



## METRO COUNCIL OFFICE

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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: **February 16, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 2/10/16:

4% Reserve Fund	\$36,477,396*
Metro Self Insured Liability Claims	\$3,751,691
Judgments & Losses	\$2,849,057
Schools Self Insured Liability Claims	\$2,971,737
Self-Insured Property Loss Aggregate	\$6,454,103
Employee Blanket Bond Claims	\$660,941
Police Professional Liability Claims	\$2,613,389
Death Benefit	\$1,181,699

\*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$15,517,067

– RESOLUTIONS –

**RESOLUTION NO. RS2016-115** (PRIDEMORE & MURPHY) – This resolution approves a grant in the amount of \$75,000 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to establish career and support services for the Incumbent Worker Training Program. The federal pass-through grant provides operating funding for the NCAC. The term of the grant is from January 4, 2016 through January 3, 2017.

**RESOLUTION NO. RS2016-116** (PRIDEMORE & GILMORE) – This resolution accepts a grant of \$110,000 from the Tennessee Department of Health to the Metropolitan Board of Health. This will be used to purchase and modify a van that will be used as a mobile office to provide services for Women, Infants, and Children (WIC). The van will cost \$45,000. The modifications required to equip the van to serve as a mobile WIC unit will cost an additional \$65,000.

Since the term of the grant runs from April 15, 2016 through September 30, 2016, the grant proceeds will be split equally over two fiscal years, FY16 and FY17.

**RESOLUTION NO. RS2016-117** (PRIDEMORE & GILMORE) – This resolution accepts a grant of \$10,000 from the Center for Nonprofit Management to the Metropolitan Nashville Social Services Commission. The grant is to be designated to benefit the Hospital to Home Program.

There is no local cash match requirement, and no conditions are attached to the grant other than the requirement that the funds be spent to benefit this program.

**RESOLUTION NO. RS2016-118** (PRIDEMORE & GILMORE) – This resolution accepts a grant of \$12,000 from Boulevard Bolt, Inc. to the Metropolitan Nashville Social Services Commission. The grant is to be designated to benefit the How's Nashville Program to aid homelessness.

There is no local cash match requirement, and no conditions are attached to the grant other than the requirement that the funds be spent to benefit this program.

**RESOLUTION NO. RS2016-119** (PRIDEMORE & GILMORE) – This resolution appropriates \$404,440 from the U.S. Department of Health and Human Services to the Metropolitan Action Commission (MAC) to support the Head Start program by funding a comprehensive child development program.

The Nashville Head Start program provides early childhood education services to children from economically disadvantaged families. It currently serves 1,485 children, including 1,365 children aged 3-4 years old and 120 infants and toddlers.

**RESOLUTION NO. RS2016-120** (PRIDEMORE & GILMORE) – This resolution approves a third amendment to a grant from the U.S. Environmental Protection Agency (EPA) to the Metropolitan Board of Health to fund Metro's air quality protection program to achieve established ambient air quality standards. The Metro Health Department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This amendment increases the amount of the funds awarded by \$169,120 for a new grant total of \$585,775.

**RESOLUTION NO. RS2016-121** (PRIDEMORE & GILMORE) – This resolution approves an amendment for an increase of \$25,000 in the proceeds of a grant from the Tennessee Department of Health to the Metropolitan Board of Health to enhance the health and well-being of women, infants, and families. These funds are used 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 fetal-infant mortality rates.

The term of the grant remains from July 1, 2015 through June 30, 2016.

**RESOLUTION NO. RS2016-122** (PRIDEMORE & GILMORE) – This resolution approves an increase in the amount of the annual grant from the Tennessee Department of Health to the Metro Board of Health to support the delivery of local public health services. The original grant award was \$725,200. This is now being increased by \$108,900 for a new total of \$834,100. There will still be no local cash match required.

These grant funds are typically used to pay the salaries and work expenses of Health Department administrative employees. The term of the grant remains from July 1, 2015, through June 30, 2016.

