

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **April 20, 2010**

RE: **Analysis Report**

Balances As Of:	<u>4/14/10</u>	<u>4/15/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$13,232,956	\$28,317,051
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$20,566,186	\$19,998,867
USD	\$22,180,965	\$13,510,632
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$27,354,569	\$52,554,640

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

– RESOLUTIONS –

RESOLUTION NO. RS2010-1183 (STEINE & LANGSTER) – This resolution appropriates \$4,593,200 in supplemental appropriations from the undesignated fund balance and other sources to various departments to balance their fiscal year 2009-2010 operating budgets. A total of \$3,002,100 is to be appropriated from the undesignated fund balance of the general fund of the general services district as follows:

- \$203,900 is to be appropriated to the state trial courts. This amount includes \$143,900 to clean up interest expenses on a grant account where expenses exceeded the amount of the grant funds received in the previous year, and \$60,000 for the fine and forfeiture fund where expenses charged to this account have exceeded the amount collected.
- \$175,000 is to be appropriated to the parks department. The finance department reported in November 2009 that it anticipated the parks department would need a supplemental appropriation for fiscal year 2010 in the amount \$846,300. However, with the assistance of the finance department, the parks department has been able to implement additional budget saving measures to reduce the amount of the supplemental appropriation needed.
- \$270,000 is to be appropriated to the public works department to cover expenses associated with the multiple periods of inclement weather this past winter.
- \$114,000 is to be appropriated to the codes department to demolish houses that have been deemed uninhabitable. The codes department can place a lien on the property to recoup the demolition costs when the property is sold.
- \$2,239,200 is to be appropriated to the hospital authority to address their cash flow issues. At the January mid-year council budget hearings, the hospital authority estimated that it would need a supplemental appropriation of approximately \$1.49 million. The council office is of the understanding that a delay in the approval of this resolution at the second meeting in April would have a serious impact on the hospital authority's ability to meet its immediate obligations, as well as those obligations for the remainder of the fiscal year.

The amount of \$400,000 is to be appropriated to the department of general services to cover fuel costs. This amount is being appropriated from the funds collected through the sale of surplus and forfeited vehicles/equipment, not tax dollars from the general fund.

The amount of \$177,000 is to be appropriated from the state fair undesignated fund balance to cover expenses associated with salaries for state fair employees, overtime pay, utilities, security, and advertising/promotion services.

The amount of \$972,100 is to be appropriated from increased revenue sources to the police department to cover overtime expenses. The police department's secondary employment unit collected more revenue than was anticipated this fiscal year. This revenue is paid by the private businesses and events that utilize the services of off-duty police officers. These funds are being used to offset some of the police department's overtime costs.

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RESOLUTION NO. RS2010-1183 (continued)

Finally, \$12,000 is to be appropriated to the public education and governmental access (PEG) studios from PEG's fund balance for personnel costs.

Although supplemental appropriation resolutions are typically filed at the end of the fiscal year, the hospital authority's negative cash flow situation necessitated the earlier filing of this resolution.

RESOLUTION NO. RS2010-1184 (STEINE) – This resolution approves a grant in the amount of \$35,200 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to make resources available to Lennox Hearth Products to assist with the creation of 38 new jobs. The Tennessee Career Center, operated by NCAC, will manage the recruitment campaign for the company and provide on-the-job training. The term of the grant is from March 2, 2010, through June 30, 2011.

RESOLUTION NO. RS2010-1185 (BAKER & LANGSTER) – This resolution approves an intergovernmental agreement between the Metropolitan police department (MNPD) and the U.S. department of army regarding the exchange of information and cooperation in law enforcement efforts. This agreement is specifically related to the MNPD's interaction with Fort Campbell. MNPD agrees to notify Fort Campbell prior to arriving for official police business and to provide the liaison office with the names of the soldiers wanted for questioning by the police. MNPD will also provide notice when responding to or investigating domestic violence, child abuse, and sexual assault cases if the offender or victim is affiliated with the army. The agreement also provides that MNPD will notify Fort Campbell when a traffic fatality, felony, or injury incident involves a Fort Campbell soldier. The army agrees to coordinate a time and place for investigations of soldiers and to assist MNPD with any investigations involving soldiers or their family members. Both parties agree they will share information related to upcoming training events, as well as to coordinate information regarding terrorist incidents and natural disasters.

There is no expiration date for this agreement, but it is to be reviewed every two years to determine if any modifications are needed or if the agreement should be terminated.

RESOLUTION NO. RS2010-1186 (TYGARD) – This resolution approves a business associate agreement between the board of health and the United Way of Metropolitan Nashville to prevent the disclosure of protected health information. The United Way provides a number of services for the health department through various contracts. This business associate agreement is necessary in order to comply with HIPPA.

