

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **May 20, 2014**

RE: **Analysis Report**

Unaudited Fund Balances as of 5/14/14:

4% Reserve Fund	\$13,186,106*
Metro Self Insured Liability Claims	\$4,651,835
Judgments & Losses	\$3,263,091
Schools Self Insured Liability Claims	\$2,287,642
Self-Insured Property Loss Aggregate	\$6,919,582
Employee Blanket Bond Claims	\$647,752
Police Professional Liability Claims	\$2,821,969
Death Benefit	\$876,106

\*Assumes unrealized estimated revenues in fiscal year 2014 of \$3,458,048.

**– RESOLUTION ON PUBLIC HEARING –**

**RESOLUTION NO. RS2014-1090** (S. DAVIS) – This resolution approves an exemption for Pop, LLC located at 604 Gallatin Road, Suites 201, 202, 203, 217, and 218, from the minimum distance requirements for obtaining a beer permit. The Metro code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, the code provides a mechanism to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

**– RESOLUTIONS –**

**RESOLUTION NOS. RS2014-1052, RS2014-1087, and RS2014-1088** – These resolutions propose six amendments to the Metropolitan Charter for possible consideration on the August 7, 2014 ballot. The charter only allows the council to adopt two resolutions per council term that submit charter amendments to the voters for ratification. The council already adopted one resolution proposing amendments to the charter this term in 2012. Each proposed amendment to the charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment(s) must be adopted by 27 affirmative votes in order for the amendment(s) to be placed on the ballot.

Summaries of the specific charter amendments filed with these resolutions are as follows:

**Amendment No. 1** (Barry) – This amendment would prohibit members of council from holding any other elected office. The charter currently provides that members of council cannot hold another elected or appointed office in the Metropolitan Government, but does not prohibit serving as an elected official at the state or federal level.

The charter revision commission recommended approval of this amendment by a vote of 5-1.

**Amendment No. 2** (Gilmore) – This amendment would allow the council to enact an equal opportunity interviewing policy to be implemented by the civil service commission that would prohibit the Metropolitan Government from inquiring about a job applicant’s criminal history on the initial job application unless a criminal background check for the position is required by law or in the interest of public safety. This policy, often referred to as “ban-the-box”, has been adopted in several U.S. cities.

The charter revision commission recommended disapproval of this amendment in lieu of Amendment No. 5 dealing with the same subject matter.

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**RESOLUTION NOS. RS2014-1052, RS2014-1087, and RS2014-1088** (continued)

**Amendment No. 3** (Evans) – This amendment would increase term limits for members of council from two consecutive four year terms to three consecutive terms, and would reduce the size of the council to 27 members (24 district and 3 at-large). Term limits were adopted in November 1994 after being submitted to the voters by petition. The council submitted an amendment to increase the term limits to three terms in 1996 and again in 2002, both of which were defeated by the voters. The council submitted a charter amendment in 1998 to repeal term limits entirely, which was also rejected by the voters. The voters did approve an amendment in 2008 to clarify that serving less than one-half of a term to fill a vacancy does not count toward the limit of two consecutive terms.

Several charter amendments have been proposed by council members over the years to reduce the size of the council, but none of the previous proposals received a favorable recommendation from the charter revision commission, nor were they ultimately placed on the ballot by the council. This is the first time a reduction in the size of council and increase in term limits have been part of the same charter amendment.

The charter revision commission recommended approval of this amendment by a vote of 5-1 with a suggestion that additional language be included specifying the redistricting timeline.

**Amendment No. 4** (Moore) – This amendment modifies the charter provisions pertaining to the fairgrounds to specify that the council, with 27 affirmative votes, can eliminate or modify uses at the fairgrounds and/or redevelop the property. In 2011, a charter amendment was submitted to the ballot by petition and approved by the voters to prohibit the council from demolishing any of the facilities at the fairgrounds unless approved by ordinance receiving 27 votes. The 2011 amendment also includes a provision stating that all activities conducted at the fairgrounds as of December 31, 2010, including the fair, flea market, and auto racing, “shall be continued on the same site”. This can be interpreted as requiring the existing uses to be continued forever, regardless of whether the council approved an ordinance to the contrary with 27 votes.

