



METROPOLITAN COUNCIL

Metro Council Office

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

DATE: **July 2, 2013**

RE: **Analysis Report**

Balances As Of:	<u>6/26/13</u>	<u>6/27/12</u>
<u>GSD 4% RESERVE FUND</u>	*\$12,574,346	\$12,359,151
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$54,109,178	\$41,112,057
USD	\$8,478,089	\$8,556,677
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$52,117,890	\$34,449,193

*** Assumes estimated revenues in fiscal year 2013 in the amount of \$25,514,400**

– RESOLUTIONS –

RESOLUTION NO. RS2013-746 (MATTHEWS) – This resolution approves a renewal of an agreement between the Metropolitan Government and the industrial development board (IDB). The Metropolitan Government has handled certain financial, administrative, and legal services for the IDB since 2009. These services include the following:

- Administrative support by the mayor's office of economic and community development for the IDB as directed by the board.
- The finance department will continue to maintain accounts and funds for the IDB, and will handle all other financial matters as directed by the board.
- The department of law will provide general legal counsel to the board. The department of law will be compensated for its legal services upon future negotiation between the board and the director of law.

The term of this agreement will be from the date this resolution is approved by the council through June 30, 2016. This agreement may be terminated by either party upon 90 days written notice.

RESOLUTION NO. RS2013-747 (MATTHEWS) – This resolution approves a revised investment policy for the Metropolitan Government. State law requires county legislative bodies by resolution to authorize the investment of idle funds in certain types of low-risk investments in order to provide a safe, temporary medium of investment. Metro's investment policy was approved in 1995 and revised in 1997. State law also requires county legislative bodies to appoint an investment committee in order to place money in investments with a maturity of greater than two years.

The Metro investment committee, which consists of the director of finance, the treasurer, and the chief accountant for Metro, has adopted a revised investment policy that makes some housekeeping changes and allows for additional investments of idle funds permitted under state law. The state recently authorized a new intermediate term investment fund. This investment policy revision will allow the investment committee to participate in this new state fund, as well as other investments that may be authorized by state law in the future.

RESOLUTION NO. RS2013-748 (MATTHEWS) – This resolution accepts a donation of a print photograph valued at \$750 from Mr. Kevin Anhuis to the Metropolitan Government. This is a print of a photo taken during the 2010 flood. The print is on a canvas measuring 120 inches by 30 inches and is to be placed in a Metro facility by the department of general services. Donations to the Metropolitan Government must be approved by the council, but all donations with a value less than \$5,000 may be approved by resolution.

RESOLUTION NO. RS2013-749 (BENNETT & LANGSTER) – This resolution approves an intergovernmental agreement between the Tennessee bureau of investigation (TBI) and the Metropolitan Government pertaining to the federal bureau of investigation's (FBI's) interstate photo system facial recognition pilot program. The FBI has developed this program to enable state and local law enforcement agencies to submit search requests to access its database of photos similar to the FBI fingerprint database. This agreement will allow the Metro police department to submit photos through the TBI photo repository and to make search requests. The results obtained are only to be used as an investigative lead, and are not to be relied on as the sole impetus for law enforcement action. The information obtained is to be protected from unauthorized disclosure. The agreement does not have a fixed termination date, but may be terminated by either party with 30 days written notice.

RESOLUTION NO. RS2013-750 (MATTHEWS) – This resolution approves a grant in the amount of \$2,054,161 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to establish programs and deliver services to prepare youth workers for entry into the labor force. This federal pass-through grant provides part of the operational funds for the NCAC. The term of the grant is from April 1, 2013, through June 30, 2015.

RESOLUTION NO. RS2013-751 (HUNT & MATTHEWS) – This resolution authorizes the director of public property administration to exercise an option to purchase a 104.61 acre parcel of property located in the vicinity of Old Hickory Boulevard and I-65 in Madison for the purpose of expanding the existing Cedar Hill park. The option contract provides that Metro can purchase this property for \$675,000 within 120 days of May 10, 2013. The appraised value shown on the tax assessor's records is listed as \$1,030,900. Westport Holdings Madison, L.P., the current property owner, will be responsible for paying the pro-rated amount of this year's property taxes.

The Metro code allows for the acquisition of property through the exercise of a negotiated option to sell at a fixed price, which is subject to approval of the council by resolution. The funding for this purchase will be from capital funds appropriated by the council for open space acquisition. The park board has approved this acquisition.

