

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **March 20, 2012**

RE: **Analysis Report**

Balances As Of:	<u>3/14/12</u>	<u>3/9/11</u>
<u>GSD 4% RESERVE FUND</u>	*\$25,836,951	\$23,996,590
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$44,378,057	\$34,451,559
USD	\$8,556,677	\$24,263,010
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$34,449,193	\$27,099,790

*** Assumes estimated revenues in fiscal year 2012 in the amount of \$24,098,500**

– RESOLUTIONS –

RESOLUTION NO. RS2012-176 (MCGUIRE) - 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. This amendment increases the amount of the grant award by \$5,071,509.25, for a new total of \$51,239,814.46. The amendment also increases the amount of the local match by \$266,921.53 to \$2,696,814.46. The term of the grant is through April 29, 2015.

RESOLUTION NO. RS2012-177 (MCGUIRE) – This resolution approves a grant in the amount of \$50,000 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. The grant will provide funding for aftercare counseling to assist in the transition process from residential treatment back into society, as well as for drug tests. There is a required local match of \$16,667.00. The term of the grant is from July 1, 2012 to June 30, 2013.

RESOLUTION NO. RS2012-178 (MCGUIRE) – This resolution approves a grant in the amount of \$105,293 from the Tennessee Bureau of Investigation to the office of the district attorney general to provide personnel to review, coordinate, and prosecute gang-related cases. These funds will be used to pay the salary of an assistant district attorney designated for gang prosecutions. The term of the grant extends through June 30, 2013.

RESOLUTION NO. RS2012-179 (MCGUIRE) – This resolution approves an application for a grant in the amount of \$3,892,000 from the U.S. department of homeland security to the Metropolitan Nashville fire department to hire 35 new firefighters. This is part of the federal Staffing for Adequate Fire and Emergency Response (SAFER) grant program. The federal government would pay the salaries and benefits of the firefighters for two years. According to the fire department, the federal government will not require Metro to retain the additional firefighters after the two year term, but the department intends that they be retained.

RESOLUTION NO. 2012-180 (MCGUIRE) – This resolution accepts a grant in the amount of \$552,040 from the U.S. Department of Homeland Security to the Metro fire department to create a professional development program and acquire a driver simulator to train fire department personnel in the operation of large vehicles. The first element of the grant provides funding for education and training in emergency vehicle operation. Approximately \$380,000 of these funds will be used to purchase an emergency vehicle driver simulator and to implement a new Emergency Vehicle Operator Course (EVOC) to teach personnel how to drive emergency vehicles and provide remedial driver training. According to an analysis from the fire department, this program has been shown to reduce wrecks and expenses by 40 percent in other cities where the program has been implemented.

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RESOLUTION NO. 2012-180 (continued)

The second portion of the funds (approximately \$270,000) will be used to purchase fire service accredited courses to provide professional development for line supervisors, mid-managers, and senior management.

This grant requires a local match of \$138,010. The term of this grant is from January 27, 2012 to January 26, 2013.

RESOLUTION NO. RS2012-181 (MCGUIRE) – This resolution appropriates \$5,000 in grant funds from the state department of agriculture to the Nashville farmers’ market to advertise and promote the market. These grant funds will be used for signage and to print brochures. The term of the grant is from January 1, 2012 through May 31, 2012.

RESOLUTION NO. RS2012-182 (MCGUIRE) – This resolution approves a grant in the amount of \$53,500 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. The grant will be used to conduct cross training and to increase available funds for training scholarships and youth programs. The term of the grant is from January 1, 2012 to December 31, 2012.

RESOLUTION NO. RS2012-183 (LANGSTER & MCGUIRE) – This resolution approves a contract between the Metropolitan board of health and Meharry Medical College to provide internship opportunities for students. This agreement will provide internship opportunities for eight students to work within the health department’s family, youth, and infant health bureau for a total of 480 hours each. The health department will pay Meharry \$46,080 for the students’ services. The term of this contract is from March 26, 2012 to June 1, 2012.

