



## 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: **December 6, 2016**

RE: **Analysis Report**

Unaudited Fund Balances as of 11/30/16:

4% Reserve Fund	\$32,237,877*
Metro Self Insured Liability Claims	\$5,102,232
Judgments & Losses	\$2,978,564
Schools Self Insured Liability Claims	\$3,469,980
Self-Insured Property Loss Aggregate	\$6,291,085
Employee Blanket Bond Claims	\$659,735
Police Professional Liability Claims	\$2,475,028
Death Benefit	\$1,387,186

\*Assumes unrealized estimated revenues in Fiscal Year 2017 of \$25,944,734, and includes the \$4,269,100 appropriation in Resolution No. RS2016-464.

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTIONS NO. RS2016-462 and RS2016-463** – 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 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). Until recently, this Code section further required restaurants to have state on-premises liquor consumption licenses to obtain such exemption. But Ordinance No. BL2016-454, which was passed November 15, 2016, eliminated this requirement.)

A public hearing must be held by the Council prior to voting on resolutions brought under section 7.08.090(E).

- **RESOLUTION NO. RS2016-462** (WITHERS) – This resolution would approve an exemption for 103 North 16<sup>th</sup>, LLC/Urban Cowboy Public House, located at 103 North 16<sup>th</sup> Street
- **RESOLUTION NO. RS2016-463** (WITHERS) – This resolution would approve an exemption for. 1603 Woodland, LLC/Urban Cowboy Bed & Breakfast, located at 1603 Woodland Street.

**– RESOLUTIONS –**

**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 change in terms until it expires. If a 3-year exemption is approved, requisite contract changes would be made to a successor contract.

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. RS2016-435** (COOPER & GLOVER) – This resolution would authorize Metropolitan Development and Housing Agency (MDHA) to enter into an agreement accepting payments in lieu of taxes (PILOT) for a 266-unit multi-family housing project located at 5646 Old Hickory Boulevard known as Hermitage Flats.

This is the third such PILOT program proposed by MDHA since August of 2015 when Ordinance No. BL2015-1281 was enacted, authorizing MDHA to negotiate and accept PILOT payments 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

(continued on next page)

**RESOLUTION NO. RS2016-435**, continued

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 their 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 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. 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.

(continued on next page)

**RESOLUTION NO. RS2016-435**, continued

This PILOT request 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 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. RS2016-464** (COOPER) – This resolution would appropriate \$4,269,100 from the General Fund Reserve Fund (4% Fund) to four (4) departments.

The Four Percent Fund may only be used for the purchase of equipment and repairs to buildings. The balance in the General Fund Reserve Fund prior to the appropriation in this resolution was \$36,506,977. This includes projected unrealized revenue for FY17 in the amount of \$25,944,734.

The resolution provides in part: "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." The following departments and agencies are to receive funding:

**Information Technology Services** - \$2,493,500 to replace Microsoft Enterprise equipment as well as desktop and laptop computers in the Tech Revolving Fund;

**Municipal Auditorium** - \$275,600 for facility upgrades, repairs, and renovations;

(continued on next page)

**RESOLUTION NO. RS2016-464**, continued

**Parks Department** - \$500,000 for consolidated fleet maintenance, equipment, and supplies; and

**Public Library** - \$1,000,000 for books, periodicals, and library materials.

**RESOLUTION NO. RS2016-465** (COOPER) – This resolution would authorize the issuance, sale, and payment of general obligation improvement bonds in a principal amount not to exceed \$500 million for the purposes of financing a variety of public works projects that were authorized by multiple previous Resolutions, and to retire a portion of the Metropolitan Government's outstanding general obligation commercial paper anticipation notes issued pursuant to Resolution Nos. RS2014-1065 and RS2014-1066.

