



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel
Mike Curl, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: **November 17, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 11/11/15:

4% Reserve Fund	\$36,477,396*
Metro Self Insured Liability Claims	\$4,033,898
Judgments & Losses	\$2,719,533
Schools Self Insured Liability Claims	\$2,969,119
Self-Insured Property Loss Aggregate	\$5,877,772
Employee Blanket Bond Claims	\$658,272
Police Professional Liability Claims	\$2,614,560
Death Benefit	\$1,182,227

*Assumes unrealized estimated revenues in fiscal year 2016 of \$24,892,033, and includes the \$5,476,000 appropriation in Resolution No. RS2015-51.

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2015-50 (WEINER) – This resolution approves an exemption for Crumb de la Crumb located at 160 Belle Forest Circle 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 (a) restaurants that already have a state on-premises liquor consumption license or (b) any retail food store, from Metro's minimum distance requirements, allowing each to obtain a beer permit upon the adoption of a resolution by the Council. (See, Code Section 7.08.090(E)). A public hearing must be held by the Council prior to voting on this resolution.

– RESOLUTIONS –

RESOLUTION NO. RS2015-51 (PRIDEMORE) – This resolution appropriates \$5,476,000 from the General Fund Reserve Fund (4% Fund) to ten (10) departments. The Four Percent Fund may only be used for the purchase of equipment and repairs to buildings. The balance in the General Fund Reserve Fund prior to the appropriation in this resolution was \$41,953,396. This consists of unrealized revenue for fiscal year 2016 in the amount of \$24,892,033. The resolution provides in part: "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis. The following departments and agencies are to receive funding:

Farmers Market - \$50,000 for miscellaneous major maintenance, equipment, and repairs;

General Hospital - \$400,000 renovation, repairs, and equipment;

General Services - \$720,000 for major maintenance to General Services buildings and fleet additions for the Codes and Parks Departments;

Information Technology Services - \$1,024,000 for O/S, PC, server, and productivity agreement replacements as well as replacement of the Metro 3 Analog to Digital / HD conversion;

Justice Integration Services - \$260,000 for replacement of the backup SAN server that is out of warranty;

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RESOLUTION NO. RS2015-51, continued

Municipal Auditorium - \$463,000 for seat refurbishing as well as other major maintenance, repairs, and renovations;

Public Library - \$1,500,000 for books, periodicals, and other library materials;

Sheriff - \$300,000 for maintenance and repairs;

State Trial Courts - \$709,000 for courtroom technical upgrades in the A. A. Birch building;

Tennessee State Fair - \$50,000 for miscellaneous maintenance, repairs, and equipment.

RESOLUTION NO. RS2015-52 (PRIDEMORE & PARDUE) – This resolution approves an annual grant in the amount of \$188,350 from the Tennessee Emergency Management Agency (TEMA) to the Office of Emergency Management to subsidize Metro’s emergency management program. These federal pass-through funds are used to pay for training, exercises, planning, management & administration, and equipment purchases. There is a required local cash match of \$188,350. The term of the grant is through June 30, 2016.

RESOLUTION NO. RS2015-53 (PRIDEMORE & GILMORE) – This resolution accepts an annual grant from the AARP Foundation in the amount of \$7,500. The Foundation received an award from the U. S. Department of Agriculture for the purpose of providing resources to increase the consumption of fruits and vegetables to improve nutrition and health outcomes for low-income consumers.

When a Supplemental Nutrition Assistance Program (SNAP) customer uses an EBT card to buy fruits or vegetables at the Market, they will receive incentive tokens equal in value to the dollar amount purchased, up to a maximum of \$10.

The term of the grant is from July 27, 2015 through March 31, 2019. \$7,500 is the maximum amount that will be granted to the Market for each calendar year that this project is active.

RESOLUTION NO. RS2015-54 (PRIDEMORE & GILMORE) – This resolution approves a grant in the amount of \$946,000 from the Tennessee Department of Health to the Metropolitan Board of Health for sexually transmitted disease services and HIV/AIDS prevention and surveillance. This is an annual federal pass-through grant that pays the salaries of the health department employees that provide these services. These funds are to be used for HIV prevention, active surveillance of HIV/AIDS cases, diagnostic and treatment services, and disease intervention services.

The term of this grant is from January 1, 2016 through December 31, 2017.

