



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: **February 21, 2017**

RE: **Analysis and Fiscal Notes**

Unaudited Fund Balances as of 2/15/17:

4% Reserve Fund	\$32,237,877*
Metro Self Insured Liability Claims	\$5,294,109
Judgments & Losses	\$3,062,299
Schools Self Insured Liability Claims	\$3,772,828
Self-Insured Property Loss Aggregate	\$6,914,164
Employee Blanket Bond Claims	\$665,227
Police Professional Liability Claims	\$2,439,587
Death Benefit	\$1,388,352

*This assumes unrealized estimated revenues in Fiscal Year 2017 of \$16,550,855.

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

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTION NO. RS2017-554 (WITHERS) – This resolution would approve an exemption for Wild Cow, LLC, located at 1896 Eastland Avenue, from the minimum distance requirements for obtaining a beer permit.

The Metro Code of Laws prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one- or two-family residence. However, several exceptions exist to the distance requirements. Facilities within the USD separated from these protected establishments by state or federal four-lane highways are exempt, as are retailer on-sale beer permit holders in MUL districts 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. However, Ordinance No. BL2016-454, which was passed November 15, 2016, eliminated this requirement.)

Of note, the Tennessee General Assembly is currently considering legislation that would amend Tenn. Code Ann. §57-5-113 to require beer boards to issue permits to any holder of a state on-site liquor consumption license, thereby eliminating distance requirements set forth in the Metro Code.

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

– RESOLUTIONS –

RESOLUTION NO. RS2017-555 (COOPER, K. JOHNSON, & S. DAVIS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-556 (COOPER, GILMORE, & OTHERS) – This resolution would correct an error in an existing grant contract. Resolution No. RS2016-413 previously appropriated \$30,000 to Oasis Center to provide services in three primary program areas: Crisis and Residential Services, Youth Engagement & Action, and Oasis College Connection.

The original grant contract (number L-3670) had an error in the grant term, showing a term of July 1, 2015 to June 30, 2016. The actual term is July 1, 2016 to June 30, 2017. The resolution now under consideration simply corrects this mistake. No change is now being made to the financial terms or conditions of this grant.

The Scholar’s Academy is a free summer academic enrichment program operated through the Nashville Public Library to help students succeed in high school and prepare for college. \$247,000 was added to the Public Library’s Nashville After-Zones Alliance (NAZA) budget for FY17 to enable the Nashville Scholars Program to expand services from 24 to 28 weeks. The new total budget for NAZA was increased \$2,859,700. The \$30,000 appropriation came from these funds.

RESOLUTION NO. RS2017-557 (COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-558 (COOPER & HENDERSON) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-559 (COOPER & PARDUE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-560 (COOPER & PARDUE) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-561 (O’CONNELL, COOPER, & OTHERS) – This resolution would authorize an agreement with Bethel University (“Bethel”) to provide educational services for Metro Government employees. Bethel was established in McMoresville, Tennessee in 1842

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RESOLUTION NO. RS2017-561, continued

and now offers classes at seven (7) campus locations throughout Tennessee, including Nashville. Bethel is chartered by the state of Tennessee and is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award associate, baccalaureate, and master's degrees.

Metro currently offers employee training through a program called "Metro Management Institute Series Three" (MMI3) designed for supervisory staff. MMI3 includes instruction on employment law and policy, leadership communication, Metro's performance management system, conflict resolution, perspectives on management, customer service, and workplace safety.

Bethel currently offers the following Bachelor Degree programs:

- Management & Organizational Development (on-campus),
- Organizational leadership (on-line),
- Criminal Justice (on-line), and
- Emergency Services Management (on-line)

The resolution under consideration would accept a new agreement authorizing Bethel to review Metro's training courses and to provide one (1) credit hour for qualified facilitator-led and/or on-line MMI3 courses toward completion of undergraduate degree programs, certifications, certificates, diplomas, and other instructional programs. Bethel would further award college credit upon evaluation of a Metro employee's work-life experiences (where possible to document knowledge and skills applicable to specific college courses or for general elective credit.)

The MMI3 program is similarly endorsed by Middle Tennessee State University which offers Continuing Education Unit credits and college credit to those who complete the program.

Fiscal Note: This agreement would be at no cost to Metro or its employees. However, Metro would be responsible for announcing formation of the partnership with Bethel, establishing a link to Bethel's website, promoting Bethel to the employees, offering Bethel marketing opportunities afforded to other university partners, assigning a contact to facilitate interaction with Bethel, and working to encourage participation in Metro-sponsored educational forums.

Once initial setup is complete, the only significant ongoing cost would appear to be the salary and fringe costs of the Metro employee assigned to facilitate interaction with Bethel. The details of this assignment have not yet been determined.

