



METRO COUNCIL OFFICE

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: **November 1, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 10/26/16:

| | |
|---------------------------------------|---------------|
| 4% Reserve Fund | \$36,506,977* |
| Metro Self Insured Liability Claims | \$5,269,573 |
| Judgments & Losses | \$3,012,353 |
| Schools Self Insured Liability Claims | \$3,492,136 |
| Self-Insured Property Loss Aggregate | \$6,291,577 |
| Employee Blanket Bond Claims | \$659,619 |
| Police Professional Liability Claims | \$2,474,591 |
| Death Benefit | \$1,386,941 |

*Assumes unrealized estimated revenues in Fiscal Year 2017 of \$27,950,995.

– RESOLUTION ON PUBLIC HEARING –

RESOLUTION NO. RS2016-411 (ROBERTS) – This resolution would approve an exemption for Fifty First Kitchen and Bar, located at 5104 Illinois Avenue, 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, several exceptions exist to the distance requirements. Facilities within the USD separated from these protected establishments by state or federal four-lane highways are exempt, as are retailer on-sale beer permit holders in the MUL and events catered by holders of caterers' permits. (*See*, Code section 7.08.090(A)). Additionally, 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 resolutions brought under section 7.08.090(E).

– ORDINANCES ON PUBLIC HEARING –

BILL NO. BL2016-265 (M. JOHNSON, DOWELL, & OTHERS) – Subsection 17.40.120.H.3.a of the Metro Code of Laws (MCL) currently provides for the review of a Planned Unit Development (PUD) in order to determine whether it should be classified as inactive. The Planning Commission is required by this subsection to determine if six (6) or more years have elapsed since the initial enactment, amendment to, or re-approval of the PUD ordinance, whether construction has begun, and whether right-of-way acquisition or construction of off-site improvement has begun.

In addition to the above, however, the Planning Commission is further allowed to consider the “aggregate of actions” taken by a PUD owner to develop the PUD under review within the previous twelve months. The term “aggregate of actions” is not currently defined in the MCL, prompting concerns that the term may be unduly vague. The ordinance under consideration would remove this from the MCL, leaving the other three determinative findings intact.

BILL NO. BL2016-415 (O’CONNELL & ELROD) – This ordinance would modify Title 17 of the Metro Code of Laws to create a mechanism for the zoning and permitting of small cell telecommunications uses and to update existing zoning provisions for other kinds of telecommunications uses. The intent is to facilitate growth of these services while encouraging the location and co-location of equipment on existing structures in order to reduce the need for new towers.

Section 1 of the ordinance would modify Section 17.04.060 (Definitions of General Terms) by adding several definitions related to the changes in these regulations.

Section 2 would modify Section 17.08.030 (District Land Use Tables) by deleting “Radio/TV/Satellite Tower and Telephone Services” and adding “Telecommunication Facility” under “Communication Uses” as a use permitted with conditions (PC) under all zoning districts.

Section 3 would modify Section 17.16.080 (Communication Uses) by adding a new subsection covering “Telecommunications Facility”. This subsection would specify requirements covering the application for a new telecommunications facility, including co-locating on an eligible support structure. This would include notification requirements for the Codes Department as well as the Historic Zoning Commission. In addition, it would specify that any telecommunication facility permitted under this chapter that is not operated as a personal communication system carrier application for a continuous period of 12 months would be

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BILL NO. BL2016-415, continued

considered abandoned, requiring the owner to remove it within 90 days. Finally, it would specify detailed landscaping and maintenance standards for telecommunication facilities both outside and within the public right-of-way.

Section 4 would delete subsections A and B in Section 17.16.180 of the MCL concerning "Communication Uses".

Section 5 would modify Section 17.40.520 (Applicability) to require an application for a zoning permit to be filed with the zoning administrator prior to any person or entity commencing any construction or alteration of a structure, initiating a change in the use of the property or for a telecommunication facility, including co-location.

Section 6 would modify Section 17.40.750 (Fees) by adding a subsection granting Metro authority to require supplemental review by the Director of the Information Technology Services Department (ITS) for any application for a telecommunication facility where placement of equipment on an alternative structure or new vertical support structure is sought. This review would also apply in cases where the complexity of the analysis requires technical expertise, or where there is a request for a variance to Section 17.16.080.C. All costs for such review would be borne by the applicant.

Section 7 would modify Section 17.40.340 (Limits To Jurisdiction) by adding a subsection requiring the board not to grant a variance without first considering a supplemental review by the Metro Planning Commission and the Director of ITS.

Section 8 would modify Section 6.26.350 to reference the changes that would be made to Chapter 17 of the MCL by this ordinance.

BILL NO. BL2016-455 (ALLEN, A. DAVIS, & OTHERS) – This ordinance would adopt a plan of services from the Planning Commission and approve the extension of the boundaries of the Urban Services District (USD) to include certain properties in Council Districts 7, 8, 9, 13, 14, 15, and 31.

Section 1.04 of the Metropolitan Charter provides that General Services District (GSD) property may be annexed into the Urban Services District, in accordance with state law annexation procedures, whenever such areas come to need urban services. State law requires that a plan of services be considered by the Planning Commission and then be adopted by the Council

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BILL NO. BL2016-455, continued

before an ordinance to extend the boundaries of the Urban Services District can be approved on final reading. The Planning Commission approved the plan of services as shown in the ordinance.

