



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: **January 3, 2017**

RE: **Analysis and Fiscal Notes**

Unaudited Fund Balances as of 12/28/16:

4% Reserve Fund	\$32,237,877*
Metro Self Insured Liability Claims	\$4,923,312
Judgments & Losses	\$2,926,573
Schools Self Insured Liability Claims	\$3,463,022
Self-Insured Property Loss Aggregate	\$6,331,786
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 \$23,381,008.

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

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTIONS NO. RS2016-503 Through RS2016-507 – These five 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 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. RS2016-503** (MURPHY) – This resolution would approve an exemption for Answer Restaurant, located at 132 46th Avenue North.
- **RESOLUTION NO. RS2016-504** (WITHERS) – This resolution would approve an exemption for Boombozz Pizza & Taphouse, located at 1003 Russell Street.
- **RESOLUTION NO. RS2016-505** (O'CONNELL) – This resolution would approve an exemption for The Listening Room, LLC, located at 618 Fourth Avenue South.
- **RESOLUTION NO. RS2016-506** (O'CONNELL) – This resolution would approve an exemption for Tempered Cafe, LLC, located at 1201 Fifth Avenue North, Suite 103.
- **RESOLUTION NO. RS2016-507** (S. DAVIS) – This resolution would approve an exemption for Gallatin Food Valu, Inc. / Piggly Wiggly, located at 921 North First Street.

– ORDINANCES ON PUBLIC HEARING –

BILL NO. BL2016-491 (DOWELL) – Section 17.12.020 of the Metro Code of Laws (MCL) define “District Bulk Tables”, establishing the minimum glazing requirements. Subsection 17.12.020A lists the minimum glazing requirements in certain single and two-family residential zoning districts.

The ordinance under consideration would add a note to this subsection that would require building facades fronting a street to provide a minimum of one principal entrance (doorway) and a minimum of twenty-five percent (25%) glazing. This requirement would apply in residential districts zoned RS3.75-A, RS3.75, RS5-A, RS5, RS7.5-A, RS7.5, R6-A, R6, R8-A, R8, R10, RS10, R15, and RS15.

BILL NO. BL2016-492 (ALLEN, MENDES) – In a decision rendered October 21, 2016, the 8th Circuit Court for the 20th Judicial District in Davidson County declared the short term rental property (STRP) regulations, codified under section 6.28.030 of the Metro Code, to be unconstitutional and vague, at least with respect to the definition of short term rental property. In response, the ordinance now under consideration would appropriate the text of section 6.28.030 into Title 17, add key definitions for “short term rental property” and other uses, and incorporate recent legislative changes to STRP regulations previously enacted by the Council.

As proposed, Section 1 of the ordinance would delete section 6.28.030 of the Metro Code in its entirety so that STRP regulations can be moved to Title 17.

Under Section 2, “Short term rental property (STRP)” would be defined in MCL section 17.04.060 as “a residential dwelling unit containing not more than four sleeping rooms that is used and/or advertised through an online marketplace for rent for transient occupancy by guests.” The reference to online marketplace advertising should sufficiently distinguish STRP properties from hotels and similar uses.

Additional use definitions under Sections 3 and 4 would include:

- “Hotel” - any commercial establishment, or any portion of such establishment, (a) whose principal use provides that such structure is occupied or intended or designed for occupancy by transients for lodging or sleeping purposes within the area of the jurisdiction of the metropolitan government, and includes any hotel, inn, tourist court, tourist camp, tourist cabin, motel or any place meeting this definition, and (b) accepts on-site reservations for accommodations.

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BILL NO. BL2016-492, continued

- "Bed and breakfast inn" - a commercial establishment with 4 to 10 furnished guest rooms whose principal use is for paid accommodation to guests, occupied by owner-occupants and/or full-time live-in managers. Meals may be provided to overnight guests, but the maximum stay for guests is 14 consecutive days.
- "Boarding house" - a residential facility or portion of a residential dwelling unit for temporary accommodation of persons or families in need of shared lodging and personal services, supervision, or rehabilitative services.

