



## METRO COUNCIL OFFICE

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MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel  
Mike Curl, Finance Manager  
Metropolitan Council Office

COUNCIL MEETING DATE: August 6, 2019

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 7/31/19:

4% Reserve Fund	\$45,014,476*
Metro Self Insured Liability Claims	\$3,335,108
Judgments & Losses	\$2,223,292
Schools Self Insured Liability Claims	\$4,221,342
Self-Insured Property Loss Aggregate	\$5,418,554
Employee Blanket Bond Claims	\$687,079
Police Professional Liability Claims	\$2,180,569
Death Benefit	\$1,539,035

\*This assumes unrealized estimated revenues in FY20 of \$33,371,088.

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

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTIONS NO. RS2019-1837 THROUGH RS2019-1841** – These resolutions would approve exemptions for five (5) establishments, listed below, from the minimum distance requirements for obtaining a beer permit. The establishments and locations are as follows:

- **RS2019-1837** (Kindall) - Springwater, located at 2701 Poston Avenue
- **RS2019-1838** (S. Davis) - Red Headed Stranger, located at 305 Arrington Street
- **RS2019-1839** (Kindall) - NoBaked Cookie Dough, located at 117 28th Avenue North
- **RS2019-1840** (O'Connell) - Mother's Ruin, located at 1239 6th Avenue North
- **RS2019-1841** (Pridemore) - Race Trac, located at 106 Myatt Drive

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). This section is the subject of an ordinance scheduled for third reading on August 6, 2019 – BL2019-1732. However, the revisions contained within that ordinance will have no substantive bearing on the current Resolutions.)

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 each resolution brought under Section 7.08.090(E).

**– ORDINANCES ON PUBLIC HEARING –**

**BILL NO. BL2019-1615** (VERCHER) – This ordinance would create a new Section 17.40.735 regarding pre-application conferences and notice to Councilmembers.

As defined in the proposed new MCL Sec. 17.40.735, a pre-application conference is “a meeting between the Planning Department and a developer or developer’s representative to discuss potential developments that require a review by the Planning Department prior to the submission of any application.” Under the ordinance, the Planning Department would be required to provide three (3) business days’ notice of any pre-application conference to the district council member who represents the area to be addressed at the meeting. The district council member would then be afforded the opportunity to attend such a meeting.

The Planning Department would further be required to maintain summaries of all pre-application conferences, including copies of any rendering or drawings, for no less than twelve (12) months. These summaries would be required to be made available to the district council member upon request.

It is anticipated that the sponsor will withdraw this ordinance in anticipation of the development of a pre-application tracking system allowing the Metro Planning Department to capture information regarding potential re-zonings, then compile and provide the same to district Council members on a regular basis.

**BILL NO. BL2019-1631** (O’CONNELL) – This ordinance, as substituted, would amend the Metropolitan Code of Laws to consolidate existing provisions regulating noise, excessive noise, and construction noise. These existing provisions would be housed under a new title, entitled “Title 9 - Noise and Amplified Sound.”

This ordinance would reorganize existing noise provisions into a single title in the Metropolitan Code of Laws. This would entail deleting existing provisions and creating a new Title 9 containing the prior noise provisions. The new Title 9 would be organized into three chapters.

- Chapter 9.10 would contain general definitions and the measurement guidelines currently in existence.
- Chapter 9.20 would govern excessive noise provisions, mostly contained within the current MCL Sec. 11.12.070. This new chapter would divide the existing MCL Sec. 11.12.070 into smaller sections based upon topic, as well as consolidate other relevant provisions from other sections of the MCL. Chapter 9.20 would also clarify that excessive noise provisions are to be enforced by the Metropolitan Nashville Police Department, which is currently tasked with enforcing the excessive noise provisions.
- Chapter 9.30 would govern construction noise, essentially relocating the current Chapter 16.44. This Chapter would also clarify that construction noise provisions are to be enforced by the Metropolitan Department of Codes Administration, which is currently tasked with enforcing construction noise provisions.

A Substitute added at the June 18, 2019 meeting addresses noise restrictions related to commercial and industrial activities under MCL 17.28.090 and eliminates certain unnecessary deletions of existing provisions.

**BILL NO. BL2019-1634** (GLOVER & SWOPE) – This ordinance would add a requirement to Section 17.12.040 of the Metropolitan Code of Laws pertaining to setback requirements.

This ordinance would add a requirement that a private parking facility or private parking lot could not be constructed within 100 feet of any facility owned by the Fair Board and used for automobile racing or ancillary activities associated if that facility accommodates 1,000 people or more. There would be an exception from this requirement if the Fair Board and tenant of the Fair Board approve such parking facility or lot and have direct oversight and control of how the parking facility or lot is managed and secured.

The Council office would note that the mixed-use development under current construction at the Fairgrounds site is arguably vested in the zoning rights in existence at the time of site plan approval, pursuant to the Vested Property Rights Act of 2014, Tenn. Code Ann. §§ 13-4-310 and 13-3-413.

– RESOLUTIONS –

**RESOLUTION NO. RS2019-1812** (S. DAVIS) – This resolution would approve an exemption for Eastwood Pub, LLC, located at 714 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). This section is the subject of an ordinance scheduled for third reading on August 6, 2019 – BL2019-1732. However, the revisions contained within that ordinance will have no substantive bearing on the current Resolution.)

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 was previously conducted at the July 16, 2019 meeting, as required prior to voting on resolutions brought under Section 7.08.090(E).

**RESOLUTION NO. RS2019-1832** (VERCHER) – This resolution would seek the recall of Mr. Tom Lawless from the Metropolitan Board of Zoning Appeals (BZA).

Mr. Lawless was appointed by the Mayor's office by letter dated April 23, 2019, subject to confirmation by the Metro Council. Pursuant to Metropolitan Charter Sec. 11.109, "any appointive member of any board or commission" established by the Metro Charter or by ordinance can be removed from office by a three-fourths vote of the entire membership of the Council.

Rule 45 of the Council Rules of Procedure provides that a recall or removal of a board or commission member shall be initiated by a resolution filed with the Clerk stating the reasons or grounds for removal. This resolution is then forwarded by the Clerk to the member sought to be removed. The resolution must be deferred for one meeting and referred to the Rules, Confirmations, and Public Elections Committee. (This required deferral previously occurred at the July 16, 2019 Council meeting.) The person sought to be removed may appear at such meeting but is not required to appear. The Rules Committee must make a recommendation to the Council and cannot recommend a deferral of the resolution. The person sought to be removed, or a designated representative, may address the Council prior to a vote on the resolution to remove

them. If the person resigns prior to a vote on the resolution, no vote may be taken on the resolution. Otherwise, a vote on a resolution removal must be taken by a roll call.

The resolution under consideration would seek the recall of Mr. Lawless from the BZA, but the basis for removal is unrelated to Mr. Lawless's service on the board. The grounds for removal, as stated in the resolution, "consist of the untimely and improper exercise of presumptive appointment processes under Section 11.101.1 of the Metropolitan Charter." Section 11.101.1 of the Metropolitan Charter states that should the Mayor appoint a member within sixty (60) days of the expiration of the term, and the Metropolitan Council "fail[s] to act on the appointment within sixty (60) days of receipt of the letter of appointment from the mayor", that person is conclusively presumed to be approved by the Council.

Although the letter appointing Mr. Lawless was dated April 23, 2019, the Clerk delivered the Mayor's appointment letter to Council on May 9, 2019 (in order to combine the letter with other appointment letters in a single delivery). The Council Office has been advised that the Mayor's Office and Metro Legal Department conclude that Mr. Lawless's appointment was presumed approved as of June 22, 2019. However, sixty (60) days from the delivery of the letter on May 9, 2019 would have been July 8, 2019.

This resolution was deferred at the July 16, 2019 Council meeting, pursuant to Rule 45. The Rules Committee must make a recommendation at their August 6 meeting. Mr. Lawless will have an opportunity to appear at the Rules Committee meeting and may address Council prior to the vote, but is not required to do so.

**RESOLUTION NO. RS2019-1842** (VERCHER & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1843** (VERCHER & ROBERTS) – This resolution would accept a donation of gym equipment, from Christopher Drew Claudel to the Metropolitan Nashville Police Department.

