



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director
Metropolitan Council Office

COUNCIL MEETING DATE: **August 4, 2015**

RE: **Analysis Report**

Unaudited Fund Balances as of 7/29/15:

4% Reserve Fund	\$41,062,816*
Metro Self Insured Liability Claims	\$3,109,571
Judgments & Losses	\$2,531,853
Schools Self Insured Liability Claims	\$2,706,254
Self-Insured Property Loss Aggregate	\$4,227,691
Employee Blanket Bond Claims	\$667,175
Police Professional Liability Claims	\$2,685,016
Death Benefit	\$980,568

*Assumes unrealized estimated revenues in fiscal year 2016 of \$27,338,355.

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2015-1585 (TODD) – This resolution approves an exemption for Zoe’s Kitchen located at 6025 Highway 100 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 AND SECOND READING –

ORDINANCE NO. BL2015-1064 (S. DAVIS) – This ordinance amends the Metro zoning code to allow detached accessory dwelling units in the CL (commercial limited) zoning district as a use permitted with conditions. In June 2014, the council approved a zoning text change to allow detached accessory dwellings on lots within the R districts with certain conditions. The lot must not be within a historic overlay or urban design overlay and must have a single-family home on the lot. The lot must also have access to an improved alley or be in excess of 15,000 square feet in size. The property owner must own both the single family home and the detached accessory dwelling, and at least one of the two dwellings must be occupied by the owner. The living area for the detached dwelling is limited to 700 square feet, and the footprint of the structure is limited to 1,000 square feet.

This ordinance essentially expands the 2014 ordinance to include single family homes built on lots in the CL zoning district.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2015-1253 (GILMORE) – This ordinance amends the Downtown Zoning Code (DTC) to increase the maximum permitted height for certain transitional properties in the Lafayette subdistrict. Specifically, this ordinance is to accommodate a proposed 15-story hotel to be built at 415 4th Avenue South. The DTC currently limits the height in this area to eight stories unless properties in this subdistrict have frontage to Korean Veterans Boulevard. This ordinance increases this limitation to 15 stories for these transitional properties.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1254 (HAGAR, WESTERHOLM & OTHERS) – This ordinance amends the Metro zoning code to designate mineral extraction as a use permitted with conditions in the IG zoning district. The zoning code defines “mineral extraction” as the extraction of metallic and nonmetallic minerals or materials, including rock crushing, screening and the accessory storage of explosives. Mineral extraction is currently permitted by right in the IG (industrial general) district and as a special exception use in the IR (industrial restrictive) district. Rock quarries are considered a mineral extraction activity.

This ordinance would make mineral extraction a use permitted with conditions in the IG district instead of permitted by right. The ordinance includes many of the same conditions applicable to mineral extraction in the IR district such as street standards, landscape buffers, and performance standards, but would provide for a greater setback. Mineral extraction activity in the IG district would have to be at least 1,000 feet from a residential structure and 2,000 feet from the property line of a park.

This ordinance has been referred to the planning commission. Since this ordinance was not considered by the planning commission at their July 23 meeting, and less than 30 days have elapsed since the date of referral, the Council Rules would need to be suspended in order for the public hearing to be held at the August 4 council meeting.

ORDINANCE NO. BL2015-1255 (ALLEN) – This zoning code text change would permit the transfer of development rights from historic properties to other non-historic properties. The transfer of development rights is a method of protecting specific properties from development by enabling the property owners to “transfer” (through sale or donation) their unused development rights to another site. Local governments were given the authority under state law in 2001 to enact transfer of development rights provisions. In 2007, the council approved an amendment to the zoning code to allow owners of property within any downtown historic preservation district to transfer their development rights to other properties in the downtown area. However, no one ever took advantage of this tool. This provision was recently removed from the regular zoning code in lieu of incentives provided through the downtown zoning code.

This ordinance approves an expanded transfer of development rights program that would be available for historic properties throughout the urban services district. The ordinance largely mirrors the previous code provisions for the transfer of development rights in the downtown area. This ordinance would be available for owners of properties that have been identified by the historical commission as being listed (or eligible for listing) on the National Register of Historic Places or identified as a contributing property within a historic overlay district. The development rights could be transferred to any property within the urban services district having frontage on an arterial or collector street.

Unlike the previous transfer of development rights provisions, which required the planning department to approve the application, this ordinance would more appropriately place this authority with the codes department. Once the sending and receiving sites have been approved by the codes department, a written document must be filed with the register of deeds that lists the square footage being transferred. After this document has been recorded, the sending site will forfeit any future opportunity for increased intensity of development.

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ORDINANCE NO. BL2015-1255 (continued)

Outside of the transferred permissible square footage, all other development standards such as building heights and setbacks will continue to apply to both the sending site and the receiving site. Thus, just because the owner of a receiving site pays for the transfer of development rights to obtain a square footage bonus does not mean the property owner will be able to construct a building that is taller than what the base zoning would allow.

This ordinance has been referred to the planning commission. Since this ordinance was not considered by the planning commission at their July 23 meeting, and less than 30 days have elapsed since the date of referral, the Council Rules would need to be suspended in order for the public hearing to be held at the August 4 council meeting.

– RESOLUTIONS –

RESOLUTION NO. RS2015-1586 (WEINER, MITCHELL & OTHERS) – This resolution approves an amended economic impact plan for the Bellevue Center mall, and authorizes the industrial development board (IDB) to take the necessary action to implement the plan. State law allows local industrial development boards to submit an economic impact plan for qualifying areas, which include areas containing an industrial park or certain commercial enterprises and office facilities. Once an economic impact plan has been approved by the local legislative body, the local industrial development board can issue bonds pledged by tax increment financing (TIF) based on the increased property taxes resulting from the development. TIF is a financing mechanism authorized by state law whereby the increased tax revenue generated by a development is used to pay the debt service on bonds issued for the construction of the project.

In 2008, the council approved an economic impact plan for 83 acres of the Bellevue mall property located on the north side of Interstate 40, east of Highway 70 South. The 2008 plan proposed that the IDB issue bonds not to exceed a maximum amount of \$12,287,000 to assist with the financing of the project. The proceeds of the bonds were to be used to construct a public space at the mall, update the signalization on Sawyer Brown Road and Highway 70, construct a privacy wall on the north end of the mall property, build a sidewalk along a portion of Sawyer Brown Road, and upgrade the water and sewer lines in the area. The previous developer was unable to secure the necessary financing for the proposed development, so the IDB never implemented the plan.

The new developer plans to build a \$167 million multi-use project on the mall property. The economic impact study incorporated into the plan estimates the project would consist of 380,000 square feet of retail and restaurant space, a 110-room hotel, 360,000 square feet of commercial space, and a 330-unit residential development. Dr. Mark Burton from the University of Tennessee, who was hired by the developer to prepare the economic impact study, estimates the project will create 999 jobs in the construction phase, and ultimately create over 2,800 jobs. This development would generate \$2.7 million annually in property taxes for Metro after the TIF period ends plus \$3.8 million per year in local sales taxes. The economic impact study for the previously proposed retail development on the Bellevue mall site in 2008, which was also prepared by Dr. Burton, estimated the local option sales tax receipts for the redeveloped mall would be \$7,875,000 annually.

In order to make the project financially feasible, the new developer is seeking \$15 million in TIF through the IDB. The IDB would take title to the property and issue up to \$15 million in debt that would be backed by the increased property taxes that would otherwise be generated. The maximum term on the TIF-backed debt would be 30 years. Pursuant to an ordinance enacted by the council in 2013, the developer will be required to establish a goal of spending a minimum of 20% of the project's costs with small, minority-owned, and women-owned business enterprises.

