



## METRO COUNCIL OFFICE

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MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Mike Jameson, Director and Special Counsel  
Mike Curl, Finance Manager  
Metropolitan Council Office

COUNCIL MEETING DATE: **March 1, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 2/24/16:

4% Reserve Fund	\$36,477,396*
Metro Self Insured Liability Claims	\$3,745,318
Judgments & Losses	\$2,842,754
Schools Self Insured Liability Claims	\$2,966,897
Self-Insured Property Loss Aggregate	\$6,463,512
Employee Blanket Bond Claims	\$661,914
Police Professional Liability Claims	\$2,617,232
Death Benefit	\$1,183,437

\*Assumes unrealized estimated revenues in Fiscal Year 2016 of \$13,609,138

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTION NOS. RS2016-133, -134, AND -135**

These resolutions approve exemptions for Little Donkey Taqueria (RS2016-133, O’Connell), Starbucks / CCH Café, LLC (RS2016-134, Pulley) and Los Nietos Taqueria (RS2916-135, VanReece) from the minimum distance requirements for obtaining a beer permit. The Metro Code of Laws 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 (a) restaurants that already have a state on-premises liquor consumption license or (b) any retail food store, from Metro’s minimum distance requirements, allowing each to obtain a beer permit upon the adoption of a resolution by the Council. (See, Code Section 7.08.090(E)). A public hearing must be held by the Council prior to voting on each of these resolutions.

**– ORDINANCE ON PUBLIC HEARING –**

**ORDINANCE NO. BL2016-132** (SYRACUSE) – This ordinance is an alternate to Ordinance No. BL2016-117. Both would amend the Metropolitan Code of Laws (MCL) to modify the zoning conditions applicable to cash advance, check cashing, pawnshop, and title loan establishments. Prior to 2008, cash advance, check cashing, and title loan businesses were considered “financial institutions”. The Council amended the MCL in 2008 to make each of these a separate use and to add a definition for each use. The current definition of financial institutions includes establishments that provide a variety of financial services, including banks, credit unions, and mortgage companies. The zoning definitions of check cashing, title loan, pawnshop and cash advance reference the state law provisions that regulate these types of establishments.

Various studies purport to show that cash advance, title loan, and check cashing businesses tend to cluster in close proximity to one another. Maps showing the location of these establishments in Nashville evidence a high concentration along major thoroughfares. A study conducted by the Regional Planning Agency (RPA) of Chattanooga-Hamilton County, Tennessee concluded that the proliferation and clustering of cash advance, check cashing, pawnshops, and title loan establishments can have a detrimental effect on local property values and economic redevelopment. In addition, a study by the Board of Governors of the Federal Reserve System provides evidence that these businesses tend to locate in areas where the population is disproportionately minority and poorly educated.

Financial institutions, check cashing, title loan, and cash advance establishments are currently permitted by right in most of the mixed-use, office, commercial, and shopping center districts, and permitted with conditions in the MUN, ON and CN districts. Such businesses in the MUN,

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**ORDINANCE NO. BL2016-132**, continued

ON, and CN districts cannot exceed 2,500 square feet of floor area. Pawnshops are permitted in most of the same districts, but pawnshops in certain districts are limited to 5,000 square feet.

This 2008 change to the MCL prohibited new cash advance, check cashing, and title loan businesses from being located within 1,320 feet (1/4 mile) of another cash advance, check cashing, or title loan business, and prohibited new pawnshops from locating within 1,320 feet of another pawnshop. Existing businesses were grandfathered in by state law. The distance requirement only applied to new businesses seeking to locate in close proximity to existing similar establishments.

Title 45, Chapter 12 of the Tennessee Code Annotated (TCA) was changed to establish new rules and regulations governing financial institutions, effective January 1, 2015. As a result of this legislation, there are now additional types of alternative finance lenders (flexible credit loans) that are not currently identified in the zoning code, though they may have a similar impact as the alternative financial services noted above.

Ordinance No. BL2016-117 attempts to close this loophole and include these new types of lenders within the definitions and protections defined for other financial institutions. This would be done by including new definitions for "flex loans" and "installment loans". The concern is that alternative finance lenders would circumvent these restrictions by creating new types of financial products that would not be included within the revised definitions.

