate the implementation of a "stepping" program at various community centers geared toward preventing Type 2 diabetes through physical activity and exercise for approximately 300 at-risk youth. The term of the grant is from January 1, 2010, through June 30, 2010.

RESOLUTION NO. RS2010-1172 (TYGARD & STEINE) – This resolution approves an amendment to an annual grant in the amount of $390,100 from the state department of health to the Metropolitan board of health to provide family planning services in accordance with state law. Local health departments are required by state law to provide contraceptive procedures, supplies, and information to all persons eligible for free medical services. This amendment increases the amount of the grant by $350,000 and extends the term of the grant for one year through June 30, 2011. This grant consists of $700,000 in federal funds and $40,100 in state funds.

RESOLUTION NO. RS2010-1173 (TYGARD & STEINE) – This resolution approves a grant in the amount of $29,954 from the Association of Schools of Public Health to the board of health for programs to expose students to education and public health career opportunities. There is a required in-kind match of $9,225 that will be provided by the health department through the furnishing of a project manager. The term of the grant is from January 15, 2010, through September 27, 2010.

RESOLUTION NO. RS2010-1174 (STEINE & BAKER) – This resolution approves an application for a grant in the amount of $287,409 from the U.S. department of justice to the police department to solve cold cases using DNA testing. If awarded, these funds will be used to pay overtime for detectives and to pay the part-time salary of two retired detectives to work on cold cases that involve DNA evidence. The funds will also be used to pay for travel expenses and training costs associated with the investigations.

RESOLUTION NO. RS2010-1175 (HUNT) – This resolution is an annual, routine housekeeping matter required by state law that classifies all public roads in Davidson County. By adoption of this resolution, those roads and alleys listed on the street and alley acceptance and maintenance map under Ordinance No. BL2009-603, including any changes since the adoption of the map, will be officially classified as public roads.

RESOLUTION NO. RS2010-1176 (STEINE) – This resolution authorizes the department of law to accept $7,542.78 to compromise and settle the Metropolitan Government's property damage claim against Arthur G. Demmas. On December 30, 2008, Mr. Demmas pulled into the path of a Metro police car at the intersection of Robin Hill Road and Brook Hollow Road, causing extensive damage to the left side of the patrol car. The total cost to repair the vehicle was $7,542.58. This resolution accepts the full amount of the property damage.

RESOLUTION NO. RS2010-1177 (STEINE) – This resolution authorizes the department of law to accept $8,328.81 to compromise and settle the Metropolitan Government's property damage claim against UtiliQuest. Metro has a contract with UtiliQuest to provide utility location services for the Tennessee One Call system. Under state law, anyone about to engage in any digging or excavation work must notify Tennessee One Call of their intent to dig. Tennessee One Call then notifies all utilities in the area of the request. The utility has 72 hours to locate the underground utilities in the area and mark them to prevent damage from the excavation.

UtiliQuest incorrectly marked a 12-inch water line located at 431 Tyler Drive, which resulted in a contractor drilling into the line. The failure to identify the line caused $8,328.81 in damage. This settlement recoups the full amount of the damages incurred by Metro water services.

RESOLUTION NO. RS2010-1178 (STEINE) – This resolution authorizes the department of law to compromise and settle the lawsuit brought by Alicia Jackson against the Metropolitan Government for $10,000. On February 2, 2008, a Metro paramedic in a fire department SUV struck the rear of Ms. Jackson's vehicle as she was yielding the right-of-way to the emergency vehicle at the Bell Road exit on I-24. Ms. Jackson noticed the emergency lights and siren and pulled over to the shoulder of the exit ramp. The paramedic looked down to adjust the siren and struck the rear of Ms. Jackson's vehicle. Ms. Jackson incurred $4,452.79 in medical bills and $1,472 in lost wages as a result of the accident.

The department of law recommends settling this lawsuit for a payment of $10,000 out of the self-insured liability fund. The Metro employee involved in this accident received a verbal reprimand.

RESOLUTION NO. RS2010-1179 (STEINE) – This resolution authorizes the department of law to compromise and settle the lawsuits brought by Paula and Monty Milligan against the Metropolitan Government for a total payment of $250,000 plus costs not to exceed $25,000. These lawsuits stem from the erroneous arrest of Ms. Milligan in 2006 as part of a warrant sweep operation. The false arrest occurred as a result of two different police department employee errors.

