

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **April 2, 2013**

RE: **Analysis Report**

Balances As Of:	<u>3/27/13</u>	<u>3/14/12</u>
<u>GSD 4% RESERVE FUND</u>	*\$24,914,746	\$25,836,951
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$54,109,178	\$44,378,057
USD	\$8,478,089	\$8,556,677
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$52,117,890	\$34,449,193

\* Assumes estimated revenues in fiscal year 2013 in the amount of \$25,514,400

– ORDINANCES ON PUBLIC HEARING –

**ORDINANCE NO. BL2013-394** (CLAIBORNE) – This ordinance amends the Metro zoning code to add community education as a permitted use in the commercial attraction, shopping center community, and shopping center regional districts. “Community education” under the zoning code encompasses elementary, middle, and high schools. Community education uses are currently allowed in most of the office, mixed-use, and commercial zoning districts, but are not permitted in the commercial attraction (CA), shopping center community (SCR), and shopping center regional (SCR) districts. Allowing schools in the districts will encourage infill development and the adaptive reuse of existing vacant buildings.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2013-395** (MATTHEWS & BANKS) – This ordinance approves a settlement agreement with Comcast I, LLC, and approves a new cable franchise agreement with Comcast. A cable franchise was granted to Viacom in 1995, which was subsequently transferred to Intermedia and then Comcast. The term of the 1995 franchise agreement, which was originally set to expire on May 5, 2010, was extended for three additional one year periods in order to allow the CATV special committee to negotiate a new franchise agreement with Comcast. The parties have successfully negotiated a new franchise agreement and have also reached an agreement to settle a dispute concerning previous franchise fee payments.

An audit for Metro discovered information that led to a dispute with Comcast about the types of revenues used to calculate the franchise fee. The parties have agreed to settle this dispute for a one-time payment of \$800,000 to Metro. Comcast denies that it breached the agreement or violated any terms of the franchise, but is paying the \$800,000 to avoid further prolonged litigation. This payment is to be made within 45 days of the execution of the new franchise agreement. The settlement is contingent upon the approval by the council of this ordinance and Ordinance No. BL2013-396, which modifies the cable television franchise provisions in the Metro Code.

This ordinance grants Comcast a new franchise to operate a cable system in Metropolitan Nashville and Davidson County through May 5, 2023. The franchise agreement can be renewed in accordance with the renewal provisions of the federal Cable Act. The purpose of the franchise is to give Comcast the right to locate its equipment within the Metro right-of-way to provide cable service and operate its system. Both federal and state laws concerning video service providers have changed significantly since the 1995 franchise agreement. Cable providers now have the ability to obtain a statewide franchise and bypass the local franchise requirements if they so choose. The CATV special committee, working with Metro ITS, the department of law, and Metro’s outside consultant, has negotiated and approved a new franchise agreement with Comcast that they deem to be in the best interest of the Metropolitan Government.

Comcast will continue to pay an annual franchise fee to Metro in the amount of five percent of the gross revenue from the operation of the cable system. This amounted to approximately \$8.5 million for fiscal year 2013. The franchise fee payment is subject to being audited by Metro, but Metro will not be allowed to copy or retain propriety information. If an underpayment of the franchise fee is alleged, the parties agree to pursue mediation before (continued on next page)

**ORDINANCE NO. BL2013-395** (continued)

taking any court action. Comcast will still be required to obtain the required excavation permits, but will not be required to pay permit fees. Comcast will be required to locate new lines underground in areas where other utility lines are underground. The customer service requirements will be in accordance with federal standards instead of having separate customer service provisions. Likewise, all federal technical standards will be followed.

The franchise agreement requires Comcast to meet annually with the CATV special committee and the ITS director to discuss the performance of the franchise agreement, the cable services provided, customer issues, and franchise fee information. Comcast will be required to maintain liability insurance in the amount of \$3 million for property damage per accident, \$1 million per person for bodily injury up to \$5 million per accident, and \$2 million for other liabilities. Metro will be named as additional insured.