This alternative ordinance would attempt to prevent that from happening by taking a different approach to defining these types of institutions. Instead of defining the financial products, the new language would define the hours of operation of traditional financial institutions. These would specify the time between 8:00 AM and 6:00 PM on Mondays through Fridays and 8:00 AM to 1:00 PM on Saturdays. "Alternative Financial Services" would include any establishment offering financial services of any type outside of these operating hours.

**– RESOLUTIONS –**

**RESOLUTION NO. RS2016-102** (O'CONNELL, PRIDEMORE, & COLEMAN) – In 1995, Metro Nashville and the state of Tennessee entered into a land swap agreement that exchanged the Farmers Market property for the Tennessee Mental Health Property (now known as the Dell property). The agreement required the state to build a new Farmers Market on the present site and lease it back to Metro.

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**RESOLUTION NO. RS2016-102**, continued

The terms of this lease were approved by Resolution no. R95-1660 on May 16, 1995. The initial lease term ended in FY15. We are now in the first of two possible extension terms of 20 years each. The annual lease payment is now a nominal \$10 per year.

According to the provisions of the lease, the state continues to own the fee interest in the land, but the improvements called "The Farmers' Market Facility" are owned by Metro. However, the state retains the option to terminate the lease by giving thirty (30) months written notice, whereupon the Farmers' Market Facility shall become the property of the state in exchange for payment of the fair market value to Metro.

If Metro had chosen not to renew the lease when the original term expired, the Farmers' Market Facility would then have become the property of the state, enabling the state to become the lessor under any tenant lease agreement and continue operation of the Facility.

The first amendment to this lease agreement was approved by Resolution No. RS2009-606 on January 20, 2009. This amendment simply removed the prohibition against selling alcoholic beverages of any kind on the premises.

The resolution now under consideration would approve the second amendment to the lease agreement. This amendment would remove the northern tract of the Farmers' Market property, including the north shed facility and adjacent parking lot, from the area included in the lease in exchange for \$4,000,000. This tract is approximately 4.77 acres (207,781 square feet).

Metro would retain the right to enter and leave the north tract for purposes of loading and unloading supplies at the north dock area. Metro would be allowed to utilize the north tract until April 30, 2016. Upon completion of the new parking lot on this tract by the state, the parking lot would be available for use by the Farmers' Market as well as the state for the duration of the lease. However, the state would retain the right for the exclusive use of the parking lot for specified events and for a specified period of time as long as it provides Metro with at least 15 days prior written notice.

**RESOLUTION NO. RS2016-127** (O'CONNELL, ALLEN, & ELROD) – This resolution authorizes Nashville Baseball Development, LLC, c/o Spectrum Properties to construct, install, and maintain an aerial encroachment at Stockyard Street between 2<sup>nd</sup> Avenue North and 3<sup>rd</sup> Avenue North for an elevated pedestrian bridge to the parking garage across Stockyard Street (Whiteside Avenue). The bottom of the bridge will be 20', 7" above the ground.

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**RESOLUTION NO. RS2016-127**, continued

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the bridge, and is required to post a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This has been approved by the Planning Commission.

**RESOLUTION NO. RS2016-136** (PRIDEMORE) – This resolution would approve a sole source contract with Tyler Technologies, Inc. to provide an electronic filing system as part of the overall Case Management System for the Clerk and Master (Chancery Court). Sole source contracts can be awarded under the Metro procurement code when it is determined that there is only one source for the supply or services rendered. The Purchasing Agent has determined that the services to be provided by Tyler Technologies meet the requirements for the use of a sole source contract.

Previously, Resolution No. RS2005-955, approved September 20, 2005, appropriated \$1,200,000 from the GSD General Fund Reserve Fund (commonly known as the “4% Fund”). This was likewise to be used on behalf of the Clerk and Master for a new Case Management System. The most recent 4% Fund report indicates that a balance of \$283,674 remains from this appropriation for this purpose.

The term of this contract would be from the effective date of the contract approval for a period of no more than sixty (60) months. The estimated value of this contract over this 60-month term would be \$250,000. The Metro Code requires all sole source contracts having a total value in excess of \$250,000 to be approved by the Council by resolution.

