



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel
Don Jones, Special Counsel
Mike Curl, Finance Manager

COUNCIL MEETING DATE: **November 3, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 10/28/15:

4% Reserve Fund	\$41,953,396*
Metro Self Insured Liability Claims	\$4,064,922
Judgments & Losses	\$1,479,750
Schools Self Insured Liability Claims	\$2,976,163
Self-Insured Property Loss Aggregate	\$5,821,569
Employee Blanket Bond Claims	\$659,012
Police Professional Liability Claims	\$2,614,560
Death Benefit	\$1,182,227

*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$25,781,674

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2015-34 (WITHERS) – This resolution approves an exemption for Turnip Truck Natural Market located at 701 Woodland Street 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.

– BILLS ON PUBLIC HEARING AND SECOND READING –

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 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 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.

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.

– RESOLUTIONS –

RESOLUTION NO. RS2015-32 (O’CONNELL & PRIDEMORE) – This resolution authorizes the Director of Public Property to exercise an option to purchase five parcels of property located on Anthes Drive for use as part of the Parks and Recreation system. These five parcels totaling approximately 13.1 acres are to be purchased from the Trust for Public Land (TPL) for a purchase price of \$2,500,000. The most recent appraisal for this property placed the value at \$2,450,000.

Metro is prohibited from paying more than the fair market price for any property, which is determined based upon appraisals of the property. Metro, by policy, is permitted to pay more than the appraisal amount if the excess is less than 10%. In this instance, the excess is slightly more than 2%.

It was necessary to defer this resolution at the last meeting because the purchase had not yet been considered by the Metro Board of Parks and Recreation. The Board is now scheduled to consider this purchase at their meeting on November 3, 2015.

RESOLUTION NO. RS2015-35 (PRIDEMORE & PARDUE) – This resolution approves a sole source contract with Qiagen, Inc. to provide lab supplies for the Metro Nashville Police Department (MNPD). Sole source contracts may be awarded under the Metro procurement code when it is determined that there is only one source for the supply or services rendered.

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RESOLUTION NO. RS2015-35, continued

The Purchasing Agent has determined that the services and supplies to be provided by Qiagen meet the requirements for the use of a sole source contract. The Metro Code requires all sole source contracts having a total value in excess of \$250,000 to be approved by the Council by resolution.

The term of the contract will be for five (5) years, from October 1, 2015 through September 30, 2020. The total value of the contract over the five-year term is estimated to be \$300,000.

RESOLUTION NOS. RS2015-36, RS2015-37, & RS2015-39 (PRIDEMORE & PARDUE) –

These three resolutions approve intergovernmental agreements to distribute state grant funds to assist with investigations of internet crimes against children. The Metropolitan Police Department was awarded a grant in the amount of \$240,000 from the Tennessee Department of Finance and Administration, Office of Criminal Justice Programs, for the Internet Crimes Against Children (ICAC) unit with the understanding that a portion of the grant funds will be sub-granted to other local law enforcement agencies in the Middle Tennessee area. These funds are to be used solely for equipment, training, and travel related to ICAC investigations. The terms of these agreements are from July 1, 2015 through June 30, 2016.

Resolution No. RS2015-36 approves an agreement with the Cookeville Police Department for the distribution of \$25,000 of the grant funds.

Resolution No. RS2015-37 approves an agreement with the Dickson County Sheriff's Office for the distribution of \$25,000 of the grant funds.

Resolution No. RS2015-39 approves an agreement with the Tennessee Association of Chiefs of Police for the distribution of \$10,000 of the grant funds.

RESOLUTION NO. RS2015-38 (PRIDEMORE & PARDUE) – This resolution approves an intergovernmental agreement with the City of Knoxville for the participation of the Metro Nashville Police Department (MNPD) to participate in the Tennessee Internet Crimes Against Children (ICAC) Task Force.

The Knoxville Police Department is the lead agency that administers and operates this task force. The task force is designed to investigate and prosecute child exploitation crimes facilitated via the internet. The agreement being approved by this resolution will formalize the working relationship between the two police departments and delineate the responsibilities and expectations of all relevant parties.

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RESOLUTION NO. RS2015-38, continued

MNPD presently has two detectives assigned to ICAC. The funding from the previously approved ICAC grant from the State of Tennessee will cover all expenses related to the ICAC unit, including travel and training. This is the same practice as used in the past. There will be no additional costs to be paid from the MNPD budget.

