



## 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: **May 3, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 4/27/16:

4% Reserve Fund	\$23,750,196*
Metro Self Insured Liability Claims	\$3,759,156
Judgments & Losses	\$351,406
Schools Self Insured Liability Claims	\$3,250,168
Self-Insured Property Loss Aggregate	\$7,034,100
Employee Blanket Bond Claims	\$667,614
Police Professional Liability Claims	\$2,544,426
Death Benefit	\$1,184,434

\*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$4,209,549

**– RESOLUTIONS –**

**RESOLUTION NO. RS2016-208** (PRIDEMORE & GILMORE) – This resolution would approve the continuation of a grant in the amount of \$116,000 from the Tennessee Department of Health to the Metropolitan Board of Health for health promotion programs. These federal pass-through funds would be used to pay the salaries of two Health Department employees who implement various health promotion programs, with the goals of reducing health disparities and increasing the quality of life for the citizens of Nashville. These programs include partnering with community organizations to implement a social marketing campaign and promoting Public Health Week. The term of the grant is from July 1, 2016 through June 30, 2017, and no cash match would be required

**RESOLUTION NO. RS2016-209** (PRIDEMORE & GILMORE) – This resolution would approve a grant in the amount of \$380,000 from the Tennessee Department of Health to the Metropolitan Board of Health for the Healthy Start program. The purpose of the Healthy Start program is to provide a variety of services for pregnant and parenting women regarding child health. This program uses Health Department nurses and outreach workers to provide prenatal services to mothers, as well as services to their children from birth through three years, to promote child safety, immunizations, child development, and parenting skills.

The \$380,000 proceeds of this grant would be received over two fiscal years. The grant would be used to fund the salaries and benefits for three Health Department employees. The term of this grant is from July 1, 2016 through June 30, 2018, and no cash match would be required.

**RESOLUTION NO. RS2016-210** (PRIDEMORE & GILMORE) – This resolution would approve an annual grant in the amount of \$727,500 from the Tennessee Department of Health to the Metropolitan Board of Health to provide care coordination services for the children's special services program. These funds are primarily used to pay the salaries and benefits of nine positions in the Children's Special Services Division of the Health Department. The services of this division include care coordination services, comprehensive pediatric and developmental assessments, and referrals for audiology and speech pathology services.

The grant consists of \$312,800 in state funds and \$414,700 in federal funds. The term of the grant is from July 1, 2016 through June 30, 2017 and no cash match would be required.

**RESOLUTION NO. RS2016-211** (PRIDEMORE & GILMORE) – This resolution would approve the second amendment to a sub-recipient grant agreement between the Metropolitan Development and Housing Agency (MDHA) and the Metro Homelessness Commission within the Department of Social Services to provide rental and utility deposits for chronically homeless individuals. As part of the implementation of the consolidated plan for housing and urban development submitted to the federal government, MDHA awarded a sub-recipient grant in the amount of \$200,000 to the Homelessness Commission for one-time payments of the first month's rent and security/utility deposits for persons that have been identified as chronically homeless. Payments are made directly to the housing provider, not the individual client. The total amount of payments made on behalf of a single client cannot exceed \$1,000.

The first amendment extended the term of the grant through January 21, 2016. The second amendment now being considered would further extend the term to July 21, 2016.

**RESOLUTION NO. RS2016-212** (PRIDEMORE & ELROD) – This resolution would approve amendments to three agreements with the Tennessee Department of Environment and Conservation (TDEC) regarding the maintenance of closed solid waste facilities. State law requires all owners of closed landfills either to put up a performance bond or execute a contract agreeing to pay a penal sum if the site is not adequately maintained. The Metropolitan Government has entered into contracts with TDEC in lieu of a performance bond as assurance of financial responsibility for our solid waste facility maintenance duties.

This resolution approves a decrease of the financial assurance amounts, as follows:

- Bordeaux sanitary landfill – decrease from \$3,938,426.00 to \$3,623,351.39;
- Thermal ash monofill – decrease from \$1,016,283.00 to \$983,761.45;
- Due West dump site – decrease from \$1,167,979.00 to 1,119,783.92.

