



## METROPOLITAN COUNCIL

Metro Council Office

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **May 6, 2014**

RE: **Analysis Report**

Unaudited Fund Balances as of 4/30/14:

4% Reserve Fund	\$13,186,106*
Metro Self Insured Liability Claims	\$4,668,010
Judgments & Losses	\$3,272,952
Schools Self Insured Liability Claims	\$2,306,787
Self-Insured Property Loss Aggregate	\$6,584,654
Employee Blanket Bond Claims	\$647,329
Police Professional Liability Claims	\$2,820,123
Death Benefit	\$875,470

\*Assumes unrealized estimated revenues in fiscal year 2014 of \$3,695,688.

**– RESOLUTION ON PUBLIC HEARING –**

**RESOLUTION NO. RS2014-1064** (ALLEN) – This resolution approves an exemption for Portland Brew Coffee located at 2605 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.

**– BILLS ON PUBLIC HEARING –**

**ORDINANCE NO. BL2014-725** (HOLLEMAN) – This ordinance amends the Metro zoning code provisions pertaining to the calculation of required street setbacks for residential areas with an established development pattern. In R and RS zoning districts with an established development pattern, the zoning code requires the street setback to be the average of the street setback of the lots immediately adjacent on either side of the lot, up to twice the street setback otherwise required. This ordinance would increase the required contextual setback to up to three times the street setback provided in the code. The ordinance also changes the setback calculation for vacant lots from the established setback to the average setback of the four nearest properties on the same side of the street with an existing single family residence.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-739** (HUNT) – This ordinance amends the Metro zoning code to permit “personal instruction” as a use in the industrial zoning districts. “Personal instruction” is currently defined in the zoning code as services for training individuals or groups in arts, personal defense, crafts, or other subjects of a similar nature. Personal instruction is permitted by right in the mixed-use, commercial, and downtown zoning districts, but is not a permitted use in the industrial districts. This ordinance adds personal instruction to the list of permitted uses in the IWD, IR, and IG districts, and amends the definition to include fitness training.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-740** (JOHNSON) – This ordinance amends the Metro zoning code to create separate uses for auction house, flea market, beer and cigarette market, and grocery store, and to add definitions for each of the uses. These uses currently fall within the general retail designation in the zoning code. This ordinance would allow these new uses in the same zoning districts where retail is permitted. The definitions for these new uses would be as follows:

“Auction house” means an establishment where the real or personal property of others is sold by a broker or auctioneer to persons who attend scheduled sales or events.

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**ORDINANCE NO. BL2014-740**, continued

"Flea market" means the offering for sale of merchandise or goods to the general public on a temporary basis by two or more vendors, at least one of whom is not the owner of the property on which the offering is made. Excluded from the definition of "flea market" are establishments conducting business during regular hours throughout the year that meet the general definition of "retail".

"Beer and cigarette market" means a retail establishment that advertises itself on the exterior of the premises as a tobacco and/or beer market, and whose inventory consists primarily of alcoholic beverages and tobacco products.

"Grocery store" means a retail establishment that primarily sells food, including canned, packaged, and frozen foods; fresh fruits and vegetables; and fresh (raw) and prepared meats, fish, and poultry.

This ordinance has been referred to the planning commission.

**ORDINANCE NO. BL2014-741** (HUNT & GLOVER) – This ordinance amends the Metro zoning code to create a mechanism for an exemption from the floor area ratio (FAR) limitations for properties within the urban zoning overlay (UZO). The code sets a maximum FAR for multifamily and nonresidential uses in each zoning district, which is essentially a limitation on the size/intensity of a structure. The code sets forth FAR exemptions and bonuses to incentivize certain types of development and aesthetic appearance, such as providing residential uses in certain zoning districts, and for plazas and garage liners.

The board of zoning appeals (BZA) currently has the authority to grant a special exception to exceed the height and setback limitations for properties within the UZO, but this does not specifically apply to FAR limitations when the development does not otherwise qualify for a FAR exemption or bonus. The BZA had the authority to grant FAR variances under the old zoning code (COMZO), but this authority was not carried over when the current zoning code was adopted in 1997. This issue has come up from time to time when developers need/want greater intensity than what is allowed by the zoning code in order to yield a necessary return on investment for a project.

