



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: **July 5, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 6/29/16:

4% Reserve Fund	\$23,750,196*
Metro Self Insured Liability Claims	\$3,638,136
Judgments & Losses	\$265,912
Schools Self Insured Liability Claims	\$3,204,088
Self-Insured Property Loss Aggregate	\$7,037,137
Employee Blanket Bond Claims	\$667,846
Police Professional Liability Claims	\$2,545,465
Death Benefit	\$1,184,917

*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$431,197

– BILLS ON PUBLIC HEARING –

BILL NO. BL2016-218 (VERCHER & HAGAR) – This ordinance would modify numerical limits regarding application fees and costs in three sections of the Zoning Regulations in Section 17.40 of the Metro Code of Laws.

Under the current Metro Code, the Metro Planning Department waives application fees associated with the following:

- Applications initiated by any federal or state agency, and Metro department, or MDHA;
- Any large area rezoning initiated by the Planning Commission to implement the general plan;
- Any request initiated by a Council member for the purpose of rezoning any residential property from a greater intensity to a lesser intensity;
- Any request initiated by a Council member for the purpose of rezoning property from an office commercial, or industrial district to a residential or residential single-family district;
- Any request initiated by a Council member for the purpose of applying the urban design overlay district, historic preservation district, neighborhood conservation district, urban zoning overlay district, or contextual overlay district;
- Any request initiated by a Council member for the purpose of amending or cancelling a PUD after the Planning Commission has the PUD to be inactive.

In addition, Council members are currently allowed to initiate one (1) proposed zoning change per calendar year, with the costs for the required written notices and signs being paid by the Planning Department. The change being considered by this bill would increase this number to three (3). In addition, the references to “calendar year” would be changed to “fiscal year”. The Planning Department would cover the costs associated with the preparation and mailing of written notices, and public notice signs, for zoning applications by council members – increasing the covered costs from one (1) application to three (3) per fiscal year.

For any proposed amendments to the official zoning map other than the above, the applicant would remain responsible to pay these costs.

The Planning Department has indicated that they will be able to absorb anticipated additional costs associated with this legislation within their current budget.

BILL NO. BL2016-265 (M. JOHNSON) – Subsection 17.40.120.H.3.a of the Metro Code of Laws (MCL) currently provides for the review of a Planned Unit Development (PUD) in order to determine whether it should be classified as inactive. The Planning Commission is required by this subsection to determine if six (6) or more years have elapsed since the initial enactment, amendment to, or re-approval of the PUD ordinance, whether construction has begun, and whether right-of-way acquisition or construction of off-site improvement has begun.

In addition to the above, however, the Planning Commission is further allowed to consider the “aggregate of actions” taken by a PUD owner to develop the PUD under review within the previous twelve months. The term “aggregate of actions” is not currently defined in the MCL, prompting concerns that the term may be unduly vague. The ordinance under consideration would remove this from the MCL, leaving the other three determinative findings intact.

BILL NO. BL2016-266 (ALLEN, DOWELL) – Section 17.40.120.H of the Metro Code of Laws (MCL) currently provides for periodic reviews of Planned Unit Developments (PUDs). Subsection 5 currently requires that no grading permit, nor any building permit for new building construction, shall be issued with the PUD overlay district for which a review has been initiated until the earlier of (a) the Council’s final action to re-approve, amend, or cancel the PUD overlay district, or (b) six months following the Planning Commission’s submission of a recommendation to the Council, or the deadline for that submission if the Commission should fail to act.

The ordinance under consideration would add “No Planned Unit Development application” as also falling under the requirements of this subsection. It would further add the restriction that permits falling under these requirements could not be submitted nor reviewed, in addition to not being issued.

Similarly, Section 17.40.106.I of the Metro Code of Laws (MCL) currently provides for the review of specific plans (SPs). Subsection 5 currently requires that no grading permit, nor any building permit for new building construction, shall be issued with the SP for which a review has been initiated until the earlier of (a) the Council’s final action to re-approve, amend, or cancel the SP or rezone the property, or (b) six months following the Planning Commission’s submission of a recommendation to the Council, or the deadline for that submission if the Commission should fail to act.

The ordinance under consideration would add “No Specific Plan application” as also falling under the requirements of this subsection. It would further add the restriction that the permits falling under these requirements could not be submitted nor reviewed, in addition to not being issued.

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BILL NO. BL2016-266, continued

Finally, Subsection 1 of this same section currently gives the Planning Commission the authority to review any SP to determine whether development activity has occurred within six (6) years from the date of the latter of initial enactment, subsequent amendment, or re-approval by the Council to determine if the SP is inactive. The ordinance under consideration would reduce this period to four (4) years.