A STRP would be permitted as an accessory use in all zoning districts that allow residential use, provided a permit is obtained. The ordinance would establish a new Chapter 17.18 codifying STRP regulations previously held under section 6.28.030 (as revised) as well as other recent amendments introduced by ordinance nos. BL2016—257, BL2016-381, and others.

Under newly proposed section 17.18.010, an operating permit would be required prior to operating a STRP, issued by the Department of Codes. Advertisements would be required to prominently display the permit number or include an image or link thereto. Permits could be issued for three types of STRP properties: owner-occupied (Type 1); not owner-occupied (Type 2); and not owner-occupied multifamily (Type 3). A limit of no more than 3% of single and two-family residential districts within a census tract would be permitted for Type 2 STRP's, and only one permit per lot would be allowed for single-family, two-family, and nonconforming three and four-family homes.

Under 17.18.020, applications for STRP permits would remain valid for 90 days and require affidavit verification of the information provided (identification and contact information, proof of insurance, proof of written notification to adjacent property owners, proof of owner-occupation for Type 1 STRP's, and a statement that the applicant has confirmed compliance with applicable HOA regulations, Condominium Agreements or similar agreements limiting property use.) Signage would be regulated under the comprehensive provisions under Chapter 17.32 of the Metro Code.

Multiple regulatory provisions are provided under proposed section 17.18.040. Occupants would be required to abide by all noise regulations and waste management provisions in the Code. State and local fire and building codes apply, specifically including required smoke alarms. Parking must be provided in accordance with MCL section 17.20.030, and no recreational vehicles, buses or trailers may be visible. Food preparation is prohibited. Maximum occupancy is limited to no more than twice the number of sleeping rooms, plus four, and the limit must be posted within the STRP. If a STRP advertises a larger number of occupants than allowed, it

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BILL NO. BL2016-492, continued

would be grounds for permit revocation. STRP owners cannot be paid for stays of less than 24 hours or more than 30 days. The local responsible party's contact information must be conspicuously posted within the unit and he/she must answer calls 24/7 throughout each rental period.

STRP permits would expire 365 days after issuance unless renewed prior thereto. Renewals can be submitted by mail, online or in person by units that have received no documented complaints. Such STRP owners are allowed a 30-day grace by the zoning administrator, given a reasonable explanation for the delay. The renewal application must include the information required in the original application, again verified by affidavit. For those with documented complaints, no grace period applies. STRP permits could not be assigned or transferred to others under the proposed ordinance.

The Department of Codes would be obligated to notify permit holders upon the filing of a complaint. If the zoning administrator determines that 3 Code violations have occurred within a 12 month period, the STRP permit may be revoked following 15 days' written notice of the alleged violations. Administrative appeals to the BZA may be pursued by permit holders after a revocation. Once revoked, no new permit shall be issued for one year. Operating a STRP without a permit would carry a fifty dollar fine, with each day of operation constituting a separate offense. For such operators, a waiting period of up to one year would apply before eligibility for a STRP permit, subject to appeals that include evaluation of evidence recited in proposed 17.18.040.R.6.b.

On December 8, 2016, the Planning Commission approved BL2016-492 with a substitute, and it is anticipated the sponsors will introduce the substitute at the January 3, 2017 Council meeting.

SUBSTITUTE BILL NO. BL2016-493 (HENDERSON, O'CONNELL, & OTHERS) – Chapters 17.04, 17.20, and 17.40 of the Metro Code of Laws (MCL) currently detail the requirements for the provision of sidewalks within Metro. The ordinance under consideration would amend these Code sections to support access to and use of Nashville's transit system. It would close a loophole wherein single- and two-family infill development on major and collector streets and on neighborhood streets is not required to install sidewalk infrastructure. It would also reduce instances where "in-lieu" payments may be applied and require more physical construction of sidewalks throughout the city as development occurs.

The language being changed would expand sidewalk installation in the USD for multifamily and nonresidential uses and removes triggers such as percentage of expansion, percentage of value of expansion, and references to a sidewalk priority index. This would apply on a street in the

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BILL NO. BL2016-493, continued

Major and Collector Street Plan (MCSP) and/or within one-quarter mile of a "center" designated in the General Plan.