This ordinance would clarify the matter by allowing the council to eliminate or modify uses, as well as demolish or redevelop the site, upon approval of an ordinance receiving 27 affirmative votes.

The charter revision commission unanimously recommended approval of this amendment with a housekeeping modification replacing “27 affirmative votes” with “a two-thirds majority affirmative vote” in the event both this amendment and the amendment reducing the size of the council are placed on the ballot.

**Amendment No. 5** (Gilmore) – This amendment addresses the same subject matter as Amendment No. 2 regarding an equal opportunity interviewing policy for Metro. Rather than giving the council the authority to enact such a policy by subsequent ordinance as provided in Amendment No. 2, this amendment would simply prohibit Metro from inquiring about a prospective employee’s criminal history on the initial job application unless a background check is required by law or the civil service commission determines that a background check for a particular position is necessary to protect public safety.

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**RESOLUTION NOS. RS2014-1052, RS2014-1087, and RS2014-1088** (continued)

Since Amendment No. 2 and Amendment No. 5 concern the same subject matter, only one of these two amendments should be placed on the ballot by the council.

The charter revision commission unanimously recommended approval of this amendment.

**Amendment No. 6** (Tygard) – This amendment would increase term limits for the Vice Mayor and Members of Council from two consecutive four year terms to three consecutive terms effective as of the August 2019 general election. Since Amendment No. 3 and Amendment No. 6 both address term limits, only one of these two amendments should be placed on the ballot by the council.

The charter revision commission unanimously recommended approval of this amendment with an effective date of August 2015 instead of 2019.

**RESOLUTION NO. RS2014-1091** (STEINE) – This resolution appropriates \$2,000,000 from the Barnes Fund for Affordable Housing to three nonprofit organizations selected to receive grant funds to assist in providing quality affordable housing. In July 2013, the council approved an ordinance creating the Barnes Fund and appropriated \$2,279,040 in urban development action grant (UDAG) loan repayments to the Barnes Fund. The ordinance also created the Metro housing trust fund commission and gave the commission the authority to enter into contracts with nonprofit agencies to manage the Barnes Fund and designated the commission as being responsible for making recommendations to the council regarding the awarding of grants to nonprofits for affordable housing projects to be appropriated by resolution.

This resolution makes the following appropriations, as recommended by the housing trust fund commission:

- \$262,942 to Be a Helping Hand Foundation for two projects
- \$1,588,006 to Urban Housing Solutions, Inc. for one project
- \$149,052 to Woodbine Community Organization for two projects

**RESOLUTION NO. RS2014-1092** (STEINE & PARDUE) – This resolution approves an application for a renewal of a grant from the state department of correction to the state trial courts to fund the Davidson County community corrections program. This program provides alternative punishments for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. The trial courts are seeking \$4,393,080 from the state to fund the community corrections program for three more years. If awarded, there will be a required local match of \$184,800.

**RESOLUTION NO. RS2014-1093** (STEINE & PARDUE) - This resolution approves an amendment to grant 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 by providing overtime police officers to work as part of a 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. This amendment increases the amount of the grant by \$400,000 for a new grant total of \$799,089.55.

**RESOLUTION NOS. RS2014-1094** (STEINE & PARDUE) – This resolution approves the continuation of an intergovernmental agreement between the U.S. Army Corps of Engineers and the Metropolitan police department for the use of off-duty police officers to patrol the Corps' recreation areas at Percy Priest and Old Hickory Lakes. All officers will be assigned exclusively through the Metro police secondary employment unit (SEU). The Corps agrees to pay a fixed hourly rate depending on the rank of the officer. The total compensation for Metro is not to exceed \$65,358.

The term of this agreement is somewhat in question. The term of the agreement is from May 1, 2014 through September 30, 2014.

