



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: August 21, 2018

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 8/15/18:

4% Reserve Fund	\$42,205,476*
Metro Self Insured Liability Claims	\$4,277,389
Judgments & Losses	\$2,123,998
Schools Self Insured Liability Claims	\$4,565,083
Self-Insured Property Loss Aggregate	\$5,486,319
Employee Blanket Bond Claims	\$677,864
Police Professional Liability Claims	\$2,244,411
Death Benefit	\$1,306,053

*This assumes unrealized estimated revenues in FY19 of \$31,673,277.

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

– RESOLUTIONS –

RESOLUTION NO. RS2018-1314 (ROSENBERG, BLALOCK, & HENDERSON) – This resolution, as substituted, would propose six 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. Under state law, the resolution as *adopted by Council* must be filed with the Election Commission 75 days before the election. (Tenn. Code Ann. §2-3-204(b))("Resolutions...requiring the holding of elections on questions submitted to the people which are to be held with the regular November election...shall be filed with the county election commission not less than seventy-five (75) days prior to such election.")(See *also* Tenn. Op. Att'y Gen. No. 08-171, Nov. 5, 2008, construing T.C.A. § 2-3-204). The resolution provides that the date for holding the referendum election on the proposed Charter amendments is to be November 6, 2018.

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

- The first proposed amendment would revise the line of succession for the office of mayor, providing that the vice mayor would serve until the vacancy was filled as provided in section 15.03. The ordinance would clarify that, in the event the vice mayor is unable or unwilling to serve as mayor, the Council would nominate and elect a successor, selected by winning a majority of votes, defined as "one vote more than half of all the members to which the council is entitled with the exception of any seat which is vacant." The successor would also be required to be legally qualified to hold office per Section 5.02 of the Metro Charter and would not be eligible to file a nominating petition for the subsequent election for mayor or vice mayor. The amendment would also substitute gender neutral references for masculine-only pronouns. This amendment was added to the Resolution at the August 7 Council meeting.

- The second proposed amendment, as amended, 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 eight (8) months remain in the expired term, and clarify that no special election for councilmember-at-large be held. Run-off elections would be conducted 5 weeks after the first special election. An amendment is anticipated from the sponsor.

- The third 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. (Section I of this amendment presupposes adoption of the second amendment, summarized above.) Compared to traditional runoff elections, under instant runoff voting, 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. This amendment could be implemented with or without the adoption of the second proposed amendment.

The Metro Legal Department, citing a 2017 letter from the Coordinator of Elections, submits that instant runoff voting is inconsistent with current state law provisions in Tenn. Code Ann. §§ 2-5-208(b), 2-7-133(b), and 2-8-101.

An amendment is anticipated from the sponsor.

- The fourth proposed amendment would require oaths of office for mayor, vice mayor, and members of council to include an oath to uphold the Charter of the Metropolitan Government of Nashville. Currently, such oaths reference only support of the Tennessee Constitution and the Constitution of the United States.
- The fifth proposed amendment would change the term limits for the offices of councilman and councilman at-large from two (2) terms to three (3) terms. It would also change "councilman" to "councilmember."
- The sixth proposed amendment would update the Metropolitan Charter with general neutral references in place of masculine-only pronouns. References to "he" would be changed to "he or she," "his" would be changed to "his or her," "him" would be changed to "him or her," "councilman" would be changed to "councilmember," and "policemen" would be changed to "police officers." Minor typographical errors would also be corrected.

The first proposed amendment, Proposed Charter Amendment A, as amended, was added to the Resolution at the August 7th Council meeting. The second proposed amendment, Proposed Charter Amendment B, was amended at that meeting, but the Resolution was deferred before a vote was taken to add Proposed Amendment B to the Resolution. The third through sixth proposed amendments have not yet been debated.

Fiscal Note: The proposed "instant runoff" amendment has the potential of avoiding the cost of an additional election date. For this to happen, the runoff for the vice mayor or district council member position would need to be the only item on the ballot. If some other item is also on the ballot, the inclusion of these runoffs would not result in any additional costs.

The Election Commission has made a general estimate that a district election to fill a vacant council seat would cost approximately \$90,000. A county-wide election to fill the office of vice mayor would cost approximately \$750,000. These are general estimates only. Actual costs would depend on the number of locations, number of early voting days, etc.

RESOLUTION NO. RS2018-1338 (SHULMAN, ROBERTS, & WITHERS) – This resolution would approve a contract between the Metropolitan Government and Infor, Inc. to provide maintenance and support of workforce time and attendance software for the Metropolitan Police Department (MNPD).

Sole source contracts may be awarded under the Metro procurement code when it is determined by the Purchasing Agent in writing that there is only one source for the supply or services rendered. (An executed sole source justification form is attached to the Resolution.) Metro Code of Laws (MCL) Section 4.12.060 requires all sole-source contracts having a total value in excess of \$250,000 to be approved by the Council by resolution.

This agreement would start July 1, 2018 and terminate June 30, 2021. The contract may be extended for up to two additional years, with the pricing to be negotiated at that time.

Fiscal Note: The estimated value of the contract over the three-year term is \$385,500.33.

RESOLUTION NO. RS2018-1362 (HAGAR, VERCHER, & ELROD) – This resolution would authorize the Director of Public Property, or his designee, to exercise an option agreement for the purchase of two (2) flood-prone properties for Metro Water Services.

The properties would each be acquired for their fair market value. Section 2.24.250.F of the Metro Code of Laws allows the Director of Public Property Administration to negotiate the purchase of such property, subject to the approval of the Metro Council by resolution.

The addresses and purchase price of these properties are as follows:

- 119 Commerce Street (District 11) — \$195,000
- 121 Commerce Street (District 11) — \$175,000

This has been approved by the Planning Commission.

Fiscal Note: The total purchase price for these properties would be \$370,000.

RESOLUTION NO. RS2018-1363 (VERCHER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1364 (VERCHER, HURT, & GILMORE) – This resolution would appropriate \$40,000 from the Youth Violence Grassroots Initiatives to four (4) nonprofit organizations selected to receive related grants.

State law provides that the Metropolitan Government may appropriate funds to nonprofit organizations in accordance with the guidelines of the Metropolitan Government. (Tenn. Code Ann. § 7-3-314.) Metro Code of Laws Sec. 5.04.070 provides that the Council may, by Resolution, appropriate funds for the financial aid of nonprofit organizations. These nonprofit organizations were selected pursuant to criteria set forth by the Mayor's Office and Finance Department. The resolution further authorizes the Metropolitan Government to enter into grant contracts with the listed nonprofit organizations. These contracts will specify the terms and conditions under which the grant funds are to be spent.

The four (4) nonprofits are as follows:

- \$15,000 to Gideon's Army;
- \$12,500 to Gentlemen And Not Gangsters (G.A.N.G.);
- \$7,500 to Nashville Peacemakers; and
- \$5,000 to Dads Against Destruction (D.A.D.s)

Fiscal Note: The approved substitute operating budget for FY19 includes \$50,000 for the Youth Violence Grassroots Initiatives in Administrative Business Unit #01101142. This appropriation would total \$40,000, leaving a remaining available balance of \$10,000 for this purpose.

RESOLUTION NO. RS2018-1365 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claim of Adolfo Martinez against the Metropolitan Government in the amount of \$7,250.

On June 1, 2016, a police officer was stopped at the traffic light on Glenrose Avenue when he observed an individual sleeping at the wheel of a parked vehicle. Seeking to investigate, the officer activated his emergency lights and reversed his vehicle. The officer collided with the vehicle behind him, driven by Mr. Martinez.

Mr. Martinez sought treatment for cervical disk displacement and a sprain of his spine. His treatment involved being seen by a chiropractor for approximately one month. He has agreed to accept a total of \$7,250 in full settlement of this case, based upon \$4,690 for reimbursement of his medical expenses, plus \$2,560 for pain and suffering.

Pursuant to Tenn. Code Ann. § 29-20-205, governmental entities are responsible for injuries caused by the negligent acts of their employees within the scope of employment. The Department of Law recommends settlement of this claim for \$7,250.

Disciplinary action against the employee consisted of a written reprimand.

Fiscal Note: This \$7,250 settlement, along with the settlement per Resolution No. RS2018-1366, would be the eighth and ninth payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$519,750. The fund balance would be \$4,277,389 after these payments.