**RESOLUTION NO. RS2016-123** (GILMORE) – This resolution approves an agreement between the Metropolitan Nashville Juvenile Court and Austin Peay State University to provide a field instruction program for the professional education of social work students. The Juvenile Court will provide field instruction in accordance with the program's policies and procedures as outlined in the Field Practicum Guide.

The school is required to provide assurance that the students are covered by professional liability insurance with limits of \$1,000,000/\$5,000,000. All of the students participating in this program will be under the administrative authority of the Juvenile Court and are to follow its rules, regulations, policies, and procedures.

Students will not receive any compensation and there is no cost to the Metropolitan Government for participating in this program. The term of the agreement is for one year, but may be terminated by either party upon 30 days' written notice.

**RESOLUTION NO. RS2016-124** (GILMORE) – This resolution approves a contract between the Metropolitan Board of Health and TriStar Centennial Medical Center to provide licensed medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) through a worksite POD (Point Of Dispensing) in the event of a public health emergency.

The Health Department will be responsible for obtaining the mass prophylaxes from the state and delivering them to the worksite POD during a public health emergency. Centennial Medical Center will be responsible for distributing the prophylaxes, and will not receive any form of compensation for providing these services. This contract is for a term of five years, but may be extended for two additional one-year terms.

The Council has approved similar agreements with other area hospitals.

**RESOLUTION NO. RS2016-125** (O'CONNELL, ALLEN, & ELROD) – This resolution authorizes The Escape Game, LLC to construct, install, and maintain an aerial encroachment at 162 3<sup>rd</sup> Avenue North. The sign per this encroachment will be 0'10" x 5'0" x 5'0" in size and extend 6' 0" from the building. The bottom of the sign will be 10'10" above the ground.

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to post a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This has been approved by the Planning Commission.

**RESOLUTION NO. RS2016-126** (O'CONNELL, ALLEN, & ELROD) – This resolution authorizes Martin's BBQ Joint to construct, install, and maintain an aerial sign encroachment at 410 4<sup>th</sup> Avenue South. The sign per this encroachment will be 1'6" x 5'0" x 16'0" in size and extend 6'0" from the building. The distance of the sign above the ground is not shown in the drawing attached to the resolution.

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to post a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This has been approved by the Planning Commission.

**RESOLUTION NO. RS2016-127** (O'CONNELL, ALLEN, & ELROD) – This resolution authorizes Nashville Baseball Development, LLC, c/o Spectrum Properties to construct, install, and maintain an aerial encroachment at Stockyard Street between 2<sup>nd</sup> Avenue North and 3<sup>rd</sup> Avenue North for an elevated pedestrian bridge to the parking garage across Stockyard Street (Whiteside Avenue). The bottom of the bridge will be 20' 7" above the ground.

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the bridge, and is required to post a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This has been approved by the Planning Commission.

**RESOLUTION NO. RS2016-128** (PRIDEMORE) – This resolution authorizes the Metropolitan Department of Law to compromise and settle the personal injury claim of Ms. Annie M. Barbee against the Metropolitan Government for the amount of \$200,000.

A Metro Police officer was responding to a call for a burglary in progress. He attempted to proceed through a red light at the intersection of Dickerson Pike and the Briley parkway exit ramp. He collided with Ms. Barbee's vehicle, causing personal injuries, property damage, and lost wages.

The officer was traveling at an excessive rate of speed and did not stop or sufficiently slow down before going through the red light. He admitted in disciplinary proceedings that he failed to use due regard in this instance. Tennessee law allows emergency vehicles to proceed

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**RESOLUTION NO. RS2016-128**, continued

through red lights during calls for service, but they are required to proceed with due regard for the safety of all present.

The analysis by the Department of Law has determined that the officer was negligent, constituting a breach of his duty to use reasonable care in responding to the call. Because the claim in this case results from the negligent operation of a motor vehicle, all governmental immunity is removed under the terms of the Governmental Tort Liability Act. As a result, Metro is solely responsible for the damages in this case, and there is no individual GTLA liability on the part of the employee driving the vehicle. Regardless of the amount of actual damages, recovery is capped at \$300,000.

