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: **February 7, 2017**

RE: **Analysis and Fiscal Notes**

Unaudited Fund Balances as of 2/1/17:

4% Reserve Fund	$32,237,877*
Metro Self Insured Liability Claims	$5,304,642
Judgments & Losses	$3,086,260
Schools Self Insured Liability Claims	$3,774,217
Self-Insured Property Loss Aggregate	$6,919,647
Employee Blanket Bond Claims	$664,796
Police Professional Liability Claims	$2,438,001
Death Benefit	$1,387,451

*This assumes unrealized estimated revenues in Fiscal Year 2017 of $16,856,711.

Note: No fiscal note is included for any legislation without significant financial impact.

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTION NO. RS2017-503 (MURPHY) and
RESOLUTION NO. RS2017-535 (HASTINGS) – These two resolutions would approve an exemption from the minimum distance requirements for obtaining a beer permit for (1) Answer Restaurant, located at 132 46th Avenue North, and (2) Quality Exports Bills Hot Chicken, located at 4228 Ashland City Highway, respectively.

The Metro Code of Laws prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one- or two-family residence. However, several exceptions exist to the distance requirements. Facilities within the USD separated from these protected establishments by state or federal four-lane highways are exempt, as are retailer on-sale beer permit holders in MUL districts and events catered by holders of caterers' permits. (*See*, Code section 7.08.090(A)). Additionally, the Code provides a mechanism to exempt (*a*) restaurants or (*b*) any retail food store from Metro's minimum distance requirements, allowing each to obtain a beer permit upon the adoption of a resolution by the Council. (*See*, Code Section 7.08.090(E)). (Until recently, this Code section further required restaurants to have state on-premises liquor consumption licenses to obtain such exemption. But Ordinance No. BL2016-454, which was passed November 15, 2016, eliminated this requirement.)

A public hearing must be held by the Council prior to voting on resolutions brought under section 7.08.090(E).

– ORDINANCES ON PUBLIC HEARING –

BILL NO. BL2016-491 (DOWELL, COLEMAN) – Section 17.12.020 of the Metro Code of Laws (MCL) defines "District Bulk Tables", establishing standards for the size and placement of structures within zoning classifications, including minimum requirements for glazing (window installation).

Subsection 17.12.020A lists the bulk requirements for one- and two-family dwellings in residential districts. The ordinance under consideration would add a note to this subsection that would require building facades fronting a street to provide a minimum of one principal entrance (doorway) and a minimum of 25% glazing. This requirement would apply in residential districts zoned RS3.75-A, RS3.75, RS5-A, RS5, RS7.5-A, RS7.5, R6-A, R6, R8-A, R8, R10, RS10, R15, and RS15.

SUBSTITUTE BILL NO. BL2016-493 (HENDERSON, O'CONNELL, & OTHERS) – Chapters 17.04, 17.20, and 17.40 of the Metro Code of Laws (MCL) currently detail the requirements for the provision of sidewalks within Metro. The ordinance under consideration would amend these Code sections to support access to and use of Nashville's transit system. It would close a loophole wherein single- and two-family infill development on major and collector streets and on neighborhood streets is not required to install sidewalk infrastructure. It would also reduce instances where "in-lieu" payments may be applied and require more physical construction of sidewalks throughout the city as development occurs.

The language being changed would expand sidewalk installation in the USD for multifamily and nonresidential uses and removes triggers such as percentage of expansion, percentage of value of expansion, and references to a sidewalk priority index. This would apply on a street in the Major and Collector Street Plan (MCSP) and/or within one-quarter mile of a "center" designated in the General Plan.

The ordinance would also bring additional, improved infrastructure to more suburban areas outside of the downtown core and close a loophole where no infrastructure improvements are typically required for infill single and two-family construction. This would apply within the UZO, on a street within the MCSP, and/or within a quarter-mile of a center designated in the General Plan.

Under the current language, in-lieu payments are allowed unless there is an existing sidewalk network adjacent to the site or on the same block face. These payments would be applied to the same pedestrian benefit zone, which could be miles away from the location of the actual new construction. The possibility of these payments would be significantly reduced.

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BILL NO. BL2016-493, continued

In addition to the above, the proposed ordinance would add a requirement that in instances when one chooses to pay an in-lieu fee, he/she still has to dedicate right-of-way to accommodate future sidewalk installation along a site's frontage. This would eliminate the need for Metro to purchase easements for future sidewalk improvement projects.

A requirement would also be added that if one seeks a variance from sidewalk improvements from the Board of Zoning Appeals, the Planning Department must make a recommendation on whether the variance is justified or whether there are potential alternative designs that could result in installation of public sidewalk benefitting the community.

Finally, obstructions would be prohibited within the required sidewalks, but may be located within a grass strip or frontage zone. Existing obstructions would be relocated.

The Planning Commission deferred consideration of this ordinance until the February 23, 2017 Planning Commission meeting, at the request of the applicant.

Fiscal Note: Although approval of this ordinance would be likely to result in a reduction in the amount of "in-lieu" payments that would be received from developers, it would be speculative to estimate the amount of this reduction.

BILL NO. BL2016-513 (WEINER, ELROD & ALLEN) – This ordinance would make multiple changes to Title 15 and 17 of the Metro Code of Laws (MCL) concerning stormwater. Responsibility for stormwater management was moved from Public Works (PW) to the Department of Water and Sewerage Services (DWSS) per Resolution No. RS2012-277 as approved by public referendum.

The ordinance under consideration would make changes to MCL sections as follows:

Section 15.64.010 – The definition of several new terms would be added, such as "Base Flood", "Base Flood Elevation", "Community Waters", "Discharge", "Infill (regulated residential)", "Qualified Control Structure", etc.

Section 15.64.015 – This would eliminate the present sentence at the end of the section that identifies stormwater authority as being with PW instead of MWSS.

Section 15.64.020 – This would change the existing reference from "Director of Public Works" to "Director of the Department of Water and Sewerage Services".

Section 15.64.030 – The reference to the Codes Department would be eliminated.

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BILL NO. BL2016-513, continued

Section 15.64.032, Subsection A – The existing stormwater fee definitions would be eliminated.

Section 15.64.032, Subsection C(1) – This would change the agricultural exemption definitions by changing the zoning references to the definition of a "qualified farmer or nurseryman".

Section 15.64.032 Subsection C(4) – This would remove the reference to Lakewood in the list of satellite cities.

Section 15.64.032, Subsection D(3) – This would remove the requirement to post proposed regulations in "a newspaper of general circulation."

Section 15.64.032, Subsection F – This section of required reports would be deleted.

Section 15.64.032, Subsection J – This would remove the requirement to post proposed regulations in "a newspaper of general circulation."

Section 15.64.034 – This would revise the list of items that would be required to be included in the annual written report from the Director of DWSS to the Council.

Section 15.64.080 – This would add "variance requests" to the list of items that may be considered by the Stormwater Management Committee.