**RESOLUTION NO. RS2016-137** (PRIDEMORE) – Resolution No. RS2015-48 was approved on November 3, 2015 to accept a grant for \$706,464 from the U.S. Department of Justice (DOJ) to the Office of Family Safety. The proceeds were to be used to implement a county-wide risk / lethality program, create and implement a civil / legal advocacy program for order of protection hearings, and to improve the substance and quality of presentation.

The original grant terms included “Special Condition 48”, which was a Statement of Recipient Responsibilities for Implementing the Blueprint for Safety Project. However, this condition was inadvertently included and the Office of Family Safety had no plans to perform the included tasks.

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**RESOLUTION NO. RS2016-137**, continued

The DOJ has no objection to the removal of this condition from the grant, but doing so with the original grant would have necessitated a delay under the grant amendment process. The resolution now under consideration simply amends the grant terms to remove Special Condition 48. No other changes to the terms of this grant are being considered.

**RESOLUTION NO. RS2016-138** (PRIDEMORE & HENDERSON) – This resolution approves an application to the Tennessee Arts Commission by the Metropolitan Board of Parks and Recreation for the Spectator / Creator: Performing Arts for Preschoolers Grant for \$4,980. If approved, the grant proceeds would be used to fund collaboration between the Dance and Theater Divisions of Metro Parks Cultural Arts and the Metro Parks Community Centers.

The intent would be to provide performing arts workshops for preschool-aged children and their caregivers. Three 60-minute workshops would be provided between August and December, 2016, in each of the seven Metro Parks Regional Centers. Three teaching artists, specializing in early childhood development, would develop, facilitate, and assess these workshops alongside the current Dance and Theater Division supervisors. No charge would be made to the participants.

Over the course of the semester, the plan would be to have 63 facilitation hours, 45 development and assessment hours, and 17 planning hours, for a total of 125 hours.

The Parks Department would be required to provide a local cash match of \$5,420 for this program. This would be used to pay the salaries of the Parks Department's Theater Supervisor and Dance Supervisor for the 250 hours they would spend working on this program.

**RESOLUTION NO. RS2016-139** (PRIDEMORE & POTTS) – This resolution approves an application for the Smart City Challenge Grant from the U.S. Department of Transportation (USDOT) grant in the amount of \$100,000 with no local cash match required. If awarded, the grant will be used to identify transportation challenges and needs of citizens, the business community, and government. The purpose would be to demonstrate how advanced technologies can be used to address issues with safety, mobility, and climate change in the future.

If Metro is selected to receive one of these \$100,000 grants, we would then submit a second proposal in May, 2016 to compete for a single \$40 million Smart City Award. The winning city may also receive an additional \$10 million from Vulcan, Inc.

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**RESOLUTION NO. RS2016-139**, continued

Through this program, USDOT intends “to identify an urbanized area where advanced technologies are integrated into the aspects of a city and play a critical role in helping cities and their citizens address challenges in safety, mobility, sustainability, economic vitality, and address climate change.”

**RESOLUTION NO. RS2016-140** (O’CONNELL, ALLEN, & ELROD) – This resolution authorizes Dismas Charities, Inc. to construct, install, and maintain an aerial encroachment at 808 Lea Avenue. The encroachment will consist of a series of awnings for the windows on the first and second floors of the building. Each floor will have two large and four small awnings. The large awnings will be 209” wide, but the small awnings will only be 113” wide. All awnings will be 39.5” long and mounted on the building at an angle so that they will only extend 24” from the building itself. The height of the lowest point of these awnings will be approximately 8’ above the ground.

The applicant must indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the bridge, and is required to post a certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This has been approved with a condition by the Planning Commission. The condition requires Dismas Charities, Inc. to notify the Metropolitan Development and Housing Agency (MDHA) of any intent to deviate from the plans approved on January 19, 2016.

**RESOLUTION NO. RS2016-141** (O’CONNELL, ALLEN, & ELROD) – This resolution authorizes SPFS Inc., d/b/a Germantown Market, LLC, to install and maintain an aerial encroachment for four stacked signs at 1120 4<sup>th</sup> Avenue North. The stack will be 12’ high, 3’ wide, and 8” thick.

