



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 15, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 11/9/16:

4% Reserve Fund	\$36,506,977*
Metro Self Insured Liability Claims	\$5,168,884
Judgments & Losses	\$3,007,913
Schools Self Insured Liability Claims	\$3,479,645
Self-Insured Property Loss Aggregate	\$6,291,095
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 \$27,006,032.

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTIONS NO. RS2016-432 and RS2016-433 – These two resolutions would approve exemptions 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 (although the requirement for such license may be eliminated per BL2016-454, scheduled for third reading November 15, 2016) 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).

- **RESOLUTION NO. RS2016-432** (A. DAVIS) – This resolution would approve an exemption for TBLS, LLC/TKO, located at 4204 Gallatin Road.
- **RESOLUTION NO. RS2016-433** (WITHERS) – This resolution would approve an exemption for Vinyl Tap, LLC, located at 2038 Greenwood Avenue.

– RESOLUTIONS –

RESOLUTION NO. RS2016-397 (O'CONNELL) – This resolution would approve an exemption for 5th and Taylor, LLC, located at 1411 Fifth Avenue North, 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 (although the requirement for such license may be eliminated per BL2016-454, scheduled for third reading November 15, 2016) 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 was held during the Metro Council meeting on Tuesday, October 18, 2016.

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.

Metro currently contracts with Opus Inspection, Inc. (formerly known as Systech International, LLC) to perform these inspections. The current contract was amended per Resolution No. RS2015-1508, extending it through June 30, 2017. This contract would remain in force with no

(continued on next page)

RESOLUTION NO. RS2016-406, continued

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, acting 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. RS2016-434 (COOPER & VANREECE) – This resolution would approve an economic and community development incentive grant to the Industrial Development Board (IDB) for the benefit of Warner Music, Inc.

Warner Music Group (WMG) announced that it would open a new “center of excellence” for Shared Services in Nashville. This center would initially employ up to 175 people in financial, legal, and administrative functions – resulting from WMG moving its Accounting Operations, Cash Management, and Recorded Music Rights Administration to Nashville. This center would be located in a build-out of approximately 30,000 square feet of office space at the Nashville City Center, due to open in mid-2017. WMG would continue to maintain its offices on Music Row. WMG expects the number of new jobs at the Shared Services Center to expand over time, reaching at least 500 by the end of 2020.

In February 2011, the Council enacted Substitute Ordinance No. BL2010-806 (now codified at Metro Code section 2.210.020) to allow incentive grants of this type following the location or relocation of the international, national, or regional headquarters of a large company comparable, but not limited to, Fortune 500 companies. (WMG is not currently listed among the Fortune 500.) The location or relocation must be “expected to result in the creation of at least five hundred additional jobs” in Nashville during the first five years of operations or expansion.

The amount of any incentive grant is determined by multiplying the average number of “full time equivalent employees” within the boundaries of the metropolitan government by an amount “up to” five hundred dollars. (Section 2.210.020). This resolution would provide a grant for the full amount of \$500 per employee for a period of 7 years for all employees over and above those already working in Nashville. The actual amount and duration of the grant is to be determined taking into account (1) the number of jobs created, (2) the amount of revenue anticipated to be received by Metro as a result of the location and operation of the company, and (3) other economic and community development opportunities the company is expected to create, among other things. (Section 2.210.020).

(continued on next page)

RESOLUTION NO. RS2016-434, continued

The agreement provides that “full-time” WMG incremental employees would be included in the grant amount calculation. Neither Chapter 2.210 nor Substitute Ordinance BL2010-806 defines “job”, but under the definition provided in the agreement, a “full-time” employee may work as little as 32 hours per week and for only 26 weeks per year.

WMG would be required to submit annual settlement statements to the IDB and the Department of Finance showing the calculation of the number of incremental positions from the previous year in order to receive the grant. Assuming job creation estimates are met, Metro would be providing \$87,500 per year to WMG under the grant agreement for the initial 175 new jobs, increasing to \$250,000 per year if the number of new jobs increases to 500.

In the proposed grant agreement, if the total number of new WMG jobs has not reached 500 by December 31, 2020, the agreement would be terminated and no additional grant payments would be made. However, the agreement includes no clawback provision to recover any portion of grant payments made beforehand pursuant to the “expectation” of the creation of 500 jobs.

The resolution would also approve the corresponding grant contract among Metro, the IDB, and WMG.

