



## METRO COUNCIL OFFICE

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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: December 3, 2019

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 11/26/19:

4% Reserve Fund	\$35,289,237*
Metro Self Insured Liability Claims	\$3,250,809
Judgments & Losses	\$2,774,830
Schools Self Insured Liability Claims	\$3,215,956
Self-Insured Property Loss Aggregate	\$6,996,675
Employee Blanket Bond Claims	\$698,143
Police Professional Liability Claims	\$2,158,637
Death Benefit	\$1,651,064

\*This assumes unrealized estimated revenues in FY20 of \$28,307,750.

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

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTION NO. RS2019-115** (TOOMBS) – This resolution approves an exemption for Diverse Enterprise, Inc., located at 3069 Brick Church Pike, from the minimum distance requirements for obtaining a beer permit.

The Metro Code of Laws (MCL) prevents a beer permit from being issued to 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).

**– ORDINANCES ON PUBLIC HEARING –**

**BILL NO. BL2019-32** (BRADFORD) – This ordinance amends various provisions of Title 17 pertaining to an Airport, Medium or Large Commercial Service.

This ordinance adds a definition of “Airport, Medium or Large Commercial Service”. This use would be added to the District Land Use tables as a use permitted with conditions in AR2a, CS, IWD, IR and IG zoning districts. Conditions for “Airport, Medium or Large Commercial Service” would be added to Section 17.16.105 - Transportation Uses. These conditions include:

1. A combined minimum area of all parcels of 3,000 acres;
2. A required minimum setback of 500 feet where transportation facilities abut residential zone districts or districts permitting residential use;
3. Required screening in the form of a landscape buffer yard applied along common property lines for residential zone districts and districts permitting residential use; and
4. Airport land uses would have driveway access on nonresidential collector streets.

Parking requirements for this use would be established by the traffic engineer.

This ordinance has been approved by the Planning Commission.

**BILL NO. BL2019-47** (GLOVER) – This ordinance adds requirements to Section 17.12.040 of the Metropolitan Code of Laws pertaining to setback requirements.

This ordinance adds a requirement that a private parking facility or private parking lot could not be constructed within 100 feet of a stadium, arena or racetrack if the facility accommodates 1,000 people or more unless a security plan prepared by a professional sports/entertainment facility security consultant is approved by resolution of the metropolitan council receiving twenty-one affirmative votes.

This ordinance has been referred to the Planning Commission.

– RESOLUTIONS –

**RESOLUTION NO. RS2019-100** (MENDES & HANCOCK) – This resolution authorizes an additional \$1 million in capital spending for new projects. At the November 19 Council meeting, the Council adopted Resolution No. RS2019-99 which deauthorizes \$1 million in capital spending from the 2013 capital spending plan approved by Resolution No. RS2013-710. 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, 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).

*Fiscal Note: This resolution and RS2019-116 will not result in any change in the total appropriation from the 2013 capital spending plan. They will only shift the allocation of \$18 million from the Gulch pedestrian bridge to other permissible capital projects.*

**RESOLUTION NO. RS2019-116** (MENDES & HANCOCK) – This resolution affirms the authority to issue general obligations bonds through Resolution No. RS2013-710 and reallocates \$16,950,000 originally intended for the Gulch Pedestrian Bridge to other projects around the county.

This is a companion resolution to Resolution No. RS2019-100. This resolution reallocates a total of \$16,950,000 in funding from the Gulch Pedestrian Bridge project to the Shelby Bottoms Greenway Pedestrian Bridge replacement (\$660,000), traffic calming (\$1,500,000), bikeways (\$750,000), emergency road work (\$410,000), and county-wide bridges and culverts projects (\$13,630,000). Exhibit A, attached to the resolution, describes these bridge and culvert projects in greater detail.

*Fiscal Note: This resolution and RS2019-100 will not result in any change in the total appropriation from the capital spending plan. They will only shift the allocation of \$18 million from the Gulch Pedestrian Bridge to other permissible capital projects.*

**RESOLUTION NO. RS2019-117** (MENDES, HURT, & OTHERS) – This resolution approves a contract between Prevent Child Abuse Tennessee and the Metropolitan Board of Health to provide funding to employ a program coordinator for the collective impact initiative. Metro will hire a program coordinator on a full-time basis for the collective impact initiative, ACE Nashville, and Prevent Child Abuse Tennessee will provide funding for that position, up to \$102,809.00.