Section 15.64.100 – This would add "variance requests" to the list of items that may be appealed. The procedure to be followed by the Committee would also be updated to reflect the new process.

Section 15.64.110, Subsection C – This would add the requirement that no building permit could be issued until the grading permit is issued.

Section 15.64.110, Subsection E – This new subsection would add requirements for the issuance of grading permits.

Section 15.64.130, Subsection (B)(1) – This definition for commercial or industrial development would change "Adds less than ten thousand square feet of impervious surface" to say "Disturbs less than ten thousand square feet."

Section 15.64.140, Subsection A – This would establish new requirements for persons responsible for grading and drainage plans for new developments.

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BILL NO. BL2016-513, continued

Section 15.64.140, Subsection B – This would establish new requirements for overall property development grading and drainage plans.

Section 15.64.150 – This would change the heading and requirements of the Tennessee Water Quality Control Act and Federal Water Pollution Control Act.

Section 15.64.160, Subsection A – This would correct the MCL reference from "Chapter 17.136" to "Chapter 17.36".

Section 15.64.160, Subsection B – This would be deleted in its entirety.

Section 15.64.180, Subsection A – This would update the requirements for the construction of a levee, earth fill, building, or other structure that alters the floodplain area.

Section 15.64.180, Subsection A(1) and A(2) – This would define the minimum floor elevation of any structure as being at least one foot above the base flood elevation.

Section 15.64.195 – This would be deleted in its entirety.

Section 15.64.205, Subsection A – This would be deleted in its entirety.

Section 15.64.205, Subsection D – This would detail the authority of the Director of DWSS, with the approval of the Mayor, to implement these regulations.

Section 15.64.205, Subsection E – This would add the requirement that discharges with valid NPDES permits must still meet the pollutant parameters in order not to be prohibited by this section.

Section 15.64.205, Subsection G - This would be deleted in its entirety.

Section 15.64.215 – This would update the methods to be used by the DWSS to develop a schedule of charges for services provided per this section.

Section 15.64.220, Subsection A – This would establish punishment by an administrative penalty "in an amount authorized by state law" in place of the current reference to fifty dollars per day.

Section 15.64.220, Subsection B – This would change references of a "civil penalty" to an "administrative penalty."

Section 17.28.040, Subsection A – This would be deleted in its entirety.

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BILL NO. BL2016-513, continued

Section 17.28.040, Subsection C – This would be deleted in its entirety.

Section 17.28.040, Subsection D – This would expand the requirements to maintain the eligibility of the National Flood Insurance Program to include all requirements of Section 15.64 of the MCL.

Section 17.28.040, Subsection E – This would be deleted in its entirety.

Section 17.28.040, Subsection F – This would replace the reference from the "Department of Public Works" to the "Department of Water and Sewerage Services."

Section 17.36.210 – This would remove "An Ordinance" from the title of Chapter 15.64.

Section 17.36.220 – This would change the reference from a report to the "Stormwater Management Appeals Board" to the "Stormwater Management Committee."

The Planning Commission approved this ordinance with an amendment at the December 8, 2016 Planning Commission meeting.

BILL NO. BL2017-559 (HASTINGS) – Section 17.40.060 of the Metro Code of Laws (MCL) concerns applications to the Planning Commission to amend the official zoning map. Subsection A provides, in part, that applications to amend the zoning map may be initiated by the property owner, the Metropolitan Planning Commission, or a member of Metro Council.

Subsection B specifies that amendments to the official zoning map for property owned by the Metropolitan Government may only be initiated by the Mayor, the head of the department or agency to which the property is assigned, or by the Director of Public Property Administration. The ordinance under consideration would expand that list by specifying that a member of the Council may also initiate applications regarding Metro-owned property.

– RESOLUTIONS –

RESOLUTION NO. RS2017-519 (ALLEN, SLEDGE, & OTHERS) – This resolution would approve a contract between Metro and Host Compliance, LLC to provide services related to short-term rental permitting and tax collection.

On January 19, 2017, at a special called meeting of the Codes, Fair & Farmer's Market Committee, the Director of Finance announced that the proposed contract was being withdrawn and a competitive Request for Proposals (RFP) would instead be submitted. The Council Office is advised that RS2017-519 will therefore be withdrawn.

RESOLUTION NO. RS2017-536 (COOPER, ALLEN, & OTHERS) – Section 7-3-314 of the Tennessee Code Annotated (TCA) authorizes Metro to provide financial assistance to nonprofit organizations. In addition, Section 5.04.070 of the Metro Code of Laws (MCL) provides that the Council may appropriate funds for the financial aid of nonprofit organizations by resolution.

The proposed grant contracts for these appropriations are attached as Exhibit A through C of the resolution. The term of the grant contracts is defined as being from the date of execution of the grant agreement until completion of the project, but not for longer than 24 months.

Fiscal Note: The Metropolitan Housing Trust Fund Commission has accepted the recommendations of the Barnes Fund Review Committee concerning appropriations to three nonprofit organizations. The resolution now under consideration would appropriate the following amounts:

- *$4,579,110 to Urban Housing Solutions, Inc.;*
- *$3,500,000 to Woodbine Community Organization; and*
- *$260,291 to Dismas, Inc.*

RESOLUTION NO. RS2017-537 (COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-538 (COOPER, GILMORE, & HURT) – This resolution would appropriate a total of $16 million dollars from the undesignated fund balance of the General Fund of the General Services District to the Hospital Authority.

Exhibit A of the resolution is a copy of the letter sent by the Hospital Authority on January 3, 2017 to request this supplemental appropriation. Therein, the Hospital Authority summarized the

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RESOLUTION NO. RS 2017-538, continued

reasons for their most recent shortfall, and submitted a listing of broad strategies intended to improve their financial standing.

To address an estimated income shortfall of $9 million dollars and a cash outflow overage of $5.6 million dollars, the sum of $2 million dollars would be disbursed for use of the Hospital Authority within three business days upon adoption of this resolution. The remaining $14 million dollars would be made available throughout the remainder of the fiscal year. Of that sum, $10.5 million dollars would be considered Operating Disbursements. Current financial information would be required to be provided by the Hospital Authority for each disbursement request from this $10.5 million dollars.

$3.5 million dollars would be held as a contingency. Language in the resolution states that this would be disbursed "only if the Initial and Operating Disbursements have been exhausted and the Hospital Authority demonstrates to the satisfaction of the Metropolitan Director of Finance that such disbursements are for Nashville General Hospital needs that reasonably could not have been anticipated at the time of the adoption of this resolution."

Functionally, there is little practical difference between these Operating Disbursements and Contingency Disbursements. In both cases, supporting financial information is required to be provided by the Hospital Authority to the Finance Department. No additional action by the Council would be required for the disbursement of any portion of the overall $16 million dollars being appropriated by this resolution.

