

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **August 3, 2010**

RE: **Analysis Report**

Balances As Of:	<u>7/28/10</u>	<u>7/29/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$36,199,512	\$29,610,997
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	Unavailable	Unavailable

* Assumes estimated revenues in fiscal year 2011 in the amount of \$23,440,100

– RESOLUTIONS –

RESOLUTION NOS. RS2010-1318 (RYMAN & TYGARD) – This resolution proposes an amendment to the Metropolitan Charter to require directors and assistant directors of Metropolitan Government departments, boards, commissions, and agencies to be residents of Davidson County. For many years, the Metro Code required that all employees be residents of the area of Metropolitan Government. However, the council repealed that requirement in 1994 and replaced the residency requirement with one that required employees to be residents of the State of Tennessee.

This Charter amendment would require all existing and future directors, assistant directors, deputy directors, chiefs, assistant chiefs, and deputy chiefs of any department, board, commission, or agency of the Metropolitan Government created by the Charter or by ordinance, other than those who are employees of the electric power board, the metropolitan board of public education, or the airport authority, to be residents of the area of the Metropolitan Government and shall continue to reside therein as a condition of his/her employment. Persons currently serving in any of these positions that live out-of-county would have 180 days to establish residency within the area of the Metropolitan Government.

The United States Supreme Court has ruled that it is constitutional to require that employees of local governments be residents of the jurisdiction of the government.

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 resolution provides that the date for holding the referendum election on the Charter amendment is to be the November 2, 2010 gubernatorial 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. This would necessitate a special council meeting in September, most likely immediately prior to the September 7 public hearing meeting, for the consideration of all eligible Charter amendments previously deferred this term.

This Charter amendment has been referred to the charter revision commission. This resolution should be deferred indefinitely and placed on the special meeting agenda in September for consideration with the other proposed Charter amendments.

RESOLUTION NO. RS2010-1320 (STEINE) – This resolution approves the waiver of pension benefit overpayments made to Lisa Baggett, which was caused by an employee benefit board staff error. As a result of this staff error, Ms. Baggett received a total of \$4,567.08 in pension benefits over a one year period in excess of what she was entitled.

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RESOLUTION NO. RS2010-1320 (continued)

The Metropolitan Code permits the benefit board to waive such overpayments provided that the beneficiary was without fault or knowledge of the error and would be deprived of income for living expenses if forced to repay the amount of overpayment. The employee benefit board has approved this waiver based upon the recommendation of the benefit board staff that requiring Ms. Baggett to repay this amount would create a financial hardship.

The council office would point out that in the event pensioners are underpaid, the back payments are automatically paid without council approval.

RESOLUTION NO. RS2010-1321 (BAKER & STEINE) – This resolution approves an annual grant in the amount of \$434,333 from the state department of children's services to the juvenile court to provide case management and family support services to children at high risk of state custody and their families. The grant will be used to fund case manager positions in the community-based probation division of the juvenile court. These intervention services are provided to youth at risk of custody due to delinquency, status offenses, or unruly behavior. The programs funded by this grant are to provide services to 535 children. The term of this grant is from July 1, 2010 through June 30, 2011.

RESOLUTION NO. RS2010-1322 (STEINE) – This resolution approves an amendment to a grant in the amount of \$24,710 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to make training and recruitment resources available to Bedrug to support its existing employees and to create 47 new jobs. Bedrug is a company in Davidson County that makes carpeted bed liners for pickup trucks. Under the terms of this federal pass-through grant, the Tennessee Career Center, which is operated by NCAC, will manage the recruitment campaign for Bedrug based upon a hiring schedule of 47 new jobs. This amendment extends the term of the grant through December 31, 2010.

RESOLUTION NO. RS2010-1323 (STEINE) – This resolution approves an amendment to a federal stimulus grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide training to workers at two companies. NCAC is a federally funded agency whose purpose is to improve the quality of the workforce in Davidson, Wilson, Rutherford, and Trousdale counties. The term of the grant is from May 12, 2009 through December 31, 2010. The amendment decreases the amount of the grant by \$79,061.00 from \$296,531.00 to \$217,470.00. These funds are to be used as follows:

- * \$100,000 to upgrade the skills of employees at MetoKote Corporation in Wilson County. MetoKote provides custom protective coating to a wide variety of industries.
- * \$97,700 to train employees at Perma-Pipe, Inc. in welding, safety, and the use of new equipment. Perma-Pipe, located in Wilson County, provides pre-insulated piping to a wide array of industries.
- * \$19,770 to cover administrative costs.

