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: **April 18, 2017**

RE: **Analysis and Fiscal Notes**

Unaudited Fund Balances as of 4/12/17:

4% Reserve Fund	$32,237,877*
Metro Self Insured Liability Claims	$5,368,956
Judgments & Losses	$3,119,360
Schools Self Insured Liability Claims	$4,062,746
Self-Insured Property Loss Aggregate	$7,416,233
Employee Blanket Bond Claims	$670,962
Police Professional Liability Claims	$2,404,445
Death Benefit	$1,389,694

*This assumes unrealized estimated revenues in Fiscal Year 2017 of $6,639,384.

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

– RESOLUTIONS –

RESOLUTION NO. RS2017-616 (GLOVER) - This resolution would adopt a new policy requiring a limit on the amount of debt service funds appropriated for the amortization of general service and urban service bonds in the annual operating budget. This limit would be in relation to the total annual operating budget.

Although there are multiple special purpose funds within Metro for enterprise operations, internal service fees, *etc.*, the annual operating budget is generally considered to consist of six primary budgetary funds. These include the General Services District General Operations Fund, the Urban Services District General Operations Fund, and the Metro Nashville Public Schools General Operations Fund. Each of these three funds has a corresponding debt service fund.

The resolution under consideration would establish a new policy prohibiting the total of these three debt service funds from exceeding 10.0% of the total appropriated expenditures for the fiscal year. There has never been an established Council policy limiting the percentage of the operating budget that can consist of the total of the three debt service funds.

The approved operating budget for FY17 is $2,087,320,200. Of this amount, $210,069,000 consisted of the total of the three relevant debt service funds, equaling 10.1% of the overall total. The remaining $1,877,251,200 was the sum of the three primary operating funds, 89.9% of the total. If this policy had been in place and enforced, a reduction of the debt service funds by 0.1% would have been required for FY17.

Fiscal Note: This policy would have the effect of limiting the amount of possible capital expenditures in the future. By capping this percentage, more of the available dollars in the total operating budget in a particular fiscal year would be available for operational expenses instead of capital. The dollar amount of this limitation would depend on the total budget each year.

It should be noted that the Council already has authority to review or modify all proposed expenditures by the Administration. This authority exists as part of the Council's consideration and approval of the Capital Improvements Budget, Capital Spending Plan, Operations Budget, and Tax Levy each fiscal year. If the Council desires to limit any portion of the budget, it may do so.

It should also be noted that if the amount of debt service funds were ever insufficient to cover Metro's existing debt service obligations, our bond ratings would likely be adversely impacted.

Finally, it should be noted that Council cannot impose absolute restrictions on future Councils. Adopted policies can always be modified or deleted by future Council action.

RESOLUTION NO. RS2017-633 (ELROD, COOPER, & ALLEN) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Department of Public Works. This would authorize the acceptance of work in connection with the construction of a State Industrial Access Road serving a privately owned Tennessee corporation, Centurion Products, Inc. (d/b/a Centurion Stone).

Resolution No. RS2016-360 approved the application for a State Industrial Access Program grant on behalf of Centurion Products, Inc. The grant is to develop a state industrial access road for Centurion, relocating from 50 Van Buren Street to the Cockrill Bend Subdivision.

The Tennessee Department of Transportation (TDOT) would design, bid, and build the roadway at no cost to Metro. This roadway would be built primarily within the existing Tufting Court easement within the Subdivision. This road would consist of two 12-foot lanes and two four-foot gravel shoulders with limits running for approximately 1,000 feet from Cockrill Bend Boulevard, terminating with a cul-de-sac.

This Resolution is a companion to two Ordinances -- BL2016-651 (which would approve a related participation agreement between the Metropolitan Government and Centurion Products regarding the right-of-way on Tufting Court) and BL2017-652 (which would abandon a portion of right-of-way and easement on Tufting Court). Both ordinances are scheduled for third reading on Aril 18, 2017.

Fiscal Note: The road will require up to an additional 20 feet of proposed right-of-way east of the easement to accommodate a shift of the new road. In order to proceed with the application for state funds, Metro must agree to cover 50% of the estimated costs associated with the right-of-way phase, which would be $88,800. However, Metro has an existing participation agreement with Centurion whereby Centurion has agreed to pay Metro's share of this cost. Therefore, the net cost to Metro would be $0.

RESOLUTION NO. RS2017-640 (LEONARDO) – This resolution proposes an amendment to the Metropolitan Charter for possible consideration on the August 1, 2019 ballot. Specifically, under the proposed resolution, sections 8.113, 8.114, 8.115 and 8.118 of the Metropolitan Charter would be amended as follows:

- deleting "tax assessor" and substituting "assessor of property";
- deleting “a tax assessor” and substituting “as assessor of property”;
- deleting "tax assessors" and substituting "assessors of property"; and
- deleting "tax assessment" and substituting "property assessment"

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RESOLUTION NO. RS2017-640, continued

This resolution was prompted by state legislation amending Title 1 and Title 67 of the Tennessee Code Annotated (Public Chapter No. 971) by directing the code commission to change all "tax assessor" references to "assessor of property."

Article 19.01 of the Metropolitan Charter allows the Council to adopt only two (2) resolutions per Council term that would submit Charter amendments to voters for ratification. This is the first Charter amendment resolution considered by this Council this term. This Resolution has not yet been considered by the Charter Revision Commission. State election law provides that resolutions requiring the holding of elections on "questions submitted to the people" are to be held between 75 to 90 days before the election date selected by the election commission. (Tenn. Code Ann. §2-3-204). To avoid triggering requirements to convene the Charter Revision Commission prematurely, this Resolution should be deferred indefinitely.

Eventually, proposed amendments to the Charter must be adopted by 27 affirmative votes of the Council. The final version of the resolution submitting the amendment(s) must be adopted by 27 affirmative votes in order for the amendment(s) to be placed on the ballot.

RESOLUTION NO. RS2017-644 (KINDALL, COOPER, & ALLEN) – This resolution would authorize the Director of Public Property Administration to purchase a portion of real property on 606 19th Avenue North, 0 Jo Johnston Avenue, and 1818 Jo Johnston Avenue for the use and benefit of the Metro Nashville Public Schools.