RESOLUTION NO. RS2015-55 (PRIDEMORE, GILMORE, & ALLEN) – This resolution approves a contract between the Metropolitan Board of Health and the Vanderbilt University School of Medicine for the Health Department's participation in the Tuberculosis Trials Consortium. Vanderbilt received a grant from the U.S. Centers for Disease Control and Prevention through the U.S. Veteran Affairs Medical Centers for this tuberculosis project. The Health Department's responsibilities under this contract will be to provide space and equipment for the project, as well as consultation and support services. The health department is to receive \$20,259 to reimburse the cost of its services. The term of this contract is from October 1, 2014 through September 30, 2019.

RESOLUTION NO. RS2015-56 (PRIDEMORE) – This resolution approves a grant in the amount of \$1,709,370 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to provide education, training and support services to eligible adults, youth, and dislocated workers with barriers to employment. The federal pass-through grant provides operating funding for the NCAC. The grant consists of \$1,538,433 in program funds and \$170,937 in administrative funds. The term of the grant is from October 1, 2015, through June 30, 2017.

RESOLUTION NO. RS2015-57 (PRIDEMORE) – This resolution approves a grant in the amount of \$1,692,925 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to provide career, training, and support services to adults. The federal pass-through grant provides operating funding for the NCAC. The grant consists of \$1,523,633 in program funds and \$169,292 in administrative funds. The term of the grant is from October 1, 2015 through June 30, 2017.

RESOLUTION NO. RS2015-58 (SYRACUSE, PRIDEMORE, & HENDERSON) – This resolution approves an application for a Tennessee Department of Transportation (TDOT) grant in the amount of \$6,051,456. If awarded, the grant will be used to provide a greenway trail connection between the Stones River Greenway and Cumberland River Pedestrian Bridge to the Opry Mills entertainment complex.

A detailed construction schedule for this project has not yet been completed, but is expected to extend into 2017. Metro would be responsible to pay a local cash match of \$1,512,864, which represents 20% of the total project costs. The only continuing Metro expense after completion of the project would be the routing maintenance of the connector trail.

This grant application and ultimate acceptance was approved by the Metropolitan Board of Parks and Recreation at their meeting on October 6, 2015.

RESOLUTION NO. RS2015-59 (M. JOHNSON, PARDUE, & HENDERSON) – Resolution No. RS2013-693 approved agreements with the “satellite cities” of Metro, including Belle Meade, pertaining to the performance of municipal functions. These agreements were negotiated in response to legislation that was pending before the Tennessee General Assembly earlier that year that would have allowed satellite cities to perform any municipal function they so desired, regardless of contrary limitations in the Metro Charter. When the Metro Charter was approved in 1962, the voters decided to preserve the existence of the satellite cities and allow them to continue to provide the services they were providing at the time.

Belle Meade already had its own police department in place at the time Metro was formed. The continuing operations of this police department were unchanged by the agreement. The agreement being considered by this current resolution will give the Belle Meade Police Department the authority to exercise their law enforcement authority within the confines of Parmer Park. This authority is to be equal to that of a Metro Parks Police Officer. The agreement also specifies how information is to be shared between the two departments.

This agreement is considered to be mutually beneficial to Metro and Belle Meade. This should not result in any significant increase in expense for the Metro Police Department.

There will be a housekeeping amendment offered to correct a typographical error and to add a specific reference to the section in the Tennessee Code Annotated that authorizes this type of agreement.

RESOLUTION NO. RS2015-60 (HASTINGS & ELROD) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Government for the acceptance of highway improvements on Clarksville Highway from S.R. 12 to S.R. 155. The improvements will include the widening of Clarksville Highway with drainage, sidewalks, curb, and gutter. The total cost of the project is estimated to be \$12,900,000 -- with the federal government providing \$10,320,000 and the state providing the remaining \$2,580,000.

Metro will not be responsible for any of the construction costs. However, Metro will be responsible for the energy and maintenance costs of the new signals and street lights, as well as the maintenance of the sidewalks.

RESOLUTION NO. RS2015-61 (SWOPE, BEDNE, & OTHERS) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Government for the acceptance of highway improvements in connection

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RESOLUTION NO. RS2015-61, continued

with construction at S.R. 11, US-31A, Nolensville Road from south of Burkitt Road near S.R. 254, Old Hickory Boulevard. The improvements will include the widening of Nolensville Road with drainage, sidewalks, curb, and gutter. The total cost of the project is estimated to be \$31,154,406 -- with the federal government providing \$27,323,525 and the state providing the remaining \$6,830,881.

Metro will not be responsible for any of the construction costs. However, Metro will be responsible for the energy and maintenance costs of the new signals and street lights, as well as the maintenance of the sidewalks.