A warrant for forgery committed in Nashville had been issued in 2005 for a Paula Rebecca Staps with a North Carolina address, with an indication that her married name may now be Milligan. The Davidson County grand jury returned an indictment on May 26, 2006, for Paula Milligan, a.k.a. Paula Rebecca Staps, using the North Carolina address and driver's license number. A Metro police department data-entry clerk entered the information contained on the warrant into the computer system. When he searched the name index in the database he found a Paula Milligan that had received a traffic ticket in 2001. Without cross-checking, the clerk then linked the demographic information for the wrong Ms. Milligan to the Ms. Milligan with the outstanding warrant. If the clerk had cross-checked the demographic information, which is required by MNPD policy, he would have seen that the Ms. Milligan in the database was not the same Ms. Milligan for whom the warrant had been issued.

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RESOLUTION NO. RS2010-1179, continued

Subsequently, in preparation of the warrant sweep operation in partnership with the U.S. Marshal's Service, a police sergeant submitted a list of outstanding warrants to the Marshals. This list included the warrant information for Paula Milligan with the North Carolina address, but with the other Ms. Milligan's birth date and Tennessee drivers license number. The following day, the sergeant sent a revised list with the out-of-county warrants removed, which did not have Ms. Milligan listed. The Marshal then sent the first (incorrect) list to the state bureau of investigation to prepare the arrest files.

Ms. Milligan was arrested at her home on October 24, 2006, as part of the special operation. To confirm the warrant was still active, the arresting officer radioed the warrants division and gave the clerk Ms. Milligan's name and date of birth. The warrants clerk, apparently without searching for the warrant, immediately confirmed that the warrant was still outstanding. Had the clerk followed policy and looked at the warrant, she would have noticed the birth date provided by the officer did not match the information on the warrant.

After being arrested, Ms. Milligan spent approximately seven hours in custody. She was initially taken to a mobile booking area at LP Field before being transported to the criminal justice center. A television crew was at LP field covering the operation and broadcast footage of Ms. Milligan being placed in the police car.

Ms. Milligan and her husband filed suit in federal court alleging a violation of her civil rights and state claims under the governmental tort liability act for negligence, false imprisonment, and negligent infliction of emotional distress. She alleges that she has suffered severe emotional injuries as a result of the false imprisonment. She was diagnosed with permanent post-traumatic stress disorder, and apparently has extreme anxiety whenever she sees the police. Ms. Milligan had a prior history of depression, but she testified that her depression is much worse since the incident and she still has trouble sleeping. Mr. Milligan asserted a loss of consortium claim as a result of his wife's mental and emotional state, and her inability to contribute to the family unit. The case was tried in January of this year and the jury returned a verdict in favor of the Metropolitan Government on the civil rights claim. However, the judge indicated that she would find in favor of the plaintiffs on the state law claims. The state law claims are decided by the judge under the governmental tort liability act, not a jury.

The department of law recommends settling this lawsuit for a payment of $195,000 to Ms. Milligan, $55,000 to Mr. Milligan, and up to $25,000 in costs to be determined by the court. Based upon statements made by the judge in the case, the department of law believes that the judge would award more on the state law claims than the amount of the settlement. Under the tort liability act, the judge could award up to $250,000 to each of the plaintiffs. Further, this settlement would preserve the jury verdict on the civil rights violation claim. If a new trial was granted and the jury returned a verdict against the Metropolitan Government in the new trial, the plaintiff would be entitled to attorney fees, which could be between $150,000 and $300,000. There is no way to accurately predict whether the judge would make a determination that the jury's verdict was against the weight of the evidence and grant a new trial.

The warrant clerk received disciplinary action consisting of a four day suspension. The data-entry clerk resigned prior to being charged with violating the departmental policy.

This amount is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2010-1180 (STEINE) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Toni Mitchell against the Metropolitan Government for the amount of $16,000. On April 6, 2009, a Metro public works employee driving a Rapid Response truck struck the rear of Ms. Mitchell's vehicle when she stopped for traffic on Gallatin Road. The public works employee attempted to stop, but slid on the wet pavement. The accident report states that the Metro employee contributed to the cause of the accident by following too close.