Pursuant to Metro Code of Laws 5.04.120.B, departments, boards and commissions of the Metropolitan Government may accept donations exceeding \$5,000 with the approval of the Metropolitan Council by resolution.

*Fiscal Note: The equipment is valued at \$16,000.*

**RESOLUTION NO. RS2019-1844** (VERCHER & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1845** (VERCHER & ROBERTS) – This resolution would approve a contract between the Tennessee Department of Mental Health and Substance Abuse Services and the Metropolitan Nashville Fire Department for the payment of emergency transportation services for patients at the Middle Tennessee Mental Health Institute (MTMHI). Under the contract, the state would pay for ambulance services under the Medicare part B Fee Schedule or, if a service is not covered, then at the lowest negotiated rate.

This agreement would enable the state to continue paying Metro for the services provided. The term of the contract would start July 1, 2019 and end June 30, 2020. This is a recurring contract approved each year. In 2018, the contract was approved pursuant to Resolution No. RS2018-1293.

*Fiscal Note: The State would pay the Metropolitan Government for uninsured patients transported from the facility at the rates established by the Medicare Part B fee schedule. The total amount paid under the contract is not to exceed \$22,000 for FY20 -- the same cap for FY19.*

**RESOLUTION NO. RS2019-1846** (VERCHER & ROBERTS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1847** (GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1848** (VERCHER & GILMORE) – This resolution would approve a contract between the Metropolitan Board of Health and Neighborhood Health, Inc., to provide homeless individuals with medical services at two or more clinics in or near downtown Nashville.

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 the contract, Neighborhood Health would provide a portion of the medical services, including examinations, diagnosis, and treatment of medical conditions of homeless persons seen at the downtown clinic. Neighborhood Health would provide primary medical services to at least 3,500 individuals, including a 24 hour on-call system for emergencies. This contract also would include the provision of dental care for at least 500 patient visits and mental health services for at least 600 homeless clients. Neighborhood Health would agree to make transportation available to its homeless patients. A contract has been in place with United Neighborhood Health Services, Inc. (UNHS) since 2005. UNHS is now known as Neighborhood Health. The term of this agreement is from July 1, 2019 to June 30, 2020.

*Fiscal Note: The Metropolitan Government would provide funding of up to \$355,200 for the initial one-year term of this contract. Neighborhood Health would invoice Metro monthly, in the amount of \$29,600. The amount of this contract remains unchanged from the prior contract with UNHS.*

**RESOLUTION NO. RS2019-1849** (VERCHER & GILMORE) – This resolution would approve a contract between the Metropolitan Board of Health and the Mental Health Cooperative to provide a secure drop-off location for persons needing a mental health urgent care alternative to an emergency room or correctional facility to serve as a viable and expedient source of emergency psychiatric care.

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.

This contract would commence on July 1, 2019 and end on June 30, 2020. Metro would grant \$440,400 to the Mental Health Cooperative. The funds would be used to operate a secure drop-off location for the Metropolitan Nashville Police Department at the Mental Health Crisis Treatment Center for people in Davidson County needing a mental health urgent care alternative to the emergency room or jail.

*Fiscal Note: The Metropolitan Government would grant \$440,400 to the Mental Health Cooperative.*

**RESOLUTION NO. RS2019-1850** (VERCHER & GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1851** (VERCHER & GILMORE) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1852** (VERCHER, SYRACUSE, & ALLEN) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1853** (VERCHER) – This resolution would authorize the Department of Law to settle the property damage claim of Donna Pokowitz against the Metropolitan Government in the amount of \$12,707.43.

On June 15, 2019, a water main break occurred in the Estes Road neighborhood. The lower level of Ms. Pokowitz's home sustained flood damage. Water poured from the water main for several hours until a weekend crew from Metro Water Services could respond. Once the crew arrived,



the process off shutting of the water main and making repairs began, but water continued to run and flood the neighborhood until repairs were completed.

Ms. Pokowitz's home repairs included removal and replacement of drywall, subflooring, and flooring. She has agreed to accept a total of \$12,707.43 in full settlement of this case.

The Department of Law recommends settlement of this claim for \$12,707.43.

*Fiscal Note: This \$12,707.43 settlement would be the third payment from the Self-Insured Liability Fund in FY20 for a cumulative total of \$57,008.49. The fund balance would be \$3,335,108 after this payment.*

**RESOLUTION NO. RS2019-1854** (VERCHER & O'CONNELL) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1855** (VERCHER, BEDNE, & O'CONNELL) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works for the acceptance of traffic signal improvements in connection with construction at the I-65 Northbound Exit Ramp at State Route 254 (Old Hickory Boulevard) (Ramp Queue Project). State law allows intergovernmental agreements between governmental entities to be approved by resolution. (Tenn. Code Ann. § 12-9-104).

This project has been approved by the Planning Commission.

*Fiscal Note: The Metropolitan Government would not be responsible for any of the costs of this project. Metro would only be responsible for the ongoing maintenance costs of the new signals.*

**RESOLUTIONS NO. RS2019-1856 THROUGH RS2019-1858** – These resolutions would approve intergovernmental agreements between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works for the reimbursement of railroad crossing safety improvements. TDOT directed the Metropolitan Government, through the Department of Public Works, to construct railroad crossing approaches at various locations, subject to reimbursements by the state. The locations are as follows:

- **Resolution No. RS2019-1856** (VERCHER, BEDNE, & O'CONNELL) - 2nd Avenue North.
- **Resolution No. RS2019-1857** (VERCHER, BEDNE, & O'CONNELL) - 3rd Avenue North
- **Resolution No. RS2019-1858** (VERCHER, BEDNE, & OTHERS) - Craighead Avenue

*Fiscal Note: TDOT would reimburse 90% of the Metropolitan Government's costs for this project from their programmed safety funds for the improvement of various railroad crossings throughout Davidson County. The specific cost estimates are as follows:*

- *2nd Avenue North - \$3,080.00 (Metro - \$308.00; TDOT - \$2,772.00)*
- *3rd Avenue North - \$7,170.00 (Metro - \$717.00; TDOT - \$6,453.00)*
- *Craighead Avenue - \$10,120.00 (Metro - \$101.20; TDOT - \$9,108.00)*

**RESOLUTION NO. RS2019-1859** (VERCHER, BEDNE, & O'CONNELL) – This resolution would approve Supplement #1 to an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Metropolitan Department of Public Works for the reimbursement of railroad crossing safety improvements at Nolensville Road.

*Fiscal Note: This agreement was initially approved pursuant to Resolution No. RS2016-218. The original cost estimate for the railroad crossing safety improvements was \$158,579.95. This Supplement #1 would increase the cost estimate to \$192,954.85, reflecting an update for the estimate. Metro is eligible for 100% reimbursement for these improvements.*

**RESOLUTION NO. RS2019-1860** (VERCHER & WITHERS) – See attached grant summary spreadsheet.

**RESOLUTION NO. RS2019-1861** (VERCHER, WITHERS, & OTHERS) – This resolution would declare surplus ten (10) parcels of real property and convey these properties to certain nonprofit organizations. This resolution would also authorize grants not exceeding \$9,800,000.00 from the Barnes Fund for Affordable Housing to certain nonprofit organizations.

Tennessee Code Annotated § 7-3-314(e) permits Metro to convey by resolution any real property acquired pursuant to a delinquent tax sale by grant to a non-profit organization for the purpose of constructing affordable or workforce housing. This section also specifies that no property may be granted prior to the expiration of the statutory redemption period. This section also requires that all such property be used to construct affordable and workforce housing for residents in the county.