Metro participates with several colleges and universities to provide different types of clinical experience to students.

RESOLUTION NO. RS2012-184 (LANGSTER & MCGUIRE) – This resolution approves a grant in the amount of \$606,400 from the state department of health to the Metro health department to provide TENNderCare outreach services for enrolled children. These funds will be used to pay the salaries and indirect costs of health department employees to conduct community outreach activities designed to reach pre-teen, teen, and young adult populations. The term of this grant is from July 1, 2012 through June 30, 2013.

RESOLUTION NO. RS2012-185 (LANGSTER & MCGUIRE) – 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 (continued on next page)

RESOLUTION NO. RS2012-185 (continued)

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, 2012 through March 29, 2013. There is a required local match in the amount of \$7,300 to be provided through the health department's operating budget.

RESOLUTION NO. RS2012-186 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$539,800 from the state department of health to the Metropolitan board of health for implementation of the state immunization program. The term of this grant is from January 1, 2012, through December 31, 2012. This grant, consisting of \$156,100 in state funds and \$383,700 in federal pass-through funds, will be used to pay the salaries and benefits of health department employees who provide the immunization services.

RESOLUTION NO. RS2012-187 (LANGSTER & MCGUIRE) – This resolution approves a grant in the amount of \$4,540,588 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. The grant is for a term of March 1, 2012, through February 28, 2013.

RESOLUTION NO. RS2012-188 (LANGSTER & MCGUIRE) – This resolution approves an annual grant in the amount of \$202,200 from the state department of health to the Metropolitan department of health to enhance the health and well-being of women, infants, and families. These funds are for the fetal-infant mortality review program, which is a program to improve community resources and plan public health services that have a positive impact on the fetal-infant mortality rates. The majority of the funds will be used to pay the salaries of the health department employees implementing the program. The term of the grant is from July 1, 2012 through June 30, 2013.

RESOLUTION NO. RS2012-189 (LANGSTER & MCGUIRE) – This resolution approves an amendment to a grant from the state department of human services to the Metropolitan action commission (MAC) for the low income home energy assistance program (LIHEAP). This program provides financial assistance with heating costs to eligible recipients. This amendment increases the grant award by \$217,418.88 for a new total of \$5,261,123.68.

RESOLUTION NO. RS2012-190 (LANGSTER & MCGUIRE) – This resolution approves an amendment to a grant to the Metropolitan action commission (MAC) as part of the community services block grant from the Tennessee department of human services. The funds allow MAC to assist low income individuals in meeting basic needs including employment services, primary health services, housing, nutrition, and emergency services. The amendment increases the grant award by \$3,537.35 for a new grant total of \$1,012,278.31.

RESOLUTION NO. RS2012-191 (LANGSTER & MCGUIRE) – This resolution approves an amendment to a federal stimulus grant in the amount of \$7,527,527 from the U.S. department of health and human services to the Metropolitan health department to provide a community-wide initiative to reduce obesity. The funds are used to work with community partners to implement a plan to reduce risk factors and promote wellness with an emphasis on obesity prevention. This grant provides funding for 40 full-time and 40 part-time positions. The amendment extends the term of the grant through December 18, 2012.

RESOLUTION NO. RS2012-192 (TODD, JERNIGAN & MCGUIRE) – This resolution approves a grant in the amount of \$121,274 from the Friends of Warner Park to the Metropolitan parks department to provide staffing for the Warner Parks Nature Center. These funds will be used to continue the following staff positions at the center:

- Office support specialist \$42,000
- Parks police officer overtime \$10,000
- 9 part-time maintenance positions \$44,274
- 2 part-time naturalists \$25,000

There will be a required match of \$26,452.18 to be provided through the parks department's budget to cover the benefit costs for the full-time employees.