This ordinance would allow the BZA to grant a special exception to exempt specific properties from the FAR limitations. Currently, the developer/property owner would have to pursue a zoning change through the council in order to increase the size of the building.

This ordinance has been referred to the planning commission.

– RESOLUTIONS –

**RESOLUTION NOS. RS2014-1065 and RS2014-1066** (STEINE) – These two resolutions authorizes the issuance and sale of bond anticipation notes in an amount not to exceed a total of \$700,000,000 in the form of commercial paper, which will allow Metro to issue short-term debt prior to the issuance of general obligation bonds. The purpose of these two resolutions is to modify the terms of our current commercial paper program and increase the amount of commercial paper that can be outstanding at any one time. In June 2003, the council adopted Resolution No. RS2003-1496, which authorized a commercial paper program for the Metropolitan Government as a form of short-term financing for capital projects to cover interim construction costs while awaiting the appropriate time to issue the long-term bonds. Commercial paper is basically a line of credit that Metro can access to commence capital projects approved by the council. This program allows Metro to issue variable rate tax-exempt commercial paper with varying maturity dates ranging from 1 day to 270 days, but commercial paper is usually “rolled” until the bonds are issued. State law allows commercial paper to be rolled up to six years. The state of Tennessee uses a similar commercial paper program, as do many other large cities.

Resolution No. RS2003-1496 provided that no more than \$200 million in commercial paper could be outstanding at any one time. This was amended by Resolution No. RS2007-2010 in June 2007 to increase the amount of commercial paper that can be outstanding to \$400 million and to change to a credit-backed commercial paper program. Metro’s commercial paper program has been successful in helping the government time the market to obtain the most favorable interest rate possible for the issuance of long term bonds. The interest rates on commercial paper are often considerably lower than the interest rate for long term bonds, so the program has enabled Metro to start capital projects at a low interest rate. This in turn has enabled Metro to postpone the issuance of long-term debt until market conditions are favorable, which has saved Metro interest and debt issuance costs. The downside of the commercial paper program, to the extent there is one, is that principal payments on the capital projects are delayed until the long term debt is issued, which may be several years later.

These resolutions basically establish a new commercial paper program since the existing agreement is set to expire. The new program is the result of an RFP that was sent to 21 banks by Metro’s financial advisor, First Southwest. The primary change between the current program and the proposed new program in an increase in the maximum amount of commercial paper than can be outstanding at any one time from \$400 million to \$700 million. Of this \$700 million, \$200 million would be automatically extendable commercial paper. Summaries of the terms of the resolutions are included below.

The commercial paper issued pursuant to these resolutions will be available to provide interim financing for any project for which bonds have been authorized, as well as the payment of prior notes and the payment of the principal on the outstanding commercial paper. Commercial paper issued under these resolutions will be a general obligation of the Metropolitan Government for which the full faith and credit of the Metropolitan Government is pledged.

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**RESOLUTION NOS. RS2014-1065 and RS2014-1066**, continued

**Resolution No. RS2014-1065** authorizes the issuance and sale of general obligation bond anticipation notes not to exceed \$500 million at any one time in the form of commercial paper. The resolution also approves the necessary dealer agreements, issuing and paying agency agreements, and liquidity facility agreements. The liquidity facilities for this \$500 million commercial paper program will be two Japanese banks: Mizuho Bank and Sumitomo Mitsui Banking Corporation. These two banks are two of the largest commercial financial institutions in the world, each with assets of approximately \$1.5 trillion. These banks were selected through the RFP process because their fees were most favorable to Metro. The liquidity facility agreements basically provide that the banks will step in and buy the commercial paper at maturity if Metro is unable to roll it. This ensures that the principal and interest on commercial paper will be paid when it matures. The terms of the agreements with the banks are for three years. If the banks have to step in and buy the commercial paper, Metro will have a three year loan with the banks to be repaid once bonds are issued. If the commercial paper is extended beyond two years, Metro must retire at least 1/20<sup>th</sup> of the principal each year thereafter unless that requirement is waived by the Tennessee Director of State and Local Finance.