The most significant change in the amendment is that funds are no longer made available for the training of Xerox employees. No metropolitan government funds are used for this training.

RESOLUTION NO. RS2010-1324 (STEINE) – This resolution approves a grant in the amount of \$106,832 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to make resources available for Asurion to support its new and existing employees, as well as create new jobs. The services to be offered under this grant include employee recruitment, initial applicant screening, and on-the-job training. The term of the grant is July 1, 2010 through June 30, 2011.

RESOLUTION NO. RS2010-1325 (TYGARD & STEINE) – This resolution approves a grant in the amount of \$250,000 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care and homemaker services. These funds are used to assist persons who are homebound or unable to perform at least one instrumental activity of daily living. Some of the specific services to be provided are as follows:

- To assist homebound persons with routine household activities, including meal planning, light housekeeping, budgeting, and shopping.
- Personal care assistance such as bathing, dressing, personal hygiene activities, and eating.

The term of this grant is from July 1, 2010 through June 30, 2011. The department of social services will be compensated for the above services at a rate of \$20.52 per hour for personal care services and \$20.44 per hour for homemaker services.

RESOLUTION NO. RS2010-1326 (TYGARD & STEINE) – This resolution approves an amendment to a grant from the Greater Nashville Regional Council to the Metropolitan social services commission to provide personal care, homemaker, and meal delivery services. These funds are used to assist persons who are homebound or unable to perform at least one instrumental activity of daily living. This grant will provide \$7.41 per meal delivered, \$20.52 per hour for personal care services, and \$20.44 per hour for homemaker services. The amendment increases the amount of the grant by \$100,000 from \$800,000 to \$900,000, and extends the term of the grant through September 30, 2010.

RESOLUTION NO. RS2010-1327 (TYGARD & STEINE) – This resolution approves an amendment to a grant from the Greater Nashville Regional Council to the Metropolitan social services commission for meal delivery services to eligible senior citizens. These federal pass-through funds are to be used to provide home delivered meals to homebound persons, as well as transportation services to the congregate meal sites. This resolution extends the term of the grant through September 30, 2010, and increases the amount of the grant by \$126,500 for a new grant total of \$702,500, with a required local cash match of \$11,237.50.

RESOLUTION NO. RS2010-1328 (TYGARD & STEINE) – This resolution approves an amendment to a contract between Vanderbilt University Medical Center and the Metropolitan board of health for the training of Vanderbilt medical residents in the tuberculosis elimination program. This contract was originally approved in October 2006 for a three year term, and was subsequently extended for one year. This resolution extends the term of the contract for an additional year through June 30, 2011.

RESOLUTION NO. RS2010-1329 (TYGARD & STEINE) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan board of health to provide rapid HIV testing services. These federal pass-through funds are used to pay the salaries of three communicable disease investigators and a testing coordinator to provide HIV testing to at-risk persons in a clinical setting. The term of the grant is from September 30, 2009 through September 29, 2010. This amendment reduces the amount of the grant by \$27,600 from \$221,300 to \$193,700, and reduces the number of individuals to be served from 5,100 to 3,500.

RESOLUTION NO. RS2010-1330 (TYGARD & STEINE) – This resolution accepts a grant in the amount of \$659,700 from the state department of health to the Metropolitan board of health for the Healthy Start program to provide family support services. This program uses health department nurses and outreach workers to provide prenatal services to mothers, as well as services to their children from birth through three years, to promote child safety, immunizations, child development, and parenting skills. The grant will be used to fund the salaries and benefits for three nurses, six outreach workers, and one office support worker. The term of this grant is from July 1, 2010 through June 30, 2011.