RESOLUTION NO. RS2017-562 (COOPER, GILMORE, & ELROD) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-563 (COLEMAN, COOPER, & ELROD) – Metro currently operates a sanitary sewer system that includes a service area occupied by some water services customers of the Gladeville Utility District ("District"). The resolution now under consideration would approve an agreement between Metro and the District that would authorize the District to provide water meter readings to Metro for use in charging sewer system service rates and fees to those shared customers. Under state law, municipalities are authorized to enter into agreements with other public agencies for joint undertakings, subject to approval by the local legislative body.

The term of this agreement would be for ten (10) years, beginning on the approval date by the Council. The agreement may then be extended by the parties on such terms as they may then agree. Either party may terminate the agreement upon 180 days' written notice to the other party.

Fiscal Note: Metro would pay a fee of \$0.45 per month to the District for each joint customer's water meter reading. In addition, Metro would pay any Disconnect and Reconnect fees incurred by the District for complying with a request by Metro to terminate the water service of a customer who has failed to pay any sewer charges owed to Metro.

Only 96 customers would be affected by this agreement. At \$0.45 per month per meter, the total cost would be \$43.20 per month or \$518.40 per year. However, Metro Water Services typically bills this fee back to the customer, so there would be no actual net cost to Metro.

RESOLUTION NO. RS2017-564 (DOWELL, ELROD, & ALLEN) – This resolution would approve an intergovernmental agreement between the Tennessee Department of Transportation (TDOT) and the Department of Public Works for a general maintenance agreement for a traffic signal at I-24 Eastbound Exit Ramp at SR 254 (Bell Road, Exit 59). State law allows intergovernmental/interlocal agreements between governmental entities to be approved by resolution.

This resolution has been approved by the Planning Commission.

Fiscal Note: Metro would not be responsible for any of the costs of the traffic signal installation. Metro would only be responsible for the ongoing maintenance costs of the new signal.

– ORDINANCES 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. (At the request of the Metro Legal Department, the bond was changed back to the name of Nashville Data Link -- the current franchisee.) 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.

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 on November 2, 2016. In the opinion of the Metro Council Office, the information provided at that time was not fully responsive. However, Windstream has now provided the additional requested information.

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

BILL NO. BL2017-580 (O'CONNELL & GILMORE) – The Downtown Central Business Improvement District (Downtown CBID) was initially created by Ordinance No. BL098-1037 with an expiration date of December 31, 2007. Ordinance No. BL2007-1312 renewed the CBID, extending the expiration date to December 31, 2017. The ordinance under consideration would renew the existence of the Downtown CBID with no specific expiration date.

The purpose of the CBID is to “undertake and provide an enhanced level of programs and services not provided by the Metropolitan government which will help maintain the CBID area of

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BILL NO. BL2017-580, continued

downtown Nashville as a clean, safe, and vibrant place to work, live, shop, play, and invest.” This would include such services as maintenance and cleaning, safety, hospitality, streetscape and landscape programs, communications and marketing, district advocacy, district management, etc.

The activities of the CBID are under the control of the District Management Corporation, governed by a Board of Directors consisting of at least twelve (12) members. Any Council member whose district includes any of the area contained within the CBID would serve as an *ex officio* member.

The services to be provided by the Downtown CBID would be provided by the District Management Corporation as a service to and in support of Metro. Such services would be paid out of revenues from the special CBID assessment. These revenues would be used to supplement and not to pay for the same level of services provided by Metro within the District as provided throughout the Urban Services District (USD).

As proposed, the ordinance under consideration would allow for dissolution of the Downtown CBID by Council upon receipt of a written petition filed either (a) by the owners of 75% of the assessed value of the taxable real property in the Downtown CBID; or (b) by 50% of the owners of record within the Downtown CBID. This is a slight change from previous CDIB establishment ordinances which typically provided an automatic dissolution period, absent an ordinance by the Council continuing the CBID. (See, *e.g.*, Ordinance Nos. 098-1037, BL2007-1312, BL2006-1123 and BL2015-67). State law does not mandate an automatic dissolution period, however.

Fiscal Note: The ordinance under consideration includes an estimated cost of the initially proposed improvements, services, projects, and other permitted uses of special assessment revenues of \$2,474,943. Because 2017 is an assessment year, the initial rate of the levy of the special assessment for the Downtown CBID would be calculated from mid-year 2017 records of the Metro Tax Assessor and dividing this \$2,474,943 budget by the total assessment real property value within the area of the Downtown CBID to determine the required assessment rate per dollar of assessed property value.