In the audit report from Crosslin Certified Public Accountants provided to the Council, General Hospital is referred to as a "going concern" -- in part because Metro "has a history of providing funding sufficient to support the continuing operation". For FY16, the subsidy by Metro accounted for 95.57% of General Hospital's net revenue. In its most recent meeting with the Council, the Hospital Authority outlined broad strategies for eliminating or reducing the need for future additional subsidies.

Fiscal Note: According to the policy approved by the Council in 1989 and by OMB in 2005, the minimum fund balance percentage should be no lower than 5.0% of the operating budget.

Metro's approved FY17 budget for the GSD General Fund originally estimated the fund balance would be $67,224,600 by the end of the year, which would be 7.4% of the operational budget. If this supplemental appropriation is approved, this would drop to approximately 5.6%.

If the supplemental appropriation for the Knowles Home is also approved per Resolution No. RS2017-538, rounding would still cause the fund balance at the end of the year to be approximately 5.6%.

RESOLUTION NO. RS2017-539 (LEONARDO, COOPER, & GILMORE) – This resolution would appropriate a total of $540,000 from the undesignated fund balance of the General Fund of the General Services District for the costs and expenses associated with the operation of the J.B. Knowles Home Assisted Living Facility. This appropriation follows the failure of Autumn Hills Assisted Living Partners to comply with previous agreements with Metro for the operation of the facility. On January 30, 2017, it was announced that a turnaround management company – AnthemCare Management, LLC – would operate the facility under a short-term emergency contract.

The Metropolitan Nashville Office of Internal Audit, under the oversight of the Metropolitan Nashville Audit Committee, has announced that it is conducting a performance and financial audit of matters stemming from the lease and purchase agreement with Autumn Assisted Living Partners, Inc., agreement for additional services with Autumn Assisted Living Partners, Inc. and the purchase agreement with Vision Real Estate Investment Corporation.

The resolution specifies the appropriation should be made to Business Unit No. 01101432 (ADM Subsidy BLTC Mgmt. Contract), which is incorrect. The appropriation should go to Business Unit No. 01101433 (ADM Knowles Home Mgmt. Contract).

Fiscal Note: According to the policy approved by the Council in 1989 and by OMB in 2005, the minimum fund balance percentage should be no lower than 5.0% of the operating budget.

Metro's approved FY17 budget for the GSD General Fund originally estimated the fund balance would be $67,224,600 by the end of the year, which would be 7.4% of the operational budget. If this supplemental appropriation is approved, this would drop to approximately 7.3%.

If the additional appropriation for the General Hospital is also approved per Resolution No. RS2017-538, the fund balance at the end of the year would be approximately 5.6%.

RESOLUTION NO. RS2017-540 (COOPER & GILMORE) – Section 8.04.130(A) of the Metro Code of Laws (MCL) gives authority to the Metro Board of Health to set fee schedules related to animal control, authorized by a resolution of the Council. The Board has now approved revisions to the current fee schedule for ancillary services performed at Metro Animal Care and Control (MACC).

The fees shown on the fee schedule submitted for approval in this resolution are not actually different from the current fees. The formality of this change is necessary because of changes approved by Ordinance No. BL2016-222 on July 19, 2016. That ordinance revised the duration

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RESOLUTION NO. RS 2017-540, continued

of required rabies vaccinations for dogs and the related labeling of immunity periods, and further required notice of license expiration and the provision of low-cost rabies vaccine clinics by the Metro Public Health Department.

The revised fee schedule would simply specify that the $6 fee for a license is $6 per year, equating to $18 for a three-year license. Per MCL section 8.04.130.A, these revised fees must be approved by Council resolution to become effective.

Fiscal Note: The timing of the license fees being received would probably cause a short-term effect on license revenues being received. The pattern of $18 in the first year of a license term rather than $6 per year for three years would probably result in a short-term increase in revenues.

However, this difference would be likely to dissipate over time. There would probably be an additional difference caused by some people choosing to avoid licensing their dogs due to the initial $18 fee rather than $6. It would be speculative to estimate this difference, but it should probably be small.

RESOLUTION NO. RS2017-541 (COOPER & GILMORE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-542 (COOPER & GILMORE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-543 (HASTINGS, COOPER, & PARDUE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-544 (KINDALL, COOPER, & PARDUE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-545 (HENDERSON, COOPER, & ALLEN) – The construction of the Warner Park pedestrian tunnel is part of the Warner Park Trails Linkage Improvement project, originally approved per Resolution No. RS2011-1520 on January 18, 2011. The overall project includes construction of a 10-foot wide asphalt trail, pedestrian tunnel, retaining wall, ADA accessibility, landscaping, and pedestrian amenities. The total projected cost of the project

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RESOLUTION NO. RS 2017-545, continued

was initially estimated at $1,565,339.75. The Tennessee Department of Transportation (TDOT) agreed to reimburse Metro $1,252,271.80, or 80% of the total construction costs. Metro was to be responsible for paying the remaining cost of $313,067.95.

Ordinance No. BL2015-65 was approved on December 15, 2015 to authorize Metro to reimburse CSXT for its construction engineering, inspection, and flagging costs for the construction of the tunnel, estimated to be $208,459. It is intended that all work by CSXT or on CSXT property be completed no later than December 31, 2016.

The resolution now under consideration would amend the agreement with CSXT to allow Metro to make improvements to the rail crossing to finish the project. A new "Private Crossing Agreement" is attached to the resolution to allow these improvements. This will authorize Metro to widen and restore the existing private crossing which extends across one (1) track and the rail corridor owned by CSXT.

This resolution was approved by the Planning Commission on December 20, 2016.

Future amendments to this agreement may be approved by resolution.

Fiscal note: Metro would be required to pay an annual replacement fee of One Thousand One Hundred Twenty Dollars ($1,120.00) to CSXT. This fee may be increased in future years based upon percentage changes in the Consumer Price Index.

The construction costs to widen the crossing are included within the overall project cost to construct this tunnel. No additional appropriation would be required.

RESOLUTION NO. RS2017-546 (HENDERSON & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-547 (SLEDGE, HENDERSON, & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-548 (DOWELL, COOPER, & OTHERS) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Department of Public Works for the acceptance of preliminary engineering work in connection with the construction of the Interchange Modification on I-24 East at Hickory Hollow Parkway.

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RESOLUTION NO. RS 2017-548, continued

This is a companion piece of legislation to Ordinance No. BL2017-565, which is being considered on second reading. That ordinance would approve a participation agreement between Metro and Century Farms LLC for the construction of two phases of construction of the I-24 Interchange at Hickory Hollow Parkway.

Metro must agree to cover 100 percent of the costs of these first two phases. However, Century Farms has agreed to pay these costs per the terms of this separate ordinance. In addition to the payment guarantee, the terms of the proposed intergovernmental agreement calls for Metro to cooperate with TDOT as required by the project plans.

This has been approved by the Planning Commission.