**RESOLUTION NO. RS2014-1095** (STEINE & MAYNARD) – This resolution approves a grant in the amount of \$3,051,000 from the state department of health to the Metro health department to fund the help us grow successfully (HUGS) program. The services provided by this program include regular home visits, as well as periodic health, developmental, behavioral, and nutritional assessments. This grant will provide \$610,200 annually for the program in fiscal years 2015 through 2019.

**RESOLUTION NO. RS2014-1096** (STEINE & MAYNARD) – This resolution approves an annual grant in the amount of \$318,600 from the state department of health to the Metropolitan health department 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 funds will be used to pay the salaries and benefits of the health department employees implementing the program. The term of the grant is from July 1, 2014 through June 30, 2015.

**RESOLUTION NO. RS2014-1097** (STEINE & MAYNARD) – This resolution approves an annual grant in the amount of \$92,600 from the state department of health to the Metro health department for food safety services. These federal pass-through funds are to be used to pay the salary of an environmental specialist in the food safety division of the health department, plus travel expenses and indirect costs. The term of the grant is from July 1, 2014, through June 30, 2015.

**RESOLUTION NOS. RS2014-1098, RS2014-1099 & RS2014-1100** (MAYNARD) – These resolutions approve contracts between the Metro health department and three childcare centers for the implementation of the Project Diabetes Golden Sneakers program. In September 2013, the health department received a grant from the state department of health for the Golden Sneakers program, which is a program to encourage child care providers to implement recommended amounts of physical activity each day, to address food portion control, and to limit the amount of high calorie and high fat foods. The grant funds are to be used to provide the program at 20 childcare centers in north and northeast Nashville. The program consists of a nutrition education course for the childcare employees and parents, as well as in-class instruction for children.

The contracts approved by this resolution spell out the responsibilities of each party. The child care centers will schedule monthly parent meetings for nutrition training, participate in staff surveys about exercise and nutrition, and promote the community center fitness classes offered. The health department will be responsible for conducting weekly preschool classroom nutrition education sessions, providing six parent nutrition training sessions, and provide an opportunity for teachers and families to participate in free exercise classes at community centers. The terms of the contracts expire June 30, 2014, but may be extended for a term not to exceed 36 months. There is no monetary compensation associated with these contracts.

**Resolution No. RS2014-1098** approves a contract with City Road Child Development Center located at 701 Gallatin Road S.

**Resolution No. RS2014-1099** approves a contract with McNeilly Child Care Center located at 400 Meridian Street.

**Resolution No. RS2014-1100** approves a contract with McNeilly Child Care Center No. 2 located at 4119 Gallatin Road.

**RESOLUTION NO. RS2014-1101** (STEINE) – This resolution approves an amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. This grant provides part of the operating funding for the NCAC. The amendment increases the amount of the grant by \$117,000 for a total fiscal year 2014 grant of \$429,582.

**RESOLUTION NO. RS2014-1102** (STEINE) – This resolution approves a continuation grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds.

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**RESOLUTION NO. RS2014-1102** (continued)

MDHA has contracted with the Metro historical commission for a number of years to review MDHA proposals and identify historic properties potentially affected by each proposal. The term of this grant is from April 1, 2014, through March 31, 2015.

**RESOLUTION NO. RS2014-1103** (STEINE) – This resolution authorizes the department of law to settle the personal injury claim of Chasidy Buchanon against the Metropolitan Government for the amount of \$9,000. On June 4, 2012, a Metro police officer was responding to a domestic kidnapping call with his lights and siren activated when he went through a red light and struck the vehicle driven by Ms. Buchanon, who had the green light. The officer was traveling in excess of 60 miles per hour when he entered the intersection. Ms. Buchanon did not see the emergency lights or hear the siren prior to impact. Ms. Buchanon sustained injuries to her neck and back resulting in medical bills totaling \$4,272.44 and lost wages of \$369.20.