Section 2.24.250(F) of the Metro Code of Laws (MCL) requires approval of this purchase by resolution since it is for a purpose other than for rights-of-way for highways, streets, roads, alleys, and other places for vehicular traffic.

This purchase has been approved by the Planning Commission and the Metro Board of Education.

Fiscal Note: Metro holds an option to purchase this tract of approximately 0.27 acres for the fee simple fair market price of $350,000.

RESOLUTION NO. RS2017-645 (COOPER, BEDNE, & MURPHY) – This resolution would approve a Memorandum of Understanding (MOU) between Metro and the Metropolitan Development and Housing Agency (MDHA).

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RESOLUTION NO. RS2017-645, continued

MDHA presently administers the Veterans Affairs Supportive Housing ("VASH") Housing Choice Voucher Program. This program provides rental assistance to homeless veterans. However, the number of landlords making affordable housing units available to VASH participants has decreased.

The new MOU would formalize the collaboration between Metro and MDHA on a Landlord Incentive Program. This would provide for the payment of a Leasing Bonus upon execution of a new lease and provide a payment for damages beyond normal wear and tear over and above the security deposit of VASH participants.

MDHA would be responsible for administration of the program and coordinating with participating landlords. VASH expenditures would be tracked and reported to Metro by MDHA. Upon request, MDHA would also provide reports regarding the value of payments made under this program for the purpose of determining the program impacts.

Fiscal Note: Metro would be responsible to provide the funding to administer this program, beginning on July 1, 2017. Metro would be required to reimburse MDHA for any Leasing Bonus or damage payments made by MDHA using MDHA funds through June 30, 2017.

The total amount to be paid by Metro shall not exceed $261,000 – a figure calculated based upon the number of landlords anticipated to participate. This amount is contingent on inclusion in the FY18 operational budget ordinance, to be approved before June 30, 2017.

RESOLUTION NO. RS2017-646 (BEDNE, KINDALL, & OTHERS) – This resolution would declare as surplus and transfer seventeen (17) parcels of real property to the Barnes Fund Housing Program. It would also approve the grant of these parcels to the Woodbine Community Organization, Inc. ("Woodbine") 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 non-profit 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 the county.

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RESOLUTION NO. RS2017-646, continued

On September 12, 2016, the Metropolitan Housing Trust Fund Commission issued a request for application to qualified non-profit organizations to participate in the non-profit housing development grant program. Woodbine was selected through this process. The parcels to be granted are as follows:

- 105 Highland Trace Cove (District 2)
- 2416 Woodale Lane (District 2)
- 515 Weakley Avenue (District 2)
- 5 Garden Street (District 17)
- 121 Charles E. Davis Blvd. (District 19)
- 92 Fain Street (District 19)
- 87 Donelson Street (District 19)
- 1927 Delta Avenue (District 21)
- 2525 Delk Avenue (District 21)
- 2508 Finland Street (District 21)
- 1613 17th Avenue North (District 21)
- 1708 Knowles Street (District 21)
- 1602 Heiman Street (District 21)
- 1016 40th Avenue North (District 21)
- 923 42nd Avenue North (District 21)
- 2912 Clifton Avenue (District 21)
- 2617 Herman Street (District 21)

The Metropolitan Housing Trust Fund Commission would be authorized by this resolution to enter into grant contracts with Woodbine for the express purpose of constructing affordable and workforce housing on these seventeen (17) 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 would revert back to the Division of Public Property unless otherwise previously conveyed.

Fiscal Note: Section 7-3-314 of the TCA also permits Metro to provide financial assistance to a non-profit 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 non-profit organizations. Therefore, in addition to the grants of real property, monetary grants from the Barnes Fund would be made to three non-profit organizations, as follows:

- *$995,500.00 - Habitat for Humanity of Greater Nashville;*
- *$637,872.00 - Woodbine Community Organization; and*
- *$142,532.30 - Rebuilding Together Nashville.*

RESOLUTION NO. RS2017-647 (COOPER, BEDNE, & ALLEN) – Resolution No. RS2016-282, adopted July 5, 2016, declared twelve (12) parcels of real property as surplus and transferred them to the Barnes Fund Housing Program. It also approved the grant of these parcels to three non-profit 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 non-profit 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 the 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 non-profit organizations to participate in the non-profit housing development grant program.

One of these three non-profit organizations was the New Level Community Development Corporation ("NLCDC"). NLCDC was initially granted three parcels for affordable and workforce housing, as follows:

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

In addition to this grant of three (3) parcels, Section 7-3-314 of the TCA also permits Metro to provide financial assistance to a non-profit organization in accordance with local regulations and guidelines. Section 5.04.070 of the Metropolitan Code of Laws (MCL) provides that the Council may appropriate funds by resolution for the financial aid of non-profit organizations.

Pursuant to these sections, NLCDC received a grant of Two Hundred Fifty-One Thousand Two Hundred Fifty Dollars ($251,250) from the Barnes Fund.

The resolution under consideration would add two more properties to be used by NLCDC for affordable and workforce housing: 1800 Heiman Street and 1911 11th Avenue North. The grant term is limited to no more than 24 months following execution of the grant agreement.

Fiscal Note: The amended grant contract with NLCDC limits the maximum liability of Metro to Three Hundred Thirty-Five Thousand Dollars ($335,000).

RESOLUTION NO. RS2017-648 (BEDNE, K. JOHNSON, & OTHERS) – Ordinance No. BL2015-1129, adopted July 22, 2015, amended chapter 16.24 of the Metro Code to establish a Codes Offender School. This school was intended to be similar to the Traffic School, DUI School, and the Animal Offender School already in existence.
The ordinance gave the Environmental Court the discretion to order a person found to be in violation of the property standards code to attend the Codes Offender School in addition to, or in lieu of, any monetary fine. The purpose would be to provide education about the purpose of the property standards code and the impact of violations on the health, safety, and welfare of the community. Persons ordered to attend the school would be responsible for paying a fee up to $90 which would be used to cover the expenses of the school.

This new school was to be operated under the supervision of the Codes Department. But the ordinance gave the Codes Department further authority to select a non-profit organization to operate the school, subject to approval of the Council by resolution. The resolution now under consideration would approve the selection by the Codes Department of the Neighborhoods Resource Center (NRC) to operate this school.