Fiscal Note: Although Metro must guarantee payment of the $2,005,000 cost for the first two phases of this construction project, this will actually be paid by Century Farms under the agreement being approved per Ordinance No. BL2017-565. As a result of these companion items, the net expense to Metro is essentially zero.

RESOLUTION NO. RS2017-549 (ELROD, BLALOCK, & OTHERS) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Department of Public Works for the acceptance of traffic signal improvements in connection with construction at S.R. 11, Nolensville Pike, at the intersection of Harding Place, from Edmondson Pike to Paragon Mills Road (RSAR).

This resolution has been approved by the Planning Commission.

Fiscal Note: Metro will not be responsible for any of the costs of this project. Metro would only be responsible for the ongoing maintenance costs of the new signals.

RESOLUTION NO. RS2017-550 (O'CONNELL, ELROD, & ALLEN) - This resolution would authorize Zen Enterprises, LLC, dba TRIBE and Suzy Wong's House of Yum to construct, install, and maintain an aerial encroachment at 1515 Church Street. The encroachment consists of one 36" x 36" double-faced, non-illuminated projecting sign.

Pursuant to section 13.08.030 of the Metropolitan Code of Laws, the construction of the encroachment is subject to the requirements, direction and approval of the director of public works. The entity requesting the encroachment must provide a liability insurance policy to save the metropolitan government harmless from all claims for damages that may result by reason of the construction, operation or maintenance of the encroachment.

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2017-551 (O'CONNELL, ELROD, & ALLEN) - This resolution would authorize Broadway Hotel, LLC, dba Moxy, to construct, install, and maintain aerial encroachments at 110 3rd Avenue South and 215 Broadway. The encroachment consists of one entrance canopy and one illuminated sign at 110 3rd Avenue South and one entrance canopy at 215 Broadway.

Pursuant to section 13.08.030 of the Metropolitan Code of Laws, the construction of the encroachment is subject to the requirements, direction and approval of the director of public works. The entity requesting the encroachment must provide a liability insurance policy to save the metropolitan government harmless from all claims for damages that may result by reason of the construction, operation or maintenance of the encroachment.

This proposal has been approved by the Planning Commission.

– ORDINANCES ON SECOND READING –

BILL NO. BL2016-484 (LEONARDO, ELROD, & M. JOHNSON) – Section 68-211-707 of the Tennessee Code Annotated (TCA) permits local government legislative bodies to require local approval of landfills, solid waste disposal facilities and solid waste processing facilities prior to the construction of such facilities and prior to the issuance of a permit by the Tennessee Department of Environment and Conservation (TDEC) or the Commissioner. This is commonly known as the "Jackson Law". The ordinance under consideration would apply the requirements of the Jackson law to the proposed construction of landfills, solid waste disposal facilities, and solid waste processing facilities in Davidson County.

Pursuant to the Metro Code of Laws (MCL), requests for special exceptions are heard by the Board of Zoning Appeals. (MCL §17.40.280). But this Code section further requires prior Council approval of the specific location for sanitary landfills, asphalt plants, waste transfer facilities, airport runways, and hazardous operation and wastewater treatment facilities prior to the public hearing before the BZA. (MCL § 17.40.280). However, TCA §§ 68-211-703 and -704 provide itemized evaluation criteria for the approval or disapproval of proposed new construction by the Council, as well as specific provisions for notice, written comments and hearings -- arguably establishing a heightened threshold for evaluation. Moreover, the Code requirement for Council approval of these special exception requests is subject to waiver in the event the Council fails to approve or disapprove a requested location within 60 days. (MCL § 17.40.280). But it must be noted that whether "the specific location of a sanitary landfill" (MCL § 17.40.280) provides for something separate from "the plans" for new landfills. (Tenn. Code Ann. § 68-211-701) has not been specifically addressed by any court.

At the Public Works committee meeting of January 3, 2017, research requests were submitted to determine whether only portions of the Jackson Law could be adopted, and whether adoption would preempt Metro's current zoning mechanism under MCL § 17.40.280. While there is no authority directly addressing either issue, it appears likely that the Jackson Law must be adopted as a whole, and that Metro cannot adopt the Jackson Law as an additional mechanism while keeping its current zoning ordinance in place.

The plain language of Tenn. Code Ann. § 68-211-707 notes that §§ 68-211-701 through -704 require a two-thirds majority to pass, and later refers to counties or municipalities who have approved "this part." This language suggests that "this part" is meant to be adopted as a whole. Each section prescribes a step-by-step process to be taken in sequence. Specifically, §68-211-701 discusses the general outline of the Jackson Law, including the submission and approval of the plans of a landfill by the appropriate legislative body. Subsection 701(c) notes that after submission, there must be public notice and a public hearing before the legislative body

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approves or disapproves of the plans. Section 703 outlines in detail the requirements of the public notice and comment period. Section 704 outlines the specific criteria for evaluating the plans of the landfill that "shall" be considered before a legislative body approves of those plans.

Generally, local governments may act only in strict compliance with the express authority provided by a statute. Any doubt as to the existence of a] power is typically resolved by the courts against the municipality. *Arnwine v. Union Cnty. Bd. of Educ.*, 120 S.W.3d 804, 808 (Tenn. 2003). Because the Jackson Law statute does not explicitly state that municipalities are allowed to adopt it in portions, doing so would likely be construed as an expansion of the power granted to the municipality. Predictably, there is no evidence that any other counties or cities in Tennessee have adopted the Jackson Law only in part. (This is not to say, however, that the Council could not amend section 17.40.280 or other sections of the Code to add provisions regarding landfills.)

The possibility of adopting the Jackson Law while simultaneously maintaining current Mero Code provisions for the approval of the specific location of a landfill (17.40.280) is likewise remote. Available authority suggests that the Metro Code section would be preempted by the Jackson Law.

An Attorney General Opinion issued in 2009 opined that a private act allowing Warren County to issue variances for landfills violated the Jackson Law because the provisions of the private act were inconsistent with the general law. *Op. Tenn. Att'y Gen. 09-127*, at *2. The opinion referenced "the uniform approach intended by the General Assembly when it passed the Jackson Law." *Id*. at 3.

A second Attorney General opinion construed a Lewis County private act prohibiting construction of certain types of solid waste disposal or processing facilities. *Op. Tenn. Att'y Gen. 09-12*. The AG determined that this legislation would contravene the Jackson Law, stating in part that "[u]nder the Jackson Law, a local legislative body must approve or disapprove of a proposed new solid waste landfill based solely on specific criteria in the statute. Tenn. Code Ann. § 68-211-704." [emphasis added] *Id*. at 2. It should be noted that this contention is not supported by the plain language of Sec. 68-211-704, which states only that the enumerated criteria "shall be considered" in evaluating the construction of a facility. In context, it appears the statement was intended to convey only that a private act banning certain landfills is not supported by the text of the legislation. But a further indication that

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BILL NO. BL2016-484, continued

preemption would be likely stems from what was previously amended out of the Jackson Law. The original 1989 provision included Sec. 68-211-705 stating:

> (a) The provisions of this act shall not be construed to preempt any zoning ordinance or plan adopted, in accordance with the provisions of Tennessee Code Annotated, Title 13, Chapter 7, on or after October 1, 1988, but shall be in addition to any such ordinance or plan to the extent that the provisions of this act do not conflict with any such ordinance or plan.
> (b) The provisions of this act shall not apply to any county which has implemented any zoning ordinance or plan before October 1, 1988. (Emphasis added.)