The agreement includes provisions to promote "competitive equity". In the event a new video service provider enters into a franchise agreement with Metro, or there is a material change in state or federal law, the Comcast agreement is to be modified to make the provisions comparable. The franchise agreement could not be transferred to another company without council approval unless it is a Comcast affiliate or subsidiary.

The funding for the four public, education, and government access (PEG) channels has been increased as part of this new franchise agreement. The current franchise agreement requires Comcast to make an annual payment of \$100,000 for PEG support. The new agreement provides a one-time capital support grant of \$100,000 and increases the annual amount to \$200,000 per year, which can only be used for capital support, not the operation of the PEG channels. If a PEG channel is moved to another channel number, Comcast will be required to run 90 30-second ads within the 45 day period prior to the change, and another 90 ads after the change. These ads are to run on a variety of channels.

If Metro decides to offer PEG programming in high definition (HD) in the future, Comcast will be required to deliver one HD channel once 60% of their basic tier channels are in HD, and a second HD channel when 80% of the basic channels are in HD.

The cable access provided to Metro buildings and facilities is being phased out as part of this agreement. Under the current agreement, Comcast provides cable to Metro buildings free of charge. Under the new agreement, Comcast will provide 1,000 digital transport adapters to Metro at no cost during the first year. Thereafter, Metro will pay 33% of the commercial rate in the second year, 66% in the third year, and 100% in the fourth and subsequent years.

This ordinance has been approved by the planning commission.

– RESOLUTIONS –

**RESOLUTION NO. RS2013-633** (MATTHEWS) – This resolution appropriates \$11,054,900 in supplemental appropriations from the undesignated fund balance and other sources to various departments and programs to balance their fiscal year 2012-2013 operating budgets. A supplemental appropriation resolution is typically filed each spring to cover departmental cost overruns, though the amounts are usually not as large as this appropriation. A key reason for the larger supplemental appropriation stems from the employee retirement incentive approved by the council at the end of last year. While the retirement incentive is expected to be budget neutral over time, several departments will be unable to recover the costs associated with the incentive prior to June 30, 2013.

The specific appropriations are as follows:

- \$75,000 to the Nashville chamber of commerce for the WorkIT Nashville campaign
- \$255,000 to the fire department for maintenance and telecommunications expenses
- \$175,000 to general sessions court as a result of the retirement incentive
- \$22,600 to the Metro council office as a result of the retirement incentive
- \$642,900 to the parks department as a result of the retirement incentive
- \$1,029,400 to the police department to cover the costs of a new recruiting class to begin in May 2013 necessitated by the retirement incentive
- \$42,900 to the public defender for fringe benefit costs (reimbursed by the state)
- \$63,900 to the district attorney to ensure state and Metro funded attorneys receive comparable pay
- \$210,000 to the sheriff's office as a result of the retirement incentive
- \$615,700 to the farmers market to cover maintenance and operation cost overruns
- \$378,300 to the state fair to cover maintenance and operation cost overruns
- \$188,000 to the municipal auditorium from its fund balance
- \$2,815,700 to Metro Nashville public schools (MNPS), which is described as being for MNPS textbook services
- \$4,292,400 to the hospital authority for the retirement incentive and loss of state funding
- \$67,000 to the community education commission from its fund balance for office expenses
- \$181,100 from increased revenues in the state trial court drug enforcement fund to the drug court and community corrections programs

According to the finance director, both the Metro general fund and the schools operating fund will maintain a 7.2% fund balance (reserve fund) after these appropriations. The government's policy approved by the council is to maintain a fund balance of at least 5%.

**RESOLUTION NO. RS2013-634** (MATTHEWS & BENNETT) – This resolution approves a memorandum of understanding between the state administrative office of the courts to the state trial courts to enhance courtroom technology. A grant in the amount of \$10,000 was approved by the council in January 2013 to purchase monitors for use in the 5<sup>th</sup> and 6<sup>th</sup> floor courtrooms. However, the previous grant failed to include the MOU between the parties. This resolution is essentially a housekeeping matter to formally approve the MOU governing the use of the funds.