RESOLUTION NO. RS2010-1187 (TYGARD & STEINE) – This resolution approves a federal stimulus grant in the amount of \$7,527,527 from the U.S. department of health and human services to the Metropolitan health department to provide a community-wide initiative to reduce obesity. The funds will be used to work with community partners to implement a plan to reduce risk factors and promote wellness with an emphasis on obesity prevention. This grant will provide funding over the next two years to fund approximately 40 new full-time and 40 part-time positions. Approximately \$3,000,000 of the grant funds will be used to provide a media campaign to promote healthy eating habits and active living, as well as to contract with partnering agencies to fund various community projects pertaining to pedestrian activity, a bike share program, and an urban garden initiative. The term of the grant is from March 19, 2010, through March 18, 2012.

RESOLUTION NO. RS2010-1188 (MOORE & LANGSTER) – This resolution appropriates \$5,393,336 in housing and community development block grant (CDBG) funds. CDBG funds are federal grant funds designated for affordable housing activities and community projects. A large portion of the CDBG funds are targeted at specific neighborhood strategy areas (NSAs) and commercial district areas.

These CDBG funds, to be expended in fiscal year 2010-2011, will be used as follows:

Community Services Program	\$815,000
Community Economic Development Program	\$440,000
Homeowner Emergency Rehabilitation	\$1,258,336
Planning	\$375,000
Neighborhood Improvement Program	\$1,350,000
Non-Profit Planning and Capacity Building	\$110,000
Section 108 Loan	\$445,000
General Administration	\$600,000
Total	\$5,393,336

RESOLUTION NO. RS2010-1189 (MOORE & LANGSTER) – This resolution approves a federal stimulus grant in the amount of \$1,132,242 from the state housing development agency to the Metropolitan housing and development agency (MDHA) to fund the Homeless Prevention and Rapid Re-Housing Program for fiscal years 2010 and 2011. The council previously authorized MDHA to administer these federal homeless prevention funds. However, the state is requiring a separate grant agreement for receipt of the funds. The term of this grant is from October 1, 2009, through September 20, 2011. The services to be provided with these funds include direct financial assistance and case management activities.

RESOLUTION NO. RS2010-1190 (STEINE) – This resolution authorizes the department of law to settle the lawsuits brought by Steve, Reginald, Darlene, and Tirell Scales and by Sylvia Campbell for a total payment of \$243,000. On April 15, 2007, a Metro police officer turned left in front a van driven by Steve Scales at the intersection of Clarksville Pike and Ed Temple Boulevard causing a collision that resulted in personal injuries to the driver and passengers. The officer was in the course and scope of his employment, but was not operating any (continued on next page)

RESOLUTION NO. RS2010-1190 (continued)

emergency equipment at the time of the accident. Steve Scales sustained a head and shoulder injury, incurring \$68,402.49 in medical bills and \$28,035 in lost wages. Mr. Scales was assigned a total body impairment rating of 4%, meaning that he has sustained some permanent injuries. The four other passengers in the van suffered various injuries, though not as severe as the driver's. The medical bills and lost wages for the other passengers are as follows:

- o Reginald Scales – medical expenses of \$13,039.78
- o Tirell Scales – medical expenses of \$8,986.60
- o Darlene Scales – medical expenses of \$4,167.57 and lost wages of \$900.00.
- o Sylvia Campbell – medical expenses of \$7,860.35 and lost wages of \$3,542.40.

The department of law recommends settling these lawsuits for a total payment of \$243,000 to be paid out of the self-insured liability fund since the Metro police officer was clearly at fault. The total amount of medical expenses and lost wages for the five plaintiffs is \$134,934.19. The settlement will reimburse the plaintiffs for their expenses, plus provide a total of \$108,065.81 for pain and suffering. This settlement amount is the result of a judicial mediation of the case.

The police officer received disciplinary action consisting of a one day suspension.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2007-64 (STANLEY) – This zoning text change amends the urban design overlay (UDO) provisions in the zoning code to require that the development of UDOS be divided into separate phases, and to require council approval of final UDO site plans. The purpose of the UDO zoning provisions is to allow for the implementation of special design standards for urban settings in a manner that varies from the conventional bulk standards. The zoning code requires a design plan for each UDO, which must be considered by the planning commission and approved by the council by ordinance. Once the preliminary site plan has been approved by the council, the planning commission is responsible for considering the final site plans to ensure that the design standards of the district have been satisfied and that the construction plans are consistent with the preliminary plan.

First, this ordinance would require all UDOS to be divided into separate phases, which must be approved by the council. Although the development of most UDOS are divided into separate phases anyway, there is no express requirement in the zoning code. Second, this ordinance would require all final site plans to be submitted to the council for approval upon being approved by the planning commission. This would involve a separate zoning ordinance for each final UDO site plan to be approved by the council after holding a public hearing on the matter.

This ordinance was disapproved by the planning commission on December 13, 2007, given the additional costs and delays associated with council approval of final site plans. This ordinance will need to be deferred and re-referred to the planning commission since more than two years have elapsed from the time it was first considered by the commission.

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.

There is an amendment to this ordinance that would only require notice to the district councilmember by electronic mail at the time the permit application is filed, with no three-day comment period.