If this case went to trial, Metro would likely be found liable and the court would likely award an amount greater than the \$9,000 settlement. State law requires police officers driving with their lights and sirens activated to slow down prior to entering an intersection if they do not have a green light. The officer's failure to slow down in this incident indicates negligence on his part. Further, the police officer admitted he was negligent in a public record that was part of his disciplinary paperwork. The officer received disciplinary action consisting of a two day suspension.

This \$9,000 settlement is to be paid out of the self-insured liability fund. Metro has already paid \$11,000 to settle the property damage portion of the claim.

**RESOLUTION NO. RS2014-1104** (BARRY) – This resolution approves the election of notaries public in accordance with state law.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2014-665** (TYGARD) – This ordinance would submit a one-half percent local option sales and use tax increase to the public for a referendum vote for the purpose of funding mass transit and Metro Nashville public schools (MNPS). State law provides that the local option sales and use tax cannot exceed 2.75 percent. The current local option sales and use tax in Metro Nashville and Davidson County is 2.25 percent, for a combined state and local tax rate 9.25 percent. This would increase the total combined tax rate to 9.75 percent. The local option sales and use tax is applicable to the first \$1,600 on the sale or use of any one item of personal property. It is estimated that this sales tax increase would generate approximately \$60-65 million in additional revenue. Half of the increase would be dedicated for MNPS, with the remaining half used to provide a dedicated funding source for mass transit. By state law, at least 1/2 of all local option sales taxes must be used for public education. Metro currently allocates 2/3 for education.

The local option sales tax has been increased in Davidson County on two occasions: once in 1968 and again in 1980. A referendum was held in 1988 to increase the tax by 0.25 percent, but this increase failed to receive approval of the voters. Likewise, a 0.5 percent increase was proposed in 2005, with 80% to be used for MNPS and 20% for a tax relief program for the elderly. This proposal was also defeated at the ballot box.

Of the 95 counties in Tennessee, 46 have the maximum local option sales tax rate of 2.75 percent. In addition, 16 counties that have not maxed out the sales tax rate have cities within the respective counties that tax at a higher rate. For example, Cheatham County has a tax rate of 2.25 percent, but the cities of Ashland City, Kingston Springs, and Pegram in Cheatham County have a 2.75 percent rate.

If this ordinance is enacted, the election commission would be responsible for holding a referendum election on the sales tax increase, which likely could be held in conjunction with the August general election.

**SUBSTITUTE ORDINANCE NO. BL2014-666** (TYGARD) – This ordinance amends the Metro code to increase the amount of the annual vehicle regulatory license fee, commonly referred to as the “wheel tax”, for both commercial and non-commercial motor vehicles. In 1991, the code was amended to delete the term “wheel tax” and use the term “vehicle regulatory license” instead. The 1991 amendment also increased the amount of the commercial vehicle license from \$36 to \$46, and the non-commercial vehicle license from \$25 to \$35. In June 2005, the council approved a \$20 increase in both fees in conjunction with the substitute budget and tax levy in order to reduce the mayor’s proposed property tax increase by six cents. The 2005 increase resulted in approximately \$9 million in revenue.

This ordinance would increase the vehicle regulatory license by another \$20 for both commercial and non-commercial vehicles for the purpose of providing a dedicated funding source for local mass transit. This would result in a fee of \$86 for commercial vehicles and \$75 for non-commercial vehicles. It is estimated that this ordinance would result in approximately (continued on next page)



**SUBSTITUTE ORDINANCE NO. BL2014-666** (continued)

\$9,560,000 in increased revenue to Metro. This ordinance would also modify the code language setting forth the purpose of the motor vehicle regulatory license fee to include public mass transit. The recitals in the ordinance provide a statement of the benefits mass transit would have regarding the regulation of vehicles, such as reducing the number of vehicles on the roadway, reducing air pollution, promoting traffic safety, and enhancing Metro's ability to provide effective traffic regulation.

As of 2013, 60 of the 95 counties impose some form of a wheel tax varying in range from \$10 to \$96.50, with an average amount of \$43. A list showing the wheel tax rates for all counties courtesy of the University of Tennessee County Technical Assistance Service (CTAS) is attached to this analysis.