The grant agreement further provides that the payment of the grant “has served as a material inducement to Warner to maintain its existing operations and certain future growth in Nashville and to continue to make material investments in Nashville.” Per section 2.210.030 of the Metro Code, the resolution and the grant agreement provide that the grant is contingent upon the annual appropriation of funds for this purpose by the Council.

RESOLUTION NO. RS2016-435 (COOPER & GLOVER) – On August 4, 2015, Ordinance No. BL2015-1281 was enacted authorizing 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 have previously been utilized by Metro to provide incentives through the Industrial Development Board (IDB) to large employers to create job opportunities. MDHA now has the authority to enter into PILOTs to create affordable rental housing.

MDHA developed this PILOT program to provide additional financial incentives 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

(continued on next page)

RESOLUTION NO. RS2016-435, continued

below 60% of the average median income (AMI) for the Nashville area, which results in an income cap of \$28,140 for an individual and \$40,140 for a family of four. Once negotiated by MDHA, each PILOT agreement must be approved by the Council by resolution.

The maximum term for a PILOT lease under this program is 10 years. The PILOT would only be available for additional tax liability over and above the pre-development assessed value of the property. The PILOT lease is to be terminated if the property sits vacant for two years.

MDHA is required to file an annual report with the Council, Assessor of Property, and State Board of Equalization identifying the values of the properties subject to PILOTs, the date and term for each PILOT, the amount of PILOT payments made, and a calculation of the taxes that would otherwise be owed.

Hermitage Flats is a new 266-unit garden style apartment project that is intended to be constructed as an LIHTC property on vacant commercial land located at 5646 Old Hickory Boulevard. The application for this project as well as the associated PILOT agreement have been approved by the MDHA Board of Commissioners. The Planning Commission issued a recommendation October 25, 2016 advising that the project is consistent with the NashvilleNext adopted general plan and the community character policy for the area, provided six conditions were met:

1. Provide a sidewalk along Hermitage Woods Drive to connect to the existing sidewalk along Old Hickory Boulevard.
2. Extend existing sidewalk for the entire length of the property along Old Hickory Boulevard.
3. Provide a sidewalk connection to the intersection of Old Hickory Boulevard and Central Pike.
4. Provide internal sidewalks throughout and connecting to the existing sidewalk along Old Hickory Boulevard.
5. Tree protection area shall remain undisturbed.
6. If the development does not meet the requirements of Section 17.20.110 of the Zoning Code, the number of units shall be reduced until parking requirements are met.

This PILOT request is the third to come before MDHA since the state, Metropolitan Council, and MDHA Board approved the new PILOT program. It would require the developer to make a first and second year payment of \$37,500 in lieu of property taxes, which will increase annually by

(continued on next page)

RESOLUTION NO. RS2016-435, continued

3% in year 3 and each subsequent year for the remainder of the 10 year period. The LIHTC ensures long-term affordability by restricting rents for ten (10) years beyond the term of the PILOT.

The existing appraised value for this vacant commercial property as shown on the Assessor's web site is \$1,250,000, equating to annual *ad valorem* property taxes of \$19,620. Assuming the final assessed value agrees with MDHA's estimate of the project construction costs, the standard *ad valorem* property tax would be \$494,113 higher than the current value. Even though the abatement in the first year would be \$456,613, the developer would still pay approximately \$37,500 more than the current property tax amount. This would increase each year after the second year, reaching a value of \$47,504 by the tenth year.

Over the 10-year life of this PILOT agreement, a total of \$4,522,664 would be abated, though Metro would still receive \$418,467 in new property taxes from this project.

In addition to the PILOT payments, the developer would be required to pay a monitoring and reporting fee to MDHA. This fee will be set by MDHA, not to exceed five percent (5%) of the amount of the PILOT payment due each year.

RESOLUTION NO. RS2016-436 (COOPER) – This resolution would approve a sole-source contract with Sungard Availability Services to provide disaster recovery and business continuity solutions for the Information Technology Services Department. Sole-source contracts may be awarded under the Metro procurement code when it is determined there is only one source for the supply or services rendered. The Purchasing Agent has determined that the services to be provided by Sungard Availability Services meet the requirements for the use of a sole-source contract.

The term of this contract would be from October 18, 2016 through October 17, 2021. The estimated value of this contract over this 60-month term would be \$750,000. Section 4.12.060 of 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. RS2016-437 (COOPER) – This resolution would approve a grant in the amount of \$36,625 from the Tennessee Administrative Office of the Courts to the Davidson County Juvenile Court for interpreter and translation services for court hearings involving individuals with limited English proficiency. A local cash match of \$4,069 would be required. The term of the grant would be from January 1, 2017 through June 30, 2017.