The two banks will be paid a fixed fee each year based upon the total amount of commercial paper capacity. The annual fees Metro will pay to the liquidity facility are higher than those under the expiring agreement with a consortium of banks led by State Street. The old fee was 0.075% (7.5 basis points) multiplied by the commercial paper capacity (\$400 million), which resulted in an annual fee of \$300,000. After issuing the RFP, it became clear that the market would not allow for a fee agreement this low going forward. The new fee will be 35 basis points for Mizuho and 33 basis points for Sumitomo. This will result in an annual fee for three years of \$1,050,000 for Mizuho and \$660,000 for Sumitomo.

The resolution approves an initial offering memorandum, which furnishes information about Metro's commercial paper program to prospective purchasers. The resolution also approves an issuing and paying agent agreement with U.S. Bank and dealer agreements with Goldman Sachs and JP Morgan Securities. The issuing and paying agent, who is responsible for collecting the funds and to pay the principal and interest on the notes, will be paid a fixed annual fee. The exact amount of this rather nominal fee is not known at this time. The dealers are investment banking firms that find buyers for commercial paper issued by Metro. The dealers will be paid a fee of five basis points (0.05%) based upon the amount of commercial paper that is issued.

**Resolution No. RS2014-1066** authorizes the issuance and sale of general obligation bond anticipation notes not to exceed \$200 million in the form of extendable commercial paper. Unlike the prior resolution, there is no liquidity facility for this \$200 million, which means Metro does not have to pay an annual capacity fee. The commercial paper issued under this resolution would have a maximum maturity date of 90 days. Metro would have the option of extending this maturity to a maximum of 270 days, but would pay a higher interest rate if extended. If payment of the principal and interest on the 90-day commercial paper is not made on the date of maturity, the maturity date would automatically extend to 270 days. The extension rate of interest would be based on a formula set out in the resolution, which would result in a much higher interest rate than our other commercial paper. Thus, it is unlikely Metro would ever allow the commercial paper issued under this resolution to be extended.

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**RESOLUTION NOS. RS2014-1065 and RS2014-1066**, continued

Morgan Stanley will be the dealer for this portion of the commercial paper program, and will be paid an annual fee of 0.15% multiplied by the principal amount of commercial paper outstanding. If no extendable commercial paper is issued under this program then Metro would pay no dealer fee. U.S. Bank will also be the issuing agent for this part of the commercial paper program, and will be paid a fixed annual fee.

**RESOLUTION NO. RS2014-1067** (STEINE) – This resolution supplements certain prior resolutions by authorizing the issuance of series 2014 electric system revenue bonds in an amount not to exceed \$165 million, and revenue refunding bonds in an amount not to exceed \$60 million, as approved and recommended by the NES power board. Although the Metropolitan Charter grants NES complete control and authority over the operation of the electric system, NES cannot issue bonds without permission of the Metro council.

This is the 26<sup>th</sup> supplement to the electric system revenue bond resolution originally adopted in 1985. The \$165 million in new debt will be used for various improvements to the NES power system as determined by NES, as well as costs of issuance and payments to the debt service reserve. The refunding bonds will refund outstanding bonds issued in 2008 and 2011. The lead underwriter for the bonds will be Raymond James & Associates, Inc. These bonds are to be paid solely from the revenue of NES and will not be an obligation of the Metropolitan Government or be guaranteed by the taxing authority of the Metropolitan Government.

**RESOLUTION NO. RS2014-1068** (STEINE & PARDUE) – This resolution approves an application for a grant in the amount of \$44,285 from the state department of finance and administration to the state trial courts to provide training for employees that may potentially have interaction with domestic or sexual violence victims. These funds are being requested through the state STOP Violence Against Women grant program. This project would train Metro employees and their allies in the criminal and civil justice systems, as well as the employees and volunteers at the Victim Resource Center. It is estimated that 1,740 persons would be trained under this program. No local match would be required for this grant.