**RESOLUTION NOS. RS2013-635, RS2013-636 & RS2013-637** (WEINER & MATTHEWS)

– These three resolutions approve applications for annual grants from the Greater Nashville Regional Council to the Metropolitan social services commission for personal care, homemaker, transportation, and meal delivery services.

**Resolution No. RS2013-635** approves an application for a pass-through grant in the amount of \$939,342 to provide meals at congregate meal sites and meal delivery services to eligible senior citizens. The breakdown for the grant would be as follows:

- \$450,700 for meal delivery services to eligible seniors, with a required cash match of \$50,077.78
- \$137,900 for congregate meal sites with no required local match
- \$300,992 to provide frozen meals to be delivered to seniors in their homes, with a required local match of \$33,443.56
- \$49,750 in state funding to provide home delivered meals to seniors, with a required local cash match of \$5,527.78

**Resolution No. RS2013-636** approves an application for a grant in the amount of \$72,200 for personal care and homemaker services. This grant would provide \$13,300 for personal care services and \$58,900 for homemaker services to eligible clients under the Options program.

**Resolution No. RS2013-637** approves an application for a grant in the amount of \$70,000 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide transportation to eligible seniors and handicapped residents. These federal pass-through funds will be used to continue to provide seniors with round trip transportation services to the congregate meal sites, as well as transportation to medical appointments.

**RESOLUTION NO. RS2013-638** (WEINER & LANGSTER) – This resolution approves a clinical affiliation agreement between the Metropolitan board of health and Vanderbilt University to provide clinical experience to students. Specifically, this agreement is to provide Vanderbilt students enrolled in the Dietetic Externship program with the opportunity to experience training through the women, infants, and children nutritional service program operated by the health department. This is a standard agreement the health department has with a number of colleges and universities to provide clinical experience to students in various medical professions. The term of this agreement is from the date of execution through May 31, 2015. Vanderbilt is required to maintain professional liability insurance for its students with a single limit of not less than \$1 million per occurrence and \$3 million in the aggregate.

**RESOLUTION NO. RS2013-639** (WEINER) – This resolution approves a contract between the Metropolitan board of health and Crossroads Campus to allow the adoption of suitable animals that may be incorporated into troubled youth programs. Crossroads is a not-for-profit corporation that is engaged in the care of abandoned animals and provides troubled youth with connections to these animals. Pursuant to this agreement, the health department will allow Crossroads to adopt suitable animals that have not been adopted from the animal control facility after at least two weeks of being housed at the facility. The term of the agreement is for one year, but may be extended for four additional one year periods. Either party may terminate the agreement with 90 days written notice.

**RESOLUTION NO. RS2013-640** (JERNIGAN) – This resolution accepts certain incomplete infrastructure located within phase 1 of the River Landing subdivision. The infrastructure within this subdivision was left incomplete as a result of the downturn in the housing market. Metro currently restricts the issuance of building permits for 21 lots in this subdivision because of the incomplete infrastructure.

In order to address the health and safety concerns associated with such unfinished subdivisions, the council enacted Ordinance No. BL2011-82 in February 2012 to create a mechanism for the acceptance of incomplete infrastructure. The ordinance allows Metro, upon the adoption of a resolution by the council, to accept incomplete roads, streets, sidewalks, water/sewer lines, storm water lines, and other similar infrastructure, along with the related property interests, for subdivisions platted between November 23, 1999 and January 17, 2008 if certain conditions are met.

This resolution accepts all infrastructure associated with the roads, water, sewer, and storm water systems in phase 1 of the River Landing subdivision, excluding Rymer Court and River Landing Lane. The total cost to complete this infrastructure is estimated to be \$489,560.50. Metro has already recovered \$54,000 through a lawsuit against the previous developers, which lowers Metro's costs under this resolution to \$435,560.50. In addition, prior to issuing any building permits, Metro has the option of charging the lot owner \$6,000 per lot in assessments to be used toward the infrastructure completion costs, which could potentially lower Metro's total contribution to \$309,560.50.

These infrastructure completion projects will be paid out of capital funds previously appropriated by the council for such purpose. The planning, public works, water, and finance departments have all reviewed the application for the acceptance of this incomplete infrastructure and recommended its approval.