RESOLUTION NO. RS2018-1366 (VERCHER) – This resolution would authorize the Department of Law to settle the personal injury claim of Melissa Harris against the Metropolitan Government in the amount of \$200,000.

On January 1, 2015, Ms. Harris and her fiancé were attempting to hail a cab near the corner of Fifth Avenue North and Church Street. Unable to hail a cab, they began walking east along Church Street toward Fourth Avenue. Ms. Harris tripped on the sidewalk and fell face-first into low decorative landscape fencing that surrounding a planter box.

Prior to the fall, a Metro employee had painted yellow lines on portions of the sidewalk near the intersection of Fifth Avenue and Church Street. The lines marked portions of the sidewalk that were uneven. Repair work was eventually completed on those portions, but the work occurred after Ms. Harris fell.

Ms. Harris sought treatment for a traumatic eye injury but she eventually lost the use of her right eye. Ms. Harris has agreed to accept a total of \$200,000 in full settlement of this case, based upon \$140,000 for reimbursement of her medical expenses plus \$35,000 in lost wages and \$25,000 for pain and suffering.

Under Tenn. Code Ann. § 29-20-203, Metro can be held liable for injuries caused by a dangerous or defective condition if it is shown that Metro had either actual or constructive notice of the condition. Because the sidewalk had been marked for repairs, it is likely that Metro would be found to have had knowledge that the sidewalk was in a defective condition. The Department of Law recommends settlement of this claim for \$200,000.

Fiscal Note: This \$200,000 settlement, along with the settlement(s) per Resolution No. RS2018-1365, would be the eighth and ninth payments from the Self-Insured Liability Fund in FY19 for a cumulative total of \$519,750. The fund balance would be \$4,277,389 after these payments.

RESOLUTION NO. RS2018-1367 (VERCHER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1368 (VERCHER & VANREECE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1369 (VERCHER & GILMORE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1370 (VERCHER & ELROD) – This resolution would authorize Metro Water Services (MWS) to enter into a contract with the Tennessee Department of Transportation (TDOT) for access to the TDOT global navigation satellite system (GNSS) Reference Network.

If approved, this contract would authorize MWS to access the TDOT GNSS Reference Network to aid the work of MWS survey crews. Specifically, this surveying control system would enable MWS survey crews to locate infrastructure using the GIS system under TDOT's control. The contract would be effective on September 1, 2018 and extend for a period of 58 months, ending June 30, 2023. There is a \$150 contract processing fee. The Partial Year Cost per Access Point is \$25 per month for the total number of months remaining in the contract period, multiplied by the number of Access Points.

Tennessee Code Annotated § 12-9-104(b) authorizes Metro to approve intergovernmental agreements by resolution.

Fiscal Note: The expected contract total fee is \$1,600, reflecting the \$150 contract fee plus \$25 per month for the 58 month term and 1 Access Point. Additional Access Points may be added for an additional cost.

RESOLUTION NO. RS2018-1371 (VERCHER & ELROD) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2018-1372 & RS2018-1373 (COOPER & VERCHER) – These resolutions would call for a county-wide referendum election to ascertain the will of the people regarding the issuance of bonds by the Metropolitan Government for purposes of constructing the proposed Major League Soccer (MLS) stadium and surrounding infrastructure. The resolutions would also appropriate an amount not to exceed fifty thousand dollars (\$50,000) from the Undesignated Fund Balance of the General Fund to fund the referendum. (The Davidson County Election Commission provided this election cost estimate.) Both resolutions call for the election to be conducted on November 6, 2018 “or as soon as reasonably practicable under the laws of the State of Tennessee.”

Section 7.05 of the Metro Charter authorizes the Council, if it desires, to call an election “for the purpose of ascertaining the will of the qualified electors...with respect to the issuance of any bonds, whether payable from ad valorem taxes or other taxes, or any other revenues, or a combination thereof.”

State law provides that elections on questions submitted to the people may be held on dates set by the county election commission. If the election is to be held with the regular November election, it must be filed with the county election commission not less than 75 days prior to such

election. (Tenn. Code Ann. §2-3-204). 75 days prior to the November 6, 2018 election would be August 23, 2018.

The two resolutions differ essentially in the matters being submitted for public approval. RS2018-1372 submits the general obligation bonds, the revenue improvement bonds, and the proposed property lease for referendum approval. RS2018-1373 submits only the general obligation bonds and revenue improvement bonds. The proposed referendum language for each Resolution likewise differs in this regard.

Resolution No. RS2018-1372 – The proposed referendum language for this resolution would be:

“Do you favor the expenditure of funds and/or revenues of the Metropolitan Government through the issuance of fifty million dollars (\$50,000,000) in general obligation bonds, two hundred twenty-five million (\$225,000,000) in revenue improvement bonds, and a 99-year lease of ten (10) acres of public property to become a mixed-use real estate development held by a privately-owned soccer team, for the purpose of constructing a new Major League Soccer Stadium at the Fairgrounds Nashville?”

Resolution No. RS2018-1373 – The proposed referendum language for this resolution would be:

“Do you favor the expenditure of funds and/or revenues of the Metropolitan Government, through the issuance of general obligation bonds not to exceed fifty million dollars (\$50,000,000) and revenue improvement bonds not to exceed two hundred twenty-five million dollars (\$225,000,000), for the purpose of constructing a new Major League Soccer Stadium and related infrastructure at the Fairgrounds Nashville?”

The Council office is of the opinion that the issuance of general obligation bonds is an appropriate matter for referendum approval because the bonds are “payable from ad valorem taxes or other taxes, or any other revenues, or a combination thereof”. Additionally, in this particular instance, the general obligation bonds involved would be issued by the Metropolitan Government.

The Council office does *not* believe the 99-year lease of public property adjacent to the proposed stadium is an appropriate matter for referendum. While revenues from the lease may be used to pay debt service on the revenue improvement bonds -- perhaps connecting the two inextricably -- Article 7 of the Charter nevertheless limits public approval to bond issuances. Likewise, while the Charter provides for referendum approval of “any bonds”, the revenue improvement bonds in this instance are to be issued by the Sports Authority, an entity authorized under separate state legislation to issue its own revenue bonds. Issuance of the revenue improvement bonds was previously approved by the Council per Resolution no. RS2017-910, subject to specific conditions – none of which included a referendum.

A substitute is recommended to address these and other technical concerns.

Rule 16 of the Council Rules of Procedure provides that the Director of Finance must be afforded a period of 20 days to furnish a statement certifying the availability of funds upon the filing of any legislation requiring the appropriation or expenditure of money. Until such statement has been provided, or 20 days has elapsed, no committee may consider the legislation.

Fiscal Note: The Election Commission staff agrees with the \$50,000 cost estimate to add either referendum to the ballot for the election to be held on November 6.

– ORDINANCES ON SECOND READING –

BILL NO. BL2018-1188 (COOPER & VERCHER) – This ordinance would establish a committee system to review high-value real property transactions.

This ordinance would require Request for Quotation (RFQ) awards and leases, sales, and exchanges involving over \$2,000,000 of Metro-owned property to be evaluated by a committee and the Metropolitan Council. The Director of Public Property, with the Procurement Division and Department of Finance, would determine the need for an RFQ, lease, sale, or exchange of property and cause an evaluation committee to be created. The Director of Finance would determine whether the property meets the value threshold, in consultation with private appraisers and/or the Davidson County Assessor of Property.

The evaluation committee would be comprised of one (1) member each from the Metropolitan Planning Commission, the Metropolitan Historical Commission, and the Board of Parks and Recreation Department, as selected by the chairpersons of the relevant board or commission. The mayor would select one (1) licensed architect or landscape architect in good standing and in active practice for more than 10 years and one (1) business and finance professional in good standing with more than 10 years' experience. No architect or business professional selected could have an active business relationship with any of the applicants within the 5 years prior to the award being made, nor could the professional have received a consulting fee, retainer, or payment from Metro within 5 years prior to the award being made. No employee of Metro could be a voting member of the evaluation committee, but the Director of Finance, or his or her designee, could serve as an ex-officio member to facilitate the committee's work.