The ordinance would also bring additional, improved infrastructure to more suburban areas outside of the downtown core and close a loophole where no infrastructure improvements are typically required for infill single and two-family construction. This would apply within the UZO, on a street within the MCSP, and/or within a quarter-mile of a center designated in the General Plan.

Under the current language, in-lieu payments are allowed unless there is an existing sidewalk network adjacent to the site or on the same block face. These payments would be applied to the same pedestrian benefit zone, which could be miles away from the location of the actual new construction. The possibility of these payments would be significantly reduced.

In addition to the above, the proposed ordinance would add a requirement that in instances when one chooses to pay an on-lieu fee, he/she still has to dedicate right-of-way to accommodate future sidewalk installation along a site's frontage. This would eliminate the need for Metro to purchase easements for future sidewalk improvement projects.

A requirement would also be added that if one seeks a variance from sidewalk improvements from the BZA, the Planning Department must make a recommendation on whether the variance is justified or whether there are potential alternative designs that could result in installation of public sidewalk benefitting the community.

Finally, obstructions would be prohibited within the required sidewalks, but may be located within a grass strip or frontage zone. Existing obstructions would be relocated.

It is anticipated that the ordinance sponsor will defer the Council public hearing until February 7, 2017. The Planning Commission deferred consideration of this ordinance until the January 12, 2017 Planning Commission meeting, at the request of the applicant.

Fiscal Note: Although approval of this ordinance would be likely to result in a reduction in the amount of "in-lieu" payments that would be received from developers, it would be speculative to estimate the amount of this reduction.

BILL NO. BL2016-513 (WEINER, ELROD & ALLEN) – This ordinance would make multiple changes to Title 15 and 17 of the Metro Code of Laws (MCL) concerning stormwater. Responsibility for stormwater management was moved from Public Works (PW) to the Department of Water and Sewerage Services (DWSS) per Resolution No. RS2012-277 as approved by public referendum.

The ordinance under consideration would make changes to MCL sections as follows:

Section 15.64.010 – The definition of several new terms would be added, such as “Base Flood”, “Base Flood Elevation”, “Community Waters”, “Discharge”, “Infill (regulated residential)”, “Qualified Control Structure”, etc.

Section 15.64.015 – This would eliminate the present sentence at the end of the section that identifies stormwater authority as being with PW instead of MWSS.

Section 15.64.020 – This would change the existing reference from “Director of Public Works” to “Director of the Department of Water and Sewerage Services”.

Section 15.64.030 – The reference to the Codes Department would be eliminated.

Section 15.64.032, Subsection A – The existing stormwater fee definitions would be eliminated.

Section 15.64.032, Subsection C(1) – This would change the agricultural exemption definitions by changing the zoning references to the definition of a “qualified farmer or nurseryman”.

Section 15.64.032 Subsection C(4) – This would remove the reference to Lakewood in the list of satellite cities.

Section 15.64.032, Subsection D(3) – This would remove the requirement to post proposed regulations in “a newspaper of general circulation.”

Section 15.64.032, Subsection F – This section of required reports would be deleted.

Section 15.64.032, Subsection J – This would remove the requirement to post proposed regulations in “a newspaper of general circulation.”

Section 15.64.034 – This would revise the list of items that would be required to be included in the annual written report from the Director of DWSS to the Council.

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BILL NO. BL2016-513, continued

Section 15.64.080 – This would add “variance requests” to the list of items that may be considered by the Stormwater Management Committee.

Section 15.64.100 – This would add “variance requests” to the list of items that may be appealed. The procedure to be followed by the Committee would also be updated to reflect the new process.

Section 15.64.110, Subsection C – This would add the requirement that no building permit could be issued until the grading permit is issued.

Section 15.64.110, Subsection E – This new subsection would add requirements for the issuance of grading permits.

Section 15.64.130, Subsection (B)(1) – This definition for commercial or industrial development would change “Adds less than ten thousand square feet of impervious surface” to say “Disturbs less than ten thousand square feet.”

Section 15.64.140, Subsection A – This would establish new requirements for persons responsible for grading and drainage plans for new developments.

Section 15.64.140, Subsection B – This would establish new requirements for overall property development grading and drainage plans.

Section 15.64.150 – This would change the heading and requirements of the Tennessee Water Quality Control Act and Federal Water Pollution Control Act.

