

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **May 17, 2011**

RE: **Analysis Report**

Balances As Of:	<u>5/11/11</u>	<u>5/12/10</u>
<u>GSD 4% RESERVE FUND</u>	*\$11,853,490	\$13,232,956
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$34,451,634	\$20,566,186
USD	\$24,263,010	\$22,180,965
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$27,099,790	\$27,354,569

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

– RESOLUTIONS –

RESOLUTION NO. RS2011-1534 (CRAFTON) – This resolution removes the members of the board of fair commissioners. The Metropolitan Charter provides that members of boards and commissions may be removed by a three-fourths vote of the entire membership of the council. The current five members of the fair board are Ned Horton, Alex Joyce, Charles Sueing, Katy Varney, and James Weaver. Rule 44 of the council rules of procedure requires that a resolution removing a member of a board or commission state the reasons or grounds for such removal. The reason cited in this resolution for the removal of the fair board members is the board's decision concerning the discontinuation of the state fair and the other activities at the fairgrounds property. The fair board recently entered into contracts for operation of the state fair and racetrack on the property, and is in the process of hiring a consultant to assist in the master planning process in compliance with the council's directive in Ordinance No. BL2010-820, as amended.

An identical resolution was filed and withdrawn in December 2010.

RESOLUTION NO. RS2011-1633 (LANGSTER & FORKUM) – This resolution amends the capital improvements budget for fiscal year 2011 to modify the description of the project related to the Lentz health center. The capital improvements budget currently includes a \$30 million project for the renovation of and addition to the existing Lentz health center. Ordinance No. BL2011-866 on third and final reading would approve an agreement with HCA to provide for the construction of a new health center on property located on Charlotte Pike that is currently owned by HCA. The capital improvements budget should be amended to include the construction of the new health facility in order to allow this agreement to move forward before the end of the fiscal year.

Rule 11 of the council rules of procedure provides a different filing deadline for amendments to the capital improvements budget. In order to technically meet the filing deadline for the May 17th agenda, this resolution should have been filed with the clerk not later than 11:00 a.m. on Friday, May 6th. However, due to a council office error, this amendment was not filed until Monday, May 9th. The council office requests that the rules be suspended in order for this resolution to be considered May 17th.

The Metro Charter requires that this resolution receive 27 affirmative votes in order to be adopted.

RESOLUTION NO. RS2011-1634 (HUNT & BARRY) – This resolution approves an amendment to the employment contract for Donald W. Jones as part-time special counsel for the council. Mr. Jones retired as full-time director and special counsel in July 2006, but remained in the director position on a part-time basis until 2008. Since 2008, Mr. Jones has served as part-time special counsel. The current employment contract specifies that Mr. Jones is to work no more than 10 hours a week. This contract amendment removes the weekly cap and sets a total compensation amount to be billed hourly at the existing rate for an average of eight hours per week for 50 weeks. The amendment also extends the term of the contract through May 31, 2012.

RESOLUTION NO. RS2011-1635 (JERNIGAN & BARRY) – This resolution approves an agreement between the City of Lakewood and the Metropolitan Government regarding the disposition and assumption of Lakewood’s assets and liabilities. On March 15, 2011, the voters of Lakewood approved the surrender of the city’s charter to the Metropolitan Government. In order to ensure a smooth transition, Lakewood and Metro have deemed it appropriate to contractually outline the process and responsibilities associated with the transfer of assets and liabilities.

All assets of Lakewood will be transferred “as-is” to the Metropolitan Government effective May 28, 2011, including money, vehicles, equipment, real property, water facilities, and rights-of-way. In addition, Metro will assume all outstanding liabilities of Lakewood. The audited financial statements for Lakewood list total assets of \$1,300,120 and liabilities of \$517,691, for a total net asset value of \$782,489.

Metro will have no obligation for the employment of the existing Lakewood employees. The costs and attorneys’ fee for any litigation brought by Lakewood employees would be payable solely from Lakewood’s assets. Metro will assume responsibility of the Lakewood commissioners as trustees of Lakewood’s assets and will be responsible for overseeing the liquidation of Lakewood’s affairs in accordance with state law.

RESOLUTION NO. RS2011-1637 (COLE & MAYNARD) - This resolution authorizes the director of public property administration to exercise an option to purchase the Cornelia Fort airport property for use as part of the Shelby Bottoms greenway. This property, consisting of nine parcels totaling 135.42 acres, is located within the Cumberland River floodplain. Metro will be paying \$1,215,000 to purchase the property from Ernest W. Colbert. The funds for the purchase price will be paid from the parks open space revolving fund that was part of last year’s capital spending plan. The option to purchase this property is set to expire on May 18, 2011.

Pursuant to the Metropolitan Code, the director of public property administration is authorized to negotiate for the purchase of property for government purposes and to seek to obtain an option to sell from the owner.

This acquisition has been approved by the board of parks and recreation and by the planning commission.

RESOLUTION NO. RS2011-1638 (MITCHELL, MAYNARD & BARRY) – This resolution approves a grant package totaling \$110,912 from the Friends of Warner Park to the Metropolitan parks department to provide staffing for the Warner Parks Center. These funds will be used to continue the following staff positions at the center:

- Office support specialist \$40,347
- Parks police officer overtime \$10,000
- Part-time seasonal waterer \$7,500
- 9 part-time maintenance positions \$28,065
- 2 part-time naturalists \$25,000

There will be a required match of \$27,988.92 to be provided through the parks department’s budget to cover the benefit costs.

RESOLUTION NO. RS2011-1639 (BARRY) - This resolution approves an application for a grant in the amount of \$100,000 from the National Endowment for the Arts to the Metropolitan arts commission for the 5th Avenue of the Arts design plan. The purpose of the program is to reignite this corridor as a defined cultural economic district. These funds would be used to prepare an updated district design plan and to provide two years of arts engagement activities and programming. The Civic Design Center would lead a series of community charrettes to set the framework for a new public art and streetscape plan for the corridor. There would be a required local match of \$154,100 if this grant is awarded.

RESOLUTION NOS. RS2011-1640 & RS2011-1641 – These two resolutions approves applications for grants from the state department of finance and administration to the Davidson County drug court. The drug court is a diversionary program that provides supervision and treatment for non-violent drug offenders.