The top sign will be mounted flush against the building. The lower three signs in the stack will extend a short distance from the building, but the amount is not specified on the drawings attached to the resolution. The height of the lowest point of these signs will be approximately 13’ above the ground.

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. RS2016-143** (SHULMAN) – This resolution approves the election of certain Notaries Public in accordance with state law.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2016-147** (PRIDEMORE) – In 2013, Ordinance No. BL2013-420 created a small business economic development incentive grant program that included a provision to provide cash grants to businesses that invested in blighted areas. The program was modeled after state legislation that allows local governments to make grants directly to developers who invest in blighted property “to encourage the repair, rebuilding and renovations of existing facilities and structures in neighborhoods whose stability depends upon the elimination of blight and the upgrading of structural needs of a facility.”

These grants could only be used for the purpose of constructing or rehabilitating the exterior portions of commercial property located within a redevelopment district approved by the Council. The value of the property could not exceed \$1,000,000 at the time the grant application was made in order for a business to be eligible to receive the funds. The amount of the grant would be ten percent of the documented investment of the business to fix up the property, up to a maximum grant amount of \$50,000. This grant program would be managed by the Mayor’s Office of Economic and Community Development, and the grants would be awarded on a first-come-first-served basis.

This grant program was added to the Metro Code as Section 2.212.030. The ordinance under consideration would make two changes to this section. The existing language specifies that the grant funds for this purpose are to be used for the exterior portions of commercial property located within “a redevelopment district approved by the metropolitan council.” The new language deletes the reference to redevelopment districts approved by the Council and replaces it with “blighted commercial property located within Eligible Census Tracts.”

The definition of an “Eligible Census Tract” would be those “where at least 65% of households are at or below 80% AMI (average median income).” This paragraph goes on to require the Mayor’s Office of Economic and Community Development to maintain, on file and open for inspection, a list and map of eligible census tracts, to be updated annually.

**ORDINANCE NO. BL2016-148** (ELROD) – In 2014, Ordinance No. BL2014-925 amended the Metro Code of Laws (MCL) to adopt new regulations for pedicabs and pedal carriages. Section 6.75.120 was added to list the requirements for obtaining a pedicab driver’s permit.

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**ORDINANCE NO. BL2016-148**, continued

These requirements include:

1. Valid driver's license;
2. Social security card or birth certificate;
3. If a resident alien, a current work permit or other valid United States Immigration and Customs Enforcement document;
4. No convictions within the last five years for hit and run, DUI, reckless or careless driving;
5. No more than three moving violations within the last three years and no more than two in the last year (initial permit);
6. No more than four moving violations within the last three years and no more than two in the last year (renewal permit).

In addition to these requirements, Section 6.75.129(C)(4) requires a current drug test result. But this is not required in the section of the MCL establishing the requirements for other low-speed vehicle operators.

The Metropolitan Department of Law as well as the Metropolitan Transportation Licensing Commission (MTLC) agree that the requirement for a drug test at the time of application provides little information about a driver's ability once the permit has been granted and is an ineffectual way to determine if a driver has drug and/or alcohol issues.

Section 6.75.430 of the MCL already requires a drug screen if an accident occurs, even if there are no injuries. Additionally, section 6.75.190 gives the director of the MTLC wide latitude to order a drug screen for probable cause.

The ordinance under consideration would delete Section 6.75.129(C)(4), eliminating the requirement for applicants to submit a current drug test result at time of application for a pedicab driver's permit.

**ORDINANCE NO. BL2016-149** (O'CONNELL & PRIDEMORE) – Capitol View Joint Venture has proposed a development on property owned by them in the North Gulch area, including property under contract to be sold to Lifeway Christian Resources, as well as existing properties in the surrounding area.

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**ORDINANCE NO. RS2016-149**, continued

Metro previously approved the plans for the design and construction of the necessary public infrastructure improvements to the right-of-way and water and sewer system portion of this project. The ordinance under consideration would obligate Metro to spend up to \$3,490,000 for the construction of this required public infrastructure improvements. Metro would own the improvements and be responsible for their ongoing operation and maintenance.