The District Management Corporation shall annually submit to the Council a financial report and a written report of its activities for the preceding year together with a proposed budget for the next year. This proposed budget must be approved by the Council.

BILL NO. BL2017-581 (SHULMAN) – In 2006, an amendment to the Charter of the Metropolitan Government was approved by referendum which established a new and independent Department of Audit, directed by the newly-created Metropolitan Auditor and

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BILL NO. BL2017-581, continued

generally overseen by a Metropolitan Audit Committee. Section 2.24.300 of the Metro Code of Laws (MCL) describes the functions and authority of the independent Metropolitan Auditor. The Metropolitan Auditor shall conduct “financial, performance, and other audit services” according to Government Auditing Standards as established by the United States Government Accountability Office.

The ordinance under consideration would add a new Paragraph H to this section of the MCL. This would empower the Metropolitan Auditor to conduct an independent investigation of any department, board, and/or commission of Metro. (An amendment may be necessary to clarify that only boards and commissions created under Metropolitan Government authority are included.) In addition, the Metropolitan Auditor would be empowered to audit the performance of contracts by entities that contract with Metro.

In performing these audits, the authority being granted would include the ability to review, research, and conduct interviews as well as having access to any and all necessary documentation. If any entity under such audit refuses to cooperate, the Metropolitan Auditor would be required to report this to the Audit Committee as well as to the Budget and Finance Committee “for further action”.

What constitutes “further action” is not explicitly defined within this section of the MCL. It would be up to the Audit Committee and/or Budget and Finance Committee to determine what recourse to pursue.

BILL NO. BL2017-582 (LEONARDO) – Section 2.24.210 of the Metro Code of Laws (MCL) gives the Director of Public Property Administration the authority for leasing, collection of rent, sale, and disposal of all public property owned by Metro, unless otherwise provided by ordinances. Council approval is generally required prior to the sale or lease of surplus property. For example, section 2.24.250.C.1 states that the director of public property is authorized to sell surplus property “with the approval of the metropolitan council.” Similarly, the director may sell properties obtained by Metro through the delinquent tax-sale process, “subject to the prior approval of the metropolitan council by resolution.” (Section 2.24.250.G). The director likewise must obtain Council approval to purchase land in fee simple (other than rights-of-way for streets and alleys)(Section 2.24.250.F).

Despite these provisions, the Code references only “leases” as being subject to the approval of Council in preceding section 2.24.210. This may simply be an oversight, given the provisions of sections 2.24.250C and G. Nevertheless, the ordinance under consideration would explicitly provide for Council approval of both sales and leases of public property owned by Metro.

Additionally, archaic provisions regarding leases of space within the Stahlman Building, and annual reports thereon, would be eliminated. These provisions are no longer applicable.

BILL NO. BL2017-583 (ALLEN) – This ordinance provides an update to section 5.12.060 of the Metro Code that will be necessary in the event Ordinance no. BL2016-492 is enacted. (BL2016-492 is currently under consideration on third reading. If enacted, it would transfer short-term rental property (STRP) regulations from Chapter 6.28 of the Metro Code to Title 17.

Subsection 5.12.060.A(4) of the Code provides for a portion of transient occupancy privilege tax revenue, generated by short-term rental properties, to be exclusively dedicated to the Barnes Fund for Affordable Housing. This subsection currently refers to STRP regulations as being in Chapter 6.28 of the MCL.

The ordinance under consideration would simply update the STRP reference in subsection 5.12.060.A(4) from “Chapter 6.28” to “Title 17”. If Ordinance Number BL2016-492 is not approved, no change to this subsection would be necessary.

BILL NO. BL2017-584 (PARDUE) – The definition of “beer” in Section 57-5-101 of the Tennessee Code Annotated has recently been changed to specify that the alcoholic content of beer by weight (ABW) cannot be more than eight percent (8%) by weight. However, Title 7 of the Metro Code of Laws (MCL) defines beer as having alcoholic content of not more than five percent (5%) by weight. The ordinance under consideration would change Metro’s ABW definition to 8% in order to comply with the new state definition.

By making this change, sales of beer up to 8% ABW would be permitted within the territorial jurisdiction of Metro without the need for a license from the Alcoholic Beverage Commission.

It should be noted that the Tennessee General Assembly is currently considering HB0499 / SB0502 which would eliminate ABW from the definition of “beer”. Instead, beer could have alcohol content up to eighteen percent (18%) by volume (ABV). Of course, it is unknown whether this legislation will pass in its current form.

