



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

COUNCIL MEETING DATE: **October 6, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 8/12/15:

4% Reserve Fund	\$41,703,396*
Metro Self Insured Liability Claims	\$4,294,981
Judgments & Losses	\$2,936,693
Schools Self Insured Liability Claims	\$2,662,914
Self-Insured Property Loss Aggregate	\$5,254,969
Employee Blanket Bond Claims	\$652,601
Police Professional Liability Claims	\$2,686,517
Death Benefit	\$981,116

*Assumes unrealized estimated revenues in fiscal year 2016 of \$25,947,088.

– RESOLUTIONS –

RESOLUTION NOS. RS2015-1 and RS2015-2 (PRIDEMORE) – These two resolutions approve an amendment to an existing grant and a new grant in the amount of \$104,000 from the Davidson County Mental Health and Veteran’s Court Assistance Foundation to the Davidson County general sessions court to fund a veteran’s court to provide evaluations and treatment for eligible veteran defendants. The state department of mental health and substance abuse services received a three year grant from the U.S. justice department to fund a veteran’s court in Davidson County. The Davidson County Mental Health and Veteran’s Court Assistance Foundation was chosen by the state to be the recipient of the grant, who in turn has granted the funds to the Davidson County general sessions court to supplement the salaries of existing general sessions court employees that work directly with the veteran’s court.

Resolution No. RS2015-1 approves an amendment to the grant awarded last year by extending the term until September 30, 2015 to coincide with the timing of the federal budget. The grant awarded last year was the first installment of a three year grant.

Resolution No. RS2015-2 approves a new grant in the amount of \$104,000 to fund the veteran’s court through the next federal fiscal year beginning October 1, 2015. This represents the second year’s installment of a three year grant. There is no required local match for this grant.

RESOLUTION NO. RS2015-3 (PRIDEMORE & PARDUE) – This resolution approves an application for the continuation of a Homeland Security grant from the state emergency management agency in the amount of \$244,633 for homeland security preparedness activities. This grant is used to purchase equipment and to fund training exercises. This is part of an overall state grant award in the amount of \$694,984 used to fund homeland security preparedness in Davidson, Wilson, Williamson, Sumner, Cannon, Rutherford, and Trousdale Counties.

RESOLUTION NO. RS2015-4 (PRIDEMORE & PARDUE) – This resolution approves an annual Edward Byrne Memorial Justice Assistance grant in the amount of \$471,673 from the U.S. department of justice to the Metropolitan police department for technology upgrades, supplies, and training. This federal grant program allows for funding of a broad range of activities to prevent and control crime based upon local needs. The term of the grant program period is through September 30, 2018.

RESOLUTION NO. RS2015-5 (PRIDEMORE) – This resolution approves a second amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health to fund Metro’s air quality protection program to achieve established ambient air quality standards. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This amendment reduces the amount of the funds awarded by \$2,891 for a new grant total of \$416,655.

RESOLUTION NO. RS2015-6 (PRIDEMORE) – This resolution approves three agreements between the Metro board of health and Minnesota Multistate Contracting Alliance for Pharmacy to purchase vaccines at a discounted rate. The Minnesota Alliance is a free public sector group purchasing organization through the state of Minnesota available for government facilities to help obtain better pricing for pharmaceuticals. The health department will not be required to pay any fees for participation in this program. The three health department facilities that will be participating in the program are the East, Lentz, and Woodbine public health centers. This contract will be for an indefinite term, but may be cancelled by either party upon 30 days' written notice.

RESOLUTION NO. RS2015-7 (PRIDEMORE) – This resolution approves a grant in the amount of \$510,000 from the state department of mental health and substance abuse services to Metro social services to assist homeless veterans and other chronically homeless individuals. These federal pass-through funds will be sub-granted to a nonprofit provider. The grant is to provide services to homeless veterans or other chronically homeless persons who are mentally ill and/or have a substance abuse disorder. The services include locating permanent housing, treatment, case management, and assistance with obtaining benefits for which the individuals are eligible. The grant is to serve at least 120 homeless persons. This is essentially a renewal of a grant approved by the council in January 2015. The term of this grant is from October 1, 2015, through September 30, 2016.

RESOLUTION NO. RS2015-8 (PRIDEMORE & HENDERSON) – This resolution appropriates \$250,000 to Oasis Center, Inc. as a grant to Oasis Center for support of the Nashville Scholars Program. The fiscal year 2016 operating budget included \$683,200 for the Scholar's Academy, which is a free summer academic enrichment program operated through the public library to help students succeed in high school and prepare for college. This resolution appropriates \$250,000 of these funds to Oasis Center to provide college access services. This will include ongoing support for the students, development of a college plan with each student, outreach and engagement with parents and school staff, program recruitment, and support for the college application process. This is a continuation of a contractual relationship with Oasis Center for this program approved by the Council in October 2014. The term of the contract is through June 30, 2016.

State law allows local governments to make grants to nonprofit organizations upon approval of the local legislative body by resolution.