RESOLUTION NO. RS2015-62 (SHULMAN) – This resolution approves the election of Notaries Public in accordance with state law.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2015-3 (FREEMAN) – This ordinance abandons a portion of Alley No. 1860 from Austin Avenue southwestward to a dead end. This closure has been requested by Ron and Sabrina Sepehr. All utility easements are also being abandoned. This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission.

ORDINANCE NO. BL2015-36 (ROBERTS) – This ordinance authorizes Hunter Marine Transport, LLC to install, construct, and maintain an underground and structural encroachment in the right-of-way of Robertson Avenue. This encroachment will consist of an 8" steel liquid fertilizer pipe and a 1" waterline. Hunter Marine Transport, LLC has agreed to indemnify the Metropolitan Government from all claims in connection with the installation of the encroachment, and is required to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party. They are also required to provide \$5 million in pollution liability coverage for the payment of any judgment had on any claim arising out of or connected with this encroachment. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-38 (VANREECE & ELROD) – This ordinance authorizes Metro Water Services to negotiate and accept permanent and temporary easements for five (5) properties located at 509, 511, 513, and 524 Ronnie Road in addition to 101 Diane Court for the Ronnie Road Stormwater Improvement Project. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission

ORDINANCE NO. BL2015-39 (ROBERTS) – This ordinance abandons easement rights that were previously retained by Council Ordinance #O80-348 for property located at 5212 Tennessee Avenue. These are no longer needed by Metro for any purpose.

This was approved by the Planning Commission on August 4, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-40 (ROBERTS) – This ordinance abandons easement rights that were previously retained by Council Ordinance #O61-224 for property located at 722 Croley Drive. These are no longer needed by Metro for any purpose.

This was approved by the Planning Commission on August 27, 2015. Future amendments to this ordinance may be approved by resolution.

ORDINANCE NO. BL2015-45 (PRIDEMORE) – This ordinance revises Section 2.24.250 of the Metropolitan Code. From time to time, Metro acquires parcels of real property through the delinquent tax process. Some of these parcels are too small or have some other problem that prohibits any substantial improvements being built on them. In these cases, the administrative, appraisal, and other costs of disposing of these parcels are more than the price that Metro can receive from the sale of the parcels.

This ordinance establishes a new process to use to sell these parcels after confirming that no Metro department or agency has any need for them. The Director of Public Property will now be authorized to sell such parcels to the owner of any adjacent tract for a price not less than the most current appraised value listed in the records of the Metro Tax Assessor. If no adjacent property owner is willing to pay this appraised value, the highest offered price may be accepted.

Approval by Council resolution will be required before the Director is authorized to make any such sale. If the sale of more than one parcel is pending, approval may be given for them all as part of the same resolution.

ORDINANCE NO. BL2015-46 (SHULMAN) – This ordinance readopts the Metro code prepared by Municipal Code Corporation to include supplemental and replacement pages for ordinances enacted on or before July 8, 2015. This is a routine re-adoption to ensure the Metro Code is kept up to date.

ORDINANCE NO. BL2015-47 (HAGAR, PRIDEMORE, & OTHERS) – This ordinance authorizes the acquisition of rights-of-way, easements, and other property rights by negotiation or condemnation for public projects for Old Hickory Boulevard at Lakeshore Drive / Pitts Avenue Traffic Signal. The estimated acquisition cost for the easement and property rights necessary for this project is \$5,000 to be paid from the FY16 Capital Projects Fund.

ORDINANCE NO. BL2015-48 (PULLEY, ELROD, & OTHERS) – This ordinance amends the official street and alley acceptance and maintenance map by abandoning Crestview Drive right-of-way from Grandview Drive southward to its terminus. This closure has been requested by Barge, Waggoner, Sumner & Cannon, Inc. on behalf of Lipscomb University. This section of right-of-way is no longer needed by the Metropolitan Government. All affected property owners have consented to the proposed right-of-way abandonment.

This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission.