Also as part of this agreement, Capitol View Joint Venture would convey 1.26 acres, known as Tracts 12 and 13 in the Capitol View Development, to Metro for the purpose of creating a public park connected to the Music City Greenway. This property is bounded by Gay Street to the north and Nelson Merry Street to the south and bisected by 10<sup>th</sup> Avenue North.

Under the First Amendment to the U.S. Constitution, the Establishment Clause provides in part that "Congress shall make no law respecting an establishment of religion..." In essence, the Establishment Clause is a limitation placed upon Congress preventing it from passing legislation respecting an establishment of religion.

Because Lifeway Christian Resources is a religious organization, a grant consisting of the entirety of their infrastructure costs could be construed as a violation of the Establishment Clause. But federal courts have evaluated legislation for Establishment Clause violations using a three-pronged test: First, does the legislation have a secular purpose? Second, is the primary effect of the legislation such that it neither advances nor inhibits religion? Third, does the legislation foster excessive government entanglements with religion? Should the grant proposed by this ordinance fail any one of these tests, the Establishment Clause is deemed violated.

But it is the opinion of the Metro Council Office that the proposed grant satisfies each of these test elements. Funding public infrastructure to be retained by the city, in exchange for additional parcels for park development, is a secular objective. There is little to no indication of intent to further the religious objectives of Lifeway. While the grant may certainly benefit Lifeway, the effect appears incidental – not an effort to exert Metro's influence to advance religion. Lastly, a one-time grant is unlikely to "entangle" Metro with the religious objectives of Lifeway.

The Metropolitan Board of Parks and Recreation is scheduled to consider acceptance of this property at their meeting on March 1, 2016.

**ORDINANCE NO. BL2016-150** (O'CONNELL, PRIDEMORE, & ELROD) – This ordinance authorizes the Director of Public Property Administration to sell a portion of the right-of-way of Korean Veterans Boulevard.

A portion of the Korean Veterans Boulevard right-of-way between 7<sup>th</sup> Avenue South and the roundabout was acquired through condemnation in the name of Metro Government by the Attorney General's Office for improvements on the Shelby Avenue Continuation / Gateway Boulevard / Korean Veterans Boulevard from Fourth to Eighth Avenues South. This was approved by Resolution No. RS2010-1106 on January 20, 2010. The costs of this program were shared on an 80/20 basis by the Federal Government and Metro.

Mr. Frank Ghertner has now requested to purchase the portion of the property in question. The request has been evaluated through the Department of Transportation's Excess Land process. It was concluded that the property is no longer needed by the state or Metro for any purpose.

All parties agree the fair market value is \$1,385,000. Because Metro originally paid for 20% of this property, Metro would receive 20% of this fair market value, amounting to \$277,000.

This sale was approved by the Planning Commission.

**ORDINANCE NO. BL2016-151** (SLEDGE & PRIDEMORE) – Metro currently has a lease agreement with STEM Preparatory Academy for the use of a portion of the Tennessee Preparatory School (TPS) campus located at 1250 Foster Avenue. Prior to December 2013, Metro had been leasing a portion of the TPS property from the state. In May 2013, the Council approved a sublease with STEM to use 26,000 square feet of the old high school building as a grade 5-8 charter school. STEM is a public charter school focused on science, technology, engineering, and math.

Ownership of 28 acres of the TPS property was transferred to Metro as part of the land transaction for the new Sounds ballpark, which was approved by the Council in December 2013.

A new sublease was entered with terms similar to the former sublease, though the 20,200 square foot Field House/Gymnasium was added as part of the lease. The agreement provided that the premises may only be used for a charter school serving fifth through eighth grade students in the South Nashville area. The term of the agreement was to be through July 31, 2024, with a possible extension of two additional five year periods. Under that new agreement, STEM was to pay \$11,781 per month, which is to increase by 2% each year.

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**ORDINANCE NO. BL2016-151**, continued

The ordinance under consideration would approve a new lease agreement with the state for a portion of the TPS property and improvements, commonly known as the Hardison Complex. This would be sub-let to STEM Preparatory Academy to use for a certified public charter high school serving ninth through twelfth grade students who reside in South Nashville with an integrated focus on a science, technology, engineering, and mathematics curriculum.