**ORDINANCE NO. BL2014-698** (CLAIBORNE) – This ordinance amends the Metro code to create a specific mechanism for the department of codes administration to notify publishers regarding the discontinuance of delivering nonsubscription newspapers at the request of the resident. The code currently requires distributors of nonsubscription newspapers to stop delivery within ten days after receiving written notice, sent by U.S. Mail, from an occupant of the premises to which delivery is being made requesting that delivery be stopped. Constituents have complained that they continue to receive these unsolicited newspapers even after notifying the publisher in writing to stop delivering them.

This ordinance provides that upon presenting evidence to the codes department that an occupant has requested, by certified mail, that the publisher/distributor of a nonsubscription newspaper or similar material stop delivery, and that the distributor has continued to deliver such material after ten days from the date the request to stop delivery was received, the codes department is to send a written notice of violation by certified mail to the publisher/distributor advising that the delivery of such material to the premises is a violation of the Metro code and directing the publisher/distributor to cease delivery to the premises. If delivery of such material continues after receiving the notice of violation, the ordinance provides that the department of codes administration is to initiate a court action seeking injunctive relief and penalties.

As the council is aware, newspaper publishers and distributors have very broad protection under the freedom of speech provisions contained in the First Amendment to the U.S. Constitution. Governments are allowed to impose reasonable time, place, and manner restrictions on the delivery of published materials. However, in order to survive a constitutional challenge, the government would have to show that the restrictions are narrowly-tailored to a significant governmental interest. To the extent the existing Metro ordinance on the books restricting the delivery of nonsubscription newspapers is constitutional, this ordinance does not appear to impose a greater First Amendment restriction on newspapers. The codes department already has the authority to take the enforcement measures specified in this ordinance, including seeking injunctive relief. This ordinance simply spells out a process for the codes department to follow.

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**ORDINANCE NO. BL2014-698** (continued)

The council office has not found a Tennessee or 6<sup>th</sup> Circuit Court of Appeals decision that directly addresses the issue of whether the government can enforce a resident's request not to receive unsolicited written material at their personal residence. Most of the federal court cases regarding the distribution of newspapers concern newsracks in the right-of-way. The council enacted an ordinance in 2007 placing restrictions on newsracks in the right-of-way, but this ordinance was vetoed by Mayor Purcell.

The 9<sup>th</sup> Circuit Court of Appeals held that an army base can limit nonsubscription newspaper delivery on the base itself since it was not considered a public forum. Likewise, a court in New York ruled that a publisher or distributor does not have a constitutional right to "continue to throw a newspaper onto the property of an unwilling recipient after having been notified not to do so". On the other hand, a federal court in New York ruled that a village ordinance prohibiting the delivery of unsolicited written material to any resident that had notified the village that they do not want to receive *any* written material was not a valid time, place, and manner restriction since the notice was not limited to specific published material. Metro's ordinance can be distinguished from this New York village ordinance since the burden is on the resident to first notify the publisher in writing that they do not want to receive that particular publication.

**ORDINANCE NO. BL2014-748** (STEINE) – This ordinance approves an agreement between the Metro arts commission and WESTAF for the archiving of public art. WESTAF is a Colorado nonprofit corporation that maintains and provides an electronic public art archive system that makes public art available for free to a worldwide audience. The purpose of the program is to maintain an archive of public art for educational purposes. The agreement will allow the Metro arts commission to email public artwork and information for publication. There is no cost to Metro associated with this agreement.