On March 5, 2019, the Metropolitan Housing Trust Fund Commission issued a request for applications to qualified nonprofit organizations to participate in nonprofit housing development grant program. Affordable Housing Resources, Inc. was selected through this process. The parcels to be granted to Affordable Housing Resources, Inc. are as follows:

- 1544 12th Avenue North (District 21)
- 1625 12th Avenue North (District 21)
- 1925 16th Avenue North (District 21)

- 1518 16th Avenue North (District 21)
- 710 Lena Street (District 21)
- 1907 14th Avenue North (District 21)
- 41 Wharf Avenue (District 17)
- 43 Wharf Avenue (District 17)
- 1514 B 14th Avenue North (District 21)
- 504 Vernon Winfrey Avenue (District 5)

The Metropolitan Housing Trust Fund Commission would be authorized by this resolution to enter into a grant contract with this organization for the express purpose of constructing affordable and workforce housing on these ten properties. In the event any of these properties are not utilized by the Barnes Fund Affordable Housing Program after five (5) years from the date of the passage of this resolution, the property would revert back to the Division of Public Property unless otherwise previously conveyed.

In addition to the grant of real property, monetary grants from the Barnes Fund totaling \$9,800,000.00 would be made to seven (7) nonprofit organizations. Tenn. Code Ann. §7-3-314 permits local governments to provide financial assistance to non-profit organizations in accordance with local regulations and guidelines. Further, section 5.04.070 of the Metropolitan Code of Laws provides that the Council may appropriate funds by resolution for the financial aid of non-profit organizations. This resolution would distribute these additional monetary grants as follows:

- \$533,690.00 - Affordable Housing Resources, Inc.
- \$2,000,000.00 - Urban Housing Solutions
- \$1,155,000.00 - Habitat for Humanity
- \$511,310.00 - Rebuilding Together Nashville
- \$1,800,000.00 - Crossbridge, Inc.
- \$1,800,000.00 - Renewal House, Inc.
- \$2,000,000.00 - Woodbine Community Organization, Inc.

Per state law and section 5.04.070 of the Metro Code, adoption of this resolution requires twenty-one affirmative votes.

*Fiscal Note: This would reduce the balance of the Barnes Fund by \$9,800,000.00.*

**RESOLUTION NO. RS2019-1862** (VERCHER) – This resolution would appropriate a total of \$1,000,000 (\$200,000 each from five (5) separate departments) to certain nonprofit organizations as Community Partnership Fund grants.

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

The Office of Family Safety would appropriate \$200,000 to the following four (4) nonprofits for Domestic Violence Reduction:

- AGAPE - \$50,000
- Mary Parrish - \$50,000
- The Tennessee Coalition to End Domestic and Sexual Violence - \$50,000
- Prevent Child Abuse Tennessee - \$50,000

The Public Library would appropriate \$200,000 to the following ten (10) nonprofits for Literacy Programs:

- Bridges for the Deaf & Hard of Hearing - \$20,665
- Catholic Charities - \$20,665
- Communities in Schools - \$14,015
- Fannie Battle - \$20,665
- Moves & Grooves - \$20,665
- Nashville Adult Literacy Council - \$20,665
- Nashville Public Library Foundation - \$20,665
- Nations Ministry - \$20,665
- Project Transformation - \$20,665
- East Nashville Hope Exchange - \$20,665

The Juvenile Court would appropriate \$200,000 to the following six (6) nonprofits:

- Oasis Center of Nashville for the REAL Program - \$50,000
- Stars Nashville for the YODA Program - \$35,000
- Meharry Medical College, RWJF Center for Health Policy, for the Aggressors, Victims, Bystanders (AVB) Program - \$30,000
- Mt. Carmel MBC for the Gentlemen Not Gangsters Program - \$40,000
- Nashville Youth for Christ for Find Design Program - \$40,000
- Be About Change for Youth Violence Reduction - \$5,000

Social Services would appropriate \$200,000 to the following six (6) nonprofits for Economic Prosperity Programs:

- NeedLink Nashville - \$37,000
- OSDTN - \$37,000

- Safe Haven Family Shelter - \$37,000
- Catholic Charities - \$15,000
- Bridges for the Deaf and Hard of Hearing - \$37,000
- Nashville State Community College Foundation - \$37,000

The Health Department would appropriate \$200,000 to the following five (5) nonprofits for Community Health Programs:

- Oasis Center of Nashville - \$50,000
- Martha O'Bryan Center - \$25,000
- The Nashville Food Project - \$50,000
- Siloam Health - \$25,000
- Trevecca Nazarene - \$50,000

*Fiscal Note: A total of \$1,000,000 would be appropriated by this resolution. The \$200,000 appropriation from each department was included in their FY20 operational budget.*

**RESOLUTION NO. RS2019-1863** (VERCHER & BEDNE) – This resolution would approve the fifth amendment to the lease agreement between the Metropolitan Government and Square Investment Holdings, LLC, for the lease of office space in the Washington Square Building on Second Avenue.

Metro has been leasing space in this building for the Office of the District Attorney since 1993. A new lease agreement was approved in 2008 (per BL2008-226) to add another 18,000 square feet for the Metropolitan Legal Department. In 2013, Metro exercised a right to lease an additional 4,508 square feet and to extend the term of the lease through November 30, 2023 (per RS2013-921). In 2014, an additional 2,051 square feet was leased for use by Criminal Justice Planning (per RS2014-1016). In April 2019, Metro executed a fourth amendment for new space for Criminal Justice Planning, which allowed the Office of the District Attorney for Davidson County to utilize the former Criminal Justice Planning space (per RS2019-1678). Metro currently leases 68,333 square feet of the Washington Square Building.

The resolution under consideration would approve the lease for an additional 3,854 square feet to be used by the Community Oversight Board. This amendment would bring the total amount of leased space to 72,187.

*Fiscal Note: The Metropolitan Government would pay rent in the amount of \$24.00 per square foot for the additional space of 3,854 for a total of \$7,709 per month. This rent would increase to \$24.72 per month beginning in the second year of the lease, \$25.47 in the third year, \$26.24 in the fourth year, and \$27.03 in the fifth year until termination on November 30, 2023.*

**– ORDINANCES ON SECOND READING –**

**BILL NO. BL2018-1320** (MENDES & ELROD) – This ordinance would approve the eighth amendment to the Rutledge Hill Redevelopment Plan. The Rutledge Hill Redevelopment Plan was initially approved by Ordinance Number 80-133, and subsequently amended by the adoption of Ordinance Nos. 86-1131, 87-1695, 91-1520, 97-755, 97-754, BL2005-875, BL2013-377, and BL2014-699.

This ordinance would clarify language from the amendment adopted pursuant to BL2014-699 which inadvertently identified the “Tax Increment” section of the plan as “Section G” instead of “Section H”. The 2014 amendment also inadvertently authorized tax increment financing related to the Rutledge Hill Redevelopment Plan to be used to carry out “other adopted and approved redevelopment plans”, potentially outside of the designated Rutledge Hill area. This ordinance would remove that language.

Additionally, this ordinance would add a new Section C.3 to the Rutledge Hill Plan to authorize proceeds from land sold by the Metropolitan Development and Housing Agency (MDHA) to be placed in a revolving fund for further purchase of land for resale and redevelopment in the project area, public improvements and facilities in the project area, and implementation of the redevelopment plan. The revolving fund would be held and managed by MDHA. At the close of the project, all funds remaining would be deposited into the General Fund.

The Tax Increment Section of the Rutledge Hill Plan would be further amended to add language to require that, for all new Tax Increment Financing (TIF) loans under the Rutledge Hill Plan, debt service taxes and schools taxes would be retained by the Metropolitan Government, or if received by MDHA, be paid to Metro before any incremental tax revenues are used to pay the principal and interest on a TIF loan. The debt service taxes to be retained by or paid to Metro for each TIF loan would be determined by multiplying the total taxes from all parcels generating incremental tax revenues pledged to secure the TIF loan by the debt service tax percentage applicable as of the date of the closing of the TIF loan. The amount of school taxes to be retained by or paid to Metro for each TIF loan would be determined by multiplying the total taxes from all parcels generating incremental tax revenues pledged to secure the TIF loan by the schools taxes percentage applicable as of the date of the closing of the TIF loan. This would apply to all TIF loans authorized by MDHA under the Rutledge Hill Redevelopment Plan after the effective date of this ordinance.

State law authorizes redevelopment plans to be approved either by the housing authority or the local governing body, but no express provision addresses subsequent amendments thereto. (Tenn. Code Ann. § 13-20-203(a)(1)). Previous versions of the Rutledge Hill Plan provide that modifications may be proposed by MDHA “with the subsequent approval of the Metropolitan Council.”

