



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: May 1, 2018

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 4/25/18:

4% Reserve Fund	\$5,253,804*
Metro Self Insured Liability Claims	\$5,564,173
Judgments & Losses	\$3,355,103
Schools Self Insured Liability Claims	\$4,563,548
Self-Insured Property Loss Aggregate	\$8,126,298
Employee Blanket Bond Claims	\$675,199
Police Professional Liability Claims	\$2,272,533
Death Benefit	\$1,300,687

*This assumes unrealized estimated revenues in FY18 of \$5,771,780, and includes the appropriation in Resolution No. RS2018-1165 of \$500,000.

Note: No fiscal note is included for legislation that has no significant financial impact.

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2018-1160 (RHOTEN) – This resolution would approve an exemption for Los Chilaquiles, located at 559 Stewarts Ferry Pike, from the minimum distance requirements for obtaining a beer permit.

The Metro Code of Laws (MCL) prevents a beer permit from being issued to an establishment located within 100 feet of a religious institution, 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)). As revised by Ordinance No. BL2016-454, this Code section no longer requires restaurants to have state on-premises liquor consumption licenses in order to obtain such exemption.

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

– ORDINANCE ON PUBLIC HEARING –

BILL NO. BL2018-1157 (SYRACUSE) – This ordinance would amend Chapter 15.64 and Section 17.28.040 of the Metropolitan Code of Laws to establish and preserve a fifty foot (50') floodway buffer along the Cumberland River. (Under the Metro Code, a “floodway” consists of the portion of a stream channel, as well as the portion of the flat or lowland area adjoining it, required for the passage or conveyance of a 100-year flood discharge.)

This ordinance would create a fifty foot (50') buffer measured from the floodway along the Cumberland River. No new residential structure could be built within this buffer and no variances could be granted from this requirement. Existing structures within the floodway buffer could be maintained and repaired, but not enlarged or expanded beyond their existing building footprint.

This ordinance is scheduled to be considered by the Planning Commission on May 24, 2018. Per section 18.02 of the Metro Charter, ordinances revising or changing zoning regulations shall not be passed on second reading until the recommendation of the Planning Commission has been received or thirty (30) days have elapsed without such recommendation.

– RESOLUTIONS –

RESOLUTION NO. RS2018-1158 (GLOVER & HASTINGS) – This resolution would authorize the issuance of public facility revenue improvement bonds by the Sports Authority, authorize the pledge of certain revenues of Metro as security for bonds, and authorize an official statement to be distributed in connection with the sale of the bonds.

This legislation follows and is modeled upon Substitute Resolution No. RS2017-910, adopted by the Council on November 7, 2017, which approved the issuance of bonds by the Sports Authority for the construction of a Major League Soccer (MLS) stadium on the Nashville Fairgrounds site. This subsequent resolution removes most references to the Fairgrounds, instead defining the site of the MLS stadium as “a portion of land dedicated for such purposes located within the area of the Metropolitan Government.” This resolution also removes references to the proposed no-cost 99 year ground lease of +/- 10-acres present in RS2017-910.

There are a few discrepancies of note in this resolution, as submitted by the sponsors. First, authorizes the issuance of general obligation bonds for improvements to the existing Fairgrounds property. Second, the resolution refers to “Exhibit A,” an Intergovernmental Project Agreement, but no such exhibit is attached to the resolution, as claimed. Third, the resolution authorizes the Sports Authority to execute a long-term ground lease between Metro and the Sports Authority, but identifies no specific Metro property as the location for the stadium.

In correspondence submitted April 23, 2018 to the Council, the Finance Department declared its inability to certify the availability of funds for the resolution under consideration. This letter further notes that language from RS2017-910 remains in this new resolution regarding the fairgrounds, including issuance of general obligation bonds not to exceed \$50,000,000 for improvements to the fairgrounds -- half of which was dedicated to infrastructure for the MLS stadium under RS2017-910 -- and authorization of a long-term ground lease with the Sports Authority at an undesignated stadium property.

According to the Finance Department, the MLS team ownership has expended a considerable amount of money in reliance upon the Council’s approval of RS2017-910, which could expose Metro to financial liability. This letter from Finance also references a letter from team owner John Ingram to President Pro Tem Weiner dated March 28, 2018, stating that building the stadium on a site other than the Fairgrounds property could jeopardize the MLS’s grant of an expansion team.

Fiscal Note: This resolution does not specifically rescind the authority to issue up to \$225,000,000 in revenue bonds as approved per Resolution No. RS2017-910. However, the intent is apparently to replace that authority with the language in the agreement proposed in this resolution.

Although both resolutions would approve new revenue bonds, there is an important difference. The original authority approved \$50,000,000 in general obligation bonds in addition to the revenue bonds. This money would be used as part of a capital spending plan for improvements to the fairgrounds. Of this amount, \$25,000,000 was to be used for infrastructure improvements associated with the new soccer stadium, with the remaining \$25,000,000 for improvements to existing fairgrounds buildings and facilities.

Although the requirement to build the stadium at the fairgrounds as proposed and approved by MLS Soccer is not included in the proposed replacement agreement, \$50,000,000 in G.O. bonds would still be issued for the fairgrounds. There is no explanation of a purpose or need for the extra \$25,000,000 for the fairgrounds in the resolution.

RESOLUTIONS NO. RS2018-1161 through RS2018-1163:

These resolutions would authorize the Metropolitan Development and Housing Agency (MDHA) to enter into agreements to accept payments in lieu of taxes (PILOT) with respect to three (3) multi-family housing projects detailed below. In 2016, Ordinance Nos. BL2015-1281, BL2016-334 and BL2016-435 were enacted, authorizing MDHA to negotiate and accept PILOT payments from operators of low income housing tax credit (LIHTC) properties, capped at \$2,500,000 annually. If approved, these resolutions would bring to ten (10) the number of such PILOT programs by MDHA overall, with seven (7) approved since 2016.

PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTs have previously been utilized by Metro to provide incentives through the Industrial Development Board (IDB) to large employers to create job opportunities. Under Tenn. Code Ann. §13-20-104, MDHA now has the authority to enter PILOTs to create affordable rental housing.

MDHA developed their PILOT program to provide additional financial incentives to developers considering construction or rehabilitation of affordable housing units through a federally funded LIHTC program. Subsidized low income housing tax credit developments serve those at or below 60% of the average median income (AMI) for the Nashville area, which translates to an income cap of \$31,500 for individuals and \$44,940 for families of four in 2018. Once negotiated by MDHA, each PILOT agreement must be approved by the Council by resolution.

The maximum term for a PILOT lease under this program is 10 years. The PILOT would only be available for additional tax liability over and above the pre-development assessed value of the property. The program is available for both existing and new developments, based on financial need. The PILOT lease is to be terminated if the property sits vacant for two years.

MDHA is required to file an annual report with the Council, Assessor of Property, and State Board of Equalization identifying the values of the properties subject to PILOTs, the date and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

Resolution No. RS2018-1161 – (SLEDGE, MENDES, & VERCHER)

This resolution would authorize MDHA to enter a PILOT agreement with respect to a multi-family housing project known as Trevecca Towers I and East, located at 60 Lester Avenue.

Lester One East, L.P. has proposed acquiring land located at 60 Lester Avenue for an apartment project consisting of the renovation of 354 existing units to serve low-income senior residents and operated as a LIHTC property. The application for this project, as well as the associated PILOT agreement, have been approved by the MDHA Board of Commissioners.

The Planning Commission recommended approval of this project on February 28, 2018, advising that the project is consistent with the existing ORI zoning of the property and is also consistent with the NashvilleNext general plan and the community character policy for the area.

Resolution No. RS2018-1162 – (SLEDGE, MENDES, & VERCHER)

This resolution would authorize MDHA to enter a PILOT agreement with respect to a multi-family housing project known as Trevecca Towers II, located at 310 Stanley Street.

Stanley Two, L.P. has proposed acquiring land located at 310 Stanley Street for an apartment project consisting of the renovation of 210 existing units to serve low-income senior patients and operated as a LIHTC property. The application for this project, as well as the associated PILOT agreement, have been approved by the MDHA Board of Commissioners.

The Planning Commission recommended approval of this project on February 28, 2018, advising that the project is consistent with the existing ORI zoning of the property and is also consistent with the NashvilleNext general plan and the community character policy for the area.

Resolution No. RS2018-1163 – (HUEZO, MENDES, & VERCHER)

This resolution would authorize MDHA to enter a PILOT agreement with respect to a multi-family housing project known as Biltmore Place II, located at 1136 Massman Drive.

Highmark Biltmore Place II, L.P. owns land located at 1136 Massman Drive. The owner has proposed construction of an apartment project consisting of approximately 42 units, restricted to individuals and families earning no more than 60% of AMI, to be operated as a LIHTC property. The application for this project, as well as the associated PILOT agreement, have been approved by the MDHA Board of Commissioners.

The Planning Commission recommended approval of this project on February 5, 2018, advising that the project is consistent with the existing RM20 zoning of the property and

is also consistent with NashvilleNext general plan and the community character policy for the area.

The approval by the Planning Commission applied two conditions:

1. Provide a sidewalk along the east side of the driveway that connects to the internal sidewalk network;
2. All internal sidewalks must have a minimum width of five feet.

Fiscal Note: This would be the second, third, and fourth PILOT requests for 2018. After approval of these PILOTs, the remaining available balance from the annual \$2.5 million cap would be \$1,585,780.

In addition to the PILOT payments, the developer would be required to pay a monitoring and reporting fee to MDHA. This fee would be set by MDHA, not to exceed five percent (5%) of the amount of the PILOT payment due each year.

The final assessed value of these projects would not be known until completion. However, for purposes of this analysis, the estimated value of the projects when completed can be used.

The PILOT request for Trevecca Towers I would require the developer to make a first-year payment of \$361,888 in lieu of property taxes. This would increase by 28% in year 2 and 5% in year 3 and each subsequent year for the remainder of the 10-year period.

Over the 10-year life of this PILOT agreement, a total of \$2,638,895 would be abated, although Metro would still receive \$1,889,250 in new property taxes from this project. The following table shows the details of this PILOT:

Trevecca Towers I						
	Year	Total Value	Standard Tax	Still Pay	Abatement	Abatement %
	1	\$38,580,703	\$486,888	\$125,000	\$361,888	74.3%
	2	\$38,580,703	\$486,888	\$160,000	\$289,028	64.4%
	3	\$38,580,703	\$486,888	\$168,000	\$281,028	62.6%
	4	\$38,580,703	\$486,888	\$176,400	\$272,628	60.7%
	5	\$38,580,703	\$486,888	\$185,220	\$263,808	58.8%
	6	\$38,580,703	\$486,888	\$194,481	\$254,547	56.7%
	7	\$38,580,703	\$486,888	\$204,205	\$244,823	54.5%
	8	\$38,580,703	\$486,888	\$214,415	\$234,613	52.2%
	9	\$38,580,703	\$486,888	\$225,136	\$223,892	49.9%
	10	\$38,580,703	\$486,888	\$236,393	\$212,635	47.4%
	Totals		\$4,528,145	\$1,889,250	\$2,638,895	58.3%

The PILOT request for Trevecca Towers II would require the developer to make a first-year payment of \$125,000 in lieu of property taxes. This would decrease to \$98,796 in year 2 and increase by 5% in year 3 and each subsequent year for the remainder of the 10-year period.