**RESOLUTION NOS. RS2013-641 & RS2013-642** – These two resolutions approve contracts between the Tennessee department of transportation (TDOT) and the Metropolitan Government for the installation of traffic signals at state route intersections. These are typical contracts between TDOT and the Metropolitan Government for signalization projects involving state roads. Pursuant to this contract, Metro will be responsible for paying all costs associated with the maintenance and operation of the signals and solar powered devices.

State law allows local agreements with the state to be approved by resolution.

**Resolution No. RS2013-641** (Claiborne, Potts & Matthews) approves a contract for the installation of a traffic signal at the Donelson Pike intersection with Allen Road and Old Elm Hill Pike.

**Resolution No. RS2013-642** (Allen, Moore & others) approves a contract for the installation of a traffic signal at the 21<sup>st</sup> Avenue South intersection with Children's Way and Capers Avenue.

**RESOLUTION NO. RS2013-643** (CLAIBORNE, POTTS & MATTHEWS) – This resolution is an annual housekeeping matter required by state law to classify all public roads in Davidson County. By adoption of this resolution, those roads and alleys listed on the street and alley acceptance and maintenance map under Ordinance No. BL2012-323, including any changes since the adoption of the map, will be officially classified as public roads.

**RESOLUTION NO. RS2013-644** (MOORE, MATTHEWS & CLAIBORNE) – This resolution approves an amendment to a lease agreement between the state and the Metropolitan Government for use of a portion of the Tennessee Preparatory School campus located at 1250 Foster Avenue. Metro has been leasing space at the facility since 2003 to house the Nashville School of the Arts magnet. The lease of 136,653 square feet was subsequently extended in 2010 at a monthly rental amount of \$34,163.

In March 2013, the council approved an amendment to the lease agreement to add 14,000 square feet of space in the old high school building on the property at a cost of \$3,200 per month for the purpose of subletting the premises to STEM Preparatory Academy charter school. Subsequently, it has been determined that STEM desires to lease both floors of the building, and the state is willing to lease the additional space. This resolution essentially approves a revised version of the amendment approved in March 2013 to increase the amount of leased space by an additional 14,600 square feet. If this agreement is in effect beyond August 1, 2013, the total monthly rent will be \$41,175.54.

This lease amendment has been referred to the planning commission.

**RESOLUTION NO. RS2013-645** (MATTHEWS) – This resolution authorizes the Metropolitan Government to enter into a contract for the consolidation of the Old Hickory Utility District (OHUD) with Metro water services. Metro water services (MWS) and OHUD currently operate separate water treatment and distribution systems that serve adjacent portions of the Old Hickory area. In addition, OHUD provides street lighting, garbage collection, and recreational facilities for its customers. OHUD has determined that the services it is providing to its customers can be more efficiently and conveniently furnished by Metro. State law provides a mechanism for the consolidation of utility districts by agreement upon the adoption of a resolution approved by the local legislative body.

Pursuant to this agreement, OHUD will be dissolved and Metro will take over all of the district's assets and liabilities. Water and sewer service will be provided at the same rates as all other MWS customers. MWS will give good faith consideration to hiring OHUD's current employees. The existing garbage collection contract with BFI for OHUD customers will be maintained for 60 days to allow customers adequate time to obtain private collection service. Five of the six OHUD recreation areas will be conveyed to Metro. The agreement provides that Memorial Park may be conveyed by OHUD to Old Hickory Legion Post No. 41.

Approval of this agreement by the council is just the first step in the overall consolidation process established by state law. Once this resolution is adopted, a petition must be filed by OHUD with the mayor. A public hearing must be held and the mayor must issue an order approving the consolidation before it can become effective.

**RESOLUTION NO. RS2013-646** (MATTHEWS & GILMORE) – This resolution approves a grant in the amount of \$90,000 from the Friends of Centennial Park and the Parthenon to the Metropolitan parks department to provide funding for a full-time Metro parks employee. This continuation grant will be used to pay the salary for the position of President of the Conservancy for fiscal year 2014. There is a required local match of \$33,475 to cover the fringe benefit cost associated with the position.