Resolution No. RS2011-1640 (LANGSTER & BARRY) approves an application for a grant in the amount of \$100,000 for aftercare counseling to assist in the transition process from residential treatment back into society. There would be a required local match of \$33,334.

Resolution No. RS2011-1641 (BARRY & LANGSTER) approves an application for a grant in the amount of \$900,000 to pay the salary and benefits for drug court employees involved in the treatment of participants having alcohol and drug addictions.

RESOLUTION NOS. RS2011-1642 (LANGSTER & BARRY) – This resolution approves an intergovernmental agreement between the U.S. department of justice drug enforcement administration (DEA) and the Metropolitan police department for assistance with the organized crime drug enforcement task force. The DEA agrees to reimburse the police department for overtime payments made to seventeen Metro officers participating in this organized crime drug enforcement task force. This agreement may be terminated by either party with ten days written notice.

State law allows the Metropolitan Government to enter into intergovernmental agreements with federal agencies with approval of the council by resolution. Similar agreements with the DEA for overtime reimbursement have been approved by the council in recent years.

RESOLUTION NO. RS2011-1643 (LANGSTER & BARRY) - This resolution approves an application for a grant in the amount of \$940,288.96 from the state department of transportation to the Metro police department for the continuation of an enhanced DUI enforcement initiative. The purpose of this grant program is to reduce traffic related crash fatalities by focusing on alcohol or drug impaired drivers on weekends and major holidays. This grant would pay the overtime costs for the DUI enhanced enforcement team working Thursday through Sunday nights and on the six holidays associated with heavy alcohol consumption: St. Patrick's Day, Cinco de Mayo, Memorial Day, Independence Day, Labor Day, and New Year's Eve.

RESOLUTION NO. RS2011-1644 (BARRY & LANGSTER) – This resolution approves an intergovernmental agreement with the City of Winchester for the distribution of state grant funds to assist with the investigation of internet crimes against children. Pursuant to a previously-approved grant agreement, the Metropolitan police department has agreed to distribute a portion of the state grant funds to surrounding Middle Tennessee Internet Crimes Against Children agencies. Metro will distribute \$25,000 in state grant funds to the Winchester police department. The term of the agreement is from July 1, 2010, through June 30, 2011. The grant funds are to be used for equipment, training, and travel expenses related to investigations in Winchester.

RESOLUTION NOS. RS2011-1645 (BARRY & FORKUM) – This resolution appropriates \$62,170 in grant funds from the U.S. department of health and human services to the Metropolitan action commission (MAC) for the head start program. These funds were included in the fiscal year 2010 grant, but were not spent. This additional appropriation brings the total amount of the current grant to \$11,027,755 for the head start program.

RESOLUTION NO. RS2011-1646 (BARRY & FORKUM) – 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 funds are used to provide nutritious meals to eligible seniors through delivery services and congregate meal sites. The term of this grant is from October 1, 2010 through June 30, 2011. This amendment increases the amount of the grant by \$19,632 for a new grant total of \$876,657, and increases the amount of the local match by \$2,181 for a total match of \$69,797.67 to be provided through the social services commission operating budget.

RESOLUTION NO. RS2011-1647 (FORKUM & BARRY) – 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 Envirotec Systems, which had been operating the program since 1990. At the time of the expiration of the former contract, Envirotec 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. 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.

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RESOLUTION NO. RS2011-1647 (continued)

This third amendment is a replacement for an amendment previously filed with the council that would have extended the term of the contract through June 30, 2017. This revised amendment extends the contract through June 30, 2015, and would provide that Metro would continue to receive \$3.50 per inspected vehicle as opposed to \$4.00 under the existing contract. 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.

Ordinance No. BL2011-909 on second reading would transfer the administrative functions of the emissions testing program from the health department to the county clerk effective July 1, 2011. The ordinance includes a provision that all contracts for operation of the program entered into after the effective date of the ordinance must specify that the Metropolitan Government is acting by and through the board of health and the county clerk. Further, all new contracts must provide that the county clerk is to collect the fees under future contracts, and is to remit the contractor's portion of the fee to the contractor monthly. If this resolution is approved, Ordinance No. BL2011-909 would have no application until 2015 if it is enacted as well.

RESOLUTION NO. RS2011-1648 (BARRY & FORKUM) – This resolution approves an amendment to a contract between the Metro health department and the National Step Show Alliance for the implementation of a diabetes project. This is a subcontract awarded by the health department to implement the stepping program funded by a state grant to reduce the risk of adolescent diabetes by focusing on obesity prevention. The contractor is to provide 30 step team coaches to work a minimum of 10 hours per week and will provide four one-week step camps at selected community centers. This amendment increases the amount of the compensation by \$32,900, for a new total of \$138,900.

RESOLUTION NO. RS2011-1649 (BARRY & FORKUM) – This resolution approves an annual grant in the amount of \$42,500 from the state department of health to the Metropolitan health department for tobacco use prevention services. These federal pass-through funds are used to pay part of the salary of a program coordinator to help prevent initiation of tobacco use among young people, promote quitting among adult and youth tobacco users, and partner with community organizations to implement counter-marketing campaigns. The term of the grant is from March 30, 2011 through March 28, 2012. There is a required local match in the amount of \$7,300 to be provided through the health department's operating budget.

RESOLUTION NO. RS2011-1650 (BARRY & FORKUM) – This resolution approves an amendment to a grant from the state department of health to the Metro health department for operation of the Women, Infants and Children (WIC) program in Nashville to provide nutritious food to low-income women, infants, and children. This federal pass-through grant is used to pay the salaries and benefits of the health department employees administering the WIC program, as well as supplies and occupancy expenses for the program. This amendment increases the amount of the grant by \$100,000, for a new grant total of \$4,243,700. The amendment also adds the required Federal Funding Accountability and Transparency Act language regarding executive compensation reporting.

RESOLUTION NO. RS2011-1651 (BARRY & FORKUM) – This resolution approves an annual grant in the amount of \$735,200 from the state department of health to the Metro board of health to provide an array of local health services. The term of the grant is from July 1, 2011 through June 30, 2012. These grant funds are typically used to pay the salaries and work expenses of health department administration employees.