These parcels of property already receive additional police protection, fire protection, water, sanitary sewers, storm sewers and street cleaning services at the same level as all other property within the USD. The only additional services that would be provided through the proposed annexation would be street lighting, refuse collection, and wine and whiskey supervision. These additional services would be required to be provided not later than one (1) year after the ad valorem taxes in the annexed area become due.

According to the plan of services estimation included as part of the ordinance, the first-year costs to provide these additional services are estimated to be \$3,595,300. After that, the annual costs would be an estimated \$2,284,900. The additional annual revenue estimated to be generated by the additional ad valorem taxes would be \$2,964,270. Therefore, although a deficit in the first year of approximately (\$631,030) would be generated, a surplus of \$679,370 would be generated in each subsequent year.

An amendment is anticipated that would reduce the number of properties that would be included in this annexation. If that amendment is accepted, a revised plan of services would need to be created.

State law requires the Council to hold a public hearing of the plan of services and annexation ordinance prior to adoption on third and final reading.

An amendment is anticipated that may affect portions of one District and slightly revise the exhibit reference.

– RESOLUTIONS –

RESOLUTION NO. RS2016-378 (COOPER & ALLEN) – This resolution would approve a Memorandum of Agreement (MOA) between the Historical Commission, Historic Zoning Commission and Access Fiber Group, Inc. (AFG).

The State Historic Preservation Office of the Tennessee Historical Commission (THC) reviewed the request to construct Distributed Antenna System Nodes in various areas of Davidson County per Section 106 of the National Historic Preservation Act. This review was necessary because some of these nodes would be constructed in historic areas of downtown Nashville. The THC determined that the proposed project would not adversely affect any property eligible for listing in the National Register of Historic Places. However, the THC does require a one-time monetary contribution of \$2,000 designated for purchase of an interpretive historical marker at Fort Nashborough. It also requires commission of an economic impact study evaluating historic preservation policies and activities on the Metro Nashville economy.

AFG has agreed to the terms of this MOA. Within six (6) months of the execution of the agreement, AFG would commission an economic impact study on historic properties in Nashville. The scope of work for the study is listed in Exhibit A of the resolution and the specific properties are listed in Exhibit B. A draft copy of the study must be provided within ten (10) months of the execution of the agreement. Submittal of the final version would be required within twelve (12) months following execution.

RESOLUTION NO. RS2016-406 (GILMORE) – Earlier this year, the Tennessee General Assembly approved a change to Public Chapter 1028 concerning required vehicle inspections. Under the revised law, counties are now authorized to exempt motor vehicles three (3) model years or less old from their required inspections and maintenance program to attain or maintain compliance with national ambient air standards. This would be an expansion of the current exemption of vehicles that are one (1) model year or less old.

Such exemption must be approved by resolution of the county's legislative body on or before December 31, 2016. The exemption would not become effective until the January 1 *after* the State Implementation Plan has been reviewed and approved by the Environmental Protection Agency (EPA). It would also not take effect until the expiration or revision of any contract in effect with the contractor currently conducting the motor vehicle emissions testing for Metro as of the date of EPA approval.

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RESOLUTION NO. RS2016-406, continued

Metro currently contracts with Opus Inspection, Inc. (formerly named Systech International, LLC) to perform these inspections. The current contract was amended per Resolution No. RS2015-1508 to be extended through June 30, 2017. This contract would remain in force with no change in terms until it expires. Any renewal of the contract or change in its terms would need to be negotiated at that time.

Subject to the above restrictions, this resolution would authorize the exemption for vehicles three (3) model years or less old. The Vice-Mayor, as presiding officer of the Metro Council, would then submit a certified copy of the resolution to the Technical Secretary of the Air Pollution Board of the State of Tennessee no later than January 31, 2017.

RESOLUTION NO. RS2016-412 (COOPER) – This resolution would grant \$375,000 from the administrative account for “Music Enterprise Economic Development”. The FY17 operating budget included \$1,375,000 in this account.

This grant would be awarded to the “Country Music Film Project, LLC/WETA” for purposes of supporting the production of an eight-part documentary entitled “Country Music” by documentary filmmaker Ken Burns. This documentary is predicted to draw over 30 million viewers for its initial broadcast, with additional viewers from rebroadcasts and DVD distributions.

The term of this grant contract would be through June 30, 2017.

RESOLUTION NO. RS2016-413 (COOPER) – The Scholar’s Academy is a free summer academic enrichment program operated through the Nashville Public Library to help students succeed in high school and prepare for college. \$247,000 was added to the Public Library’s Nashville After-Zones Alliance (NAZA) budget for FY17 to enable the Nashville Scholars Program to expand services from 24 to 28 weeks. The new total budget for NAZA is now \$2,859,700.

This resolution would appropriate \$30,000 of these funds to Oasis Center to provide services in three primary program areas: Crisis and Residential Services, Youth Engagement & Action, and Oasis College Connection.

This is a continuation of a contractual relationship with Oasis Center for this program approved by the Council January 5, 2016. The term of the contract is through June 30, 2017.

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

RESOLUTION NO. RS2016-414 (COOPER) – This resolution would appropriate \$5,000 to Oasis Center, Inc. for the implementation of Tennessee Wyman’s Teen Outreach Program as a part of probation services in order to decrease risky behaviors and increase life skills among youth. \$4,700 of the grant would be used for supplies. The remaining \$300 would pay for travel, conferences, and meetings.

No local cash match would be required. The term of the contract would be from July 1, 2016 through June 30, 2017.

