



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director and Special Counsel
Hannah Zeitlin, Assistant Legal Counsel
Maria Caulder, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: November 19, 2019

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 11/13/19:

4% Reserve Fund	\$35,289,237*
Metro Self Insured Liability Claims	\$3,403,580
Judgments & Losses	\$2,806,368
Schools Self Insured Liability Claims	\$3,328,359
Self-Insured Property Loss Aggregate	\$6,991,146
Employee Blanket Bond Claims	\$696,942
Police Professional Liability Claims	\$2,154,802
Death Benefit	\$1,648,045

*This assumes unrealized estimated revenues in FY20 of \$30,157,789.

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

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTION NO. RS2019-89 (PARKER) – This resolution approves an exemption for The Southern Frenchman *dba* Once Upon a Time in France Restaurant, located at 1102 Gallatin Avenue, from the minimum distance requirements for obtaining a beer permit.

The Metro Code of Laws (MCL) prevents a beer permit from being issued to any 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. For example, 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 such facilities to obtain beer permits upon the adoption of a resolution by the Council. (See, Code section 7.08.090(E)). Restaurants are no longer required 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).

– RESOLUTIONS –

RESOLUTION NO. RS2019-90 (MENDES) – This resolution authorizes the Department of Law to settle the personal injury claim of Andrea Neal against the Metropolitan Government in the amount of \$100,000.00.

On October 1, 2014, an employee of the Metro Codes Department proceeded eastbound on Seymour Avenue to the intersection of Gallatin Avenue. The employee intended to cross Gallatin Avenue and continue on Seymour Avenue at a stop sign. Andrea Neal proceeded out of a parking lot north onto Gallatin Avenue. The employee pulled out in front of Ms. Neal on Gallatin Avenue and was struck by Ms. Neal's vehicle. Ms. Neal had the right-of-way when the employee attempted to cross Gallatin Avenue. The property damage claim for her vehicle was previously settled for \$11,329.00.

Ms. Neal sought treatment for cervical strain and lumbar/thoracic back sprains. She required physical therapy and treatment from a chiropractor. She also experienced headaches, dizziness, and vertigo and was diagnosed with post concussive syndrome/headaches. Treatment for this neurological condition lasted over a year. She was further diagnosed with post-traumatic stress syndrome and general anxiety disorder. She has agreed to accept a total of \$100,000.00 in full settlement of this case, based upon \$49,628.00 for reimbursement of her medical expenses, \$16,000.00 for lost wages, and \$34,372.00 for pain and suffering.

The Department of Law recommends settlement of this claim for \$100,000.00.

Disciplinary action against the employee consisted of a one day suspension and required attendance at the Metropolitan Government's defensive driving class. The employee has since retired.

Fiscal Note: This \$100,000.00 settlement would be the thirteenth payment from the Self-Insured Liability Fund in FY20 for a cumulative total of \$580,348. The fund balance would be \$3,403,580 after this payment.

RESOLUTION NO. RS2019-91 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2019-92 (MENDES, HURT, & WELSCH) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2019-93 (HURT, WELSCH, & HANCOCK) – This resolution approves the first amendment to a contract between the Metro Board of Health and the Nashville Academy of Medicine to provide access to the Charisma Salus database system for patient and prescription

tracking approved by Resolution No. RS2018-1348. That contract facilitates the efforts of the Board of Health to link uninsured residents of Davidson County to community healthcare services that serve the uninsured, based upon their ability to pay using the Nashville Academy of Medicine database.

The resolution under consideration would extend the end date of the contract from June 30, 2019 to June 30, 2020. All other terms and conditions in the original agreement would remain in effect.

RESOLUTION NO. RS2019-94 (HURT & WELSCH) – This resolution approves a contract between the Metropolitan Board of Health and Tristar Centennial Medical Center to provide information about women, infants, and children’s (WIC) program benefits to potentially eligible individuals who receive inpatient or outpatient prenatal or postpartum services.

Section 10.104(8) of the Metropolitan Charter provides that the Board of Health has the duty to contract “for such services as will further the program and policies of the Board,” subject to confirmation by resolution of Council.

Pursuant to this contract, Tristar Centennial Medical Center would agree to make information about the WIC program available to potentially eligible women receiving prenatal and postpartum services, as well as those accompanying a child under the age of five who receives pediatric care. Tristar Centennial Medical Center would coordinate hospital patient services with WIC staff. There would be no cost to the Metropolitan Government associated with the performance of this contract.

The term of this contract would be sixty months from the date the contract is approved by all parties and filed in the office of the Metropolitan Clerk. The Board of Health has previously entered into similar contracts with other hospitals, including a recent contract with Saint Thomas Hospital (RS2019-9).

Fiscal Note: There shall be no cost to Metropolitan Board of Health for the performance of services under this contract.