This ordinance was originally introduced September 4, 2018 but deferred in deference to comprehensive review of tax increment financing by the TIF Study and Formulating Committee.

*Fiscal Note: The property tax receipts available to be used for TIF loans would now have the same restrictions as those proposed per Ordinance No. BL2018-1319, which is currently on third reading. If adopted, only the property tax receipts credited to the GSD General Fund and USD General Fund could be used for TIF loan payments. The tax receipts credited to the Schools Operating Fund and the three debt service funds would be retained by Metro and could not be used for TIF loans.*

*For comparison purposes, the total property taxes budgeted for FY19 for each of the six general budgetary funds are as follows:*

- *GSD General Fund                      \$451,063,800*
- *GSD Debt Services Fund            \$95,402,400 (non-eligible for TIF)*
- *MNPS General Fund                 \$40,473,300 (proposed to become non-eligible for TIF)*
- *MNPS Debt Services Fund         \$322,381,100 (non-eligible for TIF)*
- *USD General Fund                     \$109,098,200*
- *USD Debt Services Fund             \$17,848,700 (non-eligible for TIF)*

**BILL NO. BL2018-1328** (MENDES, COOPER, & HENDERSON) – This ordinance would amend Title 5 of the Metropolitan Code of Laws (MCL) regarding tax increment financing (TIF) development and redevelopment plans.

The ordinance would amend MCL Sec. 5.06.010 to revise the definition of “Plan” to add transit-oriented development plans. A new section would be added as Sec. 5.06.070 to require that the tax increment agency prepare an analysis for all plans approved or amended after November 1, 2018. The analysis would demonstrate the incremental tax revenue to be generated by any proposed TIF loan program in the plan and would be required to include the methodology and assumptions used in the financial forecasts and projections supporting the TIF loan program.

The analysis would also include, by year for the duration of the plan, at least the following:

- The methodology used to determine the incremental tax revenue that would be generated by the plan;
- The assumptions that would be used in that determination;
- The total amount of proposed TIF loans;
- The incremental tax revenue to be generated; and
- The amount if any of incremental tax revenue to be returned or provided to the Metropolitan Government.

The ordinance would further require the tax increment agency to obtain a determination or opinion in accordance with the attestation standards from an independent certified public accounting firm that the assumptions in the tax increment agency's analysis provide a reasonable basis for the tax increment agency's forecast or projection, given the hypothetical assumptions supporting its analysis demonstrating the amount of incremental tax revenue to be generated.

This ordinance was originally introduced September 18, 2018 but deferred in deference to comprehensive review of tax increment financing by the TIF Study and Formulating Committee.

*Fiscal Note: Under the proposed analysis and reporting requirements proposed in this ordinance, it would be necessary to provide a determination or opinion in accordance with the attestation standards from an independent certified public accounting (CPA) firm that the assumptions provide a reasonable basis for the forecast or projection, given the proposed hypothetical assumptions. This CPA analysis must demonstrate that the proposed amount of incremental tax revenue to be generated is achievable.*

*The analysis and reporting requirements would be the responsibility of the "tax increment agency". Currently, the projections for incremental revenues to be generated by any particular project are developed by the agency. There would be increased costs generated by the requirement to contract with a CPA firm to confirm these projections. However, the ordinance is silent on the mechanism that would be used to pay these costs.*

**BILL NO. BL2019-1632** (O'CONNELL) – This ordinance would delete Section 11.12.090 of the Metropolitan Code of Laws, relative to aggressive panhandling.

Currently, Section 11.12.090 regulates aggressive panhandling. "Aggressive panhandling" is defined to include approaching or speaking to a person in a way that threatens imminent bodily injury, persisting in panhandling to a person after receiving a negative response, blocking the passage of a solicited person, rendering service to a vehicle without prior consent of the owner, operator, or occupant and thereafter asking for payment for the service; or engaging in conduct intended to intimidate, compel, or force a donation. This current section prohibits aggressive panhandling, limits where panhandling generally can be located, and restricts panhandling to daylight hours only.

The ordinance under consideration would delete Section 11.12.090 in its entirety, thereby eliminating the limitations on aggressive panhandling and panhandling in general.

Under First Amendment protections, municipal governments have no power to restrict speech because of its content. Government regulation of speech is considered content-based if the regulation applies based upon the topic addressed or the idea or message conveyed, or even if the restriction applies as a result of the content's function or purpose.

Following the U.S. Supreme Court's 2015 decision in *Reed v. Town of Gilbert*, anti-panhandling ordinances have more frequently been considered content-based speech restrictions by courts. Content-based restrictions are presumptively unconstitutional and may be justified under strict scrutiny only if the enacting government establishes that the restriction is narrowly tailored to serve compelling state interests. Cities identifying panhandling as a serious concern requiring legislative remedies often cite compelling interests such as pedestrian safety in support of such legislation.



**BILL NO. BL2019-1633** (ALLEN) – This ordinance, as substituted, would amend Chapters 17.08 and 17.16 of the Metropolitan Code of Laws regarding “Short term rental property – Owner-Occupied” and “Short term rental property – Not Owner-Occupied”. The ordinance would add a variety of provisions recently mandated or allowed by the Tennessee General Assembly under Tenn. Code Ann. §13-7-604, *et seq.* Additionally, the ordinance would exclude STRP – Not Owner-Occupied as a use permitted with conditions within residential multi-family (RM) zoning districts.

Currently, Chapter 17.16 of the Metro Code requires STRP applicants to affirm that operating a proposed STRP would not violate various types of residents’ agreements (*e.g.*, HOA bylaws, condominium agreements, *etc.*) The proposed ordinance would add co-op agreements, lease agreements, and easements to this list. Pursuant to new state law under Tenn. Code Ann. §13-7-604(c), the ordinance would further require that all complainants be notified that false complaints made against an STRP provider are punishable as perjury. Further, the ordinance would clarify that upon three (3) violations of generally applicable provisions of the Metropolitan Code of Laws, the permit to operate an STRP may be revoked if no appeal rights remain, as provided under Tenn. Code Ann. §13-7-604. Outdated language regarding prior waiting periods would be removed.

Tenn. Code Ann. §13-7-603(a) requires mandatory grandfathering for properties used as a STRP prior to the enactment of prohibitive or restrictive ordinance. (Here, BL2017-608). Section 11 of the proposed ordinance recites this provision, adding that BL2019-1633 would also authorize grandfathering for properties depending on the zoning district. A delayed effective date of May 31, 2020 would be imposed.

Among the revisions in the substitute ordinance adopted at the July 2, 2019 meeting include housekeeping changes to the current ordinance to properly number the sections. References to the \$50 fee have been deleted (which has been increased to \$313 pursuant to BL2019-1627, adopted at the June 18, 2019 meeting). The effective date of Sections 1 through 6 of the ordinance would have a delayed effective date, extended from October 1, 2019 to May 31, 2020.

The substitute ordinance also contains more substantive provisions, including additional requirements and milestones for RM-zoned properties for Not Owner-Occupied STRPs. A new Section 17.16.070.U.2.c. would provide that RM-zoned properties could receive an STRP permit even after the effective date of the ordinance, provided it meet all other requirements of Subsection U and the following:

- File an affidavit of intent to apply for an STRP permit, and apply for a building permit in conjunction with the intended STRP use, by January 1, 2020;
- Obtain and pay for the building permit by July 1, 2020;
- Obtain and pay for the Use and Occupancy permit/letter by January 1, 2022;
- Apply for the STRP permits within thirty (30) calendar days of the issuance date of the Use and Occupancy permit/letter; and

- Obtain and pay for the STRP permits applied for in conjunction with the above building permit.

Provisions would also be added stating that for property zoned RM for which a Not Owner-Occupied STRP permit was previously issued on or before May 31, 2020, a new owner could apply for and be issued a STRP permit (but only if the previously issued permit was in good standing at the time of purchase or acquisition). The Council office is unaware of similar instances in which the transfer or assignment of an annual permit is provided for in perpetuity under the zoning code.