RESOLUTION NO. RS2011-1652 (BARRY & FORKUM) – This resolution approves a fifth amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health for the continued collection of data on the ambient air concentrations for fine particulate matter. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This resolution increases the amount of the grant by \$130,000, for a new grant total of \$515,000, and extends the term of the grant through March 31, 2012.

RESOLUTION NO. RS2011-1653 (FORKUM & BARRY) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metro board of health to enhance access to community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients under the Ryan White HIV/AIDS Treatment Extension Act of 2009. This amendment increases the amount of the grant by \$44,416 to reflect unspent funds from the previous year.

RESOLUTION NOS. RS2011-1654 through RS2011-1657 (BARRY & FORKUM) – These four resolutions approve contracts between the Metropolitan board of health and two colleges for the Historically Black Colleges and Universities Wellness project. The health department received a grant in the amount of \$170,636 from the state department of finance and administration to create a team of health ambassadors from each of the five historically Black colleges and universities in Tennessee. These teams consist of four students each from Fisk University, Meharry Medical College, Knoxville College, Lane College, and LeMoyne-Owen College. These resolutions approve the contracts with Lane College and Knoxville College to assure compliance with the project protocols and requirements, and to identify the student health ambassadors. The colleges will each be paid \$11,000 for performance of the contract in fiscal year 2011. These resolutions also approve the corresponding business associate agreements to prevent the disclosure of protected health information in compliance with HIPPA.

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RESOLUTION NOS. RS2011-1654 through RS2011-1657 (continued)

Resolution No. RS2011-1654 approves the business associate agreement with Lane College.

Resolution No. RS2011-1655 approves the contract with Lane College.

Resolution No. RS2011-1656 approves the business associate agreement with Knoxville College.

Resolution No. RS2011-1657 approves the contract with Knoxville College.

RESOLUTION NOS. RS2011-1658 and RS2011-1659 (BARRY) – These two resolutions approve amendments to grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults, youth, and dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. These grants provide part of the operating funding for the NCAC. The amendments simply extend the terms of the grants through September 30, 2011.

Resolution No. RS2011-1658 approves an amendment to a grant in the amount of \$57,250 to cover administrative costs for NCAC associated with providing programs and services to assist dislocated workers, adults, and youth facing barriers to employment.

Resolution No. RS2011-1659 approves an amendment to a grant in the amount of \$1,145,000 to provide training opportunities for dislocated workers.

RESOLUTION NO. RS2011-1660 (BARRY) - This resolution approves an amendment to a grant from the state emergency management agency to the Metropolitan Government for the reimbursement of flood-related expenses. This grant is for the receipt of federal funds to reimburse Metro for flood repairs and the replacement of equipment and facilities. The original grant approved in December 2010 was in the amount of \$4,595,038.04, with a required local match of \$241,844.10, which represented the first installment of federal funds. This amendment increases the amount of the grant award by \$41,572,930.45, for a new total of \$46,167,968.49. The amendment also increases the amount of the local match to \$2,429,892.93. The term of the grant is through April 29, 2015.

RESOLUTION NO. RS2011-1661 (CLAIBORNE, BARRY & HODGE) – This resolution approves a fourth application for a hazard mitigation grant from the Tennessee Emergency Management agency and authorizes the department of water and sewerage services (MWS) to acquire 33 homes and three vacant lots located within various floodways/floodplains in Davidson County. Ordinance No. BL2010-765 authorized such action to be taken upon approval of a resolution receiving 21 affirmative votes once the funding was made available. The Tennessee emergency management agency is accepting additional grant applications for the home buyout program in an amount not to exceed \$8,150,135, with a local match of \$1,164,305. The federal emergency management agency has already awarded Metro \$7,097,318 to acquire 81 homes in the Delay Drive and West Hamilton Avenue areas, which was the subject matter of Resolution No. RS2010-1466 approved in December 2010. The council approved two subsequent grant applications totaling \$15,906,419.50 to acquire 104 additional homes.

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RESOLUTION NO. RS2011-1661 (continued)

This new grant is to consist of \$6,985,830 in federal funds representing 75% of the costs to acquire the homes. The remaining 25% would be split equally by the state and Metro. Once the funds are guaranteed, MWS will take the action necessary to acquire and demolish these homes to be maintained as permanent green space. There is no obligation for the homeowners to participate in this home buyout program.

The Metro Code provides that the director of public property administration must first negotiate an option to purchase property at a fixed price subject to the approval of the council by resolution prior to the acquisition of real property for any purpose other than as Metro right-of-way. Ordinance No. BL2010-765 created an exception to the option requirement for this flood buyout since MWS had already determined the amount the government will pay for each property and this amount had been relayed to the property owners. A list of the properties to be acquired with the corresponding purchase amount is attached to this analysis.

RESOLUTION NO. RS2011-1662 (BARRY & HODGE) – This resolution voids a previous agreement between the Metropolitan Government and Williamson County to improve the sewer service to the Town of Nolensville fire hall located at 7347 Nolensville Road, and approves a new participation agreement for this project. The original agreement provided that the Williamson County government was to pay the entire \$50,000 cost of extending the sewer main to serve the property. This new agreement provides that Williamson County will contribute a maximum of \$115,000 toward the extension of the sewer main to serve the fire hall. These funds are to be deposited into the water and sewer extension and replacement fund. Metro will contribute the remaining \$54,398.10.

The property benefiting from the sewer connection will be a regular customer of Metro water services and pay the same sewer rates as customers in Davidson County.

RESOLUTION NO. RS2011-1663 (BARRY & HODGE) – This resolution approves an annual cooperative agreement between the department of water and sewerage services and the U.S. department of interior – geological survey for the continuation of a program of water resources investigation. The federal government will provide \$97,450 for this program, with a local match of \$97,450 to be provided by the department of water and sewerage services. This annual contract provides streamflow monitoring at six sites and continuous water-quality monitors at four sites within the area of the Metropolitan Government. The term of the contract is from July 1, 2011, through June 30, 2012.