ORDINANCE NO. BL2010-649 (BAKER) – This ordinance amends the wrecker equipment provisions in the Metro Code to allow emergency wrecker service operators to use their flashing yellow lights while en route to an emergency incident. The code currently only allows the yellow rotating lights to be used when the wrecker is in the process of removing and towing a vehicle. This ordinance would allow the yellow beacon lights to be used prior to reaching the (continued on next page)

ORDINANCE NO. BL2010-649 (continued)

location of the incident if the wrecker operator is responding to an incident called in by the emergency communications center and if traffic has slowed as a result of the accident so as to prevent the wrecker from arriving within 30 minutes after receiving the call. This ordinance does not allow emergency wreckers to ignore speed limits and other traffic laws.

This ordinance has been approved and requested by the transportation licensing commission.

ORDINANCE NO. BL2010-650 (GOTTO) – This ordinance amends the Metro Code to require the department of public works to inform disabled drivers parking at Metro facilities that there is no charge for parking their vehicles. State law prohibits local governments from charging a fee to park in any municipally-owned garage or metered spot for a vehicle with a valid disabled driver license plate or placard. This ordinance would require that either signs be posted within a parking meter zone or a statement be included on all meters informing drivers about this state law. Signs would also be required at the entrances to all Metro-owned parking garages.

This ordinance has been referred to the traffic and parking commission. This ordinance must be deferred one meeting since less than 30 days have elapsed from the date of referral.

ORDINANCE NO. BL2010-651 (JERNIGAN) – This ordinance amends the Metropolitan Code regarding the parking of large trucks and buses on residential property. The code includes parking restrictions for these vehicles on public streets, but currently does not prohibit them from being parked on private residential property as long as they are parked on a paved or graveled driveway. This ordinance would prohibit vehicles with a maximum axle-load capacity of 1 ½ tons and tractor-trailers from being parked on any residential property containing a single or two-family home. The ordinance includes an exemption for school buses, provided the bus is operated by a K-12 public school system or private school, the driver of the bus resides on the premises, and no more than one bus is parked on the property.

This code amendment was prepared with the assistance of the department of codes administration.

ORDINANCE NO. BL2010-652 (JAMESON) – This ordinance amends the Metropolitan building code to specifically allow the use of alternative lighting forms in the common halls and stairways of residential buildings. The code requires the common halls and stairways to be lighted at all times with at least a 60-watt incandescent light bulb for each 200 square feet, or equivalent illumination. This ordinance would clarify that “equivalent illumination” includes the use of compact fluorescent lights and light emitting diodes, which use less electricity than standard incandescent bulbs.

ORDINANCE NO. BL2010-653 (TOLER, STEINE & HUNT) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Regent Highpoint, LLC to provide public sewer service to the High Point subdivision on Nolensville Pike. In 1998, the department of water and sewer services expanded the Mill Creek trunk sewer lines in (continued on next page)

ORDINANCE NO. BL2010-653 (continued)

anticipation of private developments tying on to the system. Pursuant to this agreement, Regent Highpoint will contribute \$192,000 toward the cost of the project in aid of construction for a total of 96 units of sewer capacity. These funds are to be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

ORDINANCE NO. BL2010-654 (COLEMAN, STEINE & HUNT) – This ordinance authorizes the acquisition of three utility easements for the Mill Creek parallel sewer project. The estimated cost for this acquisition is \$15,000, which is to be paid from the water and sewer extension and replacement fund. The acquisition of additional easements for this same project may be approved by resolution.

This ordinance approves the acquisition of easements for the following properties:

1. Honeybrook Homeowner's Association common area
2. Hickory Park Drive, unnumbered
3. Claybrook Lane, unnumbered

This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2010-655, BL2010-656, & BL2010-657 – These three ordinances abandon portions of right-of-way that are no longer needed for government purposes. These ordinances have been approved by the planning commission and the traffic and parking commission.

Ordinance No. BL2010-655 (McGuire) abandons a portion of Crestview Drive between its terminus and the northeast corner of 3713 Crestview Drive. This closure has been requested by David Lipscomb University. All easements are being retained by the Metropolitan Government.

Ordinance No. BL2010-656 (Jernigan) abandons a portion of Saundersville Road at the northwest corner of Andrew Jackson Parkway and Saundersville Road. This closure has been requested by Virginia and Charles Turner. All easements are being retained by the Metropolitan Government.

Ordinance No. BL2010-657 (Page) abandons a portion of Hill Avenue from the northwest corner of 621 Hill Avenue to its terminus. This closure has been requested by Best One Nashville Realty Partnership. The ordinance also abandons all easements.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2010-634 & SUBSTITUTE ORDINANCE NO. 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, as amended, 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, and only construction/demolition materials could be accepted for recycling. There are currently two such facilities operating in Davidson County.

Substitute Ordinance No. BL2010-637 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 unless the facility 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.

SUBSTITUTE 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 retains the existing civil penalty amounts contained in the Code, but adds the state law factors for determining whether a civil penalty should be assessed. 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.

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.

SECOND 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.