RESOLUTION NO. RS2019-95 (HURT, WELSCH, & HANCOCK) – This resolution approves an agreement between University of Tennessee, College of Nursing and the Metropolitan Board of Health. The agreement would provide clinical experience for students enrolled in its graduate and undergraduate nursing programs. Students would not receive any compensation.

The term of the agreement would be for five years, commencing October 1, 2019 and ending September 30, 2024. Either party may terminate the agreement upon 90 days’ written notice. The school would be required to provide assurance that the students are covered by health and professional liability insurance and the school agrees to assume responsibility for its students

participating in the program. Metro has similar agreements with other colleges to provide clinical experience to students.

Fiscal Note: There would be no cost to the Metropolitan Government for participating in this program.

RESOLUTION NO. RS2019-96 (HURT & WELSCH) – This resolution approves an agreement between the Centers for Disease Control and Prevention (CDC) and the Metropolitan Board of Health to provide an associate for the Public Health Associate Program (PHAP).

The PHAP is a long-established program whereby the CDC pays for an employee to obtain professional experience by working at a local or state health department for two years. The CDC employee receives two years of real-world public health experience. Metro would be provided with an associate to assist in developing, implementing, and evaluating public health programs.

Pursuant to this agreement, a PHAP associate would be assigned to Metro Public Health Department from October 15, 2019 until October 24, 2021.

Fiscal Note: There would be no cost to the Metropolitan Government for participating in this program.

RESOLUTION NO. RS2019-97 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2019-98 (MENDES, PULLEY, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTIONS NO. RS2019-99 AND RS2019-100 (MENDES & HANCOCK) – These two resolutions deauthorize \$1 million in capital spending from the 2013 capital spending plan approved by Resolution No. RS2013-710 and authorize an additional \$1 million in capital spending for new projects. These resolutions are the result of the Mayor's announcement to reallocate capital funding previously allocated for the Gulch pedestrian bridge to other capital improvements.

On October 31, 2019, the Mayor announced the reallocation of \$18 million from the previously-approved Gulch pedestrian bridge project to be used for neighborhood infrastructure projects including traffic calming, bikeways, trash carts, and street lights. While most of these projects are permissible uses of the \$18 million under the policies in existence at the time the 2013 capital spending plan was approved, Council approval is likely required for the reallocation of \$1 million of the bridge funds to use for trash/recycling containers (\$500,000) and street lighting (\$500,000).

The council office has been advised that the administration intends to submit legislation for the first meeting in December to reallocate the remainder of \$18 million of the pedestrian bridge money as outlined by the Mayor on October 31 in the interest of full transparency.

Fiscal Note: These two resolutions will not result in any change in the total appropriation from the capital spending plan. They will only shift the allocation of \$1,000,000 from the Gulch pedestrian bridge to other permissible capital projects. Additional legislation will be forthcoming to reallocate the remaining money from the Gulch project.

RESOLUTION NO. RS2019-101 (MURPHY & HENDERSON) – This resolution approves an agreement with the Tennessee Department of Transportation to install pedestrian overhead signals and upgrade existing pedestrian signal equipment on West Trinity Lane from Dickerson Pike to west of Hampton Road.

Fiscal Note: TDOT would pay the entire cost for the installation and upgrading of these pedestrian signals. Metro would be responsible for maintenance and operational costs after the devices are placed in service.

RESOLUTION NO. RS2019-102 (MURPHY & HENDERSON) – This resolution approves an agreement with the Tennessee Department of Transportation to install and upgrade traffic signals on Brick Church Pike.

Fiscal Note: TDOT would pay the entire cost for the installation of these traffic signals. Metro would be responsible for maintenance and operational costs after the devices are placed in service.

RESOLUTION NO. RS2019-103 (MURPHY & HENDERSON) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation and the Metropolitan Department of Public Works for the acceptance of a General Maintenance Agreement in connection with Emergency Slide Repairs near Mile Marker 42 on I-24 related to the February 2019 flooding.

This has been approved by the Planning Commission.

Fiscal Note: Metro will maintain any frontage road to be constructed as part of the project; traffic control signs for the control of traffic and electricity; and all other parts of non-access control projects. If a sidewalk is constructed as a component of this project, Metro shall be responsible for maintenance of the sidewalk and shall assume all liability for third-party claims for damages arising from its use of the sidewalk or premises beyond the TDOT's maintenance responsibilities as set forth in section 16 of this agreement.