BILL NO. BL2016-267 (ALLEN & DOWELL) – This ordinance would modify Title 17 of the Metro Code of Laws (MCL) concerning “boat storage”.

The District Land Use Tables would be amended to allow boat storage as a use permitted with conditions (PC) in the CS zoning district and as a permitted use (P) within the IWD, IR, and IG zoning districts.

Subsection I of Section 17.16.070 currently defines the restrictions for commercial use boat storage. The ordinance under consideration would modify these restrictions so that they only apply in the CL zoning district. Within the CS zoning district, restrictions would be added to specify that a boat storage use is not permitted within the Urban Zoning Overlay (UZO) and must be located on a lot that does not exceed four acres in size. Also, no more than one hundred boat slips shall be permitted in the CS zoning district.

This proposal was approved by the Planning Commission on April 28, 2016.

– RESOLUTIONS –

RESOLUTION NO. RS2016-280 (PRIDEMORE) – This resolution would approve an annual grant in the amount of \$67,700 from the Tennessee Arts Commission to the Metro Arts Commission for operating support. There is a required local match in the amount of \$67,700 to be provided from the Metro Arts Commission budget.

The funds would be used for general operating support of the Arts Commission for art programs, research, and community engagement. The term of the grant is through June 30, 2017.

RESOLUTION NO. RS2016-281 (PRIDEMORE) – This resolution would accept a grant of \$30,000 from the Kroger Company to the Metropolitan Nashville Arts Commission (MNAC) to facilitate the creation and display of murals within Kroger stores by Davidson County artists.

The grant proceeds would be used for the following purposes:

- \$2,000 for payment to the artists submitting proposals;
- \$15,000 for payment to the selected artists;
- \$5,000 for project management fees; and
- Up to \$8,000 in contingency funds.

RESOLUTION NO. RS2016-282 (PRIDEMORE, ALLEN, & OTHERS) – This resolution would declare as surplus and transfer twelve (12) parcels of real property to the Barnes Fund Housing Program. It would also approve the grant of these parcels to three nonprofit organizations selected for the express purpose of constructing affordable or workforce housing.

Tennessee Code Annotated § 7-3-314(e) permits Metro to convey by resolution any real property acquired pursuant to a delinquent tax sale by grant to a nonprofit organization for the purpose of constructing affordable or workforce housing. This section also specifies that no property may be granted prior to the expiration of the statutory redemption period. This section also requires that all such property be used to construct affordable and workforce housing for residents in Davidson County.

On June 3, 2015, the Metropolitan Housing Trust Fund Commission in conjunction with the Metropolitan Development and Housing Agency (MDHA) issued a request for application to qualified nonprofit organizations to participate in the nonprofit housing development grant program.

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RESOLUTION NO. RS2016-282, continued

The three nonprofit organizations selected through this process and the parcels to be granted to each are as follows:

Affordable Housing Resources

- 2410 Chapel Avenue (District 7)
- 2206 24th Avenue North (District 2)
- 41 North Hill Street (District 17)
- 3443 Knight Drive (District 3)
- 1405 Kellow Street (District 2)
- 1407 Kellow Street (District 2)

Woodbine Community Organization

- 4905 Vistaview Drive (District 1)
- 621 39th Avenue North (District 21)
- 520 31st Avenue North (District 21)

New Level Community Development Corporation

- 9 Trimble Street (District 17)
- 2409 Middle Street (District 2)
- 1632 Dr. D. B. Todd Jr. Blvd. (District 21)

The Metropolitan Housing Trust Fund Commission would be authorized by this resolution to enter into grant contracts with the above nonprofit organizations for the express purpose of constructing affordable and workforce housing on the above twelve (12) properties. In the event any of these properties are not utilized by the Barnes Fund Affordable Housing Program after five (5) years from the date of the passage of this resolution, the property or properties would revert back to the Division of Public Property unless otherwise previously conveyed.

Section 7-3-314 of the TCA also permits Metro to provide financial assistance to a nonprofit organization in accordance with local regulations and guidelines. Section 5.04.070 of the Metropolitan Code of Laws provides that the Council may appropriate funds by resolution for the financial aid of nonprofit organizations.

Therefore, in addition to the grants of real property, these three nonprofit organizations would receive monetary grants from the Barnes Fund, not to exceed \$416,250. This would consist of \$60,000 for Affordable Housing Resources, \$105,000 for the Woodbine Community Organization, and the remaining \$251,250 for the New Level Community Development Corporation.