BILL NO. BL2017-585 (WEINER) – This ordinance would add additional requirements for the care of animals. Sections 8.12.030 and 8.20.040 of the Metro Code of Laws (MCL) would be modified to add the requirement to provide shelter for animals with protection from the “elements”. This term would now be defined as “weather conditions, including the following inclement weather conditions: freezing temperatures, a heat index of 95 degrees Fahrenheit (95° F) or above as determined by the National Weather Service, thunderstorms, or tornados.” A similar requirement would be added to section 8.20.040 to protect confined animals from the elements.

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BILL NO. BL2017-585, continued

Section 2 and 3 of the Ordinance would apply the provisions of Code section 8.12.030.C.6 (which provides that tethered dogs shall not be left outside in temperature extremes or inclement weather) to *all* dogs – regardless of whether they are tethered.

An amendment is anticipated by the sponsor to correct an erroneous reference in Section 4 of the ordinance to “Subsection B” of Section 8.20.040.

Fiscal Note: The final amount has not yet been determined, but the initial estimate by the Health Department is that approximately \$567,000 of additional capital and operational funding would be required to enforce these regulations county-wide.

BILL NO. BL2017-586 (WEINER) – Chapter 8.20 of the Metro Code of Laws (MCL) establishes various animal control regulations within the Urban Services District (USD). These include such items as license tag removal, treatment for persons bitten by a rabid dog, confinement of animals, animals running at large, *etc.*

This ordinance would remove all references to the USD in the various sections of this chapter so that the regulations would be uniformly applicable throughout Davidson County.

This ordinance should not be confused with BL2016-527, which was deferred indefinitely on January 3, 2017. That ordinance would have made several additional requirements concerning pen enclosures for dogs. The ordinance now under consideration would not add additional requirements to this chapter. It would simply make the existing requirements applicable county-wide.

Fiscal Note: The additional staffing that would be required by Metro Animal Care and Control within the Health Department if this ordinance is approved is still under evaluation.

BILL NO. BL2017-587 (LEONARDO) – Section 6.80.415 of the Metropolitan Code authorizes the Metropolitan Government to contract with wreckers or private tow services for the towing or removal of stolen vehicles. Currently, vehicle owners who are the victims of auto theft and related crimes are required to pay towing fees in order to reclaim their stolen vehicles.

But storage fees for tow-in lots under the jurisdiction of the Metropolitan Nashville Police Department (MNPd) are waived for owners of stolen vehicles, pursuant to section 12.72.080, provided that the owner reports the automobile as stolen and reclaims the vehicle within 24 hours after being notified by the MNPd.

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BILL NO. BL2017-587, continued

The proposed ordinance would modify Section 12.08.150 and 6.80.550 of the Metro Code to require towing fees to be similarly waived for victims of automobile theft, beginning June 30, 2017.

Tennessee law provides a statutory lien for towing companies, allowing continued possession of an impounded vehicle “until all reasonable charges due are paid.” (Tenn. Code Ann. 66-19-103). The proposed ordinance, if adopted, would essentially require that tow companies’ charges could not include theft victims’ towing fees. It should further be noted that towing fees are often covered under comprehensive automobile insurance policies.

Under the Metro Code, the chief of police establishes regulations and procedures for towing vehicles to the tow-in lot and for payment of the related costs. Section 12.72.030 of the MCL states:

“12.72.030 - Procedures for hauling vehicles to the lot—Reimbursement of costs.

The chief of police is authorized to establish or to approve the regulations and procedures by which motor vehicles shall be towed to the tow-in lot, and to arrange for the payment of the cost of towing vehicles to the lot in those instances where the towing or hauling to the lot is done on the direction of the police department or any of its police officers acting according to the rules and regulations of the police department. The chief of police shall establish rules and regulations relating to the reimbursement of the department of police by the owners of the motor vehicles affected for the amount expended in tow-in charges for hauling such vehicles to the lot.”

The towing fee to an impound lot, at the direction of a police officer, is currently \$135 according to United Road Towing (URT) in Nashville.

Fiscal Note: The ordinance under consideration would waive all towing fees currently charged to owners of recovered stolen vehicles, but it does not identify an alternative source of payment of these fees. It is unknown whether current towing companies would willingly modify their charges.

However, these contracts all expire on June 30, 2017. Negotiations for contract renewals at that time would need to address this question.

BILL NO. BL2017-589 (SYRACUSE, VANREECE, & OTHERS) – The ordinance under consideration would approve an agreement consisting of three major components between Metro and Ryman Hospitality Properties, Inc. (Ryman).

In 2007, the Council enacted several legislative items geared toward providing financial incentives to assist Gaylord in financing a proposed \$80 million expansion of the Gaylord Opryland property, owned by Ryman. One of these legislative items declared the Opryland Hotel property to be a secondary Tourism Development Zone (TDZ) (a state law mechanism that would allow the increased sales tax revenues generated by the Opryland expansion to be used for debt service on the project).