The specifically affected Public Works projects, previously authorized by earlier resolutions, are as follows:

- RS2009-746, FY10 Capital Spending Plan
- RS2010-1120, General Hospital patient record systems
- RS2010-1139, Metro school buildings and facilities
- RS2010-1363, FY11 Capital Spending Plan
- RS2012-276, FY13 Capital Spending Plan
- RS2012-316, Energy Conservation Bonds for Bridgestone Arena, etc.
- RS2013-559, FY13 Mid-Year Capital Spending Plan
- RS2013-710, FY14 Capital Spending Plan
- RS2014-963, Equipment for schools, MAC, Fire, Public Works, and Parks
- RS2014-1126, FY15 Capital Spending Plan
- RS2015-1500, FY16 Capital Spending Plan
- RS2016-245, FY17 Capital Spending Plan

These bonds would be sold through a public bid process to the bank whose bid results in the lowest true interest cost to Metro. Metro would begin making principal payments on the bonds in 2018, and the bonds would have a final maturity date of 2036. Interest on these bonds would not exceed 6.00% per annum and would be payable semi-annually on January 1<sup>st</sup> and July 1<sup>st</sup>, commencing on July 1, 2017.

As these are general obligation bonds, the resolution provides that Metro would levy property taxes each year in an amount sufficient to pay the debt service on the bonds.

**RESOLUTION NO. RS2016-466** (COOPER) – This resolution would approve an application for an “Innovation Teams Grant” from Bloomberg Philanthropies. If awarded, the proceeds of the grant would be awarded to the Office of the Mayor to sponsor training, coaching, and support to Metro departments for innovative problem solving.

The grant award would be \$867,200, receivable over a period of two years. A local cash match of \$216,800 would be required. \$183,600 of the grant proceeds would be used to pay personnel costs in each of the two years of the grant term. For non-personnel costs, \$245,000 would be spent in the first year, with the remaining \$255,000 being spent in the second year.

**RESOLUTION NO. RS2016-467** (COOPER, ALLEN, & SLEDGE) – This resolution would accept a grant in the amount of \$50,000 from the National Endowment for the Arts to the Metropolitan Planning Department. The purpose would be to support planning activity and art commissions for the Wedgwood-Houston Urban Magnet maker district.

If the grant is approved, a local match of \$68,357 would be required, giving a combined project total of \$118,357. Of the combined project total, \$53,357 would be used to pay the personnel costs of two (2) community planner leads, one (1) design studio lead, and four (4) other community planner and design studio personnel for the percentage of their time spent on this project from August 1, 2016 through August 1, 2017. The remaining \$65,000 would be used to pay other direct project expenses.

**RESOLUTION NO. RS2016-468** (COOPER & PARDUE) – This resolution would approve an annual grant in the amount of \$188,350 from the Tennessee Emergency Management Agency (TEMA) to the Office of Emergency Management to subsidize Metro’s emergency management program.

These federal pass-through funds would be used to pay for training, exercises, planning, management, administration, and equipment purchases. There would be a required local cash match of \$188,350. The term of the grant would be through June 30, 2017.

**RESOLUTION NO. RS2016-469** (WITHERS & PARDUE) – On August 2, 2016, the Council adopted Ordinance No. BL2016-312 which, as amended, maintained a line-item in the FY17 Capital Spending Plan for a “Sheriff – New Administrative Offices Facility” for \$20 million, assigned to the Department of General Services. However, the ordinance restricted any disbursement of proceeds for the Sheriffs’ New Administrative Facilities until the specific

(continued on next page)

**RESOLUTION NO. RS2016-469**, continued

location for the new facility was reviewed and approved by a separate Council resolution (although expenditure of funds was still allowed for "planning, design, or community engagement" without further action by the Council.)

The resolution under consideration would give this required approval by the Council for the Sheriff's new Administrative Offices Facility to be constructed at 750 South 5<sup>th</sup> Street. No additional action by the Council would be required before any additional expenditure of capital funds allocated for this project.

**RESOLUTION NO. RS2016-470** (SLEDGE, O'CONNELL, & OTHERS) – This resolution would approve an intergovernmental agreement between Metro, the Tennessee Department of Transportation (TDOT), and the City of Berry Hill for the Multimodal Transportation Plan along SR6 (Franklin Pike) from Berry Road to Lafayette Street.