RESOLUTION NO. RS2010-1331 (TYGARD & STEINE) – This resolution approves an amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health to achieve established ambient air quality standards. These funds are used to collect data and to monitor the ambient air concentrations for ozone, fine particulate matter, regional haze, sulfur dioxide, carbon monoxide, and mercury. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. The amendment increases the grant amount by \$41,573 for a new grant total of \$401,238.

RESOLUTION NO. RS2010-1332 (TYGARD & STEINE) – This resolution approves a business associate agreement between the board of health and the Matthew Walker Comprehensive Health Center to prevent the disclosure of protected health information. This business associate agreement is necessary in order to comply with HIPPA.

RESOLUTION NO. RS2010-1333 (STEINE) – This resolution approves an amendment to a grant in the amount of \$306,000 from the state of Tennessee (Tennessee Heritage Conservation Trust Fund) to the Metropolitan board of parks and recreation to protect 290 acres in the Beaman to Bells Bend Corridor through the execution of five conservation easements. The council authorized the acceptance of the easements in September 2009 for the following properties:

- * 5711 Old Hickory Boulevard and Old Hickory Boulevard, unnumbered – 27 acres
- * 5268 Old Hickory Boulevard and Old Hickory Boulevard unnumbered – 43 acres
- * 4443 Pecan Valley Road – 29.3 acres
- * 4435 Pecan Valley Road – 73 acres
- * Cleeces Ferry Road, unnumbered – 118 acres

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RESOLUTION NO. RS2010-1333 (continued)

This resolution extends the term of the grant through October 31, 2010, and extends the closing date for these conservation easements until October 20, 2010. There is a required local match of \$250,000 to be provided by the parks department.

RESOLUTION NO. RS2010-1334 (STEINE) – This resolution accepts a grant in the amount of \$10,000 from the Community Foundation of Middle Tennessee to the Metropolitan parks department. The funds will be used to help replace supplies and equipment depleted in response efforts of the Bellevue Community Center related to the May 2010 flood. Metro Parks must provide a report to the grantor by June 3, 2011 on how the funds are expended, and the funds must be used solely for disaster recovery services that were provided through the Bellevue Community Center. The term of the grant is from June 4, 2010 to June 3, 2011.

RESOLUTION NO. RS2010-1335 (JAMESON) – This resolution authorizes Hospitality Management Advisors, Inc., to install, construct, and maintain a sign over the right-of-way at 315 Fourth Avenue North. This sign will extend four feet into the public right-of-way at a height of ten feet above the sidewalk, and will include four panels advertising the hotel, Starbucks, a restaurant, and a wine bar. Hospitality Management Advisors has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to post a \$1 million certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party. Ordinance No. O87-1890 authorizes aerial encroachments to be approved by resolution rather than by ordinance.

RESOLUTION NO. RS2010-1336 (STEINE) – This resolution authorizes the department of law to compromise and settle James Webster's property damage claim against the Metropolitan Government for the amount of \$21,435.53. On November 25, 2009, Mr. Webster requested Metro water services (MWS) to turn off the water to his property located at 1905 28th Avenue North since he was moving. A MWS employee failed to turn in the work order after Mr. Webster made the request, so the water was not turned off. On February 3, 2010, the water pipes burst as a result of the cold weather and flooded the home. The burst water pipes caused \$19,685.03 in property damage and \$1,750.50 in homeowner expenses since the carpet, oak flooring, drywall, ceramic tile, and molding had to be replaced.

The department of law recommends settling this claim for \$21,435.53, which is the total amount of damages the property owner incurred. This amount is to be paid from the self-insured liability fund. The Metro employee that failed to turn in the work order received disciplinary action consisting of a written reprimand.

- BILLS ON SECOND READING -

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

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

There is an amendment to this ordinance that would make it applicable to all drivers, not just those who are disabled. The amended version of this ordinance has been approved by the traffic and parking commission.

ORDINANCE NO. BL2010-650 (GOTTO & JERNIGAN) – 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.

The traffic and parking commission deferred consideration of this matter for one month at its May 10, 2010 meeting. Since more than 30 days have elapsed from the date of referral to the traffic and parking commission, this ordinance can proceed on second reading.