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

RESOLUTION NO. RS2016-415 (COOPER) – This resolution would approve a grant in the amount of \$7,520 from the Tennessee Administrative Office of the Courts to the Juvenile Court to provide mediation services for low-income and indigent self-represented litigants with child access and visitation issues in Juvenile Court at off-site locations.

No local cash match would be required. The term of the grant would be from October 1, 2016 through September 30, 2017.

RESOLUTION NO. RS2016-416 (COOPER & PARDUE) – This resolution would approve a grant in the amount of \$849,000 from the U.S. Department of Homeland Security and the Office of Emergency Management (OEM) to mitigate an equipment shortfall within the Port of Nashville by adding one National Incident Management System (NIMS) response package with Radiological / Nuclear Detection (RND)

\$679,200 of this amount would be used to pay equipment costs. \$56,600 would pay the maintenance and acquisition costs. The remaining \$113,200 would be used for indirect costs.

A local match equating to 25% of the total project costs would be required, though satisfied by the Metro Nashville Police Department’s recent purchase of the AndrosFX robotic platform, authorized per Resolution No. RS2016-400 on October 18, 2016.

RESOLUTION NO. RS2016-417 (COOPER & PARDUE) – This resolution would approve an application for the 2016 Homeland Security Grant from the Tennessee Emergency Management Agency (TEMA) in the amount of \$149,270 for homeland security preparedness activities. No local cash match would be required.

This grant is used to purchase equipment and to fund training exercises. This is part of an overall state grant award used to fund homeland security preparedness in Davidson, Wilson, Williamson, Sumner, Cannon, Rutherford, and Trousdale Counties. The total award in FY15 was \$694,984.

The request for \$149,270 in Davidson County would be used for three specific related projects, as follows:

- Enhance & Sustain USAR, HAZMAT Special Ops Capabilities - \$49,220,
- Enhance & Sustain Tactical Teams for Regional Response Efforts - \$15,000, and
- Planning, Training, & Exercise Program Implementation – \$85,050

RESOLUTION NO. RS2016-418 (COOPER & PARDUE) – This resolution would approve a grant in the amount of \$59,639.83 from the Tennessee Department of Safety and Homeland Security to the State Trial Courts for Alcohol Countermeasures Highway Safety Projects. These grant funds would be used to pay 100% of the salaries and benefits for one Group Care Aide at the Davidson County Drug Court.

The term of the grant would be from October 1, 2016, through September 30, 2017. There would be no local cash match required for this grant.

RESOLUTION NO. RS2016-419 (COOPER & PARDUE) – Resolution No. RS2015-1543 accepted a grant from the Tennessee Department of Finance and Administration to the Metro Nashville Police Department on June 16, 2015. The purpose of this grant was to support the provision of mental health services and criminal justice system advocacy to victims of violent crime.

The original grant proceeds were not to exceed \$626,220. A local cash match of \$156,555 was also required. The first amendment per Resolution No. RS2016-328 increased the amount of the award by \$30,025 for a new total of \$656,245. The local cash match requirement was also increased by \$7,506 for a new total of \$164,061.

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RESOLUTION NO. RS2016-419, continued

This second amendment currently under consideration would approve the Special Conditions Pages certification to the grant agreement, listing the conditions that must be adhered to by both the Office of Criminal Justice Programs (OCJP) and their sub-recipients. This certification is required by the OCJP. A copy of this list is attached to the resolution.

The term of the grant would remain from July 1, 2015 through June 30, 2018. The amounts to be awarded during each of these three fiscal years would remain \$208,740 in FY16, \$221,702 in FY17, and \$225,803 in FY18.

RESOLUTION NO. RS2016-420 (O'CONNELL, COOPER, & HENDERSON) – The Scholar's Academy is a free summer academic enrichment program operated through the Nashville Public Library to help students succeed in high school and prepare for college. \$247,000 was added to the Public Library's Nashville After-Zones Alliance (NAZA) budget for FY17 to enable the Nashville Scholars Program to expand services from 24 to 28 weeks. The new total budget for NAZA is now \$2,859,700.

This resolution would appropriate \$250,000 of these funds as a grant to the Oasis Center, Inc. for program administration and providing college access services. This would include ongoing support for the students, development of a college plan with each student, outreach and engagement with parents and school staff, program recruitment, and support for the college application process.

This is a continuation of a contractual relationship with Oasis Center for this program approved by the Council on October 6, 2015. The term of the contract would be through June 30, 2017.

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

RESOLUTION NO. RS2016-421 (HENDERSON, COOPER, & K. JOHNSON) – This resolution would approve a grant in the amount of \$24,660 from the "Tennessee Woman's Suffrage Monument, Inc." to the Metropolitan Nashville Parks and Recreation Department for the reimbursement of costs associated with the temporary and permanent installation of the Tennessee Woman Suffrage Monument in Centennial Park. There would be no local cash match required for this grant.

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RESOLUTION NO. RS2016-421, continued

This grant was approved by the Parks Board on November 3, 2015. However, this approval was contingent on four conditions:

- Compliance with “MAC PAC” conditions (Metro Arts Commission Public Arts Committee);
- An agreement by the applicant to fund 100% of the design and construction costs, with the design work to be contracted by Metro Parks utilizing the existing contract with Nelson Byrd Woltz, LLC;
- Establishment of an endowment or fund adequate for a maintenance plan in perpetuity; and
- Approval of the historical text by the Metro Historical Commission.

The estimate by Nelson Byrd Woltz LLC (NBW) for the entire project is \$297,310. After applying the \$24,660 from this grant, \$26,700 would be required for the Phase I Schematic Design Phase. In addition, \$245,950 would be required to pay for the Phase 2A Great Lawn – Schematic Design.