The administrator would be required to make an initial determination as to whether the cost of the translation/interpretation services in the case may exceed \$5,000. If so, the administrator would be required to advise the attorney/party that they must obtain an order from the judge to approve such an amount. If the attorney/party has questions, they would be advised to contract the Administrative Office of the Courts (AOC) regarding the process.

Once the AOC has given this pre-approval, or in cases where the anticipated cost would be less than \$5,000, the administrator would make arrangements for the service to be provided.

This grant is similar to the grant awarded to the State Trial Courts per Resolution No. RS2016-388 on October 4, 2016.

RESOLUTION NO. RS2016-438 (COOPER) – This resolution would approve a grant in the amount of \$9,156.61 to the Metro Finance Department from the Comcast Foundation. The grant is being given in gratitude for the participation by Metro employees in the 15th annual “Comcast Cares Day” to improve communities by painting and cleaning schools, landscaping public gardens, stocking food banks, and other services.

There would be no conditions attached to the acceptance of this grant. Also, no local cash match would be required.

RESOLUTION NO. RS2016-439 (COOPER & PARDUE) – This resolution would accept a donation of furniture and artwork from the Hospital Corporation of America (HCA) for the use and benefit of the Office of Family Safety. The value of this donation is estimated to be approximately \$1,231,200 (although it should be noted that this estimate was provided by HCA, not Metro).

Section 5.04.120(B) of the Metro Code of Laws allows donations to Metro exceeding \$5,000 to be accepted and appropriated by resolution. A copy of the donation inventory list was provided as an attachment to this resolution.

RESOLUTION NO. RS2016-440 (COOPER & PARDUE) – 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 presentations.

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. The DOJ had 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. Therefore, a separate resolution, RS2016-137, amended the grant terms to remove Special Condition 48.

The resolution now under consideration would approve the second amendment to this grant. This would utilize \$23,950.14 of unused grant funds to create a part-time advocate position. These savings at the end of the first year of the grant are due to the Lethality Project Manager and Training Coordinator not drawing fringe benefits. The new advocate would assist with orders of protection and serve as liaison with Legal Aid, our sub-contractor.

RESOLUTION NOS. RS2016-441, 442, 443, & 444 (COOPER & PARDUE) – These four resolutions would approve intergovernmental agreements to distribute state grant funds to assist with investigations of internet crimes against children. The Metropolitan Police Department was awarded a grant per Resolution No. RS2016-193 in the amount of \$240,000 from the Tennessee Department of Finance and Administration, Office of Criminal Justice Programs, for the Internet Crimes Against Children (ICAC) unit with the understanding that a portion of the grant funds would be sub-granted to other local law enforcement agencies in the Middle Tennessee area.

These funds are to be used solely for equipment, training, and travel related to ICAC investigations. The terms of these agreements would be from July 1, 2016 through June 30, 2017.

- **Resolution No. RS2015-441** would approve an agreement with the Cookeville Police Department for the distribution of \$20,000 of the grant funds.
- **Resolution No. RS2015-442** would approve an agreement with the Dickson County Sheriff’s Office for the distribution of \$20,000 of the grant funds.

(continued on next page)

RESOLUTIONS NO. RS2016-441, 442, 443, & 444, continued

- **Resolution No. RS2015-443** would approve an agreement with the Spring Hill Police Department for the distribution of \$20,000 of the grant funds.
- **Resolution No. RS2015-444** would approve an agreement with the Tennessee Association of Chiefs of Police for the distribution of \$10,000 of the grant funds.

RESOLUTION NO. RS2016-445 (PARDUE) – This resolution would approve a Memorandum of Understanding (MOU) between the Metro Nashville Police Department and the Tennessee Department of Correction (TDOC) to allow the Police Department to access probation and parole information from TDOC.

The MOU would be effective for a period of up to sixty (60) months. If either party desires to terminate the MOU, it shall serve thirty (30) days written notice to the other party. There would be no charge to Metro for this database access.

State law allows intergovernmental agreements to be approved by resolution.

RESOLUTION NO. RS2016-446 (COOPER & GILMORE) – This resolution would approve a sub-recipient grant agreement between the Metropolitan Development and Housing Agency (MDHA) and the Metro Homelessness Commission within the Department of Social Services for \$90,000.

