



## METROPOLITAN COUNCIL

Metro Council Office

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **November 19, 2013**

RE: **Analysis Report**

### Unaudited Fund Balances as of 11/13/13:

4% Reserve Fund	\$31,323,906*
Metro Self Insured Liability Claims	\$4,807,113
Judgments & Losses	\$2,352,156
Schools Self Insured Liability Claims	\$1,414,944
Self-Insured Property Loss Aggregate	\$6,429,454
Employee Blanket Bond Claims	\$627,355
Police Professional Liability Claims	\$2,889,007
Death Benefit	\$773,846

\* Assumes unrealized estimated revenues in fiscal year 2014 of \$22,901,305

**– RESOLUTION ON PUBLIC HEARING –**

**RESOLUTION NO. RS2013-903** (ALLEN) – This resolution approves an exemption for the Frothy Monkey located at 2509 12<sup>th</sup> Avenue South from the minimum distance requirements for obtaining a beer permit. The Metro code prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, the code provides a mechanism to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. A public hearing must be held by the council prior to voting on this resolution.

**– RESOLUTIONS –**

**RESOLUTION NO. RS2013-904** (STEINE & PARDUE) – This resolution authorizes the compensation of special judges presiding in General Sessions court. State law sets forth a procedure for the appointment of special judges to serve when a regular judge is unable to preside. If another judge is unavailable to serve by interchange, then a former or retired judge can sit as special judge. The statute allows county legislative bodies, by a resolution adopted with a 2/3 majority vote, to authorize the payment of compensation to such General Sessions special judges. While the Davidson County general sessions court currently uses special judges, there is no legal authorization for special judges to be paid absent council approval.

This resolution authorizes the payment of compensation to special judges in accordance with the provisions of state law. The law provides that the amount of compensation for a special judge cannot exceed the rate of compensation for other Davidson County general sessions judges. This resolution requires the general sessions court administrator to institute appropriate record keeping procedures, including time and travel records with supporting documentation.

The compensation will be paid out of the general sessions court’s existing operating budget. Due to higher than anticipated revenues realized by the general sessions court, it is not anticipated that a supplemental appropriation will be necessary to compensate the special judges. However, it is possible that this legislation could result in a need for a supplemental appropriation in the spring. A new budget improvement would be required for next fiscal year to include this compensation as part of the court’s regular operating budget.

This resolution requires 27 affirmative votes to become effective.

**RESOLUTION NO. RS2013-905** (STEINE) – This resolution approves a grant in the amount of \$1,539.61 from the Tennessee department of state to the Davidson County election commission to purchase a computer, printer, and software. There is no required cash match for this grant.

**RESOLUTION NO. RS2013-906** (STEINE & PARDUE) – This resolution approves an annual grant in the amount of \$183,350 from the Tennessee emergency management agency to the office of emergency management to subsidize Metro’s emergency management program. These federal pass-through funds are used to pay for training exercises, planning, and equipment purchases. There is a required local in-kind match of \$183,350. The term of the grant is through June 30, 2014.

**RESOLUTION NO. RS2013-907** (STEINE & TYGARD) – This resolution approves a grant in the amount of \$4,298 from the state library and archives to the Nashville public library to purchase computers for use by library patrons and staff. There is a required local match of \$4,298 to be provided by the public library. The term of the grant is from October 1, 2013 through April 30, 2014.

**RESOLUTION NO. RS2013-908** (STEINE & MAYNARD) – This resolution approves an amendment to a contract between the Metropolitan board of health and Mars Petcare US, Inc. to provide food for dogs at the Metro animal control facility and to promote adoption efforts for the animals. In August 2012, the council approved a contract with Mars Petcare to provide the animal control facility with free Pedigree brand dog food to cover 100% of the dog food needs of the facility, as well as adoption kits containing nutritional information and a starter food supply. Metro agrees to use only the Pedigree brand dog food at the shelter unless otherwise required for health reasons. Metro is required under this contract to allocate the funds that it would otherwise spend on dog food toward dog adoption efforts.

This resolution approves an extension of the contract through December 31, 2013.

**RESOLUTION NO. RS2013-909** (STEINE, MAYNARD & ALLEN) – This resolution approves amendment two to a contract between the Metropolitan board of health and Vanderbilt University Medical Center to provide medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) in the event of a public health emergency. Under this contract, the health department agrees to be responsible for obtaining the mass prophylaxis from the state and delivering it to Vanderbilt during a public health emergency. Vanderbilt will be responsible for distributing the prophylaxis, and will not receive any form of compensation for providing these services.