Tennessee Woman’s Suffrage Monument, Inc. has agreed to pay all incremental costs for this monument. There should be no cost to Metro beyond the amounts already budgeted for improvements at Centennial Park.

RESOLUTION NO. RS2016-422 (WITHERS, COOPER, & HENDERSON) – This resolution would approve a grant in the amount of \$12,378.50 from the “Friends of Shelby Park and Bottoms” to the Metropolitan Nashville Parks and Recreation Department to pay for a drinking fountain at the Cornelia Fort Trailhead. There would be no local cash match required for this grant.

This grant was approved by the Parks Board on October 6, 2016.

RESOLUTION NO. RS2016-423 (COOPER & GILMORE) – This resolution would amend an existing grant contract between the United States Department of Health and Human Services (HHS) to the Metropolitan Action Commission (MAC) to support the Head Start and Early Head Start Programs. The Nashville Head Start program provides early childhood education services to children from economically disadvantaged families

The amendment now under consideration would increase the amount of the grant by \$216,447 for a new total of \$12,383,987 for a cost-of-living adjustment for teachers and teacher assistants. The required local cash match is \$54,112.

RESOLUTION NO. RS2016-424 (GILMORE, COOPER, & ALLEN) – This resolution would approve a contract between the Metro Board of Health and Family and the Nashville Academy of Medicine to provide access to the Charisma Salus database system for patient tracking and prescription tracking. This contract would facilitate the efforts of the Board of Health to link uninsured residents of Davidson County to community healthcare services that serve the uninsured, based upon their ability to pay using the Nashville Academy of Medicine database.

Metro would pay a total administrative fee of \$3,300 for access to the database. The term of the contract would be from July 1, 2016 through June 30, 2017.

RESOLUTION NO. RS2016-425 (GILMORE & MENDES) – Ordinance No. BL2016-422 approved an agreement with Signature Healthcare (and its subsidiary LP North Nashville, LLC) for the continued lease of real property located at 1414 County Hospital Road and transfer of operations of the Bordeaux Long-Term Care Facility. Based in Louisville, Kentucky, Signature Healthcare operated 87 long-term care communities in 7 states, including one facility in Nashville. Following approval by Council, Signature took over operations of BLTC in May 2014, committing to operate a 120-bed nursing home at the Bordeaux campus for at least 10 years.

In its two-year operation of the BLTC facility, Signature has demonstrated efficiencies in maintaining a lesser price-per-day for patient care compared to pre-2014 operations. However, while 60% of Signature's facilities had rankings between 3 to 5 stars from the Centers for Medicare and Medicaid Services, BLTC has received a 1 star ranking under Signature's control.

In response to the Metro Council's expressed dissatisfaction with this 1 star ranking, Signature is establishing a Quality Assurance (QA) Committee that would submit regular reports to the Council regarding improvements to, or deterioration of, the quality of care provided to residents of the facility.

The resolution under consideration would approve the appointment of Councilman Nick Leonardo to be the Council representative on this QA Committee until such time as the Council appoints a replacement representative. There is no fixed term for this appointment.

RESOLUTION NO. RS2016-426 (O'CONNELL, COLEMAN, & ALLEN) – Resolution No. RS2013-628 approved an amendment to an agreement between the Metropolitan Government and Stahlman Redevelopment Partners, LLC, for the use of up to 175 parking spaces in the courthouse garage. In August 2001, the Council declared the Stahlman Building to be surplus property and transferred ownership of the building to the Metropolitan Development and

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RESOLUTION NO. RS2016-426, continued

Housing Agency (MDHA) for the purpose of converting the building into an apartment housing complex. MDHA entered into a development agreement with Stahlman Redevelopment Partners, LLC to redevelop the building for retail and residential use.

Because the building lacks adequate parking for its tenancy, Metro entered into a 40 year agreement with the developer beginning July 1, 2006 to ensure sufficient amounts of parking for residents. According to the Finance Department, the monthly rental rate was currently \$110 per space, subject to an annual adjustment based upon the percentage increase or decrease in the consumer price index.

Stahlman Partners used a Federal Housing Administration (FHA) loan to finance the building conversion, which necessitated the parking agreement to be for a term of forty years. Stahlman Partners is in the process of refinancing this loan, which will result in the extension of the expiration date for seven years. The FHA required the proof of sufficient parking to be extended for seven years to match the term of the new loan.

MDHA recommended the parking agreement to be amended to extend the term of the agreement through June 30, 2053. The amendment per Resolution No. RS2013-628 approved an extension of the term of the agreement for seven years. All other provisions in the lease agreement remained the same.

The amendment now under consideration recognizes the intention by Stahlman Partners to pay their loan in full. They desire to continue leasing the parking facility for the remaining time under the Parking Agreement -- thirty-seven (37) years.

According to the terms of the Parking Agreement, if the loan is paid in full, the term reverts from forty-seven (47) years to a twenty (20) year term plus a ten (10) year extension and a seventeen (17) year extension less the amount of time already expended under the forty-seven (47) year term. (The current Resolution references an "extension" of the term from 2046 to 2053, though the term was technically extended in 2013.)

This proposed amendment was approved by the Traffic and Parking Commission on October 10, 2016.

The ordinance approving the initial parking agreement approved by Ordinance No. BL2005-522 provided that amendments to the agreement may be approved by the Council by resolution.