RESOLUTION NO. RS2015-1587 (PRIDEMORE & LANGSTER) – This resolution approves an amendment to a sole source contract with Helicorp to supply helicopter parts for the police department. Sole source contracts may be awarded under the Metro procurement code when it is determined that there is only one source for the supply or services rendered. The police
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RESOLUTION NO. RS2015-1587 (continued)

department has had a contract with Helicorp for a number of years, as this company is the only authorized service center and parts retailer in Tennessee for Metro's helicopters. This amendment adds a contingency plan to use the services of a Helicorp mechanic on an as-needed basis in the event of a Metro personnel shortage or a significant increase in maintenance requests. If needed, Helicorp will be paid \$95 per hour for the mechanic services.

RESOLUTION NO. RS2015-1588 (PRIDEMORE, BAKER & LANGSTER) – This resolution approves a grant in the amount of \$225,000 from the state department of finance and administration to the Metro office of family safety for the state STOP Violence Against Women grant program. These funds will be sub-granted to the Legal Aid Society for the creation and supervision of a civil-legal advocate program, expansion of the Legal Aid Society's current volunteer program, streamlining the client referral system, and making client eligibility determinations in a timely manner so as to allow for attorney contact prior to an order of protection hearing. There is a required in-kind match of \$25,000 for this grant.

RESOLUTION NO. RS2015-1589 (PRIDEMORE, BAKER & LANGSTER) – This resolution approves an application for the Edward Byrne Memorial Justice Assistance Grant in the amount of \$471,676 from the U.S. department of justice to the Metropolitan police department for equipment and supplies for direct support for basic police, in-service, or specialized training. These funds would be used for mandatory training needed for criminal investigation certification, specialized training and equipment for officers involved in computer forensic investigations, and various technology and exercise equipment.

RESOLUTION NO. RS2015-1590 (PRIDEMORE, BAKER & LANGSTER) – This resolution approves a routine agreement between the U.S. drug enforcement administration (DEA) and the Metropolitan police department for assistance with the Middle Tennessee drug enforcement task force. The purpose of the drug enforcement task force is to gather intelligence data and conduct undercover operations related to illegal drug trafficking. The police department assigns one officer to the task force. The DEA assigns three special agents to the task force, and provides the necessary funds and equipment to support the activities of the task force. The DEA agrees to reimburse the police department for overtime costs paid by Metro up to \$17,548 per officer participating in the drug enforcement task force. The term of this grant is from the date of its execution through September 29, 2016.

RESOLUTION NO. RS2015-1591 (DUVALL, DOWELL & OTHERS) – This resolution authorizes the director of public property to exercise an option to purchase 9.44 acres of property on Old Hickory Boulevard in the Antioch area for use as parks open space. This is a companion to Resolution No. RS2015-1577 approved last month that authorized the acquisition of 537 acres in this area to be used as park land. The Conservation Fund was unable to finalize negotiations with the owner of this property before the filing deadline for the previous resolution. The appraised fair market value for this tract is \$264,858, but the purchase price will be \$311,520. (continued on next page)

RESOLUTION NO. RS2015-1591 (continued)

Since Metro cannot spend public funds to acquire property above value, the difference between the purchase price and fair market value is being factored in as part of the \$4.2 million donation from the Joe C. Davis Foundation to purchase property in the area.

This resolution authorizes the execution of the option that has been obtained by the Conservation Fund and assigned to Metro. The Metro code allows for the acquisition of property through the exercise of a negotiated option to sell at a fixed price, which is subject to approval of the council by resolution.

This resolution has been approved by the planning commission and the parks board.

RESOLUTION NO. RS2015-1592 (MATTHEWS, PRIDEMORE & OTHERS) – This resolution authorizes the director of public property to exercise an option to purchase 568.2 acres of property located on Marrowbone Road and Whitlow Mountain Road for the expansion of Beaman Park. The current owners of the property are Harris A. Gilbert, Pauline Gilbert Bader, and Charles Gilbert, Jr. Metro has an option to acquire this property for \$568,000, which is \$283,500 less than the fair market value. The purchase price is to be paid out of capital funds approved for open space acquisition.

The Metro code allows for the acquisition of property through the exercise of a negotiated option to sell at a fixed price, which is subject to approval of the council by resolution.

This resolution has been approved by the planning commission and the parks board.

RESOLUTION NO. RS2015-1593 (PRIDEMORE, BENNETT & LANGSTER) – This resolution approves an 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 program 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 by \$64,008 for year six, for a new total of \$866,197.67.

RESOLUTION NO. RS2015-1594 (BENNETT, PRIDEMORE & A. DAVIS) – This resolution approves an intergovernmental agreement between the state department of transportation (TDOT) and the Metropolitan Government for construction of sidewalks along Hart Lane near Jere Baxter Middle School. TDOT has awarded a grant of \$1,499,979.40 in federal pass-through funds with a required local match of \$374,994.85 for this project, which will consist of the remediation of a rock cut slope for the reconstruction of sidewalks along Hart Lane from Jere Baxter Middle School to Ellington Parkway. The project will also include signage, a crosswalk, and the relocation of utilities. Metro's match will be provided from capital funds designated for sidewalks. Construction of the project must commence not later than November 1, 2018 and must be completed by November 1, 2020.

RESOLUTION NO. RS2015-1595 (MATTHEWS, A. DAVIS & HUNT) – This resolution approves an intergovernmental agreement between the state department of transportation (TDOT) and the Metropolitan Government for the acceptance of improvements to the Whites Creek Pike bridge over Earthman Fork. Metro agrees to transfer any land it owns that is needed for the bridge project, as well as to relocate Metro facilities as necessary. Metro will assume responsibility for the bridge once the improvements are made by the state.

RESOLUTION NO. RS2015-1596 (PRIDEMORE & A. DAVIS) – This resolution approves an application for a state recycling grant in the amount of \$52,328. The state technically calls this a “rebate”, but it functions in the same manner as a grant. These funds will be used to partially defray the cost of operating the Metro recycling centers. There will be a required match of \$52,328 to be provided from the department’s operating budget.

RESOLUTION NO. RS2015-1597 (GILMORE) – This resolution authorizes HRT of Tennessee, Inc. to construct and maintain an aerial pedestrian walkway to be constructed at a new parking garage located on Hayes Street. The walkway will be constructed across Hayes Street and will connect the existing Midtown Medical Plaza parking garage with the new Hayes Street garage. The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the encroachments, and is required to post a \$5 million 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. RS2015-1598 (PRIDEMORE & BAKER) – This resolution authorizes the department of law to settle the lawsuit brought by Lela McKee on behalf of her son, Tommy Allen, against the Metropolitan Government for the amount of \$62,500. On December 10, 2011, Mr. Allen was killed by a drunk driver while he was crossing Demonbreun Street near the Red Rooster bar. Mr. Allen and a friend were attempting to cross the street outside of the crosswalks when they were hit by a car driven by Trevor Bradshaw. Mr. Bradshaw ultimately pled guilty to driving under the influence and vehicular homicide and served six months in jail. Mr. Allen remained in the hospital for two months before he died as a result of the injuries sustained. While hospitalized, Mr. Allen incurred medical bills in excess of \$647,000.

Ms. McKee filed a wrongful death lawsuit against the drunk driver, the drunk driver’s passenger, the employer that hosted the party at which the driver consumed alcohol, and the Metropolitan Government. The plaintiff alleges Metro was negligent in not correcting a dangerous condition on the roadway where the accident occurred.