The initial term of this lease shall begin upon issuance of the Certificate of Occupancy and continue until July 31, 20224. For this initial term, Metro will make lease payments to the state according to the following schedule:

Years 1-2 - \$295,800 per year  
Years 4-6 - \$310,764 per year  
Years 7-9 - \$326,076 per year  
Year 10 - \$342,432

At any point during the initial term, Metro has the option to purchase the leased property. The purchase price would be as follows:

Years 1-2 - \$2,000,000  
Years 4-6 - \$2,100,000  
Years 7-9 - \$2,200,000  
Year 10 - \$2,320,000  
Year 11 (or later) – Fair Market Value

The sublease with STEM shall also be for ten years. At the end of the initial ten-year term, STEM shall have the option to extend the term for two (2) additional periods of five (5) years each unless the sub-lease is terminated earlier. If another property owned or leased by Metro on or within one mile of the "TPS location" becomes available and would be suitable at the discretion of Metro for operation of a charter school by STEM, Metro has the right to terminate this agreement after ninety (90) days' written notice. In such event, Metro and STEM may work together to enter a lease or sublease agreement for the newly identified property for the use of this property.

STEM shall make sublease payments to Metro that are equal to the lease payments made by Metro to the state, according to the following schedule:

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**ORDINANCE NO. BL2016-151**, continued

Years 1-2 - \$295,800 per year (\$24,650 per month)  
Years 4-6 - \$310,764 per year (\$25,897 per month)  
Years 7-9 - \$326,076 per year (\$27,173 per month)  
Year 10 - \$342,432 (\$28,536 per month)

STEM will continue to be responsible for all utility and maintenance expenses. The school will be allowed to make improvements to the property and Metro will give a rent credit to the school for the documented costs of such improvements. The plans for all improvements must be approved in advance by the department of general services. STEM will also have the right to place portable classrooms on the property.

The lease includes the typical insurance and indemnification provisions for the protection of Metro. Metro will have the ability to terminate the agreement if STEM has not cured any default within 30 days. Future amendments to or extension of the lease could be approved by the Council by resolution.

**ORDINANCE NO. BL2016-152** (O'CONNELL, ALLEN, & ELROD) – This ordinance authorizes CFD Sobro, LLC to install and maintain an aerial and underground encroachment in the right of way of 501, 500, 517, 511, and 519 Fifth Avenue South. These encroachments will include balconies and irrigation lines to street trees in the right of way.

The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the construction, installation, operation, and maintenance of the encroachment, and is required to maintain \$2 million in liability insurance naming Metro as additional insured.

This has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-156** (PRIDEMORE, COLEMAN, & SLEDGE) – Until July 1, 2015, the Tennessee Department of Commerce and Insurance was responsible for issuing licenses for motor vehicle race tracks in the state, pursuant to *Tennessee Code Annotated § 55-22-101, et seq.* The Tennessee General Assembly repealed this section and transferred the licensure requirements to the counties. In Davidson County, this authority has now been given to the Davidson County Clerk.

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**ORDINANCE NO. BL2016-156**, continued

As of July 1, 2015, it is the responsibility of the Davidson County Clerk to verify that any person, firm, or corporation operating or conducting a motor vehicle race has insurance for the general public. This insurance must have minimum limits of \$100,000 per person and \$300,000 per accident or \$300,000 combined single limit. This insurance must cover loss because of bodily injury, including death, resulting from bodily harm caused by the operation of the track.

This ordinance would now authorize the Davidson County Clerk to establish the application process and procedure and to assure compliance with the insurance requirements shown above for the licensure of operating or conducting a motor vehicle race at race tracks in Davidson County. The fee charged for processing these applications and performing verification of the insurance requirements would be \$150, which is the same amount charged by the Department of Commerce and Insurance prior to July 1, 2015 for performing these functions.

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2016-99** (MURPHY) – Members of the Metropolitan Human Relations Commission are restricted by the Metropolitan Code of Laws (MCL) to serving no more than two consecutive three-year terms. (See, MCL § 2.132.030). At the end of a second consecutive term, members are not eligible to be reappointed for at least one year.

Terms for the 17 members of the Commission are staggered so that the entire membership is never being replaced at the same time. The term for 11 of the current members will expire in 2016. The terms of the other 6 members will not expire until 2018.