These amounts would only be paid if Metro failed to adequately maintain the sites.

Bill No. BL2010-719 allows amendments to these financial responsibility agreements to be approved by resolution.

**RESOLUTION NO. RS2016-213, 215, 216, 217, & 218** – These resolutions would approve Intergovernmental Agreements between the Tennessee Department of Transportation (TDOT) and Metro, acting through the Department of Public Works. Under the authority of 23 CFR, Subpart 646B, TDOT has directed Metro to prepare plans, specifications and estimates to construct the Railroad Crossing Approaches Project at several locations.

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**RESOLUTION NO. RS2016-213, 215, 216, 217, & 218**, continued

Under the terms of 23 CFR, Subparts 140I and 646B, TDOT would reimburse Metro for 100% of the cost of the signal equipment. The locations and costs for these improvements are as follows:

- **Resolution No. RS2016-213** (A. DAVIS, PRIDEMORE, & ELROD) – The estimated costs for the construction and installation of the required signal equipment at McGavock Pike is \$21,470.57. In addition to this cost, it would be necessary to construct a sidewalk on the south side of the crossing. This is estimated to cost \$4,600, with \$4,140 (90%) of this amount being paid by TDOT. Metro would pay the remaining \$460.
- **Resolution No. RS2016-215** (HAGAR, RHOTEN, & OTHERS) – The estimated costs for the construction and installation of the required signal equipment at Old Hickory Boulevard is \$330,271.50.
- **Resolution No. RS2016-216** (HAGAR, PRIDEMORE, & ELROD) – The estimated costs for the construction and installation of the required signal equipment at Pitts Avenue (Railroad Crossing #348673C) is \$7,640.25.
- **Resolution No. RS2016-217** (HAGAR, PRIDEMORE, & ELROD) – The estimated costs for the construction and installation of the required signal equipment at Pitts Avenue (Railroad Crossing #348675R) is \$6,897.28.
- **Resolution No. RS2016-218** (SLEDGE, PRIDEMORE, & ELROD) – The estimated costs for the construction and installation of the required signal equipment at Nolensville Road is \$158,579.95.

**RESOLUTION NO. RS2016-214** (PRIDEMORE & ELROD) – This resolution approves a contract between the Tennessee Department of Transportation (TDOT) and the Metropolitan Government for the resurfacing of Una Antioch Pike from 225 feet west of the CSX Railroad Crossing to Murfreesboro Pike. The total cost for the resurfacing is estimated to be \$922,200 with the state paying 75% of the costs (\$691,650) and Metro paying 25% (\$230,550). This is a typical contract with the state for road resurfacing authorized under the state-aid highway system program.

**RESOLUTION NO. RS2016-220** (SHULMAN) – This resolution approves the election of 602 Notaries Public in accordance with state law.

– BILLS ON SECOND READING –

**BILL NO. BL2016-205** (ROSENBERG) – Metro has the authority pursuant to Tennessee Code Annotated Section 39-17-1551 to regulate the use of tobacco products in all buildings owned or leased by Metro. MCL Section 10.18.020 currently exercises that authority by prohibiting smoking inside all Metropolitan Government buildings. Smoking is also currently prohibited in all non-enclosed areas of public spaces where smoke can infiltrate into a Metropolitan Government building.

The bill under consideration would add a new smoking restriction. If this is approved, smoking would also be prohibited on the grounds of all outdoor amphitheatres with a seating capacity of at least six thousand (6,000) owned or operated by the Metropolitan Government. All existing smoking restrictions would remain intact. This bill was prompted by a recent amendment to T.C.A. 39-17-1551 authorizing local governments “to prohibit smoking on the grounds of a swimming pool ... or an outdoor amphitheater with a seating capacity of at least 6,000 owned or operated by local government.”

A housekeeping amendment will be offered to correct an incorrect reference to Section 10.18.045 of the MCL.