The accident caused $2,974.07 in damage to Ms. Mitchell's minivan, and resulted in soft tissue injuries to her neck and back. Ms. Mitchell incurred medical bills totaling $9,873.15 for treatment of her injuries. The department of law recommends settling this claim for $16,000 given the personal injuries suffered and Metro's liability.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2009-585 (CRAFTON, DUVALL & DOMINY) – 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. Last month, Nashville-based Rockhouse Partners was selected to hold the 2010 state fair on the fairgrounds property.

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. BL2010-622 (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 about possible community concerns associated with the permit.

ORDINANCE NOS. BL2010-634 & BL2010-637 (HUNT & TOLER) – These two ordinances amend the restrictions in the zoning code pertaining to recycling operations at recycling facilities and construction/demolition landfills. The goal of these ordinances is to make it easier to recycle construction and demolition debris to avoid sending this material to the landfill.

The Zoning Code only allows recycling facilities as a use permitted with conditions (PC) use in the industrial districts. A recycling facility is defined in the Zoning Code as any facility that separates, processes, converts, treats, or otherwise prepares non-putrescible waste for recycling. Non-putrescible waste consists of material that is not capable of decomposing. Such facilities are required to meet certain conditions in order to operate as a recycling facility. These conditions include the following:

1. A minimum lot size of one acre;
2. A building setback of at least 150 feet from a residential zoning district or legally occupied residential structure;
3. Driveway access can be from a local street as long as the street is not bounded by any residential zoning district from the driveway to an intersection with a collector or major street;
4. Opaque fencing at least eight feet in height is required along all zoning districts permitting residential uses. For facilities not adjacent to zoning districts permitting residential uses, the entire facility must be enclosed by an eight-foot tall chain link fence;
5. All sorting and separation activity must take place within an enclosed structure;
6. The enclosed areas of recycling facilities must have concrete floors, and high traffic areas around the facilities must be paved;
7. The hours of operation are limited from 7:00 a.m. to 6:00 p.m. for any facility adjacent to a zoning district permitting residential uses; and
8. Light and glare must be directed on-site for facilities adjacent to a zoning district permitting residential uses.

The requirement that the recycling operations take place entirely within an enclosed structure has acted as a barrier to the opening of these facilities, which has likely resulted in more debris being taken to landfills.

Ordinance No. BL2010-634 would allow construction/demolition ("C&D") landfills to do on-site recycling as an accessory use. This recycling activity would be allowed outside. Construction/demolition landfills already cannot be located within 150 feet of a residentially-zoned property, and this ordinance makes no modification to the setback requirements. This bill would only apply to permitted construction/demolition landfills. There are only two such facilities operating in Davidson County.

There is a proposed amendment that would clarify that construction/demolition landfills could only accept construction/demolition materials for recycling, not other waste.

Ordinance No. BL2010-637, as filed, would delete the requirement in the Zoning Code that the compacting, sorting, processing or storage of materials at recycling facilities take place entirely within an enclosed building. However, there is a substitute for this ordinance that would continue to require recycling activity to take place within an enclosed facility if it is located within 1,000 feet of certain residentially-zoned districts. It is important to point out that under this substitute only a small number of sites in Davidson County would be eligible for outdoor recycling. Most of these available sites are located in the Cockrill Bend, Omohundro, and Sidco industrial areas. These two ordinances have been approved by the planning commission with the proposed modifications.

ORDINANCE NO. BL2010-638 (HUNT) – This ordinance amends the Metropolitan Code pertaining to industrial waste discharges. The department of water and sewerage services (MWS) is required by state and federal regulations to provide limitations on industrial waste discharges and to adjust the limits periodically to meet state and federal pretreatment standards. The purpose of these regulations is to prevent the discharge of harmful pollutants by industrial establishments in the sewer system. In 2005, the U.S. environmental protection agency approved a "pretreatment streamlining rule" in further implementation of the Clean Water Act. This ordinance will make our Code provisions consistent with the latest regulations.