RESOLUTION NO. RS2016-283 (FREEMAN, PRIDEMORE, & ALLEN) – This resolution would approve the sale of the parcel of real property at 0-Elberta Street. This parcel was originally sold to Metro as the result of a title company's error. Metro has no need of this parcel for any purpose.

The residence at 100-Elberta Street actually encroaches on this parcel. The title company would now like to correct the error by buying this parcel from Metro for \$7,200. All parties agree this is the fair market value of the property.

The sale of this parcel was approved by the Planning Commission on March 7, 2016.

RESOLUTION NO. RS2016-284 (PRIDEMORE & HENDERSON) – This resolution would accept a grant from the Tennessee Arts Commission to the Metropolitan Board of Parks and Recreation for the Spectator / Creator: Performing Arts for Preschoolers Grant for \$4,400. The grant proceeds would be used to fund collaboration between the Dance and Theater Divisions of Metro Parks Cultural Arts and the Metro Parks Community Centers.

The intent would be to provide performing arts workshops for preschool-aged children and their caregivers. Three teaching artists, specializing in early childhood development, would develop, facilitate, and assess these workshops alongside the current Dance and Theater Division supervisors. No charge would be made to the participants.

The Parks Department would be required to provide a local cash match of \$5,920 for this program. This would be used to pay the salaries of the Parks Department's Theater Supervisor and Dance Supervisor for the time they would spend working on this program.

RESOLUTION NO. RS2016-285 (PRIDEMORE & HENDERSON) – This resolution would approve an annual grant in the amount of \$4,850 from the Tennessee Arts Commission to the Metropolitan Board of Parks and Recreation to supplement the Big Band dance program in Centennial Park. This program provides twelve free big band dances to the public. The Parks Department would use this funding for the purpose of continuing the dance program. There would be a required local cash match of \$4,850 to be provided by the Parks Department.

RESOLUTION NO. RS2016-286 (PRIDEMORE, MURPHY, & OTHERS) – This resolution would approve an application for a Paid Leave Analysis Grant in the amount of \$217,632 from the U.S. Department of Labor. If approved, the proceeds would be used to conduct a paid leave analysis

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RESOLUTION NO. RS2016-286, continued

study across the Metropolitan Nashville area. This Council has previously expressed interest in paid leave programs – including maternity and paternity leave -- pursuant to Resolution no. RS2016-270.

This study would include statistical analysis, feasibility analysis, economic impact analysis, financing, eligibility, and benefit modeling, and public opinion polling on the potential impact of paid family leave (PFL) on employee recruitment and retention.

The proceeds would fund a contract with UT CBER for research and evaluation and report drafting by UT CBER economists and their staff, travel, indirect costs, and a separate contract with an outside consultant to serve as a dedicated grant manager.

RESOLUTION NO. RS2016-287 (PRIDEMORE & MURPHY) – This resolution would approve a grant in the amount of \$24,100 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to provide reemployment services and eligibility assessment services to unemployment insurance claimants. The purpose of this program is to help persons receiving unemployment insurance to find suitable employment as soon as possible.

The grant would consist of \$21,690 in program funds and \$2,410 in administrative funds. The term of the grant would be from April 1, 2016, through December 31, 2016.

RESOLUTION NO. RS2016-288 (PRIDEMORE & GILMORE) – This resolution would accept a grant in the amount of \$80,000 from the Greater Nashville Regional Council (GNRC) to the Metropolitan Social Services Commission to deliver meals that meet RDA nutritional guidelines to eligible seniors throughout Davidson County.

The term of the grant is from July 1, 2016 through June 30, 2017.

RESOLUTION NO. RS2016-289 (PRIDEMORE & GILMORE) – This resolution would approve an application for a grant of \$75,000 in Emergency Solutions Grant funds from the Tennessee Housing Development Agency to the Metropolitan Nashville Social Services Commission in conjunction with the Homelessness Commission. A local cash match of \$75,000 would be required.

The grant proceeds would be used to provide Street Outreach services to homeless individuals in Davidson County. The term of the grant would be from July 1, 2016 through June 30, 2017.

RESOLUTION NO. RS2016-290 (PRIDEMORE & GILMORE) – This resolution would approve a grant in the amount of \$1,884,200 for the period of FY17 through FY19 from the Tennessee Department of Health (TDOH) to the Metro Health Department to provide early periodic screening, diagnostic, and treatment to TennCare enrolled children and families in conjunction with the TennCare Kids Program.

The term of this grant is from July 1, 2016 through June 30, 2019. The Health Department will receive \$606,400 each year from TDOH with an additional \$65,000 in federal funds during the first year. These funds would primarily be used to pay the salaries of Health Department employees who are working on this program.