RESOLUTION NO. RS2012-193 (JERNIGAN & MCGUIRE) – This resolution approves both an amendment to a grant and a new grant from the Friends of Centennial Park and the Parthenon to the Metropolitan parks department to provide funding for a full-time Metro parks employee. These funds are used to pay the salary for the position of President of the Conservancy. This resolution first approves an amendment to increase the salary of the employee by \$2,500 for fiscal year 2012 for a new grant total of \$87,500. This also increases the amount of the local match by \$576.65, for a new total of \$29,882.72 to cover the fringe benefit cost associated with the position. This resolution also approves a new grant in the amount of \$90,000 covering the employee's salary for fiscal year 2013. The new grant requires a local match of \$31,459.40 to cover the fringe benefit cost associated with the position.

Although the intent of the grant is to provide funding for an increase in the employee's salary to \$90,000 for both the current fiscal year and next year, the council office would point out that the grant letter only specifically references the new \$90,000 grant, not the additional \$2,500 retroactive to January 1, 2012.

RESOLUTION NO. RS2012-194 (JERNIGAN & MCGUIRE) – This resolution approves a grant in the amount of \$7,920 from the state library and archives to the Nashville public library system to increase the library staff's knowledge and skills in assisting the public with electronic devices used to read E-books. These funds will be used to purchase E-book readers and printers. There is a required local match of \$7,920. The term of the grant is from December 1, 2011 to June 30, 2012.

RESOLUTION NO. RS2012-195 (HUNT & MCGUIRE) – This resolution approves a cooperative joint funding agreement between the U.S. Department of the Interior-U.S. Geological Survey and Metro for the continued operation and upgrades of flood warning gages on Mill Creek, Seven Mile Creek, West Fork Browns Creek, Richland Creek, Whites Creek, and Mansker Creek. The term of the agreement is from January 1, 2012 to June 30, 2012. Metro and the U.S. Geological Survey will each provide \$18,750 to cover the costs of the field and analytical work associated with the gages.

RESOLUTION NO. RS2012-196 (MCGUIRE & HUNT) – This resolution approves a routine grant in the amount of \$170,000 from the state department of environment and conservation to the Metropolitan Government to provide assistance in maintaining and operating a permanent household hazardous collection site located at 941 Dr. Richard Adams Drive. The term of this grant is from July 1, 2012 through June 30, 2014.

RESOLUTION NO. RS2012-197 (GILMORE) – This resolution authorizes the installation, construction, and maintenance of an aerial encroachment by Revolution Real Estate over the public right-of-way at 119 3rd Avenue South. The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of this wall-mounted building sign, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party. This resolution has been approved by the planning commission.

RESOLUTION NO. RS2012-198 (MCGUIRE) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Andrea Mays against the Metropolitan Government for \$22,000. On November 20, 2011, a Metro police officer attempted to make a U-turn on Edmondson Pike in front of Ms. Mays and caused a collision. Ms. Mays was injured in the accident resulting in medical expenses totaling \$10,107.00. The department of law recommends settling the personal injury claim as the Metro employee was clearly at fault. The property damage portion of the claim will be addressed at a later date.

The officer involved received a one day suspension.

This settlement amount is to be paid out of the self-insured liability fund.

RESOLUTION NO. RS2012-199 (LANGSTER) – This resolution approves the election of one notary public. The recent rule change approved by the council regarding public hearing meetings now allows notary resolutions to be approved at any meeting of the council.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2011-83 (STANLEY) – This ordinance amends the Metropolitan Code to allow Metro water services to extend water lines to residential properties currently served by private wells. The code currently provides that the entire cost of construction and inspection for water main extensions must be borne by the developer and that no Metropolitan Government funds may be utilized for the construction of such extension. According to information provided by the sponsor, there are currently 31 wells in Davidson County that serve as the water source for the property owners. Some of these wells have apparently been shown to have traces of *E. Coli* and other coliform bacteria, which if ingested at certain levels, could pose health problems.