To prevent recovery of damages at trial, it would be necessary for Ms. Barbee to be found at least 50% at fault. The Law Department's analysis determined that it would be extremely difficult to assess any fault against Ms. Barbee in this case. As a result, it is recommended that \$200,000 be paid in full settlement of the claims resulting from this accident.

The Metro Police officer involved was disciplined for his negligence and breach of duty with a two-day suspension and two written reprimands.

**RESOLUTION NO. RS2016-129** (PRIDEMORE) – This resolution authorizes the Metropolitan Department of Law to compromise and settle the personal injury claim of Mr. Christopher L. Foster against the Metropolitan Government for the amount of \$19,000.

A tow truck driven by a Metro employee was traveling east on State Highway 41. This road has two lanes available for east-bound traffic. The tow truck was traveling in the left lane. The driver attempted to turn right onto a side street without first moving to the right lane. During the attempted turn, the tow truck struck the car driven by Mr. Foster.

The accident occurred during a snow event, and the investigating officer did not determine fault. But the Department of Law has concluded that the Metro employee would likely be found by a court to have made an improper turn. Because the claim in this case results from the purportedly negligent operation of a motor vehicle, all governmental immunity is removed under the terms of the Governmental Tort Liability Act. As a result, Metro is solely responsible for the damages in this case, and there is no individual GTLA liability on the part of the employee driving the vehicle. Regardless of the amount of actual damages, recovery is capped at \$300,000.

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**RESOLUTION NO. RS2016-129**, continued

To prevent recovery of damages at trial, it would be necessary for Mr. Foster to be found at least 50% at fault. The Law Department's analysis determined the tow truck driver was totally at fault for this accident. As a result, it is recommended that \$19,000 be paid in full settlement of the claims resulting from this accident.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2016-99** (MURPHY) – Members of the Metropolitan Human Relations Commission are restricted by the Metropolitan Code of Laws (MCL) to serving no more than two consecutive three-year terms. (See, MCL § 2.132.030). At the end of a second consecutive term, members are not eligible to be reappointed for at least one year.

Terms for the 17 members of the Commission are staggered so that the entire membership is never being replaced at the same time. The term for eleven of the current members will expire in 2016. The terms of the other six members will not expire until 2018.

This ordinance will delete the limiting language from the MCL so that members of the Commission may be reappointed for an unlimited number of consecutive terms. If this is approved, all current members of the Commission would be eligible for reappointment when their terms expire.

**ORDINANCE NO. BL2016-123** (MENDES & GILMORE) – This ordinance approves Amendment #8 to the Rutledge Hill Redevelopment Plan.

The Rutledge Hill Redevelopment District was established in 1980 for redevelopment activities in areas south of downtown Nashville. This plan expires in 2040. The current tax increment financing (TIF) capacity for this district is \$60 million, which is basically a cap on the amount of project costs to be financed through TIF within that particular district.

TIF is a form of development incentive whereby the increased property taxes generated by a development are used to pay part of the development costs or pay down a TIF loan. Examples of projects that have been built using TIF as a financing tool include restoration of the Ryman Auditorium, the Viridian, the BellSouth Building, the Country Music Hall of Fame, and the Omni convention center hotel.

There are various concerns with the current version of the plan which the proposed ordinance seeks to address. The first concern recognizes that the original plan required any proceeds from the sale of land owned by MDHA in this district either to be re-invested in the same district or to be returned to the GSD General Fund. (Under state law, MDHA can only sell land in a redevelopment district "in accordance with the redevelopment plan." Tenn. Code Ann §13-20-202(a)).

In a 1986 amendment to this plan, this requirement was deleted and not replaced with any different language or direction to MDHA. The current version of the plan is now silent on how

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**ORDINANCE NO. RS2016-123**, continued

MDHA is to apply the proceeds from the sale of property owned by MDHA within this district. Assuming each redevelopment district is a separate entity – subject to separate TIF limits and redevelopment plans – allowing proceeds from one district to be applied in another begs the question why separate districts exist and may be contrary to Tenn. Code Ann. § 13-20-202(a)(5) wherein MDHA is empowered to undertake a redevelopment project and, “to that end”, may sell or lease land “in accordance with the redevelopment plan.” Regardless, Council is granted clear authority to direct land sale proceeds within a redevelopment plan. A new Section C.3 would be added to the Rutledge Hill Plan to restore the requirement that these proceeds must either be re-invested within the same district or returned to the GSD General Fund.