Section 15.64.160, Subsection A – This would correct the MCL reference from “Chapter 17.136” to “Chapter 17.36”.

Section 15.64.160, Subsection B – This would be deleted in its entirety.

Section 15.64.180, Subsection A – This would update the requirements for the construction of a levee, earth fill, building, or other structure that alters the floodplain area.

Section 15.64.180, Subsection A(1) and A(2) – This would define the minimum floor elevation of any structure as being at least one foot above the base flood elevation.

Section 15.64.195 – This would be deleted in its entirety.

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BILL NO. BL2016-513, continued

Section 15.64.205, Subsection A – This would be deleted in its entirety.

Section 15.64.205, Subsection D – This would detail the authority of the Director of DWSS, with the approval of the Mayor, to implement these regulations.

Section 15.64.205, Subsection E – This would add the requirement that discharges with valid NPDES permits must still meet the pollutant parameters in order not to be prohibited by this section.

Section 15.64.205, Subsection G - This would be deleted in its entirety.

Section 15.64.215 – This would update the methods to be used by the DWSS to develop a schedule of charges for services provided per this section.

Section 15.64.220, Subsection A – This would establish punishment by an administrative penalty “in an amount authorized by state law” in place of the current reference to fifty dollars per day.

Section 15.64.220, Subsection B – This would change references of a “civil penalty” to an “administrative penalty.”

Section 17.28.040, Subsection A – This would be deleted in its entirety.

Section 17.28.040, Subsection C – This would be deleted in its entirety.

Section 17.28.040, Subsection D – This would expand the requirements to maintain the eligibility of the National Flood Insurance Program to include all requirements of Section 15.64 of the MCL

Section 17.28.040, Subsection E – This would be deleted in its entirety.

Section 17.28.040, Subsection F – This would replace the reference from the “Department of Public Works” to the “Department of Water and Sewerage Services.”

Section 17.36.210 – This would remove “An Ordinance” from the title of Chapter 15.64.

Section 17.36.220 – This would change the reference from a report to the “Stormwater Management Appeals Board” to the “Stormwater Management Committee.”

The chief sponsor has announced her intent to defer the January 3, 2017 Council public hearing until the February 7, 2017 Council meeting.

– RESOLUTIONS –

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

RESOLUTION NO. RS2017-508 (VANREECE, PRIDEMORE, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-509 (COOPER & POTTS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-510 (COOPER & MURPHY) – This resolution would accept a donation of a firefighter air replenishment system, along with the testing, certification, and maintenance of the system for five years, from Rescue Air to the Nashville Fire Department.

Fiscal Note: The equipment is valued at \$25,000. The added value for the testing, certification, and maintenance is estimated to be \$7,800, for a total value of the donation of approximately \$32,800.

RESOLUTION NO. RS2017-511 (COOPER & POTTS) – Although the Metropolitan Transit Authority (MTA) receives a significant portion of their operational funding by grant agreements with federal agencies, there have been delays in the past from the time of the approval of these grants to the actual receipt of the grant proceeds.

The Tennessee State Comptroller of the Treasury has requested Metro Council action for MTA to be able to obtain any interim financing while it awaits receipts of agency grants. The resolution under consideration would authorize MTA to borrow funds by the issuance of a note in a principal amount not to exceed \$11.2 million. This would be at a rate of interest and under other terms at the sole discretion of MTA in accordance with its own policies and procedures. This note must have a term of not more than 364 days after the closing thereof.

Fiscal Note: The principal and interest for this note may be secured by the pledge of MTA's business assets, excluding real property, but including accounts, account receivables, and contract rights. Such note would not be secured by the full faith and credit of Metro Government in general. Neither property tax revenues nor any other assets of Metro would be pledged as security for this note. As such, there would be no financial impacts for any governmental entity other than MTA.

RESOLUTION NO. RS2017-512 (O'CONNELL, HENDERSON, & BEDNE)) – This resolution would approve an agreement between Susan and Luke Simmons and the Nashville Public Library for the donation of four artworks. These would be installed and displayed in the Nashville Public Library.

