



## METRO COUNCIL OFFICE

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MEMORANDUM TO: All Members of the Metropolitan Council

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

COUNCIL MEETING DATE: **December 20, 2016**

RE: **Analysis and Fiscal Notes**

Unaudited Fund Balances as of 12/14/16:

4% Reserve Fund	\$32,237,877*
Metro Self Insured Liability Claims	\$4,983,064
Judgments & Losses	\$2,936,553
Schools Self Insured Liability Claims	\$3,460,175
Self-Insured Property Loss Aggregate	\$6,289,758
Employee Blanket Bond Claims	\$658,906
Police Professional Liability Claims	\$2,474,697
Death Benefit	\$1,387,000

\*This assumes unrealized estimated revenues in Fiscal Year 2017 of \$25,412,505.

Note: No fiscal note is included for any legislation without significant financial impact.

**– RESOLUTIONS ON PUBLIC HEARING –**

**RESOLUTIONS NO. RS2016-487, 488, and 489** – These three 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, enacted November 16, 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. RS2016-487** (SLEDGE) – This resolution would approve an exemption for Barcelona Edgehill, LLC / Barcelona Wine Bar, located at 1200 Villa Place, Suite 110.
- **RESOLUTION NO. RS2016-488** (A. DAVIS) – This resolution would approve an exemption for Dose Cafe and Dram Bar, located at 1400 McGavock Pike.
- **RESOLUTION NO. RS2016-489** (S. DAVIS) – This resolution would approve an exemption for Preservation Ale House, located at 307B Wilburn Street.

– RESOLUTIONS –

- \* **RESOLUTION NO. RS2016-469** (WITHERS, PARDUE, & OTHERS) – 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 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 provide 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.

As an aside, state law provides that county legislative bodies may purchase and hold sites for county offices. It is in fact the “duty” of the county legislative body to erect a jail. (Tenn. Code Ann. §§ 5-7-103 and -104). State law further prescribes the locations of jails. (§ 5-7-105).

*Fiscal Note: No additional action by the Council would be required before any additional expenditure of the capital funds allocated for this project.*

**RESOLUTION NO. RS2016-490** (COOPER) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-491** (COOPER) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-492** (COOPER & HENDERSON) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-493** (COOPER & HENDERSON) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-494** (WEINER, COOPER, & HENDERSON) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-495** (COOPER, GILMORE, & ALLEN) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-496** (COOPER & GILMORE) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-497** (COOPER & GILMORE) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-498** (GILMORE) – This resolution would approve an agreement between the Metro Board of Health and the Progreso Community Center to operate a mobile unit to provide services for current and potential women, infants, and children (WIC) participants.

Under the Metro Charter, the Board of Health is required to contract for such services as will further the policies of the board. (Charter, §10.104(8)). Pursuant to this obligation, the Health Department has negotiated agreements with several community organizations and churches to provide classes and services for WIC participants. The Progreso Community Center, located at 5666 Nolensville Road, has agreed to make classroom space available to the Health Department for a two-hour period twice per month.

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

*Fiscal Note: There is no cost to the Health Department for the use of this space.*

**RESOLUTION NO. RS2016-499** (M. JOHNSON, HENDERSON, & OTHERS) – *See attached grant summary spreadsheet.*

**RESOLUTION NO. RS2016-500** (COOPER) – This resolution would authorize the Department of Law to settle the personal injury claim of Rebecca and Oran Jamison against the Metropolitan Government in the amount of \$75,000.

On March 22, 2014, the Jamisons were stopped at a red light, while traveling west on Broadway, when they were rear-ended by a Davidson County Sheriff's Office employee. This employee was transporting prisoners in a bus owned by Metro.

The accident caused Ms. Jamison to suffer headaches, neck, back, and arm pain. Ultimately, it was necessary for an orthopedist to perform a cervical discectomy and fusion to treat neck and arm pain resulting from nerve entrapment. Physical therapy was ordered thereafter.

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**RESOLUTION NO. RS2016-500**, continued

Mr. Jamison also experienced neck pain after the accident, prompting a one-time visit to his primary care physician.

Ms. Jamison was unable to work for approximately four (4) weeks after the accident, resulting in lost wages totaling \$2,980. Her medical damages total \$65,304.57. Mr. Jamison's medical damages total \$95.

Mr. and Ms. Jamison have agreed to accept a total of \$75,000 in full settlement of this case, based upon total medical damages of \$65,399.57, lost wages of \$2,980.00, and \$6,620.43 for pain and suffering.

The Department of Law recommends settlement of this claim for \$75,000. If this case proceeds to trial, the Metropolitan Government will almost certainly be found negligent. The acting Sheriff's Office employee was acting within the scope of his employment when he negligently failed to safely operate the vehicle in his control. The settlement amount would be paid from the Self-Insured Liability Fund and would consist of medical damages of \$65,399.57, lost wages of \$2,980.00, and \$6,620.43 for pain and suffering.

Disciplinary action against the Sheriff's employee consisted of a one-day suspension from vacation.

*Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$75,000.*

**– BILLS ON SECOND READING –**

- \* **BILL NO. BL2016-494** (COOPER) – This ordinance would establish the property tax relief program for low-income elderly residents of the Metropolitan Government for FY17. This is essentially an extension of an existing tax relief program.

Tennessee Code Annotated §5-9-112 authorizes county legislative bodies to appropriate funds for the purpose of providing assistance to low-income elderly residents in the county on an annual basis, based on the particular needs of eligible recipients. The county legislative body is also authorized to develop guidelines for eligibility. Additionally, Tennessee Code Annotated §67-5-702 provides that the general funds of the state shall be paid to certain low-income taxpayers sixty-five (65) years of age or older necessary to pay or reimburse such taxpayers for all or part of their local property taxes. For many years, Metro has provided a double match of the state funds for the program. In the 2016-2017 operating budget, the Metropolitan Council appropriated \$3,700,000.00 to the Property Tax Relief Program Account.

This ordinance directs the Metropolitan Trustee to disburse funds to eligible taxpayers and further authorizes the Trustee to establish rules and procedures for implementation of the program. All persons who qualify for the state property tax relief program and whose income does not exceed \$29,180 annually will qualify for this program. Because this budgetary appropriation is non-recurring, this program will expire June 30, 2017.

*Fiscal Note: The FY17 operating budget includes \$3,700,000 for the property tax relief program for the elderly, which is the same as the appropriation for FY16.*

- \* **BILL NO. BL2016-495** (COOPER) – In 2011, the Council enacted Substitute Ordinance No. BL2010-806 (now codified at Metro Code section 2.210.020) to allow incentive grants following the location or relocation of the international, national, or regional headquarters of a large company comparable, but not limited to, Fortune 500 companies. Similarly, section 2.212.020 provides for small business economic incentive grants to “qualified small business[es]” that create a minimum of 10 new full time equivalent jobs within a 12 month period.

The amount of any incentive grant under section 2.210.020 is determined by multiplying the average number of full time jobs within the boundaries of the Metropolitan Government by an amount up to \$500.00 dollars (Section 2.210.020). The actual amount and duration of the grant is determined by taking into account (a) the number of jobs created, (b) the amount of revenue anticipated to be received by Metro as a result of the location and operation of the company,

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**BILL NO. BL2016-495**, continued

and (c) other economic and community development opportunities the company is expected to create, among other things. (Section 2.210.020). Under section 2.212.020, the incentive grant amount is determined by multiplying the number of new full-time jobs during the preceding year by \$500.00 dollars, and/or \$750.00 dollars for each newly-employed veteran, up to a maximum annual payment of \$50,000.00 dollars.

To be eligible for incentive grants, it is required that companies be expected to create 500 new jobs within five years under Section 2.210.020, or create 10 new jobs within 12 months under Section 2.212.020. However, in the event the recipient company fails to meet the new job requirements, there is no current provision in the MCL that would require a return or refund of any portion of the incentive grant previously awarded.

The ordinance under consideration would add a new requirement for incentive grant agreements given under these sections to identify – within the memorializing agreement -- what portion, if any, of the grant award would be returned to Metro in the event the company fails to meet the job creation requirements. Such provisions are often referred to as a “clawback” provisions. Arguably, this new condition is most applicable to section 2.210.020 because small business incentive grants under section 2.212.020 are determined by calculating the number of jobs created “during the preceding year.”

*Fiscal Note: The proposed MCL change would not require any such refund by a company to Metro. This would be subject to negotiation along with the other terms of the grant. It would simply require an explicit disclosure in these agreements as to the potential amount of such refunds.*

**BILL NO. BL2016-496** (BEDNE & ALLEN) – The current Metro Code of Laws does not explicitly prohibit the parking of non-electric vehicles in parking locations designated as electric vehicle charging stations. However, section 12.40.04 prohibits parking where “official signs” prohibit it. Currently, if an electric vehicle charging station is marked with signs prohibiting parking of non-electric vehicles, it would effectively be prohibited.

The ordinance under consideration would explicitly prohibit the parking of non-electric vehicles in charging stations, amending section 12.40.040 with a new subsection adding this prohibition, and requiring such charging stations to be occupied only by a “plug-in electric vehicle”. Offenders would be subject to a parking citation with a fine of fifty dollars (\$50).

*Fiscal Note: There would be some additional revenue from the \$50 parking citation fines for parking a non-electric vehicle in an electric vehicle charging station. Offsetting this to some extent would be the increased administrative and court time for handling these cases. The net financial impact to Metro is expected to be negligible.*

**BILL NO. BL2016-497** (SLEDGE) – This ordinance would add a new section to the Metro Code of Laws (MCL) concerning parking in handicapped spaces. The current Section 12.40.090 identifies the process to follow to cite or tow away any personal property, including motor vehicles that block properly identified handicapped parking spaces.