Over the 10-year life of this PILOT agreement, a total of \$1,575,685 would be abated, although Metro would still receive \$1,209,382 in new property taxes from this project. The following table shows the details of this PILOT:

Trevecca Towers II						
	Year	Total Value	Standard Tax	Still Pay	Abatement	Abatement %
	1	\$22,068,673	\$278,507	\$120,000	\$158,507	56.9%
	2	\$22,068,673	\$278,507	\$98,796	\$179,711	64.5%
	3	\$22,068,673	\$278,507	\$103,736	\$174,771	62.8%
	4	\$22,068,673	\$278,507	\$108,923	\$169,584	60.9%
	5	\$22,068,673	\$278,507	\$114,369	\$164,138	58.9%
	6	\$22,068,673	\$278,507	\$120,087	\$158,420	56.9%
	7	\$22,068,673	\$278,507	\$126,092	\$152,415	54.7%
	8	\$22,068,673	\$278,507	\$132,396	\$146,111	52.5%
	9	\$22,068,673	\$278,507	\$139,016	\$139,491	50.1%
	10	\$22,068,673	\$278,507	\$145,967	\$132,540	47.6%
	Totals		\$2,785,067	\$1,209,382	\$1,575,685	56.6%

The PILOT request for Biltmore Place II would require the developer to make a first-year payment of \$21,103 in lieu of property taxes. This would increase by 3% in year 2 and each subsequent year for the remainder of the 10-year period.

Over the 10-year life of this PILOT agreement, a total of \$424,155 would be abated, although Metro would still receive \$241,923 in new property taxes from this project. The following table shows the details of this PILOT:

Biltmore Place II						
	Year	Total Value	Standard Tax	Still Pay	Abatement	Abatement %
	1	\$5,277,955	\$66,608	\$21,103	\$45,505	68.3%
	2	\$5,277,955	\$66,608	\$21,736	\$44,872	67.4%
	3	\$5,277,955	\$66,608	\$22,388	\$44,220	66.4%
	4	\$5,277,955	\$66,608	\$23,060	\$43,548	65.4%
	5	\$5,277,955	\$66,608	\$23,752	\$42,856	64.3%
	6	\$5,277,955	\$66,608	\$24,464	\$42,144	63.3%
	7	\$5,277,955	\$66,608	\$25,198	\$41,410	62.2%

	8	\$5,277,955	\$66,608	\$25,954	\$40,654	61.0%
	9	\$5,277,955	\$66,608	\$26,733	\$39,875	59.9%
	10	\$5,277,955	\$66,608	\$27,535	\$39,073	58.7%
Totals			\$666,078	\$241,923	\$424,155	63.7%

RESOLUTION NO. RS2018-1164 (VERCHER) – This resolution would appropriate \$2,060,600 from the Undesignated Fund Balance of the General Fund of the General Services District to the Davidson County Election Commission. \$1,038,000 would be appropriated to fund the May 24, 2018 special election for the office of mayor and the office of council member for District 1. These May elections were scheduled in the aftermath of the Tennessee Supreme Court’s decision in the matter of Wallace v. Metropolitan Government, issued April 10, 2018. Additional funding of \$1,022,600 would also be approved for a potential runoff election June 28, 2018 if no candidate receives a majority of the vote in the election on May 24, 2018. Pursuant to Section 15.03 of the Metropolitan Charter, the Election Commission is required to schedule and administer special elections for the office of mayor and district council members and, if necessary, schedule and administer an additional runoff election. Neither election was anticipated as part of the current fiscal year 2018 operating budget, and thus, a supplemental appropriation is required.

Fiscal Note: In 1991, the Metro Council adopted Resolution R89-959 supporting the Finance Department policy that the GSD General Fund, the USD General Fund, and the General Purpose School Fund should maintain a fund balance equal or greater than five percent (5%) of the budget. This policy was expanded on July 1, 2006, per Office of Management and Budget Policy No. 8, to include the three primary budgetary debt funds in addition to these operations funds. (See also BL2017-726).

This resolution would reduce the GSD General Fund balance by \$1,038,000 as well as an additional \$1,022,600 if a runoff election is necessary. If the full \$2,060,600 is needed, the Finance Department has estimated the GSD General Fund balance would drop to 2.97%.

RESOLUTION NO. RS2018-1165 (S. DAVIS) – This resolution would appropriate \$500,000 from the General Fund Reserve Fund (4% Fund) to Metropolitan Nashville General Hospital (MNGH) for the purchase of equipment in the form of patient bed replacements. MNGH currently rents patient beds and maintains that this appropriation would result in annual savings of \$240,000 in bed rental costs.

Per Section 6.14 of the Metro Charter, the 4% Fund may only be used for the purchase of equipment and repairs to buildings. By Ordinance No. 086-1534 and Metro Code Section 5.04.015.F, allocations from the General Fund Reserve Fund must each be supported by an information sheet, a copy of which is attached to this Analysis.

The resolution provides in part: “The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund.”

Fiscal Note: The balance in the General Fund Reserve Fund prior to the appropriation in this resolution is \$5,753,804. This includes projected unrealized revenue for FY18 in the amount of \$5,771,780. After this appropriation of \$500,000, the projected remaining balance would be \$5,253,804.

RESOLUTION NO. RS2018-1166 (VERCHER & BEDNE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1167 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claim of Tank Maxwell Saunders, a minor, by his mother Shetika Goode against the Metropolitan Government in the amount of \$150,000.