In order for Metro to be liable for damages in a negligence action, the plaintiff must show there was a dangerous or defective condition and that the government had actual or constructive notice of such condition. Between 2003 and 2011, there were three pedestrian-vehicle accidents outside of the crosswalks on this section of Demonbreun. Metro public works received five complaints during this time period about pedestrians crossing outside of the crosswalks at this location. One of the complaints was from a police officer and one was from a Nashville fire (continued on next page)

RESOLUTION NO. RS2015-1598 (continued)

department employee made one month before the accident. The plaintiff's three expert witnesses have opined that Demonbreun was unsafe and lacked the proper pedestrian controls and signage. There is proof from multiple sources that a large number of pedestrians crossed Demonbreun outside of the crosswalks in this area going to and from the parking lots and the bars and restaurants. Further, the plaintiff's experts have identified a number of additional safety measures that Metro could have taken at a rather minimal cost.

In calculating the amount of damages in a wrongful death action, the jury looks at the actual damages such as medical bills and funeral expenses, as well as the pecuniary value of life, which includes loss of earning capacity. Mr. Allen was in his early twenties at the time of the accident, so he had a significant loss of earning capacity. It is likely that a court would determine the pecuniary value to be between \$1 million and \$2.3 million. A total damage award if the plaintiff prevailed at trial against any remaining defendants could exceed \$3 million.

The department of law recommends setting this case for \$62,500 to be paid out of the self-insured liability fund. Both state and Metro law require pedestrians crossing a roadway outside of a crosswalk to yield the right-of-way to vehicles, and pedestrians are not to cross between two signalized intersections. Since Mr. Allen was not obeying the law while crossing the street, a significant portion of the fault would be assigned to him. Under Tennessee's system of comparative fault, the plaintiff would not be awarded any monetary damages if the jury found that Mr. Allen was at least 50% responsible for the accident. However, the department of law believes a jury would assign less than 50% of the fault to Mr. Allen given the sympathetic nature of the plaintiff and the fact that such a determination would mean no judgment would be entered against the drunk driver. Thus, a small portion of the fault could be assigned to Metro. A fault assignment of as little as 5% would result in Metro paying \$150,000, plus an estimated \$15,000 to \$20,000 for the government's own experts preparing for and testifying at the trial. Lawsuits against Metro under the Tennessee governmental tort liability act are typically tried by a judge, not a jury. However, since Metro is not the only defendant in this case, a jury demand was granted.

This settlement of \$62,500 represents only 2% of the fault being assigned to Metro. The department of public works has installed additional pedestrian signage in the area since the time of this accident. Further, condominium developments have replaced the open parking lots, which divert pedestrian traffic to the crosswalks.

– BILLS ON SECOND READING –

ORDINANCE NO. BL2015-1098 (EVANS & BEDNE) – This ordinance amends the zoning code provisions pertaining to the minimum campus size requirements for elementary, middle, and high schools, and would allow schools to be located by right in the IWD zoning district. The code currently allows schools to be located in most of the zoning districts excluding the shopping center, office neighborhood, commercial neighborhood, and industrial zoning districts. The minimum campus size is currently based upon the type of school and number of students as follows:

<u>School Type</u>	<u>Minimum Campus Size</u>
Elementary (K—8)	5 acres + 1 acre/100 students
Middle (5—9)	10 acres + 1 acre/100 students
High (7—12)	15 acres + 1 acre/100 students

Public park space abutting the school site may be calculated to meet the minimum campus size, provided the metropolitan board of parks and recreation approves the site for shared use. The board of zoning appeals (BZA) can approve smaller lot sizes, provided the school does not offer extracurricular activities. In no event can the BZA permit a school on a lot less than two acres in size for a school with 75 or fewer students, or three acres for schools with more than 75 students plus an additional acre for every 100 students.

This ordinance would allow the BZA to permit new schools on smaller lots as a special exception as long as the total lot size is at least three acres and no athletic activities will take place on the property. Prior to granting a special exception for a reduced lot, the BZA is to obtain a recommendation from the planning department as to whether a school on the proposed site is consistent with the applicable land use policy for the area. The ordinance would also allow new schools to operate in a building that was previously used to house a church or school within the past five years, regardless of the lot size. This is to encourage the adaptive reuse of existing structures.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1145 (DOWELL & BAKER) – This ordinance, as amended, amends the Metro code to adopt a more recent edition of several standard building and fire codes. Copies of the new editions of the standard codes are on file with the Metropolitan Clerk. Although these codes have been updated, Metro is still operating under the 2006 versions of the codes. Metro is required by state law to keep our codes current within seven years of the latest published edition of the model codes. This ordinance adopts the 2012 edition of the fire, life safety, building, residential, energy, gas/mechanical, and plumbing codes.

The various building and fire codes are adopted at the same time to avoid conflicts between the codes. The new standard codes have been approved by the board of fire and building code appeals, the board of plumbing examiners and appeals, and the board of gas/mechanical examiners and appeals. The codes department has notified the various construction trade associations of Metro’s intention to adopt the 2012 codes and has posted the ordinance on the department’s website. All of the surrounding cities and counties are already using the 2012 editions of the codes, so it should not pose a challenge to builders and contractors.

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ORDINANCE NO. BL2015-1145 (continued)

Generally, Metro also adopts some amendments to the standard codes that are local in nature, which are included as part of this ordinance. According to the codes department director, this ordinance actually adopts fewer local amendments than in prior years in order for the codes to be more consistent with the model building and fire codes as published by the International Code Council, which means Metro's codes will be more consistent with other cities. The remaining local amendments are basically in keeping with prior code adoptions to make the code consistent with state law and Metro's appeal processes.

There will be a substitute offered for this ordinance that makes some changes to the local amendments at the request of the codes department based upon discussions with the development community.

ORDINANCE NO. BL2015-1212 (S. DAVIS) – This ordinance amends the Metropolitan Code to prohibit the sale of single container beers by off-sale beer permit holders within 100 feet of a facility that regularly provides food to homeless persons. The Metro code currently provides that certain acts by beer permit holders are prohibited, such as the sale of beer to minors, the sale to intoxicated persons, allowing criminal activity on the premises, and allowing intoxicated persons to loiter on the premises. This ordinance would expand the list of prohibited activities to prohibit retail permit holders from selling single cans or bottles of beer within 100 feet of a facility that provides food to homeless persons more than once per week, unless a special exemption from this prohibition is approved for the retailer by a resolution of the council receiving at least 21 affirmative votes.

ORDINANCE NO. BL2015-1280 (DUVALL) – This ordinance amends the Metro property standards code to prohibit the excessive accumulation of wood chips/mulch. The Metro code currently prohibits the accumulation of trash and debris on residential property, but does not specifically address the dumping of large amounts of mulch for use as fill material.

This ordinance would prohibit owners and occupants of property of one-half acre in size or greater from covering more than five percent of the total lot area with wood chips/mulch. Such property owners could continue to use mulch for landscaping purposes as long as they do not exceed the five percent maximum lot coverage. This ordinance exempts commercial establishments engaged in the sale of mulch, as well as Metro property used for the collection and/or sale of mulch.

An identical ordinance was withdrawn at the end of the previous council term.

ORDINANCE NO. BL2015-1304 (GILMORE, PRIDEMORE & HUNT) – This ordinance relinquishes the Metropolitan Government's interest in property located at 1312 3rd Avenue in exchange for a payment of \$100,908.88 from Neighborhoods Resource Center (NRC). Metro sold this property to NRC in 2007 for \$86,000, but retained a reversionary interest in the property in case NRC stopped using the property for its charitable purposes. In the event the property reverted to Metro, NRC would be reimbursed for its investment in the property and the appreciation of the property. The deed included a rather complex formula for calculating the amount NRC would receive in the event the property reverted to Metro.