**RESOLUTION NO. RS2014-1069** (STEINE) – This resolution accepts a donation of \$570 from Sears to the Metropolitan Nashville Fire Department to purchase protective gear and rescue equipment.

**RESOLUTION NO. RS2014-1070** (STEINE & PARDUE) – This resolution approves a grant in the amount of \$240,000 from the state department of finance and administration, office of criminal justice programs, to the Metropolitan police department for the Internet Crimes Against Children unit. This grant will fund two forensic investigator positions dedicated to investigating internet crimes against children. The grant will also pay for training and equipment for the unit. A portion of the grant funds will be sub-granted to other local law enforcement agencies in the Middle Tennessee area. The term of the grant is from July 1, 2014, through June 30, 2015.

**RESOLUTION NO. RS2014-1071** (STEINE & GLOVER) – This resolution approves a grant in the amount of \$1,425 from the Nashville Bar Foundation to the community education commission to provide a series of free legal classes for the public. There is no required match for this grant.

**RESOLUTION NO. RS2014-1072 & RS2014-1074** (STEINE) – These two resolutions approve applications for grants from the Greater Nashville Regional Council to the Metropolitan social services commission for meal delivery and transportation services.

**Resolution No. RS2014-1072** approves an application for a grant in the amount of \$70,000 to provide transportation for eligible senior citizens and disabled persons to the congregate meal sites. This would provide round trip transportation for 770 persons, for a total of 72,500 trips. There would be a required local match of \$7,777.78.

**Resolution No. RS2014-1074** approves an application for a federal pass-through grant in the amount of \$858,229 that would provide \$519,140 for meals at congregate meal sites, and \$339,089 for meal delivery services to eligible seniors. There would be a required local match of \$83,061.12.

**RESOLUTION NO. RS2014-1073** (STEINE) – This resolution accepts an anonymous grant in the amount of \$15,000 to the Metro social services commission for the *How's Nashville* campaign. This campaign is an effort of the homelessness commission to move 336 chronically homeless persons into permanent housing.

**RESOLUTION NO. RS2014-1075** (BEDNE, STEINE & TYGARD) – This resolution approves the application for a grant in the amount of \$200,000 from the state department of environment and conservation to the Metro parks department to be applied toward the purchase of 60 acres of property on Pettus Road for the Mill Creek greenway. In April 2014, the council authorized the director of public property to exercise an option to purchase the property, and approved a grant in the amount of \$190,000 from the Land Trust for Tennessee to be applied toward the total purchase price. If awarded, this \$200,000 from the state would also be applied to the total acquisition cost of \$706,500. This would leave \$316,500 to be provided from Metro capital funds.

**RESOLUTION NO. RS2014-1076** (STEINE & TYGARD) – This resolution approves an annual grant in the amount of \$88,000 from the Tennessee state library and archives to the Nashville public library system for library services to the hearing impaired. These funds are used to provide access to a circulation of special materials formatted for individuals that are hearing impaired. The term of this grant is for one year beginning July 1, 2014, and extending through June 30, 2015.

**RESOLUTION NO. RS2014-1077** (STEINE & TYGARD) – This resolution approves a sixth 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. This amendment increases the amount of the grant for year four by \$66,655 for a new grant total of \$643,363.67.

**RESOLUTION NO. RS2014-1078** (STEINE, DOMINY & OTHERS) – This resolution approves an agreement with the state department of transportation (TDOT) for the reimbursement of expenses incurred during the May 2010 flood. The reimbursement is being made from federal emergency relief funds TDOT received for this purpose. Metro will be reimbursed \$265,826.14 for expenses incurred for the permanent restoration of Morrow Road, East Thompson Lane, Granny White Pike, Sawyer Brown Road, and various traffic signal cabinets. Metro's share of these projects will end up being \$3,507.35. The agreement also accepts all permanent restoration completed by TDOT on Broadmoor Drive, Sawyer Brown Road, Elm Hill Pike, and Old Hickory Boulevard at a total cost of \$278,217.29. Metro's 20% required match is basically being deducted from the federal funds the state received.