The total cost for the study along SR6 is estimated to be \$321,978. The federal government would pay \$257,582, with \$31,000 being paid by Berry Hill and the remaining \$33,396 being paid by Metro.

This agreement would expire at the time the project is expected to be completed, on or before July 31, 2020.

**RESOLUTION NO. RS2016-471** (SLEDGE, O'CONNELL, & OTHERS) – This resolution is a companion to Resolution No. RS2016-470. It would approve an interlocal agreement between the Metro Department of Public Works and the City of Berry Hill. This agreement would amend Berry Hill's current Franklin Pike Multimodal Transportation Plan from Berry Road to Wedgewood Avenue by extending the Plan from Wedgewood Avenue to Lafayette Street or the roundabout.

The Tennessee Department of Transportation (TDOT) has now amended the Plan to extend the scope of the study, with a total cost of \$166,978. Federal dollars would pay 80% of this additional cost, with the remaining 20% paid by Metro.

**RESOLUTION NO. RS2016-472** (MURPHY, COOPER, & OTHERS) – Ordinance No. BL2011-784 authorized Metro Water and Sewer Services to negotiate and accept permanent and

(continued on next page)

**RESOLUTION NO. RS2016-472**, continued

temporary easements for the I-40/I-440 sewer relocation project for property located at 442 37<sup>th</sup> Avenue North, 37<sup>th</sup> Avenue North (unnumbered), and 435, 509, and 516 36<sup>th</sup> Avenue North.

The resolution under consideration would now authorize the acquisition by condemnation or negotiation of permanent and temporary easement rights on one additional parcel for this project at 437 36<sup>th</sup> Avenue North. The estimated cost of the acquisition of this additional easement is estimated to be \$5,000, to be paid out of Water and Sewer Services' capital funds. (This resolution replaces the previously withdrawn Resolution No. RS2016-453.)

This was approved by the Planning Commission on October 12, 2016.

**RESOLUTION NO. RS2016-473** (COOPER & HENDERSON) – This resolution would approve a grant in the amount of \$8,330 from the Warner Park Improvement Association to the Metropolitan Parks Department to provide funding for the purchase and installation of new split rail fencing for the Percy Warner Park Golf Course. There would be no required local cash match.

This was approved by the Parks Board at their meeting on October 4, 2016.

**RESOLUTION NO. RS2016-474** (COOPER & MURPHY) – This resolution would approve a federal pass-through grant in the amount of \$1,485,063 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to establish programs intended to prepare eligible adult recipients for employment. This federal pass-through grant would provide operating funding for the NCAC.

The grant would consist of \$1,336,558 in program funds and \$148,505 in administrative funds. No local cash match would be required. The term of the grant would be from October 1, 2016 through June 30, 2018.

**RESOLUTION NO. RS2016-475** (COOPER & MURPHY) – This resolution would approve a grant in the amount of \$1,992,836 from the Tennessee Department of Labor and Workforce Development to the Nashville Career Advancement Center (NCAC) to provide education, training

(continued on next page)

**RESOLUTION NO. RS2016-475**, continued

and support services to eligible adults, youth, and dislocated workers with barriers to employment. This federal pass-through grant would provide operating funding for the NCAC.

The grant would consist of \$1,793,553 in program funds and \$199,283 in administrative funds. No local cash match would be required. The term of the grant would be from October 1, 2016, through June 30, 2018.

**RESOLUTION NO. RS2016-476** (COOPER & GILMORE) – The state reimburses Metro for a portion of the expenses for each autopsy performed in Davidson County.

Recently, the Tennessee Health Commissioner determined that all counties must have contracts in place with the state for these reimbursements. The resolution under consideration would approve this contract with the Tennessee Department of Health. This would not result in any significant change in the revenue Metro receives from the state for this purpose. Metro would simply be complying with the new requirement to establish a formal contract.

The term of the contract would be from January 1, 2017 through December 31, 2021. The total received over this period would be \$1,191,445 with \$1,156,445 coming from the state and the remaining \$35,000 coming from the federal government. This would be recorded as revenue by the Health Department and deposited into the GSD General Fund.