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ORDINANCE NO. BL2015-1304 (continued)

NRC desires to buy out Metro's reversionary interest so it can sell the property. At the time it was transferred, the value of the property was \$147,000. NRC has spent approximately \$210,000 improving the property since then, and the current appraised value is \$590,000. NRC is offering to buy Metro's interest for \$100,908.88, which is equivalent to the amount of equity Metro would have in the property if ownership reverted to Metro.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1305 (PRIDEMORE, HUNT & OTHERS) – This ordinance declares properties located at 349 21st Avenue North and 2025 Richard Jones Road to be surplus and authorizes the director of public property administration to sell the properties in accordance with the standard procedures for the disposition of surplus property. These are the former locations of two fire stations (engine companies 19 & 20), which have been replaced with new stations. The sale proceeds will be credited to the general fund.

ORDINANCE NO. BL2015-1306 (PRIDEMORE & DUVALL) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes for the benefit of American Standard Brands. American Standard is a national manufacturer of kitchen and bath fixtures that plans to relocate a manufacturing facility and operate a call center at the facility formerly occupied by Whirlpool located at 1714 Heil Quaker drive in LaVergne. It is estimated that American Standard will employ 600 full-time employees at the facility and make a capital investment of approximately \$22,750,000.

State law permits local governments to delegate the authority to industrial development boards to enter into payment-in-lieu-of-tax (PILOT) agreements provided the payments are in furtherance of the public purpose of the board. PILOT agreements essentially provide tax abatements for real and/or personal property taxes the company would otherwise be required to pay to the Metropolitan Government. PILOTs are a tool utilized by Metro to provide incentives to large employers to create more job opportunities, and are subject to approval by the council.

This ordinance would provide a 50% real property and personal property tax abatement for five years. Specifically, the abatement would be 50% of all of the personal property taxes and 50% of the difference between the current real property taxes of \$114,258 and what would otherwise be owed as a result of the improvements to the property. This would result in a total tax abatement over the five years of approximately \$712,000. The tax abatement would terminate early in the event American Standard failed to maintain at least 480 full time employees at the facility.

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ORDINANCE NO. BL2015-1306 (continued)

As required by the Metro Code, American Standard will be required to manage a diversified business enterprise (DBE) program with a goal of 20% of the project's hard construction costs spent with DBE firms. The company would be required to provide quarterly reports to the council regarding the DBE participation. The company will also be required to use Metro's workforce development program to ensure reasonable efforts are made to use Davidson County residents in the construction of the project.

ORDINANCE NO. BL2015-1307 (TODD, PRIDEMORE & OTHERS) – This ordinance approves an agreement between Metro and Sprint Communications regarding the construction of a pedestrian tunnel at Edwin Warner Park. Metro plans to construct a pedestrian tunnel under the CSX railroad tracks near Highway 100 at Warner Park. In order to build the tunnel, certain telecommunications cable owned by Sprint that is located within the CSX railroad right-of-way needs to be relocated. There is some dispute as to the property interests held by CSX, Sprint, and Metro, and the party that is responsible for paying for the relocation work. The relocation cost for the Sprint cable is estimated to be around \$430,000. In order to avoid costly litigation, Metro desires to enter into this agreement whereby Metro will pay up to \$150,000 of the relocation costs and will grant a perpetual easement to Sprint for other Sprint cables currently located in railroad rights-of-way adjacent to Metro-owned property.

The agreement also includes language releasing Sprint (and any railroad from which Sprint acquired the right to install and maintain cable) from all claims arising out of the ownership of the telecommunications facilities in the right-of-ways.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1308 (MATTHEWS, PRIDEMORE & HUNT) – This ordinance approves an agreement between Metro and Piedmont Natural Gas Company for the payment of \$159,617 and the conveyance of Metro-owned property to reimburse Piedmont for its costs to relocate a gas line during the construction of the downtown ballpark. After financing for the ballpark was approved, it was determined that a natural gas line needed to be moved in order to construct the ballpark. Piedmont relocated the gas line at a cost of \$529,901.40. This cost was not factored into the construction price of the ballpark at the time the financing was approved.

Metro owns three parcels of property totaling approximately 80 acres near County Hospital Road in the Bordeaux area that is located next to a Piedmont natural gas plant. The appraised value of this property is \$273,383. Metro currently uses a portion of this property for a mulching facility, which is operated by Red River. The contract with Red River for operation of the facility extends through November 20, 2016. The remainder of the property is open space.

Pursuant to this ordinance, Metro will be transferring the property to Piedmont plus a \$159,617 payment to Piedmont to partially make up the difference between the appraised value of the property and Piedmont's costs to relocate the gas line. Metro will retain ownership of the property used for the mulching operation until the expiration of the contract with Red River in (continued on next page)

ORDINANCE NO. BL2015-1308 (continued)

November 2016. It is unclear at this time whether a new Metro mulching facility would be operated at another location after this property is transferred. Piedmont has no plans to construct anything on this property. Rather, the property would be used as a buffer to protect its existing gas plant facility.

This gas line relocation cost was not factored into the \$10 million cost overrun on the construction of the ballpark and the \$5 million Metro incurred for infrastructure work such as electrical lines, water lines, and paving. The \$10 million cost overrun was covered through a \$2 million payment from the Sounds, an unexpected additional \$1 million generated by the bond sale, and additional tax increment financing dollars.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1309 (MOORE, PRIDEMORE & OTHERS) – This ordinance approves the renewal of an agreement between the Metro board of parks and recreation and Adventure Science Center for the lease of the Adventure Science Center property located at Fort Negley Park. Adventure Science Center (formerly the Nashville Children's Museum) has been leasing this property from Metro since 1967. The 1967 lease was for a period of 50 years with rent in the amount of one dollar per year. The lease included an option for renewal of the lease on the same terms for an additional fifty year period.

This ordinance approves a renewal and update of the lease agreement for another fifty year period. The terms of the lease are basically the same as the 1967 agreement. Public school children will still be admitted free of charge when on an organized school field trip. The Science Center will remain responsible for the maintenance of the facility, and is required to maintain insurance on the property. The lease will also continue to require one of the board members of Adventure Science Center to be a member of the parks board.

One change between the new agreement and the previous lease pertains to the sale of alcohol. The 1967 lease prohibited the sale of alcoholic beverages on the property. The new lease will allow Adventure Science Center to offer cash bars as part of after-hours fundraisers.

This lease agreement has been approved by the parks board and the planning commission.