The evaluation committee would submit a recommendation to the Metro Council regarding the appropriate recipients of the RFQ award, lease, sale, or exchange. The committee could make a recommendation of no recommendation. Upon a position recommendation, the Council could approve the transaction by ordinance or refer the recommendation to the Planning Commission, Historical Commission and/or Board of Parks and Recreation. The Council could not approve a transaction without recommended approval of the evaluation committee. The criteria used to evaluate an applicant's proposal would be determined by the evaluation committee and would include a specific valuation of the total financial compensation offered under each proposal, and the valuation of that total compensation shall be based on the fair market value and be clearly stated by the committee in its final recommendation to the Council. The evaluation committee's work would be required to be made public to the fullest extent permitted by law.

Metro Legal has opined that this ordinance, as drafted, likely violates the Metropolitan Charter in two respects. First, this ordinance may violate Section 8.103(k) of the Metropolitan Charter, which grants the Department of Finance the authority to establish standard procedures for acquiring and disposing of land, because it instead establishes a different process for disposing of property absent Finance's input. Second, because Section 2.01(5) of the Metropolitan Charter gives the Metro Government the authority to acquire and dispose of property belonging to Metro, and the Council is authorized to legislate in regards to this pursuant to Sec. 3.06 of the

Metropolitan Charter, allowing unelected citizens to evaluate the disposition of property and make a binding determination would be an unlawful delegation of the Council's legislative authority.

Fiscal Note: The proposed committee for evaluating high-value real property transactions would be comprised of an architect and business or finance professional who would serve on an unpaid basis. In addition, an employee from the Planning Commission, Historical Commission, and the Board of Parks and Recreation would serve on the committee. An employee from the Finance Department would also be tasked with facilitating the committee's work.

The employees working on or for this committee would be performing this work as part of their normal job responsibilities. Any additional staff time and/or costs should be minimal.

BILL NO. BL2018-1190 (O'CONNELL, ALLEN, & SYRACUSE) – This ordinance would amend Chapter 12.44 of the Metropolitan Code of Laws to provide free parking at public parking meters in Davidson County for environmentally friendly vehicles and for vehicle owners that purchase carbon offsets.

The ordinance would redefine “clean technology vehicle” by removing the current definition and instead define electric vehicles, hybrid vehicles, and flexible-fuel vehicles as different types of clean technology vehicles. In addition, the stickers issued both for free metered parking for clean technology vehicles and owners that purchase carbon offsets would be valid for three years, instead of one year. The \$10 fee associated with these stickers would also be collected every three years, instead of one year.

This ordinance would also remove references in the Code to the “sunset provision.” This program was originally set to expire June 30, 2013 unless extended by resolution prior thereto. The program was indeed extended by Resolution No. RS2013-743, thereby rendering the sunset provision obsolete.

An amendment from the sponsor is anticipated regarding the carbon offsets provision in section 12.44.080.

Fiscal Note: Changing the term of the \$10 permit fee to three years rather than one would not have a significant financial impact. Only 140 permits were issued in 2017 by the County Clerk.

BILL NO. BL2018-1203 (ROSENBERG) – This ordinance, as substituted and amended, would amend Metro Code of Laws Title 12 by defining scooter and removing certain other requirements.

This ordinance would add a definition for “non-motorized scooters,” defined as a device with front and rear wheels with a footboard between, steered by a handlebar and propelled without

the aid of a motor or other propulsion device. All instances of “scooter” would be replaced with “non-motorized scooter.”

Under current Metro law, operators of scooters, in-line skates, and roller skates must wear an approved helmet, as well as wrist guards, elbow pads, and kneepads. This ordinance would remove those requirements delete a prohibition that operators refrain from listening to “a portable radio, compact disc (CD) or tape player” while operating scooters, roller skates, or in-line skates in the roadway.

It should be noted that the new definition for “non-motorized scooters” would mean that the regulations in Chapter 12.58 would not apply to motorized scooters. Ordinance No. BL2018-1202, currently on second reading, would regulate shared bicycle and scooter operators and would imposes regulations for the bicycles, electric bicycles, and electric scooters subject to that permit program. However, other motorized scooters, such as those that are personally owned, would not be subject to Metro law.

A substitute is anticipated from the sponsor.

BILL NO. BL2018-1205 (GLOVER) – This ordinance would prohibit the Metropolitan Government from approving or otherwise entering into the sale, lease, transfer or conveyance of approximately ten (10) acres adjacent to the proposed Major League Soccer (MLS) stadium for the purposes of private development.

Substitute Resolution No. RS2017-910, as amended, expressed the desire and intent of the Metropolitan Government and MLS Team to authorize a lease of +/- 10 acres for private development on a portion of the Nashville Fairgrounds site. However, no lease agreement was actually effectuated by this resolution. Pursuant to RS2017-910, any lease agreement for the private development of this property would be subject to approval by the Metropolitan Council and is also conditioned upon Council approval of the Specific Plan (SP) zoning designation.

It should be noted that Ordinance No. BL2018-1291, currently on second reading, would approve a ground lease for the private development of a portion of the Nashville Fairgrounds site.

ORDINANCE NO. BL2018-1289 (SLEDGE & VERCHER) – This ordinance would approve the demolition of certain buildings and structures necessary for the construction of a new Major League Soccer (MLS) Stadium at the Nashville Fairgrounds and would amend the Metropolitan Code of Laws to impose a privilege tax on the sale of tickets to events at the MLS Stadium.

Section 1 of the ordinance would approve the demolition of certain buildings and structures on the Fairgrounds Nashville premises. These buildings and structures are specifically identified on Exhibit A, which is attached to the ordinance. Pursuant to Sec. 11.602 of the Metropolitan

Charter, no demolition of the Fairgrounds Nashville premises can occur without approval by ordinance of the Council receiving twenty-seven (27) affirmative votes.

Section 2 of the ordinance would amend Title 5 of the Metro Code of Laws to define “Municipal soccer stadium” and impose a privilege tax on the sale of tickets of any event at a municipal soccer stadium. The tax would be \$1.75 for events scheduled to occur during the first five (5) years of the operation of the stadium, \$2.25 during years six (6) and seven (7), and \$2.50 for events scheduled after the seventh year. \$1.75 of the ticket tax for the municipal soccer stadium would be dedicated to the payment of debt service on the bonds for the construction of the stadium. Beginning after the fifth year, any amount of the ticket tax above \$1.75 would be deposited into a reserve account maintained by the Metro Finance Department and would be used for long-term capital expenditures at the municipal soccer stadium.

The ticket tax is authorized pursuant to Tenn. Code Ann. § 7-3-202. This law states that the privilege tax cannot exceed ten percent (10%) of the consideration charged for spectators attending the event. Further, the state law requires that funds collected from the tax be used to defray the cost of operating and constructing the stadium or to pay debt service on bonds issued in connection with the stadium. The tax must likewise be approved by twenty seven (27) votes pursuant to the state law.

Fiscal Note: This ordinance would approve a tax on the sale of tickets at the soccer stadium. The amount of the tax would increase over time. The amount of this tax per ticket would be \$1.75 during each of the first five years, increasing to \$2.25 for the sixth and seventh years, and \$2.50 thereafter.

Starting in the sixth year, all taxes collected above \$1.75 per ticket (a maximum of \$0.75, beginning in the eighth year) would be deposited in a reserve account and used for long-term capital expenditures at the stadium.

Because of state law restrictions, the ticket tax cannot be more than 10% of the cost of the ticket. This would mean that the full tax could be charged for tickets costing \$17.50 per ticket during each of the first five years, \$22.50 for the sixth and seventh years, and \$25.00 thereafter. If ticket prices are ever below these amounts, the amount of the ticket taxes would be restricted to 10% of this ticket cost.

BILL NO. BL2018-1291 (SLEDGE, VERCHER, & BEDNE) – This ordinance would declare a portion of the parcel located at 300 Rains Avenue (the Fairgrounds Nashville) surplus and approve the execution and delivery of a ground lease between the Metropolitan Board of Fair Commissioners (Board) and Nashville Soccer Holdings Development LLC (NSH).

As recently amended in March 2018 by Ordinance No. BL2018-1054, Metro Code of Laws Sec. 2.24.250.H now requires any property owned by Metro that is to be leased for a term greater than fifty (50) years to be declared surplus prior to the lease taking effect.

The term of the ground lease under consideration would begin on the Commencement Date and continue for ninety-nine (99) years. The site would be delivered to NSH no later than June 30, 2019. NSH would pay to the Board a minimum annual rent of two hundred thousand dollars (\$200,000), offset by the amount of any parking revenues remitted to the Board with respect to non-Soccer Events at the stadium. Development would occur at the sole expense of NSH and the mixed used development would have a project cost of not less than \$150,000,000.