**BILL NO. BL2016-206** (WEINER) – This bill would add new permit requirements for anyone offering private snow plow service in the public right-of way. In order for a permit to be issued, the applicant must have the prior written approval from at least one of the following:

1. the homeowners’ association representing the location where private snow plow services are sought;
2. the neighborhood association representing the location where private snow plow services are sought;
3. the district Council member representing the location where private snow plow services are sought; or
4. at least eighty percent (80%) of the occupant(s) of the properties abutting the street, road, alley, sidewalk, or other public way in which private snow plow services are sought.

All applicants must furnish to the Department of Codes Administration a permit bond in the amount of forty thousand dollars (\$40,000). In addition, they must furnish a current certificate of public liability insurance naming the Metropolitan Government as an additional insured in the amount of at least one million dollars (\$1,000,000).

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**BILL NO. BL2016-206**, continued

Once approved, these permits would be issued by the Department of Public Works. Each permit will cost fifty-five dollars (\$55) and be effective for a period of three (3) years. If there is a failure to obtain a permit as required by this chapter, or if work is commenced before a permit is issued, the permit fees for any permit subsequently issued for that activity would be tripled.

**BILL NO. BL2016-207** (SHULMAN) – This bill readopts the Metro Code prepared by Municipal Code Corporation to include supplemental and replacement pages for ordinances enacted on or before January 6, 2016. This is a routine re-adoption to ensure the Metro Code is kept up to date.

**BILL NO. BL2016-208** (O'CONNELL & ELROD) – This bill abandons approximately 1,086 linear feet of existing water main and easement and accepts approximately 5 linear feet of six inch DIP water main, 10 linear feet of 10 inch DIP water main, and four fire hydrant assemblies and easements for four properties located at Division Street and 8<sup>th</sup> Avenue South.

This was approved by the Planning Commission on March 23, 2016. Future amendments to this ordinance may be approved by resolution.

**BILL NO. BL2016-209** (O'CONNELL & ELROD) – This bill would abandon existing sewer mains and easements and accept new sewer mains, easements, and manhole assemblies for property located at Jo Johnston Avenue.

This was approved by the Planning Commission on March 15, 2016. Future amendments to this bill may be approved by resolution.

**BILL NO. BL2016-210** (ELROD) – This bill would abandon an existing sewer main, manhole assembly, and easements for properties located along Alley Number 893, 30th Avenue South and Vanderbilt Place.

This was approved by the Planning Commission on March 17, 2016. Future amendments to this bill may be approved by resolution.

**BILL NO. BL2016-211** (O'CONNELL & ELROD) – This bill authorizes Delray GP @ Madison Avenue, LLC to install and maintain underground and aerial encroachments in the right of way of Alley 505, 200, and 206 Madison Street and 1212 and 1214 Third Avenue North. These encroachments will include numerous changes to satisfy the requirements of NES, Metro Water Services, the Planning Commission, and Public Works.

The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the construction, installation, operation, and maintenance of the encroachments, and is required to maintain \$2 million in liability insurance naming Metro as additional insured.

This has been approved by the Planning Commission.

**BILL NO. BL2016-212** (MURPHY & ELROD) – This bill amends the Official Street and Alley Acceptance and Maintenance Map by abandoning a portion of Alley No. 934 right-of-way from 39<sup>th</sup> Avenue North to 40<sup>th</sup> Avenue North, between Charlotte Avenue and Alabama Avenue.

This closure is being requested by Mr. Mohammad Rahimi with the concurrence of all abutting property owners.

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

**BILL NOS. BL2016-213 through BL2016-215** – These three bills authorize the acquisition of permanent and temporary easements for various stormwater projects. The ordinances provide that future amendments to the ordinances may be approved by resolution. These ordinances have been approved by the Planning Commission.

- **Bill No. BL2016-213** (Henderson & Elrod) authorizes the acquisition of easements on twelve properties located at Tyne Boulevard and Mountainview Drive.
- **Bill No. BL2016-214** (A. Davis & Elrod) authorizes the acquisition of easements on two properties located at 1645A and 1701 Evelyn Avenue.
- **Bill No. BL2016-215** (A. Davis & Elrod) authorizes the acquisition of easements on four properties located at 2141, 2144, and 2145 Burns Street and 1624 Moore Street.