RESOLUTIONS NO. RS2019-104 THROUGH RS2019-109 - These resolutions authorize the construction, installation, and maintenance of aerial encroachments at four separate locations:

- **Resolution No. RS2019-104** (O'CONNELL, MURPHY, & HENDERSON) authorizes UNICO One Nashville Place, LLC to install metal paneling and electrical conduit at 158 4th Avenue North.
- **Resolution No. RS2019-105** (O'CONNELL, MURPHY, & HENDERSON) authorizes LFlats, LLC to install one canopy at 1125 10th Avenue North.
- **Resolution No. RS2019-106** (O'CONNELL, MURPHY, & HENDERSON) authorizes H.G. Hill Realty Company, LLC to install one blade sign at 1925 Broadway.
- **Resolution No. RS2019-107** (MURPHY & HENDERSON) authorizes J. Crew Group Inc. To install one blade sign at 2709 12th Avenue South.
- **Resolution No. RS2019-108** (O'CONNELL, MURPHY, & HENDERSON) authorizes Oliver McMillan Spectrum Emery, LLC to install one canopy at 5002 Broadway.
- **Resolution No. RS2019-109** (O'CONNELL, MURPHY, & HENDERSON) authorizes SmileDirectClub, LLC to install one three-sided, illuminated sign at 414 Union Street.

In each instance, the resolution requires the applicant to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to provide a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party in the amount of \$2 million for Resolutions No. RS2019-104, RS2019-105, and RS2019-106, \$15 million for RS2019-107, \$4 million for RS2019-108, and \$5 million for RS2019-109. The applicant must also hold the Metropolitan Government harmless from all claims connected with the installation.

In each case, the Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of the applicant. Metro further retains the right to repeal approval 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 the installation, when completed, must be approved by the Director. Construction of the signs must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

These proposals have each been approved by the Planning Commission.

– ORDINANCES ON SECOND READING –

BILL NO. BL2019-4 (SLEDGE) – This ordinance, as amended, amends Chapter 6.04 of the Metropolitan Code of Laws (MCL) to prohibit aerial advertising.

The ordinance amends MCL Chapter 6.04, relative to advertising signs and other advertising methods, to add a new provision to prohibit aerial advertising. Under this proposed Section 6.04.030, aircraft or other self-propelled or buoyant airborne object would be prohibited from displaying any sign or advertising device. “Sign” or “advertising device” would be defined to include “a poster, banner, writing, picture, painting, light, model, display, emblem, notice, illustration, insignia, symbol or any other form of advertising sign or device.” This prohibition would not apply to the display of an identifying mark or trade name affixed to the exterior of the body of an aircraft, any advertisements solely visible within the interior of an aircraft, or an advertisement placed on or attached to any ground, building or structure (which would instead be governed by other applicable law).

Additionally, the ordinance relocates existing provisions of Chapter 6.04 regarding the exemptions of various Metropolitan Government departments and agencies from provisions of the Chapter. The “conflict of provisions” section in Section 6.04.060 will be updated to reflect the relocation of these provisions. Further, the term “advertising device” will be added to existing language within Chapter 6.04 for consistency with the new Section 6.04.030.

A similar ordinance from Honolulu, Hawaii has been upheld by the Ninth Circuit Court of Appeals as not being preempted by federal law and not in violation of the First Amendment to the United State Constitution.

BILL NO. BL2019-30 (MURPHY) – This ordinance amends Chapter 16.04 of the Metropolitan Code of Laws (MCL) regarding the use of barbed wire fencing.

Currently, barbed wire and razor wire fencing is prohibited along sidewalks within the Urban Services District, pursuant to MCL Section 13.32.120. However, a single strand of barbed wire may be stretched on top of any fence over seven feet high.

This ordinance amends MCL Section 16.04.200.B, which also contains regulations regarding barbed wire fencing, to include a reference to the already existing requirements in MCL Section 13.32.120. In addition, this ordinance adds a new requirement to prohibit barbed wire and razor wire fencing in the Urban Zoning Overlay District along arterial and collector roadways, as defined by the adopted Major & Collector Street Plan.

BILL NO. BL2019-31 (MURPHY & STYLES) – This ordinance amends Chapter 16.04 of the Metropolitan Code of Laws (MCL) to require a fence permit for all permanent fences to be constructed in Nashville and Davidson County.

The ordinance under consideration requires all new fences to obtain a permit issued by the Department of Codes Administration. Codes would determine all associated fees for the fence permit. This fence permit requirement would not apply to temporary construction fencing, temporary tree protection fencing, temporary festival fencing, fencing around a place of incarceration, or to any fence located on property zoned AR, AG, R80, or RS80. Fences constructed prior to the adoption of this ordinance would be exempt from the fence permit requirements.

BILL NO. BL2019-42 (MENDES) – This ordinance amends Section 2.24.225 of the Metropolitan Code regarding appraisals of real property prior to disposition of that property. Ordinance No. BL2018-1282, approved in August of 2018, established a requirement that all legislation pertaining to the sale, purchase, lease, sublease, or other disposition of Metropolitan Government real property (other than through the flood-prone property home buy-out program) must be 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.