This contract amendment extends the term of the agreement through June 30, 2014.

**RESOLUTION NO. RS2013-910** (MAYNARD & ALLEN) – This resolution approves an annual agreement between Vanderbilt University Medical Center and the Metropolitan board of health for the continued training of Vanderbilt medical residents in the tuberculosis elimination program. The purpose of the agreement is to allow residents participating in Vanderbilt’s Infectious Disease residency program to receive training through the health department’s tuberculosis elimination program. Vanderbilt will assign residents to work with the health department program for ½ day per week. Vanderbilt will be responsible for the direction and supervision of the residents, as well as for maintaining liability insurance coverage. The term of the agreement is from July 1, 2013 through June 30, 2014, but may be renewed for four additional one year terms.

**RESOLUTION NO. RS2013-911** (MAYNARD) – This resolution approves an amendment to a clinical affiliation agreement between the Metropolitan board of health and Meharry Medical College to provide clinical experience to students. This is a standard agreement the health department has with a number of colleges and universities to provide clinical experience to students in various medical professions. This resolution extends the term of the agreement through May 31, 2014 and incorporates Meharry’s “Student Mistreatment” policy.

**RESOLUTION NOS. RS2013-912 AND RS2013-913** (STEINE) – These two resolutions approve grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults and dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. These federal pass-through grants provide the majority of the operating funding for the NCAC. The terms of the grants are from October 1, 2013, through June 30, 2015.

**Resolution No. RS2013-912** approves a grant in the amount of \$2,161,685 to establish programs and deliver services to dislocated workers.

**Resolution No. RS2013-913-** approves a grant in the amount of \$1,845,287 to establish programs and deliver services to adult workers.

**RESOLUTION NO. RS2013-914** (HARRISON, STEINE & DOMINY) – This resolution approves an agreement between the Metropolitan Government and Nashville Electric Service (NES) to repair 500 feet of eroded pond bank along Great Circle Road for the protection of the roadway and utilities within the public right-of-way. NES agrees to pay one-half of the estimated \$100,000 cost of the project. Cooperative agreements between governmental entities may be approved by resolution.

**RESOLUTION NO. RS2013-915** (GILMORE, STEINE & HUNT) – This resolution sets a public hearing for a proposed amendment to the Phillips Jackson Street Redevelopment Plan that would extend the duration of the plan and increase the tax increment financing (TIF) capacity for the purpose of financing a portion of the proposed new Sounds ballpark at Sulphur Dell. The public hearing on the redevelopment plan amendment is to take place at the December 3, 2013 regular council meeting. An analysis of the amendment will be provided when Ordinance No. BL2013-595 approving the amendment is on second reading.

**RESOLUTION NO. RS2013-918** (TYGARD) – This resolution appropriates \$10,000,000 from the undesignated fund balance of the general fund of the general services district (GSD) to the Metro pension fund for the purpose of reducing Metro’s unfunded pension liability. Metro’s pension plan covers approximately 13,000 current employees and 9,900 retired and deferred vested employees. The Metro Charter requires that the annual contributions made to the pension plan at least be equal to the normal pension payment cost for that year plus 5% of the unfunded liability. Metro has consistently funded the government’s pension liabilities in excess of the minimum required by the Charter, by funding the normal costs plus 7.5% of the amortization of the unfunded liability as determined by Metro’s actuary. As of June 30, 2012, Metro’s unfunded pension liability was \$395,638,160.

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**RESOLUTION NO. RS2013-918**, continued

A resolution that would have approved the issuance of taxable general obligation bonds in a principal amount not to exceed \$200 million for the purpose of reducing Metro's unfunded pension obligations was withdrawn at the request of the administration in October 2013.

This resolution would reduce the GSD general fund balance estimate to \$43,286,900, or 5.6% of the total GSD operating budget. The Metro policy approved by the council requires a minimum fund balance of 5%.

The director of finance has refused to sign this resolution as to the availability of funds due to the fact that the annual review of the GSD fund balance has not been completed and due to the relatively minimal reduction that the \$10,000,000 appropriation would have on the overall unfunded pension liability amount.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2013-552** (HARMON) – This ordinance amends the Metro code to limit the parking of vehicles for sale on commercial property. The code currently does not restrict the parking of vehicles for sale in the parking lots of businesses such as grocery and retail stores. Thus, these vehicles can remain on the property indefinitely as long as the property owner does not take action to remove them. This ordinance would prohibit vehicles that have a visible “for sale” sign (or other conspicuous marking informing the public that the vehicle is for sale) from being parked in a commercial parking lot for more than 24 consecutive hours within a seven day period unless the vehicle owner has the written permission of the property owner or is an employee of a business served by the parking lot.