The term of this agreement will begin on the date the contract is approved and filed with the Metro Clerk. The agreement would end sixty (60) months from that date. The agreement would also end if Metro ceases to use any of the products or services obtained from the Neighborhoods Resource Center under this contract. Metro would also have the authority to terminate the contract at any time upon thirty (30) days written notice.

Fiscal Note: One-time course development costs are estimated to be $2,640. Assuming 35 participants per month over the contract life of 5 years, the recurring costs are estimated to total $25,500, for a net total cost of approximately $28,140.

However, this is an Indefinite Delivery / Indefinite Quantity (ID/IQ) Contract since there is no historical data concerning the number of people who will be taking this class. The best current estimate is that the contract will have a total value up to $50,000.

At the end of each year of the contract, the fee paid to the NRC may be adjusted by no more than 3%, based on changes in the Consumer Price Index (CPI).

RESOLUTION NO. RS2017-649 (COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-650 (GILMORE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-651 (GILMORE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-652 (PARDUE & MURPHY) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Emergency Communications Center (ECC). This would allow Metropolitan Government departments, including the ECC, to access TDOT's live video feeds of traffic conditions.

Traffic information from TDOT is already available to the general public on their website at "https://smartway.tn.gov/traffic". However, the camera views available to the public are limited. The Smartview agreement now under consideration would give Metro departments more viewing options and flexibility.

State law allows intergovernmental/interlocal agreements between governmental entities to be approved by resolution. (Tenn. Code Ann. §12-9-104.)

Fiscal Note: The ECC does not anticipate any increase in their equipment or operational costs as a result of this agreement.

RESOLUTION NO. RS2017-653 (GILMORE, COOPER, & MURPHY) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-654 (COOPER & MURPHY) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-655 (COOPER & MURPHY) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-656 (VENREECE, O'CONNELL, & OTHERS) – This resolution would approve amendments to four agreements with the Tennessee Department of Environment and Conservation (TDEC) regarding the maintenance of closed solid waste facilities.

State law requires all owners of closed landfills either to put up a performance bond or execute a contract agreeing to pay a penal sum if the site is not adequately maintained. (Tenn. Code Ann. §68-212-108). The Metropolitan Government has entered into contracts with TDEC in lieu of a performance bond as assurance of financial responsibility for our solid waste facility maintenance duties. State law further provides that the amount guaranteed by the performance bond or agreement may be altered over time.

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RESOLUTION NO. RS2017-656, continued

This resolution approves changes to the financial assurance amounts, as follows:

- Bordeaux Sanitary Landfill – decrease from $3,623,351.39 to $3,303,409.46;
- Thermal Ash Landfill – decrease from $983,761.45 to $951,252.60;
- Due West Superfund Site – decrease from $1,119,783.92 to $1,071,322.16; and
- Metro Nashville - Davidson County Processing Facility – increase from $101,532.00 to $111,946.25.

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

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

RESOLUTION NO. RS2017-657 (COOPER & ELROD) – In the aftermath of the flood of May 2010, Ordinance No. BL2010-765 authorized the Metro Department of Water and Sewerage Services (MWS) to acquire properties, pursuant to a hazard mitigation grant program using federal and state funds, upon adoption of a resolution.

The Metro Code provides that prior to the acquisition of real property for any purpose other than as Metro right-of-way, the Public Property Administration Director must first negotiate an option to purchase the property at a fixed price subject to the approval of the Council by resolution. Since MWS had already determined the amount the government would pay for each property under the home buyout, and since this amount had been relayed to the property owners, it was unnecessary to go through the process of obtaining an option. Accordingly, the ordinance allowed MWS to acquire the properties upon approval of the Council without first negotiating an option to sell as long as the resolution included the specific parcels to be acquired and the amount to be paid for each property. The ordinance also authorized MWS to administer the hazard mitigation grant program for the Metropolitan Government.

On October 6, 2015, Resolution No. RS2015-10 approved Metro's application for the 2016 Severe Repetitive Loss Buyout Project Grant in the amount of $953,260 from TEMA for the purchase and removal of five (5) homes in the floodplain.

Once acquired, the homes were to be torn down and the property maintained by Metro as open space. Metro has participated in the flood-prone property buyout program for many years. There was no obligation for the homeowners to participate in the home buyout program.

The resolution now under consideration would amend RS2015-10 to specify the maximum prices to be paid for each of the five (5) parcels to be acquired.

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RESOLUTION NO. RS2017-657, continued

Fiscal Note: The maximum prices to be paid for the five (5) parcels are as follows:

- *3426 Brick Church Pike - $182,000;*
- *3800 Dunbar Drive - $220,000;*
- *4933 Shadowlawn Drive - $144,000;*
- *5045 Edmondson Pike - $215,000; and*
- *5336 Buena Vista Pike - $132,000.*

RESOLUTION NO. RS2017-658 (ELROD) – This resolution is an annual housekeeping matter required by state law to formally classify all public roads in Davidson County. (Tenn. Code Ann. §54-10-103

By adoption of this resolution, roads and alleys listed on the Official Street and Alley Acceptance and Maintenance Map, as approved by Ordinance No. BL2017-572 under Proposal Number 2017M-001OT-001 and as supplemented by the public county road list attached to the resolution, would officially be classified as public roads.

RESOLUTION NO. RS2017-659 (MURPHY & SHULMAN) – This resolution would confirm the appointment of Leigh Walton to serve on the Board of Directors for the Convention Center Authority for a term expiring September 30, 2020.

Under Tennessee Code Annotated §7-89-108, the Convention Center Authority is to be governed by a Board of Directors of not less than seven registered voters of the municipality, to serve staggered terms. The directors are to serve without compensation, and cannot be an elected official or employee of the municipality. Such directors are appointed by the Mayor and confirmed by a resolution adopted by the Council. The board is to be composed of members who are diverse in professional and educational background, ethnicity, race, gender, and area of residency within the municipality. At least one of the directors must be female and at least one must be a minority.

