



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

COUNCIL MEETING DATE: **April 21, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 4/15/15:

4% Reserve Fund	\$13,283,776*
Metro Self Insured Liability Claims	\$3,637,631
Judgments & Losses	\$3,100,713
Schools Self Insured Liability Claims	\$2,541,379
Self-Insured Property Loss Aggregate	\$7,516,961
Employee Blanket Bond Claims	\$666,906
Police Professional Liability Claims	\$2,683,773
Death Benefit	\$980,114

*Assumes unrealized estimated revenues in fiscal year 2015 of \$4,975,057.

– RESOLUTIONS –

RESOLUTION NO. RS2015-1420 (PRIDEMORE) – This resolution appropriates \$1,849,600 to the fairgrounds, farmers’ market, and municipal auditorium to balance their fiscal year 2014-2015 operating budgets. Although these entities are “enterprise” funds (meaning they are to operate on their own revenues), the facilities have operated at a loss for a number of years, thus requiring a supplemental appropriation from the council. The fiscal year 2014-2015 operating budget did not include any subsidy for these facilities with the understanding that they would likely request a supplemental appropriation. The supplemental appropriation for the municipal auditorium and farmers’ market is from the undesignated fund balance of the Metro general fund. However, the fairgrounds appropriation is from increased revenue generated at the facility.

This resolution appropriates \$700,700 to the fairgrounds, \$599,900 to the farmers’ market, and \$549,000 to the municipal auditorium. However, as the council will recall, a late resolution was approved at the April 7 council meeting to go ahead and appropriate the funds to the fairgrounds. Thus, there will be a substitute offered for this resolution that only includes the appropriation for the farmers’ market and municipal auditorium.

Much of the discussion regarding this resolution, and the reason for its deferral at the last budget and finance committee meeting, concerns a recent action taken by the farmers’ market board to change the policy pertaining to the types of vendors that will be permitted to lease space at the market. The council office would point out that the state private act that created the farmers’ market board specifically provides that the board “shall have the sole and exclusive control of the operation and management of the farmers’ market”. The council’s role is to confirm or deny the mayor’s board member appointments and to appropriate funds necessary for the operation of the market. Adoption of this resolution is necessary to keep the farmers’ market and municipal auditorium from ending the fiscal year with an operating budget deficit. If the deficits are not addressed prior to June 30, 2015, it is likely that Metro’s external auditor and state auditors will note the funding gap in their reporting and reviews of Metro’s overall financial condition. Local governments in Tennessee are not allowed to operate with a budget deficit, so failure to take action at this time will necessitate an appropriation during the next fiscal year. From a fiscal management standpoint, the council should seriously weigh the consequences before deferring this resolution beyond the end of the fiscal year and knowingly permitting either of these facilities to have a funding deficit as of July 1.

RESOLUTION NO. RS2015-1445 (PRIDEMORE & WESTERHOLM) – This resolution authorizes the mayor to submit the annual update to the 2013-2018 consolidated plan for housing and community development programs for the Metropolitan Government to the U.S. department of housing and urban development (HUD). The five year consolidated plan is prepared by the Metropolitan development and housing agency (MDHA) and is to be administered by MDHA. The plan includes the allocation of funds received from HUD for community development block grants (CDBG), the HOME investment partnerships program, the emergency shelter grant program (ESG), and the housing opportunities for persons with AIDS (HOPWA). The plan update provides the allocation of funding for the program year beginning (continued on next page)

RESOLUTION NO. RS2015-1445, continued

April 1, 2015 and ending March 31, 2016. The public comment period for the annual update was held between February 27, 2015 and March 30, 2015, and two public hearings were held. The specific funding allocations for the various programs are included below.