RESOLUTION NO. RS2011-1664 (GOTTO, BARRY & HODGE) – This resolution approves an intergovernmental agreement between the state department of transportation (TDOT) and the department of public works for traffic signal upgrades at various intersections on Lebanon Pike, Central Pike, and Old Hickory Boulevard in the Hermitage area. The estimated cost for this project is \$1,100,000, with \$500,000 being provided by the Metropolitan Government and the remaining as federal pass-through funds from TDOT. Metro will be responsible for all of the project work, which is to be completed no later than December 31, 2014. This is a typical contract between Metro and TDOT for transportation improvements.

RESOLUTION NO. RS2011-1665 (BARRY & HODGE) – This resolution approves a licensing agreement with CSX Transportation for the purpose of constructing water facilities located in the railroad right-of-way for the Washington combined sewer overflow facility. The facilities to be constructed include a 12'x12' box culvert, a 6" water line, and two 24" casings. This encroachment agreement would be in perpetuity, however, the agreement will terminate if Metro does not complete the installation within five years. This agreement provides for a one-time license fee of \$22,500, which will be paid from the water and sewer extension and replacement fund. In addition, Metro agrees to indemnify CSX to the extent permitted by state law and to require its contractors to maintain liability insurance in the amount of \$5 million. Metro will be responsible for reimbursing CSX for its expenses associated with allowing Metro to complete the project within the railroad tight-of-way, which is estimated to be \$48,971. Metro also agrees to reimburse CSX for any expenses associated with Metro's failure to maintain or repair the water/sewer facilities within the encroachment.

Such license agreements regarding the construction of utility lines in the CSX railroad right-of-way may be approved by resolution rather than by ordinance.

RESOLUTION NO. RS2011-1666 (BARRY) – This resolution authorizes the department of law to compromise and settle the claim of Deborah Ely against the Metropolitan Government for the amount of \$9,000 to be paid from the self-insured liability fund. On August 16, 2010, Ms. Ely caught her left foot in a hole in the sidewalk on 22nd Avenue North near Patterson Street. The department of public works was aware of the poor condition of the sidewalks in the area and had made some repairs several months prior to the accident. Ms. Ely fractured her ankle and received numerous abrasions, incurring medical bills totaling \$3,677.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2010-822 (HOLLIN, CRAFTON & CRADDOCK) – This ordinance amends the Metropolitan Code to prohibit persons that serve on boards or commissions from engaging in any lobbying activity at the local level. The ethics code currently allows lobbyists and attorneys serving on boards and commissions to continue to represent clients before the council or other Metropolitan Government departments and boards/commissions, provided they do not represent clients before the specific board or commission they serve on. This ordinance would delete this lobbyist exception in the ethics code. The code defines a lobbyist as a person that communicates, directly or indirectly, with any official in the legislative branch or executive branch for pay or for any consideration for the purpose of influencing any legislative action or administrative action.

ORDINANCE NO. BL2010-825 (TYGARD) – This ordinance amends the Metropolitan Code to provide free parking at parking meters within the downtown central business improvement district for vehicle owners that purchase carbon offset credits. This ordinance was filed in response to Ordinance No. BL2010-734, approved in December 2010, allowing free parking for environmentally friendly vehicles. This ordinance would require the department of public works to issue an annual sticker for passenger vehicles if the vehicle owner provides proof he/she purchased carbon offsets from a nonprofit organization that uses the funds for carbon counterbalance projects in Nashville. The vehicle owner would be required to present a certificate from the nonprofit organization evidencing that the amount of credits purchased coincides with the carbon footprint of the vehicle for which the parking permit is sought. The council office's research indicates that nonprofit organizations offering carbon offsets online charge between \$40 and \$72 for a typical mid-sized sedan.

The free parking sticker would only be valid during the calendar year the sticker was obtained, but would be renewable by mail upon providing a copy of a new carbon offset credit.

The director of finance has refused to sign this ordinance as to availability of funds given the inability to ascertain the financial impact it will have on the Metropolitan Government.

There is a substitute for this ordinance approved by the traffic and parking commission that would closely mirror the provisions of the previous green parking bill. This substitute would house the program in the county clerk's office. The county clerk would be authorized to collect a \$10 fee per sticker to cover the costs associated with the issuance of the sticker and the enforcement costs incurred by the department of public works. This substitute would become effective July 1, 2011, with a sunset of June 30, 2013 unless extended by a resolution adopted by the council.

ORDINANCE NO. BL2011-835 (CRAFTON & DOMINY) – This ordinance amends the Metropolitan Code to eliminate the minimum charge for livery services. Ordinance No. BL2010-685 (as amended), approved by the council on June 15, 2010, established a mechanism for the regulation of non-taxi vehicles for hire. One of the requirements of Ordinance No. BL2010-685 was that livery services (limo companies) charge a minimum of \$45 per trip, regardless of the (continued on next page)

ORDINANCE NO. BL2011-835 (continued)

duration or mileage of the trip. The transportation licensing commission recommended the inclusion of a minimum fee provision, but wanted the authority to set the amount themselves. The amount of the \$45 minimum charge added by amendment was recommended by the Tennessee Livery Association, which is an association representing limo companies. The purpose of this minimum charge is to distinguish livery services from taxicabs.

This ordinance would delete the minimum charge provision in its entirety.

ORDINANCE NO. BL2011-903 (COLEMAN & DOMINY) – This ordinance amends the Metropolitan Code to require the planning department to provide written notice to every property owner whose property is being included in the floodway or floodplain for the first time. The planning department would be required to provide this written notice within 30 days of the publication of new flood maps. The planning department has advised the sponsor that this ordinance will have a negligible financial impact.

ORDINANCE NO. BL2011-904 (BARRY) – This ordinance approves the transfer of a telecommunications franchise from DukeNet Communications, LLC, to DukeNet OpCo, LLC. The council approved this franchise in December 2009. DukeNet is a North Carolina-based company that develops and manages fiber optic telecommunications systems in several southeastern states. This ordinance simply reflects the company name change, which has been approved by the Tennessee Regulatory Authority. The company will continue to operate as DukeNet Communications.

The Metropolitan Code requires telecommunications franchise transfers to be approved by ordinance.

ORDINANCE NO. BL2011-905 (LANGSTER & HODGE) – This ordinance approves an agreement between the Metropolitan Government, Tennessee State University (TSU), Meharry Medical College, and Jefferson Street United Merchants Partnership (JUMP) for the maintenance of streetscape improvements along I-40 at Jefferson Street and 28th Avenue North. The public works department received a \$608,000 grant in 2008 from the state department of transportation (TDOT) for these streetscape improvements, which were to include new landscaping, directional signage, and an irrigation system. The grant had a required local match of \$152,000.