The donation would be for an indefinite time, as long as the artworks are displayed in a Metro public area and accessible to the public. This agreement may be cancelled by either party with ninety (90) days written notice to the other party.

Fiscal Note: There would be no charges or fees owed to the donor for the donation and display of the artworks.

RESOLUTION NO. RS2017-513 (COOPER & GILMORE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-514 (COOPER) – This resolution would authorize the Department of Law to compromise and settle the property damage claim of Ms. Lindsay Scott against the Metropolitan Government in the amount of \$29,809.26.

On August 16, 2016, a Metro Police officer attempted to make a left turn from Sutherland Drive onto Brick Church Pike. The officer failed to yield and struck the front of Ms. Scott's vehicle, causing property damage. Her vehicle, a 2015 Acura TLX, was declared a total loss. She sought medical attention, but medical records have not been provided.

Disciplinary action consisted of a written reprimand against the officer involved for causing this accident.

The Department of Law recommends settlement of this property damage claim in the amount \$29,809.26. A subsequent personal injury claim is forthcoming and will not be resolved by this property settlement.

Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$29,809.26.

RESOLUTION NO. RS2017-515 (SHULMAN) – This resolution would approve the election of two hundred thirty-two (232) 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. BL2016-461 (SHULMAN, HENDERSON) – 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 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 is anticipated that would ensure consistency with similar provisions under state law.

BILL NO. BL2016-484 (LEONARDO, ELROD, & M. JOHNSON) – Section 68-211-701, *et seq.* of the Tennessee Code Annotated (TCA) permits local government legislative bodies to require local approval of plans for landfills, solid waste disposal facilities and solid waste processing facilities prior to the construction of such facilities and prior to issuance of a permit by the Tennessee Department of Environment and Conservation or the Commissioner. This legislation 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, as well as any changes in the classification thereof.

Under the current Metro Code of Laws (MCL), requests for special exceptions are heard by the Board of Zoning Appeals. (MCL §17.40.280). But in instances involving sanitary landfills, waste transfer facilities and other specified uses, the Code further requires Council approval of the “specific location” by resolution prior to the BZA public hearing. (MCL § 17.40.280).

In contrast, the Jackson Law (at §§ 68-211-703 and -704) would require Council approval of “the plans” for new landfills and solid waste disposal or processing facilities. Because approval by resolution is not specifically warranted in the legislation, Council approval would need to be by ordinance. The Jackson Law further establishes itemized evaluation criteria for the approval or disapproval of proposed new construction by the Council (§68-211-704), as well as specific

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BILL NO. BL2016-484, continued

provisions for public notice, written comments and public hearings (§68-211-703) -- arguably establishing a heightened threshold for evaluation. Moreover, the Metro Code requirement for Council approval of these special exception requests is subject to waiver in the event Council fails to approve or disapprove a requested location within 60 days. (MCL § 17.40.280).

In the event of a legal challenge, a court's review of the Council's approval or disapproval of the specific location of landfills or waste transfer facilities under MCL § 17.40.280 is limited to a determination of whether the decision was "clearly illegal, arbitrary or capricious" -- a standard considered extremely deferential. In contrast, the Jackson Law specifies that judicial review of the legislative body's determination "shall be a *de novo* review" -- a more scrutinizing assessment. (T.C.A. 68-211-704(c)).

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. BL2016-496 (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. BL2016-524 (M. JOHNSON, LEONARDO) – Section 2.24.250 of the Metro Code of Laws (MCL) controls the disposition of surplus property by Metro. Subsection C.1. currently gives the Director of Public Property Administration the authority, with the approval of the Council, to sell unneeded property. The proceeds of these sales are required to be deposited in the general fund of the district (GSD or USD) from whose operating budget the last department, commission, board, or agency using the property is financed.

The ordinance under consideration would add a requirement, applicable in cases where the Assessor values the property in excess of five hundred thousand dollars (\$500,000), whereby the Director of Public Property would be required to first obtain an independent appraisal from a “state-certified real estate appraiser” as defined by T.C.A. § 62-39-102. All documents, drawings, illustrations, maps, or other written materials related to the sale would be required to be attached or incorporated by reference into the legislation authorizing such sale.