1989 Tenn. ALS 515, 1989 Tenn. Pub. Ch. 515, 1989 Tenn. HB 741. These provisions -- explicitly providing that the Jackson Law was not intended to preempt municipal zoning provisions -- were deleted in the 1995 amendment to the Jackson Law. By removing this section, it could be argued, the General Assembly intended to take away previous protections against preemption.

Pursuant to TCA 68-211-707(a), approval of the Council by at least a two-thirds (2/3) majority vote would be required prior to enactment of this ordinance.

BILL NO. BL2016-492 (MENDES) – In a decision rendered October 21, 2016, the 8th Circuit Court for the 20th Judicial District in Davidson County declared the short term rental property (STRP) regulations, codified under section 6.28.030 of the Metro Code, to be unconstitutional and vague, at least with respect to the definition of short term rental property. In response, the ordinance now under consideration would appropriate the text of section 6.28.030 into Title 17, add key definitions for "short term rental property" and other uses, and incorporate recent legislative changes to STRP regulations previously enacted by the Council.

As substituted, Section 1 of the proposed ordinance would delete section 6.28.030 of the Metro Code in its entirety so that STRP regulations can be moved to Title 17.

Under Section 2, "Short term rental property (STRP)" would be defined in MCL section 17.04.060 as "a residential dwelling unit containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests." The reference to online marketplace advertising should sufficiently distinguish STRP properties from hotels and similar uses.

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BILL NO. BL2016-492, continued

Additional use definitions under Sections 3 and 4 would include:

- “Hotel” - any commercial establishment, or any portion of such establishment, (a) whose principal use provides that such structure is occupied or intended or designed for occupancy by transients for lodging or sleeping purposes within the area of the jurisdiction of the metropolitan government, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place meeting this definition, and (b) accepts on-site reservations for accommodations.
- "Bed and breakfast inn" - a commercial establishment with 4 to 10 furnished guest rooms whose principal use is for paid accommodation to guests, occupied by owner-occupants and/or full-time live-in managers. Meals may be provided to overnight guests, but the maximum stay for guests is 14 consecutive days.
- “Boarding house" - a residential facility or portion of a residential dwelling unit for temporary accommodation of persons or families in need of shared lodging and personal services, supervision, or rehabilitative services.

A STRP would be permitted as an accessory use in all zoning districts that allow residential use, provided a permit is obtained. The ordinance would establish a new Chapter 17.18 codifying STRP regulations previously held under section 6.28.030 (as revised) as well as other recent amendments introduced by ordinance nos. BL2016-257, BL2016-381, and others.

Under newly proposed section 17.18.010, an operating permit would be required prior to operating a STRP, issued by the Department of Codes. Advertisements would be required to prominently display the permit number or include an image or link thereto. Permits could be issued for three types of STRP properties: owner-occupied (Type 1); not owner-occupied (Type 2); and not owner-occupied multifamily (Type 3). A limit of no more than 3% of single and two-family residential districts within a census tract would be permitted for Type 2 STRP’s, and only one permit per lot would be allowed for single-family, two-family, and nonconforming three and four-family homes.

Under 17.18.020, applications for STRP permits would remain valid for 90 days and require affidavit verification of the information provided (identification and contact information, proof of insurance, proof of written notification to adjacent property owners, proof of owner-occupation for Type 1 STRP’s, and a statement that the applicant has confirmed compliance with applicable HOA regulations, Condominium Agreements or similar agreements limiting property use.) Signage would be regulated under the comprehensive provisions under Chapter 17.32 of the Metro Code.

Multiple regulatory provisions are provided under proposed section 17.18.040. Occupants would be required to abide by all noise regulations and waste management provisions in the Code. State and local fire and building codes apply, specifically including required smoke alarms.

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BILL NO. BL2016-492, continued

Parking must be provided in accordance with MCL section 17.20.030, and no recreational vehicles, buses or trailers may be visible. Food preparation is prohibited. Maximum occupancy is limited to no more than twice the number of sleeping rooms, plus four, and the limit must be posted within the STRP. If a STRP advertises a larger number of occupants than allowed, it would be grounds for permit revocation. STRP owners cannot be paid for stays of less than 24 hours or more than 30 days. The local responsible party's contact information must be conspicuously posted within the unit and he/she must answer calls 24/7 throughout each rental period.

STRP permits would expire 365 days after issuance unless renewed prior thereto. Renewals can be submitted by mail, online or in person by units that have received no documented complaints. Such STRP owners are allowed a 30-day grace by the zoning administrator, given a reasonable explanation for the delay. The renewal application must include the information required in the original application, again verified by affidavit. For those with documented complaints, no grace period applies. STRP permits could not be assigned or transferred to others under the proposed ordinance.

The Department of Codes would be obligated to notify permit holders upon the filing of a complaint. If the zoning administrator determines that 3 Code violations have occurred within a 12 month period, the STRP permit may be revoked following 15 days' written notice of the alleged violations. Administrative appeals to the BZA may be pursued by permit holders after a revocation. Once revoked, no new permit shall be issued for one year. Operating a STRP without a permit would carry a fifty dollar fine, with each day of operation constituting a separate offense. For such operators, a waiting period of up to one year would apply before eligibility for a STRP permit, subject to appeals that include evaluation of evidence recited in proposed 17.18.040.R.6.b.

On December 8, 2016, the Planning Commission approved BL2016-492 with a substitute, and the sponsors subsequently introduced the substitute which was passed at the January 3, 2017 Council meeting.

BILL NO. BL2016-496 (BEDNE & ALLEN) - The current Metro Code of Laws (MCL) does not explicitly prohibit the parking of non-electric vehicles in parking locations designated as electric vehicle charging stations. However, section 12.40.04 prohibits parking where "official signs" prohibit it. Currently, if an electric vehicle charging station is marked with signs prohibiting parking of non-electric vehicles, it would effectively be prohibited.

The ordinance under consideration would explicitly prohibit the parking of non-electric vehicles in charging stations, amending section 12.40.040 with a new subsection adding this prohibition,

(continued on next page)

BILL NO. BL2016-496, continued

and requiring such charging stations to be occupied only by a "plug-in electric vehicle". Offenders would be subject to a parking citation with a fine of fifty dollars ($50).