CDBG funds are based on federal funding in the amount of \$4,625,859, which is only about a \$20,000 increase over last year's amount. CDBG funds (not including carryover funds) are to be allocated as follows:

- \$115,000 for property acquisition, disposition, clearance, and demolition for affordable housing
- \$965,170 for administration and planning to increase affordable housing
- \$100,000 for technical training and assistance for businesses
- \$100,000 for assistance to businesses with fewer than five employees
- \$20,000 to increase access to healthy food choices
- \$505,299 for a Section 108 loan repayment for the 1998 East Bank land acquisition
- \$1,180,390 for the repair and rehabilitation of existing homes
- \$300,000 for HVAC replacement for eligible homeowners
- \$540,000 for affordable housing units
- \$50,000 for down payment assistance
- \$250,000 for infrastructure improvements and the expansion and/or rehabilitation of neighborhood facilities
- \$400,000 for a summer youth program
- \$50,000 for fair housing counseling
- \$65,000 for healthy food education and services
- \$50,000 for homeless services
- \$50,000 for technical assistance to nonprofits

HOME funds in the amount of \$1,770,963 to be allocated as follows:

- \$177,096 for administrative costs
- \$189,000 for down payment assistance and new home construction
- \$1,404,847 for the construction of rental affordable housing units

ESG funds in the amount of \$410,588 will be allocated to local homeless shelter providers to help cover operational expenses and essential services. Local matching funds required under this program must be provided by the local non-profits that participate in the program.

The plan update includes \$923,824 for the **HOPWA** program, which provides housing related assistance for low-income persons with HIV/AIDS and their families.

The resolution expressly provides that none of these funds will be used for any property acquisition involving the use of eminent domain, and withholds any approval for the expenditure of CDBG funds for capital improvement projects. All requested expenditures for capital improvement projects are subject to future approval of the council by resolution.

RESOLUTION NO. RS2015-1446 (PRIDEMORE) – This resolution approves an annual grant in the amount of \$29,600 from the Tennessee arts commission to the Metropolitan arts commission for the Arts Build Communities program. These funds will be used to make grants to non-profit organizations for community arts projects. There is a required local match in the amount of \$29,600 to be provided from the Metro arts commission budget.

RESOLUTION NO. RS2015-1447 (PRIDEMORE & BAKER) – This resolution approves an application for a grant in the amount of \$474,948 from the state department of finance and administration to the district attorney to provide services to Hispanic victims of crimes, families that have experienced child homicide, and child sexual and physical abuse victims. These funds will be used to provide coordinators to help such victims navigate the criminal justice system, since they often find the system daunting as a result of their language limitations, maturity, and psychological barriers associated with victimization. This application is for the continuation of a victim’s assistance program grant that has been in place for many years. There will be a required local match of \$118,737.

RESOLUTION NO. RS2015-1448 (PRIDEMORE & BAKER) – This resolution approves an application for a grant in the amount of \$706,464.35 from the U.S. Department of Justice to the mayor’s office to accomplish recommendations identified in the Domestic Violence Safety and Accountability Assessment. The purpose of the grant is in part to pay the salaries of a program manager and training coordinator for three years to provide training to police officers to help identify high risk victims and to increase victim advocacy. The grant application notes that there were 26,641 reports of domestic violence in fiscal year 2014, which represented 45% of all crimes against a person. In addition to funding these two positions for three years, the grant will cover training and travel expenses, contract services, and consultants. The grant will also pay for a civil-legal advocate coordinator position subcontracted with Legal Aid. There is no required local match associated with this grant.

RESOLUTION NO. RS2015-1449 (PRIDEMORE & BAKER) – This resolution approves an application for continuation of a grant in the amount of \$626,220 from the state department of finance and administration to the Metropolitan police department for the victim intervention program. This program provides mental health services and criminal justice system advocacy. These are pass-through grant funds from the U.S. Department of Justice. This grant would pay for mental health professionals who provide 24/7 crisis response and counseling, and for criminal justice advocacy for victims of violent crime. If awarded, there would be a required local match of \$156,555. Metro is seeking to fund the program for three years with this grant.