RESOLUTION NO. RS2016-291 (PRIDEMORE & GILMORE) – This resolution would approve an annual grant in the amount of \$1,593,900 from the Tennessee Department of Health to the Metropolitan Health Department for tuberculosis control, prevention, and outreach services. These grant funds are used for the operation of the Health Department's TB program consisting of direct patient care, the monitoring of existing and suspected TB cases, and operation of the TB clinic.

The term of the grant would be from July 1, 2016 through June 30, 2017. This grant is comprised of \$260,000 in federal funding and \$1,333,900 in state funding. The majority of these funds would be used to pay the salaries and benefits of the Health Department employees providing these services.

RESOLUTION NO. RS2016-292 (PRIDEMORE & GILMORE) – This resolution would approve a contract between the Tennessee Department of Health and the Metropolitan Board of Health. This would be used to provide assistance to pregnant women with the completion of Prenatal PE enrollment and enrollment assistance for the TennCare/Medicaid and CoverKids application as outlined in the contract with the Bureau of TennCare.

The value of this contract is \$206,600. The term of the contract would be from July 1, 2016, through June 30, 2017.

RESOLUTION NO. RS2016-293 (PRIDEMORE & GILMORE) – This resolution would approve a grant in the amount of \$1,808,722 from the Tennessee Department of Health to the Metropolitan Health Department to provide school-based oral disease prevention services for school children in grades K-8 in qualifying public schools.

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RESOLUTION NO. RS2016-293, continued

These funds would be used to retain dental personnel to provide oral disease prevention services to school children in these schools with a high population of low income students. The oral disease prevention services to be provided include oral health education, dental screenings, referral and follow-up for children who need urgent dental treatment, and dental sealants with parental consent.

The term of the grant is from July 1, 2016 through June 30, 2018. The grant will provide annual funding for this program in the amount of \$904,631.

RESOLUTION NO. RS2016-294 (PRIDEMORE & GILMORE) – This resolution would approve an annual grant in the amount of \$902,208 from the Greater Nashville Regional Council (GNRC) to the Metropolitan Social Services Commission for congregate meal sites, meal delivery services, and transportation for eligible seniors and disabled residents.

The funding would be used as follows:

- \$287,698 with a required local cash match of \$204,585 and an “in-kind” match of \$38,223 to provide meals to eligible senior citizens;
- \$124,640 with a required local cash match of \$74,784 to provide congregate meal sites;
- \$368,585 with a required local cash match of \$256,286 and an “in-kind” match of \$4,246 to provide home delivered meals;
- \$51,285 (state funding) with a local cash match of \$36,469 to provide delivered meals to eligible seniors; and
- \$70,000 with a local cash match of \$74,376 to provide transportation services to seniors and disabled residents

The term of the grant is from July 1, 2016 through June 30, 2017.

RESOLUTION NO. RS2016-295 (PRIDEMORE & GILMORE) – This resolution would approve an amendment to the grant approved by Resolution No. RS2016-157. This approved a grant in the amount of \$2,597,077 from the U.S. Department of Health and Human Services to the Metro Board of Health to enhance access to community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients under the Ryan White HIV/AIDS Treatment Extension Act of 2009.

This amendment would add \$1,987,832 to the grant for a new total of \$4,584,909.

The budget period for the grant would remain from March 1, 2016 through February 28, 2017. No local cash match would be required.

RESOLUTION NO. RS2016-296 (PRIDEMORE & GILMORE) – This resolution would approve an amendment to the grant approved by Resolution No. RS2015-54. This approved 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 from the Centers for Disease Control and Prevention that pays the salaries of the Health Department employees who provide these services. These funds are used for HIV prevention, active surveillance of HIV/AIDS cases, diagnostic and treatment services, and disease intervention services.

This amendment would increase the amount of the grant by \$49,000 from the state for a new total of \$995,000. \$473,000 would be received during FY16. The remaining \$522,000 would be received in FY17. The amendment would also replace Section A.2. and C.1. of the original contract and replace them with a new Section A.2., which identifies service definitions.

The term of this grant would remain from January 1, 2016 through December 31, 2016. There would still be no local cash match required.

RESOLUTION NO. RS2016-297 (PRIDEMORE & GILMORE) – This resolution would approve an annual grant in the amount of \$725,200 from the Tennessee Department of Health to the Metro Board of Health to support the delivery of local public health services. The term of the grant is from July 1, 2016, through June 30, 2017.

These grant funds are typically used to pay the salaries and work expenses of Health Department administrative employees.

RESOLUTION NO. RS2016-298 (BEDNE, PRIDEMORE, & ELROD) – This resolution would approve a grant in the amount of \$5,000 from Keep America Beautiful and the UPS Foundation to the Metro Beautification and Environment Commission within the Public Works Department to plant 45 trees along the greenway of the Mill Creek watershed.