In the summer of 2014, Tank Maxwell Saunders, age 7, participated in a Metro Parks summer youth program at Napier Community Center together with his two sisters. Tank is a special needs child with autism, developmental delays, and ADHD. Ms. Goode did not disclose that Tank had any medical problems of which the staff should be aware on a Youth Patron Information Form. The form did not ask whether the child had permission to swim (though the form has since been changed). Participants of the program had the option to swim in the pool twice per week, but unless a participant passed a swim test, he or she had to stay in certain areas of the pool.

Ms. Goode maintains that she told Metro Parks employees, including the program director Dewayne Williams, that Tank did not have permission to swim because of his special needs and inability to swim. On July 7, 2014, Tank’s older sister packed his swimsuit without her mother’s knowledge and knowing that her mother did not want Tank to swim. Three Red Cross-certified lifeguards were on duty that day, and Mr. Williams went swimming with program participants. Mr. Williams and a lifeguard saw Tank face-down at the bottom of the pool, whereupon he was pulled out of the water. One of the lifeguards called 911 and emergency responders transported Tank to Vanderbilt Children’s Hospital.

Tank was treated for his injuries, including difficulty breathing on his own, which required emergency intubation and hospitalization for over one week in Pediatric Intensive Care. An MRI to check for anoxic brain injury revealed that he did not suffer permanent brain damage. Ms. Goode has agreed to accept a total of \$150,000 in full settlement of this case, based upon \$133,800.53 for reimbursement of Tank’s medical expenses plus \$16,199.47 for pain and suffering.

The Department of Law recommends settlement of this claim for \$150,000.

The employee involved, Mr. Williams, resigned in January 2015. He was arrested in October 2014, after Tank's near drowning, and pleaded guilty to sexual exploitation of a minor and solicitation of a minor. These charges involved Tank's 15-year old sister and another underage female.

Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$150,000.

RESOLUTION NO. RS2018-1168 (VERCHER, BEDNE, & RHOTEN) – This resolution would authorize the Director of Public Property to exercise an option agreement between the Metropolitan Government and Samoill and Marsa Morgan, for the purchase of property located at 2343 Antioch Pike owned by the Morgans. This option would be valid for a period of thirty (30) days. This property would be used for future park connection and expansion of the Mill Creek Greenway.

Section 2.24.250.F of the Metro Code authorizes the director of public property to negotiate the purchase of property and to obtain from property owners an option to sell at a fixed price, subject to the approval of the Council by resolution,

The proposed option was approved by the Planning Commission.

Fiscal Note: This property appraised for \$10,300 and would be purchased with existing open space funds for \$11,330.

RESOLUTION NO. RS2018-1169 (VERCHER, RHOTEN, & ALLEN) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1170 (VERCHER & GILMORE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1171 (GILMORE & ALLEN) – This resolution would authorize the continuation of the Metropolitan Government's vehicle inspection and maintenance program for motor vehicles registered in Davidson County.

Tennessee Code Annotated §68-201-119 provides that the Tennessee Air Pollution Control Board shall promulgate rules that (1) specify the type of vehicle inspection and maintenance program to be established and implemented and (2) establish that the inspection associated with the vehicle inspection and maintenance program will occur on an annual basis in connection with vehicle registration renewal. Pursuant to this legislation, the Metropolitan Government established a vehicle inspection and maintenance program.

During the Tennessee General Assembly's current legislative session, however, the state law was amended by SB2656/HB1782, banning counties in attainment status from continuing vehicle inspection programs. However, an exception was added to allow counties that, on the effective date of SB2656/HB1782, already have local air pollution control programs and inspection and maintenance programs, to continue such programs. In order to qualify for this exemption, the county legislative body (in this case, Metro Council) must adopt a resolution within 30 days of the effective date of the legislation and provide a copy of said approved resolution to the Technical Secretary of the Air Pollution Control Board within 60 days of the effective date of the legislation.

Metro currently contracts with two (2) private vendors to implement its vehicle inspection program, authorized pursuant to Resolution Nos. RS2017-700 and RS2017-701, which continue through June 30, 2022.

The resolution currently under consideration would authorize the continuation of Metro's vehicle inspection and maintenance program for motor vehicles registered in Davidson County and would direct a certified copy of the adopted resolution be submitted to the Technical Secretary of the Air Pollution Control Board, thereby fulfilling the requirements for continuing this program under the recently amended Tenn. Code Ann. §68-201-119.

Fiscal Note: Under the current agreements, the Health Department advises that Metro receives approximately \$2.1 million per year as our share of the auto emissions testing fees. If this resolution is not approved, this revenue would be lost. In addition, there could be an increase in health care costs from the resulting increase in air pollutants in Davidson County. However, it would be speculative to attempt to quantify this amount.

RESOLUTION NO. RS2018-1172 (ROBERTS, VERCHER, & OTHERS) – This resolution would approve an intergovernmental agreement by and between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works for the reimbursement of railroad crossing safety improvements at Centennial Boulevard.

The Metropolitan Government is authorized to approve an agreement with TDOT by resolution. (Tenn. Code Ann. §12-9-104).

Fiscal Note: The project is estimated to cost \$9,093. Metro is eligible for 100% reimbursement for the Railroad Crossing Approaches Project, so there should be no net cost to Metro.

RESOLUTION NO. RS2018-1173 (ROBERTS, VERCHER, & OTHERS) – This resolution would authorize the Metropolitan Department of Water and Sewerage Services (MWS) to enter into a facility encroachment agreement with CSX Transportation, Inc. (CSX) to construct, use, and maintain a 10-inch water pipeline crossing located at or near Nashville Terminal Subdivision, Milepost 0NW-5.36.

