

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **October 19, 2010**

RE: **Analysis Report**

Balances As Of:	<u>10/13/10</u>	<u>10/14/09</u>
<u>GSD 4% RESERVE FUND</u>	* \$29,959,991	\$24,135,406
<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

– LEGISLATION ON PUBLIC HEARING –

RESOLUTION NO. RS2010-1426 (GILMORE) – This resolution exempts Bella Napoli Pizzeria located at 1200 Villa Place from the minimum distance requirements for obtaining a beer permit. The Metro code 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, the code was amended in September 2010 to exempt restaurants that already have a state on-premises liquor consumption license from Metro's minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

ORDINANCE NOS. BL2010-758 and BL2010-759 (CRAFTON & EVANS) – These two ordinances adopt a plan of service and approve the extension of the boundaries of the urban services district (USD) to include approximately 960 individual parcels in the Bellevue area located along Old Hickory Boulevard between Interstate 40 and Highway 70 South. The Metropolitan Charter provides that general services district property may be annexed into the urban services district, in accordance with state law annexation procedures, whenever such areas come to need urban services. State law requires that a plan of services be considered by the planning commission and then be adopted by the council before an ordinance to extend the boundaries of the urban services district can be approved on final reading. The planning commission approved the plan of services at its August 12, 2010, meeting.

These parcels of property already receive additional police protection, fire protection, water and sewer service, and street cleaning services. While the majority of the area is within the Harpeth Valley Utility District service area, the properties receive the same level of water and sewer service that properties served by Metro water services within the USD receive. Thus, the only additional services that will be rendered under the plan of services are street lighting, trash collection, and recycling collection. According to the department of public works, the estimated cost for providing these services is \$41,900 annually, with an initial start-up cost of \$287,500. Based upon information provided to the council office by the property assessor's office, this annexation would result in increased annual tax revenues to Metro of approximately \$781,000.

State law requires that the council hold a public hearing on both the plan of service and the annexation ordinance prior to their adoption on third and final reading.

Ordinance No. BL2010-758 adopts the proposed plan of services for the annexation of these Old Hickory Boulevard properties.

Ordinance No. BL2010-759 extends the boundaries of the urban services district to include the properties noted above.

– RESOLUTIONS –

RESOLUTION NO. RS2010-1337 (TYGARD & CRADDOCK) – This resolution authorizes the Metropolitan Council public safety committee to conduct an investigation regarding the loss of in-car camera video footage for approximately 1,600 police traffic stops. In May 2010, a vendor for the Metropolitan Nashville Police Department (MNPD), ICOP Digital, Inc., performed a remote software update to the MNPD's in-car camera system that apparently resulted in the deletion of approximately 1,600 recorded traffic stops. The MNPD uses camera units to record and save traffic stops on a hard drive in the car, which are then uploaded to a computer server located at the MNPD headquarters. The purpose of the in-car camera system is to provide visual and audio documentation of the traffic stops (especially those involving suspected DUI offenders) that can be submitted as evidence in court.

Though never used, there is a provision in the Metropolitan Charter authorizing the council, in aid of its legislative functions, to conduct investigations by the whole council or any of its committees upon adoption of a resolution receiving 30 affirmative votes. The Charter further authorizes the council to compel the attendance of witnesses and the production of books, papers, and records pertinent to an investigation or hearing, and to administer oaths to witnesses. This resolution provides that the committee is to make a report of its findings to the council following the conclusion of the investigation concerning the deletion of the traffic stop video footage that occurred in May 2010. The resolution also provides that the vice mayor may temporarily appoint additional members to the public safety committee as necessary for the purpose of conducting the investigation.