The lease would prohibit certain uses of the property, as follows:

1. Any use that creates, causes, maintains, or permits a public or private nuisance;
2. Any use that violates any applicable law or a special use permit or other use restrictions currently in effect;
3. The sale or commercial display of any obscene sign or advertisement;
4. Any sexually oriented business as defined in Chapter 6.54 of the Metro Code of Laws;
5. The sale of paraphernalia or other equipment or apparatus which is used primarily in connection with the illegal taking or use of drugs;
6. A shooting gallery, target range, vehicle repair facility, warehouse, convalescent care facility or mortuary, or any assembly, manufacture, distillation, refining, smelting or other industrial operation or use (alcohol distilleries or breweries connected with a restaurant would not violate this provision); and
7. A massage parlor or tanning parlor.

Future amendments to the lease would become effective after approved in writing by NSH and the Board and upon approval by resolution of the Council.

The Board of Fair Commissioners and the Planning Commission have approved this ground lease.

The Council office would note that the lease requires rent to be paid “on or before [January 1st] of each calendar year of the Term of this Ground Lease...” The Term of the Ground Lease is 99 years. There has been discussion that the rent payments will only be collected for the next 30 years, but this is not reflected in the lease. In addition, while NSH would remit a portion of parking revenues from “non-Soccer Events” held at the stadium, this term is not defined in the lease. The lease also contains some minor typographical errors.

An amendment is anticipated by the sponsors addressing these and other technical matters. As amended, the lease would provide rent payments for the full 99 years, increasing five percent (5%) every ten years after the 30th year.

Fiscal Note: Although the development costs are expected to be no less than \$150,000,000, no part of this would be paid by Metro. There is also no property tax abatement associated with this development.

The developers have agreed to pay Metro 50% of any parking revenues that result from non-Soccer events at the stadium over the next 30 years. In addition, they would pay a minimum of \$200,000 for their lease of the 10 acres as part of this agreement. However, the amount of the shared parking revenues would be allowed as an offset to the \$200,000 rent.

Although the payment of at least \$200,000 annually over 30 years equates to a total of \$6,000,000, the total present value of these payments would be less. The amount of the present value would depend on the assumed interest rate. As an example, \$200,000 per year for 30 years with an interest rate of 5% would have a present value of \$3.07 million. If the interest rate is lower, the present value would increase. For example, the same payments with an interest rate of 3% instead of 5% would have a present value of \$3.92 million.

The following table shows examples of shared parking revenue, rent, and total payment to Metro by the developers under the proposed terms of this lease. These numbers are for illustration only and do not reflect any projection of the amount of non-Soccer parking revenues that are expected to be collected.

Non-Soccer Parking Revenue (50%)	Annual Rent	Total Payment To Metro
\$0	\$200,000	\$200,000
\$50,000	\$150,000 (\$200,000 less \$50,000)	\$200,000
\$150,000	\$50,000 (\$200,000 less \$150,000)	\$200,000
\$250,000	\$0 (\$200,000 less \$200,000)	\$250,000
\$400,000	\$0 (\$200,000 less \$200,000)	\$400,000

BILL NO. BL2018-1292 (SLEDGE) – This ordinance would amend Chapter 2.140 of the Metro Code of Laws regarding the public records commission. Pursuant to Tenn. Code Ann. § 10-7-401, the Metro Council is authorized to create a county public records commission. A public records commission was created in 1997. Ordinance No. BL2014-727, adopted in May 2014, designated the Metro Archivist as an additional member of the public records commission, but the total count of the commission was inadvertently not increased.

This ordinance would raise the total number of members from seven (7) to eight (8) to accurately reflect the number of members provided for under the Section. Further, the staff of the commission would be changed from “the archives division of the public library and the records division of the Metropolitan Clerk’s office” and instead allow for the secretarial duties to be performed by the Metropolitan Clerk or a designee.

BILL NO. BL2018-1293 (GILMORE) – This ordinance would amend Title 5 of the Metro Code of Laws to define “Municipal soccer stadium” and impose a privilege tax on the sale of tickets of any event at a municipal soccer stadium. Ordinance no. BL2018-1289, scheduled for second reading, in part imposes a privilege tax on the sale of tickets to events at the proposed new Major League Soccer stadium, though at a likely lesser rate.

The ticket tax is authorized pursuant to Tenn. Code Ann. § 7-3-202. This law states that the privilege tax cannot exceed ten percent (10%) of the consideration charged for spectators attending the event. Further, the state law requires that funds collected from the tax be used to defray the cost of operating and constructing the stadium or to pay debt service on bonds issued in connection with the stadium. The tax must be approved by twenty seven (27) votes pursuant to the state law.

The tax imposed pursuant to this ordinance would be \$3.00 per ticket; however, the tax would be capped at ten percent (10%) of the ticket price if the ticket price was below \$30.00. \$1.75 of the ticket tax for the municipal soccer stadium would be dedicated to the payment of debt service on the bonds for the construction of the stadium. Any amount of the ticket tax above \$1.75 would be deposited into a reserve account maintained by the Metro Finance Department and would be used for long-term capital expenditures at the municipal soccer stadium.

Fiscal Note: The amount of the ticket tax to be charged would depend on the price of the tickets charged for events at the stadium. For ticket prices below \$30.00, the tax would be charged at the rate of 10% of the ticket price. For ticket prices of \$30.00 or above, the ticket tax would be charged at the flat rate of \$3.00.

Up to the first \$1.75 of each tax collected per ticket would be dedicated to the payment of debt service on the bonds for the construction of the soccer stadium. All taxes collected above \$1.75 per ticket (\$1.25 maximum) would be deposited in a reserve account for the long-term capital expenditures at the stadium.

BILL NO. BL2018-1294 (O'CONNELL) – This ordinance would amend Chapter 11.12 and Chapter 16.44 of the Metro Code of Laws regarding noise.

MCL Section 11.12.070 regulates excessive noise. Currently, the provisions on commercial noise, such as noise from equipment, vehicles, or heavy machinery incident to performing commercial functions, apply only as measured from the outside wall of residential structures within residential zones. This ordinance would amend that provision to instead apply as measured from any structure within the boundary line of the nearest residentially occupied property.

MCL Section 16.44.030 regulates construction noise. Currently, this section applies only to construction noise as measured from any residential structure in an adjoining residential zone. This ordinance would amend that section to instead apply as measured from any structure within the boundary line of the nearest residentially occupied property.

BILL NO. BL2018-1295 (O'CONNELL) – This ordinance would amend the restrictions in the Metro Code of Law where street vendors are not permitted to operate to include Symphony Place.

Currently, Metro Code of Laws Sec. 13.08.040.B.6.f. restricts the locations where street vendors are permitted to operate. This includes certain marked spaces in the area of Demonbreun Street within the DTC and CF districts. Further, street vendors are prohibited from operating within the DTC and CF districts on Second Avenue North between Broadway and Church Street, and on Commerce Street between Second Avenue North and Third Avenue North.

The ordinance under consideration would extend this prohibition to preclude street vendors from operating within the DTC and CF districts on Symphony Place between Third Avenue South and Fourth Avenue South.

An amendment is anticipated from the sponsor to include the John Seigenthaler pedestrian bridge within the restricted locations.

BILL NO. BL2018-1296 (VERCHER, RHOTEN, & O'CONNELL) – This ordinance would approve a revocable license agreement between the Metro Board of Parks and Recreation and Glowco, LLC for the use of Riverfront Park and Ascend Amphitheater.

The Board of Parks and Recreation has the authority to enter into license agreements such as this under Metro Charter Sec. 11.1002.

Under the Revocable License Agreement, Metro would grant a revocable license to Glowco to use Riverfront Park and Ascend Amphitheater during certain seasons, defined below. This agreement would not include the dog park at Riverfront Park. As a condition to this license agreement, Glowco would be required to enter into agreements with a Metro-approved turf vendor, to repair any damage to the turf that may occur, and with Live Nation Worldwide, Inc. to address the use of the facilities and concession rights.