At the time these Gaylord incentives were adopted, the Council also imposed an additional one percent (1%) Hotel Occupancy Tax county-wide as part of the funding mechanism for a future convention center. However, the state law authorizing the additional one percent (1%) Hotel Occupancy tax provided that the portion of the tax collected within a secondary tourism development zone is to be deposited in the Metropolitan Government general fund.

The Council designated the additional one percent (1%) Hotel Occupancy tax to be used for debt service on the Opryland Hotel and Convention Center expansion project. But in the wake of a poor economy, the expansion project was placed on hold and no debt was issued. Thus, approximately \$1.8 million in additional hotel occupancy tax funds generated by the Gaylord Opryland Hotel accumulated in the general fund.

In 2010, Ordinance No. BL2010-727 appropriated funds from the unencumbered additional one percent (1%) Hotel Occupancy tax within the Gaylord TDZ for the repair of the Grand Ole Opry House, which had sustained damages estimated at \$17,000,000 - \$20,000,000 as a result of the May 2010 flood. An initial grant of \$1,600,000 was appropriated immediately from revenue already collected from the Hotel Occupancy tax for the purpose of reimbursing expenses related to the repair of the Grand Ole Opry House. The ordinance also restricted future revenues generated by the additional one percent (1%) Hotel Occupancy tax collected within the Gaylord TDZ through July 1, 2025, including a 5% per annum interest rate, for the purpose of flood repairs to the Opry House.

The revenues generated by the additional Hotel Occupancy Tax collected in the Gaylord TDZ are now not projected to be sufficient to fully reimburse Ryman for the initial costs to repair the Grand Ole Opry House. Additionally, Ryman submits that it has incurred additional costs in the renovation of the Grand Old Opry House to prevent future damages from flooding disasters.

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BILL NO. BL2017-589, continued

The ordinance now under consideration would extend the end date of the agreement per BL2010-727 from July 1, 2025 to July 1, 2031. The purpose for use of the additional Hotel Occupancy Tax revenues would also be expanded to include expenditures to “prevent damage from future flooding disasters”.

The second component of this agreement would approve an abatement of real property taxes for the construction of a new water park by Ryman, expected to be known as “Soundwaves.” Ryman would still be required to pay the same amount of property taxes as paid for 2017 for the parcels that would be used for this water park. Ryman would only receive an abatement of the amount of real property taxes that would normally be due for the new project.

The construction costs for the new water park are expected to be approximately ninety million dollars (\$90,000,000). The annual standard USD property taxes that would be due for this amount would be \$1,625,760.

Ryman would receive a complete abatement of this additional property tax amount after construction is completed, expected to occur in 2019. The abatement would continue each year through 2025. After that date, Ryman would be required to pay the full standard real property tax for the new water park, along with the remainder of their property.

The final assessed value of this water park will not be known until the project is complete. Typically, the final assessed value is less than the construction costs, so the \$90,000,000 value should be considered as an upper limit.

Also, the abatement value of \$1,625,760 each year is based on the current USD property tax rate of \$4,516 per \$100 of assessed value. Metro properties are scheduled for reappraisal during 2017. As of December 31, 2016, property values have increased by an average of approximately thirty-five percent (35%) following the last reappraisal. By law, Metro cannot receive an increase in property taxes due to reappraisals. If average property values do increase by 35%, property tax rates would be required to decrease by a similar amount in order to maintain constant total property tax revenues. If property tax rates were to go down by 35%, this would also result in a 35% reduction in the dollar value of the abatement per this agreement. Instead of \$1,625,760 each year, the annual abatement amount would drop to approximately \$1,057,000.

The last component of this agreement concerns the acceptance of a donation of two parcels of property by Ryman to Metro. These parcels are located at 2400 and 2410 McGavock Pike, at the intersection of McGavock Pike, Riverview Road, and Pennington Bend Road. As of January 1, 2013, the total appraised value of these two parcels as shown on the official Metro map is \$356,000. These parcels would provide public boat access to the Cumberland River and adjacent public parking, rendering them suitable for Metro’s public park system.

This has been approved by the Planning Commission.

BILL NO. BL2016-590 (PULLEY, COOPER, & OTHERS) – This ordinance would authorize the acquisition of real property by negotiation or condemnation for the purpose of intersection realignment and improvements at the intersection of Hillsboro Pike at Crestmoor Road. This addition would consist of parcels located at 3715 Hillsboro Pike and 3801 Hillsboro Pike. This was included in the FY17 Capital Improvements Budget (CIB) as Project No. 16PW0015.