This would be used to provide \$50,000 in Community Development Block Grant (CDBG) funds for one-time payments of first month's rental and utility deposits on behalf of persons housed through the "100,000 Homes Campaign." The remaining \$40,000 would be used for the Nashville Outreach Team for Encampment (N.O.T.E.) within Metro to respond to homeless persons living in encampments.

This grant is being offered as part of the "2013-2018 Consolidated Plan for Housing and Urban Development" submitted to the federal government by MDHA.

The services paid for by this grant would be effective as of July 1, 2016 and end June 30, 2017 or upon expiration of grant funding, whichever occurs sooner.

RESOLUTION NO. RS2016-447 (COOPER & GILMORE) – This resolution would approve a contract between the Tennessee Department of Agriculture and the Metropolitan Health Department for retail food store inspection, reporting, and enforcement.

Under the terms of this contract, Metro would receive a total of \$887,425 over a period of five years to assist in conducting retail food store inspections under the Tennessee Retail Food Safety Act. \$177,485 would be received each year, from 2017 through 2021.

The Health Departments in urban areas provide these inspection services on behalf of the state. The term of this grant is from January 1, 2017 through December 31, 2021.

RESOLUTION NO. RS2016-448 (COOPER & GILMORE) – This resolution would approve a grant in the amount of \$996,500 from the Tennessee Department of Health to the Metropolitan Board of Health to implement and coordinate activities and services related to HIV/AIDS/STD and Viral Hepatitis prevention, testing, diagnosis, treatment, and surveillance.

This is an annual federal pass-through grant that pays the salaries of the Health Department employees who provide these services. No local cash match would be required.

The term of this grant would be from January 1, 2017 through December 31, 2017. A total of \$498,250 would be granted in each of the two fiscal years affected, FY17 and FY18.

RESOLUTION NO. RS2016-449 (COOPER & GILMORE) – This resolution would approve an agreement between the Metro Board of Health and World Relief to operate a mobile unit to provide services for current and potential women, infants, and children (WIC) participants.

The Health Department has negotiated agreements with several community organizations and churches to provide classes and services for WIC participants. World Relief, located at 1655 Murfreesboro Pike, has agreed to make classroom space available to the Health Department for a two-hour period twice per month. There is no cost to the Health Department for the use of this space.

The term of the agreement is for five years, unless terminated sooner.

RESOLUTION NO. RS2016-450 (PRIDEMORE, COOPER, & GILMORE) – This resolution would approve an agreement between the Metro Board of Health and Matthews Memorial United Methodist Church (MMUMC) to operate a mobile unit to provide services for current and potential women, infants, and children (WIC) participants.

The Health Department has negotiated agreements with several community organizations and churches to provide classes and services for WIC participants. The MMUMC, located at 300 Anderson Lane in Madison, has agreed to make classroom space available to the Health Department for a two-hour period twice per month. There is no cost to the Health Department for the use of this space.

The term of the agreement is for five years, unless terminated sooner.

RESOLUTION NO. RS2016-451 (ELROD) – This resolution would approve an Interlocal Agreement between the Department of Water and Sewerage Services and the Nolensville College Grove Utility District in Williamson County.

An interlocal agreement was approved per Resolution No. RS2007-2016 on June 19, 2007. This authorized Metro to serve the McFarlin PUD Development in Williamson County due to a concern that the Nolensville/College Grove Utility District could not provide this service and still provide service to their other customers.

The resolution now under consideration would reverse this agreement. The Utility District now has the ability to assume the water service for this area.

Under state law, municipalities are authorized to enter into interlocal agreements with other public agencies, subject to approval by the local legislative body.

RESOLUTION NO. RS2016-452 (ELROD & M. JOHNSON) – Certain routes within Metro have been designated as eligible for Highway Safety Improvement Funds. The Tennessee Department of Transportation desires to use a portion of these funds by installing safety improvements on these routes, including various signs, snowplowable markers, reflectors, chevrons, thermoplastic white and yellow lines and guardrails.

(continued on next page)

RESOLUTION NO. RS2016-452, continued

The proposed installation locations would be as follows:

- Blackman Road Corridor, County Route 04886,
- West Trinity Lane / Buena Vista Pike, County Route 0325,
- Buchanan Street Corridor, County Route 04917,
- 17th Avenue North, Corridor, Route 0E292,
- Vaughn's Gap Road, Route 0C971, and
- Natchez Trace Corridor, Route 0C971.

Metro would not be required to pay for any portion of these installations, though it would agree to accept and maintain said safety improvements upon completion of the installation.