A second concern stems from the 2014 amendment wherein new Tax Increment provisions allowed MDHA to apply the \$60 million TIF capacity not only for purposes of carrying out the Rutledge Hill Redevelopment Plan, but for any other redevelopment plan as well. The ordinance would clarify that tax increment financing should only be applied in the plan area.

An additional concern stems from the fact there is no source readily available outside of MDHA to determine the amount, terms, or duration of any bonds, loans, or other indebtedness incurred and payable from tax increment funds related to the Rutledge Hill Plan. There are also no means outside of MDHA to determine the amount of money on deposit in MDHA's tax increment funds related to this plan. But under state law and the redevelopment plan itself, Metro is entitled to retain all tax increment funds once the original debt related to the TIF financing has been paid, or MDHA otherwise has reserved sufficient funds to pay that debt. The Rutledge Hill Plan would therefore be amended by adding text at the end of Section H to require MDHA to deliver a written report to the Council within 90 days after the end of each fiscal year. For each project providing any tax increment funds under the terms of this plan during the fiscal year, the report would include the following:

1. The name and address of the project;
2. The date(s) that MDHA provided tax increment financing for the project;
3. The amount of tax increment financing provided by MDHA for the project;
4. The maturity date of that financing;
5. The balance, if any, remaining due at the end of the fiscal year;
6. The amount of tax increment funds received by MDHA during the fiscal year for the project; and
7. The total amount of tax increment funds received by MDHA in connection with the plan during the fiscal year.

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**ORDINANCE NO. RS2016-123**, continued

The report would also state the total amount of bonded or other indebtedness obligation(s) owed by MDHA related to the Rutledge Hill Redevelopment Plan. For each obligation comprising this total amount of bonded or other indebtedness, the report would state the following:

1. The original principal amount of the obligation incurred by MDHA;
2. The terms of such obligation including without limitation, the maturity date, any interest rate, whether the interest rate is fixed or floating, whether there are any associated interest rate swap or other derivative or hedge obligations, and the required payment schedule;
3. The balance remaining due at the end of the fiscal year;
4. A summary of any changes to the terms of the obligation during the fiscal year;
5. Whether any financial or other defaults by MDHA occurred in connection with the obligation during the fiscal year; and
6. The amount reserved by, or otherwise on deposit with, MDHA in connection with the obligation at the end of the fiscal year.

The ordinance also corrects a typographical error persisting since 2014. Since the 1986 amendment, the Tax Increment section has been labeled "Section H" in the redevelopment plan. In the 2014 amendment, this section was inadvertently mislabeled as "Section G."

**ORDINANCE NO. BL2016-124** (COLEMAN) – The Vegetation Control Board (VCB) was created by Ordinance No. O93-884 on April 5, 1994. The purpose of the VCB was to enforce standards regarding excessive vegetation and to set forth provisions for notices of violation, costs collection, failure to comply remedies, and appeals processes.

However, the Council also designated Division IV of the Metropolitan General Sessions Court as the "Environmental Court" by Ordinance No. O94-930 on March 15, 1994. This was done in part for the purpose of addressing violations of the Metropolitan Code of Laws pertaining to vegetation control, maintaining exclusive jurisdiction thereof.

The establishment of the Environmental Court makes the continued existence and operation of the Vegetation Control Board unnecessary. Since the VCB was created by ordinance, the Council has the authority to abolish the VCB by ordinance as well.

In order to eliminate the inherent redundancy of having the VCB as well as the Environmental Court, this ordinance now abolishes the VCB and directs all records be transferred to the Environmental Court as directed.