**RESOLUTION NO. RS2014-1079** (GILMORE, STEINE & HUNT) – This resolution approves an amendment to a lease between the Metropolitan Government and Parkway Towers, LLC for office space in Parkway Towers located at 404 James Robertson Parkway. In November 2013, the council approved a new lease agreement for the continued occupancy of the public defender's office and justice information services (JIS), and the addition of the department of human resources, the human relations commission, and the internal auditor. The agreement contemplated a future increase in the amount of the leased space through a right of first refusal granted to Metro.

This amendment adds 3,439 square feet of space on the 21<sup>st</sup> floor of the building for use by the public defender at the same annual rental amount per square foot Metro is currently paying (\$17.16 per square foot). It is anticipated that Metro will commence occupancy of this space on June 1, 2014.

The planning department, acting on behalf of the commission, has recommended approval of this lease agreement.

**RESOLUTION NO. RS2014-1080** (GILMORE) – This resolution authorizes Tin Roof to install and maintain an aerial sign encroachment at its establishment located at 316 Broadway. The encroachment will consist of a 10' x 4' illuminated projecting sign over the sidewalk. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the signs, and is required to post a certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party.

This resolution has been approved by the planning commission.

**RESOLUTION NO. RS2014-1081** (BARRY) – This resolution approves the election of notaries public in accordance with state law.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2014-742** (HUNT) – This ordinance amends the Metro code to exempt beer permit applicants from the minimum distance requirements from residential property if the applicant's primary residence is connected to the establishment for which a permit is sought. 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. A situation has arisen where the owner of a market lives in a dwelling unit connected to the market, which thus causes the market to be within 100 feet of a residence and makes the market ineligible to obtain a beer permit. This ordinance would simply exempt such applicants from the distance requirements if his/her primary dwelling is connected to the structure for which the permit is sought and is the only residential dwelling unit within 100 feet of the establishment.

**ORDINANCE NO. BL2014-743** (MCGUIRE & A. DAVIS) – This ordinance amends the Metro code to reduce the minimum seating capacity for restaurants to obtain a beer permit. The code currently provides that only restaurants with a minimum seating capacity of 25 are eligible to obtain an on-premises beer permit. The council office is unaware of the reason why the 25-seat minimum is included in the code. This limitation is not consistent with the state department of health department classifications for eating establishments, which reference a minimum seating capacity of 16 for purposes of requiring restroom facilities. This ordinance would simply reduce the minimum seating capacity for obtaining a beer permit from 25 to 16 to match the state health department classification.

**ORDINANCE NO. BL2014-744** (STEINE, HUNT & A. DAVIS) – This ordinance approves the form of a Network Hut license agreement between Metro and Google Fiber company. Google Fiber is currently considering Nashville as one of the cities for the expansion of its fiber network, which would provide internet access up to 100 times faster than basic broadband internet service. If Google decides to bring its fiber network to Nashville, it will need space on Metro property to install fiber optic network "huts" to house network equipment. Although the exact number of hut sites is unknown at this time, initial estimates indicate there could be between 15 and 20 sites needed. Pursuant to this agreement, Metro and Google will work together to identify suitable Metro property for the huts, which will be subject to approval of the council by resolution once the sites are identified. Each site needs to be approximately 1,500 square feet.

This agreement is for a term of 20 years, with two possible five year renewals. Metro will have the right to terminate the agreement for a particular site with 180 days written notice to Google if the site is needed for a public purpose. If Metro terminates the agreement for a particular site, it must use its best efforts to find a suitable replacement site on other Metro property. Google will initially pay rent in the amount of \$1.60 per square foot per year, which is to increase by three percent (3%) each year. This is consistent with the average of the rent amounts charged by Metro for the use of other Metro-owned land.