This is part of the UPS Foundation's Keep America Beautiful Program, which has a goal of reducing levels of carbon dioxide and greenhouse gas emissions through the strategic planting of trees. This Post-Recovery Tree Planting Grant would pay for planting these trees in the Mill Creek area of Antioch to enhance the health of the Mill Creek watershed.

RESOLUTION NO. RS2016-299 (SLEDGE, ALLEN, & ELROD) – This resolution would authorize Big Machine Label Group, LLC to construct, install, and maintain an aerial encroachment at 1226 17th Avenue South. The encroachment consists of a fiber optic cable encroaching over a public alley to connect properties located at 1225 16th Avenue South and 1226 17th Avenue South.

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

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2016-300 (O'CONNELL, ALLEN, & ELROD) – This resolution would authorize RLCL Acquisition, LLC to construct, install, and maintain an aerial encroachment at 411 Broadway. The encroachment consists of a 4' x 3'3.5" arrow-shaped, double-faced, illuminated, projecting sign.

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 proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2016-301 (O'CONNELL, ALLEN, & ELROD) – This resolution would authorize Ryman Hospitality Properties, Inc. to construct, install, and maintain an aerial encroachment at 120 2nd Avenue North. The encroachment consists of a 2'2" x 5' double-faced, illuminated, projecting sign that would extend 6' from the building.

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 proposal has been approved by the Planning Commission..

RESOLUTION NO. RS2016-302 (O'CONNELL, ALLEN, & ELROD) – This resolution would authorize LIP, Inc., dba Mellow Mushroom, to construct, install, and maintain an aerial encroachment at 212 21st Avenue South. The encroachment consists of a 10' x 4'4.5" double-faced, illuminated, projecting sign.

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 proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2016-303 (O'CONNELL, ALLEN, & ELROD) – This resolution would authorize H&H Nashville, LLC to construct, install, and maintain an aerial encroachment at 135 2nd Avenue North. The encroachment consists of a 156" x 39" double-faced, illuminated, projecting sign, extending 50" from the building. The bottom of the sign would be 21' 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 proposal has been approved by the Planning Commission..

RESOLUTION NO. RS2016-304 (SHULMAN) – This resolution approves the election of 569 Notaries Public in accordance with state law.

– **BILLS ON SECOND READING** –

BILL NO. BL2016-188 (ELROD, COOPER, & OTHERS) – This ordinance would make five changes to Chapter 2.48 of the Metropolitan Code of Laws by adding a new Section 2.483.040 establishing new reporting requirements by the Department of Public Works. The ordinance is modeled after state legislation for managing Tennessee Department of Transportation projects.

Paragraph A would require the Director of Public Works to be responsible for the day-to-day management of the department and to keep a detailed record of all business of the department.

Paragraph B would require a new Projects Report describing each capital project of Public Works. This would include construction and repair of sidewalks, street, bridges, bikeways, pedestrian enhancements, and other such infrastructure improvements that are to be started, completed, or which will be ongoing within the ensuing three (3) years. This report would be submitted annually with each proposed budget to the Council.

Paragraph C would require a Quarterly Report on District Projects to be submitted to each member of the Council, describing the construction or implementation status of each capital project by Public Works with the members' respective districts.

Paragraph D would require the preparation of a proposed annual budget for Public Works that discloses the allocation of all anticipated funds for the ensuing fiscal year for each capital project within the Projects Report. This report would also include what projects would be undertaken in the event additional funds are appropriated or otherwise become available. The Director would be allowed to designate funds for unanticipated projects, provided that advance notice of at least thirty (30) days is submitted to the Council.

Paragraph E would clarify that the requirements of this new Section would not apply to projects, funds, or allocations required for purposes of emergency or disaster response.

The details and costs for implementing these new requirements have not yet been determined.

BILL NO. BL2016-222 (GILMORE) – Section 8.04.020 of the Metro Code of Laws (MCL) currently requires dogs (but not cats) to be vaccinated against rabies, but does not mention a specific required frequency.

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BILL NO. BL2016-222, continued

Section 8.04.030 requires veterinarians to administer these vaccinations according to the standards of the Metro Board of Health. The Board is required to consult with the Davidson County Academy of Veterinary Medicine to determine, among other things, the frequency and method of its administration.

Section 68-8-102 (3) of the Tennessee Code Annotated (TCA) defines the “rabies compendium” as being the most recent issue of the national “Compendium of Animal Rabies Prevention and Control”, published by the Association of State Public Health Veterinarians.