ORDINANCE NO. BL2010-718 (HUNT & STEINE) – This ordinance repeals the existing solid waste provisions in the Metro code and substitutes them with a new solid waste code recommended by the department of public works. This new solid waste code is a step toward implementing a number of the initiatives recommended by the mayor's green ribbon committee on environmental sustainability and the regional solid waste plan. A summary of the major changes to the code is as follows:

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ORDINANCE NO. BL2010-718 (continued)

Recycling

The new solid waste code gives public works the authority over all recycling in Nashville, in addition to solid waste collection. The ordinance would implement a number of initiatives aimed at increasing recycling in Davidson County and reducing the amount of waste diverted to landfills. Yard waste will be banned from waste collection effective in 2011. Public works will pick up yard waste as part of the brush collection service provided the yard waste is in a biodegradable bag. Corrugated cardboard will be banned from the waste stream effective in 2013, and electronic waste will be banned effective in 2015.

All private haulers will be required to provide recycling services effective July 1, 2013. The department of public works provides recycling service along with the trash collection in the urban services district (USD), which is funded by the USD tax levy. All haulers collecting garbage in the general services district (GSD) would be required to submit a plan to the public works department stating the level of recycling services to be provided and the fee to be charged for the service. The ordinance provides that the director is to approve the plan if, "in his opinion", the plan is consistent with other recycling services in Davidson County.

Container Requirements and Back Yard Pickup

This ordinance modifies the container requirements to be compatible with the automated collection trucks currently in use. The ordinance expressly provides that if a container is lost or stolen, it will be up to the property owner to replace the container at his/her own cost. The ordinance also limits free back yard pickup to residents with a documented disability. Previously, free back yard pickup was also provided to the elderly. All residents in the USD will be eligible for back yard pickup upon the payment of an extra fee to cover the additional costs to the department. The ordinance also requires all haulers operating in the GSD to provide backdoor collection service for a fee.

"Pay as You Throw"

One of the more discussed aspect of this ordinance is what has commonly been referred to as the "pay as you throw" approach. The existing code gives the public works department the authority to determine the amount of trash it will collect and require residents to dispose of excess garbage at the resident's expense. However, this provision is currently not being enforced. The new solid waste code doesn't specify how the pay as you throw system will work. The ordinance simply adds a provision stating that the public works department may collect and dispose of excess garbage upon the request of an owner and may charge a fee for providing such service. The fee is to be determined annually and paid in advance. The particulars of this new approach will be established in accordance with regulations to be adopted by the department. The public works department has stated that the plan is to limit the number of "free" containers provided to two containers per dwelling starting in July 2012, which is to be reduced to one container in July 2014. There will be no limit on the number of free recycling containers provided.

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ORDINANCE NO. BL2010-718 (continued)

Tip Fees and Permit Fees

This ordinance modifies the outmoded tip fees in the solid waste code now that we no longer have a thermal transfer site. The ordinance provides for a tip fee in the event we ever have a sanitary landfill owned by the Metropolitan Government in the future. The ordinance includes a recycling incentive by reducing the amount of the tip fees if recyclable materials are separated and at least 80 percent of the waste is diverted from the landfill. This ordinance also imposes a uniform "solid waste generator fee" of \$6 per ton, which is essentially a renaming of the old tip fee. Persons disposing of the waste will be liable for payment of the fee if it is not paid by the generator. The construction and demolition landfills and wood waste collection sites will be required to collect an additional fee of \$1 per cubic yard. However, this fee is to be reduced by fifty percent if the generator can show at least one half of the material is being recycled.

This ordinance also increases the amount of the convenience center fees to cover the disposal costs. The fee for standard pickup trucks and small trailers is being increased from \$5 to \$6 per load. The fee for pickup trucks with rails and large trailers is being increased to \$12, from the current \$10 and \$11 charge, respectively. The fee for accepting tires with rims is being increased from \$2 to \$4. Further, the ordinance eliminates free disposal on Wednesdays.