RESOLUTION NO. RS2010-1345 (BENNETT, STEINE & TYGARD) – This resolution, as amended, approves a contract between the Metropolitan board of health and Financial Marketing Concepts, Inc., (FMC) to provide a discount prescription drug card to residents of the Metropolitan Government. FMC has created a discount prescription drug card known as the Coast2Coast Rx card and wants to partner with the health department to provide the card to residents free of charge. Holders of the free card will be eligible to receive discounts on prescription drugs, as well as discounted imaging and lab tests. FMC will create a website regarding the program as a link from the Metro website. The revised contract provides that FMC desires to make an annual contribution to Metro based on the number of filled prescriptions. The amount of the donation would be as follows: fifty cents per filled prescription up to 72,000 annually, sixty cents from 72,001 to 120,000 annually, seventy cents from 120,001 to 180,000 annually, and seventy-five cents per filled prescription for 180,001 or more that are filled annually.

This agreement will renew automatically every year unless terminated by Metro with thirty days written notice to FMC.

RESOLUTION NO. RS2010-1412 (BARRY, JAMESON & RYMAN) – This resolution approves an intergovernmental project agreement between the Metropolitan Government and the convention center authority (CCA) regarding the development of a proposed convention center hotel by Omni Nashville, LLC. Omni plans to invest \$273 million in cash to build the hotel on 3.3 acres of property adjacent to the convention center site, next to the Country Music Hall of (continued on next page)

RESOLUTION NO. RS2010-1412, continued

Fame. At the time the convention center financing plan was approved in January 2010, the tourism tax revenues without a convention center hotel were estimated to provide debt coverage of 1.07 times the annual debt service in the ramp-up period and then level debt service in the stabilization period. HVS Consulting recently provided an addendum to the Music City Center market and feasibility study to provide a financial forecast with a convention center headquarters hotel, which obviously increases the amount of revenues available to pay the debt service on the convention center debt. Copies of the two HVS tax revenue projections are attached to this analysis. According to information provided by the finance director, the tourism tax surplus with the hotel will be significantly higher than what it would have been without the hotel.

As an inducement to get Omni to build the convention center hotel, the administration has negotiated a number of financial incentives for Omni, including a partial property tax abatement for twenty years, which is the subject matter of Ordinance No. BL2010-764 on third reading. In addition to the property tax abatement (in the form of a payment-in-lieu-of-taxes agreement with the industrial development board), the administration is proposing the use of \$25 million in tax increment financing for the purchase of the land and annual incentive payments to be made over twenty years with a present day value of \$103 million.

The CCA has approved a development and funding agreement with Omni that, in part, sets forth the tax abatements and financial incentives for Omni. The CCA has also approved a room block agreement that obligates Omni to hold certain blocks of rooms open for conventions that will require at least 1,000 guest rooms in the Nashville area. The development and funding agreement provides that the convention center hotel is to have at least 800 guestrooms and include a parking garage with at least 650 parking spaces. The hotel is to have a minimum of 60,000 square feet of meeting space, four food/beverage outlets, a spa and fitness center, and a business center. This hotel will be designed and constructed as a LEED silver certified facility. The hotel is to be completed not later than June 30, 2013, and Omni has provided the CCA with a completion and performance guarantee to ensure that the hotel is completed on time. Omni has agreed to privately finance the construction of the hotel at its own expense. Omni has also agreed to make a part of the hotel site available for the expansion of the Country Music Hall of Fame, which will either involve an integration of the Hall of Fame into the hotel design itself or leaving open a portion of the site for a future expansion of the Hall of Fame. Omni will be required to operate the hotel at a AAA four-diamond standard.

The development and funding agreement also obligates Omni to spend a minimum of twenty percent of the hotel's hard construction costs with small, minority-owned, and women-owned businesses, and a minimum of twenty-percent with local businesses. These percentages can overlap for contractors that qualify both as a local business and a small/women-owned/minority business. If Omni fails to fulfill these requirements, the amount of the annual incentive payments will be reduced accordingly. Omni also agrees to hire a minimum of 300 full-time equivalents to operate the hotel, with at least 200 of those being Davidson County residents. Failure to abide by this hiring schedule would result in the annual incentive payment being reduced by \$10,000 for each full-time equivalent job missed. Although Omni has agreed to (continued on next page)

RESOLUTION NO. RS2010-1412, continued

these hiring requirements, it is questionable whether the provision requiring that 200 of the jobs go to Davidson County residents would be legally enforceable if Omni decided to challenge it.