This contract will become effective upon filing with the Metropolitan Clerk and will end after 12 months.

*Fiscal note: This contract has an estimated value of \$102,809.00, which Metro will invoice monthly.*

**RESOLUTION NO. RS2019-118** (HURT & WELSCH) – This resolution approves an agreement between the Metropolitan Board of Health and Vanderbilt University. The agreement provides clinical experience opportunities to Vanderbilt University School of Medicine students. Students would not receive any compensation from Metro.

The term of the agreement is five years, commencing when the contract is filed with the Metropolitan Clerk. Either party may terminate the agreement upon 90 days' written notice. The school is 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. RS2019-119** (MENDES) – This resolution authorizes the Department of Law to settle the personal injury claim of Tracey Harding against the Metropolitan Government in the amount of \$137,000.

On October 6, 2017, Tracey Harding was crossing the street at the intersection of Gay Street and Second Avenue North. A Metro employee in a Metro vehicle approached the intersection, heading south on Second Avenue. The employee stopped at the intersection and proceeded to turn left onto Gay Street. The employee did not see anyone in the crosswalk when turning and was driving about 5 mph. The employee testified that shadow from the rock wall on Second Avenue prevented her from seeing the street beyond the crosswalk and that the sun obstructed her view while she turned. After turning, the employee hit Ms. Harding. The employee testified Ms. Harding was not in the crosswalk, but was instead crossing the street between two cars that were parallel parked on Gay Street. Ms. Harding disputes this and testified that she crossed in the crosswalk. Ms. Harding claims that she rolled onto the hood of the Metro vehicle, though the employee disputes this.

Ms. Harding sought treatment for pain, including bruising, scrapes, and a cracked tooth. She required physical therapy, which she has stated was not successful and she continues to experience pain. She has agreed to accept a total of \$137,000 in full settlement of this case, including \$53,000 for reimbursement of her medical expenses and settlement of her husband's loss of consortium claim.

The Department of Law recommends settlement of this claim for \$137,000 since Metro would likely be held liable for the negligence of its employee if the case went to trial and the plaintiff would likely be awarded a higher amount.

No disciplinary action was taken against the employee.

*Fiscal Note: This \$137,000 settlement would be the fourteenth payment from the Self-Insured Liability Fund in FY20 for a cumulative total of \$717,348. The fund balance would be \$6,996,675 after this payment.*

**RESOLUTION NO. RS2019-120** (MENDES, PULLEY, & HANCOCK) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-121** (MENDES, HENDERSON, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-122** (MENDES, HENDERSON, & OTHERS) – See attached grant summary spreadsheet.

**RESOLUTIONS NO. RS2019-123 AND RS2019-124** - These resolutions authorize the construction, installation, and maintenance of aerial encroachments at two separate locations:

- **Resolution No. RS2019-123** (CASH, MURPHY, & HENDERSON) authorizes Molly Green Hillsboro Village LLC to install a double-faced, illuminated sign at 1717 21st Avenue South.
- **Resolution No. RS2019-124** (O'CONNELL, MURPHY, & HENDERSON) authorizes Coworking Investors, LLC to install an illuminated, blade sign at 501 Union Street.

In each instance, the applicant will be required to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party. 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. BL2019-35** (TAYLOR & MURPHY) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Alley Number 377 right-of-way and easement. This abandonment has been requested by Kimley-Horn, applicant.

A substitute is anticipated to allow Metro to retain the utility easements.

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

**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.

The ordinance further requires the director of Metro Water Services to personally appear annually before a joint meeting of the council public works and budget and finance committees to discuss the report.

There is a proposed substitute for this ordinance that would also require semiannual reports in 2020 and 2021 summarizing the status of implementing the new water rates pursuant to Ordinance No. BL2019-45, including a description of milestones achieved and any obstacles to full implementation.

**BILL NO. BL2019-74** (BRADFORD & TOOMBS) – This ordinance requires Metropolitan Social Services to adopt an annual plan detailing plans for an overflow shelter for the homeless population in Nashville during cold weather. This plan must include an assessment of projected needs in the upcoming year, an analysis and recommendation of Metro’s response, and whether current funding meets that need. The plan would be required to be submitted to Council by May 31 of each year.