The ordinance under consideration would add new section 12.40.095, “Residential On-Street Handicapped Parking Space”, allowing individuals to request installation of a residential on-street handicapped parking space in front of their residence at no charge. Such spaces would not be reserved for the resident or requesting party and could be used by other properly identified vehicles meeting the requirements in section 12.40.090.

The section lists factors that must be considered by the Department of Public Works in evaluating such requests, including:

- 1) the availability of off-street parking (e.g., driveways, parking lots, garages);
- 2) whether the requesting party has a properly identified vehicle;
- 3) whether the residence contains an accessibility ramp or similar accommodation; and
- 4) whether the individual is eligible for para-transit services offered by Metro government.

Improper use of such spaces would subject offenders to the penalties listed in section 12.40.090.

\* **BILL NO. BL2016-498** (ELROD) –This ordinance is intended to address the long-term closure of public rights-of-way resulting from excavations or obstructions by adding restrictions to sections 13.20.020 and 13.20.030 of the Metro Code of Laws (MCL).

Permits for excavations and obstructions are regulated under Chapter 13.20 of the MCL. Under the proposed ordinance, subsection A of section 13.20.020 and subsection B of section 13.20.030 would have language added to prohibit any such obstruction or excavation from being permitted for a period in excess of one (1) year unless the Council approves such by resolution adopted by at least twenty-one (21) affirmative votes.

Subsection E.1 of Section 13.20.030 would be similarly amended by specifying that temporary obstructions may not exceed one (1) year. In addition, additional or cumulative permits would not be allowed if they would result in an obstruction exceeding one (1) year. (Because cumulative permits may unintentionally exceed one year, an amendment allowing for such with Council approval by resolution may be suggested.)

A housekeeping amendment is anticipated to revise an incorrect reference to the proposed new language.

**BILL NO. BL2016-499** (O'CONNEL, COOPER, & OTHERS) – This ordinance would grant temporary and permanent easements for properties located at 1214, 1422, and 1450 Lebanon Pike and 0 Omohundro Place to Piedmont Natural Gas Company for the purpose of installing and maintaining a natural gas line.

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

*Fiscal Note: Piedmont would be paying Metro \$379,085 for these easements.*

**BILL NO. BL2016-500** (COOPER, ALLEN, & ELROD) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Willow Branch Drive Sidewalk Improvements.

This was approved by the Planning Commission on July 7, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$26,500. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-501** (A. DAVIS, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Greenfield Avenue Sidewalk Improvements.

This was approved by the Planning Commission on August 23, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$105,000. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-502** (A. DAVIS, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Branch Street Sidewalk Improvements.

This was approved by the Planning Commission on September 16, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$36,000. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-503** (ALLEN, COOPER, & ELROD) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for 18th Avenue South Sidewalk Improvements.

This was approved by the Planning Commission on September 8, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$78,075. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-504** (PRIDEMORE, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Neely's Bend Road Intersection Improvements.

This was approved by the Planning Commission on August 30, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$58,207. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-505** (HASTINGS, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Ewing Lane Culvert Replacement.

This was approved by the Planning Commission on August 30, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$100,000. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-506** (WITHERS, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Franklin Avenue Sidewalk Improvements.

This was approved by the Planning Commission on September 16, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$130,000. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-507** (SYRACUSE, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Lebanon Pike Sidewalk Improvements.

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

*Fiscal Note: The price to be paid for the easements is estimated to be \$161,000. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-508** (S. DAVIS, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for Jones Circle Sidewalk Improvements.

This was approved by the Planning Commission on July 7, 2016.

*Fiscal Note: The price to be paid for the easements is estimated to be \$56,481. This would be paid from the FY16 Capital Projects Fund.*

**BILL NO. BL2016-509** (S. DAVIS, ALLEN, & ELROD) – This ordinance would abandon a portion of an existing sewer easement on property located at 801 Cowan Street.

This was approved by the Planning Commission on October 26, 2016. Future amendments to this ordinance may be approved by resolution.

**BILL NO. BL2016-510** (ROBERTS, ALLEN, & ELROD) – This ordinance would abandon existing easement rights on property located at 0 Illinois Avenue.

This was approved by the Planning Commission on October 17, 2016. Future amendments to this ordinance may be approved by resolution.

**BILL NO. BL2016-511** (ROBERTS, ALLEN, & ELROD) – This ordinance would abandon existing easement rights on property located at 5000 Kentucky Avenue between Alley 1207 and Kentucky Avenue.

This was approved by the Planning Commission on October 17, 2016. Future amendments to this ordinance may be approved by resolution.

**BILL NO. BL2016-512** (ALLEN & ELROD) – This ordinance would authorize the Metro Department of Water and Sewer Services to negotiate and accept permanent and temporary easements for two properties located at 4868 and 4874 Torbay Drive.

This was approved by the Planning Commission on October 24, 2016. Future amendments to this ordinance may be approved by resolution.

*Fiscal Note: The final price to acquire these easements has not yet been determined.*

**– BILLS ON THIRD READING –**

**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.