The primary aspect of the development and funding agreement is to obligate the CCA to provide annual incentive payments over twenty years from the convention center surplus revenue fund. The total amount of incentive payments to be provided over twenty years, not including the property tax abatement, is \$245.5 million, which has a net present value of \$103 million. In the event the funds in the surplus revenue fund are insufficient to pay any annual incentive payment, the intergovernmental project agreement to be approved by this resolution pledges certain non-tax revenues of the Metropolitan Government to cover any deficiency. This non-tax revenue pledge is for the same basket of revenues that were pledged for the convention center bonds in January 2010. The non-tax revenues are primarily those GSD general fund revenues other than property taxes, sales taxes, and state-shared taxes. These revenues include payments-in-lieu-of-taxes (other than the Water/Sewer PILOT payments for the stadium); licenses and permits, franchise fees (cable, gas, and telephone); fines, forfeitures and penalties; revenues from the use of money or property (investment interest and lease payments to Metro); commissions and fees (i.e., court clerk fees, register of deeds, etc.); charges for services (i.e., golf course green fees); compensation from the sale of or damage to Metro property; and other miscellaneous revenue (i.e., vending machines). The total amount of these revenues in fiscal year 2009 was approximately \$134 million. The pledge of the non-tax revenues is subordinate to the prior pledge of these revenues to the sports authority for certain stadium and arena revenue bonds. Obviously, this non-tax revenue pledge is also subordinate to the pledge to the convention center authority to secure a majority of the convention construction debt.

Both the development and funding agreement and the room block agreement include a requirement that Omni and the CCA use mandatory binding arbitration to settle disputes regarding the agreements. The contract provides that the arbitrator can dispense with the rules of evidence, allow hearsay testimony, and minimize discovery procedures. Thus, the CCA will contractually be giving up its right to go to court except for the purposes of obtaining temporary injunctive relief. While these provisions are common in the private sector, the council office cannot recall mandatory arbitration being included in other Metro contracts.

Under the terms of this intergovernmental project agreement being approved by this resolution, Metro agrees to collect the tourism tax revenues and transfer these revenues to the CCA, and to transfer the amount of non-tax revenues necessary to cure any deficiency in the amount of the surplus revenues to be used for the incentive payments to Omni. Metro also agreed not to repeal or amend the tourism tax ordinances during the twenty year term of the agreement, or to pledge the non-tax revenues as security for any other purpose unless the revenues for the two previous years exceed two times the maximum amount of debt service for the 2010B bonds. Further, for 78 months from the completion of the convention center hotel, Metro and the CCA agree they will not acquire, build, issue debt for, or provide incentives to another hotel with 400 or more rooms within a one mile radius of the Omni hotel other than providing payments-in-lieu-of-taxes or tax increment financing incentives to be generated solely by such additional hotel.

RESOLUTION NO. RS2010-1413 (BARRY) – This resolution accepts an annual grant in the amount of \$71,500 from the Tennessee Arts Commission to the Metropolitan Arts Commission. These funds will be used to make grants to major cultural institutions that are considered well-established Tennessee arts organizations. This grant consists of \$44,421 in state funds and \$27,079 in federal funds. There is a required local match in the amount of \$71,500 to be provided from the Metro arts commission budget. The term of the grant is from July 1, 2010 to June 30, 2011.

RESOLUTION NO. RS2010-1414 (FORKUM & BARRY) – This resolution appropriates \$986,091 in federal stimulus funds from the U.S. department of health and human services to the Metropolitan action commission to support the head start program by funding a comprehensive child development program. The head start program in Nashville provides early childhood education services to approximately 1,500 three and four-year-olds from economically disadvantaged families. The term of the grant is from September 30, 2010 through September 29, 2011.