RESOLUTION NO. RS2016-427 (O'CONNELL, COLEMAN, & ALLEN) – This resolution would approve a license agreement between the Nashville Farmers' Market and the Tennessee Department of General Services. This agreement would allow the use of parking spaces in a lot owned by the state to be used to accommodate vendors of the Farmers' Market.

Use would be limited to the front of the grass lot adjacent to 6th Avenue as well as the connecting alleyways. This use would be permitted 24 hours per day, 7 days per week. The Farmers' Market would agree not to impair or otherwise interfere with Tennessee employee parking. The Farmers' Market would also agree to be responsible for clearing and maintaining the lot and keep the lot clean of debris.

No license fee is included in the proposed lease agreement. However, the agreement includes a provision that there must be no charge for parking at the lot.

The lease agreement would be effective for a period of 365 days, beginning on the day of full execution of the agreement. This was approved by the Planning Commission on October 21, 2016.

RESOLUTION NOS. RS2016-428 and RS2016-429 – These two resolutions would confirm one appointment and two reappointments of members to serve on the Board of Directors for the Convention Center Authority.

Under Tennessee Code Annotated §7-89-108, the Convention Center Authority is to be governed by a Board of Directors of not less than seven registered voters of the municipality, to serve staggered terms. The directors are to serve without compensation, and cannot be an elected official or employee of the municipality. Such directors are appointed by the Mayor and confirmed by a resolution adopted by the Council. The board is to be composed of members who are diverse in professional and educational background, ethnicity, race, gender, and area of residency within the municipality. At least one of the directors must be female and at least one must be a minority.

- **Resolution No. RS2016-428** (M. JOHNSON, MURPHY, & OTHERS) – This would confirm the reappointment of Ms. Renata Soto and Mr. William Lucas Simmons for a term expiring September 30, 2020.
- **Resolution No. RS2016-429** (WITHERS, SHULMAN, & K. JOHNSON) – This would confirm the appointment of Mr. Randy Rayburn for a term expiring September 30, 2020.

RESOLUTION NO. RS2016-430 (SHULMAN) – This resolution would approve the election of 456 Notaries Public in accordance with state law. The Davidson County Clerk has advised that each of the applicants meets the qualifications for the office.

– **BILLS ON SECOND READING** –

BILL NO. BL2016-381 (ALLEN) – This ordinance, as substituted, would comprehensively revise Section 6.28.030 of the Metro Code of Laws (MCL) concerning short-term rental properties (STRP). A summary of these changes is as follows:

1. Subsection 6.28.030(D) currently lists the information that must be provided as part of an STRP permit application. This would be changed to specify that applications would only be valid for sixty (60) calendar days from the date filed and would expire if not completed within that time.
2. Subsection D.3. currently requires proof of written notification to any neighboring property owner(s) prior to filing the application. A sentence would be added to specify that this proof of notification shall be a signature from the adjacent property owner, a receipt of U.S. registered mail, or U.S. Postal Service notice of refusal.
3. A new paragraph would be added to Section D. This would add a new requirement for two documents proving owner occupation when applying for an owner-occupied permit. Acceptable documentation would include a Tennessee Driver's license or other valid state identification card, Davidson County voter registration card, or a bank statement, each showing the owner's name and address matching that of the property.
4. Section F currently requires all STRP occupants to abide by all applicable noise restrictions. This would be expanded to require adherence to all regulations regarding the public peace and welfare and waste management provisions of the Code.
5. Section H currently specifies that no recreational vehicles, buses, or trailers shall be visible on the street or property in conjunction with the STRP use. This would be expanded by requiring parking to be provided as required by MCL Section 17.20.030, "Parking Requirements Established". (Current commercial use provisions under §17.16.070.U for vehicular rental/leasing state in part: "No...recreational vehicles...shall be rented or leased from the property.")
6. Section N currently specifies that STRP permits shall expire three hundred sixty-five (365) days after being issued. These can be renewed by paying a fifty dollar (\$50) renewal fee to the Codes Department. This would be changed to specify these permits would expire if not renewed prior to expiration. If no complaints have been documented by Metro Codes, Police, or Public Works, permit renewal is still possible. However, it would be required to submit proof of payment of taxes, and an affidavit of continued

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BILL NO. BL2016-381, continued

compliance by mail, on-line, or in person to the Codes Department. A grace period of thirty (30) calendar days may be allowed for properties that have no complaints by appealing the Board of Zoning Appeals (BZA) if the applicant can reasonably explain the delay. If complaints have been documented, no grace period would be allowed.

7. Section Q currently requires that only one permit shall be issued per lot for single- and two-family homes. This section, as substituted, would establish three (3) types of permits: Type 1 (owner-occupied), Type 2 (Not Owner-Occupied), and Type 3 (Not Owner-Occupied Multifamily). No more than 3% of single- and or two-family residential units within each census tract would be permitted as Type 2. Only one permit per lot would be issued for single-family and two-family home, triplexes and quadplexes.
8. Paragraph R.1 currently requires the Codes Department to notify the permit holder in writing upon the filing of three or more complaints within a calendar year regarding an STRP permit. This requirement would be revised to require such notification after a single complaint.
9. Paragraph R.2 currently states that an STRP permit may be revoked if the Codes Department determines that STRP violations have occurred. This would be revised to specify that STRP permits shall (not may) be revoked if the Zoning Administrator determines, based upon reasonably reliable information, that three STRP violations have occurred within a 12-month period, based on documented evidence. This evidentiary basis ("reasonably reliable information") tracks the Tennessee Rules of Evidence.