ORDINANCE NO. BL2015-1310 (MOORE & A. DAVIS) – This ordinance abandons 425 linear feet of a 10-inch sewer main and easement, and accepts 215 feet of replacement line and easement for six properties located on Parris Avenue. This abandonment is needed for the Flats at Walden Grove project. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1311 (GILMORE, A. DAVIS & HUNT) – This ordinance abandons water and sewer easement rights for properties located at 1703 Rosa L. Parks Boulevard and 1702 Nassau Street. These easements were retained when a portion of Garfield Street was abandoned in 2005. 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. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1312 (HOLLEMAN) – This ordinance abandons 625 linear feet of an 8-inch sewer main and easement, and accepts 196 feet of replacement sewer main and easement for properties located at 3602 and 3622 West End Avenue and 151 Craighead Avenue. This abandonment is necessary for the sale and development of the former Welch College property near the intersection of West End and Bowling Avenue. This abandonment is contingent upon the completion of the Metro water services project on the property and construction of the new line. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1313 (GILMORE) – This ordinance abandons a portion of 18th Avenue North and Alley No. 621 at the intersection of 18th Avenue North and Dr. D.B. Todd, Jr. Boulevard. This closure has been requested by Barge Cauthen & Associates on behalf of Metro public schools as part of the Martin Luther King, Jr. magnet school expansion. Metro is the only affected property owner. The ordinance retains all utility easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

– **BILLS ON THIRD READING** –

ORDINANCE NO. BL2013-569 (BEDNE, TENPENNY & OTHERS) – This zoning text change amends the conditions applicable to various automobile related uses. In 2006, the council amended the zoning code to prohibit automotive uses such as automobile repair, service, and used car sales, as well as car washes and wrecker services, from being located in the commercial zoning districts (CS and CA). Car washes were a use permitted with conditions before the 2006 change to SP, while the other uses were permitted by right. The intent of the SP requirement was to give the council more control over the location of automotive-related uses. There were no set conditions included in the code applicable to these uses countywide.

In May 2013, the council enacted Ordinance No. BL2013-418, which basically repealed the SP requirement for automotive uses, added these uses as permitted with conditions, and added a number of specific conditions automotive uses would have to meet in order to obtain a use permit. The conditions for automobile repair; automobile sale, used; and vehicular sales and services, limited are currently as follows:

1. A physical separation between automobile display/parking areas and the right-of-way in the form of a wall or fence not to exceed 3 feet in height.
2. No chain link fencing could be erected within 25 feet of the right-of-way.
3. Service doors facing residential districts must be screened by a solid wall or opaque fence.
4. All buildings, vehicle storage, and repair must take place at least 25 feet from a residential district, and must be screened from residential districts.
5. Inoperable vehicles, outdoor storage, and auto repair activities must be located to the rear or side yard, and cannot be visible from the right-of-way.
6. No billboards or digital signs would be permitted on the property.

The conditions applicable to car washes include:

1. The same physical separation from the right-of-way as noted above.
2. Car wash structures must be at least 50 feet from a residential district.
3. All washing facilities must be within an enclosed structure, and must be separated from the adjacent property by a masonry wall between 6 and 8 feet in height.
4. Operating hours would be restricted to 8:00 a.m. to 10:00 p.m. if the facility is within 100 feet of a residential district.
5. No outdoor speakers would be allowed on the property.
6. No vehicles could be stored or offered for sale.
7. Billboards and digital signs would be prohibited.

This ordinance modifies some of the conditions for automotive uses and adds several new conditions. The primary changes are:

1. Increasing the distance requirement for automotive uses from residential property from 25 feet to 200 feet.
2. Prohibiting more than one car lot or auto repair shop from being located on the same block face.
3. Prohibiting car lots from being located within 1,000 feet of another car lot.
4. Prohibiting car washes from being located within 500 feet of another car wash.
5. Adding a requirement that a community meeting be held prior to submitting a use application to the codes department.

This ordinance has been disapproved by the planning commission.

ORDINANCE NO. BL2015-1053 (GILMORE) – This ordinance, as amended, approves a lengthy amendment to the downtown code to update review processes, update maps, correct some typographical errors, and make changes to the urban design standards, specifically as it relates to building step-back provisions, parking and access, and height bonuses for the preservation of historic buildings outside of a historic overlay district.

This ordinance has been approved by the planning commission with an amendment.

SUBSTITUTE ORDINANCE NO. BL2015-1120 (ALLEN, WESTERHOLM & OTHERS) – This ordinance amends the zoning code to create a detached accessory dwelling unit (DADU) overlay district. In June 2014, the council approved a zoning text change to allow detached accessory dwellings on lots within the R districts with certain conditions. This ordinance would create a new DADU overlay district that could be used on properties that are not in an R zoning district. The design standards listed in the zoning code for other DADUs would apply within this overlay district, which include the following:

- No more than one DADU is permitted on a single lot in conjunction with the principal structure.
- The DADU must be owned by the same person as the principal structure and one of the two dwellings must be owner-occupied.
- A DADU may only be located behind the principal structure.
- Driveway access must be from an alley if available.
- The living space of a DADU cannot exceed seven hundred square feet, and the building footprint cannot exceed 1,000 square feet.
- The DADU must maintain a proportional mass, size, and height to ensure it is not taller than the principal structure on the lot.
- The DADU must be of similar style, design, and material color as used for the principal structure, and must use similar architectural characteristics.
- A DADU in a historic overlay district must comply with the adopted regulations and guidelines of the applicable historic overlay.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1147 (BANKS, STEINE & WEINER) – This ordinance would require the planning department to prepare an amendment to the Metro zoning code to require affordable and workforce housing units as part of residential developments. This ordinance should be withdrawn, as it is of the same subject matter as Substitute Ordinance No. BL2015-1139 approved on third reading at the July 21 council meeting.

ORDINANCE NO. BL2015-1153 (HUNT & A. DAVIS) – This ordinance amends the Metro zoning code to provide for additional alternative zoning districts and modify the alternative zoning district standards. In May 2011, the council enacted Ordinance No. BL2011-898 to create the alternative zoning districts, which are applicable in the higher intensity residential and mixed-use districts. The purpose of the alternative zoning districts is to facilitate a more pedestrian-friendly environment without requiring a specific plan, largely through setbacks and height.

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ORDINANCE NO. BL2015-1153 (continued)

This ordinance expands the alternative zoning district concept to include more of the suburban areas modeled after the Murfreesboro Road urban design overlay standards. This ordinance creates the new alternative zoning category for the commercial neighborhood, commercial limited, and commercial services districts. The standards applicable to new alternative zoning districts would allow two rows of parking in front of the buildings and require a certain percentage of the lot frontage to be occupied by building frontage. This ordinance also updates the existing alternative district standards to require additional building frontage. Alley access and construction, parking garage liners, glazing requirements, raised foundations for residential structures and sidewalks would be required.

This ordinance also creates a number of alternative small lot single and two-family alternative districts. The two-family standards for the alternative districts would require access only to an alley when an alley exists. Where no improved alley exists, one driveway within the street setback may be permitted. Further, garage doors would be required to face the side or rear property lines. A minimum raised foundation of 18 to 36 inches would also be required.

This ordinance has been approved by the planning commission with a proposed amendment that would allow for the maximum height in the build-to zone to be exceeded upon approval of a special exception by the board of zoning appeals.

ORDINANCE NO. BL2015-1210 (MATTHEWS, GARRETT & OTHERS) – This ordinance amends the Metro zoning code to create “natural gas compressor station” as a new use to be permitted in the industrial zoning districts. Gas compressor stations are facilities located along gas pipelines that ensure the natural gas flowing through the pipeline remains pressurized. These facilities are typically placed along the pipeline in 40 to 100 mile intervals. The only use related to natural gas currently in the zoning code is “power/gas substation”, which regulates electric current or natural gas pressure for distribution to individual neighborhoods. Power/gas substations are permitted with conditions in the agricultural, residential, and office zoning districts, and permitted by right in the commercial, shopping center, and industrial zoning districts.

This ordinance creates the following new definition for natural gas compressor station, which use would only be permitted in the industrial zoning districts (IWD, IG, and IR):

A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Federal law prohibits local governments from regulating natural gas facilities through zoning if the facility is for a gas pipeline running across state lines. Under the federal Natural Gas Act, such facilities must obtain a certificate of convenience and necessity from the Federal Energy Regulatory Commission (FERC) before they can operate. Federal courts have ruled that the Natural Gas Act preempts all local laws that attempt to regulate the location, construction, or (continued on next page)

ORDINANCE NO. BL2015-1210 (continued)

operation of interstate natural gas pipelines and their associated facilities. Thus, if a proposed facility in Davidson County obtains a certificate of convenience and necessity from the FERC, a court would likely determine that this ordinance could not be used to stop the construction of the facility.