RESOLUTION NO. RS2010-1415 (BARRY & FORKUM) – This resolution approves a third amendment to a contract between the Metropolitan board of health and SysTech International, LLC, for operation of the automobile emission testing program. In December 2006, the council approved the contract with SysTech, thus ending the contractual relationship with Envirotech Systems, which had been operating the program since 1990. At the time of the expiration of the former contract, Envirotech was charging \$10.00 per test, with \$1.80 going to the Metro health department to fund the air pollution program. The initial contract with Systech provided that Metro was to receive \$4.50 for each inspection, plus \$7.25 for every vehicle inspected that exceeds a 2% increase in the number of vehicles inspected in the previous year. If the contract was to be extended past the 2012 deadline, Metro was to receive \$5.00 per inspection under the terms of the original contract.

In June 2007, this contract was amended to reduce the inspection fee to \$9.00, which also reduced the payment to the health department by one dollar. Under the existing terms of the contract, Metro is to receive \$6.25 for every vehicle inspected that exceeds a 2% increase in the number of vehicles inspected in the previous year. The amendment also decreased the amount of the inspection fee after 2012 to \$4.00. The contract was again amended in 2008 to add a liquidated damages provision to protect Metro against SysTech's failure to fulfill certain contractual requirements that it was not in compliance with at the time.

This third amendment would extend the term of the contract through June 30, 2017, and would provide that Metro would continue to receive \$3.50 per inspected vehicle as opposed to \$4.00. However, Systech has agreed to provide some additional services including extension of the Saturday hours at the Antioch location, opening the Dickerson Road station on Saturday, and adding hours to the mobile test vans. This amendment also provides if the vehicle inspection program is revised in such a manner that would result in a reduction in the number of vehicles inspected (currently approximately 500,000 annually) by more than ten percent, then the amount of the fee submitted to Metro by Systech will be reduced accordingly.

RESOLUTION NO. RS2010-1416 (BARRY & FORKUM) – This resolution approves a contract between the Metropolitan board of health and United Neighborhood Health Services (UNHS) to provide medical services to homeless clients of the health department. The health department receives state and federal grant funds to provide healthcare services for the homeless at the downtown clinic. A contract with UNHS has been in place since 2005 to provide a portion of the medical services, including examinations, diagnosis, and treatment of medical conditions of persons seen at the downtown clinic.

Under the terms of this contract, UNHS is to provide primary medical services to 3,500 homeless clients, dental services through a partnership with Meharry School of Dentistry, mental health services to at least 900 homeless clients, and substance abuse services to at least 400 homeless clients. UNHS will also provide transportation to the clinic. The term of the contract is from July 1, 2010 through June 30, 2011. UNHS is to be paid no less than \$381,235 for its services.

RESOLUTION NO. RS2010-1417 (FORKUM & BARRY) – This resolution approves a contract between the health department and Baptist Hospital for assistance in providing services to women eligible for the federal women, infants and children (WIC) assistance program. Pursuant to this contract, Baptist Hospital agrees to make information about the WIC program available to eligible women receiving prenatal and postpartum services. Baptist Hospital will not be compensated for providing these services. The term of the contract is from April 16, 2010 through April 16, 2015.

RESOLUTION NO. RS2010-1418 (BARRY) – This resolution approves an amendment to a grant in the amount of \$78,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide funding for implementation of the career readiness certificate program. These certificates are issued to persons completing the workforce training at three campuses served by NCAC. This amendment extends the term of the grant through December 31, 2010.

RESOLUTION NO. RS2010-1419 (BARRY) – This resolution approves an amendment to a grant in the amount of \$113,197 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide skills shortage program funds to establish programs assisting older youth in Wilson County. NCAC administers the skills shortage program for the state in workforce investment area 9, which includes Davidson, Wilson, Trousdale, and Rutherford Counties. This amendment extends the term of the grant through June 30, 2011.

RESOLUTION NO. RS2010-1420 (BARRY) – This resolution approves a grant in the amount of \$73,394 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to establish joint apprenticeship training committee programs for four unions in Davidson County. The unions to be served through these grant funds are the Heat & Frost Insulators Local Union # 86, the Sheet Metal Workers' Local Union # 177, the Nashville Electric Joint Apprenticeship and Training Committee, and the Plumbers & Pipefitters Local Union # 572. These funds will be used to upgrade the skills of 168 workers. The term of the grant is from July 2, 2010 through June 30, 2011.