This agreement specifies the parties' obligations regarding the maintenance and landscaping of the streetscape improvements. The agreement contemplates a future agreement with TDOT regarding the right to enter and use the property. TSU, Meharry, and JUMP agree to fulfill the requirements of such future TDOT agreement, and each agrees to contribute up to \$22,000 per year toward the maintenance of the improvements in the form of in-kind services. JUMP will pay the irrigation hook-up fees and utilities, as well as in-kind maintenance services. TSU and Meharry's contribution will solely consist of in-kind maintenance services. Metro will have no required financial contribution toward the maintenance of the improvements. The agreement also includes insurance and indemnification requirements to protect Metro. The term of this agreement is for five years.

ORDINANCE NO. BL2011-906 (ADKINS) – This is a routine ordinance that readopts the Metropolitan Code prepared by Municipal Code Corporation to include all ordinances enacted on or before December 21, 2010. Municipal Code Corporation has the contract with Metro to codify all ordinances enacted by the council, as well as to update and maintain the on-line version of the code. The council periodically readopts the code to make sure the printed and online versions are kept up to date.

ORDINANCE NO. BL2011-907 (FORKUM) – This ordinance amends the Metropolitan Code to transfer the administration of the vehicle emissions testing program to the county clerk. The health department has been responsible for the emissions testing program since the inception of the program in 1979. The 1979 ordinance authorizing emissions testing was necessitated by the federal Clean Air Act approved by Congress in 1977. The code authorizes the health department to adopt and promulgate rules and regulations for the operation of the vehicle inspection and maintenance program, which rules are subject to approval of the council by resolution. The health department has a contract with Systech to perform the emissions testing services, but the health department is responsible for reporting the data to the federal and state governments and for monitoring the performance of the contract.

This ordinance would transfer the administrative functions of the emissions testing program from the health department to the county clerk effective July 1, 2011. The administrative functions to be performed by the county clerk would include the collection and processing of all applicable emissions testing/inspection fees at the time a motor vehicle is registered, as well as oversight of all contracts for the operation of the emissions testing program in conjunction with the health department. The ordinance provides that all contracts for operation of the program entered into after the effective date of this ordinance must specify that the Metropolitan Government is acting by and through the board of health and the county clerk.

Under the current contract, Systech collects all of the inspection fees and remits \$3.50 per test to the health department monthly. This ordinance would provide that the county clerk's office is to collect the fees under future contracts as opposed to the contractor. The county clerk would be required to remit the contractor's portion of the fee to the contractor monthly. There is a proposed amendment to this ordinance to clarify that this new ordinance would not modify any existing contractual arrangement with Systech.

The director of finance was unable to certify that funds are available for the implementation of this ordinance due to a lack of information regarding the costs associated with the transfer.

ORDINANCE NO. BL2011-908 (FORKUM & BARRY) – This ordinance accepts a donation of 100 bicycles from Regions Financial Corporation to the board of health for the purpose of promoting active living. These bicycles, having a total value of \$18,825, will be donated over a period of two years in installments of 25 bicycles every six months.

ORDINANCE NO. BL2011-909 (HUNT, BARRY & HODGE) – This ordinance authorizes the acquisition of two utility easements for the Whites Creek water main project. The estimated total cost for these easement acquisitions is \$3,000, 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. 4421 Whites Creek Pike
2. 4419 Judy Creek Road

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-910 & BL2011-911 – These two ordinances authorize the acquisition and acceptance of right-of-way easements for sidewalk improvements to be made under the direction of the department of public works. These ordinances have been approved by the planning commission.

Ordinance No. BL2010-910 (BARRY & HODGE) authorizes the acquisition and acceptance of right-of-way easements for sidewalk improvements on Abbott Martin Road from Vailwood Drive to Cross Creek Road.

Ordinance No. BL2010-911 (HODGE & BARRY) authorizes the acquisition and acceptance of right-of-way easements for sidewalk improvements on Harding Place from Timberhill Drive to Danby Drive.

ORDINANCE NO. BL2011-912 (TYGARD, WILHOITE & OTHERS) – This ordinance amends the Metropolitan Code to create an office of administrative hearing officer. In 2010, the Tennessee General Assembly enacted legislation authorizing municipalities to create, by ordinance, the “office of administrative hearing officer” to hear building and property maintenance code violations. The purpose of this enabling legislation is to provide an alternate enforcement mechanism for certain codes violations. Today, all citations for violations of the property standards code are processed through the environmental court, which is a division of the general sessions court. Judgments entered by the environmental court referee may be appealed *de novo* to the environmental court judge, whose judgments are then appealable *de novo* to the circuit or chancery court. The Tennessee constitution limits the assessment of fines without a jury trial to fifty dollars per violation, which has limited the ability of local governments to adequately address serious codes violations.

This ordinance creates the office of administrative hearing officer in accordance with state law. The administrative hearing officer process would be in lieu of the standard environmental court process, but would not take the place of environmental court. It is envisioned that administrative hearing officer would hear codes violations that are considered the “worst of the worst”, as well as repeat offenders that continue to commit new codes violations even after going through the environmental court process a number of times. Persons cited to environmental court would also have the option of having the matter heard by an administrative hearing officer if they so choose.

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ORDINANCE NO. BL2011-912 (continued)

When this enforcement method is chosen by the codes department for a particular defendant, the codes department is to issue a citation to the alleged violator. Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property. Notice of the citation must also be provided to the administrative hearing officer within two days of issuance. Upon receipt of a citation, an administrative hearing officer will review the alleged violation and can levy a fine upon the alleged violator in an amount not to exceed \$500 per violation for violations occurring upon residential properties, and \$500 per violation *per day* for commercial properties.

Upon the levy of a fine, the hearing officer must within seven business days provide notice via certified mail to the alleged violator regarding the amount of the fine and the time and place of the hearing. The hearing must be held no less than 30 calendar days following the issuance of the citation. If an alleged violator remedies the violation prior to the hearing, the fine will be canceled. A person who is aggrieved by a final decision in a contested case is entitled to file a petition for review in the chancery court. Such petition must be filed within 60 days after the entry of the final order.