RESOLUTION NO. RS2016-453 (MURPHY & ELROD) – Per Ordinance No. BL2014-784, Metro Water and Sewerage Services was authorized to negotiate and accept permanent and temporary easements for the I-40/I-440 sewer relocation project for property located at 442 37th Avenue North, 37th Avenue North (unnumbered), and 435, 509, and 516 36th Avenue North. The original estimated cost for the acquisition of these easements was \$10,000, to be paid out of Water and Sewer capital funds. The resolution under consideration would add one additional parcel at 437 36th Avenue North. The cost for this additional easement has not yet been determined.

Although approved by the Planning Commission on October 12, 2016, Metro Water Services has requested that this Resolution be withdrawn and be re-submitted at a later date.

RESOLUTION NO. RS2016-454 (ELROD & VANREECE) – This resolution would authorize Mike's Ice Cream, LLC to construct, install, and maintain an aerial encroachment at 129 2nd Avenue North. The encroachment consists of a double-faced, illuminated projecting sign.

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

This proposal was approved by the Planning Commission on October 17, 2016.

RESOLUTION NO. RS2016-455 (COOPER) – This resolution would authorize the Department of Law to settle the personal injury claim of Ms. Jewell Harris against the Metropolitan Government in the amount of \$11,000. On February 29, 2016, Ms. Harris was driving north on 28th Avenue North when an employee of the Department of Water and Sewer Services attempted to turn onto 28th Avenue North from Felicia Street. The employee struck Ms. Harris' vehicle in the middle of her left rear door, resulting in personal injuries consisting of knee strain and whiplash, as well as vehicle damage.

The Department of Law recommends the settlement of this claim for \$11,000, to be paid from the Self-Insured Liability Fund. This would consist of \$6,108.10 to reimburse Ms. Harris for her medical expenses and \$4,891.90 to compensate her for pain and suffering.

Disciplinary action consisting of a written reprimand has been taken against the Metro and Sewer Services employee involved.

RESOLUTION NO. RS2016-456 (COOPER) – This resolution would authorize the Department of Law to settle the personal injury claim of Ms. Mary A. Stumptner against the Metropolitan Government in the amount of \$54,275. On June 23, 2015, Ms. Stumptner stepped in a pothole in the crosswalk of Broadway and 5th Avenue North, resulting in a fracture to her right ankle and medical bills of \$54,125.00. The existence of the pothole had been reported to Public Works earlier on the same day, establishing notice.

The Department of Law recommends settlement of this claim for \$54,275, to be paid from the Self-Insured Liability Fund. This would consist of \$54,125 to reimburse Ms. Stumptner for her medical expenses and \$150 to compensate her for a lost ride on the General Jackson due to her injury. Because of the nature of the accident, no disciplinary action is warranted.

RESOLUTION NO. RS2016-461 (SHULMAN) – This resolution would approve the election of nine (9) 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

(continued on next page)

BILL NO. BL2016-381, continued

would be required to submit proof of payment of taxes, and an affidavit of 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.

An amendment is anticipated to remove the following text from subsection 17.18.040 N.4: "After the full resolution of all documented complaints to the reasonable satisfaction of the Metro Codes Department" and "If the permit expires before all documented complaints are fully resolved, the STRP shall cease operation and not resume operating unless the permit is renewed."

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.

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 was approved by the Planning Commission on October 5, 2016.

Following a joint committee hearing, Council members requested various items of information from franchise applicants including Windstream, including any history of franchise complaints and the resolution thereof. It is the opinion of the Metro Council Office that the response submitted to date by Windstream is not fully responsive to the Council requests.

BILL NO. BL2016-461 (SHULMAN) – The ordinance under consideration would amend Title 2 of the Metro Code of Laws (MCL) by adding to subsection 2.222.020 an affirmative duty for employees or any department or agency of Metro to report any "theft, forgery, fraud, or any other intentional act of unlawful taking of public money, property, or services" against Metro.

State legislation establishes a similar requirement. Tennessee Code Annotated § 8-4-119 requires any official of any agency of the state having knowledge that a theft, forgery, credit card fraud or other intentional act of unlawful or unauthorized taking or abuse of public money, property or services to report the information immediately to the office of the comptroller of the treasury.

This new subsection would require this report to be made to the Metropolitan Auditor. It does not prescribe procedures to be followed by the Auditor once information is reported.

An amendment is anticipated to revise the scope of the newly proposed duty.