**ORDINANCE NO. BL2014-749** (MOORE) – This ordinance abandons portions of right-of-way and easements for Alley No. 442 between 17<sup>th</sup> Avenue South and 18<sup>th</sup> Avenue South at the BMG Music Complex. When the BMG complex was constructed in the 1990s, it mistakenly encroached slightly into the alley right-of-way. The remaining alley will still be open for access by the adjoining property owners. Consent of the affected property owners is attached to the ordinance. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2014-750** (GILMORE) – This ordinance abandons the right-of-way and easements for Jackson Court and Alley No. 204 from 4<sup>th</sup> Avenue North to 5<sup>th</sup> Avenue North between Jackson Street and Jefferson Street. This closure is needed in order to construct the new Sounds ballpark. The ordinance also abandons all utility easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2014-751** (STEINE, HUNT & OTHERS) – This ordinance declares 14 parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. The properties to be sold are as follows:

<u>Map-Parcel No.</u>	<u>Address / Location</u>	<u>Lot Dimensions</u>	<u>Council District</u>
070-07-0 005.00	1001 B West Trinity Lane	80 x 97	02
081-03-0 055.00	1405-A Kellow Street	50 x 175	02
081-03-0 393.00	1407 Kellow Street	50 x 175	02
081-03-0 362.00	2204 A 14 <sup>th</sup> Avenue North	64 x 121	02
071-15-0 342.00	201 Richardson Street	52 x 56	05
105-03-0 197.00	1220 Martin Street	37 x 100	17
081-08-0 309.00	1821 3 <sup>rd</sup> Avenue North	40 x 165	19
081-06-0 399.00	2400 Buchanan Street	75 x 150	21
081-15-0 471.00	1818 Scovel Street	50 x 140	21
092-02-0 201.00	2709 Alameda	50 x 106	21
092-06-0 538.00	710 Lena Street	50 x 116	21
092-06-0 432.00	811 Lena Street	38 x 128	21
092-09-0 322.00	3318 Felicia Street	50 x 125	21
071-07-0 032.00	202 Queen Avenue	58 x 140	06

**ORDINANCE NO. BL2014-752** (GILMORE, STEINE & HUNT) – This ordinance declares the old Ben West Library building located at 225 Polk Avenue to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The 0.73-acre Ben West library property located at Eighth Avenue and Union Street was donated to the Carnegie Library of Nashville in 1902 by J. Craig McClanahan and his wife, Katherine B. McClanahan. The Carnegie Library of Nashville was a nonprofit corporation created to build a downtown library as a result of a \$100,000 donation from Andrew Carnegie. The property was deeded to the City of Nashville in 1959, and served as the site of the main public library until June 2001. A small collection of books was kept in the basement of the building from mid-2003 through September 2006 while it served as the temporary City Hall during the renovation of the courthouse. The building has not been in active use since 2006.

The 1902 deed includes a provision requiring the property to be used for a library. Specifically, the deed states that the right of title in the property will cease and the property will revert to the heirs of the grantor in the event Carnegie Library or its successors in ownership “fail to maintain perpetually upon said property a free public library for the use of the people of Nashville.” The Metropolitan Government has reached an agreement with the McClanahan heirs regarding the disposition of the property, who likely have a valid partial ownership interest. The Metropolitan development and housing agency (MDHA) will issue a request for proposals (RFP) to developers to bid on the property for the purposes of redeveloping the site. The council office is of the understanding that the RFP will include a requirement that the historically significant portions of the building be preserved as part of the redevelopment.

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**ORDINANCE NO. BL2014-752** (continued)

Assuming a developer is selected and the property is sold, the proceeds of the sale will be credited to the general fund. A December 2012 appraisal procured by Metro listed a value of \$6,250,000 for the property.

**ORDINANCE NOS. BL2014-753 THROUGH BL2014-755** – These three ordinances abandon public water and sewer infrastructure no longer needed by Metro water services. Future amendments to these ordinances may be approved by resolution. These ordinances have all been approved by the planning commission.

**Ordinance No. BL2014-753** (Gilmore, Dominy & Hunt) abandons 420 linear feet of 8-inch water main, 395 linear feet of 10-inch sewer main, and 330 feet of 8-inch sewer main for properties located at 419 Jefferson Street, 1007 and 1023 4<sup>th</sup> Avenue North, and 5<sup>th</sup> Avenue North unnumbered. This abandonment is necessary for the construction of the new downtown ballpark.