Ordinance No. O98-1393 authorized Metro to enter agreements such as this with CSX for water and sewer line construction by resolution.

Fiscal Note: MWS would make a nominal payment to CSX of one dollar (\$1.00) upon execution of this contract.

RESOLUTION NO. RS2018-1174 (ROBERTS, VERCHER, & OTHERS) – This resolution would authorize the Metropolitan Department of Water and Sewerage Services (MWS) to enter into a facility encroachment agreement with CSX Transportation, Inc. (CSX) to construct, use, and maintain an 8-inch sewer pipeline crossing located at or near Nashville Terminal Subdivision, Milepost ONW-5.45.

Ordinance No. O98-1393 authorized Metro to enter agreements such as this with CSX for water and sewer line construction by resolution.

Fiscal Note: MWS would make a nominal payment to CSX of one dollar (\$1.00) upon execution of this contract.

RESOLUTION NO. RS2018-1175 (S. DAVIS, BEDNE, & ELROD) – This resolution would amend Ordinance No. BL2015-12 to authorize the Metropolitan Government to abandon existing sanitary sewer and water easement rights and accept fire hydrants for properties located at 710 and 701B Cleo Miller Drive, formerly 1034 West Eastland Avenue. BL2015-12 provides that amendments to that legislation shall be approved by resolution.

This resolution has been approved by the Planning Commission.

RESOLUTION NO. RS2018-1176 (O'CONNELL, BEDNE, & ELROD)

RESOLUTION NO. RS2018-1177 (O'CONNELL, BEDNE, & ELROD)

RESOLUTION NO. RS2018-1178 (O'CONNELL, BEDNE, & ELROD)

These resolutions would each authorize the construction, installation and maintenance of aerial encroachments – each consisting of double-faced, illuminated, projecting signs – at three separate locations: 111 3rd Ave South (RS2018-1176); 115 2nd Ave North (RS2018-1177); and 300 Broadway (RS2018-1178).

In each instance, the resolution requires the applicants to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the signs, and to provide a \$3 million certificate of public liability insurance (\$2 million in the case of RS2018-1178) with the Metropolitan Clerk naming the Metropolitan Government as an insured party. The applicants must also hold the Metropolitan Government harmless from all claims connected with their installations.

In each case, the Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of the surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of the applicants. Metro further retains the right to repeal the approvals of the encroachments without liability.

The plans for each encroachment must be submitted to the Director of Public Works for approval, along with all work and materials; and each installation, when completed, must be approved by the Director.

Construction of the signs and canopy must be carefully guarded and completed promptly, so as to cause the least inconvenience to the public.

The Planning Commission has approved these proposals.

RESOLUTION NO. RS2018-1179 (HAYWOOD & ALLEN) – Pursuant to Tennessee Code Annotated §67-1-403, county mayors in Tennessee must require all Board of Equalization members and hearing officers to complete annual continuing education and training regarding the duties and responsibilities of their office as a condition of appointment or continued service. This statute also requires the Metro Council to establish a minimum of four (4) hours training for board members and hearing officers to complete annually and minimum recordkeeping requirements related to members' certificates of attendance.

This resolution would establish a requirement of a four (4) hour minimum annual continuing education and training for all members of the Metropolitan Board of Equalization and all Board of Equalization hearing officers. Any association or organization with appropriate knowledge and experience would be authorized to prepare a training and continuing education curriculum covering board governance, open meetings requirements, and other topics reasonably related to the duties of the Board, to be submitted to the Tennessee Comptroller of the Treasury for review and approval prior to use. Mandatory annual continuing education and training would be required only to the extent that this education and training is provided by the Comptroller free of charge.

Fiscal Note: Although the training would be held in the training room of the Assessor's Office, they would not be conducting the training. They do not think this resolution would have any impact on their operating budget.

RESOLUTION NO. RS2018-1180 (ROSENBERG) – This resolution would propose three amendments to the Metropolitan Charter.

The Council, pursuant Metro Charter Sec. 19.01, may only adopt two resolutions during the term of the Council that submit amendments to the voters for ratification. Each proposed

amendment to the Charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. The council has not yet used exercised their ability to place Charter amendments on the ballot this term.

Metro Charter Sec. 19.01 requires that a resolution to amend the Charter must prescribe a date not less than eighty (80) days subsequent to the date of its filing for the holding of a referendum election to vote to ratify or reject the proposed amendments. The resolution provides that the date for holding the referendum election on the proposed Charter amendments is to be August 2, 2018.

The three proposed amendments to the Metro Charter are as follows:

- The first proposed amendment would revise the line of succession for the Office of Mayor by clarifying that the President Pro Tempore of the Metro Council would serve as mayor in the event the Vice Mayor is unable or unwilling to serve and that the Deputy President Pro Tempore would serve as Mayor if the President Pro Tempore is unable or unwilling to serve. Further, this amendment would require a special election for mayor when more than twelve (12) months remain in the unexpired term, for vice mayor when more than twenty-four (24) months remain in the unexpired term, and for district council member when more than six (6) months remain in the expired term and clarify that no special election for councilmember-at-large be held.
- The second proposed amendment would establish instant runoff voting as the mechanism for filling a vacancy in the office of vice mayor or a district council member. Instead of traditional runoff elections, voters would rank candidates in order of preference. A candidate receiving a majority of first-preferences for that office would win the election. If no candidate received such a majority, the lowest-scoring candidate would be eliminated and his or her votes redistributed to remaining non-eliminated candidates based upon the eliminated candidate's voters' order of preference. This would continue until one candidate received a majority of the votes. As drafted, the structure of this amendment would require that the first amendment be adopted.
- The third amendment would establish the positions of President Pro Tempore and Deputy President Pro Tempore of the Metro Council within the Charter. (Currently, these positions exist only as designations within the Council's Rules of Procedure.) It would also revise the line of succession for the Office of Vice Mayor by clarifying that the President Pro Tempore would serve in the absence of the Vice Mayor and that the Deputy President Pro Tempore would serve in the absence of the President Pro Tempore.