RESOLUTION NO. RS2010-1421 (BARRY) – This resolution approves a grant in the amount of \$40,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to create temporary disaster relief employment to assist in the clean-up and restoration efforts as a result of the May 2010 flooding. The term of the grant is from September 3, 2010 through November 24, 2010.

RESOLUTION NO. RS2010-1422 (BARRY) – This resolution approves an application for a grant in the amount of \$3,516,513 from the U.S. department of homeland security to the Metropolitan Nashville fire department to hire 32 new firefighters. The federal government would pay the salaries and benefits of the firefighters for two years. After the second year, there will be no requirement that we continue to fund these positions. However, the grant application provides that the Metropolitan Government would elect not to hire the additional firefighters if we could not sustain the additional cost after the grant period ends, and it notes that the council typically includes in their discussions of the grant acceptance the need to retain the personnel.

This grant application was technically submitted to the federal government in September 2010 without following the standard procedures in order to meet the application deadline. However, the application is subject to approval by the council, so if the council elected not to approve the application then it would have to be rescinded. This resolution is similar to a grant application approved by the council in January 2010 for the hiring of 80 firefighters, which was not awarded by the federal government.

RESOLUTION NO. RS2010-1423 (LANGSTER & BARRY) – This resolution approves a grant in the amount of \$1,008,608 from the U.S. department of homeland security and the mayor's office of emergency management (OEM) for maritime infrastructure enhancement to prevent, respond and to recover from threats of terrorism. These funds will be used for continuing security enhancements along the river in several middle Tennessee counties. These enhancements will include a new boat dock, new fire boats, and two boat trailers for the Metropolitan Government; a fire boat for the City of Hendersonville; a rescue and patrol boat for Stewart County and for Wilson County; and a fire boat and rescue boat for the City of Clarksville. The term of this agreement is from June 1, 2010, through May 31, 2013.

RESOLUTION NO. RS2010-1424 (JAMESON, BARRY & MAYNARD) – This resolution approves an application for a Transportation Enhancement Program grant in the amount of \$663,600 from the state department of transportation to the board of parks and recreation for the Shelby Park regional greenway connector. This greenway connector is to begin near the Lillian Avenue entrance to Shelby Park, continue down Beech Grove Hill to the lake, and terminate with the connection to the existing Shelby Bottoms greenway. If awarded, there will be a required local match of \$95,392 to be provided through capital funds approved for greenway projects.

RESOLUTION NO. RS2010-1425 (BARRY) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's claims against Kenneth Hudspeth, V. Johnson, LLC, and Vaughn K. Johnson for the amount of \$78,000. On June 26, 2006, a Metro police officer was stopped on Spring Street assisting a stranded motorist when his police car was struck by a vehicle driven by Kenneth Hudspeth. The van Mr. Hudspeth was driving was owned by his employer, V. Johnson, LLC. Mr. Hudspeth reached to the floorboard to retrieve a document as he was exiting from Ellington Parkway and did not see the stopped police car. The police officer sustained injuries to his head, neck, back, and shoulder, and has also alleged that he suffers from psychological injuries as a result of the accident. The officer was approved for a Metro disability pension in February 2007 due to his depression and post traumatic stress disorder. The officer filed suit against Mr. Hudspeth and his employer in December 2006. Metro filed an intervening complaint in February 2008 to recover its damages.

Metro has paid the police officer approximately \$107,000 in disability pension benefits. The defendants have challenged the police officer's claims related to his depression and post traumatic stress disorder. The defendants' expert has stated that there is no medical reason why the police officer cannot return to work. The police officer's medical professionals do not agree with this assessment.