In deciding whether to grant a certificate of convenience and necessity, FERC does look at the possible adverse environmental impacts the facility could have on the surrounding area. Further, in implementing certain environmental regulations on behalf of the federal government, the state will take the land uses near the proposed site into consideration when determining whether any safety issues exist that should impact FERC's decision regarding the issuance of a certificate of convenience and necessity.

This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2015-1273 & BL2015-1274 – These two ordinances approve the Bordeaux redevelopment plan and the Cayce Place redevelopment plan to be administered by the Metropolitan Development and Housing Agency (MDHA). Redevelopment plans may be approved by the council under state law for the purpose of redeveloping blighted areas. There are currently 10 redevelopment districts in Nashville. The plans govern the future redevelopment of property within the areas through restrictions on permissible uses and design guidelines for the construction or rehabilitation of buildings. The plans also allow for the acquisition and/or demolition of blighted structures and the use of tax increment financing (TIF) as an incentive for developers. TIF is a financing mechanism authorized by state law for redevelopment districts whereby the increased property tax revenue generated by a development is used to pay the debt service on loans for the construction of improvements related to the project. The ordinances provide that the use of TIF will spur new development and assist in replacing and updating aging infrastructure, as well as sidewalk and streetscape improvements, the preservation of historic structures, and remediation of environmental issues. Any property owner wishing to construct a new building or rehabilitate an existing structure would be required to submit a site plan, landscape plan, and a detailed architectural design of the exterior of the structures to MDHA for review by a design review committee. Further, no demolition permit could be issued prior to approval of a plan for re-use by MDHA. Improvements must also be consistent with the Metro zoning code. The terms of these plans will extend through December 31, 2045.

Ordinance No. BL2015-1273 (Matthews & Westerholm) approves the Bordeaux redevelopment plan. The Bordeaux redevelopment area covers 525.5 acres of property owned by the Metropolitan Government adjacent to the Bordeaux Hills neighborhood. The property includes the hospital authority's Bordeaux Hospital facility. The objectives set forth in the plan are as follows:

- To create new housing options that attract new residents to the Bordeaux area;
- To build new multi-family housing that complements the character and style of the existing single-family neighborhood of Bordeaux Hills while allowing for higher density developments;

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ORDINANCE NOS. BL2015-1273 & BL2015-1274 (continued)

- To increase the population to a level that can sustain potentially new commercial or retail development in the area;
- To prevent additional undesirable land uses from occurring in the Bordeaux area;
- To clear and provide for new development of portions of the area in which a change in type or intensity of land use is necessary;
- To establish harmonious land use patterns and provide adequate sites for the planning and development of new residential areas or commercial uses;
- To establish standards and guidelines for the redevelopment and continued use of the area that will ensure the future stability of the entire area through quality development;
- To eliminate and prevent the recurrence of blight;
- To eliminate vacant land by monitoring development and actions encouraging effective and desirable uses of land in accordance with the plan;
- To provide for the layout of new public improvements necessary to support the redevelopment of the area; and
- To minimize the potential effects of future natural disasters and to mitigate flood impacts.

The plan provides for a mixed-use area and a public facilities/open space area. The intent of the mixed use area is to "provide for facilities, businesses, services, and residences characteristic of a low-medium density area along a major arterial road to support the contiguous, single-family neighborhoods and for services catering to a mid-size market." The plan prohibits certain commercial uses such as automobile repair, car washes, check cashing/cash advance businesses, pawn shops, nightclubs, liquor stores, adult entertainment establishments, warehousing, and industrial uses. MDHA would be required to provide relocation assistance to any individuals or businesses displaced as a result of the implementation of the plan.

MDHA estimates a future \$150 million increase in property values as a result of implementation of this plan. The plan authorizes up to \$15 million in TIF to incentivize the private development contemplated in the plan. In addition, \$3 million in federal funds would be available for this purpose. According to the plan document, the TIF backed debt of \$15 million will require less than 50% of the projected new property taxes generated by the project. The final maturity of the TIF loans cannot extend beyond December 31, 2045.

Ordinance No. BL2015-1283 on second reading would approve an agreement with Vision Real Estate Investment Corporation for the sale of a portion of the Bordeaux Long Term Care hospital property. If both of these ordinances are approved, Vision could take advantage of the TIF incentives for the development of the property.

This ordinance has been approved by the planning commission.

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ORDINANCE NOS. BL2015-1273 & BL2015-1274 (continued)

Ordinance No. BL2015-1274 (Westerholm) approves the Cayce Place redevelopment plan. The James Cayce Place Homes is a 63 acre, 716 unit, public housing development owned and operated by MDHA. This redevelopment plan will include the Cayce Place Homes along with 63 additional acres for a total of 126 acres bordered by I-24, Crutcher Street, the Shelby Hills neighborhood, and Shelby Avenue. The objectives for the redevelopment plan are as follows:

- a. Accomplish a one-for-one replacement of all units on site and minimize disruption to residents during construction;
- b. Maintain economic and cultural diversity of East Nashville;
- c. Create a healthy mix of housing choices for many income levels;
- d. Create a green, sustainable, and financially viable development;
- e. Connect with and leverage other local initiatives and stakeholders;
- f. Maintain and expand support services and community assets;
- g. Improve neighborhood amenities by:
 - Promoting walking and use of public spaces;
 - Improving transportation access;
 - Improving public safety;
 - Creating a high quality aesthetic appeal;
 - Retaining, but improving, park and open space
- h. Address need for access to healthy foods; and
- i. Reconnect and integrate Cayce Place into the community and leverage nearby opportunities.

Permitted uses within the plan include single and multi-family dwellings, churches, schools, daycares, offices, pharmacies, service retail establishments, restaurants, farmers' market, cultural facilities, public facilities, and parks. The plan prohibits certain commercial uses such as car washes, check cashing/cash advance businesses, pawn shops, nightclubs, liquor stores, adult entertainment establishments, warehousing, and manufacturing. MDHA would be required to provide relocation assistance to any individuals or businesses displaced as a result of the implementation of the plan. However, MDHA does not plan to displace any resident from the property. The construction will be done in a manner so as to allow residents of each building being replaced to move to another building on the campus while construction on the new building is underway.

The Envision Cayce Master Plan contemplates a \$602 million development on the property. In order to attract the planned retail/mixed-use component for the development, this redevelopment plan authorizes up to \$30 million in TIF to support the commercial uses outlined in the master plan. According to the plan document, the TIF backed debt of \$30 million will require less than 50% of the projected new property taxes generated by the project. The final maturity of the TIF loans cannot extend beyond December 31, 2045.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1275 (WESTERHOLM, BENNETT & PRIDEMORE) – This ordinance approves a property exchange between the Metro board of parks and recreation and the Metropolitan development and housing agency (MDHA) for the Kirkpatrick Park property. As part of the redevelopment of the Cayce Homes, MDHA plans to build housing units on the land where Kirkpatrick Park is currently located and construct a new park in the center of the development. Once the development has been completed and the new park constructed, the new park property will be deeded to Metro for use as a park.

This ordinance simply approves these two conveyances. This ordinance has been approved by the parks board and the planning commission.