In addition to the fees noted above, the ordinance allows the director of public works to set a number of fees to recover the cost of providing the departmental services without further approval of the council, including private collection permit fees and future increases in the amount of convenience center fees. While it may be reasonable for departments to have some flexibility in setting the fees to achieve full cost recovery, the council has traditionally been reluctant to delegate this authority to departments.

Finally, the ordinance revised the waste management plan report to coincide with the reporting required of the state department of environment and conservation. This will allow the department to prepare one report to submit both to the state and the council.

There are two proposed amendments to this ordinance. The first amendment, submitted by the department of public works, adds some language clarifying that persons with a doctor's note stating they physically can't maneuver the trash container will be eligible for free back yard pickup. This amendment also adds some provisions specifically pertaining to construction/demolition recycling facilities. Such facilities would be required to submit an application to the director of public works including the designation of a site manager, a site plan, an engineering report, fire protection documentation, an operation and maintenance manual, and a residue disposal facility designation. Applicants would also be required to submit a letter of credit to cover the estimated cost of removing the recycling processing equipment. The director of public works will have the authority to adopt and implement regulations in furtherance of these new code provisions. A second amendment would require council approval by resolution of all solid waste fee modifications.

ORDINANCE NOS. BL2010-726 & BL2010-727 – These two ordinances appropriate funds from the unencumbered hotel occupancy fund balance for post-flood tourism development, promotion, and recovery. In 2007, the council enacted several legislative items geared toward providing financial incentives to assist Gaylord in financing a proposed \$80 million expansion of the Gaylord Opryland property. One of these legislative items declared the Opryland hotel property to be a secondary tourism development zone (a state law mechanism that would allow the increased sales tax revenues generated by the Opryland expansion to be used for debt service on the project). At the time the Gaylord incentives were adopted, the council also imposed an additional one percent hotel occupancy tax county-wide as part of the funding mechanism for a future convention center. However, the state law authorizing the additional one percent hotel occupancy tax provides that the portion of the tax collected within a secondary tourism development zone is to be deposited in the Metropolitan Government general fund. The council designated the additional one percent hotel occupancy tax be used for debt service on the Opryland Hotel and Convention Center expansion project. Due to the poor economy, the expansion project has been put on hold and no debt was ever issued. Thus, approximately \$1.8 million in additional hotel occupancy tax funds generated by the Gaylord Opryland Hotel have accumulated and are sitting in the general fund.

Ordinance No. BL2010-726 (Claiborne, Steine & Cole) appropriates \$200,000 from funds already collected in the Gaylord secondary tourism development zone to the Nashville Convention & Visitors Bureau to assist in post-flood tourism development and promotion efforts in the Music Valley area. The funds will be used for advertising, visitor transportation, marketing material production, event production (including a celebration promoting the return of the Opry to Music Valley in October), and other tourism promotion and development activities in the Music Valley area. Tourism is obviously one of the most important sectors of the local economy and the May 2010 flooding disaster has contributed to the decline in the amount of tourism in the Nashville area. Before any funds are disbursed, the Nashville Convention & Visitors Bureau must certify that the actual itemized expenses are related to tourism promotion and development in the Music Valley area.

Ordinance No. BL2010-727 (Claiborne, Cole & Steine) appropriates funds collected from the additional one percent hotel occupancy tax within the Gaylord Tourism Development Zone for the repair of the Grand Ole Opry House, which sustained an estimated \$17,000,000-\$20,000,000 in damage as a result of the May 2010 flood. An initial grant of \$1,600,000 will be appropriated immediately from revenue already collected from the hotel occupancy tax for the purpose of reimbursing expenses related to the repair of the Grand Ole Opry House. The ordinance also restricts future revenues generated by the additional one percent hotel occupancy tax collected in the Gaylord tourism development zone through July 1, 2025, including a 5% per annum interest rate, for the purpose of flood repairs to the Opry House. These funds would be subject to annual appropriation by the council. Gaylord must provide the council with an itemized expense report detailing the expenses related to the repair of the Grand Ole Opry House prior to any disbursement of funds.

Should the Industrial Development Board issue revenue bonds for the purpose of financing an expansion to the Opryland Hotel and Convention Center prior to the 2011 expiration date of the 2007 agreement, the designation for the use of these funds for repairs to the Opry House will essentially terminate.

