

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Staff

DATE: **May 15, 2001**

RE: **Analysis Report**

Balances As Of: 5/9/01 5/11/00

GSD 4% RESERVE FUND \$12,863,557 \$7,226,176

CONTINGENCY ACCOUNTS

GSD	\$50,000	\$154,000
USD	\$50,000	\$50,000

GENERAL FUND

GSD	\$46,859,389	\$37,648,618
USD	\$11,156,918	\$8,226,373

GENERAL PURPOSE

<u>SCHOOL FUND</u>	\$22,665,532	\$17,165,379
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SOLID WASTE  
DISPOSAL FUND

Solid Waste Activities	\$865,517	\$477,098
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**- RESOLUTIONS -**

**RESOLUTION NO. RS2001-616** (MCCLENDON, BLACK & OTHERS) – This resolution appropriates \$4,302,000 in community development block grant (CDBG) funds for 2001 for the following purposes:

a.	General Administration	\$575,000
b.	Planning & Urban Environmental Design	\$455,000
c.	Rehabilitation (Rehabilitation Loans, Emergency Rehabilitation)	\$1,405,000
d.	Rental Rehabilitation	\$390,000
e.	Acquisition of Real Property	\$415,000
f.	Relocation	\$50,000
g.	Economic Development	\$132,000
h.	Affordable Housing Assistance	\$120,000
i.	Youth Initiatives Program	\$160,000
j.	Civic Design Center Assistance	\$100,000
k.	Section 108 Loan Repayment	<u>\$500,000</u>
	TOTAL	\$4,302,000

**RESOLUTION NO. RS2001-617** (MCCLENDON & BLACK) – This resolution authorizes the Metropolitan development and housing agency (MDHA) to submit a lead-based paint hazard control grant on behalf of the Metropolitan Government. The U.S. department of housing and urban development (HUD) has issued new regulations requiring the inspection, testing, assessment, and mediation of lead-based paint hazards in residential properties where federal funds are being used to finance rehabilitation services. MDHA has a significant portion of CDBG and HOME project funds for residential rehabilitation.

This grant will seek funding in the amount of \$2,994,531 over a three year period to carry out these lead-based paint control activities at approximately 420 homes. Such activities will be directed at owner-occupied homes built prior to 1978 which are occupied by low or very low income families. A match in the amount of \$509,437 will be made with CDBG funds ear-marked for rehabilitation loan programs and in-kind contributions.

**RESOLUTION NO. RS2001-618 (MAJORS & BEEHAN) – This resolution establishes a policy of the Metropolitan Government that Metro employees should receive an annual salary that would equal 105% of the current federal poverty standard for a family of four, which pay would require an hourly basic rate of \$8.92. This resolution provides that the pay plan should give due consideration to adoption of such basic wage rate and sets as a goal**

**August 1, 2001, to equal 100% of the poverty level for a family of four, which would be \$8.50, and sets achieving an ultimate goal of 105% not later than August 1, 2002.**

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**RESOLUTION NO. RS2001-618 (continued)**

Council has established policy in the past by resolution, specifically the policy that provides an amount equal to 5% of the operating budget funds be set aside in the unappropriated fund balance to provide protection for emergencies.

This resolution has been filed in conjunction with a proposed substitute ordinance for Ordinance No. BL2001-686 providing for a Nashville living wage. The proposed substitute removes provisions relating to Metro Government employees.

**RESOLUTION NO. RS2001-619** (BOGEN & BRILEY) – This resolution amends a grant agreement approved by Ordinance No. BL2001-610 between the Frist Foundation and the Metropolitan Government which provided \$100,000 to fund a portion of the cost of a performance audit conducted on the board of public education. This ordinance provides that amendments to the grant agreement can be approved by resolution of the council receiving 21 affirmative votes. This amendment would increase the amount being contributed by the Frist Foundation by an amount of \$53,470. The total cost of the performance audit was \$499,570. With the adoption of this amendment, the amount of \$249,470 will have been provided by private donations and contributions.

**RESOLUTION NO. RS2001-620** (SONTANY & JENKINS) – This resolution authorizes an amendment to a grant entered into by the state department of finance and administration and the state trial courts for benefit of the drug court. This grant agreement, which expires June 30, 2004, was approved by Ordinance No. BL2000-417. That ordinance permitted amendments to the grant by resolution receiving 21 affirmative votes. Due to a reduction of federal funds, the amount of this grant will be reduced from \$1,420,288 to \$1,270,288. In addition, Metro's matching funds annually will be reduced from \$118,356 to \$105,856.