In a decision rendered October 21, 2016, the Eighth Circuit Court for the 20th Judicial District in Davidson County declared the STRP regulations to be unconstitutional and vague, at least with respect to the definition of short term rental property. However, no order has been ordered yet. A minor amendment is anticipated from the sponsor.

BILL NO. BL2016-433 (COOPER, ALLEN, & ELROD) – In 2013, the Council approved a 15-year franchise agreement for Nashville Data Link, LLC (NDL) per Ordinance No. BL2012-325. NDL is now being dissolved and its operations are being absorbed by parent company Windstream KDL, LLC.

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BILL NO. BL2016-433, continued

According to the provisions of Section 6.26.290 of the Metro Code of Laws (MCL), franchises cannot be transferred or conveyed by the grantee without the written consent of the Council by ordinance. Accordingly, the ordinance under consideration would approve the requested franchise transfer from NDL to Windstream.

Windstream has acknowledged its understanding of the obligations imposed by the franchise and has agreed to meet those obligations. They have also obtained a replacement bond and certificate of insurance in its own name to replace those initially provided by NDL. Additionally, at Metro's request, Windstream has provided updated maps depicting the locations of the relevant infrastructure in the public rights-of-way. No other changes are being made to the terms or conditions of the franchise agreement initially awarded to NDL.

This matter will be considered by the Planning Commission on November 10, 2016.

BILL NO. BL2016-454 (ALLEN, O'CONNELL, & OTHERS) – Section 7.08.090 of the Metro Code of Laws (MCL) establishes minimum distance requirements for restaurants or retail food stores to obtain a beer permit. The ordinance under consideration would revise the language in subsection E.1. to eliminate the restriction that a restaurant must possess “a valid license issued by the state Alcoholic Beverage Commission for sale and consumption or wine or other alcoholic beverages on the premises.”

Similarly, the ordinance would eliminate Paragraph E.5. which requires restaurant permit holders to maintain a valid license from the Alcoholic Beverage Commission.

Public hearings would still be required as well as approval by Council resolutions receiving at least twenty-one (21) affirmative votes to be exempt from the minimum distance requirements.

BILL NO. BL2016-456 (SLEDGE, COOPER, & ALLEN) – The Metropolitan Development and Housing Agency (MDHA) currently owns a parcel of property located at 0 Wedgewood Avenue (#10509028600). This parcel is adjacent to two parcels currently owned by Metro, at 1440 12th Avenue South and 1500 12th Avenue South.

The two parcels owned by Metro have been identified as suitable for the development of affordable and workforce housing. The ordinance would accept the parcel owned by MDHA so that it also can be used for this development, without cost or restrictions to Metro.

This ordinance was approved by the Planning Commission on September 22, 2016.

BILL NO. BL2016-457 (PULLEY, ALLEN, & ELROD) – This ordinance would abandon existing sewer and water main and sanitary manhole and accept new sanitary manholes and any associated easements for properties located at 1 University Park Drive and 3704 Rosemont Avenue.

This was approved by the Planning Commission on September 13, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-458 (SLEDGE, COOPER, & OTHERS) – This Ordinance would approve amendment one to a 2007 lease agreement with Belmont University regarding Rose Park. In 2007, Ordinance No. BL2007-1544 approved a lease agreement between Belmont University and the Board of Parks and Recreation for the development and shared use of Rose Park.

Under the terms of the original lease, Belmont proposed to construct athletic facilities for its baseball, softball, soccer and track teams within the 25-acre Rose Park. These facilities were to be used by Belmont for games and practices, and shared by Belmont, Metro and the Edgehill community. While Belmont would not pay any set rental amount for use of the park, the lease provided that Belmont would construct the athletic facilities on the property, as well as build a concessions building, locker rooms, and improvements to common areas, all at its own expense, at an estimated cost of approximately \$7 million.

Metro was to have the authority for scheduling the dates and times of Belmont and community events. Belmont was to schedule its events with Metro at least six months in advance. Metro was to make reasonable efforts to schedule Belmont's first choice of intercollegiate competitions. Metro was to be responsible for scheduling events sponsored by other school, neighborhood, and community groups. Belmont estimated that the sports fields would be available for community uses at least 80% of the time during the park's regular operating hours.

Belmont was to be entitled to all revenue generated as a result of Belmont events such as ticket sales, concessions, and advertising. Belmont was to have the authority to put up game day signs on the interior fences of the fields, which must be removed on non-game days. Belmont was also to be responsible for installing one or more electronic scoreboards. All nighttime Belmont events were required to be scheduled in time to be completed and the lights turned off by 10:30 p.m. An exception was to be made for games that went into overtime, extra innings, etc. All sound amplification on the property was required to be turned off by 10:00 p.m.

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BILL NO. BL2016-458, continued

Belmont was to be responsible for the repair and maintenance of the facilities caused by ordinary wear and tear. Metro was to be responsible for damages occurring in connection with a community event. Belmont was to be responsible for paying all utilities and for upkeep and janitorial service during its respective sports' competitive seasons. Further, Belmont was to be required to provide security personnel and traffic control both on and near the park at its own expense. Belmont was also required to maintain property damage insurance for the full value of the improvements, as well as premises liability insurance in the amount of \$2 million per person, naming Metro as an additional insured. Belmont agreed to indemnify Metro for any claims arising from Belmont's negligence or fault.

The initial term of the lease was for forty years, but may be terminated by either party upon one year's written notice. If Metro terminated the lease early, Metro was to be required to pay Belmont the fair value of the improvements Belmont made to the property.