RESOLUTION NO. RS2015-1450 (PRIDEMORE & BAKER) – This resolution approves a grant in the amount of \$240,000 from the state department of finance and administration to the Metropolitan police department for the Internet Crimes Against Children (ICAC) unit. This grant funds a forensic investigator position dedicated to investigating internet crimes against children. The grant also covers training and equipment for the unit, as well as overtime costs for computer techs working on ICAC cases. A portion of the grant funds (\$60,000) will be sub-granted to other local law enforcement agencies in the Middle Tennessee area. The term of the grant is from July 1, 2015, through June 30, 2016.

RESOLUTION NO. RS2015-1451 (PRIDEMORE & BENNETT) – This resolution approves a grant in the amount of \$3,000 from the state library and archives to the Nashville public library for archives management. The term of the grant is through June 30, 2015.

RESOLUTION NO. RS2015-1452 (PRIDEMORE & BENNETT) – This resolution approves a grant in the amount of \$1,250 from the state library and archives to the Metro parks department to preserve, catalogue, and make available to the public a collection of research pertaining to the Civil War in Middle Tennessee at the Fort Negley park and visitors center. The term of the grant is through June 30, 2015.

RESOLUTION NO. RS2015-1453 (PRIDEMORE, HUNT & WESTERHOLM) – This resolution approves a continuation of a grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds. MDHA has contracted with the Metro historical commission for a number of years to review MDHA proposals and identify historic properties potentially affected by each proposal. The term of this grant is from April 1, 2015, through March 31, 2016.

RESOLUTION NO. RS2015-1454, RS2015-1455 & RS2015-1456 (PRIDEMORE & GILMORE) – These three resolutions approve applications for grants from the Greater Nashville Regional Council to the Metropolitan social services commission for meal delivery and transportation services to eligible senior citizens.

Resolution No. RS2015-1454 approves an application for a grant in the amount of \$86,500 for delivered meals.

Resolution No. RS2015-1455 approves an application for a grant in the amount of \$846,558 to be allocated as follows: \$137,230 for congregate meal sites, \$362,867 for home delivered meals, \$57,839 for home delivered meals, and \$288,622 for meals meeting RDA nutritional guidelines. There would be a required local match of \$78,814.23.

Resolution No. RS2015-1456 approves an application for a grant in the amount of \$70,000 to provide transportation to the congregate meal sites, farmers' market, and medical appointments for eligible seniors and handicapped residents. There would be a required local match of \$7,777.78.

RESOLUTION NO. RS2015-1458 (PRIDEMORE) – This resolution approves an amendment to a grant in the amount of \$22,125 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) for activities that increase the employment, retention, and earnings of participants. The grant consists of \$19,913 in program funds and \$2,212 for associated administrative costs. This amendment deletes the language in the grant pertaining to the use of illegal immigrants at the request of the state.

RESOLUTION NOS. RS2015-1457 AND RS2015-1460 (PRIDEMORE) – These two resolutions approve amendments to 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 offer training to those facing serious barriers to productive employment. These federal pass-through grants provide operating funding for the NCAC. The amendments approve a slight increase in the amount of the grants and delete the language in the grants pertaining to the use of illegal immigrants at the request of the state.

Resolution No. RS2015-1457 approves a \$971 increase in the amount of the dislocated worker grant.

Resolution No. RS2015-1460 approves a \$959 increase in the amount of the adult worker grant.

RESOLUTION NO. RS2015-1459 (PRIDEMORE) – This resolution approves an amendment to a grant in the amount of \$700,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare dislocated workers for re-entry into the labor force, and to provide training for those facing serious barriers to productive employment. This federal pass-through grant provides part of the programming funding for the NCAC. This amendment deletes the language in the grant pertaining to the use of illegal immigrants at the request of the state.