As substituted, this ordinance will delete the limiting language from the MCL so that members of the Commission may be reappointed for an unlimited number of consecutive terms. If this is approved, all current members of the Commission would be eligible for reappointment when their terms expire.

**ORDINANCE NO. BL2016-124** (COLEMAN) – The Vegetation Control Board (VCB) was created by Ordinance No. O93-884 on April 5, 1994. The purpose of the VCB was to enforce standards regarding excessive vegetation and to set forth provisions for notices of violation, costs collection, failure to comply remedies, and appeals processes.

However, the Council also designated Division IV of the Metropolitan General Sessions Court as the “Environmental Court” by Ordinance No. O94-930 on March 15, 1994. This was done in part for the purpose of addressing violations of the Metropolitan Code of Laws pertaining to vegetation control, maintaining exclusive jurisdiction thereof.

The establishment of the Environmental Court makes the continued existence and operation of the Vegetation Control Board unnecessary. Since the VCB was created by ordinance, the Council has the authority to abolish the VCB by ordinance as well.

In order to eliminate the inherent redundancy of having the VCB as well as the Environmental Court, this ordinance now abolishes the VCB and directs all records be transferred to the Environmental Court as directed. The Environmental Court retains the ability to enforce all requirements under the MCL, as well as lawn and vegetation plans allowed under the code.

**ORDINANCE NO. BL2016-125** (K. JOHNSON & BLALOCK) – In 2006, the Tennessee General Assembly enacted enabling legislation for a local rental inspection program. The state law authorized local legislative bodies to adopt a residential rental dwelling inspection ordinance to address properties within designated areas that are deteriorated or in the process of deteriorating. The purpose was to prevent further deterioration of these properties and to protect the health, safety and welfare of the inhabitants. On August 7, 2007, Ordinance No. BL2007-1550 authorized a rental inspection program in accordance with state law, and designated twelve areas within Davidson County as rental inspection districts.

The Codes Department was authorized to inspect residential rental units within the rental inspection districts that are deteriorated or in the process of deteriorating. The original ordinance defined “deteriorated” as any structure that (1) because of physical condition, use or occupancy, is a public nuisance or an attractive nuisance; (2) is a fire hazard or otherwise is unsafe; (3) has had the utilities removed or disconnected so that the property is unfit for human habitation; or (4) because of neglect or lack of maintenance, has become a place for the accumulation of trash or a haven for rodents. The original rental inspection districts established by the ordinance were to remain in effect for 10 years, thereby set to expire in 2017; but they may be extended by the Council.

The director of the Department of Codes Administration was to make reasonable efforts to notify rental property owners within the districts of the enactment of this ordinance and that they are required to notify the Codes Department if they are maintaining a dwelling unit used for rental purposes. There was to be no penalty for the failure to register unless the Codes Department has given the property owner actual or written notice to do so. There was no registration fee or inspection fee that was to be charged to property owners for implementation of the program.

The Codes Department was authorized to inspect any property they deem to be deteriorating to ensure that the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire and health codes. The Codes Department could require follow-up inspections as necessary. The original ordinance, as well as the state enabling legislation, provided that the inspectors may only enter the property with the consent of the occupants or with a valid search warrant. If, after inspection, the property was found to be in compliance with the applicable codes, the property owner would get a four-year exemption from future inspections. However, that exemption could be revoked if the property becomes in violation of the applicable codes.

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**ORDINANCE NO. BL2016-125**, continued

The following areas were originally established as rental inspection districts:

- a. Urbandale – Nations
- b. Sylvan Heights
- c. Hadley Washington - Meharry
- d. North Nashville - Buena Vista – Metrocenter
- e. Napier - Trimble - Wedgewood / Houston
- f. Airport - Murfreesboro Pike
- g. Edgefield - Shelby Hills
- h. Cleveland Park - McFerrin Park
- g. Greenwood – Eastwood
- h. Vanderbilt – 21<sup>st</sup>
- i. Hermitage
- j. South Madison
- k. Madison Park
- l. Edenwold

The ordinance now under consideration adds two areas to this list. The additions would be shown as the following:

- m. Holder Drive
- n. Tusculum Road

Again, the districts currently labeled “a” through “n” will expire in 2017 unless renewed. This change has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-126** (O’CONNELL & PRIDEMORE) – This resolution authorizes the acquisition of property by negotiation or condemnation for expansion of the Martin Luther King Junior Academic Magnet School. This addition will consist of the property south of the train tracks, east of Dr. D.B. Todd Blvd., west of the existing soccer field, and north of Clinton Street.