The term of the Agreement would be from the Effective Date and continue until December 31, 2025. Glowco would be authorized to use the facilities for eight use intervals or “seasons.” The eight (8) seasons would be as follows:

- Season 1: 12:01 AM November 6, 2018 until 11:59 PM January 6, 2019
- Season 2: 12:01 AM November 6, 2019 until 11:59 PM January 6, 2020
- Season 3: 12:01 AM November 6, 2020 until 11:59 PM January 6, 2021
- Season 4: 12:01 AM November 6, 2021 until 11:59 PM January 6, 2022
- Season 5: 12:01 AM November 6, 2022 until 11:59 PM January 6, 2023
- Season 6: 12:01 AM November 6, 2023 until 11:59 PM January 6, 2024
- Season 7: 12:01 AM November 6, 2024 until 11:59 PM January 6, 2025
- Season 8: 12:01 AM November 6, 2025 until 11:59 PM December 31, 2025

Glowco would have access to Riverfront Park and Ascend Amphitheater 24 hours a day during these seasons, but could only open these facilities to the public between 5pm and 11pm.

Glowco would pay Metro a flat fee of \$75,000 for each season, which could be reduced to \$37,500 if Glowco does not use the Riverfront Park Green during a given season. After Glowco recoups its costs related to planning and operating an event, plus half, Glowco would also pay Metro a ticket share of \$1.00 per ticket, up to thirty-five thousand (35,000) tickets sold, and \$2.00 per ticket for any ticket sold after the first thirty-five thousand (35,000). Glowco would pay Metro a concessions fee equal to fifty percent (50%) of net revenues of concessions or of any fee paid to Glowco by a concessionaire.

Future amendments to this Revocable License Agreement may be approved by a Resolution receiving twenty-one affirmative votes.

Fiscal Note: During each of the first seven seasons covered by the proposed license, Glowco, LLC would be permitted to use the Riverfront Park facilities from November 6 through January 6. During the eighth season, Glowco would be permitted to use the facilities from November 6 through December 31, 2025.

The agreement defines "Recoupment Amount" as the portion of gross revenue from the Event Use that equals the costs incurred by Glowco relating to planning and operation of the Event Use. The agreement also defines "ROI Amount" as the portion of gross revenue from the Event Uses that equals the sum of the Recoupment Amount plus 50%.

In exchange for these rights, Glowco would be required to pay the following fees:

- *Flat Fee – For each of the eight use intervals, Glowco would be required to pay a flat fee of \$75,000. \$37,500 of this amount would be allocated of use of the Riverfront Park Bowl. The remaining \$37,500 would be allocated for use of the Riverfront Park Green.*
- *Concession Share – After Glowco has earned the "Recoupment Amount", they would be required to pay an aggregate amount equal to 50% of all net concession revenues (or of the fee paid by Glowco to a concessionaire).*
- *Ticket Share – After Glowco has earned the ROI Amount (Recoupment Amount + 50%), they would be required to pay \$1.00 per ticket sold at face value to the Event Use up to a total of 35,000 tickets above the ROI. For more than 35,000 tickets sold above the ROI, Glowco would pay \$2.00 per ticket sold.*

BILL NO. BL2018-1297 (RHOTEN, VERCHER, & OTHERS) – This ordinance would authorize the Department of Water and Sewerage Services (Metro) to enter into an agreement with KJPL Riverwood, LLC (Riverwood), to fund the operation and maintenance of a public pressure sewer extension for its development at the Village of Riverwood (Phase 2).

Pursuant to the agreement, Riverwood would agree to fund the additional operation and maintenance costs for the proposed pump station and force main in the amount of \$411,000. Metro would not contribute any funds toward the project.

Future amendments to this legislation could be approved by Resolution. This has been approved by the Planning Commission.

Fiscal Note: KJPL Riverwood, LLC would pay \$411,000 to Metro for the additional operational and maintenance costs of their proposed sewerage pump station and force main. Metro would not contribute any funds for the construction of the project, but would be responsible for ongoing operation and maintenance upon acceptance.

BILL NO. BL2018-1298 (VERCHER, BEDNE, & ELROD) – This ordinance would authorize the acquisition of certain right-of-way easements, drainage easements, temporary construction easements and property rights by negotiation or condemnation for use in public projects, initially for Brewer Drive Sidewalk Improvements.

This has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY18 Capital Projects Fund.

BILL NO. BL2018-1299 (PULLEY, BEDNE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easements and accept new sanitary sewer main, a sanitary sewer manhole and easements for property located at 4000 Hillsboro Pike.

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

BILL NO. BL2018-1300 (MURPHY, BEDNE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easements for property located at 211 and 231 Ensworth Place.

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

BILL NO. BL2018-1301 (WITHERS, BEDNE, & ELROD) – This ordinance would abandon existing sanitary sewer main and easement and accept new sanitary sewer mains, sanitary sewer manholes, fire hydrants and easements, for six properties located on South 6th Street, as follows:

- 820 South 6th Street
- 818 South 6th Street
- 814 South 6th Street
- 812 South 6th Street
- 810 South 6th Street
- 806 South 6th Street

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

BILL NO. BL2018-1302 (KINDALL, BEDNE, & ELROD) – This ordinance would authorize the Metropolitan Government to remove existing clay sanitary sewer mains and sanitary sewer manholes and to replace with new sanitary sewer mains and sanitary sewer manholes within the existing Public Utility easement, for property located at 2300 Patterson Street.

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

BILL NO. BL2018-1303 (WITHERS, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 451 right-of-way and easement.

The abandonment has been requested by Perry Engineering, LLC, applicant. It has been approved by the Traffic and Parking Commission and the Planning Commission.

BILL NO. BL2018-1304 (O'CONNELL, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Magazine Street right-of-way.

This abandonment has been requested by Civil Site Design Group, PLLC, applicant. It has been approved by the Traffic and Parking Commission and the Planning Commission.

– ORDINANCES ON THIRD READING –

BILL NO. BL2018-1139 (SYRACUSE) – This ordinance, as amended, would establish a “transit-oriented redevelopment plan” in Donelson and, if adopted, would be the first implementation of a transit-oriented development district as authorized under recent state legislation.

In May 2017, the Tennessee General Assembly enacted legislation (Tenn. Code Ann. § 13-20-701, et seq.) authorizing transit-oriented redevelopment plans in areas where the absence of facilities for high capacity transit options are detrimental to public welfare. Under the state legislation, the local housing authority – in this instance, the Metropolitan Development & Housing Agency or MDHA – is authorized to implement transit-oriented redevelopment projects. In so doing, MDHA would be authorized to:

- Acquire transit-deficient areas and other properties necessary to reduce blight or to allow proper development of the property pursuant to a redevelopment plan;
- Clear acquired areas acquired, including the relocation of utilities, demolition of existing structures, and removal of environmental contaminants;
- Install or construct utilities, public infrastructure, and site improvements, including parks, open spaces, and playgrounds;
- Install or construct privately-owned affordable and workforce housing;
- Pay expenses for relocation, administrative costs, planning and engineering costs, energy efficiency costs, and legal expenses associated with carrying out a plan;
- Pay costs associated with meeting requirements of Leadership in Energy and Environmental Design (LEED), Green Globes, or other similar programs;
- Sell or lease acquired land for uses in accordance with the plan; and
- Borrow money upon its bonds or notes to finance and to carry out a plan.

Historically, MDHA has served to (1) implement the development and operation of low-income housing and (2) implement economic redevelopment districts. The establishment of transit-oriented development districts would establish a third “hybrid” role for MDHA wherein it implements both economic development and housing within transit corridors.

The plan proposed under the current ordinance is expressly intended to implement the concepts from Let’s Move Nashville: Metro’s Transportation Solution, initially released in October of 2017, which was rejected at a county-wide referendum election on May 1, 2018.

Under the new state enabling legislation, MDHA cannot initiate a transit-oriented redevelopment project until the governing body (Metro Council) or MDHA has approved a transit-oriented redevelopment plan. These proposed plans must provide a variety of details, including:

- local objectives regarding land use, improved traffic, public transportation, utilities, recreational facilities and other improvements;

- proposed land uses and building requirements; and
- proposed methods for temporarily relocating those living in such areas, and the means by which safe and sanitary dwellings will be provided to replace substandard dwellings to be cleared.