RESOLUTION NO. RS2015-1461 (GILMORE) – This resolution authorizes French’s Shoes and Boots, LLC to install and maintain an aerial sign encroachment at 126 1st Avenue North. This encroachment will consist of an 8 foot tall fiberglass boot sculpture sign mounted to the wall extending 6 feet over the sidewalk. This sign will be almost identical to the Boot Country sign located on Broadway. 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. RS2015-1462 (PRIDEMORE) – This resolution authorizes the department of law to settle Metro’s subrogation claim for in-line-of-duty (IOD) injury benefits paid on behalf of Metro fire department employee Thomas Goad in the amount of \$13,333.33. On July 19, 2011, Thomas Goad, a Metro fire inspector, entered a building located at 2706 Old Lebanon Pike to inspect sprinkler heads that were installed as part of a renovation of the building. Mr. Goad walked into a poorly lit mechanical room and stepped into an open air conditioning duct causing him to fall. Mr. Goad suffered a torn bicep requiring surgery and physical therapy. He has since returned to work, but Metro paid approximately \$26,900 in medical bills and lost wages as a result of this injury.

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RESOLUTION NO. RS2015-1462, continued

Mr. Goad sued the building owners, contractors, and subcontractors that had performed work in the room where he fell. The department of law is of the opinion that if the case went to court, 30-40% of the fault would be assigned to Mr. Goad, which would reduce his recovery. Mr. Goad testified that he did not look down or shine his flashlight on the floor even though he knew the room was not very well lit.

The defendants have offered to settle the lawsuit for a total amount of \$40,000. Since Metro has paid IOD benefits as a result of this injury, Metro is entitled to be subrogated in the event of any monetary recovery Mr. Goad receives as part of a lawsuit. Given that Mr. Goad's recovery would be reduced by the percentage of fault assigned to him at trial, the department of law recommends accepting \$13,333.33 to settle Metro's subrogation claim.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2015-1065 (WEINER) – This ordinance amends the Metro code pertaining to the format of the information to be submitted to the council as part of the pay plan worksheets. The Metro charter requires the civil service commission to develop a pay plan to be submitted to the finance director and mayor, which in turn is submitted to the council for final approval. In 1971, the council enacted an ordinance to require worksheets for the general government, police/fire, and health pay plans to be submitted to the council prior to the time they are to be acted upon. The oddly-worded code language that has been in place since 1971 requires the department of human resources to prepare complex worksheets identifying the base rate or monthly salary for every class title, and showing the total number of Metro employees receiving that base rate or monthly salary plus a growth factor increment. Last year's worksheet document totaled 88 pages and, in the opinion of Metro HR and the council office, is difficult to comprehend and is not very helpful. It is also time consuming for HR to prepare. In order to prepare the document, HR must look at where employees that receive step increments were on the increment scale last year and predict where they are expected to be on July 1 of this year.

Metro HR has proposed simplifying the worksheets to make them more user-friendly and less time consuming to prepare. The new worksheets are to summarize the changes being made to the pay plan and describe the implementation and proposed effective dates. This is essentially the same information the civil service commission receives from HR staff prior to their consideration of the pay plans. It is estimated that this will reduce the size of the document from 88 pages down to 3-7 pages.

ORDINANCE NO. BL2015-1066 (S. DAVIS) – This ordinance amends the Metro beer code to require retail beer permit holders to make restroom facilities available to the public. Businesses that are open to the public are already required to maintain functional restroom facilities. This ordinance would make it a violation of the terms of the beer permit if a retail permit holder selling beer in single containers of less than 64 fluid ounces failed to make restroom facilities available to the public, regardless of whether the individual makes a purchase. The ordinance also prohibits permit holders from allowing public urination on the premises. Public urination is obviously already illegal, but the permit holder is not responsible for such acts on the premises.

The intent of the ordinance is to hold the permit holder responsible for the actions of customers who may have purchased the beer at the permit holder's store, consumed it off site, and then returned. Upon being cited for violating this ordinance, the beer board could suspend or revoke the beer permit, or impose a civil penalty. Given that the beer board only has two beer inspectors, it is unclear as to the level of enforcement this ordinance would receive.