**RESOLUTION NO. RS2001-621** (JENKINS) – This resolution approves an amendment to a grant agreement between the state department of corrections and the Metropolitan Government for the funding of a community corrections program in Davidson County. The purpose of this amendment is to increase the maximum amount of the grant by increasing payment due Metro in the final year, which expires June 30, 2001, by the amount of \$110,841.

**RESOLUTION NOS. RS2001-622 AND RS2001-625** (HOLLOWAY) – These two resolutions adopt amendments to a grant agreement between the Metro board of health and the state department of health that provides for numerous health services. Each of these amendments increases the amount of

the total grant, which expires June 30, 2001. This grant provides significant funding for operation of our public health department.

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**RESOLUTION NOS. RS2001-622 AND RS2001-625** (continued)

**Resolution No. RS2001-622** increases the amount by \$96,200 in the annual grant for TennCare early periodic screening diagnosis treatment (EPSDT) services.

**Resolution No. RS2001-625** increases the amount of the grant by \$95,000 by providing additional funding for family planning services.

**RESOLUTION NO. RS2001-623** (HOLLOWAY) – This resolution approves a renewal contract between United Way of Nashville and the Metro health department in an amount not to exceed \$195,870 for a term beginning April 1, 2001, and extending through March 31, 2002. Pursuant to this contract, United Way will pay to the Metropolitan Government \$195,870 to lease a mobile clinic owned by the health department to be used as a screening clinic to provide early childhood health screening throughout Davidson County. Metro, in addition to providing the mobile unit, will provide the driver, a registered nurse, a mental health specialist, and one audiologist to staff this mobile unit and to provide administrative support for follow-up and case management activities. Metro will, additionally, provide fuel for the mobile clinic when used within Davidson County. In addition to providing funding, United Way will provide computers and office space, cellular telephone service, and will purchase fuel anytime it is used outside Davidson County. This is a continuing program that has been funded by United Way.

**RESOLUTION NO. RS2001-624** (HOLLOWAY) – This resolution approves an amendment to a grant agreement between the state department of health and the Metro board of health relating to the commodity supplemental food program. The funds provided in this grant are to determine eligibility of persons receiving services under the program. The purpose of this amendment is to increase our funding by \$10,000 for this fiscal year.

**RESOLUTION NO. RS2001-626** (KNOCH & SONTANY) – This resolution authorizes the mayor to accept a supplemental easement from the U.S. army corps of engineers for approximately .13 acres of land that is being provided to the Metropolitan Government for intersection improvements at Bell Road and Smith Springs Road. Metro had previously accepted an easement for construction of a turn lane and related culvert construction for this project. This resolution has been approved by the Metropolitan planning commission.

**RESOLUTION NO. RS2001-627** (SONTANY & BRILEY) – This resolution approves a contract between the state department of transportation and the Metropolitan Government for whitetopping of .104 miles of Antioch Pike at the intersection of Harding Place. Whitetopping is a process to remove a portion of the existing asphalt surface and replace it with a specially designed concrete surface. It has proven effective in areas of heavy stop and go traffic, such as intersections, as concrete has a longer life

than asphalt. The total cost of this project is \$200,000, with the state providing \$150,000 and Metro providing \$50,000. This contract is authorized under the state-aid highway system program.

**RESOLUTION NO. RS2001-628** (JENKINS) – This resolution authorizes the department of law to compromise and settle the lawsuit of Steven Lankford against the Metropolitan Government in the amount of \$45,000, and directs that this amount be paid from the self-insured liability fund. This lawsuit is the result of an accident that occurred on Gywnnwood Drive in August 1999. A public works employee, while operating a low boy flat bed truck, came into contact with electrical wires which caused a transformer to explode, which resulted in injuries to another public works employee who was attempting to flee the explosion. Mr. Lankford incurred \$6,200 in medical expenses and has had some impairment to his body. He has returned to work as a foreman, but cannot use machinery as a result of his injuries. Metro has paid the medical expenses since this is an in-line-of-duty injury. In addition, Mr. Lankford lost \$6,500 in overtime wages that were not reimbursed by Metro Government.

No disciplinary action was taken as a result of this accident.

#### - **BILLS ON SECOND READING** -

**ORDINANCE NO. BL2000-443** (SHULMAN, HAUSSER & DERRYBERRY) – This ordinance amends the Metropolitan Code to insure that adequate notice is given to abutting property owners when construction work, which by definition involves excavation, occurs on streets adjacent to their property. Presently, the property owner is required to be given fourteen (14) days notice prior to beginning such work in easements on their property. Under this proposed ordinance, the notification requirement will be expanded to require that notice be given to abutting property owners to streets, roads, alleys or rights-of-way when construction is to take place prior to the beginning of such work. It also requires that members of council be notified.