Section 3.a. of the lease required twenty percent (20%) of the lease payment by Belmont to be allocated and evenly distributed to the Parent Teacher Organizations (PTOs) of Carter Lawrence and Rose Park public schools. The ordinance under consideration would amend this to eliminate the reference to PTOs and instead simply specify that 20% of the lease payment would be allocated and evenly distributed to Carter Lawrence and Rose Park public schools. No other changes are now being proposed to the terms or conditions of this lease.

This was approved by the Planning Department on July 11, 2016.

BILL NO. BL2016-459 (MURPHY, ALLEN, & PRODEMORE) – This ordinance would approve a revocable license agreement for the use of a cubical office space, together with access to associated common area or shared portions, at a facility owned by "Operation Stand Down Tennessee" located at 1125 12th Avenue South.

The licensed space would consist of no less than sixty (60) square feet residing in a cubical area. In addition, Metro would be allowed to use approximately 5,310 square feet, including a classroom, a community room, and a conference room as available on a non-exclusive basis in conjunction with the Licensor.

There would be no charge for the use of this space by Metro. The term of the agreement would be from October 15, 2016 through October 15, 2017.

Amendments to the Revocable License agreement may be approved by Council resolution receiving at least twenty-one (21) affirmative votes.

– BILLS ON THIRD READING –

BILL NO. BL2016-302 (PRIDEMORE, ALLEN, & ELROD) – This ordinance would grant a telecommunications franchise to TN Backhaul Networks, LLC in accordance with the Metro Code. TN Backhaul Networks, LLC would have a fifteen (15) year franchise and would be required to pay a fee of 5% of gross revenues each year as a reasonable estimate of Metro's costs associated with owning, maintaining, and managing the public right-of-way used by the company.

Until recently, section 6.26.030.B.5 of the Metro Code of Laws (MCL) provided a unique process for approving fiber optic communications services franchises, including a "full public proceeding" in which the grantee's "legal, character, financial, technical and other qualifications" are reviewed. Pursuant to Ordinance No. BL2016-310 adopted August 3, 2016, that process has been altered to allow an applicant to submit a certified report attesting to its ability to perform. The Council office is advised that TN Backhaul Networks, LLC wishes to proceed under this new provision and it has submitted the requisite report.

Section 6.26.240 of the MCL currently defines 5% of gross revenues as the required amount of compensation to be paid to Metro for fiber optic communications service franchises. The franchise agreement under consideration recognizes that this requirement may be changed in the future. Should that happen, TN Backhaul Networks, LLC agrees they shall thereafter pay the newly specified fee.

The company has posted the required bond in the amount of \$500,000 guaranteeing performance of its obligations under the franchise, as well as a certificate of liability insurance -- naming the Metropolitan Government as an additional insured -- in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for general liability.

This application has been administratively approved by the Planning Commission as of September 16, 2016.

BILL NO. BL2016-308 (HASTINGS) –Tennessee Code Annotated § 66-28-401 requires tenants to comply with certain maintenance and conduct standards and to refrain from any illegal conduct on the premises of the dwelling being rented.

This ordinance would create a mechanism for informing tenants of these obligations by requiring residential rental properties receiving Barnes Fund grants to include a "tenant conduct clause" within their rental agreements.

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BILL NO. BL2016-308, continued

The clause would repeat the conduct requirements of state law as follows:

- Tenants must not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so;
- Tenants must not engage in any illegal conduct on the premises; and
- Tenants must act, and require other persons on the premises with the tenant's consent, to act in a manner that will not disturb the neighbors' peaceful enjoyment of the premises.

By comparison, the Metropolitan Development & Housing Authority (MDHA) adopts HUD model lease agreements which generally prohibit criminal conduct though without enumerating specific prohibited conduct.

Under the proposed ordinance, as amended, if a tenant fails to comply with these restrictions, the landlord would be required to take all steps reasonably necessary to safeguard other tenants' peaceful enjoyment of their units, implementing remedies allowed under T.C.A. 66-28-505.

BILL NO. BL2016-417 (K. JOHNSON) –This ordinance, as substituted, would amend Section 12.40.150 of the Metro Code of Laws (MCL) concerning the unlawful parking of vehicles for sale or repair purposes.

In addition to current restrictions, this ordinance would add a new prohibition against parking a vehicle on residential property abutting or adjacent to an arterial street, as specified in the Major and Collector Street Plan, for the purpose of displaying the vehicle for sale.

BILL NO. BL2016-420 (COOPER & ALLEN) –This ordinance would amend the agreement between Metro and the Nashville Hockey Club Limited Partnership (NHCLP) concerning the operation of the ice rinks at the Centennial Sportsplex. This would make the NHCLP the exclusive sponsorship sales agency for the Sportsplex ice rinks in order to drive new sponsorship revenues.

The NHCLP would develop a complete menu of sponsorship inventory at the Sportsplex, subject to Metro's approval. The NHCLP would also have the option to pursue naming rights with respect to Ice Rink Two, subject to Metro's board approval and approval by ordinance.

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BILL NO. BL2016-420, continued

The initial term of this amendment would be from August 1, 2016 through July 31, 2018. Either party could extend this term by giving written notice to the other party at least ninety (90) days prior to the expiration of the term. Both parties must then agree to the extension.

During this initial two-year term, the NHCLP would retain sixty percent (60%) of all annual net revenue from these Sportsplex Sponsorship Services. Metro would retain the remaining forty percent (40%). However, Metro would be required to reinvest twenty percent (20%) of its annual revenue share in the Sportsplex each year of the term.