– 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). Under this section, if a special exception is sought for sanitary landfills, asphalt plants, waste transfer facilities, airport runways, and hazardous operation and wastewater treatment facilities, Council approval of the "specific location" must be obtained by resolution prior to the public hearing before the BZA. (MCL § 17.40.280). By contrast, section 68-211-704 of the Jackson Law provides evaluation criteria for the approval or disapproval of proposed new construction by the Council -- arguably establishing a heightened threshold for evaluation. The criteria to be considered are (1) the type of waste to be disposed; (2) the method of disposal; (3) projected impact on surrounding areas from noise and odor; (4) projected impact on property values; (5) adequacy of existing roads and bridges; (6) economic impact on county or city; (7) compatibility with existing development or zoning plans; and (8) other factor affecting public health, safety or welfare. (Tenn. Code Ann. § 8-211-704).

Because approval by resolution is not specifically allowed in the Jackson Law, Council approval of landfills would need to be by ordinance. The Jackson Law further requires that public notice be given to inform interested persons in the area of a proposed landfill, waste processing or disposal facility, and that interested persons be given the opportunity to request the local legislative body to hold a public hearing – including provisions for written comment. The Code requirement for Council approval of landfill 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). It should 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. As discussed below, there is no authority directly addressing either issue, but it appears likely that (1) the Jackson Law must be adopted as a whole, not partially; and (2) Metro cannot adopt the Jackson Law as an additional mechanism while keeping its current zoning ordinance in place.

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BILL NO. BL2016-484, continued

The plain language of Tenn. Code Ann. § 68-211-707 notes that sections 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 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 provisions would be preempted by adoption of 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. Atty Gen. 09-12*. The AG determined that this legislation would contravene the Jackson Law, stating in part: "Under 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." *Id.* at 2 (emphasis added). (It should be noted that this contention is *not* supported by the plain language of § 68-211-704, which states only that the enumerated criteria

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"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 preemption would be likely stems from language that was previously amended out of the Jackson Law. The original 1989 provision included § 68-211-705 which stated:
(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 then deleted in a 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.

In the event of a legal challenge, a court's review of the Council's approval or disapproval of the specific location of landfills or waste transfer facilities under MCL § 17.40.280 is limited to a determination of whether the decision was "clearly illegal, arbitrary or capricious" -- a standard considered extremely deferential. In contrast, the Jackson Law specifies that judicial review of the legislative body's determination "shall be a *de novo* review" -- a more scrutinizing assessment. (T.C.A. 68-211-704(c)).

Questions have been raised regarding the specific facilities to which the Jackson Law applies. By its terms, the law applies to landfills "for solid waste disposal of for solid waste processing." (§68-211-701(a)), but the statute doesn't expressly define these terms. The Tennessee Solid Waste Act defines "solid waste disposal" as "the process of permanently or indefinitely placing, confining, compacting, or covering solid waste." "Solid waste processing" is defined as "any process that modifies the characteristics or properties of solid waste, including but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products." According to senior legal counsel at the Tennessee Department of Environment and Conservation, the following facilities are considered subject to the Jackson Law:

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BILL NO. BL2016-484, continued

- New or laterally (horizontally) expanding;
- Class I Landfills (Municipal Solid Waste);
- Class II Landfills (Industrial) that accept waste not generated by the landfill's owner;
- Class III or IV Landfills (Construction and Demolition Waste).
- Solid Waste Processors. (Only facilities that require a Permit-by-Rule "SWP" permit. This would include food composting facilities and anaerobic digesters);
- County or municipal owned/operated landfills. (This is contrary to language in TCA 68-211-706);
- A landfill that changes classification (*i.e.,* Class III to Class II); and
- A facility that makes a significant change in approved waste streams triggering a Permit Reissuance. (This would not extend to normal Special Waste approvals).

And the following facilities are considered exempt from the Jackson Law:

- Transfer Stations (Facilities requiring Permit-by-Rule "TRF" permits);
- Convenience centers (Though these centers accept household waste, they do not "process" them);
- Processors defined as Recovered Materials Processing Facilities (Permit exempt recycling operations);
- All pre-existing active permits existing prior to Jackson Law adoption;
- The lateral expansion of an active landfill permit existing prior to June 2, 1989;
- Any vertical expansion of a landfill; and
- A private landfill that accepts waste solely generated by its owners within the same county and which does not accept household waste.

Waste to Energy facilities may or may not be subject to the Jackson Law, depending on what their feed stock consists of and how it's obtained.

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. BL2017-559 (HASTINGS) – Section 17.40.060 of the Metro Code of Laws (MCL) addresses applications to the Planning Commission for amending 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.

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BILL NO. BL2017-559, continued

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.

BILL NO. BL2017-623 (ROSENBERG, ELROD, & ALLEN) – This ordinance would abandon approximately 970 linear feet of existing four-inch water line and accept approximately 1,135 linear feet of new eight-inch water line, approximately 999 linear feet of new eight-inch sanitary sewer main, sanitary sewer manholes, two fire hydrants, and any associated easements, for properties located at 0 River Road and 5820 River Road.

This was approved by the Planning Commission on February 1, 2017. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-645 (PARDUE & VANREECE) – Chapter 12.54 of the Metro Code of Laws (MCL) sets forth regulations concerning horse-drawn carriages. Section 12.54.210 provides that it is an offense if the certificate holder or driver of such carriage provides an alcoholic beverage to a passenger for a fee or as part of the passenger transport service. It is further an offense if the certificate holder or driver provides or permits any alcoholic beverage in the carriage.

The ordinance under consideration, as amended, would allow persons who are legally permitted to consume alcoholic beverages to do so while riding as passengers in horse-drawn carriages, so long as the beverage is consumed from a plastic cup, paper cup, or cups made from lightweight, recyclable materials.(Glass, aluminum, or other metal containers would not be allowed.) It would remain an offense for alcoholic beverages to be provided by the certificate holder or driver.

It is currently an offense under the Metro Code to possess an alcoholic beverage in a glass, aluminum or metal container for purposes of consumption while on a street, alley, sidewalk or other public area. (Metro Code § 7.24.040).

BILL NO. BL2017-646 (ROSENBERG) – Chapter 13.08 of the Metro Code of Laws (MCL) lists the regulations concerning streets and sidewalks within Metro. The ordinance under consideration would add Section 13.08.080 within this chapter concerning surveillance or electronic data gathering devices on the public rights of way.

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BILL NO. BL2017-646, continued

The new section to this chapter would limit the use of "surveillance technology" beginning on July 1, 2017. Approval by the Council would be required before any department, board, or commission, or any individual acting on their behalf, installed unmanned surveillance technology on any public right of way. Additionally, Council approval would be granted only upon determination that the benefits to citizens and residents of Nashville outweighed the costs; that the proposal will safeguard civil liberties; and that, in the judgment of the Council, no alternative with a lesser economic cost or impact upon civil rights would be as effective.