BILL NO. BL2016-462 (MENDES) – Ordinance No. BL2016-416 amended Title 2 of the Metro Code of Laws (MCL) pertaining to the electronic formatting and online posting of reports regularly submitted to the Council by Metro departments, boards, and commissions of Metro. Under the terms of that amendment, reports must now be provided in a searchable, electronic format and simultaneously posted onto the Internet website of the submitting department, board or commission. The intent was to increase transparency and ease of access by the Council and general public to the information submitted.

Since enactment of BL2016-416, at least one (1) report has been submitted to the Metro Council that -- though perhaps linked to the submitting agency's Internet website -- was not readily found. The ordinance now under consideration would clarify that reports must be posted "in a manner that will allow the general public to readily find and access such reports."

BILL NO. BL2016-463 (COLEMAN) – Section 16.24.330 of the Metro Code of Laws (MCL) lists several requirements concerning exterior areas of properties within Metro. Subsection Q specifies that no owner or occupant of any parcel of property one-half acre in size or greater shall permit more than five percent (5%) of the lot area to be covered with wood chips/mulch, with piles not to exceed two feet in height.

The MCL does not currently define "mulch". This ordinance would add a new subsection that would define mulch as "any nonliving, organic, or synthetic material which is customarily used in landscape design to prevent erosion, regulate temperature, or maintain soil moisture."

BILL NO. BL2016-464 (COOPER & ELROD) – This ordinance would approve a contract between Metro and Nature's Best Organics of Tennessee, LLC to receive, process, dispose, and compost all yard waste and vegetative storm collected by, or on behalf of, Metro as part of routine collection and major storm events.

The estimated value of this contract is \$10,000,000.

The term of this contract would be from December 1, 2016 through October 31, 2026. This term may be extended by letter signed by the Purchasing Agent for up to two (2) additional five-year renewal periods. The contract may not be extended beyond these two five-year renewal periods.

BILL NO. BL2016-465 (FREEMAN, ALLEN, & ELROD) – This ordinance would abandon existing sewer and water mains and easements and accept new sewer main and easements, sanitary sewer manholes, and a fire hydrant for property located at 2906 Foster Creighton Avenue.

This was approved by the Planning Commission on September 21, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-466 (HUEZO, ALLEN, & ELROD) – This ordinance would abandon existing sanitary sewer and water mains and any associated easements, sanitary sewer manholes and fire hydrants and accept a new fire hydrant and any necessary easements for property located at 0 Knights of Columbus Boulevard.

This was approved by the Planning Commission on September 27, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-467 (WITHERS & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of South 19th Street to “Oakhill Drive”.

This was approved by the Planning Commission on October 5, 2016. The Emergency Communications District will not consider the matter until their meeting on November 17, 2016. A recommendation from both prior to third reading is required under Metro Code section 13.08.015.D.

BILL NO. BL2016-468 (ALLEN & ELROD) – This ordinance would abandon existing easement rights and acquire new easements for properties located at 27 Willis Street and 100 Fern Avenue.

This was approved by the Planning Commission on September 16, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2016-469 (WITHERS, ALLEN, & ELROD) – This ordinance would authorize Nashville Downtown Partnership to install, construct, and maintain underground encroachments in the right-of-way located at Porter Road and Eastland Avenue. These encroachments would consist of a third-generation fully-automated single-sided solar power or A/C power bike station that would contain at least 5 bikes and 9 docks.

The Nashville downtown Partnership has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments, and would be required to provide a \$2 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This proposal was approved by the Planning Commission on September 27, 2016.

– 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. BL2016-415 (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.

(continued on next page)

BILL NO. BL2016-415, continued

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 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. BL2016-454 (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 of 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 Council approval of resolutions receiving at least twenty-one (21) affirmative votes to be exempt from the minimum distance requirements.

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. Tennessee Code Annotated § 6-51-102, *et seq.* prescribes the various requirements for implementing annexations, including the adoption of a plan of services. However, § 6-51-123, enacted in 2014, allows any county having a metropolitan form of government to expand the USD using the method applicable at the time the Metro Charter was adopted. State law requires that a plan of services be considered by the Planning Commission and then be adopted by the Council 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.

(continued on next page)

BILL NO. BL2016-455, continued

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.

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. Such hearing was concluded at the regular Council meeting of November 1, 2015.

The ordinance was amended at the Council meeting on November 1, 2016 to revise the area to be annexed into the Urban Services District. This amendment also modified the Plan of Services to reflect the costs to provide services to the newly annexed area. No further amendments are anticipated.

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 and 1500 12th Avenue South.

These two parcels 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 an 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 the first amendment 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.

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.

(continued on next page)

BILL NO. BL2016-458, continued

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.