Finally, as substituted, permits for Not Owner-Occupied STRPs in RM districts, upon revocation, would not be eligible for reapplication by current or subsequent owners.

It is anticipated that amendments will be submitted by the sponsor and other members.

**BILL NO. BL2019-1643** (HALL) – This ordinance, as substituted, would require that all existing culverts, inlets, storm drains, and ditches within the T2- Rural Neighborhood Policy and T3- Suburban Neighborhood Policy be upgraded, retrofitted, and/or constructed to the specifications of the Stormwater Management Manual Standards. This would be required to be completed by January 1, 2025.

*Fiscal Note: The costs to implement the improvements proposed by this amendment have not yet been determined by Water Services but are anticipated to range from tens of millions to possibly hundreds of millions of dollars due to the expansive size of the proposed Stormwater project.*

**BILL NO. BL2019-1731** (A. DAVIS & BEDNE) – This ordinance would amend Chapters 4.12 and 4.20 of the Metropolitan Code of Laws regarding procurement.

Under the proposed ordinance, the definition of “responsible bidder or offeror” would be amended to include a provision that any bidder or offeror found by a court or regulatory agency to have committed a violation of a federal or state law or regulation regarding employment practices or safety standards within five (5) years prior to submission of a bid would be disqualified as a responsible bidder or offeror.

Further, invitations to bid prescribed under Section 4.12.030 would require bidders to submit an affidavit certifying that the bidder is and would remain in compliance with the provisions of Chapter 4.12 of the Procurement Code and the contents of the bid as submitted. Failure to remain in compliance would constitute a material breach of its contract with the Metropolitan Government. The affidavit would be submitted with the bidder’s bid.

The factors considered in evaluating competitive sealed proposals would be amended to allow consideration of criteria establishing a “Qualified Workforce”. Qualified Workforce would be

defined as a workforce that participates in utilization of federally registered apprenticeship programs; utilizes MC3 training curriculum (a construction-based apprenticeship program); employs an OSHA 10- and OSHA 30-certified workforce; employs OSHA 100-certified individuals; and provides health benefits and workers' compensation coverage for the workforce. These criteria would not be mandated in the competitive sealed proposal but could be taken into consideration.

Finally, the ordinance would add a new section to Chapter 4.20, which governs the procurement of construction contracts. This provision would require any person who enters a contractual agreement with the Metropolitan Government for any public works of improvements to submit information to the purchasing agent or relevant Metro agency. The required information would include the employer's utilization of federally registered apprenticeship programs and MC3 training curriculum; the number of OSHA 10-certified, OSHA 30-certified, and OSHA 100-certified individuals on project; and the percentage of employees on project covered by health benefits and workers' compensation offered by the employer.

An amendment from the sponsor is anticipated that would (1) allow the purchasing agent to disqualify a bidder or offeror as "responsible" only for willful or multiple violations of employment practice or safety regulations, and only upon a final determination by a court or regulatory agency; (2) define "employment practices" as referring to matters regulated under a variety of federal statutes; and (3) remove the "Qualified Workforce" evaluation factors originally proposed in Section 3 of the ordinance, requiring instead subsequent reporting regarding utilization of apprenticeship, training, and certification programs and the percentage of employees covered by health benefits and workers' comp coverage.

**BILL NO. BL2019-1733** (HALL) – This ordinance would amend Chapter 10.20 of the Metropolitan Code of Laws relative to landfill creation and expansion.

On May 2, 2017, the Council adopted Ordinance No. BL2016-484, which authorized use of "the Jackson Law" for the local approval of the construction of private landfills. This state statute, codified in Tennessee Code Annotated § 68-211-701, *et seq.*, authorizes local governments to adopt these local approval mechanisms. In considering such approvals, T.C.A. § 68-211-704 contains eight (8) specific criteria that must be considered in evaluating new construction for solid waste disposal or solid waste processing by landfilling.

The ordinance under consideration would simply mirror these eight (8) Jackson Law criteria, adopting them into the Metropolitan Code of Laws.

**BILL NO. BL2019-1791** (PULLEY, BEDNE, & O'CONNELL) – This ordinance would abandon an existing public sanitary sewer main, manholes, fire hydrant assembly and easements and accept a new public sanitary sewer main, sanitary sewer manholes, fire hydrant assemblies, and

easements for four (4) properties located at 4530 Belmont Park Terrace, 1216 Harding Place, 1208 Harding Place, and 4517 Granny White Pike.

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

**BILL NO. BL2019-1792** (SLEDGE, BEDNE, & O'CONNELL) – This ordinance would abandon an existing public sanitary sewer main and a sanitary sewer manhole and accept a new water main, a fire hydrant assembly and a sanitary sewer manhole for property located at 2223 8th Avenue South.

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

**BILL NO. BL2019-1793** (SWOPE, BEDNE, & O'CONNELL) – This ordinance would abandon an existing sanitary sewer easement, and accept new water mains, fire hydrant assemblies, sanitary sewer mains, sanitary sewer manholes and easements for property located at 6021 Mt. Pisgah Road and Mt. Pisgah Road (unnumbered).

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

**BILL NO. BL2019-1794** (WEINER, BEDNE, & O'CONNELL) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for use in public projects, initially for Harness Drive Stormwater Improvement Project, for eight (8) properties located on Harness Drive, Carriage Drive, and Sawyer Brown Road.

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

**BILL NO. BL2019-1795** (HENDERSON, BEDNE, & O'CONNELL) – This ordinance would abandon an existing water pumping station, brick building, and associated easement and retain the remaining 10-foot Public Utility Easement located at 1505 Dresden Circle. This abandonment has been requested by Greg Pohl and Daniel Bray, owners.

The Directors of the Metropolitan Department of Water and Sewerage Services and Public Property Administration would be authorized to execute such documents as may be necessary to carry out this abandonment.

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

**BILL NO. BL2019-1796** (SLEDGE, BEDNE, & O'CONNELL) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Alley Number 2086 and an Unnumbered Alley right-of-way. This abandonment has been requested by Richard Perkerson, applicant.

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

**BILL NO. BL2019-1797** (O'CONNELL & BEDNE) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Alley Number 384 and Alley Number 386 right-of-way. This abandonment has been requested by S&ME, Inc., applicant.

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

**BILL NO. BL2019-1798** (S. DAVIS, BEDNE, & O'CONNELL) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation, condemnation, or fee simple purchase a parcel of real property located at 1012 Apex Street for use in the Apex Storm Screening Facility Improvements Project.

The Directors of the Metropolitan Department of Water and Sewerage Services and Public Property Administration would be authorized to execute such documents as may be necessary to carry out the negotiations, condemnation, or fee simple purchase.

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

*Fiscal Note: The price to be paid for the easements and property rights is estimated to be \$74,300.*

**BILL NO. BL2019-1799** (ALLEN & HALL) – This ordinance would establish the honorary designation of “Perry Wallace Way” for a portion of 25th Avenue South, between West End Avenue and Blakemore Avenue, on the Vanderbilt University Campus.

The portion of 25th Avenue South that runs across Vanderbilt's campus, in front of Memorial Gymnasium, would be honorarily named for former Vanderbilt basketball player and civil rights

icon Perry Wallace. Mr. Wallace, who passed away in 2017, made history in 1967 as the first African American varsity basketball player in the Southeastern Conference (SEC).

Section 13.08.025 of the Metro Code of Laws provides a procedure for the designation of honorary street signs whereby the Council, by ordinance, can authorize and direct the Department of Public Works to install two (2) honorary street signs per street – at each end of a street – beneath the official street name sign for any street identified on the official Street and Alley Centerline Layer map. No honorary street sign can be installed honoring a living person; and each member of council can sponsor only one such ordinance each calendar year.

Neither this ordinance, nor honorary street names in general, officially re-name the designated street. Therefore, there would be no change of official address for properties along this portion of 25th Avenue South.

*Fiscal Note: Pursuant to MCL Sec. 13.08.025, the Department of Public Works will absorb the costs for making and installing up to five (5) honorary street sign designations per calendar year. Any additional honorary signs after these first five must identify a specific funding source for the new signs. This honorary designation would be only the second in 2019.*

*The total cost for installation of these two signs is anticipated by Public Works to be \$173.15.*

**BILL NO. BL2019-1800** (DOWELL) – This ordinance would increase the assessment rate for the South Nashville Central Business Improvement District (SONA CBID).