**Ordinance No. BL2014-754** (Moore, Dominy & Hunt) abandons 130 linear feet of an 8-inch sewer main for properties located at 336 and 345 Hill Avenue. The ordinance also authorizes the construction of 15 feet of new 8-inch water main, one fire hydrant assembly, and 108 feet of sewer main.

**Ordinance No. BL2014-755** (Westerholm, Dominy & Hunt) abandons 95 linear feet of a 36-inch combination sewer main, and accepts 114 linear feet of a new 42-inch combination sewer main for property located at 1406 Holly Street.

**ORDINANCE NO. BL2014-756** (DOMINY & HUNT) – This ordinance authorizes Metro water services to negotiate and accept permanent and temporary easements for the Sylvan Park stormwater improvement project for various properties located along Charlotte Avenue, Park Avenue, Elkins Avenue, Nevada Avenue, Dakota Avenue, Idaho Avenue, Wyoming Avenue, Nebraska Avenue, 54<sup>th</sup> Avenue North, 53<sup>rd</sup> Avenue North, 52<sup>nd</sup> Avenue North, 51<sup>st</sup> Avenue North, 50<sup>th</sup> Avenue North, and 49<sup>th</sup> Avenue North. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-757** (BENNETT, DOMINY & HUNT) – This ordinance authorizes Metro water services to negotiate and accept permanent and temporary easements for the Joyce Lane stormwater improvement project for 16 properties located along Gra Mar Drive, Graycroft Avenue, Marswen Avenue, and Joyce Lane. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-758** (MATTHEWS & HUNT) – This ordinance designates King’s Lane between Eaton’s Creek Road and Clarksville Pike as “Bishop Michael Lee Graves Boulevard”. Bishop Graves served as pastor of the Temple Church in Nashville from its founding in 1977 until his death in 2004. Ordinance No. BL2012-262 established a procedure for the use of honorary street signs whereby the council, by ordinance, can authorize and direct the department of public works to install honorary street signs beneath the official street name sign for any street identified on the official street and alley map.

This ordinance does not officially rename King’s Lane, and property owners will not be required to change their address. The designation as “Bishop Michael Lee Graves Boulevard” is only honorary.

– **BILLS ON THIRD READING** –

**ORDINANCE NO. BL2014-725** (HOLLEMAN) – This ordinance amends the Metro zoning code provisions pertaining to the calculation of required street setbacks for residential areas with an established development pattern. In R and RS zoning districts with an established development pattern, the zoning code requires the street setback to be the average of the street setback of the lots immediately adjacent on either side of the lot, up to twice the street setback otherwise required. This ordinance would increase the required contextual setback to up to three times the street setback provided in the code. The ordinance also changes the setback calculation for vacant lots from the established setback to the average setback of the four nearest properties on the same side of the street with an existing single family residence.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-739** (HUNT) – This ordinance amends the Metro zoning code to permit “personal instruction” as a use in the industrial zoning districts. “Personal instruction” is currently defined in the zoning code as services for training individuals or groups in arts, personal defense, crafts, or other subjects of a similar nature. Personal instruction is permitted by right in the mixed-use, commercial, and downtown zoning districts, but is not a permitted use in the industrial districts. This ordinance adds personal instruction to the list of permitted uses in the IWD, IR, and IG districts, and amends the definition to include fitness training.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-740** (JOHNSON) – This ordinance amends the Metro zoning code to create separate uses for auction house, flea market, beer and cigarette market, and grocery store, and to add definitions for each of the uses. These uses currently fall within the general retail designation in the zoning code. This ordinance would allow these new uses in the same zoning districts where retail is permitted. The definitions for these new uses would be as follows:

“Auction house” means an establishment where the real or personal property of others is sold by a broker or auctioneer to persons who attend scheduled sales or events.

“Flea market” means the offering for sale of merchandise or goods to the general public on a temporary basis by two or more vendors, at least one of whom is not the owner of the property on which the offering is made. Excluded from the definition of “flea market” are establishments conducting business during regular hours throughout the year that meet the general definition of “retail”.