The agreement includes standard indemnification provisions protecting Metro, and requires Google to maintain commercial liability insurance for the sites in the amount of \$1 million per occurrence. Metro agrees to make the rights Google has in this agreement available to other network-based providers of internet and video services in a non-discriminatory manner.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2014-745 (GILMORE)** – This ordinance abandons right-of-way and easements for an unnumbered alley from Lea Avenue to Alley No. 102 between Hermitage Avenue and Rutledge Avenue. This closure has been requested for the purpose of consolidating two lots into one. The ordinance also abandons all Metro utility easements. Consent of the affected property owners is attached to the ordinance. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2014-746 (STEINE, HUNT & OTHERS)** – This ordinance declares seven parcels of Metropolitan Government-owned property to be surplus, and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. The properties to be sold are as follows:

<b><u>Address – Location</u></b>	<b><u>Council District</u></b>
2109 10 <sup>th</sup> Avenue North	02
911 Cahal Avenue	05
1014 Joseph Avenue	05
1106 Glenview Drive	06
1401 Chester Avenue	07
1708 Knowles Street	21
619 Underwood Street	21

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2014-697** (BLALOCK) – This ordinance, as amended, amends the Metro code to exempt existing on-premises beer permit holders (restaurants and bars) from the distance requirements regarding the sale of beer near school property when a new school locates within 100 feet of the existing establishment. 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. While existing permit holders are essentially “grandfathered in” when a new school locates next to the establishment, the permit holder may not be allowed to expand the footprint of the establishment. Further, a new owner of the establishment may not be able to get a beer permit because of its proximity to the school.

The ordinance provides that an on-premises beer permit holder could not be denied a permit solely because the footprint of the building was expanded to fall within 100 feet of a school that subsequently located near the establishment. The ordinance also provides that an on-premises beer permit could not be denied to a new owner of the business solely because of the distance from a school that received an occupancy permit after the initial beer permit for the establishment was obtained.

**ORDINANCE NO. BL2014-715** (BLALOCK) – This ordinance amends the Metro zoning code to provide a waiver of the zoning application fee and public hearing notice costs for zoning applications initiated by members of council. The zoning code includes several limited situations where the zoning application fee can be waived for applications filed by members of council:

1. Rezoning the property from a greater intensity residential use to a lesser intensity residential use (i.e., an "R" district to an "RS" district);
2. Rezoning the property from an office, commercial, or industrial district to a residential or residential single-family district;
3. Rezoning ten or more parcels from a specific plan district to another base zoning district;
4. Applying the urban design overlay district, historic preservation district, neighborhood conservation district, or urban zoning overlay district; or
5. Cancelling a planned unit development district that has been determined by the planning commission to be inactive.

This ordinance would basically give each Council Member one “free” zoning application for applications that do not satisfy the fee waiver criteria noted above. In addition, the planning department would be required to absorb the costs for the printing and mailing of written notices, as well as the preparation of public notice signs, for zoning applications initiated by Members of Council that fall under the fee waiver provisions.

The director of finance has refused to sign this ordinance as to availability of funds. The planning department has estimated that this ordinance would have an annual impact to the department’s budget of approximately \$90,000. A copy of the finance director’s letter and the planning department’s analysis are attached to this analysis.

This ordinance has been disapproved by the planning commission, meaning 27 affirmative votes will be needed to approve this zoning code text change.

**ORDINANCE NO. BL2014-726** (STEINE & WESTERHOLM) – This ordinance authorizes the purchasing agent and the Metro employee benefit board to extend the current medical plan contracts with BlueCross/BlueShield of Tennessee and Connecticut General Life Insurance Company for up to two years. Metro currently offers two self-insured health insurance options for Metro employees: the Blue Cross/Blue Shield PPO and the Cigna Choice Fund account-based plan. Cigna is a subsidiary of Connecticut General Life Insurance Company.

The Metro code provides that Metro contracts are limited to a term of five years unless otherwise authorized by the council. The current contracts were originally set to expire on December 31, 2012, but the council approved a two year extension of those contracts in December 2011.

Given the changes in health care and the desire to explore potential plan design changes, the Metro employee benefit board is seeking the authority to extend these medical plan contracts for another two years through 2016.