**ORDINANCE NO. BL2016-125** (K. JOHNSON & BLALOCK) – In 2006, the Tennessee General Assembly enacted enabling legislation for a local rental inspection program. The state law authorized local legislative bodies to adopt a residential rental dwelling inspection ordinance to address properties within designated areas that are deteriorated or in the process of deteriorating. The purpose was to prevent further deterioration of these properties and to protect the health, safety and welfare of the inhabitants. On August 7, 2007, Ordinance No. BL2007-1550 authorized a rental inspection program in accordance with state law, and designated twelve areas within Davidson County as rental inspection districts.

The Codes Department was authorized to inspect residential rental units within the rental inspection districts that are deteriorated or in the process of deteriorating. The original ordinance defined “deteriorated” as any structure that (1) because of physical condition, use or occupancy, is a public nuisance or an attractive nuisance; (2) is a fire hazard or otherwise is unsafe; (3) has had the utilities removed or disconnected so that the property is unfit for human habitation; or (4) because of neglect or lack of maintenance, has become a place for the accumulation of trash or a haven for rodents. The original rental inspection districts established by the ordinance were to remain in effect for 10 years, thereby set to expire in 2017; but they may be extended by the Council.

The director of the Department of Codes Administration was to make reasonable efforts to notify rental property owners within the districts of the enactment of this ordinance and that they are required to notify the Codes Department if they are maintaining a dwelling unit used for rental purposes. There was to be no penalty for the failure to register unless the Codes Department has given the property owner actual or written notice to do so. There was no registration fee or inspection fee that was to be charged to property owners for implementation of the program.

The Codes Department was authorized to inspect any property they deem to be deteriorating to ensure that the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire and health codes. The Codes Department could require follow-up inspections as necessary. The original ordinance, as well as the state enabling legislation, provided that the inspectors may only enter the property with the consent of the occupants or with a valid search warrant. If, after inspection, the property was found to be in compliance with the applicable codes, the property owner would get a four-year exemption from future inspections. However, that exemption could be revoked if the property becomes in violation of the applicable codes.

The following areas were originally established as rental inspection districts:

- a. Urbandale – Nations
- b. Sylvan Heights
- c. Hadley Washington - Meharry

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**ORDINANCE NO. RS2016-125**, continued

- d. North Nashville - Buena Vista – Metrocenter
- e. Napier - Trimble - Wedgewood / Houston
- f. Airport - Murfreesboro Pike
- g. Edgefield - Shelby Hills
- h. Cleveland Park - McFerrin Park
- g. Greenwood – Eastwood
- h. Vanderbilt – 21<sup>st</sup>
- i. Hermitage
- j. South Madison
- k. Madison Park
- l. Edenwold

The ordinance now under consideration adds two areas to this list. The additions would be shown as the following:

- m. Holder Drive
- n. Tusculum Road

Again, the districts currently labeled “a” through “n” will expire in 2017 unless renewed. This change has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-126** (O’CONNELL & PRIDEMORE) – This resolution authorizes the acquisition of property by negotiation or condemnation for expansion of the Martin Luther King Junior Academic Magnet School. This addition will consist of the property south of the train tracks, east of Dr. D.B. Todd Blvd., west of the existing soccer field, and north of Clinton Street.

The two parcels to be acquired are both owned by Horton Paper Service, Inc. The total appraised value of the two parcels as shown on the current property records is \$251,500. However, it will be necessary to perform a new appraisal to determine the current fair market value of the parcels.

The final price for this acquisition has not yet been determined, but it will be paid from the MNPS FY16 Capital Projects Fund (#45016).

This proposal was approved by the Planning Commission on December 17, 2015. Metro Code §2.24.240.I requires a public hearing when the Council authorizes acquisition of property for the construction of a new school or relocation of an existing school. This ordinance merely authorizes property acquisition for the expansion of a school. Accordingly, the public hearing requirement is not triggered.

**ORDINANCE NO. BL2016-127** (O'CONNELL, PRIDEMORE, & OTHERS) – This ordinance approves a property exchange between Metro and Greyhound Lines. After negotiations to buy a parcel of real property from Greyhound were unsuccessful, Metro began condemnation proceedings to acquire a portion of the real property at 709 5<sup>th</sup> Avenue South, as well as a slope easement and temporary construction easement for use in connection with the Division Street Extension Project.