As amended during the meeting of January 3, 2017, Subsection F would prohibit non-electric vehicles from parking in a space designated for charging electric vehicles in parking lots with ten (10) or more parking spaces. Violation of this requirement would subject the owner to a $50 fine, assessed by the issuance of a parking citation. In designated charging spaces owned by the Metropolitan Government an official sign or pavement markings would be required prohibiting parking of any vehicle other than plug-in electric vehicles. And any designated charging space in lots with ten (10) or more vehicles would have to be marked by a sign, pavement marking or other indication on or before January 1, 2018.

Fiscal Note: There would be some additional revenue from the $50 parking citation fines for parking a non-electric vehicle in an electric vehicle charging station. Offsetting this to some extent would be the increased administrative and court time for handling these cases. The net financial impact to Metro is expected to be negligible.

BILL NO. BL2016-525 (SHULMAN) – This ordinance would require the Metro Nashville Police Department to submit quarterly reports to the Public Safety Committee of the Council that provide, but would not be limited to, a listing of those community events and activities that the MNPD were involved in or otherwise participated in during the previous quarter. Such events would include, but not be limited to, neighborhood meetings, charitable activities, and school programs.

This information would be required to be broken down by MNPD police sectors and would be required within thirty (30) days of the end of the months of March, June, September, and December.

Fiscal Note: The MNPD would likely see an increase in their administrative costs to produce the newly-required quarterly reports. However, this cost should be minimal.

BILL NO. BL2017-560 (MENDES) – This ordinance would make two housekeeping updates to references within the Metro Code of Laws (MCL) concerning annual benefit reporting disclosures.

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BILL NO. BL2017-560, continued

Section 2.222.010(2)(o) of the Metropolitan Code of Laws excludes from the definition of "Anything of value" food and/or beverages "that would not be prohibited under section 2.222.020(s)(2)." But the reference to food and beverages is found in subsection (s)(1), not (s)(2). This ordinance would correct this reference.

Additionally, section 2.222.030.C.4 provides an Annual Benefit Reporting Statement form that states: "b. For purposes of this report, the Employee is not required to list those items set forth in Section 2.222.030 C.1 and 2." But in 2012, section 2.222.030 C.1 and 2 were amended to delete references to "donations in connection with political campaigns" and "food and/or beverages of a nominal value" and inserted, instead, formatting and signature instructions. But the reference to the previous version of 2.222.030 C.1 and 2 was not corrected in the form. The reference to this incorrect Section would be deleted by the ordinance under consideration.

BILL NO. BL2017-561 (MURPHY & ALLEN) – This ordinance would amend Section 12.40.040 of the Metro Code of Laws (MCL). Subsection A.1.c of this Section currently prohibits any vehicle from stopping, standing, or parking in various locations, including sidewalks, within an intersection, on a crosswalk, and on any railroad tracks.

The ordinance now under consideration would add a new prohibition. Vehicles would not be allowed to stop, stand, or park upon any median, buffer strip, planting strip, or landscape strip located between a sidewalk and roadway.

Fiscal Note: The penalty of $50 currently shown in Paragraph C of this section would apply to the new prohibition. This should result in some additional total revenue from these fines, but it would be speculative to estimate an amount.

BILL NO. BL2017-562 (COOPER, ALLEN, & OTHERS) – Ordinance No. O98-1362 approved a lease agreement between the Metropolitan Government and Steve and Elaine Minton on October 6, 1998. This lease was for use of the Minton's premises on 2583 Greer Road as a site for construction and maintenance of an 800 MHz emergency communications tower. The lease was for a term of 20 years at a rate of $600 per month, beginning November 1, 1998.

The ordinance now under consideration would amend the terms of this lease, as shown in Exhibit B of the ordinance, extending the term of the lease until December 31, 2036. The amendment adds a restriction to the lease, stating that any and all requests from a private entity to place a transmitter or responder on the tower must be submitted in writing to the Metro IT Services Department. ITS would have the sole authority to approve or deny such request.

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BILL NO. BL2017-562, continued

In addition, if the owners decide to sell their property, Metro would have the right of first refusal and an independent appraiser would be used to determine the fair market value compensation.

Fiscal Note: The monthly rental fee would be increased to $2,000 per month, beginning on January 1, 2017 and would increase by 10% every five (5) years, per the following schedule:

- *January, 2017 through December, 2021 - $2,000*
- *January, 2022 through December, 2026 - $2,200*
- *January, 2027 through December, 2031 - $2,420*
- *January, 2032 through December, 2036 - $2,662*

BILL NO. BL2017-563 (ELROD) – This ordinance would authorize the Metropolitan Government to adopt the revised Flood Insurance Rate Map in order to maintain eligibility in the National Flood Insurance Program (NFIP).

In order to maintain this eligibility, it is required that Metro follow NFIP regulations found in Title 44, Chapter 1, Section 60.3 of the Code of Federal Regulations (CFR). Sections 13-7-101 through 13-7-115 and 13-7-201 through 13-7-210 of the Tennessee Code Annotated (TCA) delegates responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizens.

Metro has previously adopted the Flood Insurance Rate Map (FIRM) as its official floodplain map. Metro now wishes to adopt the revised FIRM, dated April 5, 2017. This change was approved by the Planning Commission on December 27, 2016.

It should be noted that the public hearing for Ordinance No. BL2016-513 is concurrently scheduled for February 7, 2017 and that this ordinance includes a subsection that would expand requirements to maintain eligibility of the NFIP to include all requirements of Section 15.64 of the MCL. However, it is merely coincidental that these two efforts come together at the same time. The Department of Water and Sewerage Services (WSS) has been working with FEMA since November, 2013 to finalize the new version of the Flood Insurance Rate Maps. They received a letter from FEMA on December 5, 2016 informing them the maps were final and would become effective April 5, 2017. It is required to adopt the new maps prior to the effective date. Similarly, WSS has been working on the issues addressed in BL2016-513 for over three years.

BILL NO. BL2017-564 (COOPER & ELROD) – This ordinance would accept a donation of $25,000 from Craighead Development LLC to aid in the construction of intersection improvements at SR171, Hobson Pike, and Pin Hook Road. These improvements would consist of approximately 1,350 feet of new sidewalks.

Fiscal Note: The total estimated cost of the intersection improvements is $640,000. If the Craighead donation is accepted, the remaining $615,000 would be paid from Public Works' capital funds.

BILL NO. BL2017-565 (DOWELL, COOPER, & OTHERS) – Ordinance No. BL2016-430 authorized Metro to enter into a participation agreement for the construction of public infrastructure improvements with Century Farms, LLC. Century Farms had developed plans for the design and construction of a proposed multi-use development on real property they own.

These plans required construction within the public right-of-way, specifically including roadway improvements at Old Franklin Road, Preston Road and Cane Ridge Road. The plans further required Century Farms to acquire additional land, easements, and/or rights-of way over property owned by private land owners. These plans were approved and permitted by Metro on December 8, 2015.

The costs necessary to complete the project were expected to range between $6.7 million and $10.3 million. BL2016-430 authorized Metro to contribute $5.5 million for public infrastructure improvements to the right-of-way of the project. Upon final inspections and approvals, Century Farms would convey the project to Metro.