As amended, paragraph A.(2)(a) of the new section lists fourteen (14) different types of equipment under the "surveillance technology" definition. In addition to typical devices (*e.g.,* closed-circuit television cameras), the list includes more exotic technologies including as x-ray vans, biometric software and databases, mobile DNA capture technology, and through-the-wall radar or similar imaging technology.

Paragraph A.(2)(b) lists six (6) items that would not be identified as "surveillance technology" for the purposes of this section. These would include items such as televisions, printers, handheld digital cameras, radios, and email systems.

In addition to the prohibited devices already listed, Paragraph H would make it expressly "unlawful to operate any license plate scanner installed onto or within the public right of way."

As amended, the ordinance would not apply to facilities or areas of facilities that are not open to the general public.

The ordinance as amended would further define "installing" so as to exempt mobile devices intended to be present for limited periods.

Subsection E specifies that the ordinance would not apply to activities conducted by or on behalf of law enforcement agencies which are part of an active investigation targeting a specific person or persons, provided that any data collected that isn't pertinent to the investigation would be destroyed at the conclusion of the investigation.

The new Subsection F would further specify that the changes per this ordinance would not apply to surveillance equipment installed for the purpose of securing a building or facility from unlawful entry.

Fiscal Note: The primary costs that would be generated by the requirements of this proposed ordinance are difficult to quantify, but would be borne by the Council in the form of additional legislation and staff time that would be required to comply.

BILL NO. BL2017-657 (SLEDGE, HENDERSON) – The Archives Division of the Nashville Public Library is charged with the responsibility of maintaining records of enduring historical value to the Metropolitan Government as well as select records of the judicial system. However, the originating office or department for these records presently has the authority to remove records from these archives without notice. This could negatively impact the long-term storage and preservation of items of historical significance.

The ordinance under consideration would add Section 2.140.040 to the Metro Code of Laws (MCL). This would make all records given to the Archives the "permanent property of and permanently retained by the Archives Division of the Nashville Public Library." In cases where records lack historical or legal value and have been converted to an alternative media, this section would also give authority to the Archives Division to destroy the originals.

Fiscal Note: This should not result in any significant increase in the Library's operational costs. They would not be asked to archive any additional records. This ordinance would just give them clear ownership of all records in their possession as well as the authority to determine the final disposition of those records.

BILL NO. BL2017-658 (VANREECE, O'CONNELL) – Chapter 6.32 of the Metro Code of Laws (MCL) addresses "Hucksters and Peddlers". It specifies regulations in effect in areas around the Nashville Convention Center, Municipal Auditorium, and the Nashville Arena regarding the sale or offering for sale of food, goods, or personal property.

Specifically, under the current provisions of chapter 6.32, the sale (or offering for sale) of any goods or personal property -- including food, candy, confections, programs, books, pictures, tickets, records, tee-shirts, lights and other novelties, or any personal property -- is prohibited in these areas during dates on which an event has been scheduled in the related venue.

These prohibitions do not apply to individuals soliciting for charitable or religious purpose, nor to any exercise of the lawful right of speech or assembly. Violations of the restrictions can result in a misdemeanor charge, carrying a fine of not less than twenty-five dollars ($25) nor more than fifty dollars ($50).

The ordinance under consideration would add five (5) new venue locations to this chapter. The regulations in these sections would apply to the following additional locations:

- Section 6.32.050 - Ryman Auditorium
- Section 6.32.060 - Tennessee Performing Arts Center
- Section 6.32.070 - War Memorial Auditorium
- Section 6.32.080 - Ascend Amphitheater
- Section 6.32.090 - First Tennessee Park

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BILL NO. BL2017-658, continued

The ordinance resulted from requests by venue management during discussions of possible anti-scalping measures.

Fiscal Note: Both Chapter 6.32 and the current ordinance are silent on enforcement of the regulations; but it would presumably be the responsibility of the Metro Police Department, either from performing security services at these venues or in response to citizen complaints.

The Police Department believes their additional costs to enforce the requirements of this ordinance would be minimal.

BILL NO. BL2017-659 (ELROD) – This ordinance would change an inconsistency between the definition of “arterial street” in Title 12 and 17 of the Metro Code of Laws (MCL).

Section 17.04.60 of the MCL defines "street" as a "publicly maintained right-of-way, other than an alley, that affords a means of vehicular access to abutting property." This section continues by defining several functional design type designations. The first of these defines "arterial street" as a "street designated as either an 'arterial-boulevard' or an 'arterial-parkway' on the adopted Major and Collector Street Plan."

Section 12.04.015 of the MCL currently defines an "arterial street" to be "any United States or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by metropolitan government within their respective jurisdictions as part of a major arterial system of streets or highways."

To maintain consistency with the definition in Title 17, the ordinance under consideration would change this definition to "a street designated as either an 'arterial-boulevard' or an 'arterial-parkway' on the Major and Collector Street Plan (MCSP) adopted by the Metropolitan Planning Commission."

BILL NO. BL2017-660 (A. DAVIS, COOPER) – This ordinance would authorize the Department of Water and Sewerage Services ("Metro") to participate with LVH2, LLC to provide public water service improvements for LVH2's proposed development, as well as other existing properties.

Per this agreement, LVH2 would construct approximately 450 linear feet of eight-inch water main in Chester Avenue from Chapel Avenue to the entrance of the proposed development site. Metro would inspect the construction following completion and be responsible for ongoing operation and maintenance.

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BILL NO. BL2017-660, continued

The agreement per this ordinance would be null and void if the improvements are not operational by December 31, 2017. Future amendments to this agreement may be approved by resolution.

Fiscal Note: Metro would pay the lesser of fifty percent (50%) of the actual project costs or an amount not to exceed Sixty-Six Thousand Dollars ($66,000). This would be paid from Water Services' capital projects fund.

BILL NO. BL2017-661 (COLEMAN, COOPER) – This ordinance would authorize a participation and maintenance agreement between the Metro Department of Water and Sewerage Services ("Metro") and Davenport Downs Holding, LLC ("Davenport").