**BILL NO. BL2016-216** (DOWELL, PRIDEMORE, & ELROD) – This bill authorizes the acquisition of various easements and other property interests for seven properties located along Bell Road, Mt. View Road, and Hickory Hollow Parkway for the construction of approximately 3,200 linear feet of 16 inch water main. The estimated cost of this project is \$97,500.

This was approved by the Planning Commission on March 15, 2016.



– BILLS ON THIRD READING –

**BILL NO. BL2016-177** (PARDUE) – Section 6.28.010 of the Metro Code requires every person operating a “hotel or rooming house” to keep a register showing the name, address, date of arrival, and date of departure for each of its guests within the preceding six-month period. Paragraph C of this section requires these operators to show this register to “any member of the Police Department upon the written request of the Chief of Police or the Chief of the Detective Department.”

The U.S. Supreme Court considered a similar requirement upon an appeal from the 9<sup>th</sup> Circuit Court of Appeals in the case of *City of Los Angeles v. Patel*, 135 S. Ct. 2443 (2015). The Court decided that such requests are permissible, but that there must be a procedure allowing appeals from these requests.

The bill under consideration would make two changes to the Metro Code. The first would replace “or the Chief of the Detective Department” with “any duly appointed Deputy Chief of Police”.

The second change would allow the hotel or rooming house operator to refuse the request by the Police to see the register, but the register must then be secured in the manner required by the requesting Police officer so that the contents are preserved. This register would be required to be kept in this secured location until an administrative or judicial search warrant, subpoena, or order can be granted or denied, and any appeal resolved. There is no specified time limit for how long that process might take.

**BILL NO. BL2016-178** (SLEDGE) – Paragraph C of Section 16.28.240 of the Metro Code currently sets time limits on demolition permits issued by Metro. It requires the work authorized by such permits to begin with thirty (30) days after issuance or unless the authorized work is completed within sixty (60) days after work is commenced. However, time extensions may be allowed.

The bill under consideration would make two additions to this paragraph. The first would be to add the word “timely” so that the 60-day completion requirement would only apply after work is “timely commenced”.

The second change would add two sentences to this paragraph. The first would require an affidavit to be submitted within 30 days after a demolition permit is issued to certify the date that demolition has commenced and describing the nature of the work performed to date. The

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**BILL NO. BL2016-178**, continued

second new sentence would specify that demolition permits would be deemed invalid if the newly required affidavit is not submitted within the required 30 day period.

Under Metro Code section 17.04.060, a “demolition” means the decimating, razing, ruining, tearing down or wrecking in whole or in part, any facility, structure, foundation, landscaping, pavement or building, (wall, fence) whether in whole or in part, whether interior or exterior. But historically, the legally required preliminary work (such as shutting off utility lines) has been construed to be part of the demolition process. As amended, the ordinance would further require all demolition work described in the affidavit to meet the definition set forth in MCL Section 17.04.060. Mere preliminary work would no longer suffice.

**BILL NO. BL2016-179** (MURPHY) – The Department of Finance’s Procurement Division currently has a single position within their Business Assistance Office with the title of “Business Development Officer”. This position was initially established as a “Minority Business Liaison Officer” before being renamed.

This position is responsible for performing administrative duties designed to enhance minority and small business participation in the procurement of goods and services for Metro. There is an incumbent employee in this position, performing this function since September 9, 2013.

Bill No. O88-586 provided that this position would be in the unclassified service of Metro. This is currently the only position in the Finance Department not in the classified service. It is unclear why the decision was made in 1988 to exclude this position, but there seems to be no advantage for continuing this exclusion.

Upon the request of the Finance Department, the Civil Service Commission voted in their meeting on March 8, 2016 to reclassify this position as being within Civil Service. The bill under consideration would add the Council’s approval to this reclassification.