ORDINANCE NO. BL2010-728 (STEINE & BAKER) – This ordinance accepts the donation of a Polaris Ranger off-road vehicle from Police Explorers, Post 911 to the Metropolitan Nashville police department. The vehicle was donated from the U.S. Smokeless Tobacco Company to Police Explorers, who are in turn donating it to Metro. Police Explorers is an organization affiliated with the Boy Scouts of America that assists the police department in missing person searches and crime prevention programs. The manufacturer’s suggested retail price for this vehicle is \$12,499.

ORDINANCE NO. BL2010-729 (GOTTO & EVANS) – This ordinance adopts the property identification maps for the Metropolitan Government identifying property as of January 1, 2010, as the official maps for the identification of real estate for tax assessment purposes. These maps are adopted on an annual basis.

ORDINANCE NO. BL2010-730 (STEINE, COLEMAN & BAKER) – This ordinance approves a license agreement between the Tennessee emergency management agency (TEMA) and the Metropolitan Government for the use of space on the Cane Ridge communications tower. Metro owns a number of emergency communication towers throughout the county including a tower in the Cane Ridge area. TEMA desires access to this tower to install some of its communications equipment. Metro will have no liability or responsibility for any of the TEMA equipment installed. The term of the agreement is through September 30, 2020, but may be extended for an additional ten-year term. The agreement is also subject to cancellation by either party at any time upon giving 30 days written notice.

This agreement has been approved by the planning commission. Amendments to the agreement may be approved by the council by resolution.

ORDINANCE NO. BL2010-731 (EVANS, TYGARD & OTHERS) – This ordinance appropriates an amount not to exceed \$200,000 from the unappropriated fund balance of the general services district to the department of water and sewer services (MWS) for the benefit of car washes and plant nurseries that were subject to the mandatory water conservation measures put in place after the May 2010 flood. As a result of the K.R. Harrington water treatment plant being out of commission for about a month due to flood damage, the state department of environment and conservation (TDEC) ordered Metro to eliminate all nonessential water use. As part of the water conservation measures implemented in reliance on TDEC’s order, MWS directed car washes to cease using drinking water for approximately one month and directed nurseries not to water plant stock with drinking water for approximately one week, which had an obvious economic impact on these businesses.

This ordinance directs MWS to provide a limited economic recovery benefit to the car washes and nurseries that suffered a disproportionate economic loss due to the restriction on the use of drinking water after the flood. This benefit will be in the form of water bill credits not to exceed \$5,000 per month for a maximum total benefit of \$30,000 per customer, regardless of the number of business locations. Eligible customers would be required to provide proof that their loss was not covered by another source such as an insurance policy or the federal government. Such customers would also be required to provide evidence of their financial loss attributed to the water shut-offs. Such claims must be made not later than September 15, 2010.

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ORDINANCE NO. BL2010-731 (continued)

The ordinance expressly provides that this is a one-time, remedial measure, and is not to be used as evidence of any negligence or wrong doing by the Metropolitan Government or as justification for the payment of funds for any other events. Amendments to the ordinance may be approved by the council by resolution.

The director of finance certified that funds are available for this ordinance. The Metropolitan Government has a long-standing written policy of trying to maintain a minimum unappropriated fund balance of 5%. The substitute budget adopted by the council for this fiscal year estimates the unappropriated fund balance to be 4%. This appropriation would adjust this estimate downward to 3.97%.

– BILLS ON THIRD READING –

ORDINANCE NOS. BL2010-710 (JAMESON) – This ordinance amends the beer permit requirement provisions in the Metro Code to exempt restaurants located within a small area of downtown Nashville that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit. The code currently prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, in 2003, the council enacted Substitute Ordinance No. BL2003-1353 establishing an exemption from the minimum distance requirements for restaurants located on property subject to a planned unit development (PUD) that already have a state on-premises liquor consumption license. Substitute Ordinance No. BL2003-1353 was essentially a compromise bill in an effort to provide a mechanism for restaurants with a state liquor license to obtain an on-sale beer permit without meeting the established distance requirements in the code. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant’s location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law.