Davenport wishes to provide public pressure sewer extension through construction of a sewerage pump station and force main for its development at Davenport Downs. Metro would be responsible for inspecting the construction and for the ongoing operation and maintenance.

Future amendments to this agreement may be approved by resolution.

Fiscal Note: Davenport would pay $200,000 to Metro prior to filing for final plat approval or as soon as possible to obtain sewer availability. This would be used to pay for Metro's additional operational and maintenance costs.

BILL NO. BL2017-662 (SLEDGE, ALLEN, COOPER) – In 2007, Ordinance No. BL2007-1544 approved a lease agreement between Belmont University and the Board of Parks and Recreation for the development and shared use of Rose Park.

Under the terms of the original lease, Belmont proposed to construct athletic facilities for its baseball, softball, soccer, and track teams within the 25-acre Rose Park. These facilities were to be used by Belmont for games and practices, and shared by Belmont, Metro and the Edgehill community. While Belmont would not pay any set rental amount for use of the park, the lease provided that Belmont would construct the athletic facilities on the property, as well as build a concessions building, locker rooms, and improvements to common areas, all at its own expense, at an estimated cost of approximately $7 million.

Metro was to have the authority for scheduling the dates and times of Belmont and community events. Belmont was to schedule its events with Metro at least six months in advance. Metro was to make reasonable efforts in order to schedule Belmont’s first choice of intercollegiate

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BILL NO. BL2017-662, continued

competitions. Metro was to be responsible for scheduling events sponsored by other school, neighborhood, and community groups. Belmont estimated that the sports fields would be available for community uses at least 80% of the time during the park's regular operating hours.

The initial term of the lease was for forty years, but could be terminated by either party upon one year's written notice. If Metro terminated the lease early, Metro was to be required to pay Belmont the fair value of the improvements Belmont made to the property.

Section 3.a. of the lease required twenty percent (20%) of the lease payment by Belmont to be allocated and evenly distributed to the Parent Teacher Organizations (PTOs) of Carter Lawrence and Rose Park public schools.

Ordinance No. BL2016-458 approved the first amendment to the 2007 lease agreement. This eliminated the reference to PTOs and instead simply specified that 20% of the lease payment would be allocated and evenly distributed to Carter Lawrence and Rose Park public schools.

The ordinance now under consideration would add the second amendment to the lease. This would authorize Belmont to construct an 80 x 120 foot indoor batting facility and related training space, office, and meeting room on the property abutting the northern edge of the Olympic Street parking lot. Metro would schedule the use of this facility in the same manner as it schedules the use of the existing storage and locker rooms on the property.

Belmont would be required to replace any trees that are removed for construction with additional smaller trees equal to the combined total caliper of the removed trees.

The Planning Commission has not yet considered this proposal.

Fiscal Note: Belmont would pay the entire cost of constructing the new building and replacing the trees, In addition, Belmont's annual lease payment to Metro would be increased by $5,000, divided proportionately between the Metro Parks Department, Rose Park Middle School, and Carter Lawrence Elementary School.

BILL NO. BL2017-663 (O'CONNELL, ELROD, ALLEN) – This ordinance would abandon existing combined sewer mains and easements and accept new combined sewer mains, manholes, and any associated easements for property located at 1419 Rosa L. Parks Boulevard.

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

BILL NO. BL2017-664 (PRIDEMORE, ELROD, ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of North Dupont Avenue to "Vandiver Drive" and by renaming an unimproved section of North Dupont Avenue to "Vandiver Court.

This has been approved by the Planning Commission. However, the Emergency Communications District will not consider this until their next meeting on April 20, 2017. A recommendation from both, prior to third reading, is required under Section 13.08.015.D of the Metro Code of Laws (MCL).

In addition, Section 13.08.015.B. of the MCL requires the Historical Commission to provide a report to the Council prior to third reading stating the historical significance, if any, associated with the existing street name.

BILL NO. BL2017-665 (O'CONNELL, KAREN JOHNSON) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of Capitol Boulevard to "Anne Dallas Dudley Boulevard".

The Planning Commission has not yet considered this proposal. Also, the Emergency Communications District will not consider this until their next meeting on April 20, 2017. A recommendation from both, prior to third reading, is required under Section 13.08.015.D of the Metro Code of Laws (MCL).

In addition, Section 13.08.015.B. of the MCL requires the Historical Commission to provide a report to the Council prior to third reading stating the historical significance, if any, associated with the existing street name.

BILL NO. BL2017-666 (WITHERS, ELROD, ALLEN) – Ordinance No. BL217-533 approved the name change of a portion of Boscobel Street to "North 6th Street". This was in error. The original request was intended to change the name to "South 6th Street". The ordinance now under consideration would amend the earlier ordinance to correct the error.

The necessary approvals by all relevant agencies were previously obtained and were based upon the "South 6th Street" name, so it is not necessary to obtain these approvals again.

– ORDINANCES ON THIRD READING –

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 walkable neighborhoods and access to and use of Nashville's transit system. Overall, the Ordinance would close a loophole wherein sidewalk installation has not been required for single- and two-family infill development on major and collector streets in the USD and on neighborhood streets in the UZO or within ¼ mile of a center designated in the general plan. For multi-family and nonresidential development, 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.

For multi-family and non-residential development, Metro Code section 17.20.120 currently requires sidewalks if (*a*) the value of any one expansion is 25% or greater of the value of all previous improvements on the lot, or if the value of multiple expansions over any five-year period is 50% percent or greater; or (*b*) the total building square footage of any one expansion is 25% or greater of the total building square footage of all prior improvements on the lot, or the total building square footage of multiple expansions during any five-year period is 50% or greater; or (*c*) the property is located within of the Urban Services District or within the General Services District where the Sidewalk Priority Index (SPI) score is 20 or greater. (The SPI was originally adopted in 2002.)

As substituted (second), the proposed Ordinance would revise the sidewalk criteria for multi-family and non-residential development by (*a*) clarifying that it applies to new construction; (*b*) applying to renovations equal to or greater than 50% of the assessed value of all structures on the lot; (*c*) refining the geographic criteria to incorporate recent planning efforts (*e.g.*, NashvilleNext and WalknBike) by requiring sidewalks within the USD, on streets in the Major and Collector Street Plan (MCSP), and/or within ¼ mile of a center designated in the General Plan. The Ordinance would also eliminate the option of submitting an in-lieu contribution for properties within the Urban Zoning Overlay or on a street in the MCSP.