RESOLUTION NO. RS2015-40 (PRIDEMORE & PARDUE) – This resolution approves a grant in the amount of \$15,900 from the State Department of Transportation to the Davidson County Sheriff's Office for alcohol countermeasures highway safety projects. These grant funds will be used to purchase ten (10) "Fatal Vision Impairment Experience Event" kits. These kits will be used for the Sheriff's Alcohol Awareness For Everyone (SAAFE) Program. The kits will be used to simulate and demonstrate the effects of marijuana. Students from ages 12-25 are the target group for this program.

The term of the grant is from October 1, 2015, through September 30, 2016. There is no required local cash match for this grant.

RESOLUTION NO. RS2015-41 (PRIDEMORE & PARDUE) – This resolution approves a contract between the State Department of Mental Health and Substance Abuse Services and the Metro Nashville Fire Department for the payment of emergency transportation services for patients at the Middle Tennessee Mental Health Institute (MTMHI). The state will pay Metro for uninsured patients transported from the facility at the rates established by the Medicare Part B fee schedule. If a service is not covered by this schedule, it is to be provided at the lowest negotiated rate, not to exceed \$1,200.

This agreement is simply to enable the state to be able to pay Metro for the services provided. The amount to be paid under the contract is not to exceed \$36,000 for Fiscal Year 2016. This is a renewal of the contract approved last year per Resolution No. RS2014-1305.

RESOLUTION NO. RS2015-42 (PRIDEMORE & MURPHY) – This resolution approves a federal pass-through grant in the amount of \$45,455 from the State Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to use incentive funds to establish programs meant to prepare eligible service recipients for employment. The grant consists of \$40,910 in program funds and \$4,545 in administrative funds.

The term of the grant is from October 1, 2015, through June 30, 2016. There is no required local cash match for this grant.

RESOLUTION NO. RS2015-43 (SYRACUSE, PRIDEMORE, & HENDERSON) – This resolution approves a grant in the amount of \$646.24 from the Friends of Two Rivers Mansion to the Metropolitan Nashville Parks Department to provide funding for two part-time employees to provide tours at the Mansion during the 2015 Christmas season. There is no required local cash match for this grant.

RESOLUTION NOS. RS2015-44 through RS2015-46 (SHULMAN) – These three resolutions confirm the reappointment of members to serve on the Board of Directors for the Convention Center Authority. State law provides that the Convention Center Authority is to be governed by a Board of Directors of not less than seven registered voters of the municipality to serve staggered terms. The directors are to serve without compensation, and cannot be an elected official or employee of the municipality. Such directors are appointed by the mayor and confirmed by a resolution adopted by the council. The board is to be composed of members who are diverse in professional and educational background, ethnicity, race, gender, and area of residency within the municipality. At least one of the directors must be female and at least one must be a minority.

Resolution No. RS2015-44 confirms the reappointment of Thomas Randy Goodman for a term expiring September 30, 2019.

Resolution No. RS2015-45 confirms the reappointment of Vonda McDaniel for a term expiring September 30, 2019.

Resolution No. RS2015-46 confirms the reappointment of William McDonald for a term expiring September 30, 2019.

RESOLUTION NO. RS2015-47 (SHULMAN) – This resolution approves the election of notaries public in accordance with state law.

– BILLS ON SECOND 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. BL2015-32 (GLOVER) – This ordinance revises Section 13.08.040 of the Metropolitan Code. Paragraph B.1.b of this section presently allows an exemption for vendors selling “newspapers, magazines, periodicals, or other such written items” from the prohibition against obstructing “any public way, including alleys, roadways, sidewalks, and streets”.

The present language only requires these vendors to meet the requirements for clearance at intersections per Section 13.12.190 and “not utilize a cart, wagon, or any other mobile device or vehicle to sell such written materials.” The requirement for clearance at intersections prohibits any sign, poster, pennant, etc. within the right-of-way of any street within the area of the Metropolitan Government.

The revised language in Paragraph B.1.b proposed by this ordinance would add a new restriction. A vendor on the side of the road would no longer be allowed to hand any materials to an occupant of any motor vehicle. Also, occupants of motor vehicles would be prohibited from handing anything to the vendor selling or distributing the materials. Sales of newspapers such as the “Contributor” to motorists would no longer be possible under the proposed new restrictions. A similar law was enacted in Brentwood and has since been upheld by the federal courts.

Under the provisions of Tennessee Code Annotated 55-8-135(a), it is already prohibited for a pedestrian crossing a street to fail to yield the right-of-way to all vehicles, unless they are in a marked crosswalk or an unmarked crosswalk at an intersection. A vendor entering a street to sell a newspaper would already be subject to this restriction and would thus be prohibited from interfering with the normal flow of traffic. The new restrictions in Paragraph B.1.b would prohibit vendors from selling newspapers to motorists, even if they never leave the side of the road.