This ordinance includes expanded definitions pertaining to industrial waste discharges and updated pretreatment requirements. The ordinance also includes a mechanism for MWS to file its wastewater plant limits with the Metropolitan clerk's office as opposed to codifying these limits in the Metro Code. The purpose of this change is to facilitate future changes of the plant limits as the state requirements change. MWS does not expect these changes to have a major impact on industrial customers. This ordinance has been approved by the wastewater hearing authority and the Tennessee department of environment and conservation.

There is a proposed housekeeping amendment for this ordinance.

ORDINANCE NO. BL2010-639 (HUNT) – This is a housekeeping ordinance to amend the penalty provisions in the storm water management Code chapter to be consistent with the state statute. This ordinance essentially copies the penalty provisions in the statute verbatim. The applicable penalties for violations of the storm water regulations under state law include: (1) a civil penalty of between $50 and $5,000, with each day being considered a separate violation; (2) damages Metro incurred as a result of the violation; and (3) the costs of determining the damages proximately caused by the violation. This ordinance also retains the existing Code provision allowing for injunctive relief.

ORDINANCE NO. BL2010-642 (RYMAN, STEINE & HODGE) – This ordinance amends the Metropolitan Code provisions relating to the fee schedule for codes and fire marshal permits, inspections, and appeals. The fee schedules used by the department of codes administration have been in place since 2004. The codes department retained Maximus to determine whether increases in the fees charged by the codes department and the fire marshal are necessary to achieve "full cost recovery". Maximus released its report in September 2009 showing that the fees needed to be increased in order to recover the costs to the codes department. The recession has had a major impact on the codes department's revenues the past two years since construction essentially slowed to a crawl.

This ordinance sets new fee schedules for building permits, gas/mechanical permits, plumbing permits, electrical permits, inspection and re-inspection fees, fees for the examination of plans, and administrative fees in accordance with the Maximus recommendation. This new fee schedule will result in an overall net fee increase of approximately thirty percent. Attached to this analysis are four documents showing Metro's existing fees compared to peer cities, as well as the proposed new fees. The Maximus report and a red-lined version of the ordinance showing the changes were previously emailed to councilmembers. Copies of these documents are on file in the council office. The Maximus report estimates that the codes department could recover an additional $2.4 million in revenue by increasing the fees.

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ORDINANCE NO. BL2010-642, continued

The council office would point out that state law prohibits charging fees for services that exceed the actual costs of the services provided. Permit fees greater than the costs to provide the permitting and inspection services would be viewed as an unlawful tax. The cost basis for these proposed increases is tied to the current levels of revenue. Thus, these increases would enable the codes department to recover its costs in today's economy. If the codes department maintains its current staff level once the economy turns around, it would likely generate too much revenue under these increased fees and would need to propose a fee decrease to the council.

SUBSTITUTE ORDINANCE NO. BL2010-645 (STEINE & CLAIBORNE) – This substitute ordinance approves the extension of the cable television franchise held by Comcast. The original franchise was granted to Viacom in 1995, which was subsequently transferred to Intermedia and then Comcast. This franchise agreement is set to expire on May 5, 2010, unless extended. Metro, through the CATV special committee, is in the process of negotiating a new franchise agreement with Comcast. In order to allow these negotiations to continue, both parties desire to extend the current agreement for a one year period.

This ordinance approves an extension of the cable franchise through May 5, 2011. Comcast has agreed to make a $100,000 contribution for public, educational and governmental (PEG) access support, which is the annual contribution amount Comcast has been making under the current franchise. This extension has been approved by the CATV special committee.

ORDINANCE NO. BL2010-646 (LANGSTER & HUNT) – This ordinance abandons three utility easements held by the department of water and sewerage services for property located at 2312 Clifton Avenue. The easements to be abandoned include a 19.5 foot public utility easement, a 20 foot sanitary sewer easement, and a 4,491.74 square foot storm water easement. These easements are no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2010-617 (JAMESON, GARRETT & STEINE) – This ordinance amends the Metro Code provisions pertaining to the location restrictions for liquor stores. Pursuant to the Metro Charter, liquor stores may only be located within the urban services district (USD). The Metro Code imposes further restrictions on the physical location of liquor stores. No liquor store can be located within 50 yards of a private residence or library on the same side of the street, within 100 yards of a church, or within 200 yards of a school or another liquor store. This ordinance would allow liquor stores to be located within 50 yards of a church within the boundaries of 5th Avenue North, Church Street, Broadway, and the Cumberland River in downtown Nashville.