The propose Ordinance would add a requirement for curbs or other equivalent means of preventing vehicles using a parking area from encroaching on on-site sidewalks. (Curbs are currently required to prevent encroachment onto the public right-of-way, landscaping areas, and adjacent properties.)

Arguably the most significant change under the proposed Ordinance would be in regard to single- and two-family development. Currently, there is no requirement for sidewalks for these developments in the Zoning Code (although sidewalks are required by Subdivision Regulations on new streets and some infill subdivisions). This ordinance would create a sidewalk

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SUBSTITUTE BILL NO. BL2016-493, continued

requirement for new single- and two-family units that are (*a*) within the UZO, (*b*) on a street within the MCSP in the USD and/or (*c*) within ¼ mile of a center designated in the General Plan. Unlike multi-family and non-residential development, however, contributions in lieu of construction would be permitted unless an existing sidewalk is present on the property or block face, or a proposed sidewalk is present on adjacent property. Additionally, the dedication of right-of-way, if necessary, would be required for any addition or renovation equal to or greater than 25% of the assessed value of all structures on the lot. Sidewalk construction or in lieu contribution is not required for one and two-family additions or renovations.

This ordinance adds a requirement that the Planning Commission make recommendations to the Board of Zoning Appeals on variances. It would also add 5 new pedestrian benefit zones – increasing the number from 11 to 16 – thereby allowing in lieu contributions to be spent closer to projects.

Sidewalks constructed pursuant to these requirements would be required to extend along the entire property frontage, unless the property abuts a sidewalk segment that the Department of Public Works has funded and scheduled for construction, which makes the property eligible to contribute in lieu of construction. Obstructions would be prohibited within the required sidewalks, but may be located within a grass strip or frontage zone. Existing obstructions would need to be relocated or an alternative design reviewed by the BZA and Planning Commission.

When in lieu contributions are made, the value for multi-family and non-residential development must equal the average linear foot sidewalk project cost, excluding repair projects, as determined by the Department of Public Works. For single- and two-family development, the value must equal the average linear sidewalk project cost, *including* repair projects.

In addition to the above, the proposed ordinance would require dedication of right-of-way and/or easements to accommodate present or future sidewalk installation along a site's frontage. This would eliminate the need for Metro to purchase easements for future sidewalk improvement projects.

Driveways and walkways within public rights-of-way along properties abutting an existing or planned sidewalk in the Priority Sidewalk Network would have to be designed and graded in accordance with Public Works' design standards to accommodate future sidewalk construction.

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SUBSTITUTE BILL NO. BL2016-493, continued

The Board of Zoning Appeals could grant variances and require contributions to the pedestrian network, alternative designs, or other mitigations for the loss of the public improvement. But the Board could not grant variances from the provision of sidewalks without first considering a recommendation from the Planning Commission.

It should be noted that companion Ordinance No. BL2017-684 has been filed to address dedication or right-of-way and minimum lot size. The public hearing on that ordinance is scheduled for May 2, 2017.

It is anticipated that the sponsor will propose a third substitute to address minor clarifications recommended by the Planning Commission on March 23, 2017.

Fiscal Note: The ordinance under consideration closes several loopholes for the construction of sidewalks by developers. Public Works performed an analysis using a three-year rolling average of their costs to build and repair sidewalks. Based on this analysis, a new rate of $178 per linear foot would now be established as the "in lieu" fee that would be paid by developers who choose not to build the sidewalks that would otherwise be required.

There is no way to quantify how many developers would choose to pay this fee instead of building these sidewalks. However, since the new rate is based on the three-year rolling average of actual costs by Public Works, this ordinance should be cost-neutral.

BILL NO. BL2017-643 (COOPER) – This ordinance would make a one-word change to Section 2.210.020 of the Metro Code of Laws (MCL). This section currently sets forth the calculation for incentives for economic and community development. It states: "The amount of the economic and community development incentive grant during any year will be determined by multiplying the average number of full time equivalent employees of the qualified company within the boundaries of the metropolitan government during the preceding year by an amount up to five hundred dollars." As worded, this language could be construed as allowing incentive payments for pre-existing, not new, employees.

The proposed language would insert the word "new" to describe the "full time equivalent employees." The incentive calculation would be applied as before, but with clarification that the incentive applies only to "new" employees, not all employees, compared to grant recipients' original baseline number of employees.

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BILL NO. BL2017-643, continued

A nearly identical provision for small business incentives is set forth in section 2.212.020. It provides: “The amount of the small business economic development incentive grant during any year will be determined by multiplying the number of new full-time jobs of the qualified small business at the qualified project site within the boundaries of the metropolitan government during the preceding year…” (Section 2.212.020)(emphasis added).

Similarly, under section 2.212.010, a "qualified small business" is defined in part as one that “creates a minimum of ten new full-time equivalent jobs at the qualified project site within a twelve-month period…” (emphasis added).

Fiscal Note: The total amount of ECD grants in any particular year would depend on the number of qualified companies that apply and are accepted. However, by limiting these grants only to apply to new FTEs, the possible grant amounts would be reduced. It would be speculative to make any general assumptions about the total amount of these reduced amounts going forward.

BILL NO. BL2017-648 (O'CONNELL, ELROD, & ALLEN) – This ordinance would authorize 21C Nashville Master Tenant LLC to install, construct, and maintain underground and aerial encroachments in the right-of-way located at 221 2nd Avenue North. These encroachments would consist of planters, bollards, bike racks, a 3' projecting canopy, and three (3) 24" double-sided, illuminated, projecting signs encroaching the right-of-way.

21C Nashville Master Tenant LLC has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a $2 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

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

BILL NO. BL2017-649 (SLEDGE, ELROD, & ALLEN) – This ordinance would abandon approximately 210 linear feet of existing 36-inch sewer main and any associated easements for four properties located along Villa Place.

This was approved by the Planning Commission on February 17, 2017. Amendments to this legislation may be approved by resolution.

BILL NO. BL2017-650 (HUEZO, ELROD, & ALLEN) – This ordinance would abandon approximately 240 linear feet of existing 12-inch water main and to accept new water main and a fire hydrant for property located at 3354 Bell Road.