Ordinance No. BL2018-1140 instituted the SONA CBID for approximately 266 acres extending from Cane Ridge Road to the West, I-24 to the East, Target Drive to the North, and Old Franklin Road to the South. Pursuant to that ordinance, the original assessment was set at \$0.55 per \$100 of assessed value, to be collected by the District Management Corporation as established by the ordinance.

Section 2.178.080, which codified the provisions of BL2018-1140, states that a change in rate for the levy may be initiated only upon a resolution of the District Management Corporation, approved by an election with a majority in number of owners of real property in the district voting. Upon Council's receipt of this resolution, an ordinance is filed, and a public hearing must be held.

This ordinance would increase the levy to \$1.00 per \$100 of assessed value of real property beginning in calendar year 2019. A public hearing is scheduled for August 20, 2019 prior to third reading, pursuant to a notice and schedule procedure outlined under Tenn. Code Ann. §§ 7-84-513 through -522.

**– ORDINANCES ON THIRD READING –**

**BILL NO. BL2018-1319** (MENDES, VERCHER, & OTHERS) – This ordinance, as amended, would amend Chapter 5.06 of the Metropolitan Code of Laws regarding tax increment financing (TIF).

This ordinance would amend section 5.06.010 to create definitions of “schools taxes” and “schools taxes percentage”. “School taxes” would mean (a) for properties located in the General Services District, that portion of property taxes designated to be distributed to the General Services District Schools Fund, and (b) for property in the Urban Services District, that portion of property taxes distributed to the General Services District Schools Fund. “Schools taxes percentages” would mean the percentage of taxes obtained by dividing the schools taxes for the applicable year by the total taxes for the applicable year.

This ordinance would then amend Section 5.06.050 by adding a subsection requiring that schools taxes be retained by Metro (or, if received by a tax increment agency pursuant to TIF, paid to Metro) before any incremental tax revenues could be used to pay the principal and interest on TIF loans. The amount of school taxes to be retained by or paid to Metro for each TIF loan would be determined by multiplying the total taxes from all parcels generating incremental tax revenues pledged to secure the TIF loan by the schools taxes percentage applicable as of the date of the closing of the TIF loan. This would apply to all TIF loans authorized by a tax increment agency after the effective date of this ordinance.

This ordinance bears resemblances to Ordinance no. BL2016-157, adopted by the Council in 2016, which similarly retained all “debt service taxes” from the incremental tax revenues otherwise available to tax increment agencies.

*Fiscal Note: Metro operates with six primary funds in the annual operating budget. These are the GSD Operating Fund, the USD Operating Fund, and the Schools Operating. In addition to these three, there is a corresponding Debt Service Fund for each.*

*As part of the operating budget each year, a determination is made as to how much of the property tax revenues collected by Metro are to be credited to each of these six funds. The budget ordinance each year includes tables that show this division of the property tax revenues.*

*One of the funding mechanisms used by MDHA for new developments is Tax Increment Financing (TIF). A determination is made as to the incremental increase in the value of a property that results from the development. This increased value results in a corresponding increase in the total amount of property taxes that would be generated by the development. These increases are credited to these same six primary funds along with all other property tax revenues.*

*Under the initial rules, MDHA had the authority to collect all the increased property taxes from all six funds to pay for the loan used to finance the development. This was changed in 2016. For all new TIF loans, the property tax amounts allocated to the three debt service funds were kept by*

*Metro and could not be used by MDHA for loan payments. Only the property taxes allocated to the three primary operating funds could be used for this purpose.*

*The ordinance now under consideration would increase this fund restriction to include the Schools Operating Fund along with the three debt service funds. If this is approved, only the property taxes allocated to the GSD General Fund and the USD General Fund could be used for TIF loan payments.*

*For FY19, 14.8% of the property tax revenues are to be allocated to the debt service funds. Under the current rules, this leaves the remaining 85.2% of new TIF development property tax revenues that can be used to pay for the loans. The amount that is to be allocated to Schools is 31.1%. Removing this as well as the property tax payments allocated to the three debt service funds would only leave 54.1% of the new TIF development property tax revenues that could be used to pay for the loans.*

*The amount of total property taxes that would be paid to Metro would remain the same. The net impact would be to keep the additional 31.1% for the Schools Operating Fund instead of including this amount in the pool that could be used by MDHA for TIF loans.*

**BILL NO. BL2019-1524** (VERCHER & HALL) – This ordinance would amend the definition of “qualified company” and “qualified project” and amend the eligibility criteria for economic and community incentive grants.

Chapter 2.210 of the Metropolitan Code of Laws authorizes the Industrial Development Board to provide economic and community incentive grants to qualified companies for qualified projects. The ordinance under consideration would amend the definition of “qualified company” and “qualified project” to limit the eligible companies and projects to those which have not applied for or received any other publicly funded incentive grant or tax relief benefit offered by or through the Metropolitan Government or the State of Tennessee. This would include payment-in-lieu-of-taxes (PILOT), tax increment financing (TIF), or participation agreements providing publicly funded incentives. In addition, the project proposal required by MCL Section 2.210.030 would be required to address whether the applicant has applied for or received other publicly funded incentive grants or tax relief.

*Fiscal Note: This ordinance would only affect the eligibility of specific companies and projects. Separate legislation would still be required for the approval of incentive grants for any specific future companies and projects.*

**BILL NO. BL2019-1614** (O’CONNELL) – This ordinance would amend Section 17.32.050 of the Metropolitan Code of Laws regarding prohibited signs.



MCL Section 17.32.050.G.2 prohibits copy, graphics, or digital display signs that change messages by electronic or mechanical means, other than tri-face billboards, in the CA, CS, CF, CC, SCR, IWD, IR and IG zoning districts, unless certain distance requirements are followed. The ordinance under consideration would add a provision that the distance or spacing requirements would not apply to property zoned CF located adjacent to, and along the west side of, the combined interstate segment of Interstate 40 and Interstate 65 near downtown Nashville.

An amendment is anticipated exempting signs utilizing LED integrated shielding technology (display tiles typically illuminated through louvres that block direct emission of light) from distance restrictions to agriculturally or residentially zoned property. The amendment would further eliminate current prohibitions on LED message boards and digital display signs in commercial and mixed-used zoning districts (CL, MUL, MUL-A, MUG, MUG-A, MUI and MUI-A).

**BILL NO. BL2019-1630** (MENDES, COOPER, & OTHERS) – This ordinance would amend Sections 5.06.050 and 5.06.060 of the Metropolitan Code of Laws regarding Tax Increment Financing (TIF) plans.

Sections 5.06.050 and 5.06.060 of the MCL were added to the Code pursuant to Ordinance No. BL2016-157. Section 5.06.050 currently requires that the debt service portion of TIF loans to developers remains with Metro before being used for the payment of principal and interest on the TIF loans. Section 5.06.060 currently requires that the proceeds from the sales of land sold by MDHA as part of redevelopment plans are to be used solely within that district and not for any other purpose without approval by a resolution by the Council receiving twenty-one votes.

Pursuant to the ordinance under consideration, Section 5.06.050 would be amended to require that the portion of incremental tax revenues that may be used to pay a TIF loan may not exceed seventy-five percent (75%). This percentage could be increased or decreased by written policy of the tax increment agency.

Section 5.06.060 would be amended to require that a TIF plan must comply with Section 5.06.050. Further, the section would set forth a mandatory periodic assessment of the activities and improvements eligible for TIF under the plan. An assessment could be requested by either the Council or the tax increment agency. Assessments could be requested no earlier than seven (7) years after the adoption of the plan, or the previous assessment, and would be required to be completed within ten (10) years after the adoption of the plan or the previous assessment. The assessment would include a review of the impact and goals of the plan, and the Council and the tax increment agency must agree on the eligible activities or improvements. Council's agreement would be indicated by the adoption of a resolution. If the assessment is not completed timely, the tax increment agency would be prohibited from approving any additional bonds or indebtedness. Finally, this section would authorize either the Council or the tax increment agency to modify, change, or amend a plan, subject to the approval of the other. If the Council initiates the change, approval of the tax increment agency would be required prior to third reading of the ordinance adopting the modification, change, or amendment.