ORDINANCE NO. BL2015-59 (ALLEN) - This ordinance amends the official Street and Alley Centerline Layer by abandoning a portion of an unnamed, unimproved right-of-way off Primrose Circle, between 2952 and 2956 Primrose Circle. However, Metro will retain all easements for existing or future utilities, including drainage facilities. This ordinance has been approved by the Traffic and Parking Commission and the Planning Commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2015-8 (HASTINGS) – This ordinance abandons 212 linear feet of a water main and easement and accepts 232 feet of 10-inch water main with two fire hydrant assemblies for property located at 100 French Landing Drive. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-13 (HAGAR, HASTINGS, & OTHERS) – This ordinance amends the Metro zoning code to designate mineral extraction as a use permitted with conditions in the IG zoning district. The zoning code defines “mineral extraction” as the extraction of metallic and nonmetallic minerals or materials, including rock crushing, screening and the accessory storage of explosives. Mineral extraction is currently permitted by right in the IG (Industrial General) district and as a special exception use in the IR (Industrial Restrictive) district. Rock quarries are considered a mineral extraction activity.

This ordinance would make mineral extraction a use permitted with conditions in the IG district instead of permitted by right. The ordinance includes many of the same conditions applicable to mineral extraction in the IR district such as street standards, landscape buffers, and performance standards, but would provide for a greater setback. Mineral extraction activity in the IG district would have to be at least 1,000 feet from a residential structure and 2,000 feet from the property line of a park.

A question was raised during public hearing of this ordinance regarding relevant property rights. Under Tenn. Code Ann. §13-3-413(b), a property right becomes vested upon the approval, by the local government in which the property is situated, of a preliminary development plan or a final development plan where no preliminary development plan is required by ordinance or regulation or a building permit allowing construction of a building where there was no need for prior approval of a preliminary development plan for the property on which that building will be constructed. The Council Office would point out however that this ordinance, if passed, will amend the zoning code for the entire county, irrespective of its application to any one instance.

A similar ordinance was introduced during the last Council term. However, there was not enough time for the Planning Commission to consider the matter before the end of the term.

At their meeting on October 22, 2015, the Planning Commission recommended approval of the ordinance with amendments. The first amendment would exclude residential structures, parks, and community education facilities on the opposite side of a significant natural feature such as the Cumberland River from being included in the setback calculation. The second amendment

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ORDINANCE NO. RS2015-13, continued

would make a minor change to the requirement regarding access (Street Standard). The amendment would reference the Major and Collector Street Plan in regards to street type. The ordinance was amended at the previous Council meeting of November 3, 2015 to incorporate the Planning Commission's recommendations.

ORDINANCE NO. BL2015-14 (HAGAR, HASTINGS, & OTHERS) – This ordinance amends the Metro zoning code to establish "asphalt plant" and "concrete plant" as uses permitted with conditions in the IG zoning district and adding conditions applicable to these uses. The zoning code does not currently include concrete or asphalt plants as a specific use nor does it include a definition for either use. Currently, both uses would fall under "Manufacturing Heavy". The proposed change would further establish within which zoning districts a concrete or asphalt plant would be permitted and under which conditions the uses would be permitted.

At their meeting on October 22, 2015, the Planning Commission recommended approval of the ordinance with amendments. The first amendment would exclude residential structures, parks, and community education facilities on the opposite side of a significant natural feature such as the Cumberland River from any proposed asphalt or concrete plant from being included in the setback calculation. The second amendment would specify access in regards to street type. At a minimum, driveway access on a nonresidential collector street as specified in the Major and Collector Street Plan would be required. The ordinance was amended at the previous Council meeting of November 3, 2015 to incorporate the Planning Commission's recommendations.

ORDINANCE NO. BL2015-33 (PRIDEMORE) – This ordinance approves a master agreement between the Metropolitan Government and Merrill Lynch Commodities, Inc. to allow for hedging contracts for the purchase of gasoline and diesel fuel. In June 2008, the Tennessee General Assembly enacted a statute allowing municipalities, upon the approval of the local governing body, to enter into negotiated contracts with other municipalities and financial institutions for the purpose of stabilizing the net expense incurred in the purchase of gasoline and/or diesel fuel. This statute was enacted at a time when gasoline was \$4.00 a gallon and diesel fuel was approximately \$4.70 per gallon. The purpose of the statute was to give local governments the flexibility to enter into fuel hedging contracts for budgetary purposes given the extreme market volatility at the time. As the Council is aware, gas and diesel prices have dropped drastically since that time.

This new fuel hedging master agreement is substantially similar to the agreement Metro currently has with Fifth Third Bank. Between Fiscal Year 10 and Fiscal Year 15, this agreement has resulted in net payments being made to Metro in five of the six years. These five payments

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ORDINANCE NO. RS2015-33, continued

to Metro averaged approximately \$1.875 million per year. Due to declining fuel prices during Fiscal Year 15, Metro was required to pay approximately \$3.5 million to Fifth Third Bank. The total savings to Metro over the six-year period from this master agreement was approximately \$5.875 million.