RESOLUTION NO. RS2018-1181 (HAYWOOD) – This resolution would approve the election of five hundred eighty-five (585) Notaries Public in accordance with state law. Per Rule 27 of the Metro Council Rules of Procedure, the Davidson County Clerk has advised that each of the applicants meets the qualifications for the office.

An anticipated amendment would add one name to the list of applicants.

– ORDINANCES ON SECOND READING –

BILL NO. BL2018-1056 (ALLEN) – This ordinance would create a new section 6.28.030 of the Metropolitan Code of Laws to regulate online marketplaces that facilitate short term rental properties (STRPs). Online marketplaces in this context consist of internet-based digital platforms that provide marketing and compensation for operators of STRPs.

This legislation would define the terms “Online Marketplace” and “STRP Operator” and further establish standards for online marketplaces including requirements for listing STRPs. Online marketplaces would need to require a Metro permit number for each STRP-application prior to placing the property on the online marketplace site. The online listing would be required to expire at the same time as the STRP permit period and the permit would be required to be renewed prior to re-listing. Online marketplaces would further be required to remove a listing within 10 days after receipt of written notification from the Metropolitan Government that a STRP permit had been revoked, or that the STRP is operating without a permit.

The online marketplace would also be required to include a statement in its application information that operators and guests must abide by applicable zoning, noise, parking, trash, and public decency regulations and must also provide a link to the Metro Code of Laws and the website regarding permitting and operation of STRP.

The online marketplace would further be required to provide information regarding activity in the previous quarter by the 15th of the month following the end of each calendar quarter. The information would include:

- The total number of STRPs in each census tract listed on the online marketplace during the reporting period;
- By permit number, the number of days each STRP was rented during the reporting period and the rate at which the STRP was rented;
- Aggregated statistics regarding the total number of nights that STRPs on the platform were rented to guests;
- Aggregated statistics regarding the number of nights that STRPs on the online marketplace are booked for rental;
- Aggregated statistics regarding the STRP permit type for each listing; and
- The total amount of tax collected by the online marketplace (if any) and remitted to the city.

If enacted, this ordinance would take effect 60 days after passage.

The Council Office would note that the Tennessee General Assembly has very recently enacted legislation (HB1020/SB1086) that impacts the ability of local governments to regulate short-term rental properties. The Council office is continuing to analyze this recent legislation.

BILL NO. BL2018-1159 (MURPHY, ROBERTS, & OTHERS) – This ordinance would place restrictions on the sale of dogs and cats in pet stores. The ordinance defines “pet store” as a retail establishment where dogs or cats are offered for sale as pet animals to the general public at retail. “Animal care facility” is defined as an animal control center or shelter maintained by or under contract with a government entity that seeks permanent placements of animals in homes or with rescue organizations. “Animal rescue organization” is defined as a not-for-profit, 501(c)(3) group that rescues animals to place in permanent homes.

Under this ordinance, pet stores would be permitted to sell only those dogs and cats obtained from or displayed in cooperation with an animal care facility or an animal rescue organization. Pet stores would also be prohibited from selling a dog or cat younger than eight (8) weeks old. Pet stores would be required to maintain records sufficient to document the source of each dog or cat the pet store acquires for at least one year from the date of acquisition. When pet stores offer dogs or cats for sale, they would be required to post in a conspicuous location a sign listing the name of the animal care facility or animal rescue organization from which each dog or cat was acquired.

Violations of this ordinance would be subject to a civil penalty of fifty dollars (\$50) per day, per violation. Each animal offered for sale in violation of this ordinance would constitute a separate offense.

BILL NO. BL2018-1160 (HURT & O'CONNELL) – This ordinance would approve a temporary “Special Event Zone” for the downtown area, in conjunction with the 2018 CMA Music Fest which is scheduled June 6 - 11, 2018.

The Special Event Zone established under this ordinance would consist of four areas. Area 1 would extend from 1st Ave to Rosa L Parks Blvd, and from Korean Veterans Blvd to Commerce Street, with an extension from Commerce Street to Church Street along 2nd and 1st Ave North. Area 2 would extend from the East side of the Woodland Street Bridge to Interstate Drive, between South 1st Street and Russell Street. Area 3 would contain the John Seigenthaler Pedestrian Bridge from 3rd Ave South to South Second Street. Area 4 would contain the Woodland Street Bridge, from 1st Ave North to South 1st Street.

Activity restrictions within the Special Event Zone would begin at six o'clock (6:00) a.m. on Wednesday, June 6, 2018, and end at midnight (12:00) on Monday, June 11, 2018.

Activities on public property or in the public right-of-way within the Special Event Zone are regulated as follows:

1. The sale of any food, beverages, goods, or merchandise would be prohibited on the public streets, sidewalks, alleys, and rights-of-way, except for street vendors with valid vending licenses issued pursuant to Section 13.08.040 of the Metro Code of Laws.

2. Alcoholic beverages provided, served, or sold from any temporary outdoor use would be prohibited
3. The sale or distribution of merchandise pertaining to CMA Fest, where it is apparent such merchandise is not licensed by CMA, regardless of whether the vendor is operating with a valid license or permit, would be prohibited.
4. No tents or membrane structures of any kind would be authorized, except for those sanctioned and authorized by CMA or Metro.
5. The construction, placement, occupation, or use of any temporary structure would be prohibited, except for those sanctioned and authorized by CMA.
6. The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned or authorized by CMA would be prohibited, except within the Public Participation Area.