ORDINANCE NO. BL2015-1276 (PRIDEMORE) – This ordinance authorizes the mayor to enter into consortium agreements pursuant to the federal Workforce Innovation and Opportunity Act (“the Act”). This ordinance pertains to the training programs operated by the Nashville career advancement center (NCAC). The NCAC was created in 2001 pursuant to the Workforce Investment Act of 1998. This ordinance essentially updates the Metro code to recognize that the 2014 Act has taken the place of the Workforce Investment Act of 1998. NCAC will still be the local fiscal agent and administrator for the Act for Workforce Innovation and Opportunity Area Nine, which consists of Davidson, Rutherford, Trousdale, and Wilson counties.

This ordinance also approves a consortium agreement among the four counties in accordance with the Act, which supersedes the previous agreements entered under the Workforce Investment Act of 1998. The agreement establishes the required local workforce development board to provide policy guidance and oversight for the job training program. A majority of the board is to represent the private sector. The composition of the board is based upon the pro-rata share by population, which means the Metropolitan government mayor will appoint 62% of the board. The board is to be appointed from among persons nominated by local business organizations and trade associations. The term of the agreement is for one year, which is to renew automatically each year for four additional one year periods.

This ordinance also authorizes the mayor to execute the necessary agreements required under the Act.

SUBSTITUTE ORDINANCE NO. BL2015-1277 (STEINE) – This substitute ordinance amends the Metro Code to establish a review process and policy for the acceptance and maintenance of memorials and artwork donated to the Metropolitan Government. From time to time, private individuals and entities propose to donate memorials, artwork, monuments, property for placement of artwork, and funds for the acquisition of artwork to Metro. There are limited public funds for maintenance and conservation of donated artwork, and a limited number of suitable sites on public property for the placement of donated artwork. Currently, there is no procedure in place for the acceptance of donated artwork to ensure it is suitable and can be maintained.

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SUBSTITUTE ORDINANCE NO. BL2015-1277 (continued)

Since the code already provides that one of the purposes of the arts commission is to make recommendations to the council regarding the aesthetics of public places and property, this ordinance would require all donated memorials and artwork to be submitted to the arts commission for review and recommendation prior to its acceptance. Any artwork valued at more than \$5,000, or with estimated maintenance costs in excess of \$5,000 over a ten year period, will require an acceptance agreement signed by the donor and approved by the council by resolution.

Unless the council has already appropriated funds for the artwork's installation and maintenance, a donor's proposal must include funding adequate to cover the costs for the design, fabrication, insurance, transportation, installation, and maintenance of the artwork for a period of ten years, plus contingency funds to cover unforeseen circumstances.

ORDINANCE NO. BL2015-1278 (WESTERHOLM & ALLEN) – This ordinance amends the beer permit requirement provisions in the Metro Code to expand the mechanism for the exemption of establishments from the minimum distance requirements for the sale of beer. The code currently 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, in 2010, the council created a mechanism for restaurants that already have a state on-premises liquor consumption license to be exempt from Metro's minimum distance requirements to obtain a beer permit upon the adoption of a resolution by the council. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant's location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law.

This ordinance would repeal the existing beer distance waiver provisions in the code and substitute them with a mechanism to exempt any establishment, including retailers, from the Metro beer permit distance requirements upon the adoption of a resolution by the council with twenty-one affirmative votes. A public hearing before the council would be required before the resolution could be considered. Notice of the public hearing must be provided at the expense of the applicant, and the applicant would be required to put up signs on the property providing notice of the public hearing.

ORDINANCE NO. BL2015-1281 (PRIDEMORE, WESTERHOLM & ALLEN) – This ordinance authorizes the Metropolitan development and housing agency (MDHA) to negotiate and accept payments in lieu of taxes (PILOTs) from operators of low income housing tax credit properties. PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTs are a tool that has recently been utilized by Metro to provide incentives through the industrial development board to large employers to create more job opportunities, but MDHA was just recently granted the state law authority to enter into PILOTs for affordable rental housing. For some reason, other housing authorities in the state already had this authority, but Metro was expressly prohibited from it.

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ORDINANCE NO. BL2015-1281 (continued)

MDHA has developed this PILOT program to provide an additional financial incentive to developers considering construction or rehabilitation of affordable housing units through the federally funded low income housing tax credit program. Subsidized low income housing tax credit developments serve those at or below 60% of the average median income for the Nashville area, which results in an income cap of \$28,140 for an individual and \$40,140 for a family of four. Once negotiated by MDHA, each PILOT agreement must be approved by the council by resolution. The maximum term for a PILOT lease will be 10 years, and there would be an annual cap for all additional PILOTs of \$2 million per year. The PILOT would only be available for additional tax liability over and above the pre-development assessed value of the property. The PILOT program would be available for both existing and new developments based on financial need. The PILOT lease will be terminated if the property sits vacant for two years.

MDHA will be required by this ordinance to file an annual report with the council, assessor of property, and state board of equalization identifying the values of the properties subject to PILOTs, the date and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

Once PILOT agreements under this program are approved by the council, it is not anticipated that they will result in a significant change to existing property tax revenues for Metro, as it is anticipated that the PILOTs will be used primarily for new construction.

ORDINANCE NO. BL2015-1282 (STEINE) – This ordinance adopts a revised pay scale for poll officials. State law provides that increases in poll worker compensation must be approved by the county legislative body. However, the last time the election commission submitted legislation for approval in accordance with the state law was 1999. This ordinance ratifies the updated compensation schedule for poll workers approved by the election commission, which is as follows:

- \$200 for inspectors and officers, plus \$40 for picking up and returning poll supplies on election day
- \$150 for precinct registrars, assistant precinct registrars, judges, and voting machine operators
- \$25 for each training session, plus a \$5 mileage allowance

ORDINANCE NO. BL2015-1283 (MATTHEWS, PRIDEMORE & OTHERS) – This ordinance, as amended, approves a revised agreement between the Metropolitan Government and Vision Real Estate Investment Corporation (“Vision”) for the sale of a portion of the Bordeaux Long Term Care hospital property located at 1010 Camilla Caldwell Lane. In March 2014, the council approved the sale of 76.6 acres of the Bordeaux property to Vision as part of the privatization and continued operation of the Bordeaux Long Term Care and J.B. Knowles Home facilities. Under the privatization agreements, Signature Healthcare is to operate a 120-bed nursing home at the Bordeaux campus for at least 10 years and have a new \$18 million 168-bed skilled nursing facility built on Dickerson Pike near Skyline Medical Center. After the new Dickerson (continued on next page)

ORDINANCE NO. BL2015-1283 (continued)

Pike facility is constructed, Vision is to convert one half of the current Bordeaux facility into 62 senior living apartments and later construct a 32-unit townhouse development and community garden on the adjacent tract. However, the previous arrangement was conditioned upon necessary state legislation being approved allowing a division of the bed licenses between the Bordeaux and new Dickerson Pike facilities, which has not happened.