The impetus for this ordinance is Hoggett Ford Road, which is a private residential street in District 14. Five or six of the homes on Hoggett Ford Road have no access to Metro water. This ordinance would enable Metro water services to construct extensions to the water system to serve existing private residential properties built prior to 2006 that are currently being served by well water upon obtaining the necessary rights-of-way and easements for the extensions. In order to ensure ratepayer funds and water/sewer bond funds are not used to improve private property, which could violate the bond covenants, this ordinance expressly provides that the costs for such extensions would be borne by the Metropolitan Government from other revenue sources such as the Metro general fund or general obligation bonds. According to Metro water services, it is estimated that extending the water line on Hoggett Ford Road to serve these five or six homes would cost approximately \$550,000. The cost of extending water service to all 31 homes in Davidson County served by wells would be approximately \$2 million.

The director of finance was unable to certify that funds are available to implement this ordinance.

ORDINANCE NO. BL2012-110 (JERNIGAN & HARMON) – This ordinance amends the Metropolitan Code to permit the electronic filing of annual disclosure statements and benefits reporting statements required by the Metro ethics laws. Certain Metro officials are required to file these statements in January each year to provide notice to the public regarding any potential conflicts of interest. The disclosure requirements apply to the following officials: (1) the mayor; (2) all employees in the mayor's office, including the members of the mayor's cabinet; (3) the employees in the council office; (4) the holders of all elected offices authorized or created by the Metropolitan Charter; and (5) all directors, executive directors, assistant directors, and associate directors of Metropolitan Government agencies, boards, and commissions, excluding Nashville Electric Service, the Metropolitan Nashville Airport Authority, the Metropolitan Development and Housing Agency and the Metropolitan Transit Authority (as Metro has no authority over these excluded agencies per the Charter and/or state law).

The code currently requires the disclosures to be personally signed by the employee and signed by a witness before filing. This ordinance will enable officials to file the statements online through the Metro clerk's website in essentially the same format used by the state ethics commission. The electronic disclosure must include the printed first and last name of the public official with an acknowledgment that the information included on the form is true to the best of the official's belief. The electronic statement must also include the first and last name of one witness attesting that the official's name was entered on the form in the presence of the witness.

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ORDINANCE NO. BL2011-110 (continued)

This ordinance will not only save time and effort for the officials filing the disclosures, but will also hopefully enable the information to one day be accessible by the public online instead of obtaining a paper copy from the Metro clerk's office. The department of information technology services has already begun developing the necessary program to implement the ordinance.

ORDINANCE NO. BL2012-111 (ALLEN) – This ordinance amends the Metropolitan Code to enable the use of curb and street surface painting to identify areas where parking is prohibited or where a parking time restriction is imposed. The code currently provides that it is the duty of the department of public works to erect appropriate signs giving notice when any parking time is imposed or when parking is prohibited on designated streets. No such regulations are to be effective unless the signs have been installed.

This ordinance would allow the department of public works, at the department's discretion, to paint the curbs or street surface giving notice of the designated area in lieu of the erection of signs. According to information provided by public works, the cost to install a standard no parking sign is \$50, with an average life span of 12 years. The cost to paint concrete curbs is approximately five dollars per foot with an average service life of four years.

ORDINANCE NO. BL2012-112 (HUNT & MCGUIRE) – This ordinance authorizes the acquisition of two utility easements for property located at 7218 and 7220 Nolensville Road for a sewer project in the Town of Nolensville. Metro currently provides sewer service to residents of Nolensville. These customers pay the same rate as all other customers of the department of water and sewerage services.

The estimated total cost for these easement acquisitions is \$4,000, 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 has been approved by the planning commission.

ORDINANCE NO. BL2012-114 (HARRISON) – This ordinance amends the Metropolitan Code to allow beer distributors to have two places of businesses if the two locations are on contiguous properties. The former city of Nashville council enacted an ordinance in 1960 prohibiting beer wholesalers or distributors from maintaining more than one place of business except for those distributing only draft beer. This restriction was retained after the consolidation of the city and county governments in 1963, and has remained on the books ever since.

This ordinance would allow beer distributors to have a second place of business as long as the additional place of business is on contiguous property and is operated by the same legal entity.