Fiscal Note: The Council could arguably make a better decision with the additional assessment and documentation that would be required by this legislation for the sale of property with a value in excess of \$500,000. However, the Council would still not have the authority to make modifications to any negotiated sales brought to it for approval. The Council would only have the ability to approve or disapprove the sale as proposed.

It would be speculative to estimate any potential additional revenue for Metro resulting from renegotiations following rejection by the Council of initial sales proposals.

BILL NO. BL2016-525 (SHULMAN) – This ordinance would require the Metro Nashville Police Department to submit quarterly reports to the Public Safety Committee of the Council that provide, but would not be limited to, a listing of those community events and activities that the MNPd were involved in or otherwise participated in during the previous quarter. Such events would include, but not be limited to, neighborhood meetings, charitable activities, and school programs.

This information would be required to be broken down by MNPd police sectors and would be required within thirty (30) days of the end of the months of March, June, September, and December.

Fiscal Note: The MNPd would likely see an increase in their administrative costs to produce the newly-required quarterly reports. However, this cost should be minimal.

BILL NO. BL2016-526 (SHULMAN) – This ordinance simply corrects a wording error in the Metro Code of Laws (MCL). Section 4.48.030 of the MCL currently details the general standards of ethical conduct for employees. Subsection 4.48.030(B) further references specific standards set forth within other sections of the MCL. One of the sections referenced is “Section 4.48.100, “Use of confidential [*sic*] information”. But section 4.48.100 is actually entitled “Use of official information”. The ordinance under consideration simply corrects this reference by changing “confidential” to “official” in this subsection.

BILL NO. BL2016-527 (ROBERTS) – The ordinance would amend Chapter 8.12 of the MCL to specify the requirements for all outdoor pen enclosures for dogs, including fenced-in yards. These requirements would displace current provisions that establish minimum pen enclosure size based upon the number and size of dogs, and instead establish a minimum space requirement of nine hundred (900) square feet of open space, with an additional 100 square feet of open space required for each additional dog kept in the same enclosed area. (Puppies less than three (3) months old would not count towards these requirements.)

In addition, the ordinance would add to existing requirements for adequate fencing, flooring, and cleanliness by requiring adequate shade in the summer (beyond what is provided by the shelter) and heat or adequate straw in the winter.

This ordinance would further amend Chapter 8.04 of the Metro Code of Laws (MCL) to change the name of “rabies control officers” to “animal control officers” for employees of Metro Animal Care and Control with “officer” titles.

It is anticipated that the sponsor of this ordinance will request indefinite deferral on January 3, 2017.

Fiscal Note: The Health Department does not believe it would be possible to perform the enhanced enforcement role that would be required by enacting the new pen requirements as proposed by this ordinance. A minimum of seven (7) additional officers would be required for MACC, with an additional personnel cost of \$379,126. In addition, each of these seven new employees would require a van to operate from. The capital cost of each van would be approximately \$58,000, for a total of \$406,000.

In addition, the cost of more cell phones, uniforms, and other equipment would bring the total estimated additional cost to be more than \$794,000. If this were to be implemented during FY17, a supplemental appropriation would almost certainly be required by the Health Department.

BILL NO. BL2016-528 (WEINER) – This ordinance would amend Section 8.20.050 of the Metro Code of Laws (MCL) concerning the prohibition of certain animals running at large in the USD. This section currently prohibits any “cattle, sheep, horse, goat, mule or hog or any offensive animal” from being allowed to go at large in any street or public place.

The ordinance under consideration would remove the term “or any offensive animal” from the list of animals covered by this section. The term is not defined in the Metro Code and it appears in no other local codes provisions in Tennessee, with the exception of Memphis (which likewise provides no definition). The ordinance would further delete the phrase “in the Urban Services District” from the language in this section, anticipating further legislation revising the Chapter title. (“Chapter 8.20 Animal Control Regulations - Urban Services District.”)

BILL NO. BL2016-529 (SLEDGE, ALLEN, ELROD) – This ordinance would approve a plan to remove certain buildings and structures on property at the Fairgrounds. These plans are part of a study performed by the College of Engineering at Tennessee State University and Commonwealth Development Group, Inc.