The ordinance under consideration proposes approval of the "Donelson Transit-Oriented Redevelopment Plan" (the "Plan") which encompasses an area located within 1,320 feet on either side of Lebanon Pike between Park Drive and Stewarts Ferry Pike. MDHA has examined the area and concluded that it lacks facilities for high capacity transit options, to the detriment of public health, safety, morals, and welfare. Facilities for high capacity transit are necessary, according to MDHA, to address traffic hazards and congestion and to improve traffic facilities. In addition to approving the Plan, the ordinance would formally establish that the area is "transit-deficient" as defined under state law; that this condition is detrimental to public safety, health, morals and welfare; and that that the area, or portions thereof, should be acquired by MDHA. Additionally, the use of TIF financing would be approved for activities specified under the Plan.

The Plan, attached as an exhibit to the ordinance, provides a description of the area and its boundaries, and describes the objectives of the Plan – namely: (a) to create a transit-oriented, mixed-use district surrounding the Donelson train station; (b) to enhance the pedestrian environment; and (c) to provide housing for a range of incomes, including affordable and workforce housing. The Plan adopts the development standards in the Downtown Donelson UDO first adopted in 2009. To achieve its objectives, the Plan describes the "main redevelopment actions" proposed for the project area which consist of a variety of goals addressing building design and orientation, construction materials, utility design, water quality techniques, multi-modal travel, pedestrian connections, and other design feature goals.

The state enabling legislation enables MDHA to extend tax increment financing (TIF) for properties within the boundaries of the proposed development plan each year. The proposed Plan specifically calls for use of TIF financing, backed by \$30,000,000 dollars of tax increment debt. Under state law, plans proposing use of TIF must disclose estimates of the cost of the project, sources of revenue to finance the project, the estimated tax increment, estimates of the amount and final maturity date of the bonded indebtedness, and an estimate of the impact of TIF financing on local taxing agencies. The proposed Plan includes the following measures:

- \$33,000,000 - The cumulative assessed value of all real estate within the Redevelopment District.
- \$300,000,000 - The projected future increase in the value of property developed under the Plan.
- \$30,000,000 - The tax increment backed debt provided for by the Plan. Thirty percent (30%) of the projected net new property tax revenues generated by the project area will be required to generate this amount of tax increment backed debt.

- \$10,000,000 – The portion of TIF financing committed by MDHA toward development of affordable and workforce housing units. (The remainder of the \$30,000,000 of tax increment backed debt would be used for infrastructure and economic development.)

The Plan states that the amount of bonds or other indebtedness backed by the tax increment will not exceed \$30,000,000; and the final maturity date on any bonded indebtedness backed by the tax increment would occur on or before December 31, 2048. Upon retirement of all bonds or other indebtedness, all property taxes resulting from the incremental development of the Project would be retained by the Metropolitan Government.

MDHA would be further authorized under state law to borrow money or accept contributions from the federal government to assist in undertaking redevelopment projects.

Under the proposed Plan, land use restrictions and design requirements would be implemented through a Design Review Committee, appointed by the mayor and approved by the council, that must approve all improvements affecting property exteriors that otherwise require building permits. Permitted uses would include residential, institutional, educational, office, medical, commercial, transportation, recreation and entertainment. Certain identified uses would be prohibited (e.g., adult entertainment, etc.) while several others would be made conditional uses subject to Design Review Committee approval.

The Plan further proposes a review process administered by MDHA for any new development, redevelopment, or improvement otherwise requiring a building permit. Applicants are likewise required to abide by the existing UDO Final Site Plan and building permit processes through the Metro Planning Department.

Although state law assigns broad powers to housing authorities, MDHA would be specifically prohibited under the state legislation from using eminent domain to eliminate transit-deficient areas (though it may use eminent domain to acquire land for public facilities and infrastructure.) The Plan provides for the acquisition of properties necessary to install infrastructure and improvements essential to the implementation of the redevelopment plan. However, under certain conditions, property designated for acquisition can be exempted – essentially if the exemption will not adversely affect implementation of the redevelopment project.

Under the state enabling legislation, once property is acquired, MDHA would be authorized to make land within the project available to private enterprise and public agencies at “use value” in furtherance of the underlying redevelopment plan. To assure appropriate property use, MDHA would be obliged – upon sale or lease of land – to require its use to be for purposes designated within the plan, or to impose other conditions necessary to effectuate the plan. The proposed Plan provides that MDHA contracts, deeds and other conveyances would include conditions to ensure redevelopment of the area in accordance with the Plan.

As required under state law, the Plan provides for relocation assistance for individuals and businesses displaced by project actions or land acquisition, although the Plan aspires generally to “minimize the need for displacement or relocation of businesses or residents.”

In the event changes in the approved Plan become necessary or desired, the proposed Plan specifies that it may be modified, changed or amended “by MDHA”, with subsequent approval of the Metropolitan Council. In other words, the Metro Council could not initiate Plan amendments. Although this is typical of MDHA redevelopment districts, the state legislation enabling transit-oriented redevelopment plans does not prohibit the initiation of plan amendments by Council.

State law requires a public hearing on any redevelopment plan prior to final approval, preceded by a specific schedule for public notice. A public hearing was held on May 15, 2018.

Council members, including the lead sponsor, held extensive discussions with MDHA, the Mayor’s office, and other departments and agencies. As a result of those discussions, a substitute ordinance was adopted at the April 17 Council meeting, and an amendment was added at the June 5 meeting, to add provisions to the ordinance and/or underlying Plan as follows:

- Clarification that a minimum of \$10 million, but not exceeding \$15 million, of TIF financing will be dedicated to affordable housing, defined as 0%-60% AMI;
- Projects with residential components that apply for TIF financing will be required to allocate 10% of residential units to affordable housing;
- The appropriate balance between affordable and workforce housing will be reassessed periodically (e.g., every 5 years) and submitted to Council for approval;
- The minimum period of affordability for residential units will co-extensive with the life of the TIF financing loan;
- Amendments to the Plan could be initiated by either MDHA or the Metro Council, subject to the other’s approval;
- Recently revised requirements within Metro Code of Laws §§ 5.06.020, 5.06.050 and 5.06.060 regarding economic development districts will be incorporated into the ordinance;
- Prior to approval of the next transit-oriented district, a unified process providing for a one-stop design review and zoning approval process would be implemented by and between MDHA and the Metro Planning Department; and
- Explicit reference would be made to the state legislation’s incentives for LEED design and similar programs, as well as its authorization for the installation of energy use capture and transmittal infrastructure, alternative power systems or alternate power projects that incorporate principles of urban sustainability, eco-efficiency, and global sustainable development;
- Require that MDHA establish annual goals for the development and preservation of fixed affordable housing units, as well as an annual scorecard listing all fixed affordable housing units within the Project Area;

- Require that MDHA and Planning Department determine a best practice service to the public for design review and processing of applications for development. The Council would be authorized to establish such process if none is approved after one year.

The Planning Commission approved this ordinance and Plan (dated April 10, 2018), as amended by Council, at the June 28, 2018 meeting by a vote of 7-2. MDHA did not consider the Plan as amended by Council at its July 10, 2018 board meeting. However, an amendment is anticipated by the sponsor reinstating the May 11, 2018 version of the Plan, previously considered and approved by the MDHA board. The substantive changes within the May 11, 2018 version of the Plan are as follows:

- Reinstatement of a previous provision whereby the Design Review Committee would be designated by the Executive Director of MDHA. This would replace a previously amended provision establishing the Committee through mayoral appointment;
- Revising previous provisions which allowed for replacement of the “review process” provisions by resolution of the Council. As amended, this section would allow such replacement through implementation of recommendations issued by MDHA and the Planning Department per the terms of a Memorandum of Understanding;
- Application by MDHA of tax increment financing for workforce housing (in addition to affordable housing), with the committed \$10-\$15 million limited to affordable housing; and
- Clarification that owner-occupied STRPs are a conditional use and non-owner occupied STRPs are a prohibited use.

A joint committee meeting of the Planning, Zoning & Historical Committee and the Ad Hoc Affordable Housing Committee is scheduled for Monday, August 20, 2018 for further discussion of this ordinance. The ordinance is amendable on third reading.

Fiscal Note: “Tax Increment Financing” (TIF) is a financing mechanism authorized by state law for redevelopment districts whereby the increased property tax revenue generated by a development is used to pay the debt service on loans for the construction of improvements related to the project.

The cumulative assessed value of all real estate within the proposed Donelson Transit-Oriented Redevelopment District is approximately \$33,000,000 (thirty-three million dollars). If this plan is approved, the projected value of the property developed in conjunction with the plan is estimated to be approximately \$300,000,000 (three hundred million dollars).