**BILL NO. BL2019-1645** (MENDES, COOPER, & OTHERS) – This ordinance would approve Amendment No. 6 to the Arts Center Redevelopment Plan, Amendment No. 1 to the Bordeaux Redevelopment Plan, Amendment No. 1 to the Cayce Place Redevelopment Plan, Amendment No. 1 to the Central State Redevelopment Plan, Amendment No. 2 to the Jefferson Street Redevelopment Plan, Amendment No. 6 to the Phillips-Jackson Redevelopment Plan, Amendment No. 8 to the Rutledge Hill Redevelopment Plan, and Amendment No. 1 to the Skyline Redevelopment Plan.

This ordinance would add a new section to each of the eight (8) Redevelopment Plans (Plans) listed above. These Plans are administered by the Metropolitan Development and Housing Agency (MDHA). This new section would be entitled “2019 Plan Amendments” and would effectuate three principle changes. First, this new section would require that the portion of tax increment funds that may be used to pay the indebtedness could not be greater than seventy-five percent (75%), except that MDHA could increase or decrease this percentage pursuant to criteria set forth in a written policy adopted by the Board of Commissioners of MDHA. Further, this would still be subject to the requirements of Chapter 5.06 of the Metro Code of Laws entitled “Tax Increment Financing”.

Second, the new section would require a periodic assessment of the activities and improvements eligible for tax increment financing (TIF) under the plan. An assessment could be requested by either the Council or the tax increment agency. Assessments could be requested no earlier than seven (7) years after the adoption of the plan, or the previous assessment, and would be required to be completed within ten (10) years after the adoption of the plan or the previous assessment. The assessment would include a review of the impact and goals of the Plan, and MDHA and the Council would have to agree on the eligible activities or improvements. Council’s agreement would be indicated by the adoption of a resolution approved by twenty-one (21) members. It would constitute a New Loan Termination Event if (a) the first assessment is not completed by June 30, 2022 or (b) any subsequent assessment is not completed within ten (10) years after the previous assessment. If a New Loan Termination Event occurs, MDHA would be prohibited from approving any additional bonds or indebtedness to be paid by TIF under the Plan. A New Loan Termination Event would not terminate the Plan, nor would it impact any TIF approved prior to the Event.

Third, the section would clarify that the Council or MDHA may initiate a Plan amendment, subject to the approval of the other. (Currently, only MDHA initiates such amendments.) If the Council initiates the amendment, the approval of MDHA must be obtained before the third reading of the ordinance adopting the amendment.

This ordinance would also make certain housekeeping changes, including language clarifying in the Rutledge Hill Redevelopment Plan from the amendment adopted pursuant to BL2014-699 which inadvertently identified the “Tax Increment” section of the plan as “Section G” instead of “Section H”. Additionally, several Redevelopment Plans authorize tax increment financing related to the Plan to be used to carry out “other adopted and approved redevelopment plans”, potentially outside of the designated Plan area. This ordinance would remove that language from the various Plans.

**BILL NO. BL2019-1655** (A. DAVIS, ALLEN, & OTHERS) – This ordinance would amend Section 2.210.030 of the Metropolitan Code of Laws, which requires a project proposal for recipients of a grant or Payment In Lieu of Taxes (PILOT) incentive for a project.

Section 2.210.030 currently requires economic and community development incentive grant agreements be approved by a vote of 21 members of the Metropolitan Council. These grant agreements must provide that the Metropolitan Government’s financial obligations are subject to the annual appropriation of funds by the Council. In January 2018, this section was amended to require the submission of a project proposal that includes:

- (1) The type and number of jobs that would be created by the company, including whether the jobs are temporary or permanent, and how many identified jobs will be filled by Davidson County residents;
- (2) The establishment of a workforce plan disclosing whether temporary or staffing agencies, the Nashville Career Advancement Center, or other third parties would be used to identify, recruit, or refer job applicants, whether the individuals hired for the identified jobs would be employed by the company, subcontractors, or other third parties, and the wages and benefits offered for the identified jobs, along with comparisons to average wage levels for comparable jobs in Davidson County;
- (3) Whether the project would use apprentices from programs certified by the U.S. Department of Labor; and
- (4) The number and type, within the preceding seven (7) years, of OSHA or TOSHA violations, or employment or wage-related legal actions filed within federal or state courts against the company or any contractor or subcontractor of the company retained on the qualified project.

The Mayor’s Office of Economic and Community Development (ECD) presents these proposals to the Council prior to the vote on the incentive and related agreement and the proposal is incorporated into the agreement. Companies receiving a grant or PILOT must further submit quarterly reports demonstrating compliance with the agreement to the ECD. Annually, the ECD is required to submit a report to Council relaying compliance data.

The ordinance under consideration would add clarifications and new requirements to this Section. The ordinance would clarify that the project proposal requirements apply to qualified companies, as well as to qualified projects. The project proposal would include the current requirement of reporting how many jobs will be filled by Davidson County residents, and further require the percentage of employees at the project expected to be relocated to Davidson County by the qualified company or qualified project. The reporting of the “average” wage would instead be changed to the “median” wage, as well as disclosure of wage information for salaried positions and hourly wage positions by “standard occupational classifications” (as opposed to each position as individually classified), as defined by the US Department of Labor Bureau of Labor Statistics Occupation Codes. The median wage would be required to be compared to the median annual wage available in Davidson County for the same occupation.

The ordinance would further clarify that all OSHA and TOSHA violations and employment or wage-related legal actions would be required to be reported, including any legal actions asserting claims under a variety of federal discrimination and employment-related legislation, including the Fair Labor Standards Act, the Family Medical Leave Act, Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act, or the Education Amendments Act of 1972. The reporting requirements in the current Code would further be re-worded to change all references to “or” and “and/or” to “and” – capturing a broader assortment of categories.

Finally, under the proposed ordinance, project proposals, quarterly reports, and annual reports would be required to be submitted on a form approved by resolution adopted by a majority of the Council membership.

An amendment from the sponsor is anticipated.

**BILL NO. BL2019-1706** (MURPHY, SLEDGE, & OTHERS) – This ordinance would amend the Metropolitan Code of Laws to ban the use of action devices on Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses.

This ordinance would create a new Section 8.12.120 of the Metropolitan Code of Laws to prohibit action devices on horses. An “action device” would be defined as a “boot, collar, chain, roller, or other device” placed on the leg of a horse which “rotates around the leg or slides up and down the leg” or “touches or strikes the hoof, coronet band, fetlock joint, or pastern of the horse.” A trainer, exhibitor, owner, rider, or participant would be prohibited from using an action device at a horse show, horse exhibition, or horse sale or auction that is attached to the limb of a Tennessee Walking Horse, Racking Horse, or Spotted Saddle Horse and is not strictly protective or therapeutic in nature. A violation of this provision would be a \$50 fine and each violation would constitute a separate offense.

A substitute by the sponsor is anticipated.

*Fiscal Note: Under the provisions of Title 8 of the Metropolitan Code of Laws, it would be the responsibility of the Metro Animal Care and Control (MACC) within the Health Department to enforce these new restrictions.*

*However, a proposed substitute ordinance would apply the new restrictions only to publicly-held horse shows that include horses of the types listed in the ordinance – an infrequent occurrence in Davidson County. Additionally, free training would be available to Animal Control Officers for enforcement of these restrictions, and enforcement would be entirely complaint-driven. Accordingly, if substituted, the Health Department would withdraw concerns that additional funding or personnel would be needed.*

**BILL NO. BL2019-1732** (ROBERTS & SWOPE) – This ordinance would reorganize Section 7.08.090.A.1 of the Metropolitan Code of Laws pertaining to beer permits. No substantive revisions to the section are intended.

Currently, MCL Section 7.08.090.A.1, contains location restrictions for the issuance of a beer permit. This same subsection contains the multiple exceptions to the location restrictions adopted through multiple separate ordinances. With the gradual accumulation of multiple exceptions (each beginning “Provided, however...”), the subsection has lost clarity.