The ordinance now under consideration would approve a participation agreement between Metro and Century Farms, LLC for the construction of two phases of construction of the I-24 Interchange at Hickory Hollow Parkway.

Phase PE-N consists of completing the NEPA Analysis. This must be completed no later than August 1, 2017. Phase PE-D consists of completing the engineered drawings for the interchange. This must be completed no later than December 31, 2017. Upon completion of these two phases, Century Farms will provide the NEPA analysis and construction plans to the Tennessee Department of Transportation (TDOT). Century Farms shall secure TDOT approval of the analysis no later than October 1, 2017 and the design plans thereafter.

Any amendments to this agreement may only be made by the written agreement of all parties, followed by Council approval via resolution.

Fiscal Note: In order to continue with the application for state and federal funds, Metro is required to agree to cover 100% of the costs associated with the first two phases of the construction project, PE-N and PE-D. Century Farms has agreed to pay the estimated costs associated with these phases -- $65,000 and $1,940,000 respectively.

BILL NO. BL2017-566 (S. DAVIS, ELROD, & ALLEN) – This ordinance would abandon existing sewer main and any associated easements and to accept new sewer and water main, any associated easements, and manholes for properties located at 306-B, 306, 402, 408, 500, and 0 Cowan Street.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-567 (HENDERSON, ELROD, & ALLEN) – This ordinance would abandon an existing ten-foot wide public utility easement on property located at 629 Belle Park Circle. It has been determined by Metro Water Services that this easement is no longer needed.

This was approved by the Planning Commission on November 29, 2016.

BILL NO. BL2017-568 (KINDALL, ELROD, & ALLEN) – This ordinance would abandon an existing sewer main and easement and to accept new sanitary sewer main and easement, and sanitary sewer manholes for properties located at 415 27th Avenue North and 512 26th Avenue North.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-569 (O'CONNELL, ELROD, & ALLEN) – This ordinance would abandon existing sewer main and easements and to accept new sewer main, manholes, and easements for properties located at 112, 114, and 118 7th Avenue North.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-570 (ELROD & ALLEN) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the Shady Tree Lane Stormwater Improvement Project for ten (10) properties located along Shady Tree Lane, Apple Orchard Trail, and Mt. View Road.

This was approved by the Planning Commission on November 28, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-571 (FREEMAN, ELROD, & ALLEN) – This ordinance would authorize Metro to negotiate and accept permanent and temporary easements for the Collier Avenue Stormwater Improvement Project for ten (10) properties located along Collier Avenue and Tanksley Avenue.

This was approved by the Planning Commission on December 13, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-572 (ELROD & ALLEN) – This ordinance would adopt the Geographic Information Systems Street and Alley Centerline Layer, with the changes as reflected on the Centerline Layer to date, as the official Street and Alley Acceptance and Maintenance Record for Metro. The updated Centerline Layer shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro since it was last adopted per Ordinance Number BL2015-69 on January 5, 2016.

This has been approved by the Planning Commission.

BILL NO. BL2017-573 (ELROD & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of Avalon Drive to ”Avalon Lane”.

A recommendation from the Planning Commission and Emergency Communications District (ECD) prior to third reading is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). The Planning Commission approved this change on December 6, 2016. It was also approved by the ECD on January 19, 2017.

BILL NO. BL2017-574 (ELROD & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Overall Street right-of-way and easement.

This was approved by the Traffic and Parking Commission on December 12, 2016 and the Planning Commission on November 29, 2016.

– ORDINANCES ON THIRD READING –

BILL NO. BL2016-497 (SLEDGE) – This ordinance would add a new section to the Metro Code of Laws (MCL) addressing parking in handicapped spaces. Current Section 12.40.090 identifies the process to cite or tow away any personal property, including motor vehicles that block properly identified handicapped parking spaces.

The ordinance under consideration would add new section 12.40.095, "Residential On-Street Handicapped Parking Space", allowing individuals to request installation of a residential on-street handicapped parking space in front of their residence at no charge. Such spaces would not be reserved for the resident or requesting party and could be used by other properly identified vehicles meeting the requirements in section 12.40.090.

The proposed new section lists factors that must be considered by the Department of Public Works in evaluating such requests, including:

1) the availability of off-street parking (*e.g.*, driveways, parking lots, garages);
2) whether the requesting party has a properly identified vehicle;
3) whether the residence contains an accessibility ramp or similar accommodation; and
4) whether the individual is eligible for para-transit services offered by Metro government.

Improper use of such spaces would subject offenders to the penalties listed in section 12.40.090.

BILL NO. BL2016-500 (COOPER, ALLEN, & ELROD) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Willow Branch Drive Sidewalk Improvements.

This was approved by the Planning Commission on July 7, 2016.

Fiscal Note: The price to be paid for the easements is estimated to be $26,500. This would be paid from the FY16 Capital Projects Fund.

BILL NO. BL2016-526 (SHULMAN) – This ordinance simply corrects a wording error in the Metro Code of Laws (MCL). Section 4.48.030 of the MCL currently details the general standards of ethical conduct for employees. Subsection 4.48.030(B) further references specific standards set forth within other sections of the MCL. One of the sections referenced is "Section 4.48.100, Use of confidential [*sic*] information". But section 4.48.100 is actually entitled "Use of official information". The ordinance under consideration simply corrects this reference by changing "confidential" to "official" in this subsection.

BILL NO. BL2016-531 (O'CONNELL, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of Lifeway Plaza to "J M Frost Plaza".

A recommendation from the Planning Commission and Emergency Communications District (ECD) prior to third reading is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). The Planning Commission approved this change on November 17, 2016. It was also approved by the ECD on January 19, 2017.

BILL NO. BL2016-532 (O'CONNELL, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Jo Johnston Avenue to "Lifeway Plaza".

This was approved by the Planning Commission on November 17, 2016 and by the Emergency Communications District on January 19, 2017. (Recommendations from both, prior to third reading, are required under Metro Code Section 13.08.015.D).

Two legislative provisions are potentially at issue in this renaming. Metro Code section 13.08.015.E.4 prohibits name changes "for the purpose of promoting a private business." However, namesake Lifeway Christian Resources is a 501(c)(3) religious nonprofit organization and would not generally be considered a "private business" under section 13.08.015.E.4.

Additionally, however, Tenn. Code. Ann. §4-1-412, known as the "Tennessee Heritage Protection Act of 2013", prohibits the removal, renaming, relocation, or alteration of any "memorial" (including any street) regarding a "historic figure". More specifically, Section 4-1-412(a)(2) provides in relevant part that no street which has been "named or dedicated in honor of any historical military figure" may be renamed.