This ordinance would exempt restaurants within the boundaries of Sixth Avenue North, Union Street, Church Street, and Fifth Avenue North that possess a valid state license to sell liquor-by-the-drink from Metro’s distance requirements. The existing beer PUD provisions would remain in the code. The council recently enacted similar legislation exempting a portion of downtown from the distance requirements pertaining to the issuance of certificates of compliance for retail liquor stores.

ORDINANCE NO. BL2010-711 (STANLEY & HUNT) – This ordinance abandons a 20 foot water and sanitary sewer easement held by the department of water and sewerage services for property located at 5231 and 5215 Old Hickory Boulevard. The easement is no longer needed by the department of water and sewerage services. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2010-712 (TODD & HUNT) – This ordinance abandons a 10 foot public utility easement held by the department of water and sewerage services for property located at 915 Otter Creek Road. The easement is no longer needed by the Metropolitan Government. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2010-713 (RYMAN, CRAFTON & OTHERS) – This ordinance, as amended, extends the deadline for the waiver of fees for permits issued by the department of codes administration for property owners that sustained damage as a result of the flooding the first weekend in May. The council enacted Ordinance No. BL2010-689 in June 2010 to retroactively waive the fees for building, electrical, plumbing, and gas/mechanical permits for a total maximum fee waiver of \$1,300. The previous ordinance included a deadline of July 30, 2010, for persons to obtain a permit under the fee waiver. This ordinance extends the deadline until December 31, 2010.

ORDINANCE NO. BL2010-715 (JERNIGAN) – This ordinance adds a new chapter to the Metropolitan code requiring automobile repair businesses to retain documentation regarding all vehicles left for repair. In 2009, the council enacted an amendment to the zoning code prohibiting vehicles left for repair from remaining on the premises of an automobile repair establishment for more than forty-five days. However, since no documentation is required for the vehicles, it is difficult for the codes department to enforce this requirement.

This ordinance would require automotive repair shops to maintain the following written documentation for each vehicle to be serviced or repaired:

1. The name and address of the customer;
2. The date the automobile was received for repairs or service;
3. The year, make, model and vehicle identification number of the automobile;
4. The odometer reading on the date the automobile was brought in for repairs or service;
and
5. The license plate number of the motor vehicle.

Such records are to be retained for six months and shall be available for inspection by the metropolitan police department and department of codes administration during regular business hours.

ORDINANCE NO. BL2010-719 (STEINE & HUNT) – This ordinance approves amendments to contracts in lieu of a performance bond between the Metropolitan Government and the state department of environment and conservation (TDEC) regarding the maintenance of closed solid waste facilities. State law requires that all owners of closed landfills either put up a performance bond or execute a contract agreeing to pay a penalty if the site is not adequately maintained. The Metropolitan Government has entered into contracts with TDEC in lieu of a performance bond as assurance of financial responsibility for our solid waste facility maintenance duties. The ordinance approves a decrease in the financial responsibility amounts, as follows:

- Bordeaux sanitary landfill – decrease from \$5,536,774 to \$5,237,616;
- Thermal ash monofill – decrease from \$1,177,567 to \$1,121,599;
- Due West Superfund site – decrease from \$1,397,974 to \$1,358,161.

These amounts would only be paid if Metro failed to adequately maintain the sites. Future amendments to this ordinance may be approved by resolution of the council.

ORDINANCE NO. BL2010-720 (STEINE) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes for the benefit of LKQ Corporation, which purchased Keystone Automotive in Nashville. LKQ is one of the nation's largest providers of aftermarket automotive collision replacement parts. The company intends to expand its operations and technology functions by adding 15,000 additional square feet to its existing facility located at 655 Grassmere Park. The expanded facility is expected to result in an additional 230 jobs in Nashville. LKQ will be investing \$1,450,000 of its own resources into the expansion consisting of \$500,000 for the build out and \$950,000 in furniture/equipment.