Each administrative hearing officer must be appointed by the council and will serve at the pleasure of the council. This ordinance creates two administrative hearing officer positions to be appointed by the council whose compensation is to be established by a resolution receiving twenty-one affirmative votes. Pursuant to the state enabling legislation, an administrative hearing officer must be a licensed building inspector, plumbing inspector, electrical inspector, attorney, architect, or engineer. The state law also allows municipalities to contract with the secretary of state for the employment of an administrative law judge on a temporary basis to serve as an administrative hearing officer. State law requires administrative hearing officers, within six months of being appointed, to participate in a training program conducted by the municipal technical advisory service (MTAS). Administrative hearing officers would also be required to complete six hours of continuing education every calendar year.

The clerical and administrative support for the officer of administrative hearing officer is to be provided by the department of codes administration. The director of finance was unable to certify that funds are available for the implementation of this ordinance due to a lack of information regarding the costs associated with the position. Any cost incurred by the codes department should be offset by the increased amount of the fines that may be levied by the administrative hearing officer.

ORDINANCE NO. BL2011-915 (JAMESON) – This ordinance approves a lease between the Metropolitan Government and the Center for Charter School Excellence in Tennessee for the use of property at 217 South 10th Street, which formerly housed the East Head Start Center. This 4,979 square-foot building will be used as a charter school incubator to assist in the development, support, and growth of charter schools. The term of the lease is from July 1, 2011 through June 30, 2016, with a possible extension of an additional five year term. Metro will receive rent in the amount of \$2,074.58 per month, which is to increase by two percent each year over the life of the lease. The Center will also be required to pay all utility charges, (continued on next page)

ORDINANCE NO. BL2011-915 (continued)

as well as provide janitorial and trash collection services. However, the Center will receive a credit against the payment of rent for improvements they make to the property. Metro will be entitled to sign off on all plans for the tenant improvements prior to the commencement of work. All improvements must be to ADA standards.

The Center will be responsible for maintaining the property in accordance with the standards required by Metro Nashville public schools. The Center must provide general liability insurance coverage in the amount of \$1,000,000 per occurrence, plus excess insurance with a limit of not less than \$5,000,000 per occurrence, naming Metro as an additional insured. The Center will also be required to maintain insurance on the property itself. The Center agrees to indemnify Metro for all claims resulting from the actions of its employees or agents.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2011-859 (CRAFTON) – This ordinance, as amended, amends the metropolitan solid waste code to allow Davidson County residential property owners residing outside the county to pay the same fee at the Metro solid waste convenience centers as Davidson County residents. The solid waste code provides that all tip fees and charges are to be doubled when waste or refuse is transported to a disposal or collection site in a vehicle bearing a license tag issued by a county other than Davidson County. This ordinance would allow the lower in-county rate to be charged to owners of single or two-family residential property that either have a Davidson County license plate or present proof of ownership of property in Davidson County. The lower fee would not apply to the disposal of used tires.

ORDINANCE NO. BL2011-866 (LANGSTER & FORKUM) – This ordinance approves an agreement between the Metropolitan Government and Hospital Corporation of America (HCA) for the exchange of property and construction of a new public health center. It has been previously determined that the Lentz public health center located on 3.7 acres of property at 311 23rd Avenue North is inadequate to meet the needs of the health department and the community. In fact, construction of a new public health center has been contemplated in at least two capital spending plans.

HCA owns a 3.5 acre parcel of property (HCA tract) as part of a larger 14.7 acre tract located at 2512 Charlotte Avenue. In order to construct a new public health center quicker, and likely cheaper, HCA and Metro have agreed to swap the HCA tract for the current Lentz property, and for HCA to construct a new health center on the HCA tract for the benefit of Metro. The construction cost for the new health center is not to exceed \$28.5 million, and is to be completed within 30 months after work commences.

HCA will be responsible for obtaining bids for the architectural, engineering, and construction services associated with the construction of the new health center. If no bids are received that are less than the \$28.5 million maximum construction price, Metro will have the opportunity to (1) seek approval from the council for an increase in price; (2) terminate the agreement and reimburse HCA for the expenses it incurred; or (3) revise the scope of work to lower the cost. Metro representatives will be allowed to observe the procurement process and to reject any bid “considered not responsible under Metro’s procurement rules and regulations.” This means that although HCA will not be required to follow all of Metro’s procurement laws and requirements, Metro will have veto power over a bid if Metro determines that the contractor is not qualified under Metro rules and regulations.

Metro will have unrestricted access to the HCA property during construction of the health center. Metro will also have the right to make changes to the project plans. The agreement includes a “covenant not to sue” whereby Metro agrees that it will not pursue any claims against HCA for faulty construction after the closing. All such claims could only be brought against the contractor.

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ORDINANCE NO. BL2011-866 (continued)

This agreement also includes provisions governing parking at the new health facility. Five parking spaces are to be available for each 1,000 square feet of the facility, which is consistent with the zoning code requirements. HCA will be allowed to use the health center parking for its own benefit if it decides to construct additional facilities around the new health center, provided HCA makes additional parking areas available to Metro within ¼ mile of the facility. If HCA constructs a parking garage near the facility, Metro will be allowed use of the garage parking to the extent that all available parking is equal to five spaces per 1,000 square feet, not to exceed 491 spaces.

In order to compensate HCA for financing the construction costs of the new health center, Metro will pay interest at the rate of three percent of the total construction costs plus a one-time \$50,000 fee. Once construction is completed, the parties will swap ownership of the two properties. At the time of closing, Metro will pay HCA an amount based upon the following formula:

	Total Construction Cost
+	HCA Architectural Costs
+	Appraised Value of the HCA Tract
--	<u>Appraised Value of the Lentz Property</u>
	Total Amount Paid by Metro at Closing

The agreement will not become effective until HCA and Metro have agreed on the appraised value of both properties. Preliminary appraised values have not been provided to the council. The value of the entire 14.7 acre HCA tract according to the assessor of property is \$6.4 million, but this transaction only includes 3.5 acres of the tract. The assessor's office has appraised the Lentz property at \$2.25 million. Both Metro and HCA have procured appraisals of the properties. The results of these appraisals will be made known to the council prior to the May 17th council meeting.