There is a proposed amendment for this ordinance that would add a statement of intent that the fines collected for violations of the ordinance be used to help offset the costs of enforcement, and to add a requirement that vehicles left parked for sale on commercial property have a valid license plate.

**ORDINANCE NO. BL2013-576** (STEINE) – This ordinance authorizes Metro departments to apply for grants that do not require a Metro match without first going to council unless otherwise required by the grantor. Some grants, such as those from the federal government, require council approval of the application before it can be processed. In order to ensure the appropriate approvals, most grant applications have been submitted to the council even when not specifically required.

The Metro code already includes a mechanism for departments to conditionally submit grant applications contingent upon council approval in the event there is insufficient time to obtain council approval before the grant application deadline. In the event the council does not approve a grant application that has been previously submitted, the application is deemed null and void and any funds received from the grantor must be returned by the Metropolitan Government.

This ordinance would allow Metro departments and agencies to submit grant applications without council approval as long as there is no required local match for the grant and the application does not contain any provisions that would subject Metro to liability. Obviously, grants that require council authorization before submission would still be subject to council approval by resolution. Further, this ordinance would not eliminate the requirement that grant applications be reviewed by Metro legal and the finance department before being submitted.

**ORDINANCE NO. BL2013-577** (JERNIGAN) – This ordinance amends the Metro code to require a certified appraisal prior to the purchase of property for use as park land or open space. This has been Metro’s longstanding practice, but it is not specifically required by the code. This ordinance would require Metro to obtain an appraisal from a state certified real estate appraiser before acquiring property to be maintained as open space or used for recreational purposes within a purchase price of more than \$200,000.

**ORDINANCE NO. BL2013-578** (TYGARD) – This ordinance amends the Metro code to exempt nonprofit organizations receiving a grant of less than \$5,000 from the requirement that a copy of the previous year’s annual audit be submitted to Metro. State law requires that all organizations desiring financial assistance from the Metropolitan Government submit “a copy of an annual audit”, but this state law provision does not define the term “audit” or specify a particular year for the audit. A Tennessee Attorney General opinion from 1991 states that although an audit is required, the audit does not have to be prepared by an independent accountant. The Attorney General opinion further provides that the local legislative body can adopt regulations to clarify the type of audit required.

In an effort to clarify the type of information required, the council enacted an ordinance in 2005 to specifically require nonprofits receiving grant funds to submit a copy of the organization’s audit for the most recent fiscal year. The 2005 ordinance defines the term “audit” as “a formal examination of the organization’s accounting records and financial situation in accordance with the generally accepted auditing standards issued by the American Institute of Certified Public Accountants.”

It has been determined that small and start-up nonprofits sometimes do not have the means to hire an accountant to prepare an annual audit. This ordinance would exempt such organizations from the more strenuous Metro requirements that an audit from the previous year be submitted as long as the amount of the grant award does not exceed \$5,000 during any one fiscal year. Rather, the state fallback language simply requiring “a copy of an annual audit” would apply.

**ORDINANCE NO. BL2013-579** (STEINE & PARDUE) – This ordinance amends the Metro Code to delete the requirement that the county clerk’s office issue a separate decal to be displayed on the vehicle indicating that the local vehicle registration fee (wheel tax) has been paid and the vehicle has been registered with Metro. The county clerk has determined that the cost of issuing the separate decals amounts to \$24,000 per year. This ordinance would eliminate the separate decal requirement without affecting the requirement that the vehicle be registered and the payment of the required fee. The state sticker and registration issued by the county clerk will be evidence of the payment of all state and local fees and taxes.

**ORDINANCE NO. BL2013-580** (TYGARD) – This ordinance amends the Metro Code to prohibit Metro water services (MWS) from mailing storm water fee bills that show a zero balance or a credit. In 2009, the council approved a new storm water user fee to be paid by all property owners in Davidson County that aren’t otherwise exempt. For MWS water customers, this fee is included on the monthly water bills. Properties that do not receive water and/or sewer service from MWS are still responsible for paying the storm water user fee. The 2009 ordinance allows MWS to contract with other utilities operating in Davidson County to have the fee included on the bills sent out by the utility district. Otherwise, MWS must bill these property owners individually at least twice a year.