**BILL NO. BL2019-75** (ROSENBERG & TOOMBS) – This ordinance amends Chapter 2.30 of the Metropolitan Code to require 9-1-1 operators to be trained in the delivery of telecommunicator cardiopulmonary resuscitation (T-CPR). This training teaches 9-1-1 operators how to instruct a caller to perform CPR in a cardiac emergency situation.



This ordinance would require all 9-1-1 telecommunicators who provide dispatch for emergency conditions to be trained, using in the most current nationally recognized emergency cardiovascular care guidelines, in high-quality T-CPR. At a minimum, this training must incorporate recognition protocols for out-of-hospital cardiac arrest, compression-only CPR instructions for callers, and continuous education as appropriate. The ordinance provides that the department of emergency communications is to establish a procedure for monitoring compliance. The ordinance further provides that the “governing bodies of identified telecommunicators” may adjust grant/shared revenue amounts based on failure to comply with the requirements of this ordinance. The ordinance also includes a provision granting immunity to call takers provide T-CPR from civil liability except in the case of gross negligence.

The council office recommends an amendment to this ordinance removing the adjustment of grant revenue language and the granting of civil immunity. The council does not have the authority to reduce the amount of grants or shared revenues. The council only has the authority to approve or deny grants and appropriate funds. Further, the granting of immunity is not consistent with the provisions of the Tennessee Governmental Tort Liability Act.

**BILL NO. BL2019-76** (MURPHY) – This ordinance amends Sections 2.62.040 and 12.56.060 of the Metropolitan Code to require parking and emergency access plans for parades and special events located outside of the downtown area. The Metro Code currently requires a permit for special events and parades when the event involves the use of public property or impacts the public right-of-way. Applicants are required to provide a security plan, a certificate of insurance, and a written indemnification for Metro against all claims of injury or property damage.

This ordinance would add a requirement that the applicant provide a parking plan and emergency vehicle access plan if the parade or special event is to be held outside of the downtown area. The parking plan is to identify sufficient, legally-permissible parking locations to accommodate the expected attendance at the event.

**BILL NO. BL2019-77** (MENDES, WELSCH, & OTHERS) – This ordinance amends Chapter 5.04 of the Metropolitan Code to require disclosure of full cost itemizations prior to submission of capital expenditure authorization legislation to the Metropolitan Council. The purpose of this ordinance is to provide clarity regarding the total costs of capital projects so the Council will know whether sufficient funding has been allocated for projects to be funded as part of a capital spending plan.

This ordinance will require the finance department to develop a Capital Project Cost Itemization Form to be completed for all proposed capital projects with an estimated total value greater than \$5 million. Such form is to itemize the present value full projected costs (allowing for local market cost escalation), including the following costs, as applicable:

1. land acquisition;
2. environmental compliance;
3. temporary relocation;

4. architectural, engineering, and design;
5. construction;
6. furniture, fixture, and equipment;
7. infrastructure improvement;
8. new and supporting technology;
9. utility relocation and related costs;
10. estimated operating budget impact; and
11. other anticipated project costs.

Departments seeking to have capital projects funded as part of a capital spending plan (an initial general obligation bond authorization resolution) would be required to complete the Capital Project Cost Itemization Form and deliver it to the finance department and the mayor for review prior to the inclusion of any capital project in an initial G.O. bond resolution. The initial G.O. bond resolution must include:

1. an itemized list by categories of capital projects for which the bonds will be issued, and including a total amount not to be exceeded for each category;
2. an itemized list of each capital project for which the bonds will be issued that includes the Capital Improvements Budget project number and a total amount not to be exceeded for each capital project; and
3. a completed Capital Project Cost Itemization Form for each included capital project with an estimated total value greater than \$5 million.

The requirements of this ordinance would not apply to capital projects that are: (1) limited solely to preliminary project planning and/or feasibility costs; or (2) funded exclusively by an enterprise fund, water or sewer rates, or other fees paid to the metropolitan government.

**BILL NO. BL2019-80** (HAUSSER, MENDES, & OTHERS) – This ordinance grants two permanent easements and a temporary construction easement to Harpeth Valley Utilities District of Davidson and Williamson Counties, Tennessee, on property located at 0 Highway 70 South, known as Harpeth River Park. The easements are for the purpose of installing and maintaining a sanitary sewer line.