It is not anticipated that HCA will use the Lentz property immediately after becoming owner of the property. As an additional incentive to HCA, the contract provides that HCA may obtain a tax abatement in the form of a payment in lieu of tax (PILOT) agreement through the industrial development board (IDB). Such PILOT agreement is to provide a 100% tax abatement for the first five years, and a 50% abatement for the next five years. The IDB authority to negotiate a PILOT agreement with HCA would be subject to approval of the council by ordinance. If HCA chooses not to enter into a PILOT agreement, HCA would have the legal right to sell the property to a third party at any time.

An additional benefit to Metro by having HCA construct the new health center is the ability to delay the issuance of debt until the building is complete, given Metro's current bonding capacity. As the council is aware, Metro has taken on a considerable amount of debt in recent years. In fiscal year 2008, the ratio of Metro's outstanding indebtedness compared to the operating budget was approximately 1.4:1, or 140%. That ratio increased in fiscal year 2010 to 1.63:1, or 163%. The debt restructuring plan approved by the council in May 2010 reduced the debt service budget for fiscal year 2011 from \$162 million to \$77.2 million in order to free up more operating funds. However, the debt restructuring will result in higher debt payments in fiscal years 2014 through 2020.

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ORDINANCE NO. BL2011-866 (continued)

Resolution No. RS2011-1633 is a companion to this ordinance to include this project within the capital improvements budget.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-869 (HOLLIN & BARRY) – This ordinance readopts the juvenile curfew ordinance, which technically expired on June 30, 2010. The juvenile curfew ordinance, in its most recent form, was adopted in 1999 and included a five year sunset provision. The ordinance was extended by resolution in 2005. However, the ordinance was not extended prior to the June 2010 sunset deadline, and thus technically became null and void.

This ordinance simply readopts the juvenile curfew ordinance without a sunset provision. The ordinance makes it unlawful for any person under the age of 18 to be on public property or private property without the consent of the owner between the hours of eleven p.m. and five a.m., Sunday through Thursday, and twelve midnight to five a.m. Friday and Saturday during the months of September through May. The curfew for the months of June through August is twelve midnight to five a.m. seven days a week. The curfew ordinance also provides that parents may be cited for knowingly permitting their child to violate the curfew and be subject to a fifty-dollar fine.

ORDINANCE NO. BL2011-870 (LANGSTER) – This ordinance amends the public notification requirements in the Metropolitan Code applicable to the transportation licensing commission to allow notice by posting on the commission's website. The code currently requires that notification for public hearings to review applications for taxicab certificates of public necessity and for modification of the emergency wrecker zones be published in a newspaper of general circulation. This ordinance would require the commission to give "due notice" of the hearing, which would include publication on the commission's website. This ordinance is expected to save the transportation licensing commission approximately \$2,000 per year.

There is currently state legislation pending to create a pilot program in Knox County that would allow all government legal notices to be posted on the county's website.

ORDINANCE NO. BL2011-871 (MOORE, BARRY & HODGE) – This ordinance approves a wire and cable license agreement with Nashville and Eastern Railroad. Metro received a \$560,000 grant from the state department of transportation in 2004 to provide communication links to signalized intersections. Part of this project will require the installation of fiber optic cable over the railroad right-of-way. This contract will require Metro to pay the railroad's expenses associated with protecting the tracks and maintaining traffic while the cable is being installed, and will pay the railroad a one-time \$500 license fee. In addition, Metro will reimburse the railroad (using the TDOT grant funds) for the replacement of flashing lights at the railroad crossing, which is estimated to be \$13,675.

ORDINANCE NO. BL2011-872 (LANGSTER) – This ordinance approves a memorandum of understanding between the mayor’s office of emergency management (OEM), Clear Channel Communications, Inc., and Warning Systems, Inc., regarding the dissemination of emergency alert messages. OEM will be responsible for purchasing the emergency alert equipment and conducting monthly tests. OEM will also have the responsibility for deciding when to activate the emergency alert system and what the message will be. These messages will be in addition to those disseminated by the National Weather Service and the TBI.

Clear Channel Communications had agreed to provide space at the WSIX radio station for the installation of the required emergency alert equipment and to disseminate the messages on behalf of Metro. Warning Systems, Inc. will maintain the equipment and provide technical support to OEM and Clear Channel Communications.

This agreement can be terminated at any time upon thirty days written notice.

ORDINANCE NOS. BL2011-874 through BL2011-877 – These four ordinances abandon water and sewer lines and easements that are no longer being used by the department of water and sewerage services. These ordinances have been approved by the planning commission.

Ordinance No. BL2011-874 (BAKER & HODGE) abandons and relocates 1,725 linear feet of sanitary sewer line located on the Reostone Quarry and state prison property located along Robertson Avenue and Annex Avenue. This will also include the acceptance of an inverted siphon structure and easement.

Ordinance No. BL2011-875 (CLAIBORNE & HODGE) abandons 110 feet of an 8-inch sanitary line and accepts a fire hydrant assembly on property located at 420 Donelson Pike.

Ordinance No. BL2011-876 (JERNIGAN & HODGE) abandons 596 linear feet of an 8-inch water main and easement, and 843 linear feet of an 8-inch sanitary sewer line and easement on property located on Robinson Road for the Old Hickory Skilled Nursing Facility. The ordinance also accepts 640 linear feet of new water main and two fire hydrant assemblies.

Ordinance No. BL2011-877 (LANGSTER & HODGE) abandons 500 linear feet of a 10-inch sewer main and easement, and accepts 1,003 linear feet of a relocated sewer main and easement for properties located on 31st Avenue North and Long Boulevard.