**RESOLUTION NO. RS2016-477** (COOPER & GILMORE) – This resolution would accept a “How’s Nashville” grant of \$10,000 from the Dorothy Cate and Thomas F. Frist Foundation to the Metropolitan Nashville Social Services Commission. The grant is to be designated in support of “Housing for Housing.”

There is no local cash match requirement, and there are no conditions attached to the grant other than the request to acknowledge the support of the Foundation in any informational materials and publications. The transmittal letter also notes that the grant should not be used to satisfy any personal obligation of any member of the Foundation’s Board or the individual(s) recommending the gift, nor should any portion of the gift provide a direct benefit to any of these individuals.

**RESOLUTION NO. RS2016-478** (GILMORE) – This resolution would approve a contract between the Metropolitan Board of Health and the Louisiana-Pacific Corporation to provide

(continued on next page)

**RESOLUTION NO. RS2016-478**, continued

licensed medical professionals to distribute antibiotics, vaccines, and antivirals (mass prophylaxis) through a worksite POD (Point Of Dispensing) in the event of a public health emergency.

The Health Department would be responsible for obtaining the mass prophylaxes from the state and delivering them to the worksite POD during a public health emergency. The Louisiana-Pacific Corporation would be responsible for distributing the prophylaxes.

This contract would be for a term of five (5) years, but may be extended for two additional one-year terms. The company would not receive any form of compensation for providing these services.

The Council has approved similar agreements with other area hospitals and institutions for this purpose.

**RESOLUTION NO. RS2016-479** (COOPER) – This resolution would authorize the Department of Law to settle the personal injury claim of Mr. Demarcus Wilson against the Metropolitan Government in the amount of \$32,500.

On August 31, 2014, Mr. Wilson was driving south on North Gallatin Pike when a Metro Police officer attempted to cross the road and assist another officer conducting a traffic stop. The officer hit Mr. Wilson's car, resulting in personal injuries consisting of chest, neck, and back pain.

The Department of Law recommends settlement of this claim for \$32,500, to be paid from the Self-Insured Liability Fund. This would consist of \$20,555.06 to reimburse Mr. Wilson for his medical expenses, \$1,536.00 in lost wages, and \$10,408.94 for pain and suffering.

Disciplinary action against the Metro officer involved consisted of a one-day suspension from vacation.

**RESOLUTION NO. RS2016-480** (SHULMAN) – This resolution would approve the election of one hundred sixty-eight (168) 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. BL2016-433** (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 on October 17, 2016, Council members requested various items of information from franchise applicants, including Windstream. The request to Windstream sought information regarding any history of franchise complaints and the resolution thereof, as well as the information that would ordinarily be provided by an initial franchise applicant (*i.e.*, a detailed report establishing its capacity to perform franchise obligations). Windstream submitted a written response, circulated to Council members November 2, 2016. However, it is the opinion of the Metro Council Office that the information provided was not fully responsive to Council members' requests. Subsequent requests to supplement their initial response have been submitted to Windstream by the Metro Legal Department. To date, no further information has been provided.

**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.

(continued on next page)

**BILL NO. BL2016-461**, continued

State legislation establishes similar requirements. 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 from the sponsor is anticipated to ensure consistency with similar provisions under state law.

**BILL NO. BL2016-483** (MENDES, GILMORE, & M. JOHNSON) – This ordinance would revise Section 2.44.115 of the Metro Code of Laws (MCL) which currently requires the Metro Nashville Police Department (MNPD) to submit quarterly and annual crime reports to the Metro Council.

The proposed changes would establish a new subsection requiring the MNPD to further submit an annual traffic stop report to the Council no later than March 30<sup>th</sup> of each year. These reports would provide the following:

- a. The total number of traffic stops;
- b. The percentage of stops resulting in...
  - (i) warrantless probable cause searches,
  - (ii) warrantless consent searches without probable cause; and
  - (iii) warrantless "pat down" searches; and
- c. The success rate of each type of search (wherein "success" is defined as a search resulting in seizure of incriminating evidence).

Each category would be reported within demographic categories, defined by sex, race, and ethnicity.