**RESOLUTION NO. RS2013-647** (LANGSTER) – This resolution authorizes Cawthon's Caterer, Inc. to install and maintain an aerial sign encroachment for Jack Cawthon's Bar-B-Que located at 1603 Charlotte Avenue. This will be a 8' x 5'3" double-faced projecting sign to hang 10' above the right-of-way. Cawthon's Caterer, Inc. is required to maintain liability insurance in the amount of \$2 million naming Metro as an insured party.

**RESOLUTION NO. RS2013-648** (MATTHEWS) – This resolution authorizes the department of law to compromise and settle the personal injury claim of Asia S. Smith against the Metropolitan Government for the amount of \$9,000. On February 7, 2012, a Metro fire engine was attempting to make a left turn at the intersection of 28<sup>th</sup> Avenue and Batavia Street when the truck's hood flew up and obstructed the fire engine driver's vision. The driver attempted to avoid a utility pole and sideswiped Ms. Smith's vehicle causing soft tissue injuries to her neck. Ms. Smith incurred medical bills totaling \$5,267.31. The \$2,727.10 repair cost to her vehicle has already been paid by Metro.

This settlement is to be paid from the self-insured liability fund. The Metro employee involved received disciplinary action consisting of a verbal reprimand for failing to maintain control of the vehicle.

**RESOLUTION NO. RS2013-649** (MATTHEWS) – This resolution authorizes the department of law to compromise and settle the Metropolitan Government's personal injury claim against Amber Upton for the amount of \$8,333. On April 16, 2012, a Metro fire inspector was traveling south on Hermitage Avenue when Ms. Upon ran a stop sign at Lindsley Avenue striking the right front of the Metro vehicle and injuring the Metro employee. This resolution accepts the full reimbursement amount for the medical bills and injury-on-duty damages paid by Metro.



**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2012-292** (BARRY, STEINE & WESTERHOLM) – This ordinance amends the Metro zoning code provisions applicable to home recording studios. The zoning code currently allows a home occupation (including a recording studio) as an accessory use in the residential zoning districts not to exceed 25% of the floor area of the home, with a maximum of 500 square feet. No signage is permitted in association with a home occupation use. Since the adoption of Metro's current zoning code in 1998, home occupations have been prohibited from serving clients/customers on the property. Only one employee that is not a resident in the home may work in the home. Thus, while home recording studios are technically allowed, such studios cannot have more than one outside musician or technician not residing in the home come to the property to record.

This ordinance adds a new land use specific to home recording studios and would permit such studios to have up to ten clients, customers, musicians, or other visitors come to the property per day. Sufficient off-street parking must be provided for the visitors on a paved or graveled lot not exceeding 25% of the lot area. Home recording studios would be subject to the residential noise restrictions in the Metro code. The ordinance would retain the existing prohibition on signage.

There is a proposed substitute for this ordinance making home recording studio a separate accessory use from other home occupations and clarifying that home recording studios would be permitted in accessory structures.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2013-389** (BENNETT & GILMORE) – This ordinance amends the Metropolitan Code provisions pertaining to animals running at large within the Metro parks. The code currently provides that no animals are allowed within Metro parks unless they are on a leash. This is contrary to the leash law applicable to areas outside of parks, which specifies that a dog is not considered running at large if it is under the full command of the owner, whether on a leash or not.

This ordinance would make the running at large provisions applicable to parks consistent with the provisions applicable to other public property and rights-of-way. The ordinance would clarify that dogs may be off-leash within designated areas in Metro parks as long as they are under the control of the owner. Based upon a strict reading of the current code provision, dogs technically are not allowed off-leash even in the existing dog parks. However, the charter grants the parks board the exclusive authority to supervise, control, and operate the park and recreation system, which arguably includes the creation of dog parks on park property.

There is a proposed amendment for this ordinance that would require consultation with the district council member as to the proposed location of a dog park or off-leash area prior to such designation.