This ordinance revises the language approved by Ordinance No. BL2018-1282 to no longer require a prospective value appraisal when Metro is acquiring property. A current value appraisal would be sufficient in such situations. A prospective value appraisal will still be required when Metro is disposing of property. This ordinance also excludes property acquired pursuant to a delinquent tax sale grant from the appraisal requirement when it is to be conveyed to a nonprofit organization under T.C.A. § 7-3-314(e) to be used for affordable or workforce housing.

BILL NO. BL2019-43 (MENDES, TOOMBS, & OTHERS) – This ordinance amends Chapter 5.04 of the Metropolitan Code to require certain financial information received from the State of Tennessee to be submitted to the Council. During the prior Council term, the previous administrations received correspondence from the state comptroller on several occasions concerning the finances of the Metropolitan Government and Metro water services. This ordinance would require that similar financial communications in the future be submitted to the Council within seven days of receipt. For purposes of this ordinance, “financial communications” means all written and electronic communications pertaining to the financial status, revenues, expenses, fees or service charges of the metropolitan government and any of its departments, boards, commissions, offices, and agencies. The department head for the applicable department, board, commission, office, or agency would be responsible for ensuring such communication is submitted to the Council as required by this ordinance.

BILL NO. BL2019-44 (HURT & WELSCH) – This ordinance amends Section 10.16.170 of the Metropolitan Code pertaining to the Director of Health’s response to communicable diseases. Section 10.16.170 currently authorizes the Director of Health, in accordance with state law, to initiate disease controls for specific enumerated communicable diseases. If the Director of Health determines that the methods designated in the ordinance are ineffective, he/she is authorized to impose additional restrictions as may be necessary for the protection of public health.

This ordinance provides greater flexibility for the Director of Health to respond to communicable diseases. Under this ordinance, if the Director of Health determines that a reportable communicable disease by the Tennessee Department of Health, or a notifiable infectious disease by the Centers for Disease Control and Prevention, that is not one of the specific diseases identified in the Code warrants a method of control, then he or she is authorized to employ such additional restrictions as may be necessary for the protection of the public health.

BILL NO. BL2019-45 (MENDES, HENDERSON, & GLOVER) – This ordinance amends the Metropolitan Code regarding water and sewer department charges and fees to provide additional operating revenue for Metro Water Services (MWS). Unlike the general government, MWS operates as an enterprise fund, meaning that its operating revenues come from rates and fees charged to customers, not sales and property taxes. These funds are used to pay for the operation, maintenance, and capital improvements of the water and sewer systems.

The last time the Council approved an increase in water/sewer rates was in 2009 pursuant to Ordinance No. BL2009-407. Water/sewer capacity charges were last adjusted in 2007. Since then, operating costs have increased 30%, not including the requirements for system upgrades and maintenance.

The rate adjustments proposed by MWS in this ordinance are the result of a comprehensive study conducted by Raftelis Financial Consultants, Inc. MWS engaged Raftelis to conduct this study in 2018. Around the time Raftelis was engaged, the Tennessee Comptroller’s Office referred MWS to the Tennessee Water and Wastewater Financing Board, which found Metro’s water and sewer fund to be financially distressed and directed MWS to provide a rate study and plan of action. The Comptroller sent a letter to MWS and the Mayor in April 2019 stating that Metro needs to increase its water and sewer rates in accordance with the findings of the rate study by January 1, 2020.

Two key reasons for the proposed rate increase are Metro’s aging water and sewer infrastructure and MWS’s obligations under the consent decree with the U.S. Department of Justice, EPA, and TDEC, which was approved by the court in March 2009. According to MWS, more than 65% of Metro’s water pipes and 58% of the sewer pipes are over 40 years old. The consent decree requires MWS to invest an additional \$1.5 Billion in Nashville’s sewer system over the next decade or so. MWS simply does not have the funding to meet these requirements under its existing rate structure.

This ordinance includes the below rate and fee adjustments, which if approved, would take effect January 1, 2020, as required by the Tennessee Comptroller. The new rates consolidate the existing four classes of water and sewer customers into two. The existing classes are residential, small commercial, intermediate commercial and industrial, and large commercial and industrial. The two new consolidated classes would be residential (one or two residential units receiving water through one meter) and non-residential.

For both water service and sewer service, customer bills will include a fixed charge, a volumetric (usage) rate, and infrastructure replacement fees for water and sewer.

Fixed Meter Charges

Fixed meter charges for both water and sewer service will be determined by the size of a customer’s water meter.

Meter Size	Water (current rate)	Water (new rate)	Sewer (current rate)	Sewer (new rate)
5/8-inch	\$3.13	\$5.09	\$7.62	\$8.14
3/4-inch	\$10.62	\$12.12	\$21.63	\$36.00
1-inch	\$12.77	\$15.28	\$26.05	\$46.58
1.5-inch	\$18.77	\$26.85	\$38.29	\$90.67
2-inch	\$25.29	\$37.91	\$51.57	\$127.38
3-inch	\$33.38	\$60.58	\$68.04	\$158.59
4-inch	\$54.41	\$137.72	\$110.88	\$449.98
6-inch	\$85.42	\$171.93	\$174.12	\$536.44
8 & 10-inch	\$133.59	\$223.72	\$272.29	\$686.89

Volumetric (or usage) Rate

The volumetric rate is based upon the level of usage.