ORDINANCE NO. BL2015-1067 (GILMORE, PRIDEMORE & OTHERS) – This ordinance approves an agreement for the sale and redevelopment of the old convention center property located on a 6.2 acre tract at 601 Commerce Street. The former convention center opened in 1987. In 2013, the council approved several agreements with the Renaissance Hotel that (continued on next page)

ORDINANCE NO. BL2015-1067, continued

resulted in a release of Metro's obligation to continue operating a convention center on the property in exchange for ownership of the hotel property, and approved a 30 year, rent-free, lease for the old convention center meeting and ballroom space. The hotel further agreed to enter into a room block agreement with the convention center authority (CCA) to serve as an overflow hotel for large conventions. The hotel was also granted use of the pedway and other ancillary areas of the convention center for 99 years as part of the 2013 agreements.

The CCA issued a request for qualification (RFQ) in 2013 for developers to submit a proposal for the redevelopment of the old convention center site. The objectives listed in the RFQ were to:

1. Maximize the development opportunities and possibilities for the site;
2. Minimize disruption to the Renaissance Hotel;
3. Encourage expansion of retail development on Broadway;
4. Limit Metro's financial participation and risk; and
5. Incorporate space for the National Museum for African American Music.

Of the five responses to the RFQ, Spectrum I Emery, associating with OliverMcMillan, was selected by the CCA for a \$390 million redevelopment of the site. Spectrum I Emery, formed in 2010, is a real estate company that provides leasing, property management, and development of multi-tenant office buildings. The company currently manages over 1.5 million square feet of office space at the Corporate Centre campus and the Carothers Building. OliverMcMillan, based in San Diego, CA, is a commercial real estate firm that has developed 42 properties, mostly in the western U.S. Its most recent project is Buckhead Atlanta, which comprises a six block area and includes luxury retail, restaurant, and high-rise residential.

Under the terms of the agreement to be approved by this ordinance, the developers will pay Metro \$5 million in cash at closing for the property, and will pay \$250,000 per year to Metro for 25 years starting five years after a certificate of occupancy is issued for the development, which would result in a total payment to Metro of \$11.25 million. The developer will have the option of paying the \$250,000 per year payments in one lump sum at a 7% discount rate. Metro did not procure an independent appraisal for the property, but the property assessor's website lists the value of the property at \$27 million. However, an appraiser would discount the value of the property as a result of the agreements in place with the Renaissance Hotel.

The development is to consist of the following components:

- The existing structure is to be demolished at an estimated cost to the developer of \$7 million
- 50,000 square feet of office space (increasing to 200,000 square feet if the developer acquires the rights to the existing meeting space from the Renaissance Hotel)
- 150,000 square feet of "retail and/or entertainment space", which is not defined in the agreement
- 45,000 square feet as the shell for the National Museum of African American Music (estimated to cost the developer \$11 million)
- A minimum of 250 residential units
- The developer is to construct one or more parking garages for the office and residential components of the project

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ORDINANCE NO. BL2015-1067, continued

- The CCA agrees to pay \$32 million to the developer for the construction of another 781 space two-level underground parking garage, which will be owned by the CCA. The revenue generated by this garage is expected to be sufficient to cover the debt service. The CCA can elect to increase the size of the garage by 400 spaces at an additional cost of \$12 million.
- Although not part of the agreement to be approved by this ordinance, the developer has agreed to spend at least \$7 million to help construct new meeting space for the Renaissance Hotel.

Closing is to take place by December 31, 2015, but may be extended for up to four periods of three months each with a payment to Metro of \$250,000 for each quarterly extension, which will be applied toward the \$5 million purchase price. The agreement provides that the development may be constructed in phases, but redevelopment must commence within six months of closing. The developer will be required to provide quarterly status reports to the director of finance, the CCA president, "and/or" the chairperson of the council budget and finance committee.