This was approved by the Planning Commission on February 17, 2017. Amendments to this legislation may be approved by resolution.

BILL NO. BL2017-651 (ELROD & ALLEN) – This ordinance would approve a participation agreement between Metro and Centurion Products, Inc. regarding the Centurion Stone development and the right-of-way (ROW) needed for the construction of Tufting Court.

Mr. James Kay, Jr., Trustee of the Pardue Trust, recently acquired a parcel of undeveloped property on Cockrill Bend Industrial Road. This Centurion Property is leased by the Pardue Trust to Centurion Stone, which plans to develop the property for commercial use.

The State of Tennessee had previously dedicated a 60' easement for public ROW along the eastern edge of the Centurion Property for an unbuilt road, to be called "Tufting Court". This easement runs from the Cockrill Bend Industrial Road to the centerline of a TVA transmission line which ends in a cul-de-sac.

Centurion has realized it needs the westernmost 20' of the 60' easement for parking and other improvements for the development. Metro now desires to abandon this westernmost 20' of the easement so that this strip would revert to Centurion Stone. All involved parties agree that paving Tufting Court so that it becomes a usable vehicular ROW. However, the remaining 40' of the easement might not be wide enough for the construction and paving of Tufting Court.

It is possible for an additional 20' of ROW to be added to Tufting Court along its eastern edge by the State of Tennessee, which owns that property. The cul-de-sac for Tufting Court may need to be redesigned to work around an existing TVA easement, requiring additional ROW to be acquired for those purposes.

The Commissioners of the Tennessee Departments of General Services and Correction are willing to request approval of the State Building Commission to convey the addition 20' of ROW on the eastern edge to Metro and to work with Metro for the conveyance of any additional needed ROW at fair market value.

Per Resolution No. RS2016-360, Metro applied for a grant from the State Industrial Access Program to build and pave Tufting Court. The Tennessee Department of Transportation (TDOT) has expressed its willingness to award this grant, which would require Council acceptance and approval by a later resolution.

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BILL NO. BL2017-651, continued

One of the requirements of the TDOT grant agreement would be for Metro to provide all land owned by Metro and required for the project ROW or easement purposes at no cost to TDOT. Metro would also be required to provide 50% of the funding for the ROW phase as referenced in the TDOT grant agreement. If any utilities are located in easements outside the existing Tufting Court ROW, Metro may be required to pay 50% of the cost to relocate these facilities.

Centurion Stone is willing to provide funds to cover Metro's 50% share of the cost to acquire the necessary additional 20' or any other additional ROW acquisition required for Tufting Court as determined by TDOT. Centurion is also willing to provide funds to reimburse Metro for any costs it incurs in connection with relocating any utilities outside of the existing Tufting Court ROW.

As noted above, this ordinance is a companion to Resolution No. RS2017-633 and Ordinance No. BL2017-652 – both scheduled for final reading April 18, 2017 in conjunction with this ordinance.

Fiscal Note: Centurion will pay 100% of the local funding required for the ROW phase of the grant agreement with TDOT. Centurion also agrees to pay 100% of Metro's utility relocations costs resulting from the TDOT grant agreement. As a result, there should be no additional net cost to Metro for the ROW changes that would be approved by this ordinance.

BILL NO. BL2017-652 (ELROD & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Tufting Court right-of-way and easement.

This Ordinance is a companion to Resolution No. RS2017-633 and Ordinance No. BL2017-651.

This was approved by the Planning Commission on March 8, 2017.

BILL NO. BL2017-656 (GILMORE & O'CONNELL) – This ordinance would name the structure of the interstate overpass bridge over I-40 / I-65 between 11th Avenue North and 12th Avenue North along the 1100 block of Jefferson Street as the "Bishop Joseph W. Walker III Overpass".

Section 13.26.010 of the Metropolitan Code of Laws (MCL) provides that no building or structure of the Metropolitan Government may be named except pursuant to an ordinance duly adopted by the Metropolitan Council.

Fiscal Note: The cost of the required new signage for this name change has not been determined, but is expected to be minimal.

GRANTS AND DONATIONS LEGISLATION - APRIL 18, 2017

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2017-649	**From**: Tennessee Emergency Management Agency (TEMA) **To**: Metropolitan Finance Department	$671,065.94	$35,319.24	April 30, 2010 through April 29, 2020	The original grant provided FEMA public assistance to complete repairs to facilities damaged in the 2010 flood. This Amendment #10 would increase the amount of the grant proceeds from $66,127,589.61 to $66,798,655.55. The amount of the required local cash match would increase from $3,480,399.12 to $3,515,718.36.
RS2017-650	**From**: Greater Nashville Regional Countil **To**: Metropolitan Social Services Commission	$845,194	$603,352	July 1, 2017 through June 30, 2018	If this grant application is approved, the grant proceeds would be used to provide meals that meet RDA nutritional guidelines to eligible seniors in their homes and in congregate meal sites throughout Davidson County.
RS2017-651	**From**: Greater Nashville Regional Council **To**: Metropolitan Social Services Commission	$70,000	$92,248	July 1, 2017 through June 30, 2018	If this grant application is approved, the grant proceeds would be used to provide transportation services to eligible seniors and handicapped residents in Davidson County.
RS2017-653	**From**: Tennessee Department of labor and Workforce Development **To**: Nashville Career Advancement Center (NCAC)	Not to exceed $14,150	$0	February 1, 2017 through December 31, 2017	The grant proceeds would be used to provide re-employment services and eligibility assessment services to help unemployment insurance claimants return to work faster.
RS2017-654	**From**: Tennessee Department of Labor and Workforce Development **To**: Nashville Career Advancement Center (NCAC)	N/A	N/A	N/A	This amendment to the previous $5,263 grant to pay for administrative costs would make two text changes. Tracking No. LW09F155MNRSP15 would be changed to LW09F152MNSWA15; and all references to "Rapid Response funds" would be changed to "Statewide for Dislocated Worker funds".

GRANTS AND DONATIONS LEGISLATION - APRIL 18, 2017

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2017-655	**From**: Tennessee Department of Labor and Workforce Development **To**: Nashville Career Advancement Center (NCAC)	Not to exceed $5,263	$0	February 15, 2017 through June 30, 2017	The grant proceeds would be used to pay for sub-recipient's administrative costs.