Residential Volumetric Rate	Water	Sewer
0-2 CCF	\$0	\$0
3-6 CCF	\$3.50	\$5.85
7-10 CCF	\$4.20	\$5.85
11+ CCF	\$5.25	\$5.85
Commercial Volumetric Rate	Water	Sewer
All usage	\$2.75	\$5.85

Infrastructure Replacement Fees

The Water and Sewer Infrastructure Replacement Fees will create dedicated funding for replacing old infrastructure. The amount of the fee will be 10% of a customer’s water and sewer service charges (fixed charge plus usage).

This ordinance builds in an automatic increase in the rates of 4% in 2021 and an additional 3% increase per year in 2022, 2023, and 2024. Starting in 2025, rates will adjust automatically based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) or 2%, whichever is greater.

A new cost of service study will be conducted at least every seven years to reevaluate rates, ensuring rates continue to align with departmental costs.

The changes in the water and sewer rates are expected to result in approximately \$33 Million in new revenue for MWS in calendar year 2020.

This ordinance also modifies the fees for connecting to the water and sewer system, including a sizable decrease in the sewer connection fees. The result of the reduction in sewer connection fees is to reflect the actual cost recovery of providing the service. A comparison of the existing fees and proposed fees is as follows:

Water connection fee modifications

Size of tap	Current Fee	Proposed New Fee
5/8"	N/A	\$500
3/4"	\$ 430	\$525
1"	\$610	\$550
2"	\$780	\$1,300
3"	\$1,300	\$2,000
4"	\$1,730	\$3,200
6"	\$2,590	\$5,500
8"	\$3,460	\$8,500
10"	\$5,190	\$11,000
12"	\$6,200	\$11,000

Sewer connection fee modifications

Size of tap	Current Fee	Proposed New Fee
4" or 6"	\$860	\$360
8"	\$2,590	\$370
10"	\$3,850	\$380
12"	\$6,050	\$390
15"	\$6,900	\$400

These water and sewer connection fee modifications are expected to reduce revenue by approximately \$260,000 in 2020.

This ordinance also increases the amount of the water capacity charge per unit of flow from \$250 to \$1,375 on all new connections to the public water system, and an increase in the sewer capacity charge per unit of flow from \$750 to \$2,300. These development fees were reduced by 50% in 2009 due to the financial crisis, but were never readjusted after the recession was over. These increases are expected to generate approximately \$14 Million in new annual revenue in 2020.

The Council Office would point out that water/sewer bond covenants require MWS to keep the water and sewer system in a proper condition and to maintain a certain level in the extension and replacement fund. This rate increase will better ensure Metro's ability to meet its obligations under the bond covenants. Presently, MWS cannot refund outstanding commercial paper due to an inability to meet the additional bonds testing ratios, effectively cutting off MWS's access to capital dollars for system maintenance, replacement, and improvement. Additionally, without the proposed increase, MWS may fail to meet prior second lien coverage ratios in 2023.

BILL NO. BL2019-46 (MENDES, SYRACUSE, & OTHERS) – This ordinance amends chapters 15.32 and 15.44 of the Metropolitan Code to require Metro Water Services to submit annual reports to the Metropolitan Council regarding both the water and sewer divisions. The reports would include at a minimum:

1. The Audited Financial Statements, including net position, capital assets, outstanding bonds payable, and other financial information.
2. The Annual Budget Review, including the adequacy of budgeted revenues to cover projected expenses and debt requirements.
3. Any other information deemed relevant by the director or upon request of the Council public works or budget and finance committees.

BILL NO. BL2019-49 (SYRACUSE & O'CONNELL) – This ordinance authorizes a property tax exemption for historic properties owned by charitable institutions in accordance with state law. T.C.A. § 67-5-222 provides that certain historic properties owned by charitable institutions are eligible for property tax exemption upon compliance with the provisions of such section, subject to a 2/3 vote by the county governing body. Historic properties owned by charitable institutions must meet the following requirements under T.C.A. § 67-5-222 to be eligible to apply for the property tax exemption:

1. On the National Register of Historic Places;
2. Used for occasional rentals that last for no more than two days at a time per event;
3. Not rented out more than 180 days per year, and the proceeds received from such rental periods must be used solely for the purposes of defraying the maintenance and upkeep of such property; and
4. Has been owned and maintained by the charitable institution for at least ten years prior to application for the exemption.