If the term is extended, then as of August 1, 2018, the revenue would be mutually determined by NHCLP and Metro. Metro would continue to be required to reinvest twenty percent (20%) of its annual revenue share.

BILL NO. BL2016-430 (COOPER, DOWELL, & ELROD) – This ordinance would authorize Metro to enter into a participation agreement for the construction of public infrastructure improvements with Century Farms, LLC. Century Farms has developed plans for the design and construction of a proposed multi-use development on real property they own. These plans would require construction within the public right-of-way, specifically including roadway improvements at Old Franklin Road, Preston Road and Cane Ridge Road. The plans further require Century Farms to acquire additional land, easements, and/or rights-of way over property owned by private land owners. These plans were approved and permitted by Metro on December 8, 2015.

The costs necessary to complete the project would be expected to be in the range of \$6,700,000 to \$10,300,000. This ordinance would authorize Metro to contribute \$5,500,000 for the public infrastructure improvement to the right-of-way of the project. Upon final inspections and approvals, Century Farms would convey the project to Metro.

This payment by Metro would be paid from the FY16 Metro Capital Spending Plan, using the Public Works "Roads Bridges Bikeways GSD" Business Unit.

BILL NO. BL2016-431 (SCOTT DAVIS, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning unimproved Alley Number 308 right-of-way.

This ordinance was approved by the Traffic and Parking Commission on October 10, 2016 and the Planning Commission on August 9, 2016.

BILL NO. BL2016-432 (COOPER, ALLEN, & ELROD) – Chapter 6.26 of the Metro Code provides terms and conditions for companies wishing to construct and operate telecommunications systems using fiber optic cable in the public right-of-ways. ExteNet Systems, Inc. received a Certificate of Public Convenience and Necessity from the Tennessee Regulatory Authority on May 7, 2015 to provide competing local telecommunication services within the State of Tennessee. ExteNet now desires to provide multi-carrier and multi-technology distributed networks for use by wireless carriers and venue owners in Davidson County.

This ordinance would grant a telecommunications franchise to ExteNet in accordance with the Metro Code. ExteNet Systems would have a fifteen (15) year franchise and be required to pay a fee of 5% of gross revenues each year as a reasonable estimate of Metro's costs associated with owning, maintaining, and managing the public right-of-way used by the company.

Section 6.26.240 of the MCL currently defines 5% of gross revenues as the required amount of compensation to be paid to Metro for fiber optic communications service franchises. However, the franchise agreement under consideration recognizes that this requirement could change in the future. If that happens, ExteNet agrees that they will thereafter pay the new fee.

ExteNet has posted the required bond in the amount of \$500,000 guaranteeing the company's performance of its obligations under the franchise, as well as a certificate of liability -- naming the Metropolitan Government as additional insured -- in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for general liability.

This application is scheduled for consideration by the Planning Commission at their meeting on November 10, 2016.

BILL NO. BL2016-434 (SHULMAN) – This ordinance would readopt the Metro Code prepared by Municipal Code Corporation to include supplemental and replacement pages for ordinances enacted on or before July 6, 2016. This is a routine re-adoption to ensure the Metro Code is up to date.

BILL NO. BL2016-435 (MENDES) – On August 4, 2015, Ordinance No. BL2015-1281 was enacted to authorize the Metropolitan Development and Housing Agency (MDHA) to negotiate and accept payments in lieu of taxes (PILOT) from operators of low income housing tax credit (LIHTC) properties. PILOT agreements essentially provide tax abatements for real and/or personal property taxes that would otherwise be owed to the Metropolitan Government. PILOTS

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BILL NO. BL2016-435, continued

have been utilized by Metro to provide incentives through the Industrial Development Board (IDB) to large employers to create more job opportunities. MDHA now has the authority to enter into PILOTs to create affordable rental housing.

MDHA developed this PILOT program to provide an additional financial incentive to developers considering construction or rehabilitation of affordable housing units through a federally funded LIHTC program. Subsidized low income housing tax credit developments serve those at or below 60% of the average median income (AMI) for the Nashville area, which translates to 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 under this program is 10 years, and the current cap is \$2 million per year. These PILOTs 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.

Ordinance No. BL2016-334 was enacted to further engage the Metro Planning Department in authorizing PILOT projects and it revised the program to determine qualifications and eligibility for such payments. Under these revised terms, MDHA was further authorized to negotiate up to \$2,500,000 in additional PILOTs per calendar year. These agreements continue to be required to be approved by Council resolution.

The ordinance now under consideration would replace Section 1 of BL2016-334 with new language. The existing language requires MDHA to state how the project avoids concentrations of poverty in Nashville, whether the project is consistent with the Planning Commission's general plan for Nashville, whether the project is consistent with MDHA's Consolidated Plan for Nashville, and whether the property is consistent with the affordable and workforce housing goals of the Metropolitan Housing Trust Fund Commission.

The revised language would further change requirements before a PILOT agreement could be submitted to the Council for approval. MDHA would be required to obtain a recommendation from the Planning Commission as to whether the project is consistent with the General Plan for Nashville, with a list provided by the Planning Department of other federally subsidized multi-family properties in the same census tract. MDHA would also be required to certify whether the project is consistent with the Consolidated Plan for Nashville-Davidson County and to state whether other PILOT agreements are in effect in the same census tracts.

All other requirements as approved per BL2016-334 would remain unchanged.