Section 68-8-103 (i) of the TCA says, “Nothing in this section shall be construed to require more frequent rabies vaccinations or a greater number of rabies vaccinations than are required by the rabies compendium.”

The most recent version of the compendium on the NASPHV website was just published last month. Part II of this document makes their recommendations for vaccinations. Paragraph B in this part says, “Any of the listed vaccines can be used for revaccination, even if the product is not the same as the one previously administered.” The list of vaccines shown in Appendix 1 of this document includes several that are good for 3 years.

Based on the above, there is no current regulatory prohibition against increasing the rabies vaccination period for dogs from the current one (1) year to three (3) years. The Health Department is not opposed to the extension of this period.

BILL NO. BL2016-257 (SLEDGE & ALLEN) – This ordinance would make changes to two sections of the Metro Code concerning stop work orders and short-term rental property (STRP) restrictions.

Section 16.04.110 deals with “Noncompliance – Stop work order”. This section currently describes the procedure to follow to issue a stop-work order in cases where work is being performed contrary to the provision of this chapter or in a dangerous or unsafe manner. This ordinance would add instances in which the operation of any building or structure is being conducted contrary to the provisions of Chapter 6.28.030, Section C as being subject to a stop-work order. (This section restricts any person or entity from operating a STRP without a permit.)

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BILL NO. BL2016-257, continued

Section 6.28.030 addresses “Short term rental property (STRP)”. Paragraph R.6.b currently requires a one-year waiting period before any STRP found to have operated without a permit can become eligible for a permit. This ordinance would change the one-year waiting period to three years.

It is anticipated that the sponsor will introduce an amendment clarifying imposition of the fine, and the three-year waiting period penalty, by a court of competent jurisdiction.

BILL NO. BL2016-301 (ALLEN & PARDUE) – This ordinance would approve an agreement between the Nashville Fire Department and Vanderbilt University to provide clinical training for Vanderbilt residents. There is no direct cost to the Metropolitan Government for providing this clinical experience. Vanderbilt would require its participating residents to have the necessary immunizations and health insurance. Vanderbilt would also maintain professional liability insurance for the students.

The term of the agreement is from July 1, 2015 through June 30, 2019, but may be terminated by either party upon thirty (30) days written notice. It should be noted that the previous agreement expired June 30, 2015, but the parties have been in a holdover arrangement since the expiration upon the same terms and conditions.

BILL NO. BL2016-302 (PRIDEMORE, ALLEN, & ELROD) – This ordinance would grant a telecommunications franchise to TN Backhaul Networks, LLC in accordance with the Metro Code. TN Backhaul Networks, LLC would have a fifteen (15) year franchise and would be required to pay a fee of 5% of gross revenues each year as a reasonable estimate of Metro’s costs associated with owning, maintaining, and managing the public right-of-way being used by the company.

Section 6.26.030.B.5 of the Metro Code of Laws (MCL) provides a unique process for approving fiber optic communications services franchises, including a “full public proceeding” in which the grantee’s “legal, character, financial, technical and other qualifications” are reviewed. Revisions to that process are currently pending by the sponsors in separate legislation, pursuant to ordinance No. BL2016-310. Current Code provisions, however, will apply to this franchise review.

Section 6.26.240 of the MCL currently defines 5% of gross revenues as the required amount of compensation that is to be paid to Metro for fiber optic communications service franchises.

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BILL NO. BL2016-302, continued

However, the franchise agreement under consideration recognizes that this requirement may be changed in the future. If that happens, TN Backhaul Networks, LLC agrees they shall thereafter pay the new fee so specified.

The company has posted the required bond in the amount of \$500,000 guaranteeing the company's performance of its obligations under the franchise, as well as a certificate of liability insurance naming the Metropolitan Government as additional insured in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for general liability.

The application for this franchise has been submitted, but not yet approved, by the Planning Commission. It is on the agenda for their meeting on July 28, 2016. It is therefore anticipated that the sponsors will defer second reading of this ordinance.

BILL NO. BL2016-303 (O'CONNELL, ALLEN, & ELROD) – This ordinance would abandon an existing sewer main and easement and accept new sewer mains for property located at 12th Avenue North and Broadway.

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

– **BILLS ON THIRD READING** –

BILL NO. BL2016-223 (PRIDEMORE) – Section 55-8-153(c) of the Tennessee Code Annotated (TCA) gives Metro the authority to prescribe lower speed limits within certain areas or zones, or on designated highways, avenues, or streets that are not designated as state highways.

This ordinance, as amended, would add Section 12.20.080 to the Metro Code of Laws (MCL). This would set a speed limit of 15 miles per hour in any construction or demolition site which meets the MCL definition of a “major project” and which is located within one hundred (100) linear feet of a public road or street.