The parcel at 3715 Hillsboro Pike is currently occupied by a closed fast-food restaurant. The appraised value of the parcel is \$1,202,900. The parcel at 3801 Hillsboro Pike holds an active pharmacy and has an appraised value of \$3,905,200. However, it will be necessary to perform a new appraisal to determine the current fair market value of the two parcels.

Fiscal Note: The final price for this acquisition has not yet been determined, but it would be paid from Public Works' capital funds.

BILL NO. BL2017-591 (SLEDGE, ELROD, & ALLEN) – This ordinance would abandon and accept sewer and water mains, sanitary manholes, and easements for property located at 1500 12th Avenue South.

This has been approved by the Planning Commission. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-592 (ELROD & ALLEN) – This ordinance would authorize HRT of Tennessee, Inc. to install, construct, and maintain underground encroachments in the right-of-way located at 2011 Hayes Street. These encroachments would consist of a structural concrete closure slab running south from the Hayes Street curb line, establishing the face of the new parking garage on the Midtown Medical Plaza campus at 2011 Hayes Street.

HRT of Tennessee, Inc. 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 has been approved by the Planning Commission.

BILL NO. BL2017-593 (S. DAVIS, ELROD, & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning an Unnumbered Alley right-of-way.

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

– ORDINANCES ON THIRD READING –

BILL NO. BL2016-492 (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 substituted, Section 1 of the proposed 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.
- “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.

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BILL NO. BL2017-492, continued

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 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

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BILL NO. BL2017-492, continued

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 the sponsors subsequently introduced the substitute which was passed at the January 3, 2017 Council meeting. An amendment is being considered to further refine the use definitions proposed in Sections 3 and 4.

BILL NO. BL2016-496 (BEDNE & ALLEN) - The current Metro Code of Laws (MCL) 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).

As amended during the meeting of January 3, 2017, Subsection F would prohibit non-electric vehicles from parking in a space designated for charging electric vehicles in parking lots with ten (10) or more parking spaces. Violation of this requirement would subject the owner to a \$50 fine, assessed by the issuance of a parking citation. In designated charging spaces owned by the Metropolitan Government, an official sign or pavement markings would be required prohibiting parking of any vehicle other than plug-in electric vehicles. Also, any designated charging space in lots with ten (10) or more vehicles would have to be marked by a sign, pavement marking, or other indication on or before January 1, 2018.

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. BL2016-500 (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. BL2017-560 (MENDES) – This ordinance would make two housekeeping updates to references within the Metro Code of Laws (MCL) concerning annual benefit reporting disclosures.

Section 2.222.010(2)(o) of the Metropolitan Code of Laws excludes from the definition of “Anything of value” food and/or beverages “that would not be prohibited under section 2.222.020(s)(2).” But the reference to food and beverages is found in subsection (s)(1), not (s)(2). This ordinance would correct this reference.

Additionally, section 2.222.030.C.4 provides an Annual Benefit Reporting Statement form that states: “b. For purposes of this report, the Employee is not required to list those items set forth in Section 2.222.030 C.1 and 2.” But in 2012, section 2.222.030 C.1 and 2 were amended to delete references to “donations in connection with political campaigns” and “food and/or beverages of a nominal value” and inserted, instead, formatting and signature instructions. But the reference to the previous version of 2.222.030 C.1 and 2 was not corrected in the form. The reference to this incorrect Section would be deleted by the ordinance under consideration.

BILL NO. BL2017-561 (MURPHY & ALLEN) – This ordinance would amend Section 12.40.040 of the Metro Code of Laws (MCL) regarding parking restrictions. Subsection A.1.c of this Section currently prohibits any vehicle from stopping, standing, or parking in various locations, including sidewalks, within an intersection, on a crosswalk, and on any railroad tracks.

The ordinance now under consideration would add a new prohibition. Vehicles would not be allowed to stop, stand, or park upon any median, buffer strip, planting strip, or landscape strip located between a sidewalk and roadway.

Fiscal Note: The penalty of \$50 currently shown in Paragraph C of this section would apply to the new prohibition. This should result in some additional total revenue from these fines, but it would be speculative to estimate an amount.

BILL NO. BL2017-562 (COOPER, ALLEN, & OTHERS) – Ordinance No. O98-1362 approved a lease agreement between the Metropolitan Government and Steve and Elaine Minton on October 6, 1998. This lease was for use of the Minton’s premises on 2583 Greer Road as a site for construction and maintenance of an 800 MHz emergency communications tower. The lease was for a term of 20 years at a rate of \$600 per month, beginning November 1, 1998.

The ordinance now under consideration would amend the terms of this lease, as shown in Exhibit B of the ordinance, extending the term of the lease until December 31, 2036. The amendment adds a restriction to the lease, stating that any and all requests from a private entity to place a transmitter or responder on the tower must be submitted in writing to the Metro IT Services Department. ITS would have the sole authority to approve or deny such request.