The Metropolitan Code does provide for an alternative, that rather than be given notice by certified mail, it would allow contractors to get signatures from the property owners stating that they were aware that construction work was to begin. These notification provisions are being changed primarily so that property owners will know when work is being performed in streets, such as fiber optic cable work which does not occur on property, but in the street. These provisions will be applicable to all utility operators, cable providers, and any persons, including the Metropolitan Government, who do construction work in the street.

There is a proposed substitute bill that will allow alternative notice options and require the posting of signs for larger projects.

**ORDINANCE NO. BL2001-686** (MAJORS, BEEHAN & OTHERS) – This ordinance adopts a new Chapter of the Metropolitan Code entitled the Nashville living wage. This ordinance provides that all Metropolitan Government employees, employees of persons performing services or work under contract for the Metropolitan Government, and entities or persons receiving economic assistance of \$20,000 or more would be required to pay a basic wage of \$9.78 per hour to workers. In addition, health benefits equal to \$2.00 per hour would also have to be paid, with a combined total of salary and benefits of \$11.78 per hour.

In addition, the ordinance would require that all employees affected by this ordinance receive at least twelve (12) days paid vacation per year.

The ordinance creates a community advisory board for the purpose of advising the mayor and council on the most efficient application of this Nashville living wage. This ordinance requires extensive record keeping and monitoring by the director of law and the purchasing agent. Violations of the ordinance would include wage restitution to each affected employee, and civil penalties of \$500 for each week an employee was found not to be paid as required by the ordinance. Entities receiving economic assistance would be ineligible to receive future economic assistance until all penalties and restitutions have been paid in full.

Exempted from the provisions of this ordinance would be youth under the age of 18 years and employed during the summer months on a part-time basis, and employers who employ less than five employees for each working day.

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**ORDINANCE NO. BL2001-686** (continued)

The director of law has issued an opinion which essentially states that the living wage ordinance is illegal. Staff agrees with this opinion. Wages paid to employees of the Metropolitan Government are governed by the Charter of the Metropolitan Government. The Charter states that all wages and salaries must be set by the civil service commission initially and that the council may only adopt a pay plan providing for wages, reject the pay plan, or amend such a pay plan in the same percentage for all grades.

Additionally, the Metropolitan Government is not enabled by state law to provide for imposition of minimum wage payments by private employers.

There is a proposed substitute ordinance which removes all the provisions relative to payment of living wage benefits, except to employees working with companies that receive economic assistance. Specifically exempted from these provisions are grants made to not-for-profit organizations and associations as permitted under state law which provide for on-going services by those groups, and specifically exempts persons who lease space or property from the Metropolitan Government in the ordinary course of business. Such future economic assistance grants could be required to comply provided the grants are in a form that can be adopted by the Metropolitan Government to provide such conditions. In the substitute ordinance the living wage rate is set at \$8.50 per hour.

Additionally, Resolution No. RS2001-618, which is before the council, sets as a policy a basic wage rate for the Metropolitan Government. This resolution provides a policy statement and does not have the force of law.

**ORDINANCE NO. BL2001-687** (LORING) – This ordinance amends provisions in the beer code to grandfather a retail liquor store fronting on McGavock Pike between Briley Parkway and Riverview Drive. This liquor store has been in continuous operation for over fifteen (15) years. The Metro beer code provides that liquor stores may not receive a certificate of compliance unless they front on a designated major street in the major street plan as adopted by the planning commission. This particular location faces McGavock Pike between Briley Parkway and Riverview Drive, which is not presently designated as a major street. However, McGavock Pike, east of Briley Parkway is a major street. In 1990 council adopted a provision that required that liquor stores be on major streets, however, those in existence prior to this requirement were specifically exempted.

The adoption of this ordinance provides this location the same exemption as afforded those liquor stores similarly situated.

**ORDINANCE NOS. BL2001-688, BL2001-689 & BL2001-690** – These three ordinances approve participation agreements between the department of water and sewerage services and private developers to provide for extension of public sewer service to serve new developments. These types of participation agreements are routinely entered into where the developer provides costs that are in addition to what the Metropolitan Government would require so that future developments would be adequately served by water lines, public sewers, and water service.