RESOLUTION NO. RS2013-752 (MATTHEWS & JOHNSON) – This resolution approves a grant in the amount of \$60,600 from Greenways for Nashville to the Metropolitan parks department to provide funding for the salary and benefits for the development coordinator of greenways. The term of the grant is from July 1, 2013 through June 30, 2014. There is a required match of \$3,200 to be provided by the parks department to cover administrative costs.

RESOLUTION NO. RS2013-753 (MATTHEWS) – This resolution approves a third and fourth amendment to a grant from Vanderbilt University to the board of parks and recreation to collaborate on the Growing Right Onto Wellness (GROW) program. This 7-year initiative is a behavioral intervention to prevent obesity in preschoolers. The grant funds are used to provide personnel to participate on the study steering committee and to run the intervention, as well as to cover transportation costs and materials. The third amendment increases the amount of the grant by \$10,482 for year three for a new total of \$386,710.67. The fourth amendment extends the term of the grant through April 30, 2014, and provides an additional \$179,998 in grant funding with no local matching requirement.

RESOLUTION NO. RS2013-754 (MATTHEWS) – This resolution approves a grant in the amount of \$110,000 from the Nashville Public Library Foundation to the Nashville public library for renovations to the Green Hills branch library. These funds will be used to purchase furniture, equipment, and technology for a teen center within the branch library to provide services and materials that appeal to teen audiences.

RESOLUTION NO. RS2013-755 (WEINER, MATTHEWS & LANGSTER) – This resolution approves a contract between the Metro board of health and Family and Children’s Services 211 (“contractor”) to provide an access to care model for the uninsured in Davidson County using the ServicePoint/CallPoint database system. This contract will allow the health department to access the database to link uninsured residents with community healthcare services. The contractor will provide Metro with four licenses for the system and will provide network administration services. Metro will pay a total of \$2,720 for access to the database. The term of the contract is from February 1, 2013 through January 31, 2014, with an option to renew for an additional one year period.

RESOLUTION NO. RS2013-756 (MATTHEWS & POTTS) – This resolution approves a grant in the amount of \$1,190,000 from the state department of environment and conservation to the department of public works for the purpose of collecting and disposing of waste tires. This is a renewal of the standard tire disposal grant awarded by the state. This will provide \$595,000 per year for fiscal years 2014 and 2015.

RESOLUTION NO. RS2013-757 (MATTHEWS & POTTS) – This resolution approves the annual fee for additional garbage and rubbish carts for residents of the urban services district. The revision to the solid waste code approved by the council in 2010 authorized the imposition of a fee to be determined by public works and approved by resolution of the council for the removal of excess garbage and rubbish. The fee is to be based upon the actual costs for providing the garbage collection service. The department of public works has determined the cost for providing and servicing a third trash cart to residents has increased from \$66.65 per year to \$75 per year. This resolution sets the amount of the fee at \$75 for fiscal year 2013-2014, which will be billed in one amount. Payment of the fee will allow the household to use the third cart for the entire year. Each additional cart above the third cart would be billed at the same rate. Recycling carts will be provided at no cost to replace the third cart at the request of the resident.

The department of public works intends to charge such a fee for the second trash cart beginning in July 2014, which will require a subsequent resolution approving the fee.

RESOLUTION NO. RS2013-758 (MATTHEWS) – This resolution authorizes the department of law to settle the lawsuit brought by Curtis Dressman against the Metropolitan Government and Lieutenant Gise of the sheriff’s department for the amount of \$530,000. On April 24, 2010, Curtis Dressman, who was a college student from Ohio in Nashville to attend a concert, was arrested downtown at approximately 11:00 p.m. for public intoxication. He was taken to the criminal justice center for booking, and Sergeant (now Lieutenant) Gise of the sheriff’s department took custody of Mr. Dressman. Mr. Dressman was apparently uncooperative and was too intoxicated to complete the booking process. As a result of his intoxication, Lt. Gise placed Mr. Dressman in a holding cell in the booking area. Approximately thirty minutes later, another intoxicated arrestee, Jamie Lopez, was placed in the same holding cell as Mr. Dressman. Prior to arriving at booking, Lopez had resisted arrest, kicked the back window of the patrol car, and threatened police officers. Though Lt. Gise had been told that Lopez could be an assault risk, Lopez had calmed down when Lt. Gise took custody of him.