This ordinance would establish at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area would allow for the reasonable expression by the public in a manner that is not disruptive to the 2018 CMA Fest, activities, and events.

This ordinance closely resembles Ordinance No. BL2014-687 which authorized a similar "Special Event Zone" in conjunction with the 2014 NCAA Women's Final Four basketball tournament held in Nashville in April 2014.

Fiscal Note: This ordinance places restrictions on the activities that would be allowed to take place within the special event zone during the 2018 CMA Music Fest. However, no additional Metro personnel or overtime would be required just for the enforcement of these restrictions.

BILL NO. BL2018-1161 (SYRACUSE, VERCHER, & OTHERS) – This ordinance would authorize the acquisition of real property by agreement between the Metropolitan Government and Plaza 2750, LLC (Plaza).

This agreement would approve the acquisition of a 1.75-acre tract for use as the site of a new Donelson public library branch and approximately .875 acres for use in building-related infrastructure improvements. Pursuant to the agreement, Plaza would construct the infrastructure improvements necessary to support this project and Metro would contribute an amount not to exceed \$2,000,000 toward the actual cost of the infrastructure improvements. The purchase price of this property would be \$23.00 per square foot, rounded to the nearest one hundredth. The estimated purchase price is \$2,310,335.

Under the terms of the agreement, there are certain conditions which must occur within 120 days after the effective date. Included among the conditions is a requirement that the Donelson Transit-oriented Redevelopment Plan must be approved and become effective, and that MDHA and Plaza must enter into a Development Agreement which would include a tax increment

financing loan (TIF Loan) of at least \$1,000,000 to assist Plaza's payment of the cost of infrastructure improvements.

This has been approved by the Planning Commission.

Fiscal Note: Metro would contribute an amount not to exceed \$2,000,000 toward the actual cost of the infrastructure improvements. The purchase price of this property would be \$23.00 per square foot, rounded to the nearest one hundredth. The estimated purchase price is \$2,310,335.

BILL NO. BL2018-1162 (LEE, BEDNE, & ELROD) – This ordinance would abandon an existing pump station and sanitary sewer force main and accept new water and sanitary sewer mains, sanitary manholes, fire hydrants and easements for property located at 0 Pin Hook Road.

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

BILL NO. BL2018-1163 (O'CONNELL, BEDNE, & ELROD) – This ordinance would abandon existing sewer main and easement and accept new sewer mains, sanitary manholes, a fire hydrant and easements for property located at 710 Demonbreun Street.

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

BILL NO. BL2018-1164 (ROBERTS, BEDNE, & ELROD) – This ordinance would abandon existing easement and easement rights for property located at 4411 Michigan Avenue, formerly known as 45th Avenue North. This abandonment has been requested by Councilwoman Mary Carolyn Roberts.

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

BILL NO. BL2018-1165 (ROBERTS, BEDNE, & ELROD) – This ordinance would abandon existing water main and easement and accept new water main, fire hydrants and easements for property located at 6006 B Hill Circle including Hill Circle and a portion of Marcia Avenue.

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

BILL NO. BL2018-1166 (WITHERS, BEDNE, & ELROD) – This ordinance would abandon existing sewer mains and easement and accept new sewer mains, sanitary sewer manholes and any associated easements for property located at 711 Gallatin Avenue.

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

BILL NO. BL2018-1167 (FREEMAN, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 1897 right-of-way. This abandonment has been requested by Pam Kimbro, applicant.

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

– ORDINANCES ON THIRD READING –

BILL NO. BL2018-1111 (GLOVER) – This ordinance would amend the Metropolitan Code of Laws (MCL) to authorize the Board of Ethical Conduct to evaluate whether actions of government employees violated executive orders that regulate the standards of conduct of Metro employees.

The Code currently authorizes the Board of Ethical Conduct to evaluate alleged violations of the standards of conduct set forth in Section 2.222.020 of the MCL. The ordinance under consideration would expand that jurisdiction to include executive orders from the mayor.

Generally, executive orders are regarded as directives issued by the mayor that manage operations of the Metropolitan Government.

An amended, only those executive orders that are “currently in effect” which regulate ethical standards of conduct would apply. As a result, only one (1) current executive order would be implicated -- Mayor Barry’s Executive Order No. 5, which was extended pursuant to Mayor Briley’s Executive Order No. 1. That order, in part, provides that each employee shall avoid actions that might result in, or create the appearance of (a) using a public office for private gain; (b) giving preferential treatment to any person; (c) impeding government efficiency or economy; (d) losing complete independence or impartiality; (e) making a Metropolitan Government decision outside of official channels; or (f) affecting adversely the confidence of the public in the integrity of the Metropolitan Government.

Executive orders apply to Metro Government employees, but do not apply to elected officials and certain quasi-governmental agencies (e.g., NES, Airport Authority, MTA, MDHA, etc.). Mayor Barry’s Executive Order no. 5 (as extended) expressly applies to the mayor and mayor’s staff, but does not otherwise apply to elected officials.

The Board of Ethical Conduct has authority to hear complaints against elected officials as well as members of boards and commissions, but not Metro employees. The Board already has the authority to hear complaints against a mayor for violating the standards of conduct within the Code. As a result, the ordinance as amended would merely grant authority to the Board to hear complaints against a mayor for violation of a mayor’s own current executive order regarding ethics.

BILL NO. BL2018-1124 (HURT) – This ordinance would amend Sections 16.08.015.M and 16.12.130.N of the Metropolitan Code of Laws to add a requirement that public toilet facilities include at least one (1) dispenser for toilet seat covers. No other changes would be made to either section.