**BILL NO. BL2016-180** (BEDNE & PRIDEMORE) – This resolution accepts a donation in the amount of \$75,000 from Lenox Village III, LLC to the Metropolitan Public Works Department to aid in the construction of traffic improvements at the intersection of Nolensville Road and Bienville Drive.

The transmittal letter from Lenox Village states the intention of the donation is to satisfy any off-site traffic conditions of approval for St. Thomas Medical Office Building (Lot 1) and any

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**BILL NO. BL2016-180**, continued

future development on Lot 2 of the Lenox Village III final plat. The letter also requests all current Public Works permitting requested for St. Thomas MOB to be signed off so construction can begin.

Public Works has agreed to these conditions.

**BILL NO. BL2016-181** (A. DAVIS, PRIDEMORE, & GILMORE) – This ordinance approves a lease agreement between the Metropolitan Social Services Department / Metropolitan Homelessness Commission and City Road Chapel United Methodist Church of 1,200 rentable square feet for the use of additional office space.

The term of the lease is from March 1, 2016 through June 30, 2017, unless terminated earlier. The annual rental will be \$5.00 per rentable square foot, equating to \$8,000 for the term of 16 months.

Metro will be responsible for furnishing the spaces, as well as providing any phone and internet connections and service for its operations. The lessor will provide heating, air conditioning, and electricity for the space.

Access to the space would be limited to the entrance located on Neely's Bend Road. The lessor will provide exterior building keys and individual office keys for Metro staff. Metro acknowledges that the lessor has a Child Development Center (CDC) on the same site. Access would be restricted to the CDC spaces by Metro's clients and visitors. Metro would agree to abide by the lessor's "Safe Sanctuaries" policies regarding the care and supervision of children on the premises.

Amendments to this lease may be approved by resolution of the Council receiving 21 affirmative votes.

**BILL NO. BL2016-182 THROUGH BL2016-186** – These bills would abandon a portion of certain alleys, rights-of way, and easements. All have been approved by the Planning Commission and the Traffic and Parking Commission. Metro has no future need for any of these alleys, rights-of- way, or easements. The details are as follows:

- **BL2016-182 (Allen)** - Alley No. 893 right-of-way and easement, requested by Barge Cauthen & Associates, Applicant;

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**BILL NO. BL2016-182 THROUGH BL2016-186**, continued

- **BL2016-183 (Allen)** - Cheron Road right-of-way, requested by William B. Geiger, Applicant and Owner;
- **BL2016-184 (Allen & Elrod)** - Gay Street right-of-way and easements, requested by Barge, Waggoner, Sumner and Cannon, Inc., Applicant;
- **BL2016-185 (Allen & Elrod)** - Gay Street and 10th Avenue North right-of-way, requested by Barge, Waggoner, Sumner and Cannon, Inc., Applicant; and
- **BL2016-186 (Elrod & Allen)** - Taylor Street right-of-way and easement, requested by Littlejohn and S&ME Company, Applicant.

**BILL NO. BL2016-187** (SYRACUSE, PRIDEMORE, & OTHERS) – This ordinance authorizes the Director of Public Property Administration to sell a portion of the right-of-way of Briley Parkway and McGavock Pike Interchange.

The total tract, including this right-of way, was acquired in 1966. This was used to build a Briley Parkway extension, Two Rivers Golf Course and Park, McGavock High School, Wave Country, and McGavock Mansion renovations. In 1970, Metro and the Tennessee Department of Transportation (TDOT) signed an agreement under the Local Interstate Connector Program to construct Briley Parkway, including interchanges at McGavock Pike and Two Rivers Parkway. The costs of this program were shared on a 50/50 basis by Metro and TDOT.

Park Holdings, LLC has now requested to purchase a portion of this property. The request has been evaluated by the Department of Transportation's Excess Land Committee. They concluded the property is no longer needed by the state or Metro for any purpose.

All parties agree the fair market value is \$197,000. Since Metro and the state jointly obtained this property, each will receive one-half of the proceeds from this quitclaim deed, amounting to \$98,500.

This sale was approved by the Planning Commission at their meeting on April 7, 2016.