Since there is some question as to the extent of the psychological injuries, the department of law recommends accepting \$78,000 to settle Metro's claim. The council has already approved the settlement of Metro's property damage claim from this accident.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2010-733 (MCGUIRE & STEINE) – This ordinance declares the Walter Stokes School property located at 3701 Belmont Boulevard 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 board of education has determined that this property is no longer needed for school purposes and has transferred it to the director of public property administration. The proceeds of the sale will be credited to the unappropriated school fund.

ORDINANCE NO. BL2010-762 (JERNIGAN) – This ordinance amends the Metro Code prohibition on high grass, weeds, and debris to eliminate the requirement that the health department send a notice of violation for repeat offenders. The current excessive growth ordinance provides that all exterior property shall be maintained free from weeds in excess of twelve inches. “Weeds” are defined as all grasses, annual plants and vegetation, other than trees, shrubs, cultivated flowers, ornamental grasses and gardens. While the excessive vegetation provisions are included in both the health code and the property standards code, one key difference between the two is that the property standards code allows the codes department to dispense with the requirement that a repeat violator be sent a written notice prior to filing a court action, although state law does allow the health department to assess fines for health code violations without going to court.

In an effort to help enforce the excessive growth ordinance against repeat offenders in a more timely manner, this ordinance essentially mirrors the provision in the property standards code and would allow the health department to forego the issuance of a notice of violation and immediately institute the appropriate court action whenever the health department has grounds to believe that a repeat violation has occurred. This ordinance also specifies that each violation of the excessive growth ordinance will be considered a separate offense and any continuing violation shall be considered a separate offense for each day the violation continues.

ORDINANCE NO. BL2010-763 (GILMORE) – This ordinance amends the Metropolitan Code regarding the application of the noise ordinance to two small areas of downtown Nashville. The noise ordinance was amended by Ordinance No. BL2008-259 in September 2008 to add a “plainly audible” standard for determining violations and adding certain restrictions pertaining to motor vehicle noise. However, Ordinance No. BL2008-259 retained the exemption for the downtown area from the noise ordinance restrictions. Subsequently, a new noise ordinance for downtown was adopted pursuant to Ordinance No. BL2008-306. The new downtown noise ordinance established some restrictions on exterior speakers and set a decibel limitation on pre-recorded music, but exempted live music from the noise restrictions.

This ordinance would impose the “plainly audible” standard for properties within the following two zones:

- Zone 1 would include those properties located within the boundaries of Sixth Avenue North to the west, Union Street to the north, Fifth Avenue North to the east, and Church Street to the south.
- Zone 2 would include those properties located within the boundaries of Korean Veterans Boulevard to the north, Third Avenue South to the east, Lea Avenue to the south, and Fourth Avenue South to the west.

ORDINANCE NO. BL2010-768 (STANLEY) – This ordinance amends the official street and alley acceptance and maintenance map to accept Hoggett Ford Road as a public road. A portion of Hoggett Ford Road in council district 14 is currently a private street serving several residential properties that, according to the recitals of the ordinance, have inadequate water service. The purpose of this ordinance is to make this a public street so that Metro water services would have the authority to consider upgrading the water service in the area if it chose to do so.

The Metropolitan code includes a process for having private streets accepted for public maintenance. The code requires that the following criteria be satisfied before accepting a private street by ordinance:

1. An adequate right-of-way with a minimum width of 50 feet be dedicated and recorded by plat to the Metropolitan Government, free of all encumbrances.
2. A level roadway pavement course at least 22 feet in width has been laid and is in good condition.
3. Adequate drainage facilities must be in place to maintain safe vehicular travel conditions. Plans certified as to location by a registered land surveyor and as to design and construction by a professional engineer must be submitted and approved by the department of public works prior to acceptance of the road.
4. The road must be a minimum of 600 feet in length.
5. The road must serve a minimum of six (6), and a maximum of twenty (20) residences; and all such residences must be single family homes or duplexes.
6. The road must meet design standards for "local rural roads" specified in the edition of the "Policy on Geometric Design of Highways and Streets" of the American Association of State Highway and Transportation Officials current as of the date of acceptance of the road by the Metropolitan Government.
7. The road must have only one terminus on an existing public road as of the date of acceptance.
8. The director of the department of public works must determine that the acceptance is consistent with the health, safety and welfare of the citizens of Davidson County and consistent with acceptable engineering standards of practice.
9. Adequate funding for the maintenance of the road and for appropriate signage must have been appropriated.