Section 13.08.015.B requires ordinances proposing a street name change to be forwarded to the Metropolitan Historical Commission "for review as to whether there is any historical significance associated with the existing street name." On January 31, 2017, a report from the Metropolitan Historical Commission was circulated to Council members as required. The report states that "[t]he namesake for the new street name is believed to be Confederate General Joseph E. Johnston (February 3, 1807 – March 21, 1891), 'a dubious compliment to Little Joe, the Confederate general…'", and proceeds to describe Johnston's military background. Other historical sources describe Jo Johnston (born Joseph Eggleston Johnston) as one of the most senior general officers in the Confederate States Army during the American Civil War.

Based upon this report, it appears that the provisions of the Tennessee Heritage Protection Act apply, thereby precluding a renaming. However, the statute does provide a waiver mechanism through a petition to the Tennessee historical commission. (Tenn.Code Ann. 4-1-412(c)). Therefore, a deferral is recommended so that the Department of Public Works may determine its preferred next steps.

BILL NO. BL2016-533 (WITHERS, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Boscobel Street to "North 6th Street".

A recommendation from the Planning Commission and Emergency Communications District (ECD) prior to third reading is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). The Planning Commission approved this change on November 17, 2016. It was also approved by the ECD on January 19, 2017.

BILL NO. BL2017-541 (K. JOHNSON, BEDNE, & ALLEN) – This ordinance would simply correct a small typographical error. In 2011, Ordinance No. BL2011-912 created the Metropolitan Office of Administrative Hearing Officer to hear building and property maintenance code violations under Title 16 of the Metro Code of Laws (MCL), "Buildings and Construction". This became Section 2.20.130 of the Metro Code. In a recent report addressing staffing and organization of the Property Standards Division of the Metro Codes Department, Fiscal Choice Consulting, LLC recommended, among other proposals, implementation of these administrative hearing officers.

Paragraph F of section 2.20.130 specifies that the Vice-Mayor appoints a special advisory committee to submit a list of persons to the Council that the committee deems best qualified to serve as administrative hearing officers. This committee was to include, among others, the Director of the Department of Code Administration and the Director of Law (or their designees), as well as the Chair of the Codes, Fair, and Farmers Market Committee of the Council. But the subsection currently reads: "The special advisory committee shall include, but does have to be limited to, the following…"A typographical error omitted the word "not" from this sentence. The ordinance under consideration would simply add the word "not" to restore the original intent for the membership of this committee.

BILL NO. BL2017-542 (O'CONNELL) – This ordinance would require contracts for correctional facility management services to be approved by the Metro Council. It would further require reports to be submitted by the contractor to the Council regarding contractor performance.

Under paragraph A of newly proposed subsection 4.12.240, any RFP and/or contract for management services for correctional facilities executed on or after January 1, 2017 must be approved by a resolution of the Council. This approval would require at least twenty-one (21) affirmative votes. The Metro Code currently requires Council approval for at least one other form of service contracts (*e.g.*, Section 4.12.220, requiring Council approval for solid waste collection and disposal contracts); and further requires regular reports from other service providers. (*See*, section 4.12.230, requiring reports

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BILL NO. BL2017-542, continued

to the Council from government relations and lobbying service providers acting on behalf of Metropolitan Government.)

Paragraph B of this new subsection would require that such RFPs and/or contracts include a requirement that quarterly reports be submitted by the contractor to the Council to disclose the following:

1. The total current population of incarcerated individuals within the facility and the total incarceration capacity of the facility;
2. The number of contractor staff members serving the facility;
3. A description of any incident at the facility in which an incarcerated individual's whereabouts could not be accounted for;
4. Any and all methods of discipline or punishment applied toward incarcerated individuals at the facility;
5. Any and all actions pending against the contractor in state or federal court relating to the contractor's provision of correctional facilities management services within the United States;
6. Whether the contractor's provision of correctional facilities management services within the United States is the subject of any formal investigation by a state or federal agency;
7. Whether the contractor employs government relations and/or lobbying services within the United States Congress, Tennessee General Assembly, or Metro and, if so, the identity of the individuals so employed; and
8. Whether the contractor has expended or undertaken any effort in the preceding quarter to introduce or amend legislation regarding criminal offenses or the penalties therefor.

Fiscal Note: There is a potential cost from applying greater contract restrictions on qualified companies that might bid to perform these services. The terms of each contract would still need to be negotiated, but the amount of necessary compensation to be paid by Metro might be higher due to the greater effort that would be required to comply with the new terms per this subsection.

GRANTS AND DONATIONS LEGISLATION - FEBRUARY 7, 2017

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2017-537	**From**: Tennessee Arts Commission **To**: Metro Nashville Arts Commission	$100,000.00	$100,000.00	July 1, 2017 through June 30, 2018	If approved, the grant proceeds would be used to provide general operating support for the Arts Commission.
RS2017-541	**From**: PETCO Foundation **To**: Metro Nashville Board of Health	Not to exceed $15,000	$0.00	N/A	The grant proceeds would be used to battle heartworm disease by offering a low-cost treatment for animals with low to moderate heartworms to greatly increase their chance for adoption.
RS2017-542	**From**: Tennessee Department of Health **To**: Metro Nashville Board of Health	$125,050.00	$0.00	January 1, 2016 through March 30, 2018	The initial grant was approved by Resolution No. RS2016-90 on January 19, 2016. The grant proceeds are used to pay the salary and fringe costs of the Health Department employees who provide immunization services. This first amendment would increase the amount of the grant by $125,050, from $512,400 to $637,450. There would still be no local cash match required. The end date of the grant would also be extended to March 31, 2017.
RS2017-543	**From**: Marathon Petroleum Company LP **To**: Metro Nashville Fire Department	Not to exceed $5,000	$0.00	N/A	The grant proceeds would be used to purchase high-flow nozzles and monitors to assist with hazardous material incident responses.
RS2017-544	**From**: Tennessee Highland Rim Healthcare Coalition **To**: Metro Nashville Fire Department	Not to exceed $45,851.17	$0.00	All items must be purchased by April 14, 2017.	$24,630 of the grant proceeds would be used to fund the purchase of thirty (30) Rapid Kits to assist with patient care in mass casualty incidents. The remaining $21,221.17 would be used to enhance classroom audio-visual equipment for the Training Academy.

GRANTS AND DONATIONS LEGISLATION - FEBRUARY 7, 2017

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2017-546	**From**: Friends of Warner Parks **To**: Metro Nashville Board of Parks and Recreation	Not to exceed $138,343	$28,611.20	January 1, 2017 through December 31, 2017	The grant proceeds would be used to pay the salaries for several Parks employees. The local cash match would be used to pay the required fringe benefits. The proceeds would pay the salaries of three full-time employees, three part-time employees, and two seasonal employees. This was approved by the Parks Board on January 3, 2017.
RS2017-547	**From**: Greenways for Nashville **To**: Metro Nashville Parks and Recreation Department	Not to exceed $27,000	$0.00	N/A	The grant proceeds would be used to provide funding for a picnic shelter to be built in association with the 440 Greenway at Gale Lane Park. This was accepted by the Parks Board on January 4, 2017.