Metro owns a tract of land at 518 Ash Street, part of a larger parcel of property also acquired in connection with the project. This “Remnant Tract” is not needed for the project or for any other public purpose. It is now considered to be surplus property.

Disposition of this Remnant Tract, whether through conveyance to Greyhound as part of the resolution of the Condemnation Action or otherwise, and licensing its interim private use is in the best interest of Metro Government.

This ordinance gives the Director of Public Property Administration the authority to dispose of this Remnant Tract by quitclaim deed. This would be in exchange for cash equal to the fair market value or for property rights of equivalent value. Metro Council previously authorized acquisition of the property, but not its conveyance.

Greyhound will be authorized to use this Remnant Tract pending its disposition pursuant to the proper license agreement.

Amendments to this ordinance may be approved by resolution. This proposal has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-128** (O'CONNELL, PRIEMORE, & OTHERS) – This ordinance approves a property exchange between Metro and Mr. Ronald Wenzler. After negotiations to buy a parcel from Mr. Wenzler were unsuccessful, Metro began condemnation proceedings to acquire a portion of real property at 800 Ewing Avenue for use in the Division Street Extension Project.

Metro acquired a separate tract of land for use in this project. A section of this parcel of approximately 6,586 square feet will not be needed for any public purpose after the project is completed, other than a 10 foot wide maintenance easement. These two parcels are of comparable value. Mr. Wenzler is willing to exchange ownership of these parcels in connection with a resolution of the condemnation proceedings. Metro Council previously authorized acquisition of the property, but not its conveyance.

Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-129** (ROSENBERG, PRIDEMORE, & OTHERS) – This ordinance authorizes the acquisition of permanent and temporary easements to construct the Davidson Branch Equalization Facility for property located at 6924 Charlotte Pike.

The estimated acquisition cost for these easements is \$10,000, which is to be paid out of the Metro Water Services fund for capital projects. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-130** (SLEDGE & ELROD) – This ordinance abandons an existing water main and accepts a new water main, fire hydrant, and permanent easements for property located at 101 Terminal Court.

This ordinance was approved by the Planning Commission on December 31, 2015. Future amendments to this ordinance may be approved by resolution.

**ORDINANCE NO. BL2016-131** (O'CONNELL, ELROD, & OTHERS) – This ordinance abandons a portion of Korean Veterans Blvd. (former Franklin Street) right-of-way. This closure has been requested by the Nashville Symphony Association, the applicant and owner.

This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission. Metro has no future need for this right-of-way.

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2016-117** (SYRACUSE) – This ordinance amends the Metropolitan Code of Laws (MCL) to modify the zoning conditions applicable to cash advance, check cashing, pawnshop, and title loan establishments. Prior to 2008, cash advance, check cashing, and title loan businesses were considered “financial institutions”. The Council amended the MCL in 2008 to make each of these a separate use and to add a definition for each use. The current definition of financial institutions includes establishments that provide a variety of financial services, including banks, credit unions, and mortgage companies. The zoning definitions of check cashing, title loan, pawnshop and cash advance reference the state law provisions that regulate these types of establishments.

Various studies purport to show that cash advance, title loan, and check cashing businesses tend to cluster in close proximity to one another. Maps showing the location of these establishments in Nashville evidenced a high concentration along major thoroughfares. A study conducted by the Regional Planning Agency (RPA) of Chattanooga-Hamilton County, Tennessee concluded that the proliferation and clustering of cash advance, check cashing, pawnshops, and title loan establishments can have a detrimental effect on local property values and economic redevelopment. In addition, a study by the Board of Governors of the Federal Reserve System provides evidence that these businesses tend to locate in areas where the population is disproportionately minority and poorly educated.

Financial institutions, check cashing, title loan, and cash advance establishments are currently permitted by right in most of the mixed-use, office, commercial, and shopping center districts, and permitted with conditions in the MUN, ON and CN districts. Such businesses in the MUN, ON, and CN districts cannot exceed 2,500 square feet of floor area. Pawnshops are permitted in most of the same districts, but pawnshops in certain districts are limited to 5,000 square feet.