This study determined that certain buildings and structures at the Fairgrounds are unfit for use or occupancy, posing a health and safety risk. The current state of deterioration of these buildings, according to the study, makes them unsuitable for repair or restoration. The attachment to the ordinance includes photographs and descriptions of these buildings, identified as the Walsh House (bathrooms), Sanitation Building, Volunteer Village, and the Storage Building.

Section 11.602(d) of the Metropolitan Charter provides: “No demolition of the premises shall be allowed to occur without approval by ordinance receiving 27 votes by the Metropolitan Council or amendment to the Metropolitan Charter.”

Fiscal Note: The FY17 Capital Spending Plan includes \$12 million to renovate and upgrade facilities at the Fairgrounds. The cost for the proposed demolition of these buildings would be paid from this \$12 million. No additional appropriation would be required,

BILL NO. BL2016-530 (O’CONNELL, ALLEN, & ELROD) – This ordinance would authorize R.C. Matthews Contractor, LLC to install, construct, and maintain underground and structural encroachments in the right-of-way located at 315 Union Street. These encroachments would consist of entrance lighting encroaching the right-of-way.

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BILL NO. BL2016-530, continued

R.C. Matthews Contractor, LLC 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 November 15, 2016.

BILL NO. BL2016-531 (O'CONNELL, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of Lifeway Plaza to "J M Frost Plaza".

This was approved by the Planning Commission on November 17, 2016. However, the Emergency Communications District will not consider this until their next meeting on January 19, 2017.

A recommendation from both, prior to third reading, is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). It will be necessary to defer this ordinance before final approval.

BILL NO. BL2016-532 (O'CONNELL, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Jo Johnston Avenue to "Lifeway Plaza".

This was approved by the Planning Commission on November 17, 2016. However, the Emergency Communications District will not consider this until their next meeting on January 19, 2017. A recommendation from both, prior to third reading, is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). It will therefore be necessary to defer this ordinance before final approval.

In the interim, two legislative provisions are potentially at issue in this renaming. Metro Code section 13.08.015.E.4 prohibits name changes "for the purpose of promoting a private business." However, namesake Lifeway Christian Resources is a 501(c)(3) religious nonprofit organization and would not generally be considered a "private business" under section 13.08.015.E.4.

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BILL NO. BL2016-532, continued

Additionally, however, Tenn. Code. Ann. §4-1-412, known as the "Tennessee Heritage Protection Act of 2013", prohibits the removal, renaming, relocation, or alteration of any "memorial" (including any street) regarding a "historic figure". According to historical sources, Jo Johnston (born Joseph Eggleston Johnston) was one of the most senior general officers in the Confederate States Army during the American Civil War. If the street was previously named as a memorial to Johnston, this state legislation could apply.

Section 13.08.015.B requires ordinances proposing a street name change to be forwarded to the metropolitan historical commission "for review as to whether there is any historical significance associated with the existing street name." Because deferral of the ordinance is already required, it is recommended that the Council likewise await the written report from the historical commission to clarify the circumstances of the previous naming of the street, its historic significance if any, and the potential application of the Tennessee Heritage Protection Act.

BILL NO. BL2016-533 (WITHERS, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Boscobel Street to "North 6th Street".

This was approved by the Planning Commission on November 17, 2016. However, the Emergency Communications District will not consider this until their next meeting on January 19, 2017.

A recommendation from both, prior to third reading, is required under Metro Code Section 13.08.015.D of the Metro Code of Laws (MCL). It will be necessary to defer this ordinance before final approval.

BILL NO. BL2016-534 (SLEDGE, ALLEN, & ELROD) – This ordinance would authorize the acquisition of certain easements and property rights by negotiation or condemnation for public projects for 11th Avenue South Sidewalk Improvements.

This was approved by the Planning Commission on November 29, 2016.

Fiscal Note: The price to be paid for the easements and property rights is estimated to be \$85,000. This would be paid from the FY16 Capital Projects Fund.

BILL NO. BL2016-535 (O'CONNELL, ALLEN, & ELROD) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning a portion of Alley Number 516 right-of-way and easement.

This has been approved by the Traffic and Parking Commission and the Planning Commission.