In addition, if the owners decide to sell their property, Metro would have the right of first refusal and an independent appraiser would be used to determine the fair market value compensation.

Fiscal Note: The monthly rental fee would be increased to \$2,000 per month, beginning on January 1, 2017 and would increase by 10% every five (5) years, per the following schedule:

- *January, 2017 through December, 2021 - \$2,000*
- *January, 2022 through December, 2026 - \$2,200*
- *January, 2027 through December, 2031 - \$2,420*
- *January, 2032 through December, 2036 - \$2,662*

BILL NO. BL2017-563 (ELROD) – This ordinance would authorize the Metropolitan Government to adopt the revised Flood Insurance Rate Map in order to maintain eligibility in the National Flood Insurance Program (NFIP).

In order to maintain this eligibility, it is required that Metro follow NFIP regulations found in Title 44, Chapter 1, Section 60.3 of the Code of Federal Regulations (CFR). Sections 13-7-101 through 13-7-115 and 13-7-201 through 13-7-210 of the Tennessee Code Annotated (TCA) delegates responsibility to local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizens.

Metro has previously adopted the Flood Insurance Rate Map (FIRM) as its official floodplain map. Metro now wishes to adopt the revised FIRM, dated April 5, 2017. The Department of Water and Sewerage Services (WSS) has been working with FEMA since November, 2013 to finalize the new version of the Flood Insurance Rate Maps. WSS received a letter from FEMA on December 5, 2016 informing them the maps were final and would become effective April 5, 2017. It is required to adopt the new maps prior to the effective date. This change was approved by the Planning Commission on December 27, 2016.

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BILL NO. BL2017-563, continued

A related ordinance, BL2016-513, is scheduled for public hearing March 7, 2017 and includes a subsection that would expand requirements to maintain eligibility of the NFIP to include all requirements of Section 15.64 of the MCL. WSS has been working on the issues addressed in BL2016-513 for the past three years.

BILL NO. BL2017-564 (COOPER & ELROD) – This ordinance would accept a donation of \$25,000 from Craighead Development LLC to aid in the construction of intersection improvements at SR171, Hobson Pike, and Pin Hook Road. These improvements would consist of approximately 1,350 feet of new sidewalks.

Fiscal Note: The total estimated cost of the intersection improvements is \$640,000. If the Craighead donation is accepted, the remaining \$615,000 would be paid from Public Works' capital funds. Public Works has indicated that it will seek these funds from a variety of state and federal grant sources.

BILL NO. BL2017-565 (DOWELL, COOPER, & OTHERS) – Ordinance No. BL2016-430 authorized Metro to enter into a participation agreement for the construction of public infrastructure improvements with Century Farms, LLC. Century Farms had developed plans for the design and construction of a proposed multi-use development on real property they own.

These plans required construction within the public right-of-way, specifically including roadway improvements at Old Franklin Road, Preston Road and Cane Ridge Road. The plans further required Century Farms to acquire additional land, easements, and/or rights-of way over property owned by private land owners. These plans were approved and permitted by Metro on December 8, 2015.

The costs necessary to complete the project were expected to range between \$6.7 million and \$10.3 million. BL2016-430 authorized Metro to contribute \$5.5 million for public infrastructure improvements to the right-of-way of the project. Upon final inspections and approvals, Century Farms would convey the project to Metro.

The ordinance now under consideration would approve a participation agreement between Metro and Century Farms LLC for the construction of two phases of construction of the I-24 Interchange at Hickory Hollow Parkway.

Phase PE-N consists of completing the NEPA Analysis. This must be completed no later than August 1, 2017. Phase PE-D consists of completing the engineered drawings for the interchange. This must be completed no later than December 31, 2017. Upon completion of (continued on next page)

BILL NO. BL2017-565, continued

these two phases, Century Farms will provide the NEPA analysis and construction plans to the Tennessee Department of Transportation (TDOT). Century Farms shall secure TDOT approval of the analysis no later than October 1, 2017 and the design plans thereafter.

Any amendments to this agreement may only be made by the written agreement of all parties, followed by Council approval via resolution.

Fiscal Note: In order to continue with the application for state and federal funds, Metro is required to agree to cover 100% of the costs associated with the first two phases of the construction project, PE-N and PE-D. Century Farms has agreed to pay the estimated costs associated with these phases, \$65,000 and \$1,940,000 respectively.