The agreement provides that it is conditioned upon council approval not later than June 30, 2015, and upon providing the finance director with proof of financing for the project. The developer will have the right to transfer any completed portion of the project to another owner without Metro's consent, and can grant a security interest in the property to lenders.

The Metropolitan development and housing agency has stated it intends to provide the developer with \$25 million in tax increment financing (TIF). TIF loans are repaid from the incremental increase in taxes created by the project. The developers will apply 75% of the increased property tax revenue toward repayment of the TIF loan, which should be repaid in 12 to 15 years. The remaining 25% of the increased tax revenue will go to the Metro general fund, which is estimated to be \$1.76 million per year once the development is built out.

The RFQ issued for the redevelopment included a requirement that the development include a diversified business enterprise goal of 20% of the project's costs and use of Metro's workforce development program. Although not included within the terms of the agreement, the developer has submitted a letter confirming their commitment to the 20% DBE goal and participation in the workforce development program. Metro's workforce development program is designed to ensure that reasonable efforts are used to hire Davidson County workers on economic development incentive projects. A copy of this letter has been distributed to the council.

The developer retained Dr. Mark Burton, a Research Assistant Professor at the University of Tennessee, to conduct an economic impact study of the proposed development. According to Dr. Burton's analysis, this development would create approximately 2,600 jobs and would generate roughly \$7.9 million in local tax revenue for Metro each year.

The mayor has indicated that the \$5 million proceeds from the sale of the old convention center site will be dedicated to the Barnes Fund for Affordable Housing. However, such funds would be subject to appropriation by the council after closing on the property.

The ordinance provides that amendments to the agreement are subject to approval of the council by resolution.

ORDINANCE NO. BL2015-1068 (ALLEN) – This ordinance abandons a portion of the Alley No. 922 right-of-way from Belcourt Avenue southward to Alley No. 917 between 17th Avenue South and 18th Avenue South. This right-of-way abandonment has been requested by Civil Design Group, PLLC to allow for the consolidation of property for development. The ordinance also abandons all 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. BL2015-1069 (TODD) – This ordinance abandons a portion of the Forsythe Place right-of-way from Lynwood Boulevard to Harpeth Hills Drive. This right-of-way abandonment has been requested by Chandelier Development. The ordinance retains all 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. BL2015-1070 (TODD) – This ordinance abandons a portion of the Franklin Pike Circle right-of-way on properties located at 5644 and 5648 Franklin Pike Circle. This section of right-of-way dead ends prior to reaching Old Hickory Boulevard. This right-of-way abandonment has been requested by Dale & Associates. The ordinance also abandons all utility easements, but Nashville Electric Service facilities are to remain in place until an agreement is reached with NES for relocation or removal. 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. BL2015-1071 (GILMORE) – This ordinance authorizes Fountains of Germantown Holdings, LLC to install and maintain structural and aerial encroachments in the right-of-way at 1401 and 1403 3rd Avenue North, 1408 and 1410 4th Avenue North, and 302 Taylor Street. These encroachments will include a sky bridge with festival lights, stoop, upper balcony, awning, and sign. The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachment, and is required to maintain \$2 million in liability insurance naming Metro as additional insured.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1072 (GILMORE) – This ordinance authorizes Gulch Hotel Owner, LLC to install and maintain an aerial and underground encroachment along 11th Avenue South, 12th Avenue South, and Pine Street for the Thompson Hotel in the Gulch. These encroachments will include an entry canopy, signage, and irrigation lines. The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachment, and is required to maintain \$2 million in liability insurance naming Metro as additional insured.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1073 (PRIDEMORE, A. DAVIS & HUNT) – This ordinance authorizes the acceptance of temporary and permanent easements for nine properties located along Bixler and Delaware Avenues for the Bixler Avenue stormwater improvement project. There should be no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1074 (BENNETT, A. DAVIS & HUNT) – This ordinance authorizes the acceptance of temporary and permanent easements for 17 properties located along Hart Lane, Hutson Avenue, and Ben Allen Road for a stormwater improvement project. There should be no cost associated with acquisition of the easements identified in the ordinance. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL205-1075 (LANGSTER, A. DAVIS & HUNT) – This ordinance abandons 160 linear feet of an 8-inch sewer main and authorizes construction for 231 feet of replacement sewer main for properties located at 250 26th Avenue North and 26th Avenue North (unnumbered). Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