“Beer and cigarette market” means a retail establishment that advertises itself on the exterior of the premises as a tobacco and/or beer market, and whose inventory consists primarily of alcoholic beverages and tobacco products.

“Grocery store” means a retail establishment that primarily sells food, including canned, packaged, and frozen foods; fresh fruits and vegetables; and fresh (raw) and prepared meats, fish, and poultry.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-742** (HUNT) – This ordinance amends the Metro code to exempt beer permit applicants from the minimum distance requirements from residential property if the applicant’s primary residence is connected to the establishment for which a permit is sought. The Metro code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. A situation has arisen where the owner of a market lives in a dwelling unit connected to the market, which thus causes the market to be within 100 feet of a residence and makes the market ineligible to obtain a beer permit. This ordinance would simply exempt such applicants from the distance requirements if his/her primary dwelling is connected to the structure for which the permit is sought and is the only residential dwelling unit within 100 feet of the establishment.

**ORDINANCE NO. BL2014-743** (MCGUIRE & A. DAVIS) – This ordinance amends the Metro code to reduce the minimum seating capacity for restaurants to obtain a beer permit. The code currently provides that only restaurants with a minimum seating capacity of 25 are eligible to obtain an on-premises beer permit. The council office is unaware of the reason why the 25-seat minimum is included in the code. This limitation is not consistent with the state department of health classifications for eating establishments, which reference a minimum seating capacity of 16 for purposes of requiring restroom facilities. This ordinance would simply reduce the minimum seating capacity for obtaining a beer permit from 25 to 16 to match the state health department classification.

**ORDINANCE NO. BL2014-744** (STEINE, HUNT & OTHERS) – This ordinance approves the form of a Network Hut license agreement between Metro and Google Fiber company. Google Fiber is currently considering Nashville as one of the cities for the expansion of its fiber network, which would provide internet access up to 100 times faster than basic broadband internet service. If Google decides to bring its fiber network to Nashville, it will need space on Metro property to install fiber optic network “huts” to house network equipment. Although the exact number of hut sites is unknown at this time, initial estimates indicate there could be between 15 and 20 sites needed. Pursuant to this agreement, Metro and Google will work together to identify suitable Metro property for the huts, which will be subject to approval of the council by resolution once the sites are identified. Each site needs to be approximately 1,500 square feet.

This agreement is for a term of 20 years, with two possible five year renewals. Metro will have the right to terminate the agreement for a particular site with 180 days written notice to Google if the site is needed for a public purpose. If Metro terminates the agreement for a particular site, it must use its best efforts to find a suitable replacement site on other Metro property. Google will initially pay rent in the amount of \$1.60 per square foot per year, which is to increase by three percent (3%) each year. This is consistent with the average of the rent amounts charged by Metro for the use of other Metro-owned land.

The agreement includes standard indemnification provisions protecting Metro, and requires Google to maintain commercial liability insurance for the sites in the amount of \$1 million per occurrence. Metro agrees to make the rights Google has in this agreement available to other network-based providers of internet and video services in a non-discriminatory manner.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-745** (GILMORE) – This ordinance abandons right-of-way and easements for an unnumbered alley from Lea Avenue to Alley No. 102 between Hermitage Avenue and Rutledge Avenue. This closure has been requested for the purpose of consolidating two lots into one. The ordinance also abandons all Metro utility easements. Consent of the affected property owners is attached to the ordinance. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2014-746** (STEINE, HUNT & OTHERS) – This ordinance declares seven parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. The properties to be sold are as follows:

<b><u>Address – Location</u></b>	<b><u>Council District</u></b>
2109 10 <sup>th</sup> Avenue North	02
911 Cahal Avenue	05
1014 Joseph Avenue	05
1106 Glenview Drive	06
1401 Chester Avenue	07
1708 Knowles Street	21
619 Underwood Street	21

This ordinance has been approved by the planning commission.