According to the Department of General Services, flushable seat covers may cause plumbing issues in older Metro facilities.

Fiscal Note: General Services estimated the incremental cost of equipping a Metro-owned toilet facility with a dispenser for toilet seat covers to be as follows:

- \$20 per dispenser
- \$40 per hour for labor for installation
- \$58 per 3,000 paper covers

Covers of this type are not currently provided in buildings managed by the Department of General Services.

General Services provided an estimate of the number of public toilets within Metro in the buildings managed and maintained by them. All other departments were requested to determine the number of restrooms in their buildings not maintained by General Services in order to estimate the total number of applicable restrooms in Metro. Based upon these counts, it is estimated that approximately 7,300 dispensers would be required, primarily due to the number of restrooms in public schools. This would equate to an initial equipment and installation cost as high as \$438,000 (assuming a full hour for installation is required).

Each case of covers can be used to supply 24 dispensers. This would equate to an initial supply cost of \$17,642. The ongoing supply cost would depend on the rate of usage.

BILL NO. BL2018-1143 (M. JOHNSON, MURPHY, & OTHERS) – This ordinance would approve an agreement between the Tennessee Department of Transportation (TDOT), City of Belle Meade, CSX Transportation, Inc. (CSXT), and the Metropolitan Department of Public Works.

This agreement would be for costs incurred by CSXT during the construction phase of the bridge rehabilitation project at the Hillwood Boulevard Bridge over CSX Transportation railroad crossing and Richland Creek.

Fiscal Note: The estimated cost of \$285,847 would be paid by the State of Tennessee.

BILL NO. BL2018-1144 (VERCHER, BEDNE, & ELROD) – This ordinance would grant temporary and permanent easements to the Tennessee Department of Transportation (TDOT) on certain properties along Clarksville Highway owned by the Metropolitan Government. The easements are necessary for the successful completion of a widening project along Clarksville Highway. The easement locations and compensation to be paid by TDOT are attached to the Ordinance as exhibits and are as follows:

- Exhibit A — slope easement — \$45,000
 - 3500 John Mallette Drive
- Exhibit B — slope easement — \$1,600
 - 3851 Clarksville Pike

- Exhibit C — slope easements, temporary construction easements, permanent drainage easements — \$160,300
 - 3603 W. Hamilton Road
- Exhibit D — slope easement, temporary construction easement, permanent drainage easements — \$34,300
 - 4000 Clarksville Pike
- Exhibit E — slope easements, temporary construction easements — \$27,300
 - 3701 W. Hamilton Road
 - 3615 W. Hamilton Road
 - 3611 W. Hamilton Road
 - 3607 W. Hamilton Road

Fiscal Note: The total amount that would be paid by TDOT for these easements is \$268,500.

BILL NO. BL2018-1145 (SLEDGE, BEDNE, & ELROD) – This ordinance would abandon existing utility easement rights on property located at 700 Hamilton Avenue, formerly known as Trabue Street. It has been determined that these easement rights are no longer needed. This abandonment has been requested by Thompson Burton PLLC, on behalf of the owner.

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

GRANTS LEGISLATION – MAY 1, 2018

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1166	<p>From: Tennessee Administrative Office of the Courts</p> <p>To: Davidson County Juvenile Court</p>	Not to exceed \$62,450.00	\$6,939.00	July 1, 2018 through June 30, 2019	The grant proceeds would be used to provide interpreter and translation services for individuals with limited English proficiency for court hearings in the Davidson County juvenile courts.
RS2018-1169	<p>From: Metropolitan Nashville Airport Authority</p> <p>To: Metropolitan Parks and Recreation Department</p>	Not to exceed \$10,000	\$0	N/A	The grant proceeds would be used for the Metro Parks Tree Bank to assist in the planting of Trees in Nashville.
RS2018-1170	<p>From: Tennessee Department of Mental Health and Substance Abuse Services</p> <p>To: Metropolitan Social Services Commission</p>	Increase of \$226,034.00	N/A	Extend to September 29, 2018	<p>This resolution would approve amendments one and two to a Tennessee Cooperative Agreement to Benefit Homeless Individuals previously approved by RS2015-7.</p> <p>Amendment one would extend the end date of the grant agreements to September 29, 2018. Amendment 2 would increase the grant amount from \$510,000 to \$735,034.</p>


**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
 GENERAL FUND 4% RESERVE FUND
 INFORMATION SHEET
 (As Required By Ordinance 086-1534)**

General Hospital
 4th Quarter – FY 2018
 67201000

Object Code	Item	Qty.	Estimated Cost	Replacement or New Equipment	Age of Equipment Replacing (In Years)	Estimated Life of Equipment (In Years)
	Patient Bed Replacement		\$500,000	Replacement		8
	TOTAL		\$500,000			

- Is this expenditure federal or state reimbursable?..... No
- Can this equipment be used year around? Yes
- Has the price been verified by Division of Purchases?..... No
- Have you checked Public Property Division for usable surplus equipment? No
- Is equipment absolutely necessary at this time? Yes
- Will equipment reduce present cost? Yes
- Is equipment to extend services? Yes
- Is equipment to reduce manpower? No
- Will equipment require new manpower?..... No
- Will equipment increase productivity? Yes
- Will equipment promote public health? Yes
- Will equipment promote public safety? Yes
- Have all previously adopted resolutions appropriating funds from the General Fund Reserve Fund (4% Fund) been complied with by expending said funds as required? Yes
- If not, do you expect to expend funds and the date expected for the expenditure? (June 2018) Yes

COMMENTS: _____

Agency Head 
 Date 4-19-2018