This ordinance would prohibit MWS from sending a storm water user fee bill through the U.S. Mail if the bill shows a zero balance owed or shows a credit on the account unless the council specifically authorizes the mailing of such bills for a particular purpose by the adoption of a resolution.

**ORDINANCE NO. BL2013-581** (STEINE, DOMINY & OTHERS) – This ordinance grants permanent easements for properties located at 2801 Tucker Road and 3133 W. Hamilton Avenue to Piedmont Natural Gas Company for the purpose of installing and maintaining a gas line. This property is located at Hartman Park. Piedmont will be paying Metro \$16,225 for the easement.

This ordinance has been approved by the planning commission and the board of parks and recreation.

**ORDINANCE NO. BL2013-582** (LANGSTER, STEINE & OTHERS) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with 2400 TNWESTEND Avenue, LLC regarding the construction of 310 linear feet of 8-inch water main beneath 24<sup>th</sup> Avenue North from West End Avenue to Elliston Place. Metro agrees to pay 64% of the project costs up to a maximum of \$128,500. This new water main is necessary for the new 2400 West End development.

**ORDINANCE NO. BL2013-583** (MOORE) – This ordinance authorizes Nashville Billiard Company to install and maintain a 15' x 85' fenced patio with a canopy cover at 925 8<sup>th</sup> Avenue South. The patio will be located on a grassy area that is technically Metro right-of-way, although it has been maintained by Nashville Billiard Company for many years. The patio is to be used to extend the business's retail space so they can sell outdoor patio furniture. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2013-584** (GILMORE) – This ordinance abandons a portion of Alley No. 515 right-of-way from 1811B 7th Avenue North to the dead end at the I-65 right-of-way north of Buchanan Street and South of Rosa Parks Boulevard. This portion of the alley is being abandoned to create a contiguous parcel for residential development. Consent of the affected property owner is attached to the ordinance. All Metro easements are to be retained.

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2013-568** (ALLEN) – This ordinance amends the Metro zoning code to prohibit LED message boards and digital display signs within the MUI, MUI-A, ORI, and MHP zoning districts. The zoning code currently prohibits LED signs in the residential districts and most of the mixed-use, office, and shopping center districts. However, this prohibition does not include the intensive mixed-use and office/residential districts, which are intended for high density use, nor does it include the mobile home park district. This ordinance simply adds these districts to the list of districts where LED message boards and digital display signs are prohibited.

This ordinance has been approved by the planning commission with the condition that the office/residential intensive-alternative (ORI-A) district be added to the list, which is the subject matter of Ordinance No. BL2013-590 that is scheduled for public hearing on December 3, 2013.

**ORDINANCE NO. BL2013-570** (MITCHELL, BANKS & OTHERS) – This ordinance, as amended, amends the Metropolitan Code pertaining to the licensing of electricians. The code currently requires all electrical contractors, master electricians, equipment contractors, electrical equipment installers, low-voltage contractors and low-voltage wiring installers to obtain a license from the department of codes administration. The licensing differentiation is based upon experience and scope of work. This ordinance would create three new licensing categories: journeyman electrician, apprentice electrician, and beginning electrician. The ordinance adds definitions for these terms and specific licensing requirements for each.

In order to be classified as a journeyman electrician and obtain a license, the person would have to meet one of the following criteria, as provided in the definition of journeyman electrician: (1) passed the journeyman examination and obtained a journeyman license from the Metro board of electrical examiners and appeals; (2) successfully completed an electrical construction apprenticeship; or (3) be regularly employed as a journeyman and work under the supervision of an electrical contractor or master electrician. All applicants for an electrician license, other than for a beginner or apprentice license, would be required to furnish proof that they had at least five years' experience in the classification immediately below the license applied for.

"Apprentice electrician" is defined as one enrolled in an apprenticeship registered with the U.S. department of labor, bureau of apprenticeship and training, or any nationally accredited apprenticeship program, which consists of a minimum 8,000 hours of practical experience combined with a minimum of 600 hours of classroom training, and works under the supervision of a master or journeyman electrician. This definition is essentially the same as the definition for apprentice plumber contained in the plumber licensing code provisions. The ordinance defines "beginning electrician" as a person who has no prior electrical experience, is enrolled in an electrician apprenticeship program, and works under the immediate direction and supervision of a master or journeyman electrician. No more than five beginning electricians could be on a job site for every one master or journeyman electrician present.