Merrill Lynch Commodities, Inc. was selected by Metro for this additional fuel hedging program through a competitive search by the Fuel Cost Management Program Advisor. Hedging contracts typically involve the agreed-upon purchase of a certain quantity of fuel at a fixed price. If the price goes higher than the fixed price, Metro is protected from the increase since Merrill Lynch Commodities, Inc. would cover the difference between the market price and the agreed-upon price. However, if gas prices drop further, Metro would pay the fixed higher price. By entering into such hedging transactions, Metro is basically buying a level of certainty to help with budgeting for fuel costs. No matter what the market price of fuel is over the coming months, we would know exactly what we are going to pay. There will be no administrative fee paid to Merrill Lynch Commodities, Inc. in the performance of this contract.

This new master agreement will allow the Finance Director to enter into future fuel hedging contracts of two (2) years or less to provide budgetary protection from possible rapid increases in fuel prices. This new agreement basically provides that both Metro and Merrill Lynch Commodities, Inc. will pay what they agree to pay as part of the hedging transaction, and provides remedies for a default in payment and early termination provisions.

The master agreement Metro has with Fifth Third Bank will remain in effect. Metro can choose to enter into future fuel hedging contracts under either master agreement, depending on which one is determined to be more advantageous.

According to the information submitted by Merrill Lynch Commodities, Inc. to the purchasing agent, it is anticipated that Metro's hedging transactions will not exceed 80% of our monthly fuel purchases. Metro's average monthly diesel consumption during Fiscal Year 2015 was 101,041 gallons for the Office of Fleet Management (OFM), 156,000 gallons for the Metropolitan Transit Authority (MTA), and 92,840 gallons for Metro Nashville Public Schools (MNPS). The average monthly gasoline consumption was 152,946 gallons for OFM, 43,000 gallons for MTA, and 12,800 gallons for MNPS.

Pursuant to BL2009-371, the Director of Finance provides a monthly report to the Council regarding the fuel hedging program authorized by that ordinance. The report for October 2015 discloses a settlement of \$317,602 paid to Fifth Third Bank for 462,000 contract gallons.

ORDINANCE NO. BL2015-34 (WITHERS) – This ordinance approves an option agreement between Metro and the Tennessee Wildlife Resource Foundation, Inc. (TWRWF) and grants a conservation easement for a portion of certain property located at 2009 Sevier Street. The purpose of this easement is to protect certain streams, wetlands, riparian areas, and surface areas within the watershed of the property.

The Conservation Easement Act of 1981 was enacted for the protection of Tennessee's natural resources for the purposes of maintaining and preserving the state's natural and cultural heritage. It was also enacted to assure the maintenance of the state's natural and social diversity and health and to encourage the wise management of productive farm and forest land.

The TWRWF founded the Tennessee Stream Mitigation Program to offset the adverse impacts of continuing development in Tennessee by providing meaningful compensatory stream mitigation to improve water quality and riparian habitat in and along Tennessee's degraded aquatic resources.

The term of the option being granted to TWRWF will be for three (3) years. If TWRWF exercises the option and builds stream mitigation improvements, these will be maintained for a period of at least five (5) years.

ORDINANCE NO. BL2015-35 (RHOTEN, PRIDEMORE, & HENDERSON) – This ordinance corrects an error in a 50-year lease entered into with the Secretary of the Army on January 12, 1976. The purpose of the original lease was to give Metro permission to use and occupy land and water area over, under and across approximately 790 acres within the J. Percy Priest Dam and Reservoir Project. This lease will expire October 31, 2025.

It was recently discovered that the original mapping included in this lease did not include the appropriate water area, understating the area that should have been shown.

The mapping shown in Exhibit A of the original lease is now being replaced by a new Exhibit A-1. There are no other changes being made to any of the terms of the original lease.

ORDINANCE NO. BL2015-37 (ROBERTS, PRIDEMORE, & HENDERSON) – This ordinance grants a permanent easement for property located at 6031 East Bend Drive to Q&A Holdings, G.P. for the purpose of installing and maintaining a sanitary sewer line. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-41 (O'CONNELL) – This ordinance abandons easement rights that were previously retained by Council Ordinance #082-866 for former Alley #222 for property located at 1226 2nd Avenue North. These are no longer needed by Metro for any purpose.

This was approved by the Planning Commission on September 16, 2015. Future amendments to this ordinance may be approved by resolution.