Hoggett Ford Road meets some, but not all of the criteria set forth above. This ordinance would accept the roadway as a public street notwithstanding the requirements of the Metro code to the contrary. The ordinance provides that the council deems it to be in the best interest of the Metropolitan Government of Nashville and Davidson County that Hoggett Ford Road be accepted as public roadway in its present condition.

The director of finance has refused to certify that funds are available for this ordinance due to its precedent setting nature and that the "potential financial impact to the City of action would be significant and greatly exceed funds available for general road maintenance."

ORDINANCE NO. BL2010-769 (COLEMAN, GILMORE & BARRY) – This ordinance approves a license agreement between the Metropolitan Nashville public schools (MNPS) and Hickory Hollow Mall Limited Partnership for the use of 6,486 square feet of space to serve as the temporary location for the Academy at Opry Mills for the 2010-2011 school year. In December 2009, the council approved a lease for space at Opry Mills Mall for the operation of an adult high school program known as the Academy at Opry Mills. The Academy at Opry Mills is a program specifically to serve young adults that dropped out of high school in their senior year. The program enables these students to continue outside employment while working toward obtaining their high school diploma in a non-traditional school setting.

Since Opry Mills was substantially damaged by the May 2010 flooding, it was necessary for MNPS to secure a temporary location for the school during the 2010-2011 school year. Pursuant to this license agreement, MNPS will be able to use this space for the school until May 31, 2011. MNPS will not be charged any rent for the premises, but will be responsible for making monthly utility payments of \$884 and HVAC payments of \$1,549.

This agreement has been approved by the planning commission. Future amendments to the agreement may be approved by resolution.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2010-760 (BARRY) – This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for fiscal year 2010-2011. State law allows county legislative bodies to appropriate funds for a tax relief program and establish guidelines for participation in the program and the disbursement of such funds. The council appropriated \$2,176,100 in the current fiscal year's operating budget for a property tax relief program for the elderly, which is approximately \$100,000 more than the previous fiscal year.

This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$26,830 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2011.

This tax relief program, which is separate from the tax freeze for seniors, has been in place for a number of years.

ORDINANCE NO. BL2010-761 (BENNETT) – This ordinance, as amended, amends the Metro Code to allow dogs in outdoor seating areas of restaurants. In 2009, the Tennessee General Assembly enacted legislation for the benefit of Knoxville and Knox County to allow counties and municipalities with a population of at least 100,000 people to authorize the presence of pet dogs in outdoor dining areas of restaurants upon enactment of an ordinance by the local legislative body. Both Knoxville and Knox County have enacted such an ordinance, and this ordinance is modeled after their ordinances.

Under this ordinance, restaurants desiring to allow dogs in their outdoor dining areas would be required to obtain an annual permit from the department of health upon paying a permit fee of twenty dollars. No dogs (other than service animals) would be allowed inside the restaurant. All dogs would be required to have a current rabies vaccination and license tag in order to come onto the restaurant premises. Dog owners will be responsible for exercising control over their dog and must keep the dog on a non-retractable leash at all times. Restaurant employees will be prohibited from petting or handling a dog while serving food or beverages. Dogs must be kept on the floor at all times, and will not be permitted to travel through the interior of the restaurant to get to the outdoor dining area. The restaurant must provide a kit with the appropriate materials for cleaning up dog waste.

Violations of this ordinance will be punishable by a fifty dollar fine plus revocation of the permit.

ORDINANCE NO. BL2010-764 (RYMAN & BARRY) – This ordinance, as amended, authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes (PILOT) for the benefit of Omni Nashville, LLC as part of the incentive package for the development of the Omni convention center hotel. Omni plans to invest \$273 million in cash to build the hotel on property adjacent to the Country Music Hall of (continued on next page)

ORDINANCE NO. BL2010-764, continued

Fame. The administration has negotiated several financial incentives for Omni, including a partial property tax abatement for twenty years. Since the Metropolitan Government does not have the authority to abate taxes on its own, it is necessary to go through the IDB.