SUBSTITUTE ORDINANCE NO. BL2010-623 (HOLLEMAN) – This substitute 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. BL2010-635 (HUNT & TOLER) – This zoning text change creates a new land use for construction/demolition waste processing (project-specific) as a use permitted with conditions (PC) in all zoning districts. This ordinance would allow property owners who are constructing or demolishing a structure to engage in recycling on site, or on another property as long as the off-site location is in close proximity to the project site. The goal of this ordinance is to make it easier to recycle construction and demolition debris to avoid sending this material to the landfill.

Under this ordinance, project specific C&D waste processing sites could only recycle waste generated from the project property. No other waste could be brought in from other properties. C&D waste would include discarded materials resulting from construction, remodeling, or demolition that are generally considered to be water soluble and non-hazardous in nature, such as steel, glass, brick, sheetrock, tile, carpeting, concrete, lumber, etc., as well as vegetation cleared from the property. There would be no minimum lot size for this activity in non-residential zoning districts, but lots located within residentially-zoned districts would have to be at least one acre in size or ten times the minimum lot size permitted by the zoning district, whichever is less. All applicants for a project specific C&D waste processing use would be required to submit a very detailed "waste reduction and recycling plan" to the director of public works and the director of codes administration. The plan must identify a waste manager with round-the-clock contact information, the type and quantity of materials to be recycled, the frequency of collection, and the method of storage. Applicants would also be required to provide a letter of credit to ensure performance and compliance.

The zoning administrator would be required to notify the district councilmember upon the filing of an application for a project specific recycling facility if the proposed use is within 1,000 feet of an agricultural or residential zoning district. A property would be considered inactive if no construction/demolition activity has taken place on the property within six months. No waste processing activities could continue to occur if a site is declared inactive until a new application is approved.

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ORDINANCE NO. BL2010-635, continued

There is a proposed substitute that makes a number of relatively minor changes to the bill, as well as some housekeeping corrections. The noteworthy changes in the substitute are as follows:

1. The substitute would permit an off-site recycling facility to be located within one-half mile of the construction site, as opposed to one-quarter mile.
2. The substitute would allow rock from the property to be sold on-site.
3. A provision is added to ensure the on-site separation and storage methods will keep the salvaged materials from being co-mingled so as to prevent contamination.
4. The substitute would require a large 4'x8' sign to be posted on the primary street frontage of the property that identifies the project name, contact information, completion date, and the materials being salvaged.
5. The substitute would clarify that project specific C&D waste processing would be allowed as a use permitted with conditions in all zoning districts.

This ordinance has been approved by the planning commission with the changes included in the substitute bill.

ORDINANCE NO. BL2010-640 (JAMESON, HUNT & GOTTO) – This ordinance abandons a portion of Shelby Avenue between South 1st Street and Victory Avenue across from LP Field. This closure has been requested by the Metropolitan development and housing agency for stadium replacement parking that is needed as a result of the capital improvements to Riverfront Park that have been approved by the council. 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. BL2010-643 (LANGSTER, MOORE & STEINE) – This ordinance declares three parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. This ordinance approves the disposition of the following properties:

Address – Location	Council District
923 – 42nd Avenue North	21
Creek Street, unnumbered	17
Poplar Creek Road, unnumbered	35

ORDINANCE NO. BL2010-644 (GILMORE) – This ordinance authorizes Ace Hospitality, Inc., d/b/a Spring Hill Suites and Residence Inn, to install and maintain aerial and underground encroachments at 1800 and 1806 West End Avenue, and at 1801 and 1807 Hayes Street. These encroachments are for the benefit of two adjacent proposed hotels in this block. The encroachments will include an aerial building connector over the alley between West End Avenue and Hayes Street connecting the two hotels, as well as building signs, canopies, street trees, and irrigation lines. Ace Hospitality has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a $2 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This ordinance has been approved by the planning commission.