T.C.A. § 67-5-222 further provides that the owner of such qualified property must submit a comprehensive preservation and maintenance plan to the historic properties review board (to be

established under Ordinance No. BL2019-3 on third reading) that demonstrates how the property tax savings will be applied to the preservation and maintenance of the property. Such plans shall meet the guidelines established by the historic properties review board.

The tax exemption would be valid for a ten-year period, but the property owner may apply for additional exemption periods.

Property that is owned and used by charitable institutions for charitable purposes is already available for exemption from taxation under T.C.A. § 67-5-212, whether this ordinance is enacted or not.

BILL NO. BL2019-50 (MURPHY) – This ordinance authorizes the Director of Public Property Administration to transfer to Bonnie Small, Administrator of the Estate of Sylvia Rose Barish, via quitclaim deeds, any remaining interest the Metropolitan Government may have in certain parcels of property located at 264 White Bridge Pike, 262 White Bridge Pike and 5540 Oakmont Circle.

These three parcels were conveyed to Sylvia Barish by deeds from Metro on August 23, 1978. However, deeds to these properties were not recorded in the Register of Deeds Office and cannot be located by the heirs of Sylvia Barish. These quitclaim deeds were requested by the Administrator of the Estate of Sylvia Barish to replace the 1978 deeds to clarify ownership of the parcels.

BILL NO. BL2019-51 (MENDES, ROBERTS, & OTHERS) – This ordinance approves the transfer of franchise rights held by Access Fiber Group, Inc. (“Access Fiber”) To Crown Castle Fiber, LLC (“Crown Castle”).

In 2010, the Council approved a 15-year franchise agreement for Access Fiber per Ordinance No. BL2009-607. On December 31, 2018, Access Fiber was merged into its affiliate, Crown Castle.

Per the provisions of Section 6.26.290 of the Metro Code of Laws (MCL), franchises cannot be transferred or conveyed by the grantee without the written consent of the Council by ordinance. Accordingly, the ordinance under consideration approves the requested franchise transfer from Access Fiber to Crown Castle.

Crown Castle has acknowledged its understanding of the obligations imposed by the franchise and has agreed to meet those obligations. They have also obtained a replacement bond and certificate of insurance in its own name to replace those initially provided by Access Fiber. Additionally, at Metro’s request, Crown Castle has provided updated maps depicting the locations of the relevant infrastructure in the public rights-of-way.

No other changes would be made to the terms or conditions of the franchise agreement initially awarded to Access Fiber.

This matter has been approved by the Planning Commission.

BILL NO. BL2019-52 (MURPHY, HENDERSON, & O'CONNELL) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Spencer Avenue to “Foundry Drive”. The request for the street name change has been submitted by Councilmember Mary Carolyn Roberts, applicant.

This name change has been approved by the Planning Commission and the Emergency Communications Board.

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

BILL NO. BL2019-53 (SYRACUSE, MENDES, & OTHERS) – This ordinance authorizes 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 Lebanon Pike sidewalk improvements.

This acquisition has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights is not yet been determined.

BILL NO. BL2019-54 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance abandons existing easement rights for former Alley #140½, former Alley #141½ and former Alley #142, located at 629 and 635 7th Avenue South. The abandonment has been requested by Jan and Lene Rasmussen, owner.

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

BILL NO. BL2019-55 (MURPHY & HENDERSON) – This ordinance abandons existing sanitary sewer main, sanitary sewer manhole and easements for property located at 5001 Charlotte Avenue.

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

BILL NO. BL2019-56 (SYRACUSE, MURPHY, & HENDERSON) – This ordinance abandons existing sanitary sewer main, sanitary sewer manholes, and easements and accept new public water and sanitary sewer mains, sanitary sewer manholes, fire hydrant assemblies and easements for 54 properties located along Donelson Hills Drive, Lebanon Pike, and Mill Creek Meadow Drive.

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

BILL NO. BL2019-57 (SLEDGE, MURPHY, & OTHERS) – This ordinance abandons existing public water and sanitary sewer mains and easements, raise existing sanitary sewer manhole rims, and accept new water and sanitary sewer mains, fire hydrant assemblies, sanitary sewer manholes and easements for property located at 1501 Hillside Avenue.

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

– ORDINANCES ON THIRD READING –

BILL NO. BL2019-3 (SYRACUSE, MURPHY & OTHERS) – This ordinance authorizes the Metropolitan Government to opt into the historic properties tax abatement program under state law and would establish a historic properties review board. T.C.A. § 67-5-218 authorizes local governments to establish a historic properties review board, and to establish tax abatement programs for historic properties through such board. T.C.A. § 67-5-218 further allows a property tax exemption on the value of improvements made to properties certified by a historic properties review board. The owner must agree to restore the structure in accordance with guidelines established by the board and agrees to refrain from significantly altering or demolishing the structure during the period of exemption. Such exemption would be for a period of ten years in the case of a partial or exterior restoration or improvement, and fifteen years in the case of a total restoration, as determined by the review board. At the end of the applicable period, the structure would be assessed and taxed on the basis of its full market value.