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

*Fiscal Note: The total cost of the easement is \$7,150, based on an appraisal report attached to the ordinance.*

**BILL NO. BL2019-81** (WITHERS, MURPHY, HENDERSON) – This ordinance abandons existing public sanitary sewer main and easements and accepts new sanitary sewer mains, sanitary sewer manholes, fire hydrant assembly and easements for property located at 1111 Gallatin Avenue and 1100B Greenwood Avenue.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-82** (HAGAR, MURPHY, & HENDERSON) – This ordinance abandons existing public water main and accepts new water main for five properties located on Hermitage Street and Center Street.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-83** (HANCOCK, MURPHY, & HENDERSON) – This ordinance accepts a new public sanitary sewer main, sanitary sewer manholes, and easements for three properties located at 1020 C Old Hickory Boulevard, Old Hickory Boulevard (unnumbered) and New Providence Pass (unnumbered).

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-84** (HANCOCK, MURPHY, & HENDERSON) – This ordinance accepts new sanitary sewer main, sanitary sewer manholes, and easements for three properties located at 1020 C Old Hickory Boulevard and New Providence Pass (unnumbered).

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-85** (MURPHY & HENDERSON) – This ordinance accepts new sanitary sewer main, sanitary sewer manholes, and easements for property located at 4119 Murfreesboro Pike.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth. The easement may not be permanent and the appraisal will be null/void as soon as the project is completed.*

**BILL NO. BL2019-86** (MURPHY & HENDERSON) – This ordinance abandons existing easement rights for property located at 4901 Centennial Boulevard, between 49th Avenue North and Louisiana Avenue. This abandonment has been requested by 4901 Centennial Partners, LLC, owner.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-87** (MURPHY & HENDERSON) – This ordinance abandons existing public water main and easements and to accept new water and sanitary sewer mains, fire hydrant assembly, sanitary sewer manhole and easements for property located at 2420 Stivers Street.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth.*

**BILL NO. BL2019-88** (MURPHY & HENDERSON) – This ordinance accepts new sanitary sewer main, sanitary sewer manholes, and easements for three properties located at 3810 and 3825 Whites Creek Pike and Whites Creek Pike.

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

*Fiscal Note: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth. The easement may not be permanent and the appraisal will be null/void as soon as the project is completed.*

**BILL NO. BL2019-94** (O'CONNELL) – This ordinance approves a temporary “Special Event Zone” for specified areas of downtown Nashville, in conjunction with the 2019 New Year’s Eve Celebration scheduled for December 30, 2019 through January 1, 2020. Similar zones have previously been approved by the Council for celebrations of the 2018 New Year’s Eve Celebration (BL2018-1386), CMA Fest (BL2018-1160), and the NCAA Women’s Final Four (BL2014-687).

The boundaries of the Special Event Zone established under this ordinance are Charlotte Avenue from 10th Circle North to 5th Avenue North, 5th Avenue North from Charlotte Avenue to Gay Street, Gay Street from 5th Avenue North to 3rd Avenue North, 3rd Avenue North from Gay Street to Jefferson Street, Jefferson Street from 3rd Avenue North to Rosa L. Parks Blvd., Rosa L. Parks Blvd. from Jefferson Street to 10th Circle North, 10th Circle North at Rosa L. Parks Boulevard to Charlotte Avenue.

Activity restrictions within the Special Event Zone would begin at nine o’clock (9:00) p.m. on Monday December 30, 2019 and end at six o’clock (6:00) a.m. on Wednesday January 1, 2020.

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

1. The sale of any food, beverages, goods, or merchandise would be prohibited, unless street vendors obtain a “Special Event Zone” permit from the Nashville Convention and Visitors Corporation (CVC) in order to sell within the geographic area listed above.
2. Alcoholic beverages provided, served, or sold from any temporary outdoor would be prohibited, except as authorized.
3. The sale or distribution of merchandise pertaining to the New Year’s Eve Celebration where it is apparent on its face that the merchandise is not licensed by the CVC, would be prohibited.
4. No tents or membrane structures of any kind would be permitted, except as authorized by the CVC or Metro for public safety purposes.
5. The construction, placement, occupation, or use of any temporary structure would be prohibited except those sanctioned and authorized by the CVC.
6. The distribution, promotional give-away activity, or provision of free products, services, or coupons by persons or entities that are not event sponsors officially sanctioned and authorized by the CVC would be prohibited, except within any Public Participation Area.
7. Vehicles would be allowed only as directed by Metropolitan Nashville Police.
8. No shared urban mobility devices, as defined by Metropolitan Code of Laws Section 12.62.010, would be permitted within the Special Event Zone.