**ORDINANCE NO. BL2013-396** (BANKS, MATTHEWS & CLAIBORNE) – This ordinance adopts new code provisions applicable to cable television franchise agreements. This is a companion bill to Ordinance No. BL2013-395, which approves a new cable franchise agreement with Comcast. The current cable franchise code provisions were enacted in 1995. There have been a number of changes in state and federal law governing cable television providers since 1995, as well as significant technological advancement. As part of the extension of the Comcast franchise last spring, the council authorized the CATV special committee to consider whether changes or modernizations of the code were needed to bring the code into conformance with the new franchise agreement itself or to remove any “unnecessary administrative burdens, reports, and other obsolete requirements and redundancies”. The CATV special committee has recommended a new ordinance to conform to the new franchise agreement.

This ordinance essentially removes the conflicting code provisions applicable to cable franchises so that the wording in the actual franchise agreement itself would be the controlling language, not the Metro code. Since all franchise agreements must be approved by the council by ordinance, this change will not have any impact on the council’s legislative role in the process.

**ORDINANCE NO. BL2013-397** (MATTHEWS) – This ordinance approves an extension of a contract between the Metropolitan Government and CCBCC Operations, LLC (Coca-Cola) for beverage services at various Metro facilities. The original contract was entered into in 2008 for a five year term expiring March 30, 2013 to provide beverage services at Municipal Auditorium, the convention center, and Metro parks facilities. This competitively-bid contract essentially makes Coca-Cola the exclusive beverage service provider for these facilities, including fountain drink syrup, canned and bottled soft drinks, juices, and bottled water.

The existing contract includes a provision allowing for an extension of an additional five years, subject to approval of the council by ordinance. Contracts with a term that will extend beyond five years must be approved by the council.

**ORDINANCE NO. BL2013-398** (BENNETT) – This ordinance approves an internship affiliation agreement between the Davidson County sheriff’s office and Argosy University Nashville to provide practicum and internship experience for students enrolled in the Master of Arts in Mental Health Counseling program. Pursuant to this contract, the students will have the opportunity to complete an internship at the DCSO facility located at 1417 Murfreesboro Pike. Either party may terminate this agreement with written notice to the other party. Students will not receive any compensation and there is no cost to the Metropolitan Government for providing this service. Argosy is required to maintain liability insurance in the amount of \$1 million per occurrence, \$3 million in the aggregate, naming Metro as additional insured.

Metro participates with several colleges and universities to provide various clinical and internship experiences to students.

**ORDINANCE NO. BL2013-399** (HUNT & CLABORNE) – This ordinance authorizes the director of public property administration to accept an easement across three parcels of property for use in the Whites Creek greenway system. These easements are being granted at no cost to Metro by the property owner, Fontanel Properties, LLC. Fontanel reserves the right to continue activities on the property associated with the restaurant and entertainment venue, including music and alcohol consumption. Fontanel will also have the right to temporarily close off portions of the greenway for special events. This is a perpetual easement that can only be terminated through judicial action. This ordinance has been approved by the planning commission and the board of parks and recreation.

**ORDINANCE NO. BL2013-400** (HARMON, CLAIBORNE & OTHERS) – This ordinance grants a permanent easement for property located at 5301 Edmondson Pike to Piedmont Natural Gas Company for the purpose of maintaining a gas line. This property is located at Seven Mile Park. Piedmont will be paying Metro \$15,200 for the easement.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2013-401** (BAKER & POTTS) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. O75-1262 when a 50 foot wide portion of the 53<sup>rd</sup> Avenue North right-of-way was abandoned on property located at 5301 Illinois Avenue. The ordinance retains the existing 20 foot sanitary sewer easement on the property.

**– BILL ON THIRD READING –**

**SUBSTITUTE ORDINANCE NO. BL2013-380** (GLOVER) – This substitute ordinance amends the Metro Code regarding the amount of notice that must be provided to residents whenever excavation work is being done that impacts their property. The code currently provides that property owners/occupants are to be notified in writing at least 10 days prior to the excavation work if the work is to last more than 72 hours. Notice is also to be given to each resident on the block and to the district councilmember. For work lasting less than 72 hours, there is no notice requirement as long as the department performing the work determines that the excavation will not cause significant inconvenience to any owner/occupant of property abutting the right-of-way or to the owner of the property where the easement is located.