BILL NO. BL2016-540 (LEONARDO & SHULMAN) – This ordinance would repeal part of the actions approved by Ordinance No. BL2014-688. This would rescind the Metro approval of the Agreement to Lease and Purchase between Autumn Assisted Living Partners, Inc. ("Autumn") and the Hospital Authority regarding the disposition of real property relating to the Knowles Home Assisted Living and Adult Day Services facility ("Knowles").

Specifically, the ordinance under consideration would repeal Section 3 of BL 2014-688. This section originally specified the terms and rent for the Knowles property. However, Autumn was required to invest \$300,000 in capital improvements and reinstate the Adult Day Care Program. Metro was to receive \$1,000 per year for the Knowles lease by Autumn. Within two years, Autumn was to be required to purchase the facility for \$500,000. This has not yet occurred.

The subsidy to Knowles at the time the original agreement was implemented was approximately \$1.8 million per year. This was to be eliminated on July 1, 2014.

Paragraph 3.1 (b), regarding the potential termination of this lease, states:

"Either Party shall be entitled to terminate this lease at any time during the Term, upon thirty (30) days' notice to the other Party, after either (x) the transfer of beds and all other transactions contemplated by the Transfer Agreement have occurred; or (y) three (3) years after the Transfer Agreement is terminated pursuant to its terms."

The lease agreement with Autumn refers to "Metro" in general and not any specific entity of Metro. The Council Office is of the opinion that the Metropolitan Council has the authority to cancel the lease agreement as proposed by this ordinance.

This ordinance would also repeal Ordinance No BL2015-1283 to rescind the Council's approval of the Purchase and Sale Agreement between Metro and the Vision Real Estate Investment Corporation for the sale of approximately 76 acres located at 1010 Camilla Caldwell Lane. This ordinance approved a necessary amendment to the original agreement approved by BL2014-688, due to the failure of the state legislature to pass the necessary legislation for the transfer

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BILL NO. BL2016-540, continued

of bed licenses. The sale of the two tracts of land for \$600,000 was conditioned on the completion of the Knowles improvements and the purchase of Knowles by Autumn. This has not happened.

It should be pointed out that the agreement with Signature Healthcare to assume management of the Bordeaux Long-Term Care facility would not be affected by this ordinance. The lease with Autumn for Knowles was a separate agreement, even though it was approved at the same time as the agreement with Signature. The Bordeaux agreement continues, with the addition of a Quality Assurance Committee with Council participation per Resolution No. RS2016-425.

Fiscal Note: The anticipated receipt of \$500,000 from Autumn for Knowles and \$600,000 for the sale of the two tracts of land has not happened. Metro and the Hospital Authority would return to the original situation of owning and operating Knowles. It would be speculative to predict what operating agreement might be possible in the future with a different group.

– BILLS ON THIRD 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. BL2016-499 (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 pay Metro \$379,085 for these easements.

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.

January 3, 2017 GRANTS LEGISLATION

Legislative Number	Parties	Amount	Local Cash Match		Term	Purpose
			Amount	Match		
RS2016-490	From: Nashville Predators To: Sports Authority	\$5,000.00	\$0.00		N/A	This is to provide partial funding for the Special Events Coordinator position.
RS2017-508	From: National Endowment for the Arts To: Metro Nashville Arts Commission	\$86,492.00	\$139,351.00		N/A	This Resolution would approve a grant application. If approved, the proceeds would be used to fund a series of temporary public art interventions as well as artist-led community planning and workshops focused on affordable housing and production spaces, wealth-building practices, and targeted creative economic neighborhood policies within Madison. The local match would consist of six (6) Barnes Fund parcel donations (\$72,000), One Percent for Art Fund (\$63,000), and 3% of the personnel costs of the Executive Director (\$4,351).
RS2017-509	From: Tennessee Department of Transportation (TDOT) To: Metro Police Department	\$399,999.64	\$0.00		N/A	This Resolution would approve a grant application. If approved, the proceeds would be used for the continuance of the enhanced DUI enforcement initiative.
RS2017-513	From: Corporation for National and Community Service To: Metro Social Services Commission	\$0.00	\$19,320.00		N/A	This first amendment would increase the local cash match requirement by \$19,320 for a new total of \$30,456.