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**ORDINANCE NOS. BL2001-688, BL2001-689 & BL2001-690** (continued)

**Ordinance No. BL2001-688** approves an agreement with Centex in the amount of \$42,000 to provide sewer service to 21 lots in the Willowmet Phase I Subdivision.

**Ordinance No. BL2001-689** approves a participation agreement with Pulte Homes, Tennessee LP, in the amount of \$164,000 to provide sewer service for 82 units in the Chestnut Springs Subdivision and Clubhouse.

**Ordinance No. BL2001-690** approves a participation agreement with Phillips Builders in the amount of \$111,000 for construction of a public sewer and force main to serve the Wintergrace Farms development.

**ORDINANCE NO. BL2001-691** (BOGEN & JENKINS) – This ordinance authorizes the board of parks and recreation to enter into an agreement with JDN Realty Corporation for acceptance of a donation of a park area being donated adjacent to the Walmart development off Charlotte Pike. This is part of a proposed donation from some time ago when the Walmart property was constructed. The agreement provides that JDN Realty will construct a parking lot, a pedestrian boardwalk, and a plaza on the property prior to its donation and delivery to the board of parks and recreation. The ordinance further provides that any amendments to this agreement may be approved by resolution of the council. This ordinance has been approved by the board of parks and recreation and the planning commission.

**ORDINANCE NO. BL2001-692** (FERRELL & BLACK) – This ordinance amends the Metropolitan Code relative to standards of ethical conduct of the council and the board of ethical conduct procedures. Essentially, this ordinance removes references to the appearance of a conflict which for legal purposes are very vague. It also provides a provision that members of council who receive gifts or benefits that are provided to other elected officials, Metro Government employees, or members of the public are not deemed a benefit which would equate to unethical conduct.

In addition, a more detailed complaint will be required for filing of ethical conduct complaints, which requires factual information which alleges specific facts that constitute an ethical violation. It also provides that the department of law will undertake an investigation and give a report to the board of ethical conduct as to whether a hearing is warranted.

The purpose of these provisions is to provide a more efficient method to handle complaints against members of council that do not require as many meetings by the board and which require a determination that such complaints do warrant a hearing.

The present process has resulted in extensive hearings on matters that were not ethical violations.

There is a proposed amendment which would remove one section relative to benefits received which is somewhat redundant.

This ordinance was proposed and suggested by the staff, as well as several members of council, after observing the nature and method of those complaints that have been filed over the past two to three years.

**ORDINANCE NO. BL2001-693** (MCCLENDON & WATERS) – This ordinance readopts the Metropolitan Code to include all ordinances adopted by the Metro Council before December 19, 2000.

**ORDINANCE NO. BL2001-694** (WATERS) – This ordinance authorizes the acquisition of five utility easements, lease or fee-simple take of 1.63 acres of property in the first alternative, or 5.15 acres in the second alternative and acquisition of 14 utility easements for construction of the Kinhawk Drive water reservoir project. The first alternative would be estimated to cost \$65,300 and the second alternative would be estimated to cost \$206,000.

In the first alternative the Metropolitan Government is attempting to acquire from the U.S. federal aviation administration (FAA) the necessary property to construct the lines and the water reservoir. This has been an on-going negotiation. The Metropolitan Government may not condemn property owned by the U.S. government.

Therefore, the second alternative, which would relocate this proposed water reservoir and necessary lines, is only proposed in the event Metro is unsuccessful in obtaining the property from the FAA.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-695** (WALLACE) – This ordinance amends the Metropolitan Code by changing the name of the research staff or council office, thereby removing all references to “research staff” or “staff” and replacing them with the phrase “council office”.

## - **BILLS ON THIRD READING** -

**ORDINANCE NO. BL2001-674** (PONDER) – This ordinance amends the zoning text by adding provisions for mobile storage units. A definition for mobile storage units is added which, essentially, is defined as a storage unit or container placed on the ground or on wheels which is generally used to store equipment, excess inventory, or merchandise. This text change will permit the use of such units in the commercial and office zone districts. Such units, however, may not be used for more than ninety (90) days in any one calendar year.

This is one of the proposed text changes that were contained in another ordinance proposing a number of text changes, which ordinance was withdrawn.

This proposed text change has been approved by the planning commission.

**ORDINANCE NO. BL2001-675** (PONDER) – This ordinance proposes three changes to the zoning text which are, essentially, housekeeping amendments. The first of these proposed text changes would remove the floor area ratio restrictions in the OR20 and OR40 districts to allow these districts to get the permitted number of units. Council previously adopted this same provision for multi-family zone districts but, inadvertently, these zone districts, which allow multi-family structures, did not get the benefit of this zone change.