RESOLUTION NO. RS2015-9 (PRIDEMORE) – This resolution approves a grant in the amount of \$4,500 from the UPS Foundation to the department of public works to plant 25 trees. This is part of the UPS Foundation's Keep America Beautiful Program, which has a goal of reducing levels of carbon dioxide and greenhouse gas emissions through the strategic planting of trees.

RESOLUTION NO. RS2015-10 (PRIDEMORE) – This resolution approves an application for a grant in the amount of \$953,260 from the Tennessee Emergency Management agency to Metro water services for the flood buyout program. These federal pass-through funds would be used to purchase five homes located on Whites Creek, Scotts Creek Tributary, Seven Mile Creek, and North Fork Ewing Creek. The funds would also be used to provide relocation assistance to renters, if applicable. Once acquired, the homes would be torn down and the property maintained by Metro as open space. Metro has participated in the flood-prone property buyout program for many years. There is no obligation for the homeowners to participate in the home buyout program.

Legislation authorizing the acquisition of the property will be forthcoming if the grant is awarded. There would be no local match required for this grant.

RESOLUTION NO. RS2015-11 (O'CONNELL) – This resolution authorizes Spoons, LLC, dba the Farm House, to install and maintain an aerial sign encroachment at 210 Almond Street. The encroachment will consist of a 45" x 64" sign extending six feet from the building. 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. RS2015-12 (PRIDEMORE) – This resolution authorizes the department of law to settle the personal injury claim brought by Heath Haynes against the Metropolitan Government for the amount of \$19,000. On October 2, 2014, a Metro police officer struck Mr. Haynes as he was walking across South Tenth Street while in the crosswalk with the pedestrian walk indicator activated. The police officer was looking at his computer and did not see the pedestrian. After striking Mr. Haynes, the police officer did not stop at the scene of the accident after seeing him get up, and did not notify any of his supervisors. The police officer received disciplinary action consisting of a 30 day suspension, which was followed by his letter of resignation.

Mr. Haynes sustained an injury to his knee as a result of being struck by the police car, and incurred medical bills totaling \$13,398. This settlement covers the medical expenses plus \$5,602 for pain and suffering. The settlement amount will be paid out of the self-insured liability fund.

RESOLUTION NO. RS2015-13 (PRIDEMORE) – This resolution authorizes the department of law to settle the wrongful death claims of Katherine Kightlinger against the Metropolitan Government for the amount of \$150,000. This settlement is the result of the death of Michael David Jones on November 20, 2013 while in the custody of the Davidson County sheriff's office (DCSO). Mr. Jones had been staying at the Nashville Union Rescue Mission, and appeared at the Mission on the night of November 20th heavily intoxicated and noncompliant. The police were called, and Mr. Jones ultimately had to be pepper sprayed before he could be taken into custody. After being taken to the booking area at the criminal justice center, Mr. Jones was placed in hand restraints and taken to a seclusion cell. He refused to comply with the

correctional officers' demands and was once again pepper sprayed in order for the officers to apply leg restraints. Mr. Jones indicated he was going to spit on the officers, so they placed a spit hood over his face and left him alone in the seclusion cell.

Correctional officers checked on Mr. Jones ten minutes later, and he told the officers he could not breathe in the spit hood. The hood was adjusted and Mr. Jones quieted down. The officers checked on him again during the next eight minute period and they did not notice any problems. However, when the officers checked again a couple of minutes later, Mr. Jones appeared to be unconscious. When DCSO staff entered the cell area, they shook Mr. Jones and he didn't respond. They took the spit hood off and vomit spilled out. Staff performed CPR and used a defibrillator while waiting for the paramedics to arrive. Mr. Jones was pronounced dead at Nashville General Hospital an hour later.

The plaintiff is alleging that the sheriff's department staff was negligent in using the spit hood. The manufacturer's warning on the hood states that the hood must not be worn by someone left unattended and must not be used if the person is having difficulty breathing. These warnings were not followed. Further, the officers did not follow DCSO procedure, which prohibits using spit hoods in a seclusion cell. The officers also did not obtain supervisor approval before using the spit hood and did not video its utilization, both of which are required by DCSO policy.

The medical examiner determined Mr. Jones died as a result of asphyxiation due to chronic alcoholism. While it is unclear whether the use of the spit hood actually caused or contributed to his death, the failure to follow DCSO procedures and continuously supervise Mr. Jones certainly supports the plaintiff's argument.

If the court ruled in favor of the plaintiff, she would be entitled to recover damages for Mr. Jones' pain and suffering from the time of the incident to the time of death (approximately ten minutes), as well as the pecuniary value of his life. Although Mr. Jones had been staying at the Rescue Mission, he did have a job and the evidence would show that he was working toward improving his living situation.

The department of law recommends settling this case for \$150,000 to be paid out of the self-insured liability fund. The limit of Metro's liability under the Governmental Tort Liability Act is \$300,000. The department of law is of the opinion the court would award damages of between \$200,000 and \$300,000 if the case went to trial.

No disciplinary action was taken against any of the DCSO employees involved in this incident. DCSO has taken measures to prevent such an incident in the future, including the use of a new spit hood that does not have the same risks.

RESOLUTION NO. RS2015-14 (SHULMAN & SLEDGE) – This resolution approves the election of notaries public in accordance with state law.