This ordinance would simply reorganize this subsection to make it more coherent and legible, segregating one large paragraph into distinct subsections. It would further relocate an internal definition of “Metropolitan arena” into the definitions section of MCL Chapter 7.08 and remove an outdated grandfathering provision intended for earlier deletion.

**BILL NO. BL2019-1734** (HENDERSON, BEDNE, & O’CONNELL) – This ordinance would approve an amendment to an existing sewer contract to authorize the grant of a permanent easement to Harpeth Valley Utilities District (HVUD) of Davidson and Williamson Counties, Tennessee, on certain property owned by the Metropolitan Government.

The amendment would abandon and accept sanitary sewer main, but otherwise keep the remaining terms of the original agreement in effect.

The ordinance would further approve an agreement for the dedication of a public utilities’ easement.

**BILL NO. BL2019-1735** (O’CONNELL & RHOTEN) – This ordinance would establish a Public Stormwater Quality Project Fund.

The Metropolitan Government holds a National Pollutant Discharge Elimination System (“NPDES”) Municipal Separate Storm Sewer System permit. This permit is issued by the State of Tennessee. Metro’s stormwater regulations, as required by the permit, require developers to meet certain water quality standards. However, some existing site conditions preclude otherwise developable sites from complying with these water quality standards. These conditions include size, topography, current or previous uses, and other characteristics. The permit authorizes Metro to accept a payment of a fee into a Public Stormwater Quality Project Fund for use in implementation of stormwater quality projects by development projects that cannot fully comply with the water quality standards.

The ordinance under consideration would implement a Public Stormwater Quality Project Fund (“Fund”) to receive payments from development projects discussed above. The payments collected by the Fund would be used exclusively for the implementation of stormwater projects designed to reduce pollutants in and the quantity of stormwater runoff in Metro. The ordinance

would approve the Metropolitan Department of Water and Sewerage Services' regulations which (a) set criteria for determining whether a development project can meet applicable standards and thus be eligible for payment into the Fund, and (b) provide a means for calculating the applicable payment into the Fund.

Future amendments to this ordinance could be approved by resolution.

**BILL NO. BL2019-1736** (ALLEN, SLEDGE, & OTHERS) – This ordinance would abandon existing water mains and fire hydrant assemblies, accept new water mains and fire hydrant assemblies, and acquire easements through negotiation, condemnation and acceptance for the 12th Avenue South Water Main Improvement Project Phases 2 & 3 for various properties between Belmont Boulevard and 12th Avenue South along 12th Avenue South, Kirkwood Avenue, Sherbourne Avenue, 9th Avenue South, Craig Avenue, Lealand Lane, and Gale Lane.

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

**BILL NO. BL2019-1737** (BEDNE, O'CONNELL, & MURPHY) – This ordinance would abandon existing public sanitary and combination sewer mains, combination sewer manholes/inlets, and easements and accept new sanitary sewer and combination sewer mains, sanitary sewer manholes, combination sewer manholes/inlets, and easements for five (5) properties located on Broadway, Lyle Avenue and 20th Avenue South.

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

**BILL NO. BL2019-1738** (BEDNE, MURPHY, & O'CONNELL) – This ordinance would abandon existing public water and sanitary sewer main, manholes, and easements and accept new water main, fire hydrant assemblies, sanitary sewer manhole and easements, for 24 properties located along 33rd Avenue North, 35th Avenue North, Trevor Street, and Delaware Avenue, known as Sky Nashville.

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

**BILL NO. BL2019-1739** (DOWELL, BEDNE, & O'CONNELL) – This ordinance would authorize the acquisition of permanent and temporary easements through negotiations, condemnation, and acceptance, for the Century Farms development Water Pump Station for properties located at 5348 Cane Ridge Road and Cane Ridge Road.

This has been approved by the Planning Commission.

**BILL NO. BL2019-1740** (LEE) – This ordinance would re-adopt the Metropolitan Code prepared by the Municipal Code Corporation (MCC) to include supplemental and replacement pages for ordinances enacted on or before January 16, 2019.

Per their contract with the Metropolitan Government, the MCC provides Metro Code updates four (4) times annually. This ordinance is a routine re-adoption to ensure the Metro Code remains up to date.

**GRANTS LEGISLATION – AUGUST 6, 2019**

<b>Legislative Number</b>	<b>Parties</b>	<b>Amount</b>	<b>Local Cash Match</b>	<b>Term</b>	<b>Purpose</b>
<b>RS2019-1842</b>	<p><b>From:</b> Tennessee Department of Transportation</p> <p><b>To:</b> Davidson County Sheriff's Department</p>	Not to exceed \$179,800.00	\$0	July 1, 2019 through June 30, 2020	The grant proceeds would be used to provide litter pickup along state and county roads and education on litter abatement and prevention.
<b>RS2019-1844</b>	<p><b>From:</b> U. S. Department of Justice</p> <p><b>To:</b> Office of Family Safety</p>	\$200,000	\$0	N/A	<p>This would approve an application for an Office for Victims of Crime (OVC) Enhancing Language and Other Access to Services Grant.</p> <p>If the grant is awarded, the proceeds would be used for an Accessibility Coordinator to identify service barriers and create an Accessibility Plan.</p>
<b>RS2019-1846</b>	<p><b>From:</b> Tennessee Highland Rim Health Care Coalition</p> <p><b>To:</b> Office of Emergency Management</p>	Not to exceed \$15,545.34	\$0	N/A	The grant proceeds would be used to fund the purchase of a Risk and Crisis Communications Course.



<p><b>RS2019-1847</b></p>	<p><b>From:</b> Tennessee Department of Health</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>This would approve the first amendment to a grant approved by RS2019-1635.</p> <p>The scope of viral hepatitis services and audit requirements defined in the grant contract would be amended. The term and amount of the grant would remain unchanged. Grant proceeds are used to provide HIV/STD/Viral Hepatitis Prevention, surveillance, and PrEP Clinic services.</p>
<p><b>RS2019-1850</b></p>	<p><b>From:</b> Tennessee Department of Human Services</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>Not to exceed \$28,300.00</p>	<p>\$0</p>	<p>October 1, 2019 through September 30, 2020</p>	<p>The grant proceeds would be used to conduct immunization record audits for child care centers, drop-in centers, and group child care homes to ensure the safety and well-being of children and families in Tennessee.</p>
<p><b>RS2019-1851</b></p>	<p><b>From:</b> Tennessee Department of Health</p> <p><b>To:</b> Metropolitan Board of Health</p>	<p>Not to exceed \$725,200.00</p>	<p>\$0</p>	<p>July 1, 2019 through June 30, 2020</p>	<p>The grant proceeds would be used to provide an array of programs and direct patient care services to meet the public health needs of Tennessee's citizens.</p>

<p><b>RS2019-1852</b></p>	<p><b>From:</b> Tennessee Arts Commission</p> <p><b>To:</b> Metropolitan Parks and Recreation Department</p>	<p>Not to exceed \$2,900.00</p>	<p>\$2,900.00</p>	<p>July 1, 2019 through June 30, 2020</p>	<p>The grant proceeds would be used to provide 12 Big Band Dances at the Centennial Park Event Shelter.</p>
<p><b>RS2019-1854</b></p>	<p><b>From:</b> Tennessee Department of Environment and Conservation</p> <p><b>To:</b> Metropolitan Nashville Public Works Department</p>	<p>Not to exceed \$85,000.00</p>	<p>\$0</p>	<p>August 14, 2019 through June 30, 2020</p>	<p>The grant proceeds would be used to assist in the annual operation, maintenance, and facility improvements of its permanent household hazardous waste collection facility.</p>
<p><b>RS2019-1860</b></p>	<p><b>From:</b> United Way</p> <p><b>To:</b> Nashville Career Advancement Center</p>	<p>Not to exceed \$100,000.00</p>	<p>\$0</p>	<p>N/A</p>	<p>The proceeds from this Prosperity Pathways grant would be used to align goals and strategies to improve the lives of the most vulnerable in the Nashville community.</p>