This ordinance would require 48 hours written notice to property occupants any time excavation work is being done in the right-of-way that affects their residence or business. If work is actually being performed within a Metro easement on private property, the property owner (if different from the occupant) would also have to be notified. This written notice could be provided via mail, door hanger, or flyer. The notice requirement would be waived in the event the excavation work is needed to perform an emergency repair.

**ORDINANCE NO. BL2013-381** (TYGARD & ALLEN) – This ordinance, as amended, amends the Metro code to require periodic reports regarding the energy and water savings associated with government buildings that were constructed using sustainable building design standards as required by chapter 16.60 of the building code. In June 2007, the council enacted Substitute Ordinance No. BL2007-1374 to require all new construction and renovations of Metro facilities in excess of 5,000 square feet or exceeding \$2 million to pursue LEED certification through the U.S. Green Building Council (USGBC) and to develop a strategy for LEED Silver certification. LEED is an acronym for Leadership in Energy and Environmental Design, which uses a green building rating system developed by the USGBC. The rating system contains prerequisites and credits in six categories: sustainable site planning, improving energy efficiency, conserving materials and resources, embracing indoor environmental quality, safeguarding water, and innovation in design.

The 2007 ordinance did not include any performance monitoring requirements once a LEED certified building is completed and occupied. This ordinance would require the Metro department, agency, board, or commission responsible for the construction or renovation of the LEED certified building/facility to provide an annual report to the council that details the building/facility's energy and water usage for the previous fiscal year compared to a non-LEED certified building of similar size and use in Nashville, and the estimated energy and water cost savings compared to a similar non-LEED certified building. In the alternative, the department could provide the council with a copy of the report that is submitted to the USGBC to maintain LEED-certified status.

**ORDINANCE NO. BL2013-388** (PRIDEMORE & GARRETT) - This ordinance amends the Metropolitan Code to repeal the local residency requirement for applicants for a retail liquor store license. The Metro Code requires all package liquor store applicants to either have been a resident of Davidson County for the previous two years or a resident of Davidson County at any point for ten consecutive years regardless of current residency. Although liquor stores are regulated by state law, applicants must obtain a "certificate of compliance" from the mayor before a state retailer's liquor license can be issued. The state law allows local governments to impose "reasonable residency requirements" for applicants seeking a certificate of compliance. The state law residency provision requires an applicant to have been a resident of the state of Tennessee for the two previous years, or for ten consecutive years at any point.

The Tennessee Attorney General recently opined that the state law residency requirement violates the United States Constitution because it discriminates against interstate commerce. The Attorney General relied on a 2008 6<sup>th</sup> Circuit Court of Appeals case pertaining to Tennessee's wine residency requirement, which held that the requirement discriminated against out-of-state wine producers and therefore violated the Commerce Clause of the United States Constitution. Since the Metro residency requirement is very similar to the state requirement, continuing to enforce the requirement would expose the government to potential liability under federal law.

This ordinance repeals the local residency requirement for liquor store owners in its entirety.

**ORDINANCE NO. BL2013-390** (BENNETT, HARRISON & OTHERS) – This ordinance amends the Metropolitan Code to require that parking lots and garages used for special event parking place a sign indicating the fee to be charged for such special event parking at the entrance of the parking lot or garage. The code currently provides that all public parking lots, parking garages, and other areas used for special event parking for which a parking fee is charged and an attendant is on duty must display a sign at the entrance of the parking lot or garage indicating the fee to be charged. The sign must be of adequate size and design to be clearly visible and legible to the motoring public. This ordinance expands this provision to apply to unattended pay parking lots, as well.

**ORDINANCE NO. BL2013-391** (POTTS) – This ordinance abandons 830 feet of eight-inch water main and associated easements, and accepts 196 feet of new eight-inch water line, a public fire hydrant, and a water easement on property located at 4040 Armory Oaks Drive. This ordinance has been approved by the planning commission.