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. 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. Most recently, the council approved a PILOT for LKQ Automotive in August 2010 and one for the benefit of HealthSpring at the last council meeting.

Pursuant to this ordinance, the council would be delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes that would equate to a 62.5% abatement for twenty years. The payment equivalent to 37.5% of the property taxes that would otherwise be owed will be specifically designated for the Metro public schools. This will ensure that the Metro schools will not be losing out on any property taxes generated by the convention center hotel.

Adding the \$273 million capital investment by Omni to the current appraised value of the property for tax purposes results in a total value of \$280,538,600, which would generate a real property tax bill of \$4,634,498 annually. Thus, a 62.5% real property tax abatement equates to \$2,896,561 per year. It should be noted that this valuation is only an estimate based upon information known at the present time and may not reflect the actual amount of the property tax abatement. The value of the personal property for tax purposes is unknown at this time. This tax abatement would be in addition to the one-time \$25 million tax increment financing payment for the property provided through the metropolitan development and housing agency and the annual incentive payments to be provided by the Metropolitan Government for 20 years having a present value of \$103,000,000. Resolution No. RS2010-1412 would approve an intergovernmental project agreement providing for the incentive payments and the pledge of the Metro non-tax revenues.

ORDINANCE NO. BL2010-765 (BARRY, BAKER & OTHERS) – This ordinance authorizes the department of water and sewerage services (MWS) to acquire properties pursuant to a hazard mitigation grant program using federal and state funds upon adoption of a resolution receiving twenty-one affirmative votes. The Metro Code provides that prior to the acquisition of real property for any purpose other than as Metro right-of-way, the director of public property administration must first negotiate an option to purchase the property at a fixed price subject to the approval of the council by resolution. Since MWS has already determined the amount the government will pay for each property under the home buyout, and since this amount has been relayed to the property owners, it is unnecessary to go through the process of obtaining an option. This ordinance will allow MWS to acquire the properties upon approval of the council by (continued on next page)

ORDINANCE NO. BL2010-765, continued

resolution without first negotiating an option to sell as long as the resolution includes the specific parcels to be acquired and the amount to be paid for each property. This ordinance also authorizes MWS to administer the hazard mitigation grant program for the Metropolitan Government.

On September 21, 2010, the council approved the application for a grant from the state emergency management agency to the Metropolitan Government to acquire and demolish flood-prone properties in the Delray Drive and West Hamilton Avenue areas as part of the first round of anticipated home buyouts.

ORDINANCE NO. BL2010-766 (TOLER & RYMAN) – This ordinance provides that the former employees of the Metropolitan convention center commission that were transferred to the finance department will continue to hold positions in the non-classified service. Ordinance No. BL2010-690 approved an agreement between the Metropolitan Government and the convention center authority for the financial, administrative, and operational services for the existing convention center and for the construction phase of the new center. Pursuant to Ordinance No. BL2010-690, all employees of the convention center commission were to remain employees of the Metropolitan Government under the department of finance and be assigned to the convention center authority as contemplated by the state enabling legislation. However, Ordinance No. BL2010-690 did not specify that the employees would remain non-civil service. This ordinance simply clarifies that the transfer of the convention center commission employees to the finance department did not impact their status as non-classified service employees.

ORDINANCE NO. BL2010-767 (MATTHEWS & MAYNARD) – This ordinance names the Tucker Road bridge over Whites Creek in honor of Mr. Robert Woods. Mr. Woods lost his life during the May 2010 flood after being swept away from his front yard on West Hamilton Avenue near the Tucker Road bridge. This bridge sustained substantial damage during the flood and has been reconstructed. This ordinance names the bridge the “Robert Woods Memorial Bridge”. The Metropolitan Code provides that no Metropolitan Government building or structure may be named except pursuant to an ordinance enacted by the council.