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RESOLUTION NO. RS2013-758 (continued)

As part of a 2007 remodel of the facility, the holding cell in question was virtually soundproof. In addition, a window in the cell had been partially blacked out to provide inmates some privacy when using the toilet. A correctional officer was stationed ten feet away from the holding cell, but from his vantage point could only see a portion of the inside of the cell. Eight minutes after Lopez was placed in the cell, a female detainee who was awaiting booking informed correctional officers that a man was standing in the cell with bloody hands. Officers entered the cell and found Mr. Dressman severely beaten on the floor and Jamie Lopez standing with his hands against the wall.

Mr. Dressman sustained severe injuries to his face and head during the assault. He was hospitalized at Vanderbilt Hospital for ten days, and has undergone multiple plastic surgeries and dental procedures, with at least one more procedure expected in the future. He has incurred medical bills to date of approximately \$185,000. He was diagnosed with a moderate traumatic brain injury that affected his cognitive function for a period of time and has a mild degree of permanent disfigurement to his face.

A surveillance video camera mounted on the ceiling of the booking area captured the assault on film. Since the camera was located on the ceiling, it was able to capture images in the holding cell that were not visible from the guard station. The video footage shows Lopez repeatedly punching downward minutes after being placed in the cell. However, the combination of the soundproof cell and partially blacked out window resulted in the correctional officers being unaware of the assault until another detainee alerted them to the incident.

The department of law recommends settling this lawsuit for \$530,000 to be paid out of the judgments and losses fund. If this case went to trial, a jury would likely award the plaintiff more than the settlement amount given the video footage of the assault, the soundproof cell, and the partially blacked out cell window. The claims made by the plaintiff in federal court allow a prevailing plaintiff to recover attorney fees, which means Metro would be responsible for paying all of the attorney fees if Mr. Dressman was successful at trial. The plaintiff's attorneys have spent 500 hours on the case thus far, which equates to \$180,000 at their billable rates. These fees would significantly accumulate if the case went to trial. In addition, Metro is paying for Lt. Gise's attorney since he was sued individually. The fees for Lt. Gise's attorney would also significantly increase if the case went to trial. The settlement amount will reimburse Mr. Dressman's medical expenses and the attorney fees accrued to date, plus \$165,000 for future medical expenses and pain and suffering.

No disciplinary action was taken against any sheriff's office employees as a result of this assault. The sheriff's office has taken remedial action in an attempt to prevent similar future occurrences. The cell is no longer soundproof and two intoxicated persons can no longer be placed in a holding cell together.

RESOLUTION NO. RS2013-759 (A. DAVIS) – This resolution approves the election of notaries public pursuant to state law.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2013-476 (MCGUIRE & HARRISON) – This ordinance amends the Metropolitan Code regulations applicable to booting companies. “Booting” devices are used to disable cars that are parked on commercial lots without the permission of the property owner or without paying the required parking fee. In June 2009, the council enacted Ordinance No. BL2009-434 to prohibit private companies from engaging in the practice of booting vehicles. A few months later, the council enacted Ordinance No. BL2009-525 to allow booting, provided the company is licensed and follows the specific requirements of the code. The code sets a maximum booting charge of \$50 and limits the towing of booted vehicles. Unattended commercial parking lots are prohibited from booting a vehicle unless such vehicle has two or more unpaid parking violations on the company’s lots.

This ordinance would essentially make three changes to the booting restrictions. First the maximum fee a booting company could charge would be increased from \$50 to \$75. Second, the ordinance clarifies that vehicles on any business parking lot can be booted, not just those lots that charge for parking. This would ensure that businesses could contract with booting companies to boot non-customer cars that are parked in an area designated for customer parking. Finally, the ordinance removes the prohibition on booting vehicles at pay lots unless the vehicle has two or more unpaid parking violations. Under this ordinance, parking lots would be able to boot after the first unpaid parking violation.

This ordinance has been filed at the request of a representative for the booting industry.

ORDINANCE NO. BL2013-487 (MATTHEWS, WEINER & OTHERS) – This ordinance establishes the Barnes Fund for Affordable Housing, appropriates the initial funds for the Barnes Fund, and establishes a Metro housing trust fund commission. This new affordable housing fund is named after Rev. William Barnes, who has been a longtime advocate for affordable housing in Nashville. The Barnes Fund is being created for the purpose of “assisting in the development and provision of good quality affordable housing for Davidson County residents of limited means.” This ordinance appropriates \$2,279,040 in urban development action grant (UDAG) loan repayments to provide the initial funding for the Barnes Fund. Under the federal UDAG program, which is no longer in existence, funds were loaned to developers and repaid to housing and development agencies for affordable housing and economic development activities. In 1990, the council, by ordinance, designated the use of the Capitol Mall redevelopment district UDAG funds to be for affordable housing and economic development activities, “all to be of benefit to the residents of the UDAG Pocket of Poverty in accordance with federal regulations.” The term “pocket of poverty” apparently is no longer used by the federal government and there is no clear indication as to what the term actually means. The council has approved the appropriation of UDAG funds in recent years for various economic development projects, including HCA, the Loews Hotels shared services center, ServiceSource, and the Nashville Entrepreneur Center. The ordinance provides that the initial funding for the Barnes Fund may be supplemented by “grants, donations and other public and private funds”.