This 2008 change to the MCL prohibited new cash advance, check cashing, and title loan businesses from being located within 1,320 feet (1/4 mile) of another cash advance, check cashing, or title loan business, and prohibited new pawnshops from locating within 1,320 feet of another pawnshop. Existing businesses were grandfathered in by state law. The distance requirement only applied to new businesses seeking to locate in close proximity to existing similar establishments.

Title 45, Chapter 12 of the Tennessee Code Annotated (TCA) was changed to establish new rules and regulations governing financial institutions, effective January 1, 2015. As a result of this legislation, there are now additional types of alternative finance lenders (flexible credit

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**ORDINANCE NO. RS2016-117**, continued

loans) that are not currently identified in the zoning code, though they may have a similar impact as the alternative financial services noted above.

In order to close this loophole and include these new types of lenders within the definitions and protections defined for other financial institutions, changes are proposed in three sections of the MCL.

MCL Section 17.04.060 adds two new definitions, as follows:

*“Flex loan” means any building, room, space or portion thereof where a written agreement providing open-end credit, either unsecured or secured by personal property, in which repeated non-commercial loans for personal, family or household purposes is contemplated, as regulated by Title 45, Chapter 23, of the Tennessee Code Annotated.*

*“Installment loan” means any building, room, space or portion thereof where a loan is repaid over time with a set number of scheduled payments to a financial institution.*

MCL Section 17.08.030 adds “flex loan” and “installment loan” as uses permitted with conditions (PC), similarly to other financial institutions.

MCL 17.16.050 adds “flex loan” and “installment loan” to the list of office use restrictions. This requires new establishments of this type to be at least 1,320 feet (1/4-mile) from the property line of another property upon which another cash advance, check cashing, title loan, flex loan, or installment loan office is located. It also adds the requirement that a flex loan or installment loan office in the MUN, MUN-A, ON, or CN zoning district shall be limited to 2,500 square feet of gross floor area per establishment.

BL2016-132 is an alternate ordinance being offered by the sponsor. This will be considered on second reading with a public hearing at the next meeting. The sponsor may defer this ordinance to allow both pieces of legislation to track simultaneously.

**ORDINANCE NO. BL2016-119** (PRIDEMORE & PARDUE) – This ordinance grants CCA of Tennessee, LLC, access to the 800-MHZ emergency radio dispatch and response system. The Metropolitan Government and NES jointly own and operate the emergency radio dispatch and radio response system utilizing 800-MHZ radio frequencies licensed by the Federal

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**ORDINANCE NO. RS2016-119**, continued

Communications Commission (FCC). This system was jointly funded by Metro and NES, with Metro General Services now maintaining the system and NES contributing funds to help pay for its maintenance.

This agreement will allow CCA to interface directly with Metro's system. CCA will not be required to pay any user fee or charge of any kind. They will be responsible for the purchase of any new subscriber units for its own use. They will also pay for any maintenance that Metro performs of CCA's radio equipment and vehicles at CCA's request.

The term of this agreement begins upon approval by the Council and extends through January 30, 2020, but may be terminated by either party with 90 days written notice. The Council has approved similar agreements with several other entities.

**ORDINANCE NO. BL2016-120** (O'CONNELL, ELROD, & ALLEN) – This ordinance authorizes the installation and maintenance of underground and aerial encroachments within the Metropolitan Government right-of-way of 1201 Church Street by PSREG Church Street Owner, LLC.

PSREG has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-121** (KINDALL, ELROD, & ALLEN) – This ordinance abandons easement rights previously retained by Council Ordinance No. O84-343 for property located at 921 31<sup>st</sup> Avenue North between Alley 1180 and Clare Avenue. This has been requested by the property owner to allow for future development.

This abandonment was approved by the Planning Commission on December 17, 2015. Metro has no future need for these easement rights.

**ORDINANCE NO. BL2016-122** (ALLEN & ELROD) – This ordinance abandons a portion of Alley No. 815, right-of-way and easement. This closure has been requested by Barge Cauthen & Associates. All utility easements are also being abandoned.

This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission. Metro has no future need for this right-of-way and easement.