– BILLS ON THIRD READING –

ORDINANCE NO. BL2015-1055 (S. DAVIS) – This ordinance amends the Metro zoning code to allow commercial amusement as a use permitted with conditions in the industrial general (IG) zoning district. Indoor commercial amusement is defined in the zoning code as “the provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to a bowling alley or billiard parlor.” This use is allowed by right in all mixed use, commercial, downtown, shopping center, office residential, and the less-intense industrial districts (IWD and IR). Outdoor commercial amusement is defined as “the provision of entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside of a building, including but not limited to a golf driving range, archery range or miniature golf course.” This use is permitted by right in the downtown, shopping center, mixed-use, and commercial zoning districts. It is permitted as a special exception in the IWD and IR districts.

This ordinance would allow both indoor and outdoor commercial amusement in the IG zoning district with conditions. The purpose of this bill is to allow the proposed Topgolf facility to operate on an industrially-zoned parcel of property in District 5 without having to rezone the property. The conditions that would be applicable are as follows:

1. The location of the facility would be limited to the industrial area bounded by the Cumberland River, I-65, and I-24.
2. All light and glare must be directed on-site to ensure surrounding properties are not adversely impacted by increases in direct or indirect ambient lighting levels.
3. Adequate fencing must be provided to ensure golf balls or other airborne sports equipment do not fly into abutting or adjacent properties and streets.
4. The facility may have retail, restaurant, and similar commercial uses as accessory uses so long as such uses are operated by the same business establishment operating the principal use.
5. The traffic engineer may require a traffic management study to determine what, if any, improvements may be necessary to accommodate projected traffic to and from the facility.

The planning commission recommended disapproval of this ordinance. The planning staff recommendation of disapproval noted that the requested text amendment is basically tailored to address a specific use at a specific location. The staff recommendation also noted that allowing commercial amusement uses in the IG zoning district could impact the safety of customers since the IG zoning district is intended for heavy industrial uses.

ORDINANCE NO. BL2015-1056 (ALLEN, BARRY & OTHERS) – This ordinance amends the Metro code to dedicate the local portion of the hotel/motel taxes generated by short term rental properties (STRPs) to the Barnes Fund. The council approved an ordinance creating the Barnes Fund in July 2013 for the purpose of “assisting in the development and provision of good quality affordable housing for Davidson County residents of limited means.” The ordinance also appropriated \$2,279,040 in urban development action grant loan repayments to provide the initial funding for the Barnes Fund. The council approved an additional \$500,000 appropriation for the fund as part of the fiscal year 2015 operating budget.

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ORDINANCE NO. BL2015-1056, continued

Hotels and motels in Davidson County are required to collect and remit certain "tourist accommodation taxes". These taxes, which were created by state law and incorporated by the council into the Metro code, include the 6% hotel/motel tax and an additional \$2.00 per room night hotel occupancy privilege tax. State law specifies that the proceeds from the 6% hotel/motel tax (six cents for every dollar charged for the room) must be allocated as follows:

- 2% for the debt service on the convention center
- 2% for the direct promotion of tourism, which is used to fund the contract with the Nashville Convention & Visitors Corporation
- 1% for tourist-related activities, which may (and currently does) include funding a convention center
- 1% to the Metro general fund.

This ordinance would direct the 1% portion allocated to the Metro general fund that is generated by STRPs for appropriation to the Barnes Fund. The other 5% of the hotel/motel tax, as well as the \$2.00 per room night hotel privilege occupancy tax, remitted by STRPs would be allocated in the same manner as the funds remitted by all other hotels and motels. This ordinance only pertains to the 1% local portion that is kept by Metro for appropriation as part of the general fund, which the council has the authority to appropriate as it sees fit. The council would still need to appropriate these funds to the Barnes Fund annually as part of the operating budget, but the funds could not be spent for any other purpose.