If any structure receiving a historic properties tax exemption is demolished or significantly altered during the period of exemption, the exemption of the improved value will immediately terminate and the owner would be liable at that time for any difference between the tax paid and the tax that would have been due on such improved value.

This ordinance further designates the existing Metro historic zoning commission to also serve as the historic properties review board for Nashville and Davidson County.

T.C.A. § 67-5-218 was enacted by the Tennessee General Assembly in 1976. A Tennessee Attorney General opinion from 1982 called into question the constitutionality of the statute since Article II, Section 28, of the Tennessee Constitution specifies the categories for which the General Assembly can authorize a property tax exemption. However, this statute has never been challenged in court and the statute was never repealed. At least one other jurisdiction in Tennessee has implemented the statute at the local level.

This ordinance has been approved by the Planning Commission.

BILL NO. BL2019-6 (HENDERSON) – This ordinance amends Section 17.16.070.U., subsection 4.I.vi.(2), and Section 17.16.250.E., subsection 4.I.vi.(2), of the Metropolitan Code pertaining to the waiting period for properties found to be operating as a short term rental property (STRP) without a permit. The Code currently provides that upon a finding by the board of zoning appeals (BZA) that an STRP has operated without a permit, there shall be a waiting period of “up to one year” from the date of such finding, “as determined by the BZA” before a permit could be issued for the property. This ordinance deletes the phrase “up to” so that it would be a fixed one year waiting period before an STRP permit could be issued. This ordinance also deletes the redundant language “as determined by the BZA.”

This ordinance has been approved by the Planning Commission.

BILL NO. BL2019-12 (MENDES, HAGAR, & OTHERS) – This ordinance, as amended, approves a lease between the Metropolitan Government and the Sports Authority of the Metropolitan Government for a community ice hockey and skating recreation complex located at One Bellevue Place.

Pursuant to the terms of the lease agreement, Metro would lease the community ice hockey and skating recreation complex to the Sports Authority, to be operated by the Sports Authority as an ice rink open to the public for sporting and recreational purposes. The initial term of the agreement would be 30 years, effective February 1, 2019. After this initial term, the lease could be extended for an additional term of not more than 30 years, upon written notice of the Sports Authority to Metro. After the extension is exercised, the lease could be extended for an additional 15 years, upon written notice of the Sports Authority to Metro. The Sports Authority would pay an annual nominal rent of ten dollars on or before July 1 of each calendar year, which is typical for such intergovernmental leases.

The Sports Authority has entered into a separate facility management and use agreement (the “Agreement”) with a subsidiary of the Nashville Predators (Mid-Ice, LLC, referred to in this analysis as the “Manager”), for the day-to-day operation of the facility. This arrangement is modeled after the Ford Ice Antioch facility, which is also operated by the Manager. The Agreement required the Manager to make a \$3 million capital contribution toward the cost of the facility, which has been paid. The Manager will be paid an annual management fee based upon the amount of the revenue generated at the facility. The Sports Authority would retain a certain amount of the revenues dependent upon amount of net operating income. The Council Office has been informed that the Sports Authority intends to use their portion of the revenue for future long-term capital needs at the facility.

The Manager will be responsible for all operating costs of the facility, including utilities, janitorial, maintenance, HVAC, electrical, mechanical, and plumbing systems at the facility. The manager is also required to maintain liability insurance for the facility, and is required to indemnify the Sports Authority and the Metropolitan Government for all claims associated with the operation of the facility.

This ordinance was amended on second reading to:

1. Incorporate the Agreement into the lease,
2. Reflect that any assignment of the lease by the Sports Authority requires Council approval,
3. Terminate the lease automatically if the Agreement ever terminates,
4. Make the lease term coincide with the term of the Agreement, and
5. Clarify that Metro is not responsible for paying any utilities.

This agreement has been approved by the Planning Commission. Future amendments to the lease agreement may be approved by a resolution receiving 21 votes.

Fiscal Note: Metro would receive an annual rent of ten dollars for the term of this agreement. The Metro Sports Authority would receive a share of the revenue generated through the operation of the facility to be used for future capital improvements at the facility.

BILL NO. BL2019-33 (MENDES, HANCOCK, & OTHERS) – This ordinance amends the low-income elderly resident property tax relief program to increase the income eligibility limits in accordance with state law. T.C.A. § 5-9-112 authorizes county legislative bodies to appropriate funds for the purpose of providing assistance to low-income elderly residents in the county on an annual basis, based on the particular needs of eligible recipients. Additionally, T.C.A. § 67-5-702 provides that the general funds of the state shall be paid to certain low-income taxpayers 65 years of age or older necessary to pay or reimburse such taxpayers for all or part of their local property taxes. For many years, Metro has provided a double match of the state funds for the program.