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

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ORDINANCE NO. BL2015-33, continued

has resulted in net payments being made to Metro in five of the six years. These five payments 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

ORDINANCE NO. BL2015-34 (WITHERS) – This ordinance approves an option agreement between Metro and the Tennessee Wildlife Resource Foundation, Inc. (TWRF) and grants a conservation easement for a portion of certain property located at 2009 Sevier Street. The

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ORDINANCE NO. BL2015-34, continued

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 TWRP 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 TWRP will be for three (3) years. If TWRP 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 on 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. BL2015-36 (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. BL2015-37 (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. BL2015-38 (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. BL2015-41 (O'CONNELL) – This ordinance abandons easement rights that were previously retained by Council Ordinance #O82-866 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.

ORDINANCE NO. BL2015-42 (ALLEN) – This ordinance abandons approximately 250 linear feet of existing sanitary sewer main and easement and to accept 332 linear feet of eight inch sanitary sewer main and easement and two manholes for properties located at 2209, 2211, 2213, 2215, and 2217 29th Avenue South.

This was approved by the Planning Commission on July 9, 2015. Future amendments to this ordinance may be approved by resolution.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2015-1 (ALLEN) – This ordinance abandons a portion of Acklen Avenue right-of-way between 21st Avenue South and Alley No. 815. This is a one-half foot wide strip that needs to be abandoned to facilitate the construction of the Hill Center Acklen development. All utility easements are also being abandoned. This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission.

ORDINANCE NO. BL2015-2 (ALLEN) – This ordinance authorizes Nashville Downtown Partnership to install and maintain an automated bike kiosk within the public right-of-way at 2415 Vanderbilt Place for the “B-cycle” bikeshare program. B-cycle member riders will be able to swipe their card at the kiosk to unlock the bike. The Downtown Partnership has agreed to indemnify Metro for any claims arising out of the operation of the bike kiosk, and is required to maintain liability insurance in the amount of \$2 million. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-4 (PRIDEMORE & PARDUE) – This ordinance approves an agreement between the Metro office of family safety and the Legal Aid Society of Middle Tennessee for the state “STOP Violence Against Women” grant program. The council accepted a \$225,000 grant from the state department of finance and administration in August 2015 for this program, which are to be sub-granted to the Legal Aid Society for the creation and supervision of a civil-legal advocate program, expansion of the Legal Aid Society’s current volunteer program, streamlining the client referral system, and making client eligibility determinations in a timely manner so as to allow for attorney contact prior to an order of protection hearing. This agreement officially sub-grants a total \$218,750 to the Legal Aid Society, of which \$68,750 will be paid in the current fiscal year and \$75,000 per year for the next two fiscal years. The term of this agreement extends through July 1, 2018

ORDINANCE NO. BL2015-5 (PULLEY) – This ordinance authorizes the acceptance of permanent and temporary easements for four properties located on Amanda Drive for a stormwater improvement project. There is no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-6 (PULLEY) – This ordinance authorizes the acceptance of permanent and temporary easements for 19 properties located on Riverwood Drive, Bobby

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ORDINANCE NO. BL2015-6, continued

Avenue, McGavock Pike, Cooper Lane, Avalon Drive, Moran Avenue, and Ravenwood Drive for the Cooper Lane stormwater improvement project. There is no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-7 (PULLEY) – This ordinance abandons 85 linear feet of a 2-inch water main and accepts 129 feet of 8-inch water main and a fire hydrant assembly for properties located at 4105 and 4107 Hillsboro Pike. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-9 (GLOVER) – This ordinance abandons various sections of sewer main and easements, as well as the existing Farmingham Woods pumping station, and accepts replacement sewer mains. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-10 (SLEDGE) – This ordinance abandons various sewer mains and accepts replacement mains for property located at 2213 11th Avenue South. This ordinance has been requested by Metro water services for a sewer and storm drainage project. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-11 (PRIDEMORE) – This ordinance authorizes the construction of 161 linear feet of 8-inch sewer main, install two sewer manholes, and replace or relocate one fire hydrant for property located at 2016 Beech Avenue. This ordinance has been approved by the Planning Commission.

ORDINANCE NO. BL2015-12 (S. DAVIS) – This ordinance abandons 475 linear feet of 8-inch sewer main and 385 feet of 6-inch water main, and accepts 839 feet of 8-inch sewer line with five manhole units and 971 feet of 6-inch water main for property located at 1034 W. Eastland Avenue. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.