The two parcels to be acquired are both owned by Horton Paper Service, Inc. The total appraised value of the two parcels as shown on the current property records is \$251,500. However, it will be necessary to perform a new appraisal to determine the current fair market value of the parcels.

The final price for this acquisition has not yet been determined, but it will be paid from the MNPS FY16 Capital Projects Fund (#45016).

(continued on next page)

**ORDINANCE NO. BL2016-126**, continued

This proposal was approved by the Planning Commission on December 17, 2015. Metro Code §2.24.240.I requires a public hearing when the Council authorizes acquisition of property for the construction of a new school or relocation of an existing school. This ordinance merely authorizes property acquisition for the expansion of a school. Accordingly, the public hearing requirement is not triggered.

**ORDINANCE NO. BL2016-127** (O'CONNELL, PRIDEMORE, & OTHERS) – This ordinance approves a property exchange between Metro and Greyhound Lines. After negotiations to buy a parcel of real property from Greyhound were unsuccessful, Metro began condemnation proceedings to acquire a portion of the real property at 709 5<sup>th</sup> Avenue South, as well as a slope easement and temporary construction easement for use in connection with the Division Street Extension Project.

Metro owns a tract of land at 518 Ash Street, part of a larger parcel of property also acquired in connection with the project. This “Remnant Tract” is not needed for the project or for any other public purpose. It is now considered to be surplus property.

Disposition of this Remnant Tract, whether through conveyance to Greyhound as part of the resolution of the Condemnation Action or otherwise, and licensing its interim private use is in the best interest of Metro Government.

This ordinance gives the Director of Public Property Administration the authority to dispose of this Remnant Tract by quitclaim deed. This would be in exchange for cash equal to the fair market value or for property rights of equivalent value. Metro Council previously authorized acquisition of the property, but not its conveyance.

Greyhound will be authorized to use this Remnant Tract pending its disposition pursuant to the proper license agreement.

Amendments to this ordinance may be approved by resolution. This proposal has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-128** (O'CONNELL, PRIEMORE, & OTHERS) – This ordinance approves a property exchange between Metro and Mr. Ronald Wenzler. After negotiations to buy a parcel from Mr. Wenzler were unsuccessful, Metro began condemnation proceedings to acquire a portion of real property at 800 Ewing Avenue for use in the Division Street Extension Project.

Metro acquired a separate tract of land for use in this project. A section of this parcel of approximately 6,586 square feet will not be needed for any public purpose after the project is completed, other than a 10 foot wide maintenance easement. These two parcels are of comparable value. Mr. Wenzler is willing to exchange ownership of these parcels in connection with a resolution of the condemnation proceedings. Metro Council previously authorized acquisition of the property, but not its conveyance.

Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-129** (ROSENBERG, PRIDEMORE, & OTHERS) – This ordinance authorizes the acquisition of permanent and temporary easements to construct the Davidson Branch Equalization Facility for property located at 6924 Charlotte Pike.

The estimated acquisition cost for these easements is \$10,000, which is to be paid out of the Metro Water Services fund for capital projects. Future amendments to this ordinance may be approved by resolution. This ordinance has been approved by the Planning Commission.

**ORDINANCE NO. BL2016-130** (SLEDGE & ELROD) – This ordinance abandons an existing water main and accepts a new water main, fire hydrant, and permanent easements for property located at 101 Terminal Court.

This ordinance was approved by the Planning Commission on December 31, 2015. Future amendments to this ordinance may be approved by resolution.

**ORDINANCE NO. BL2016-131** (O'CONNELL, ELROD, & OTHERS) – This ordinance abandons a portion of Korean Veterans Blvd. (former Franklin Street) right-of-way. This closure has been requested by the Nashville Symphony Association, the applicant and owner.

This ordinance has been approved by the Planning Commission and the Traffic and Parking Commission. Metro has no future need for this right-of-way.