(continued on next page)

ORDINANCE NO. BL2010-720 (continued)

State law permits local governments to delegate the authority to industrial development boards to enter such agreements provided that the payments are in furtherance of the public purpose of the board. Payment in lieu of taxes (PILOT) programs have been used by the Metropolitan Government in the past to provide incentives to large employers to create more job opportunities, and are subject to approval by the council. Some of the more prominent PILOT agreements from previous years include agreements with Columbia/HCA Healthcare Corporation, Inc., and Dell Computer Corporation. A PILOT agreement was entered with HCA through the health and education facilities board as part of the package of incentives for HCA's relocation of its headquarters from Louisville to Nashville and for the construction of the Memorial and Summit hospitals. PILOT agreements were also authorized by the council through the industrial development board as part of the incentives provided to Dell for locating in Nashville. Subsequently, in 2007 the council authorized the IDB to accept PILOT payments for the Opryland Hotel and Convention Center, which payments are to be used to pay the debt on the bonds for the Gaylord expansion project. Since the Opryland Hotel expansion project has been put on hold, no such PILOT agreement has been entered with the IDB.

Pursuant to this ordinance, the council is delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes. The ordinance will effectively result in a two-year personal property tax abatement for the company and a 25% reduction in real property taxes for five years. LKQ's real property tax bill in 2009 was \$104,076, plus \$22,693 in personalty taxes. Once a lease agreement is negotiated, LKQ will transfer ownership of the property to the IDB who will in turn lease it back to LKQ. The lease payments to the IDB will be considered payments in lieu of taxes.

State law allows the council to require the PILOT agreement to be submitted to the council for approval once it is negotiated. This ordinance does not provide for any subsequent council approval of the PILOT agreement. However, the ordinance does provide that the final version of the PILOT agreement must be approved as to legality by the Metro director of law.

ORDINANCE NO. BL2010-721 (PAGE, STEINE & LALONDE) – This ordinance approves a lease agreement between the state and the Metropolitan Government for use of a portion of the Tennessee Preparatory School campus at 1250 Foster Avenue by Metro schools (MNPS) for the Nashville School of the Arts magnet. The original lease was approved by the council in 2003, and was subsequently extended through June 30, 2010.

Metro is leasing 136,653 square feet of space at the facility at a monthly rental rate of \$34,163 beginning July 1, 2010. The term of the lease is through June 30, 2011, with a possible extension of four additional one-year terms. Metro is responsible for paying all utilities and for routine maintenance of the leased premises. MNPS can make alterations and improvements to the facility at its own expense with the approval of the state. The lease also provides that MNPS has the authority to construct additional parking and a new service driveway. Any improvements made to the building will remain the property of the state upon the expiration of the lease agreement.

This lease agreement has been approved by the planning commission.

ORDINANCE NO. BL2010-722 (STEINE) – This resolution accepts a donation of two Volkswagen Routan minivans valued at \$31,400 each, as well as a cash contribution of \$10,000 from the Volkswagen Group of America, Inc., to the Metropolitan department of general services. This donation is being made by Volkswagen as a show of support for Metro's flood relief efforts. Pursuant to Ordinance No. BL2006-1015, donations of items valued in excess of \$5,000 must be approved by ordinance.

ORDINANCE NO. BL2010-723 (STEINE & HUNT) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with John Ring (Tennessee Contractors, Inc.) to provide public sewer service to section 10 of the Fountainbrooke subdivision in Williamson County. Back in 1998, the department of water and sewer services expanded two trunk sewer lines in anticipation of private developments tying on to the system. Tennessee Contractors, Inc., has agreed to contribute \$36,000 toward the cost of the project in aid of construction for a total of 18 single-family home connections. These funds are to be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the department of water and sewerage services whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service. The properties benefiting from the sewer connections become regular customers of Metro water services and pay the same sewer rates as customers in Davidson County.

ORDINANCE NO. BL2010-724 (FORKUM) – This ordinance abandons a portion of Lena Belle Avenue and an unnumbered alley north of East Maple Street to its terminus. This portion of right-of-way is no longer needed for government purposes. The purpose of the closure is to prevent dumping and illegal activity. A document showing the consent of the affected property owners is attached to the ordinance. Metro will retain all easements. This ordinance has been approved by the planning commission and the traffic and parking commission.