Since the Tennessee General Assembly did not approve the necessary state legislation, Vision Real Estate and Metro have agreed on a revised land sale contract that still provides for the development of senior affordable housing units on a smaller scale. This revised contract removes the land surrounding the Bordeaux Long Term Care facility, which would result in the sale of two undeveloped tracts totaling 45.5 acres. Tract 1 consists of 29 acres and Tract 2 is 16.5 acres. The two tracts are to be purchased for \$300,000 each. Vision is required to put down a non-refundable \$25,000 deposit to be applied toward the purchase price of the second tract. Metro's obligation to sell Tract 1 is conditioned upon completion of the Knowles Home improvements required by the 2014 agreement with Vision and the purchase of the Knowles Facility by Autumn Assisted Living Partners, Inc. for continued operation as a licensed assisted living facility. Metro's obligation to sell Tract 2 is conditioned upon Vision constructing at least 32 affordable senior housing units on Tract 1, which construction is to commence within one year of the purchase of Tract 1. Both tracts are to be purchased by Vision on an "as-is" basis.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1284 (PRIDEMORE, GILMORE & HUNT) – This ordinance approves an extension of a lease agreement between Metro and Customs House Associates for the Customs House property located at 701 Broadway. Metro obtained the Customs House property from the federal government in 1977 with the condition that it be used in perpetuity as a historic marker. Metro entered into a fifty year lease agreement with Customs House Associates in 1979. The amount of annual rent that is paid under the lease agreement is the equivalent of the property taxes that would be due on the improved property if it was privately owned. The operators of the Customs House have some plans to substantially renovate and repurpose the building, which will require a large capital investment. In order to justify the large financial commitment, the operators are seeking an extension of the lease through 2105. This lease term would match the recently-extended term of the lease for the Union Station Hotel, which Metro acquired under basically the same circumstances as the Customs House in 1984.

In addition to extending the term, this lease amendment clarifies that the property may be used for any use permitted in the downtown code (DTC) zoning district. All other terms of the lease will remain the same.

This lease amendment has been approved by the planning commission.

ORDINANCE NO. BL2015-1285 (HUNT) – This ordinance names a former private alley adjacent to Buena Vista Pike as “Alley No. 1420”, and accepts the alley for ongoing maintenance by Metro. This alley is located behind 8 parcels within the Creekside subdivision. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2015-1286 (WESTERHOLM) – This ordinance abandons a portion of Alley No. 259 from the intersection of South 5th Street to the property line of 409 Russell Street. All Metro utility easements are being retained. This closure has been requested by Southeast Venture, LLC. Consent of the affected property owners is on file with the department of public works. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2015-1287 (BAKER) – This ordinance abandons portions of 58th Avenue North and California Avenue right-of-way. This closure has been requested by Snyder Engineering, PLLC. The ordinance retains all Metro utility easements. This closure is necessary for the construction of the West Mill Townhomes development. 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. BL2015-1288 (MOORE, PRIDEMORE & OTHERS) – This ordinance grants a permanent landscape easement and temporary construction easement to GBT Realty for Metro park property located on Wedgewood Avenue. The 18 month temporary construction easement will be used for the storage of construction materials while work is underway on an adjacent Regions Bank building. GBT Realty will pay \$14,000 for the easement, which is the fair market value, and will construct and maintain landscaping on the property. If GBT ever fails to maintain the landscaping, Metro can terminate the easement with 30 days’ written notice. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1289 (PRIDEMORE, A. DAVIS & HUNT) – This ordinance accepts the donation of two parcels of property on High Rigger Drive to improve stormwater flow. The purpose of the donation from David B. Taylor is to help Metro water services reduce flooding at the terminus of High Rigger Drive, which would improve the flow of water in the area. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1290 (STITES, A. DAVIS & OTHERS) – This ordinance authorizes the director of public property administration to acquire permanent drainage easements, temporary construction easements, and rights-of-way by negotiation or condemnation in connection with a Murfreesboro Pike drainage improvement project, including the removal of the Vultee Boulevard bridge and the Kermit Drive intersection project. The ordinance also authorizes the conveyance of the easements and property rights to the Tennessee department of transportation (TDOT). The estimated cost for this ordinance is \$333,001, of which \$65,419 (continued on next page)

ORDINANCE NO. BL2015-1290 (continued)

will be paid out of the public works capital spending plan for bridges and \$267,587 from Metro water services capital funds. TDOT will be responsible for procuring the construction contracts in the spring of 2016 and for managing the construction.

Resolution No. RS2015-1581 approves an amendment to the agreement with TDOT pertaining to this project.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1291 (PRIDEMORE & A. DAVIS) – This ordinance approves an agreement with CSX Transportation, Inc. for the painting and repairs of the Myatt Drive bridge over the CSX railroad tracks. Metro will be repairing and/or replacing damaged sections of expansion joint and will be repainting the steel portions of the bridge. This contract will allow Metro to perform the work on the bridge extending over the railroad tracks and will provide for the reimbursement of CSX's expenses. Metro agrees to reimburse CSX for its engineering, inspection, and flagging costs, estimated to be \$89,737. Future amendments to this agreement may be approved by resolution.

ORDINANCE NO. BL2015-1292 (GILMORE, PRIDEMORE & A. DAVIS) – This ordinance approves an agreement with CSX Transportation, Inc. for the construction of a new bridge extending Division Street over the CSX railroad tracks, and for the closure of the at-grade crossing at Fogg Street and 7th Avenue South. The work Metro contractors will be doing includes erosion control, construction of the new overhead bridge, and roadway drainage improvements. This contract will allow Metro to perform the work on the bridge extending over the railroad tracks and will provide for the reimbursement of CSX's expenses. Metro agrees to reimburse CSX for its engineering, inspection, flagging, and signal work costs, estimated to be \$406,025. Future amendments to this agreement may be approved by resolution.

ORDINANCE NO. BL201-1293 (GILMORE, A. DAVIS & HUNT) – This ordinance abandons the water and sewer easement rights that were retained by Ordinance No. BL2000-252 when an alley was abandoned for property located at 105 Broadway. There is no longer a government need for this easement. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1294 (GILMORE, PRIDEMORE & OTHERS) – This ordinance approves an agreement between the Metropolitan Government and 511 Union Nashville, LLC, for the use of up to 100 parking spaces in the library parking garage. This agreement would extend through 2027, but 511 Union Nashville can terminate the agreement at any time with 30 days' written notice. The rental rate is to be an amount equal to the monthly garage parking rate charged to the general public. Metro will issue 100 access key cards for the parking garage, which may be accessed between the hours of 6:00 a.m. and 6:00 p.m. The rights under this agreement may be transferred to any future purchaser of the 511 Union Street building without (continued on next page)

ORDINANCE NO. BL2015-1294 (continued)

further approval from Metro in the event the building is sold. 511 Union Nashville agrees to hold the Metropolitan Government harmless for any damage or loss of personal property caused by its negligence, and must maintain \$1 million in insurance naming Metro as additional insured.

The council approved the lease of 180 spaces in this garage for the benefit of the Renaissance Hotel in March 2013.

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

ORDINANCE NO. BL2015-1295 (GILMORE) – This ordinance authorize NGI Acquisitions, LLC, doing business as Skyhouse Nashville, to install and maintain underground encroachments in the right-of-way along Broadway and 17th Avenue South. These encroachments will consist of benches, bike racks, and pedestrian lights. Skyhouse Nashville has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2015-1296 (GILMORE) – This ordinance abandons approximately 2,900 square feet of 7th Avenue South and Alley No. 114 right-of-way at the intersection of Lafayette Street and Korean Veterans Boulevard. This closure has been requested by Mainland Acquisitions, LLC for the purpose of consolidating lots 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. BL2015-1303 (MOORE) – This ordinance abandons 2,959 square feet of Blakemore Avenue and Alley No. 922 right-of-way. This closure has been requested by Littlejohn Engineering on behalf of First American Bank for the purpose of consolidating lots for redevelopment. The alley is to be relocated as part of the redevelopment. This abandonment is not to become effective until the realigned right-of-way for the new alley has been completed and accepted for maintenance by Metro. Consent of the affected property owners is attached to the ordinance. The ordinance also abandons all utility easements. This ordinance has been approved by the planning commission and the traffic and parking commission.