ORDINANCE NO. BL2012-115 (ALLEN, LANGSTER & HOLLEMAN) – This ordinance amends the Metropolitan Code to prohibit smoking on hospital grounds and within the public right-of-way in the vicinity of hospital entrances. In 1994, the state legislature passed a law preempting local governments in Tennessee from enacting any legislation regulating the use of tobacco products. This law was amended by the General Assembly last year to carve out a narrow exception allowing local governments to prohibit smoking near hospital entrances. The state law now provides that local governments may prohibit smoking on the grounds of a hospital or in the public areas immediately outside of a hospital building and its entrances, including public sidewalks. The state law further provides that the local government may prohibit smoking within 50 feet from a hospital's entrance unless the application of a fifty foot limit would place hospital patients in a potentially unsafe condition, in which case the fifty foot limit may be extended to such distance as is necessary to ensure patient safety as determined by the local government's legislative body in consultation with representatives of any hospitals that are subject to the ordinance.

St. Thomas Health Services (St. Thomas Hospital and Baptist Hospital) and Vanderbilt University have submitted written requests seeking to have the 50 foot limitation extended to two hundred 200 feet in the vicinity of their hospitals in the interest of protecting public health. This ordinance would prohibit smoking on all hospital property and within 50 feet of hospital entrances, except that the 50-foot limitation will be extended to 200 feet for St. Thomas, Baptist, and Vanderbilt hospital facilities as long as signs are posted designating the area as nonsmoking. Violators would be subject to a \$50 fine if cited by a police officer and found guilty in environmental court.

ORDINANCE NO. BL2012-116 (MCGUIRE, BEDNE & OTHERS) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes for the benefit of HCA – Information Technology & Services, Inc. HCA currently operates four technology/data centers in Tennessee, two of which are located in Davidson County at 2555 One Park Plaza and 490 Metroplex Drive. HCA employs approximately 1,200 full-time employees and 180 contract employees at these two facilities. HCA plans to build a 76,000 square-foot regional data center on 55 acres of property (consisting of three separate parcels to be consolidated) located at the Crossings on Old Franklin Road in Antioch. HCA is also planning to expand two of its four ITS facilities. The first phase of the new regional data center is expected to be completed in 2013, with the final phase completed by December 31, 2017.

The new facility and expansion of the two existing facilities are expected to result in a total investment by HCA of \$200 million by December 31, 2017, and the creation of 155 new full-time jobs. The 55 acre site where the new facility will be constructed is currently appraised at \$1,576,900 for property tax purposes, and generates approximately \$26,000 in taxes for Metro annually. HCA purchased the property in July 2011 for \$2,229,484. Once constructed, the value of the new data center is estimated to be \$21,600,000.

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ORDINANCE NO. BL2012-116 (continued)

According to its latest SEC filing, HCA is the largest non-governmental hospital operator in the U.S. and is a leading comprehensive, integrated provider of health care and related services. As of December 31, 2011, HCA operated 163 hospitals and 108 freestanding surgery centers. In 2011, HCA generated revenues of approximately \$30 billion and had a net income of approximately \$2.5 billion.

State law permits local governments to delegate the authority to industrial development boards to enter into payment-in-lieu-of-tax (PILOT) agreements provided that the payments are in furtherance of the public purpose of the board. PILOT agreements essentially provide tax abatements for real and/or personal property taxes the company would otherwise be required to pay to the Metropolitan Government. PILOT programs have been used by Metro 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 PILOT agreements from previous years include Columbia/HCA Healthcare Corporation, Inc., Dell Computer Corporation, Omni Hotel (for the convention center headquarters hotel), and LifePoint. The amount of tax abatements over the life of the existing PILOT agreements totals approximately \$100,000,000, exclusive of economic incentive grants approved by the council. The previous PILOT for HCA was approved in 1995 for a 100% abatement for 10 years.