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ORDINANCE NO. BL2013-487 (continued)

This ordinance also creates a new commission to oversee the Barnes Fund and to promote affordable housing. The commission would consist of seven members, which is to include one member of council appointed by the vice mayor, one member appointed by MDHA, and five members appointed by the mayor and confirmed by the council. The ordinance provides that the commission would have the authority to enter into contracts with nonprofit agencies, procured through the procurement code, to manage the Barnes Fund, as well as to solicit and accept donations to the fund. The ordinance also provides that the commission would have the authority to award grants to nonprofits for affordable housing projects under criteria established by the commission and approved by the council.

The council office recommends that this ordinance be amended to require appropriations to the nonprofit organizations for affordable housing activities to be approved by resolution of the council. State law provides that the Metropolitan Government can appropriate funds to nonprofit organizations either through the annual operating budget ordinance or as individual appropriations by resolution. No such state authority exists for appropriations to nonprofits by boards and commissions other than the arts commission. The council may also want to consider a future ordinance to amend the 1990 provision requiring the UDAG loan repayments to be spent within pockets of poverty to ensure affordable housing activities to be funded through the Barnes Fund are not geographically limited.

ORDINANCE NO. BL2013-488 (MCGUIRE & MATTHEWS) – This ordinance approves a lease agreement between the Metropolitan Government and Grace’s Plaza, Ltd., for the lease of space at 4005 Hillsboro Pike for use by the county clerk. The county clerk has maintained a satellite office at this Grace’s Plaza location for many years, but a recent audit of the clerk’s office noted that no written lease agreement was in place. This ordinance approves a written agreement for the lease of 638 square feet of office space to be used solely for the dispensing of auto license tags, license plates, and transferring auto titles. The premises could not be used for any other purpose. The term of this lease agreement is from June 1, 2013 through May 31, 2017, with an option to terminate as of January 31, 2015 with 60 days written notice. Either party will have the ability to terminate the lease at any time thereafter with 180 days written notice.

The base rent for the office space will be \$805 per month for the first year, which is to increase by three percent each year thereafter. In addition to the base rent, Metro will pay Grace’s Plaza a proportionate share of property taxes, which would currently amount to \$195 per month. Metro will be responsible for the general upkeep of the premises, but Grace’s Plaza will be responsible for repairs to the exterior walls, roof, and HVAC system. If litigation arises out of a dispute regarding the lease agreement, the prevailing party will be entitled to recover reasonable costs and attorney’s fees.

This lease agreement has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2013-433 (GARRETT & ALLEN) – This ordinance amends the solid waste provisions in the Metro code to designate all fees collected for the disposal of excess garbage to be used for recycling. The June 2009 report from the Mayor’s Green Ribbon Committee on Environmental Sustainability set a goal of reducing waste in Davidson County by 65% by the year 2020, and recommended a “pay-as-you-throw” solid waste program to encourage recycling. As part of the comprehensive re-write of the solid waste code in 2010, the council approved the addition of a provision allowing the public works department to charge a pay as you throw fee for the collection of excess garbage. The excess garbage fee is determined annually by the public works department and approved by the council by resolution.

Public works began billing for the third trash cart in June 2012 at a cost to residents of \$66.65 per year. Each additional cart above the third cart is billed at the same rate. Starting in July 2014, the department will begin charging the fee for a second trash cart, as well. Recycling carts will be provided at no cost to replace the second cart at the request of the resident.

This ordinance would require that all fees collected for the third cart, and eventually the second cart, be dedicated for use by the public works department for recycling services and/or recycling education and promotion. The council office has requested information from public works regarding the total amount collected this fiscal year to date from the third cart fee, as well as the amount that is anticipated to be generated by the second cart fee once it goes into effect.

ORDINANCE NOS. BL2013-477 THROUGH BL2013-479 – These three ordinances create several positions within the Metropolitan Government, enabling them to be a part of the employee pay plan. The Metropolitan Charter requires that newly created positions be approved by ordinance upon recommendation from the mayor and the civil service commission.