In furtherance of adding a new traffic stop report requirement, this ordinance would change the current Section title from "2.44.115 - Crime reports to be submitted to the metropolitan council" to "2.44.115 - Crime *and traffic stop* reports to be submitted to the metropolitan council" (Italics added.) Similarly, current references to a "Quarterly report" and "Annual report" would be changed to "Quarterly *crime* report" and "Annual *crime* report", respectively, distinguishing the proposed traffic stop reports.

(continued on next page)

**BILL NO. BL2016-483**, continued

On November 29, 2016, the MNPD voluntarily submitted the requested data for calendar year 2015, in the format requested in the proposed ordinance, as a supplement to the current MNPD annual report entitled "Motor Vehicle Stop Data Collection Analysis." The MNPD has further indicated that the addition of these reporting requirements will not have a significant impact upon their personnel needs or operating budget.

**BILL NO. BL2016-484** (LEONARDO, ELROD, & M. JOHNSON) – Section 68-211-707 of the Tennessee Code Annotated (TCA) permits local government legislative bodies to require local approval of landfills, solid waste disposal facilities and solid waste processing facilities prior to the construction of such facilities and prior to the issuance of a permit by the Tennessee Department of Environment and Conservation (TDEC) or the Commissioner. This is commonly known as the "Jackson Law". The ordinance under consideration would apply the requirements of the Jackson law to the proposed construction of landfills, solid waste disposal facilities, and solid waste processing facilities in Davidson County.

Pursuant to the Metro Code of Laws (MCL), requests for special exceptions are heard by the Board of Zoning Appeals. (MCL §17.40.280). But this Code section further requires prior Council approval of the specific location for sanitary landfills, asphalt plants, waste transfer facilities, airport runways, and hazardous operation and wastewater treatment facilities prior to the public hearing before the BZA. (MCL § 17.40.280). However, TCA §§ 68-211-703 and -704 provide itemized evaluation criteria for the approval or disapproval of proposed new construction by the Council, as well as specific provisions for notice, written comments and hearings -- arguably establishing a heightened threshold for evaluation. Moreover, the Code requirement for Council approval of these special exception requests is subject to waiver in the event the Council fails to approve or disapprove a requested location within 60 days. (MCL § 17.40.280).

Pursuant to TCA 68-211-707(a), approval of the Council by at least a two-thirds (2/3) majority vote would be required prior to enactment of this ordinance.

**BILL NO. BL2016-485** (LEONARDO, ALLEN, & ELROD) – This ordinance would abandon an existing water main and any associated easements and accept new sanitary sewer and water mains and any associated easements, sanitary sewer manholes, and fire hydrants for property located at 0 Ashland City Highway.

This was approved by the Planning Commission on October 10, 2016. Future amendments to this ordinance may be approved by resolution.

**BILL NO. BL2016-486** (ALLEN & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of the 13<sup>th</sup> Avenue South right-of-way and easement.

This was approved by the Traffic and Parking Commission on October 10, 2016 and the Planning Commission on September 21, 2016.

**– BILLS ON THIRD READING –**

**BILL NO. BL2016-381** (ALLEN) – This ordinance, as substituted and amended, 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 to 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.

By prior amendment, the following text from subsection 17.18.040 N.4 was removed: "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."

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 20<sup>th</sup> 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. In response, BL2016-492 -- scheduled for public hearing January 3, 2017 before Council -- would appropriate the text of section 6.28.030 into Title 17 and further incorporate all recent legislative changes to STRP regulations, including the provisions of this ordinance.

**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 was approved by the Planning Commission on October 10, 2016.

**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 information submitted.

Subsequent to the enactment of BL2016-416, at least one (1) report has been submitted to the Metro Council that -- though linked through 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 19<sup>th</sup> Street to “Oakhill Drive”.

This was approved by the Planning Commission on October 5, 2016 and by the Emergency Communications District on November 17, 2016. A recommendation from both, prior to third reading, is required under Metro Code section 13.08.015.D. Additionally, the Metropolitan Historical Commission has submitted its requisite report to Council dated November 23, 2016.

**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.