Sections D and E of MCL Section 16.28.235 would be replaced and a new Section F added. These would add the requirement for speed limit signs to be posted at these sites along with project information signs. These would be required to be in place at least twenty-four (24) hours prior to the commencement of any construction or demolition activity. The signs would be required to remain at the site until all work is completed. As previously amended, the ordinance would require such signs to comply with the Manual for Uniform Traffic Control Devices.

BILL NO. BL2016-234 (BEDNE, VERCHER, & OTHERS) – This ordinance, as substituted, would allow the Director of the Metro Health Department – the department tasked with the enforcement of local air pollution regulations – to request information from applicants for construction permits of equipment or facilities that are a source of air contaminant emissions. The director would be permitted to request information necessary to determine whether the source would operate in violation of Metro Code air pollution regulations or prevent attainment or maintenance of national air quality standards. If the facility constitutes a “major source”, as defined under Section 10.56.010, the information sought may include source impact analysis and air quality analysis.

Most significantly, the substitute ordinance would require all new sources of emissions to comply “with the Metropolitan Zoning Code for the use of the property” on which the source would be constructed. This legislation follows adoption of Ordinance No. BL2015-1210, enacted by the Metro Council in August, 2015, which established “natural gas compressor station” as a use permitted only in industrial zoning districts. Accordingly, in the case of gas compressor stations, the proposed ordinance would have the effect of requiring compliance with zoning provisions as part of Metro’s air pollution regulations. It is anticipated that the sponsors will propose a second substitute confirming that zoning compliance will not apply to existing facilities (legal non-conforming uses), pursuant to Tenn. Code Ann. §13-7-208.

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BILL NO. BL2016-234, continued

Under the Clean Air Act (CAA), individual states are authorized to establish their own air quality regulations, consistent with the national standards promulgated by the Environmental Protection Agency (EPA) -- an approach described as "an exercise in cooperative federalism." States wishing to regulate their own air quality must first adopt a "state implementation plan" (SIP) that sets forth its air quality standards, subject to approval by the EPA. Tennessee has adopted a SIP which explicitly references Chapter 10.56 of the Metro Code. As currently drafted, that Chapter includes no zoning component, but the proposed substitute ordinance seeks to include zoning compliance as a requirement.

The substitute ordinance raises issues of federal preemption. In 1938, Congress enacted the Natural Gas Act (NGA) for the principal purpose of "encourag[ing] the orderly development of plentiful supplies of...natural gas supplies at reasonable prices." Generally, federal law prohibits local governments from regulating natural gas facilities which serve gas pipelines traversing state lines. Consistent with this principle of preemption, the NGA vests the Federal Energy Regulatory Commission (FERC) with "exclusive jurisdiction" over the transportation of natural gas in interstate commerce. However, the Commission's power to preempt state and local law is restricted by the NGA's "savings clause", which saves the "rights of states" from preemption under the Clean Air Act. While Congress intended to occupy the field -- to the exclusion of state law -- by establishing a "comprehensive scheme of federal regulation of all wholesales of natural gas in interstate commerce", it expressly spared states' CAA powers from preemption. Simply put, air quality regulations that are part of a state's SIP are not preempted, unless the NGA states otherwise. The proposed ordinance reflects an attempt to amend this portion of Tennessee's SIP for Davidson County.

Just as individual states are allowed under the CAA to administer regulations equivalent to the EPA, the CAA further permits states to delegate to local authorities the authority to administer local air pollution control programs. To do so, local authorities must file an application with the state's Air Pollution Control Board, whereupon the Board issues a "certificate of exemption". Currently, four counties in Tennessee -- including Davidson County -- do so.

If this ordinance is passed, subsequent approval by the state's Air Pollution Control Board would be required for inclusion within the SIP. If approved, the amended SIP must then be submitted to the EPA for approval. The amendment would not be federally enforceable until those two steps were completed.

BILL NO. BL2016-240 (ELROD) – Chapter 13.20 of the Metro Code currently requires anyone who excavates or obstructs the right-of-way for construction or other purposes to obtain a permit from the Department of Public Works.

This ordinance would add a new requirement within Subsection C of Section 11.20.30 to require the Director of Public Works to adopt rules and standards for “safe accommodation for cyclists and pedestrians, including accessibility for disabled persons” before such permits can be issued. If a permit has a duration exceeding twenty (20) days, the applicant would be required to submit a temporary traffic control plan to the Director.