ORDINANCE NO. BL2011-896 (JAMESON & GILMORE) – This ordinance amends the Metro zoning code to extend the date for compliance with the signage provisions within the downtown code (DTC) district. The ordinance creating the DTC district, which was approved with amendments by the council in February 2010, provided that downtown properties would not have to comply with the new signage standards until July 1, 2011. The idea behind the delayed compliance date was to allow for a study of signage within the downtown area and to recommend new standards. The planning commission recently hired a consultant to conduct a study of the downtown sign regulations, but the consultant’s work will not be complete by June 30, 2011. This ordinance simply extends the compliance date to January 1, 2012.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-897 (GOTTO) – This ordinance amends the street designations in the zoning code to be consistent with the terminology used in the new Major Street and Collector Plan approved by the planning commission on April 14, 2011. The new plan will implement the “Complete Streets” approach to street design, which is intended to facilitate and accommodate multiple modes of transportation. The zoning code currently uses the terms “arterial” and “collector” to classify streets. However, the new street plan classifies such roads as “arterial-boulevard”, “arterial-parkway”, or “collector-avenue”. This ordinance amends the definitions in the zoning code to coincide with the new street plan.

This ordinance also modifies the method of measuring street setbacks. The code currently provides that these setbacks, which vary based on the zoning district, are measured from the center of the street. This ordinance provides that street setbacks will be measured from the standard right-of-way line. The planning department staff report states that this change in measurement method will not change the actual setback measurements as they currently exist.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-898 (GOTTO & COLE) – This zoning text change creates a number of alternative zoning districts in the higher intensity residential and mixed-use districts that will facilitate a more pedestrian-friendly environment without requiring a specific plan. Specifically, this ordinance creates a new corresponding alternative district to the MUN, MUL, MUG, MUI, RM9, RM15, RM20, OR20, RM40, OR40, RM60, and ORI districts. The permitted uses, minimum lot sizes, and floor area ratios in the alternative districts will be identical to the companion districts. This ordinance also creates the RM80-A (multi-family 80 units per acre) and RM100-A (multi-family 100 units per acre) districts with no corresponding companion districts to allow higher density development in urban areas.

There are two primary differences between these new alternative districts and their existing companion districts: setbacks and height. The zoning code currently regulates minimum building setbacks, but does not set a maximum setback. Thus, buildings can be constructed at the rear of lots with parking in the front, but cannot be placed next to the street in certain districts. This alternative replaces the setback concept with a “build to” concept. Developers would be required to build 5-15 feet from the front property line. The side and rear setbacks would be the same as the companion districts. In addition, all parking must be to the side or rear of the building.

This ordinance uses a “step-back” depth in measuring permitted height as opposed to the height control plane used in the existing companion districts. While not altering the overall maximum height, it would allow taller structures to be closer to the front property line instead of using the tiered height control plane approach. A minimum front step-back of 15 feet would be required.

Finally, this ordinance provides an incentive to reduce impervious surface area by giving a bonus in floor area ratio, and allows area that is dedicated as right-of-way to be used in calculating permitted density.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-899 (GOTTO) – This zoning text change would allow signs to be located in alleys under certain circumstances. The zoning code currently prohibits signs along alleys. However, parking for downtown businesses is often located off of alleys. This ordinance would allow alley signs when parking is located at the rear of the property and is only accessible via an alley. The ordinance includes maximum size requirements for the alley signs and requires the sign to be at least 40 feet from a public street. Alley signs must be placed at a location that will not obstruct visibility.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-900 (LALONDE, GILMORE & MOORE) – This zoning text change would allow detached accessory dwelling units on properties that are within a historic zoning overlay district. The zoning code presently prohibits any detached dwelling from being located on the same parcel in the R and RS zoning districts. Accessory apartments are allowed as an accessory use in the residential districts, provided they are attached to the primary residence.

This ordinance would allow detached accessory residential units in the R, RM, and OR districts as long as the property is located within a historic zoning overlay. The detached accessory unit cannot exceed 700 square feet and must be clearly subordinate in size and height to the principal structure. The detached accessory unit must also be located at the rear of the lot and be separated at least 10 feet from the principal structure. The principal structure and the detached accessory unit must be owned by the same person, but may have separate utility connections.

The ordinance also includes some design standards governing color, building materials, and architectural characteristics. The council office is of the opinion that these design standards are not permitted by state law. While design and aesthetics can be regulated under state law as part of a historic overlay designation, this does not extend to zoning code provisions applicable to the base zoning districts. The design standards in this bill would be unenforceable to the extent they differ from the design guidelines for a particular historic zoning overlay district. The council office is of the understanding that a new text change will be filed that would incorporate these design standards for all historic zoning overlay districts.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-901 (COLE & TOLER) – This ordinance amends the zoning code to add single-family cottage developments as a use permitted with conditions in all two-family (R) zoning districts. Cottage developments are defined in the zoning code as single family residential developments of four to ten dwelling units arranged on small lots toward a common open space on at least two sides. These cottage developments are currently only permitted in multifamily districts, not the R and RS districts. This use was added as part of the multi-family districts in 2006, but developers have not taken advantage of it due to the density restrictions created by the bulk standards.

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ORDINANCE NO. BL2011-901 (continued)

Under this ordinance, single-family cottage developments would be allowed in the R zoning districts if certain conditions are satisfied. Buildings must be 1 or 1 ½ stories with a maximum height of 25 feet. The maximum building footprint would be 1,000 square feet. All units must either face the street or common open space. The development must designate at least 350 square feet of common open space per unit. Further, each unit must have at least 200 square feet of contiguous private open space next to the unit for use by the homeowner. All parking must be screened from the common open space, from all public streets, and from the properties adjacent to the cottage development. A covered front porch at least 60 square feet in size is required for all units. The ordinance also modifies the required rear setbacks under the base zoning districts to accommodate cottage development units abutting an alley.

As an incentive to developers to utilize the cottage development approach, this ordinance provides a density bonus of up to 1 ½ times the units allowed under the base zoning district, with no minimum lot size. This would allow substantially greater density on infill lots in established neighborhoods. However, the density bonus would not be available if an historic structure has been demolished on the site within the two years prior to site plan approval.

Like the specific plan (SP) district, cottage developments would be required to have a final site plan approved by the planning commission. The ordinance also includes a design requirement that the cottage units be constructed of materials that are “consistent with and complement the existing residential character of the area”. Much like the provisions included in Ordinance No. BL2011-900 discussed above, the council office is of the opinion that this design requirement is inconsistent with state law.

This ordinance has been approved by the planning commission.

There is an amendment to this ordinance to remove the suspect design standards, to restrict use of these cottages developments to the urban services district only, and to limit the number of units in a cottage development.