BILL NO. BL2017-566 (S. DAVIS, ELROD, & ALLEN) – This ordinance would abandon existing sewer main and any associated easements and to accept new sewer and water main, any associated easements, and manholes for properties located at 306-B, 306, 402, 408, 500, and 0 Cowan Street.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-567 (HENDERSON, ELROD, & ALLEN) – This ordinance would abandon an existing ten-foot wide public utility easement on property located at 629 Belle Park Circle. It has been determined by Metro Water Services that this easement is no longer needed.

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

BILL NO. BL2017-568 (KINDALL, ELROD, & ALLEN) – This ordinance would abandon an existing sewer main and easement and to accept new sanitary sewer main and easement, and sanitary sewer manholes for properties located at 415 27th Avenue North and 512 26th Avenue North.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-569 (O'CONNELL, ELROD, & ALLEN) – This ordinance would abandon existing sewer main and easements and to accept new sewer main, manholes, and easements for properties located at 112, 114, and 118 7th Avenue North.

This was approved by the Planning Commission on November 29, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-570 (ELROD & ALLEN) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the Shady Tree Lane Stormwater Improvement Project for ten (10) properties located along Shady Tree Lane, Apple Orchard Trail, and Mt. View Road.

This was approved by the Planning Commission on November 28, 2016. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-571 (FREEMAN, ELROD, & ALLEN) – This ordinance would authorize Metro to negotiate and accept permanent and temporary easements for the Collier Avenue Stormwater Improvement Project for ten (10) properties located along Collier Avenue and Tanksley Avenue.

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

BILL NO. BL2017-572 (ELROD & ALLEN) – This ordinance would adopt the Geographic Information Systems Street and Alley Centerline Layer, with the changes as reflected on the Centerline Layer to date, as the official Street and Alley Acceptance and Maintenance Record for Metro. The updated Centerline Layer shows the dedicated streets and alleys that were either accepted or abandoned for public maintenance by Metro since it was last adopted per Ordinance Number BL2015-69 on January 5, 2016.

This has been approved by the Planning Commission.

BILL NO. BL2017-573 (ELROD & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of Avalon Drive to "Avalon Lane".

A recommendation from the Planning Commission and Emergency Communications District (ECD) prior to third reading is required under Metro Code Section 13.08.015.D of the Metro

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BILL NO. BL2017-573, continued

Code of Laws (MCL). The Planning Commission and ECD approved this change on December 6, 2016. and on January 19, 2017 respectively. A report from the Metro Historical Commission was circulated to Council members by the Metro Clerk's Office on February 14, 2017. This report discloses, in part, that the intention behind naming the street "Avalon" is unknown.

BILL NO. BL2017-574 (ELROD & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by abandoning Overall Street right-of-way and easement.

This was approved by the Traffic and Parking Commission on December 12, 2016 and the Planning Commission on November 29, 2016.

GRANTS AND DONATIONS LEGISLATION - FEBRUARY 21, 2017

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2017-555	From: Cities for Financial Empowerment ("CFE") Fund, Inc. To: Financial Empowerment Center	Not to exceed \$40,000	\$0.00	January 3, 2017 through March 31, 2018	The grant proceeds would be used to pilot a new set of savings milestones and outcomes, train counselors to discuss savings goals, record client savings information, and assess the results.
RS2017-557	From: State Justice Institute To: Metro Nashville Juvenile court	\$44,910.00	\$4,828 (cash) and \$19,310 (in-kind)	October 1, 2017 through September 30, 2020	If the grant application is approved, the proceeds would be used to provide funding to obtain expert assistance to diagnose a problem, develop a response to that problem, and initiate implementation of any needed changes.
RS2017-558	From: U.S. Department of Justice To: Office of Family Safety	\$546,986.00	\$0.00	October 1, 2017 through September 30, 2020	If the grant application is approved, the proceeds would be used to fund a high-risk court advocate and a high-risk General Session Court probation officer to increase advocacy services to high-risk victims and create a high-risk probation program for offenders.
RS2017-559	From: Tennessee Department of Finance and Administration To: Metro Nashville Police Department	\$960,000.00	\$0.00	July 1, 2017 through June 30, 2018	If the grant application is approved, the proceeds would be used to continue funding for the Internet Crimes Against Children Unit. Metro would also be required to sub-grant portions of this grant to other agencies with units of this type.
RS2017-560	From: Tennessee Emergency Management Agency (TEMA) To: Office of Emergency Management	Not to exceed \$149,270.19	\$0.00	September 1, 2016 through April 30, 2019	The grant proceeds would be used to fund costs related to homeland security preparedness activities.
RS2017-562	From: Boulevard Bolt, Inc. To: Metro Nashville Social Services Commission	\$8,500.00	\$0.00	N/A	The grant proceeds would be used by the Social Services Commission to benefit the How's Nashville program to aid homelessness.