The second text change is applied to historic and rural bed and breakfast facilities which would require that these facilities must be owner occupied. This requirement was in the original zoning text, but when the present zoning text was adopted in 1998 it was omitted by mistake.

The third text change is a clarification that provides that various fees imposed by the zoning text must be approved by the council. This is merely a housekeeping clarification type of change.

This ordinance has been approved by the planning commission.

The above two ordinances would adopt text changes that were contained in two separate ordinances that were both withdrawn after considerable discussion. These two ordinances are offered for adoption as they do not contain the controversial proposals that are still being studied in an attempt to get them resolved before being presented back to the council.

**ORDINANCE NO. BL2001-676** (JENKINS, GILMORE & GENTRY) – This ordinance approves a lease agreement between the department of army and the board of parks and recreation for approximately 5.6 acres of land commonly known as the Lock I property, which is located on the right bank of the Cumberland River across from MetroCenter. The term of the lease agreement is 20 years

beginning March 15, 2001. Metro is not required to make any rental payments. This property was previously leased to the parks department together with additional property to be used for park or recreational purposes, however, this Lock I property was deleted from the original lease agreement several years ago.

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**ORDINANCE NO. BL2001-676** (continued)

The corps of engineers has made available its surplus property for park property for many years. This Lock I property will, under the terms of the lease, become part of our greenway program with a master plan having been adopted to provide for a greenway at this location. This lease agreement has been approved by the board of parks and recreation. This agreement has been approved by the planning commission.

**ORDINANCE NO. BL2001-677** (STANLEY & JENKINS) – This ordinance approves the execution of a easement grant for a conservation greenway from John J. Kuczma, Jr., to the Metropolitan Government. This perpetual easement will be utilized as part of our greenway area with a pathway for bicycles or pedestrian travel, nature trail, and/or natural area being designated by Metro Government. The property contains approximately two acres bordering Stones River from Lebanon Pike to Donelson Christian Academy. The acceptance of the conservation easement has been approved by the board of parks and recreation. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-678** (WATERS & BEEHAN) – This ordinance authorizes the mayor to accept a grant award from the state department of children’s services for the juvenile court to participate in the juvenile accountability incentive block grant program. The amount of the grant will be \$436,608, with Metro’s required match of \$48,511 that will be provided from the budget of the juvenile court. The term of this grant begins March 1, 2001, and expires September 30, 2001.

These funds will be utilized by the juvenile court to hire additional probation officers, funding of pre-trial services for juveniles, funding to improve the juvenile court’s and probation officer’s effectiveness and efficiency in holding juvenile offenders accountable, and establishing drug court programs for juvenile offenders.

**ORDINANCE NO. BL2001-679** (WHITMORE & GENTRY) – This ordinance approves the sale of surplus property located on Batavia Street (map 92-6, parcel 193) by the director of public property administration due to the previous owner’s failure to pay delinquent property taxes. The property value of the parcel has been estimated at \$300. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-680** (HAND) – This ordinance authorizes the director of public property administration to sell approximately .68 acres of property adjacent to Briley Parkway to the state of Tennessee for \$5,775. This property will be utilized by the State of Tennessee for part of its Briley Parkway widening. This property has no value to Metro and it is actually part of the surplus right-of-way acquired in the original construction of Briley Parkway. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-681** (MAJORS & KNOCH) – This ordinance authorizes the acquisition of necessary utility easements and temporary construction easements adjacent to I-65 from Trinity Lane to Vietnam Veterans Boulevard as part of the relocation of our utility lines in the widening project of I-65. The estimated cost of acquisition is \$16,500, which will be appropriated from the water and sewer expansion and replacement fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-682** (TURNER & KNOCH) – This ordinance authorizes the acquisition, by negotiation or condemnation, of four utility easements in relation to the Old Hickory Boulevard at Granny White Pike water and sewer project. The estimated cost of acquisition is \$2,000, which will be funded from the water and sewer extension and replacement fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-683** (MAJORS) – This ordinance authorizes the acquisition, by negotiation or condemnation, of five utility easements in relation to the Briley Parkway/Gallatin Road to I-65 water and sewer project. The estimated cost of acquisition is \$3,500, which will be funded from the water and sewer extension and replacement fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-684** (MAJORS) – This ordinance abandons for public use and converts to private use sewer lines and water lines located within the campus of Belmont University. This project also abandons the easement area where these water lines are located. This is to accomplish construction of the new gymnasium and activity building on the Belmont University property. These water lines serve only Belmont University. This ordinance has been approved by the planning commission.