Ordinance No. BL2013-477 (Matthews & Bennett) creates the positions of fire services deputy director and fire commander for the Nashville fire department. These positions are a result of the recent Maximus Consulting Services management analysis for the fire department that recommended combining the EMS and fire suppression bureaus into a single operations bureau, as well as other organizational changes. The fire services deputy director will supervise the activities and operations of the administrative, operational, and services bureaus of the fire department. This would be a non-civil service position appointed by the fire chief. A person serving in this role must presently be classified as a fire assistant chief or a fire district chief in the fire department. The annual salary for this open range position based upon the pay plan classification assigned to the position will be between \$98,107 and \$160,869.

The fire commander would assist the fire service deputy director in the operation of the fire services division. This would be a non-civil service position appointed by the fire chief. The person serving in this role must also currently be a fire assistant chief or fire district chief. The salary range for this position is from \$83,020 to \$129,508 per year.

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ORDINANCE NOS. BL2013-477 THROUGH BL2013-479 (continued)

Ordinance No. BL2013-478 (Matthews) creates the position of information systems deputy director. This position is responsible for managing the day-to-day activities of the department of information technology services (ITS). This is a civil service position with a salary ranging from \$87,035 to \$136,170 per year.

Ordinance No. BL2013-479 (Matthews, Bennett & Pridemore) creates various positions to staff the new crime laboratory within the police department. This ordinance creates the following new positions:

1. Crime Laboratory Director
2. Crime Lab Assistant Director/Quality Assurance Manager
3. Crime Lab Information Technology Manager
4. Crime Laboratory Business Manager
5. Crime Lab Evidence Receiving Supervisor
6. Crime Lab Evidence Receiving Technician
7. Crime Lab Forensic Supervisor
8. Crime Lab Forensic Scientist 1, 2, and 3
9. Crime Lab Forensic Technician

The fiscal year 2013-2014 operating budget approved by the council includes \$1 million in new funding for the crime lab.

ORDINANCE NO. BL2013-480 (ALLEN & HUNT) – This ordinance designates Sweetbriar Avenue between 12th Avenue South and Belmont Boulevard as "Pastor W.L. White Street". Pastor White served as pastor of Hicks Tabernacle Missionary Baptist Church from 1971 until his death in 2012. Ordinance No. BL2012-262 established a procedure for the use of honorary street signs whereby the council, by ordinance, can authorize and direct the department of public works to install honorary street signs beneath the official street name sign for any street identified on the official street and alley acceptance and maintenance map.

This ordinance does not officially rename Sweetbriar Avenue, and property owners will not be required to change their address. The designation as "Pastor W.L. White Street" is only honorary. This is the final honorary street naming ordinance this year for which the department of public works will pay for the honorary street signs. Ordinance No. BL2012-262 limited publicly-funded honorary street signs to five streets per year.

ORDINANCE NO. BL2013-481 (CLAIBORNE) – This ordinance abandons a portion of Adair Road right-of-way between its intersection with Larimore Drive and its terminus at Atrium Way. The closure has been requested by Everett Lowe on behalf of SDIA Holdings, LLC. This unapproved right-of-way is being abandoned to provide parking for a parking lot. This ordinance retains existing utility easements within this portion of the right-of-way.

This abandonment has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NOS. BL2013-482 THROUGH BL2013-485 – These four ordinances authorize Metro water services to acquire easements for various water/sewer and stormwater projects. There is no anticipated acquisition costs associated with these easements. Future amendments to these ordinances may be approved by resolution. These ordinances have all been approved by the planning commission.

Ordinance No. BL2013-482 (Hunt, Potts & Claiborne) authorizes the acquisition of permanent easements for properties located at 4375 Summertime Drive and 1705 Autumn Ridge Drive for the Autumn Ridge stormwater improvement project.

Ordinance No. BL2013-483 (Langster, Barry & others) authorizes the acquisition of temporary and permanent easements for properties located at 3611 and 3613 Batavia Street and 3700 Clifton Avenue for the Clifton Avenue stormwater improvement project.

Ordinance No. BL2013-484 (A. Davis, Westerholm & others) authorizes the acquisition of permanent easements for properties located at 2541 and 2544 McGinnis Drive and 3701 Moss Rose Drive.

Ordinance No. BL2013-485 (Matthews, Potts & Claiborne) authorizes the acquisition of permanent easements for properties located at 4568 and 4572 Whites Creek Pike.