In June 2019, the Council approved Ordinance No. BL2019-1626 to establish the low-income elderly property tax relief program for fiscal year 2019-2020. This program has been in existence for many years, but must be extended annually since the funds for the program are appropriated on an annual basis. The fiscal year 2019-2020 operating budget ordinance appropriated \$3.9 million for this program.

The State of Tennessee recently amended the annual income threshold for eligibility to participate in the tax relief program from \$29,270.00 to \$29,860.00. This ordinance simply amends the program to reflect the revised income cap. All persons who qualify for the state property tax relief program and whose income does not exceed the state-mandated cap of \$29,860 annually will qualify for this program.

BILL NO. BL2019-34 (SYRACUSE, MURPHY, & OTHERS) – This ordinance approves an amendment to an existing conservation easement and accepts a temporary construction easement to be used in connection with the development of the Opry Mills Connector greenway. RHP Corporate Properties, LLC (“RHP”) owns property that is subject to a conservation easement held by Metro for use in connection with the construction of the greenway. The parties propose amending the conservation easement to substitute a new description of the easement area. In addition, RHP proposes to grant Metro a temporary construction easement to provide a construction working area and for erosion control. The term of the construction easement is for three years or until the date of completion, whichever is sooner.

This ordinance approves the amended conservation easement and the temporary construction easement. There is no cost to Metro associated with the acquisition of these easements. The revised conservation easement area is 1.98 acres, and the construction easement area is 1.85 acres. Future amendments to the easements may be approved by resolution of the Metropolitan Council.

The property interests to be accepted by this ordinance have been approved by the Parks Board and the Planning Commission.

BILL NO. BL2019-36 (TAYLOR & MURPHY) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Alley Number 691 right-of-way and easement. This abandonment has been requested by Dale and Associates, applicant.

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

BILL NO. BL2019-37 (SLEDGE & MURPHY) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Alley Number 402 right-of-way. This abandonment has been requested by Ragan Smith Associates, applicant.

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

BILL NO. BL2019-38 (O'CONNELL & MURPHY) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 413 right-of-way and easement. This abandonment has been requested by Illume Nashville, LLC, applicant.

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

BILL NO. BL2019-39 (BENEDICT & MURPHY) – This ordinance authorizes the negotiation and acceptance of permanent and temporary easements for the Stratford Avenue Stormwater Improvement Project for 21 properties located along Stratford Avenue, McChesney Avenue, Gallatin Pike and Katherine Street.

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

Fiscal Note: There is no cost to Metro for the easements and property rights.

BILL NO. BL2019-40 (HAGAR & MURPHY) – This ordinance abandons existing public water main and easements and accept new public sewer and water mains, sanitary sewer manholes and a fire hydrant assembly and easements for property located at 910 Robinson Road.

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

BILL NO. BL2019-41 (TAYLOR & MURPHY) – This ordinance abandons existing easement rights on property located between Felicia Street to Alley Number 945, formerly known as 30th Avenue North. The abandonment has been requested by Andrea L. Hayes, owner.

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

GRANTS LEGISLATION – NOVEMBER 19, 2019

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2019-91	From: Tennessee Department of Health To: Metropolitan Board of Health	Increase by \$262,400.00	\$0	N/A	<p>This approves the second amendment to a grant contract approved by RS2018-1305.</p> <p>This increases the grant amount from \$97,500 to \$359,900. The grant budget attachment and provisions regarding service reports would be replaced. New audit provisions and provisions about the placement of media would be included. The grant proceeds are used to improve the health of those residing in or visiting Davidson County through targeted strategies to prevent and control the use of tobacco products.</p>
RS2019-92	From: Tennessee Department of Health To: Metropolitan Board of Health	Not to exceed \$139,600.00	\$0	January 1, 2020 through June 30, 2021	This grant is used to provide Viral Hepatitis Program Services aimed at prevention, testing, diagnosis, surveillance, and linkage to treatment and other support services.
RS2019-97	From: U.S. Department of Justice To: Metropolitan Board of Health	Not to exceed \$1,040,371.00	\$0	October 1, 2019 through September 30, 2022	This Opioid Overdose Reduction Program grant is used to address prescription drug and opioid misuse, save lives, and reduce crime through a comprehensive and collaborative approach.

<p>RS2019-98</p>	<p>From: U.S. Department of Justice</p> <p>To: Metropolitan Nashville Police Department</p>	<p>Not to exceed \$94,546.00</p>	<p>\$0</p>	<p>September 1, 2019 through August 31, 2021</p>	<p>This Law Enforcement Mental Health and Wellness Act grant is used to improve the delivery of and access to mental health and wellness services for law enforcement by developing and training a regional network of peer supporters among law enforcement agencies.</p>
-------------------------	---	----------------------------------	------------	--	--