

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Don Jones, Special Counsel
Metropolitan Council Office

DATE: **June 14, 2011 - Adjourned Meeting**

RE: **Analysis Report**

– BILLS ON SECOND READING –

ORDINANCE NO. BL2011-940 (JERNIGAN, EVANS & FORKUM) – This ordinance amends the stormwater provisions in the Metro Code pertaining to the construction of structures within the floodway. In December 2010, the council enacted Substitute Ordinance No. BL2010-794 to prohibit development from having an adverse impact as it relates to flooding, which included a prohibition on the construction of any new structure within the floodway. A structure that is already located in the floodway may be repaired in the event of a casualty loss up to fifty percent of the appraised value of the property.

This blanket prohibition on the construction of structures within the floodway has resulted in several unintended consequences. For example, the code as written would prohibit the construction of a parking lot, bridge, or stormwater infrastructure in the floodway. This ordinance is an attempt to provide some flexibility without compromising the intent and effectiveness of the 2010 ordinance.

This ordinance would the stormwater management committee the authority to grant a variance to allow the construction of certain types of structures within the floodway as long as the structure is designed and constructed so as to have no adverse impact on other properties along the same waterway and will not result in a rise in flood elevation. The structures for which a variance may be granted include surface parking lots, temporary structures less than 100 square feet in size that are not used as a dwelling unit, water-related features (such as bridges, wharfs, docks, and boat ramps), and water/sewer infrastructure. This ordinance would also allow a variance for the rebuilding of an existing home in the floodway that was damaged in the May 2010 floods, provided the structure is rebuilt within the same building footprint and is elevated in accordance with the Metro stormwater regulations.

There is a proposed substitute for this ordinance based upon input from the Metro water services stormwater division.

ORDINANCE NO. BL2011-943 (JAMESON & HODGE) – This ordinance authorizes Omni Nashville, LLC to install and maintain an underground encroachment in the 4th Avenue South and 5th Avenue South rights-of-way between Franklin Street and Demonbreun Street to allow for the construction of the Omni Hotel parking garage. The encroachment will include the installation of foundation walls, as well as miscellaneous landscaping and irrigation lines. The foundation wall is to be approximately 433-feet long by two-feet wide. Omni has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a certificate of public liability insurance of \$1 million per occurrence and \$2 million in the aggregate naming the Metropolitan Government as an insured party. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-945 (JAMESON & HODGE) – This ordinance abandons seven water/sewer easements necessary for construction of the Omni convention center hotel. These easements are no longer being used by the department of water and sewerage services. The specific easements to be abandoned are as follows:

Easement #1 - a 40' public drainage easement as recorded in plat book 9700. Page 382-R.O.D.C., TN (centered on 66" drain, now abandoned); to be abandoned from the eastern right-of-way of 5th Ave South to the western right-of-way of 4th Avenue South;

Easement #2 - a 20' sewer easement as recorded in plat book 9700, Page 382, R.O.D.C. TN (centered on a 66" RCP); to be abandoned from the southern edge of the easement north 62 feet to the relocated storm connection;

Easement #3 - a 20' public utility and drainage easement as recorded in plat book 9700, page 382, R.O.D.C. TN (centered on 36" storm sewer, to be removed); to be abandoned in its entirety, to include an implied easement located over the connection to the north to the Wilson Springs sewer shown in Easement No. 1;

Easement #4 - a stormwater quality easement as recorded in instrument No. 200703120030220, R.O.D.C. TN; and stormwater detention agreement in instrument No. 200703120030182, R.O.D.C. TN; both to be abandoned in their entirety;

Easement #5 - easements retained in the closing of 20' Alleyway #132 "Hog Alley" (closed by Council Bill #098-1197) to be abandoned in their entirety;

Easement #6 - easements retained in the closing of 12' Alleyway #68 "& unnumbered Alleyway (closed by Council Bill #098-1145) to be abandoned in their entirety;

Easement #7 - a 20' N.E.S. easement as recorded in instrument 200606270076558, R.O.D.C. TN; to be abandoned from the northern edge of the easement south 61 feet to the northerly right-of-way of future Korean Veterans Boulevard.

This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL201-919 (COLEMAN, BARRY & GILMORE) – This ordinance authorizes the director of public property administration to accept the donation of 11.07 acres of property in the Antioch area from Belz/Becker-Lewis-Shlenker Properties for the construction of Cane Ridge elementary school. As a condition of a 2003 zoning bill, the property owner was required to make a school site available for an elementary school with a capacity of 500 students. This transfer fulfills this zoning condition.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-921 (BARRY & GOTTO) – This ordinance adopts the capital improvements budget for 2011-2012 through 2016-2017. A separate analysis including a list of projects by district is posted on the Council website. The capital improvements budget is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the council, except in the case of a public emergency.

This budget is amendable on third and final reading. The Charter requires the council to adopt the capital improvements budget not later than June 15th of each year. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the mayor, and then be adopted by resolution of the council receiving twenty-seven (27) affirmative votes.