The activities of MDHA would be intended to make the area conducive to new private development, resulting in increased tax revenues for Metro. Per the anticipated amendment, MDHA now plans to commit \$10,000,000 (ten million dollars) of tax increment financing for the development of affordable housing units, capped at \$15,000,000 (fifteen million dollars.) The remainder of the \$30,000,000 (thirty million dollars) of tax increment backed debt provided by this plan would be used to support infrastructure and economic development activities.

MDHA has projected that the \$30,000,000 (thirty million dollars) provided for by the plan would only require approximately 30% (thirty percent) of the projected new property tax revenues generated within the project area. These projections are based on the assumption that property tax revenues for all existing properties would increase each year at a rate of 6% for the first 10 years and then 5% for the 20 years after that. No basis has yet been provided for this assumption.

The TODT would capture all new property tax revenue in the district, not just from properties with TIF loans. If the assumed growth rates cannot be achieved, the balance of the new property tax revenues from all properties within the TODT available to support other operating expenses of Metro would be reduced. It would be speculative to predict by how much.

The final maturity date on any bonded or other indebtedness backed by the tax increment from eligible properties shall be on or before December 31, 2048. Upon retirement of all bonds, loans, or other indebtedness incurred and payable from tax increment funds or at such time as moneys on deposit in the tax increment fund or funds are sufficient for this purpose, all property taxes resulting from the incremental development of the project shall be retained by Metro.

BILL NO. BL2018-1142 (MURPHY) – This ordinance would amend section 5.04.015 which addresses appropriations from the general fund reserve fund (the four percent fund). If adopted, the ordinance would require that, if a Four Percent (4%) Fund Request seeks funds to be used exclusively within a single council district, written notice of such request must be provided to the Council member representing that district at least one (1) week before the resolution appropriating the funds is filed with the Metropolitan Clerk.

The written notice would require the information sheet currently required under section 5.04.015.F, or equivalent information.

BILL NO. BL2018-1202 (ELROD) – This ordinance, as amended by a second substitute, would regulate operators of systems of shared urban mobility devices (SUMDs) and establish a permitting system for these operators.

A pilot program would be created to authorize operators to operate a SUMD within Metro Nashville. The application would include a \$500 application fee, images and descriptions of the SUMDs and mobile application, size of the fleet at launch and any planned fleet expansions, service area launch and planned expansions, a plan for educating users on proper parking, a plan for providing an equitable share service, and a plan for complying with the ordinance and its requirements. Operators would be required to obtain a certificate of public necessity and convenience by submitting an application to the Metropolitan Transportation Licensing Commission (MTLC). Applications would also be required to include a certificate of insurance evidencing a minimum of one million dollars in automobile insurance and two million dollars in commercial general liability insurance.

After meeting all application requirements, operators would also be required to submit a program administrative fee of thirty-five (\$35) dollars per SUMD to the MTLC, a performance bond of eighty dollars (\$80) per SUMD with a cap of \$100,000, and five (5) user account logins for Metro oversight.

Metro would be prohibited from limiting the number of permitted operators. A certificate of public necessity and convenience issued under the pilot program would be issued for one (1) year and could be renewed by the MTLC only after reapplication. Operators who operated without a permit after June 15, 2018 would be barred from obtaining a permit for one year from the effective date of the ordinance. The MTLC would be authorized to promulgate regulations to interpret and administer the program.

All bicycles, electric bicycles, and electric scooters would be required to follow standards set forth within state and federal law, including the Code of Federal Regulations, the Tennessee Code Annotated, and definitions from the National Highway Traffic Safety Administration. Scooters could have a top speed of less than 15 miles per hour when operated by a rider weighing 170 pounds. The MTLC could adopt standards to address other types of urban mobility devices (UMDs) and choose to allow them. Operators would be required to provide mechanisms whereby users can notify the operator of any safety concerns.

SUMDs would be affixed with language requiring helmet use, yielding to pedestrians, and compliance with rules of the road. It would also be required to affix information that a SUMD could not be operated on a sidewalk within a business district, audible signals must be given before overtaking and passing pedestrians, and that a 24-hour service phone number and a unique identifier. Operators would be responsible for regularly educating users on applicable laws relating to operating a SUMD. All SUMDs would be required to include on-board GPS for locating and retrieving the SUMD. All SUMDs would need to be regularly inspected, maintained, and replaced as necessary. All certificate holders would be required to sign and record with the MTLC an indemnification agreement, in a form approved by the Metro Department of Law. The certificate holder would further be required to include a similar provision for users to release and waive all liability of the Metro Government. Certificate holders would submit monthly reports to the MTLC certifying under oath their compliance with the requirements of the ordinance. MTLC staff would have the right to inspect all SUMDs and records to verify accuracy of the reports. Any false certifications would result in revocation of the certificate of public convenience and necessity, after notice and a hearing before the MTLC.

Operators would be required to inform users on property use and parking of SUMDs. Permits issued would be valid only for operations within the public right-of-way within Metro. Additional zones could be established upon coordination with appropriate departments, agencies, and/or property owners. The Department of Public Works would be authorized to remove a SUMD parked in any one location for more than two (2) days. SUMDs would be required to be parked upright and could not impede the right of way or access to the right of way, consistent with

certain other limitations. Permitted operators would be required to provide contact information for relocation requests of SUMDs.

SUMDs could not be operated on a sidewalk within a business district. The Traffic and Parking Commission may also designate specific areas as business districts. Users would be required to yield to pedestrians and give audible signals before overtaking and passing pedestrians. Operators would be required to comply with any restrictions developed by Metro regarding where SUMDs could be deployed, parked, and operated. Only one rider could operate a SUMD, unless equipped with seating for additional users. SUMDs could only be operated by persons over the age of eighteen. SUMDs that meet the definition of motorized vehicle could not be operated by a person without a driver's license. A violation of this ordinance by a user would result in a fine of twenty-five (\$25) dollars, assessed on the SUMD and paid by the owner of the SUMD.

Permitted operators would be required to have a staffed operations center within the boundaries of Metro, and a 24-hour customer service phone number for reports of safety concerns, complaints, and questions. The operators would also be required to maintain a Nashville-specific website or social media platform that includes information on Metro's regulation of SUMDs. Any inoperable or unsafe SUMD would be required to be removed from the right-of-way within 2 hours of notice between 6am and 10pm on weekdays, excluding holidays, and within 10 hours of notification at all other times and any inoperable or unsafe SUMD would need to be repaired before being placed back onto the right-of-way or into revenue service. After notice and a hearing, the MTLC would be authorized to take any appropriate steps to compel operators to comply with the ordinance or applicable. MTLC staff is authorized to take any temporary action until a hearing is held.

Operators would be required to share real-time, anonymized data with Metro on topics including point location, type of SUMD, and fuel level. Operators would be required to provide data for each trip and parking compliance. Operators and users would be required to consent to the sharing of this data with Metro. Operators would be required to consent to distribute a customer survey, provided by Metro, to all users.

Permitted operators' fleets would be limited in number with separate limitations for each type or category of SUMD. Each type or category in an operator's fleet would be limited in number to 500 during the first month of the pilot, 750 beginning at the second month of the pilot, and 1,000 beginning at the third month of the pilot. After the third month, permitted operators could expand beyond 1,000 upon application to the MTLC. Operators could increase their fleet on a monthly basis if their provided data demonstrates their fleet is being used above the average utilization threshold, as determined by the MTLC. Service areas of operators could not exceed 340 of each SUMD type per square mile. Any permitted operators with more than 1,000 SUMDs would be required to include Nashville Promise Zones in 20% or more of their service area.

Operators would be required to plan to provide equitable access in neighborhoods and communities where users are underserved by mobility and transportation options. This includes

providing pricing options for low-income residents, providing discount programs for low income individuals, developing plans that do not require smartphones, providing cash payment options, and providing adaptive SUMDs for operation by people with disabilities.

The MTLC would further be required to conduct a study no later than July 1, 2019 to determine if revenue generated by fees are sufficient to cover permitting, administration, compliance and enforcement, determine the impact of SUMDs, and recommend changes to the ordinance, or other Metro ordinances, policies, or practices.