9. No handguns, rifles, or firearms would be permitted. (Tennessee Code Annotated § 39-17-1359)
10. No knives, swords, or other fighting devices would be permitted.
11. No fireworks, firecrackers, or explosive devices of any type would be permitted.
12. The Special Event Zone would be a “no fly zone.” (Tenn. Comp. R. & Regs. 0400-02-02-.02)

This ordinance establishes at least one Public Participation Area within the Special Event Zone while the zone is in effect. This Area allows for the reasonable expression by the public in a manner that is not disruptive to the 2019 New Year’s Eve Celebration, activities and events.

*Fiscal Note: This ordinance places restrictions on the activities that would be allowed to take place within the special event zone during the New Year's Eve Celebration. However, no additional Metro personnel or overtime would be required solely for the enforcement of these restrictions.*

**– ORDINANCES ON THIRD READING –**

**BILL NO. BL2019-6** (HENDERSON & PARKER) – 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. BL2019-31** (MURPHY & STYLES) – This ordinance, as amended, 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.

An amendment added at the November 19, 2019 meeting makes the effective date of this ordinance January 1, 2020.

**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, as amended, 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 office director. If the communications reflect negatively on Metro’s finances, the communications would be emailed directly to Councilmembers within seven days of receipt. 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 other than routine correspondence regarding grant awards previously approved by Council and grant applications. “Communications that reflect negatively” means any notice or threat of an administrative proceeding initiated by the State against Metro, any order issued in any administrative proceeding, any communication that disapproves any request related to Metro’s finances, any communication disapproving or raising questions about any Metro operating or capital budget, and any communication that reflects or discusses any material adverse change in Metro’s financial condition.

The department head for the applicable department, board, commission, office, or agency would be responsible for ensuring such communication is submitted to the Council office director 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, as amended, 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
0-2 CCF	-	-
More than 2 CCF	\$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. BL2019-51** (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: This ordinance has no cost to Metro. The Department of Water Services could not provide an estimated value of the easements as the cost for an appraisal could cost more than the easement is worth. The easement may not be permanent and the appraisal will be null/void as soon as the project is completed.*

**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.

**GRANTS LEGISLATION – DECEMBER 3, 2019**

<b>Legislative Number</b>	<b>Parties</b>	<b>Amount</b>	<b>Local Cash Match</b>	<b>Term</b>	<b>Purpose</b>
<b>RS2019-120</b>	<p><b>From:</b> Tennessee Department of Safety and Homeland Security</p> <p><b>To:</b> Metropolitan Nashville Police Department</p>	Not to exceed \$490,562.01	\$0	October 1, 2019 through September 30, 2020	The grant proceeds are used for enhanced DUI enforcement of Tennessee driving under the influence laws.
<b>RS2019-121</b>	<p><b>From:</b> Tennessee Emergency Management Agency</p> <p><b>To:</b> Metro Water and Sewerage Services Department</p>	Award of \$1,141,816.50	\$126,868.50	N/A	<p>This approves an application for a Flood Mitigation Grant.</p> <p>If awarded, the grant proceeds would fund the acquisition of six properties near Whites Creek. The properties are as follows:</p> <ul style="list-style-type: none"> <li>• 3907 Crouch Drive</li> <li>• 3001 Hummingbird Drive</li> <li>• 1152 Tuckahoe Drive</li> <li>• 3900 Tucker Drive</li> <li>• 3225 West Hamilton Avenue</li> <li>• 3227 West Hamilton Avenue.</li> </ul>

<p><b>RS2019-122</b></p>	<p><b>From:</b> Tennessee Emergency Management Agency</p> <p><b>To:</b> Metro Water and Sewerage Services Department</p>	<p>Award of \$913,855.50</p>	<p>\$101,539.50</p>	<p>N/A</p>	<p>This approves an application for a Flood Mitigation Grant.</p> <p>If awarded, the grant proceeds would fund the acquisition of four projects near McCrory Creek. The properties are as follows:</p> <ul style="list-style-type: none"> <li>• 3052 Boulder Park Drive</li> <li>• 3134 Boulder Park Drive</li> <li>• 3428 Brick Church Pike</li> <li>• 4941 Shadowlawn Drive.</li> </ul>
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