Pursuant to this ordinance, the council is delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes over a period of 7 years from the date the PILOT agreement is entered into with the IDB. The agreement will result in a 60% abatement of real and personal property taxes for the new data center, and a 60% abatement of personal property taxes for the personal property (mostly computer equipment) acquired and used in connection with the expansion of the existing facilities. Using a property value of \$21.6 million, the total amount of the real property tax abatement over the seven years would be approximately \$1.5 million. The value of the taxable personal property for the new data center and the expanded centers is estimated to be \$50 million, which will depreciate over time. The Mayor's office of economic and community development has estimated the total personal property tax abatement to be \$1,546,272 over seven years, for a total abatement of real and personal property taxes of approximately \$3 million.

Unlike other PILOT deals the council has recently approved, this ordinance includes certain performance milestones that must be met in order to continue the tax abatement. HCA must create at least 155 full time jobs in Davidson County over the life of the abatement: 50 by the end of 2013, 80 total by 2014, 110 total by 2015, 140 total by 2016, and 155 by 2017. Also, HCA must invest at least \$200 million over the life of the abatement: \$75 million by the end of 2013, \$125 million by 2014, \$150 million by 2015, \$175 million by 2016, and \$200 million by 2017. HCA will be required to provide the IDB with proof that the performance milestones have been met on an annual basis. Failure to meet any of these performance milestones will not result in a "claw back" of the abatement, but the PILOT will terminate the year subsequent to the year the milestones are not met. It is important to note that any new full time job created in Davidson County and any new investment made in Davidson County after January of this year will count towards these milestones, regardless of whether the jobs and investment are a direct result of the new and expanded data centers.

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ORDINANCE NO. BL2012-116 (continued)

Although not a part of this deal, the council's approval in May 2011 of an agreement with HCA for the exchange of property and construction of a new public health center contemplated that HCA may obtain a tax abatement on the Lentz property in the form of a PILOT agreement through the IDB. Such PILOT agreement would 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.

Ordinance No. BL2012-118 on first reading would provide another property tax abatement in the form of a PILOT agreement for the Gaylord/Dollywood snow and water park.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2012-88 (CLAIBORNE) – This ordinance amends the Metropolitan zoning code to add non-self-imposed hardship as a factor for the historic zoning commission to consider when determining whether to allow the demolition of a historic building. The zoning code currently provides that the commission may consider the following seven economic hardship factors when reviewing a request to tear down a historic structure:

1. An estimated cost of demolition compared to the estimated cost of compliance.
2. A report from a licensed engineer or architect as to the structural soundness of the structure and its suitability for rehabilitation.
3. The estimated market value of the property in its current condition; its estimated market value after the proposed undertaking; and its estimated value after compliance.
4. An estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure.
5. The amount paid for the property.
6. The annual gross income from the property for the previous two years; itemized operating and maintenance expenses for the previous two years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
7. Any other information considered necessary by the commission for a determination as to whether the property does yield or may yield a reasonable return to the owners.

The need for this ordinance stems from a court case in which the Tennessee Court of Appeals held that the historic zoning commission did not have the authority to deny a demolition permit based upon the actions of the property owner leading to the economic hardship, as it was not one of the listed criteria. This ordinance simply adds a new eighth factor to allow the historic zoning commission to deny a demolition permit if the property owner failed to maintain the property in a good state of repair.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2012-92 (DOMINY, DUVALL & OTHERS) – This ordinance amends the Metropolitan zoning code pertaining to the period of inactivity for nonconforming uses and for nonconforming structures damaged by a natural disaster. The state “grandfather law” allows certain existing nonconforming businesses and multi-family developments to remain and continue operation after a change in local zoning regulations makes the business/development no longer technically in compliance with the law. These protections allow such nonconforming properties to cease operation for up to 30 continuous months before being required to comply with new zoning laws. The 30-month timeframe is tolled while the use of the property is the subject matter of litigation or if actions have been taken within 30 months to restore the structure on the nonconforming property.

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ORDINANCE NO. BL2012-92 (continued)

The Metro zoning code currently does not reflect this 30 month protection under state law nor does it include the provisions pertaining to litigation. Further, the zoning code does not include any protections for nonconforming residences and businesses that were damaged by flood and remain uninhabitable.