BILL NO. BL2016-258 (O’CONNELL, PRIDEMORE, ALLEN) – Ordinance No. BL2014-752 declared the old Ben West Library building located at 225 Polk Avenue to be surplus, and authorized the Director of Public Property Administration to sell the property in accordance with the standard procedures for the disposition of surplus property.

The 0.73-acre Ben West library property located at Eighth Avenue and Union Street was donated to the Carnegie Library of Nashville in 1902 by J. Craig McClanahan and his wife, Katherine B. McClanahan. The Carnegie Library of Nashville was a nonprofit corporation created to build a downtown library as a result of a \$100,000 donation from Andrew Carnegie. The property was deeded to the City of Nashville in 1959, and served as the site of the main public library until June, 2001. A small collection of books was kept in the basement of the building from mid-2003 through September, 2006 while it served as the temporary City Hall during the renovation of the courthouse. The building has not been in active use since 2006.

The 1902 deed includes a provision requiring the property to be used for a library. Specifically, the deed states that the right of title in the property will cease and the property will revert to the heirs of the grantor in the event Carnegie Library or its successors in ownership “fail to maintain perpetually upon said property a free public library for the use of the people of Nashville.” The Metropolitan Government reached an agreement with the McClanahan heirs regarding the disposition of the property, who likely have a valid partial ownership interest.

The Metropolitan Development and Housing Agency (MDHA) issued a request for proposals (RFP) to developers to bid on the property for the purposes of redeveloping the site. The RFP included a requirement that the historically significant portions of the building be preserved as part of the redevelopment.

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BILL NO. BL2016-258, continued

The Tennessee Education Association (TEA) submitted a proposal for preservation of the building's historical elements and for restoration of the property as its headquarters. The property would also be used for certain conference, public functions, and school functions. The anticipated improvements to the property would be approximately \$8,500,000.

The TEA proposal provides for payments to Metro totaling \$2,000,000. This would consist of \$750,000 at closing and ten (10) subsequent annual payments of \$125,000. Metro would still be allowed to use the property rent-free up to twelve (12) times per year. The Metro Board of Education would also be allowed to use the property up to fifty (50) times per year for meetings and events. TEA has estimated that the total benefit for the use of the property to Metro and the Board of Education would be approximately \$5,000,000.

This ordinance would authorize the Director of Public Property Administration (MDHA) to execute the agreement as attached to the ordinance and convey Metro's interest in this property to MDHA for further conveyance to TEA. This would facilitate the Redevelopment Project by TEA in accordance with the Capitol Mall Redevelopment Plan.

BILL NO. BL2016-259 (SHULMAN, ELROD) – This ordinance would add a requirement that the Metropolitan Transit Authority (MTA) submit a comprehensive mass transit plan for Nashville and Davidson County to the Council, including funding options and a proposed timeline for implementation, no later than December 31, 2016. Based upon their current schedule, a mass transit plan will come before the MTA Board in September, 2016 for consideration.

BILL NO. BL2016-260 (SHULMAN) – This ordinance readopts the Metro Code prepared by Municipal Code Corporation to include supplemental and replacement pages for ordinances enacted on or before April 20, 2016. This is a routine re-adoption to ensure the Metro Code is kept up to date.

BILL NO. BL2016-261 (SYRACUSE, ALLEN, ELROD) – This ordinance would abandon an existing sewer main and easement and accept one new sewer manhole assembly and easement for property located at 420 Donelson Pike.

This was approved by the Planning Commission on May 10, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-262 (MINA JOHNSON, ALLEN, ELROD) – This ordinance would abandon existing sewer main and easement and accept new sewer main and easement for properties located at 800 and 802 Marquette Drive.

This was approved by the Planning Commission on April 22, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-263 (O'CONNELL, ELROD, ALLEN) – This ordinance would abandon easement rights that were previously retained by Council Ordinance No. BL2015-1020 within the right-of-way of Alley No. 160 for properties located at 710 and 706 Division Street. These are no longer needed by Metro for any purpose.

This ordinance was approved by the Planning Commission on April 22, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-264 (SLEDGE, PRIDEMORE, ELROD) – This ordinance would approve the plan for Metro Water and Sewerage Services to participate with Eugene H. Nelson for the construction of 700 lineal feet of an eight-inch water main in Elliott Avenue from Bradford Avenue to the entrance of the proposed Nelson development site.

Nelson will contract and oversee the actual construction of the water main in compliance with all Metro requirements and specifications. Metro will be responsible for the ongoing operation and maintenance of the water main.

Metro would pay the lessor of 50% of the actual project costs or \$100,000 as a contribution toward these improvements. This would be paid from Water and Sewerage Service's capital project fund (#47410). This agreement would be null and void if the improvements are not operational by December 31, 2017.