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**ORDINANCE NO. BL2013-570**, continued

The ordinance adds a provision to the code requiring the board of electrical examiners to revoke or suspend the license of a master electrician who knowingly obtains a permit for work to be done by persons who are not licensed or who does not personally supervise the work. The ordinance adds a provision making it a misdemeanor for anyone to do electrical work for which an electrical permit is required without a valid electrician's license or to allow another person to use the license. Further, the ordinance also includes a provision stating that the names of all license holders would be available to the public, which would clarify that such information is a public record.

This ordinance would not apply to any person employed as an electrician at the time of enactment, and would not apply to persons that perform small electrical jobs for which an electrical permit is not required, such as the replacement of a light fixture.

**ORDINANCE NO. BL2013-571** (PARDUE) – This ordinance, as amended, amends the Metropolitan Code to create a process for the renewal of wrecker licenses. The code requires all wrecker operators to be licensed, but the licenses are only good for one year. Thus, wrecker operators must go through the entire licensing process each year as new applicants. This ordinance would allow the licenses to be renewed annually upon the payment of a \$100 renewal fee. In addition, the code requires wrecker drivers to obtain a driver's permit, which is good for two years. This ordinance would allow the drivers' permits to be renewed by the transportation licensing commission director every two years without processing a new application.

**ORDINANCE NO. BL2013-572** (GILMORE & STEINE) – This ordinance, as amended, approves an agreement between the Metropolitan Government and Rogers/Welch Venture, Inc. (RWVI) for the lease of 175 parking spaces in the Metro parking garage located at 151 6<sup>th</sup> Avenue North. Metro is the owner of the garage, which is operated by the Downtown Partnership through an agreement with the Metro traffic and parking commission. In March 2013, as part of the transfer of the Renaissance Hotel property located next to the old convention center to the hotel operator, the council approved an agreement with the Renaissance Hotel for the lease of 180 spaces in the garage for use by hotel guests. RWVI is the owner and operator of space on floors 26-31 of the building above the hotel, and has an existing agreement with Metro for the use of 175 spaces in the garage. In order to be able to market and sell the space, RWVI needs a long term parking agreement. This lease agreement will allow RWVI to lease the same 175 spaces in the garage 24 hours per day, 365 days per year, for a term of 99 years, which matches the term of the parking agreement with the hotel.

Metro will be leasing the 175 spaces for \$115 per space per month during the first year, which is to be adjusted annually to match the regular monthly rate charged to the general public. RWVI will be able to terminate the lease or reduce the number of leased spaces with 90 days written notice. If Metro stops operating the garage at any point during the 99 lease term, Metro will be required to furnish 175 parking spaces to RWVI that are comparable in quality and location at the same monthly rate. RWVI will be required to maintain \$1 million in general liability insurance naming the Metropolitan Government as additional insured. Metro agrees that

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**ORDINANCE NO. BL2013-572**, continued

it will not hold RWVI responsible for damage to the garage resulting from a fire or other casualty caused by RWVI's negligence up to the amount of insurance payments received by Metro. Metro has no liability to RWVI under the lease for damage or injuries in excess of the Governmental Tort Liability Act limitations.

This parking lease agreement would transfer to any new owners of the office space currently owned by RWVI, and the RWVI's lenders would be able to obtain a security interest in the lease agreement.

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

**ORDINANCE NO. BL2013-573** (HARRISON, DOMINY & HUNT) – This ordinance authorizes the director of public property administration to accept a quitclaim deed from Tennessee Processing Center, LLC for property located at 2604 Brick Church Pike. This 0.45-acre parcel needs to be acquired in order for Metro water services to construct a pumping station. There is no cost to Metro for acquiring the property, but it must be used as a pumping station facility or other water/sewer infrastructure for at least 100 years or the property reverts back to the grantor. This ordinance has been approved by the planning commission.

**ORDINANCE NOS. BL2013-574** (WEINER, DOMINY & HUNT) – This ordinance authorizes Metro water services to acquire easements for three properties located at 7128 Birch Bark Drive and Hicks Road, unnumbered, for a stormwater project. There is no anticipated acquisition costs associated with these easements. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2013-575** (LANGSTER, DOMINY & HUNT) – This ordinance abandons approximately 160 feet of an existing 8-inch sewer main and easement, and accepts 373 linear feet of a new sewer main and easement for properties located at 1726 and 1729 Heiman Street. This ordinance is needed for the Lee Chapel AME Church project. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.