Although STRPs have legally been required to collect and remit hotel/motel taxes all along, few have been doing so. The new STRP permitting process will help Metro to ensure the STRPs are collecting and remitting the required taxes.

Based on searches of popular internet vacation rental sites, there may be more than 1,500 STRPs operating in Davidson County (though some of these may be offered on more than one site). This compares to the 26,186 traditional hotel and motel rooms in the county, which have an average occupancy rate of approximately 73%. The 1% hotel/motel tax remitted to the general fund averages \$680,500 per month based on the past seven months of collections.

Without knowing the exact number of STRPs and the amount each is charging, it is virtually impossible to do an apples-to-apples comparison with traditional hotels/motels to determine the amount of revenue this ordinance would direct to the Barnes Fund. Assuming 1,500 STRPs that have the same average annual occupancy percentage as hotels in Davidson County start remitting the tax, and assuming a room rate of \$100 per night, this ordinance could theoretically generate approximately \$400,000 per year for the Barnes Fund. However, this is purely speculation at this point. The council office is of the understanding that the finance department projections may be lower than \$400,000, but the office has not seen those projections.

The designation of these tax dollars for the Barnes Fund is to take effect on July 1, 2015.

ORDINANCE NO. BL2015-1057 (A. DAVIS & ALLEN) – This ordinance amends the Metro code to increase the size of water meters that will be furnished by Metro water services (MWS) to residential customers. The code currently provides that MWS will furnish water meters 5/8 of an inch in size. However, an increasing number of residential customers need a one inch meter to provide adequate water flow due to the distance or elevation of the home, or to provide the necessary volume and pressure to supply an automatic sprinkler system. This ordinance provides that MWS will furnish a water meter one inch in size or less to residential customers. The customer will be responsible for furnishing meters larger than one inch.

ORDINANCE NO. BL2015-1058 (MATTHEWS, PRIDEMORE & HUNT) – This ordinance declares property located at 3646 Old Clarksville Pike 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. This is the former location of fire station 30, which has been replaced with a new station located at 3715 Clarksville Highway. The proceeds of the sale will be credited to the general fund.

ORDINANCE NO. BL2015-1059 (A. DAVIS, ALLEN & HUNT) – This ordinance abandons water and sewer easement rights for property located at 610 Merritt Avenue. The easement rights are no longer needed by the department of water and sewerage services. Future amendments to this ordinance may be approved by resolution. These ordinances have been approved by the planning commission.

ORDINANCE NO. BL2015-1060 (GILMORE, A. DAVIS & HUNT) – This ordinance abandons 125 linear feet of a 48-inch sewer main and easement, and accepts 215 feet of replacement line and easement for properties located at 210 and 310 First Avenue South. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1061 (TENPENNY) – This ordinance names the frontage road off Antioch Pike on the east side of I-24 "McIllwain Place". This street naming has been requested by James McIllwain. The McIllwain's home is the only address on this road, and they currently use an Antioch Pike address. They have had difficulty having the road maintained since it is unnamed, and are concerned about first responders being able to locate the property. This ordinance has been approved by the planning commission with a recommendation that Mr. McIllwain relocate his mailbox from Antioch Pike to the front of his property on the newly named road.

ORDINANCE NO. BL2015-1062 (LANGSTER) – This ordinance abandons Alley No. 701.5 between 31st Avenue North and Alley No. 719. All affected property owners have consented to the abandonment. This ordinance was requested by Barge Waggoner Sumner & Cannon to allow for the consolidation of the parcels for the purpose of constructing a new building on the property. The ordinance also abandons all utility easements. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1063 (HARMON) – This ordinance readopts the Metro code to include ordinances enacted on or before September 22, 2014.