**ORDINANCE NO. BL2014-727** (WESTERHOLM & BARRY) – This ordinance amends the Metro code provisions applicable to the public records commission to add the Metro Archivist as an ex-officio member of the commission in accordance with state law. The Davidson County public records commission is currently comprised of seven members. The mayor appoints three members: one must be a member of the Metro council, one must be a judge of one of the courts of record, and one must be a genealogist. In addition, the county clerk, county register, director of information technology services, and county historian serve as ex-officio members of the commission.

State law provides that the public records commission is to include the “duly appointed county archivist” as an ex officio member. The county archivist has essentially been participating as an ex officio member of the public records commission, but the Metro code did not specifically include this position as a member. This ordinance modifies the Metro code to mirror state law.

**ORDINANCE NO. BL2014-728** (STEINE) – This ordinance amends the Metro code to extend the additional fifty cent per room hotel occupancy privilege tax used to support and promote large events. In August 2008, the council approved a fifty cent increase in the hotel occupancy tax pursuant to state enabling legislation, which must be deposited into the “Event and Marketing Fund”. Appropriations from the fund are administered by a committee through the convention and visitors bureau (CVB). The state law requires that the five person committee be appointed by the mayor, and must be made up of representatives of the following groups: one person nominated by the hotel and lodging association; one person from the hospitality industry; one representative from a hotel corporation with a single hotel in Nashville containing more than 2,900 rooms (Gaylord Opryland); and two members of the public to be selected by the mayor. All expenditures from the fund are subject to the approval of the Metropolitan finance director.

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**ORDINANCE NO. BL2014-728**, continued

According to information provided by the CVB, the Metro Event and Marketing Fund has supported 39 events since its inception with \$14 million in grants, including promotion of the Music City Bowl, support of the CMA Music Festival, securing the NCAA Women's Final Four, and providing funds for the *Nashville* television show.

At the time the state enabling legislation was adopted, the additional tax was to sunset six years after the date it was authorized. The General Assembly recently extended the expiration date six more years. This ordinance approves the six year extension of the tax.

**ORDINANCE NO. BL2014-729** (S. DAVIS, STEINE & OTHERS) – This ordinance approves a lease agreement between the Metropolitan Government and KIPP Nashville for the use of the former Highland Heights Middle School located at 123 Douglas Avenue in East Nashville as a charter school. This school building, consisting of 140,697 square feet, is currently being renovated through the Metro department of general services. The total construction cost to Metro for the renovation is \$14.3 million, plus another \$5.3 million for other related costs such as relocation costs, information technology, furniture, fixtures, and equipment. The annual debt service just on the construction cost for the project using level 20 year debt at a 3.6% interest rate would be approximately \$1 million.

KIPP Nashville plans to relocate its KIPP Academy charter school to the old Highland Heights building. KIPP is to pay rent in the amount of \$32,048.92 per month during the first year of the lease (\$384,587 for the year). This increases to \$36,685.39 and \$41,192.61 per month in the second and third year. The base rent for the fourth year is to be calculated based upon the actual costs to general services to operate the building. The new rent will be at least 3% more than the previous year, and is to increase by 3% each year thereafter. The term of the lease agreement is from July 1, 2014 through June 30, 2024 with an optional five year extension. Either party can terminate the lease agreement with 120 days written notice.

Metro will be responsible for all utilities, as well as for the maintenance of the roof, structure, electrical, plumbing, HVAC, and other major systems. KIPP will have the right to make improvements to the property at their own expense upon giving notice to Metro. KIPP is required to maintain \$16 million in "all risk" insurance, plus an additional \$5 million in excess insurance. The lease includes standard indemnification provisions found in other Metro leases. Future amendments to the lease may be approved by the council by resolution. This lease agreement has been approved by the planning commission.