First, this ordinance would codify the 30-month period of inactivity state law provision for nonconforming uses into the Metro zoning code. Although the state nonconforming use law trumps any local law to the contrary, it is appropriate that our zoning code be consistent with the state law provisions. Second, this ordinance would toll the 30-month period of inactivity regarding the use of the property while the property is in litigation or while the property is damaged as a result of a natural disaster for which state and/or federal disaster assistance has been provided (i.e., the May 2010 flood).

Lastly, the ordinance includes provisions for nonconforming structures that are damaged or destroyed by a natural disaster for which state and/or federal disaster assistance has been provided. The 30-month state law provision applies to inactivity of the nonconforming use. Thus, a business that shut down because of flood damage in May 2010 would have to begin reconstruction work not later than November 2012 in order to maintain its protected status. Nonconforming single-family residences, which are not subject to the state 30-month tolling provision, technically only have 12 months under the zoning code to rebuild. Damaged nonconforming duplexes in a RS district have 24 months to rebuild. This ordinance would give all nonconforming structures, whether commercial or residential, 60 months in which to rebuild after such a disaster.

The planning commission approved this ordinance with several suggested provisions to be added by amendment. The amendment would make the ordinance applicable for all natural disasters as long as the property owner can show the weather damage was reported to and documented by the National Weather Service, the mayor's office of emergency management, the U.S. Small Business Administration, and/or the federal or state emergency management agencies. The amendment would also specify that the tolling provision would apply from the date of damage and that the period of inactivity could not extend beyond 60 months from the date of damage.

ORDINANCE NO. BL2012-93 (CLAIBORNE & MCGUIRE) – This ordinance amends Ordinance No. BL2011-950 to define the owner of the property pertaining to the previously-approved payments in lieu of ad valorem taxes (PILOT) for the benefit of Standard Candy Company (Standard Candy). Standard Candy, located at 715 Massman Drive, in 2009 expanded its operations and facilities by adding fifteen thousand (15,000) square feet to the existing location. The project resulted in an additional two hundred thirty seven (237) employees within the area of the Metropolitan Government, providing significant employment for area citizens. In July 2011, the council approved Ordinance No. BL2011-950 to authorize the industrial development board (IDB) to negotiate a PILOT with Standard Candy to provide a 100% tax abatement for the first year and a 50% tax abatement for years two through five applicable to both the real property and the capital investment of personal property, machinery, and equipment associated with the expansion project.
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ORDINANCE NO. BL2012-93 (continued)

Subsequent to the council's approval, it was discovered that Standard Candy is technically not the legal owner of the project. Rather, the property is owned by SFL&B, LLC, which is an affiliate of Standard Candy. This ordinance amends Ordinance No. BL2011-950 to add a provision defining "Standard Candy" as either the Standard Candy Company or an affiliate including but not limited to SFL&B, LLC.

ORDINANCE NO. BL2012-94 (CLAIBORNE & HUNT) – This ordinance abandons approximately 530 feet of a 2-inch water main and easement for properties located at 2801 and 2815 Lebanon Pike at the southeast corner of Lebanon Pike and Donelson Pike. This water main and easement is no longer needed by Metro water services. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2011-95 (DOWELL & DOMINY) – This ordinance renames Mt. View Parkway as "Crossings Boulevard". Mt. View Parkway is a short street connecting Hickory Hollow Parkway to Mt. View Road and Crossings Boulevard. The purpose of the name change is to assist the public in locating the Crossings area and to help geographically brand the area. This name change was requested by Council Member Jacobia Dowell.

This name change has been approved by the planning commission and the emergency communications district board.

ORDINANCE NO. BL2012-108 (TYGARD & WEINER) – This ordinance names the General Sessions Courtroom 1A located in the A.A. Birch Building in honor of Judge Leon Ruben. Judge Ruben passed away on October 7, 2011 after serving 30 years as a General Sessions Court judge. This ordinance names Courtroom 1A the "Judge Leon Ruben Courtroom."

The Metropolitan Code provides that no building or structure owned by the Metropolitan Government may be named except pursuant to an ordinance duly adopted by the Metropolitan Council.