Amendments added at the August 7 meeting included the following:

- Clarifies the definition of “business district” to refer to areas that include buildings in use for business or industrial purposes occupying 300 feet of frontage on either side of a highway within any 600 foot span;
- Eliminates references to “segways” (governed exclusively under state law);
- Requires submission of a written plan for equitable access upon application;
- Clarifies lighting requirements for electric bicycles and scooters;
- Requires signaling by users audible to pedestrians;
- Clarifies the specific departments within the Metropolitan Government responsible for various duties;
- Clarifies that fines assessed upon SUMD owners for ordinance violations are in addition to penalties for separate violations of Tennessee law or other Metro Code provisions;
- Establishes an implementation period for application program interface (API) keys and REST specifications through Metro ITS;
- Revises the number of SUMD devices allowed per operator per device, as noted above; and
- Requires that operators be able to remotely disable individual SUMDs

At least one amendment is anticipated to further address remote disabling requirements.

Fiscal Note: This pilot program would require an application fee of \$500 for each operator, as well as a program administrative fee of forty dollars (\$35) per SUMD. The results of this pilot would determine if a modification to the fee structure in the future is appropriate.

The ordinance further provides: "If the Metropolitan Government or any department or agency thereof incurs any costs as a result of addressing or abating a permitted operator's violation of these requirements, or incurs any costs of repair or maintenance of public property, upon receiving written notice of the costs, the permitted operator shall reimburse the Metropolitan Government for such costs within thirty (30) days."

BILL NO. BL2018-1280 (HASTINGS) – This ordinance would approve the plans for a non-hazardous liquid waste processing facility at 2832 Whites Creek Pike. This consists of parts of

two (2) large parcels of land, including 0 Whites Creek Pike. The proposed facility would accept non-hazardous liquid waste to be recycled into various products.

Onsite Environmental, located at 1421 Baptist World Center Drive, has submitted an application and plans for a processing facility to the Division of Solid Waste Management of the Tennessee Department of Environment and Conservation (TDEC). This application was forwarded to the Department of Public Works. The location of the proposed facility is zoned SP-Industrial and is not within the 100-year floodplain. The facility would accept no more than 195,000 gallons of non-hazardous liquids per day.

On August 10, 2018, the Planning and Codes Departments issued a joint memorandum clarifying that the proposed facility would be categorized as a Recycling Facility. The current SP zoning for this location is divided into three districts: A, B and C. District B of the Specific Plan would permit a Recycling Facility use under current zoning. Districts A and C would not. In the event the Council did not approve this ordinance, it is the opinion of the Council office that a law of specific application (Tenn. Code Ann. §68-211-701, *et seq.*) would prohibit the intended use despite general zoning allowances.

The Council office has been advised by the applicant that the proposed facility would collect grease trap liquids, oily wastewater, and leachate. Grease collected from containers at restaurants and wastewater treatment units constitutes a “recovered material” that does not otherwise enter the waste stream. As such, the Jackson Law (Tenn. Code Ann. §68-211-701, *et seq.*) would not apply to a facility collecting only grease trap liquids. The Tennessee Department of Environment and Conservation has previously opined, however, that oily wastewater and leachate constitute solid waste to which the Jackson Law *does* apply. (The Council office is awaiting updated independent verification of TDEC’s opinion in this regard.)

Pursuant to Tenn. Code Ann. § 68-211-704(b), the criteria to be considered by the Council in evaluating this proposal include the following:

1. the type of waste to be disposed of;
2. the method of disposal to be used;
3. the projected impact on surrounding areas from the noise and odor created;
4. the projected impact on property values on surrounding areas;
5. the adequacy of existing roads and bridges to carry the projected increased traffic;
6. the economic impact on the country, city, or both;
7. the compatibility with existing development or zoning plans; and
8. any other factor which may affect the public health, safety, or welfare.

Per Ordinance No. BL2016-484, the Council must approve all solid waste processing facilities and similar facilities prior to their construction. The provisions of Tennessee Code Annotated § 68-211-704 requires a public hearing and that final approval must be voted upon within thirty (30) days of the public hearing.

BILL NO. BL2018-1282 (MENDES, VERCHER, & PRIDEMORE) – This ordinance, as amended, would add a new section to Chapter 2.24 of the Metropolitan Code of Laws regarding appraisals of real property prior to disposition of that property.

Part II of Chapter 2.24 addresses sales, purchases, leases, subleases, or other dispositions of Metropolitan Government real property which requires approval of the Metro Council. If the proposed ordinance is adopted, the Council would not consider legislation to authorize the disposition unless accompanied by an Appraisal Report that includes (a) a current value and (b) a prospective value reflecting any anticipated changes in entitlements upon the property, including changes in zoning classification, use restrictions, and/or deed restrictions. Restricted Appraisal Reports, Restricted Use Reports, or Summary Appraisal Reports (which generally provide lesser detail regarding the value or potential value of real property) would not satisfy this requirement.

An amendment was added at the August 7 meeting to note that this section would not apply to the appraisal or valuation of properties subject to the home-buyout program for flood-prone or similarly encumbered properties as authorized by Sec. 2.24.250.F of the Metro Code of Laws.

BILL NO. BL2018-1284 (KINDALL, VERCHER, & OTHERS) – This ordinance would approve a participation agreement between the Department of Water and Sewerage Services and Regent Homes to improve public water services in Davidson County. Pursuant to the agreement, Regent Homes would oversee the abandonment of approximately 306 linear feet of existing two inch water main and the construction/installation of approximately 306 linear feet of six inch water main and 1 fire hydrant assembly at 3208 Long Boulevard and 203 Burns Avenue to serve the 3208 Long Boulevard and 203 Burns Avenue Development.

Future amendments to this legislation could be approved by Resolution. This has been approved by the Planning Commission.

Fiscal Note: Metro would agree to pay the lesser of \$75,000 or fifty percent (50%) of the actual project costs to the project.

BILL NO. BL2018-1285 (O'CONNELL, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 572 right-of-way.

The abandonment has been requested by Jackson Street Baptist Church, applicant. This has been approved by the Traffic and Parking Commission and the Planning Commission.

BILL NO. BL2018-1286 (SYRACUSE, BEDNE, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Cliffdale Road right-of-way.

The abandonment has been requested by Plaza 2750, LLC, c/o Holladay Properties, applicant. This has been approved by the Traffic and Parking Commission and the Planning Commission.

GRANTS LEGISLATION – AUGUST 21, 2018

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2018-1363	<p>From: Davidson County Mental Health and Veteran's Court Assistance Foundation</p> <p>To: Davidson County General Sessions Court</p>	Not to exceed \$85,445.00	\$0	July 1, 2018 through June 30, 2019	The proceeds from this grant would be used to supplement employee salaries and assist in providing direct assistance to Veteran's Treatment Court participants.
RS2018-1367	<p>From: Tennessee Department of Finance and Administration</p> <p>To: Metropolitan Nashville Police Department</p>	Increase by \$109,876.00	Increase by \$27,470.00	N/A	<p>This fourth amendment to a grant approved by RS2015-1543 would increase the award from \$1,616,902.00 to \$1,726,778.00 and increase the cash match from \$404,226.00 to \$431,696.00.</p> <p>Grant proceeds are used to support the provision of mental health services and criminal justice system advocacy to victims of violent crime.</p>
RS2018-1368	<p>From: Tennessee Department of Transportation</p> <p>To: Davidson County Sheriff's Office</p>	Not to exceed \$180,300.00	\$0	July 1, 2018 through June 30, 2019	The grant proceeds would be used to provide litter pickup along state and county roads and education on litter abatement and prevention.

<p>RS2018-1369</p>	<p>From: Greater Nashville Regional Council</p> <p>To: Metropolitan Social Services Commission</p>	<p>Not to exceed \$894,525.00</p>	<p>\$768,103.00 and an in-kind match of \$108,000.00</p>	<p>July 1, 2018 through June 30, 2020</p>	<p>The grant proceeds would be used to provide meals that meet RDA nutritional guidelines and transportation services to eligible seniors and handicapped residents.</p>
<p>RS2018-1371</p>	<p>From: Keep America Beautiful/Lowe's Community Partner</p> <p>To: Metropolitan Nashville Public Works Department</p>	<p>Not to exceed \$5,000.00</p>	<p>\$0</p>	<p>N/A</p>	<p>The grant proceeds from this Keep America Beautiful/Lowe's Community Partner Grant would be used to plant trees and daffodils at public schools during Hands on Nashville Day.</p>