**ORDINANCE NO. BL2014-730** (HUNT & TYGARD) – This ordinance authorizes the director of public property administration to accept a conservation easement for use as part of the Whites Creek Greenway. This easement for a portion of the Fontanel property is being granted at no cost to Metro by Dale Morris, the owner of the property. The property owner will have the right to continue its existing outdoor activities adjacent to the greenway easement, and to close off a portion of the area for concerts and festivals. The owner will also have the authority to use the shared portion of the greenway for secondary access when the primary road and bridge are blocked due to flooding, as well as for a temporary construction entrance for future hotel development at Fontanel. This is a perpetual easement that can only be terminated through judicial action. This ordinance has been approved by the planning commission and the board of parks and recreation.

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



ARL F. DEAN  
MAYOR

DIRECTOR OF FINANCE  
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**MEMORANDUM**

**To:** Vice Mayor Diane Neighbors

**From:** Richard M. Riebeling   
Director of Finance

**Date:** February 21, 2014

**Subject:** Ordinance amending Chapter 17.40 of Title 17 of the Metropolitan Code, Zoning Regulations, pertaining to the zoning application fees and public hearing notice costs for amendments to the official zoning map initiated by a member or members of the Metropolitan Council (Proposal No. 2014Z-005TX-001)

I am in receipt of a proposed Ordinance by Council Lady Davette Blalock that amends Title 17 of the Metropolitan Code. The legislation was sent to me for signature certifying the availability of funds. Pursuant to rules of the Metropolitan Council, I am providing you with a brief statement as to why I have determined I cannot sign the proposed legislation at this time.

Due to the lack of funding in the Planning Commission budget that would support the cost of the legislation (see attached correspondence from Deputy Director Doug Sloan), I must decline to sign as to the availability of funds.

Please let me know if you have any questions or need additional information on this matter.

Attachment

Copy: Members of the Metropolitan Council  
Jon Cooper



**METROPOLITAN GOVERNMENT  
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department  
800 Second Avenue South  
P.O. Box 196300  
Nashville, Tennessee 37219-6300

February 20, 2014

Richard M. Riebeling  
Director of Finance  
Metro Courthouse  
1 Public Square  
Suite 106  
Nashville, TN 37201

Re: Costs for the printing and mailing of written notices

Mr. Riebeling:

A revised council ordinance has been proposed that would require the costs and responsibility for public hearing signs and printing and mailing of written notices regarding the public hearing for amendments to the official zoning map initiated by members of the metropolitan council to be borne by the Planning Department, whenever the proposed amendment to the official zoning map falls within the fee waiver exceptions in Section 17.40.740.C of the metropolitan code. This ordinance also proposes that each member of council shall be entitled to no more than one such fee waiver per calendar *in addition to* the application of any urban design overlay district, historic preservation district, neighborhood conservation district, or urban zoning overlay district or the amendment to or cancellation of a planned unit development (PUD) district after the planning commission has determined the PUD to be inactive.

The Planning Department has analyzed the costs for public hearing signs and printing and mailing of written notices for rezonings proposed by members of the Metropolitan Council for the calendar years of 2012 (\$3,635) and 2013 (\$12,700). However, recent changes in the housing market and overall economy have increased rezoning applications. In just the first month of 2014, \$10,181 was spent on public hearing signs and printing and mailing of written notices for rezonings proposed by members of the Metropolitan Council. Additionally, we believe that a substantial increase in the number of rezoning applications would occur if all costs are borne by the Planning Department.

Assuming that each member of council would want to take advantage by rezoning a large area, the Planning Department has estimated a cost \$63,487.32 for the notices and signs for 40 rezonings.

However, in addition to the one rezoning per member of council, this ordinance would require the Planning Department to bear the costs and responsibility for all overlays initiated by members of council. In January 2014, two of the four cases submitted by members of council have been overlays. Although this is likely to increase, using this as a basis to project future cost associated with overlay applications, we estimate that notices and signs for overlays will be an additional \$24,528.24 per calendar year.

Therefore, the total estimate per calendar year is \$93,015.56.

Additionally, the Metropolitan Clerk's Office would incur additional expenses related to the publication of public hearing notices for each of the rezoning requests.

Please let me know if you have any questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Sloan".

Doug Sloan  
Deputy Director