



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: June 6, 2017

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 5/31/17:

4% Reserve Fund	\$32,237,877*
Metro Self Insured Liability Claims	\$4,797,269
Judgments & Losses	\$2,984,452
Schools Self Insured Liability Claims	\$3,980,938
Self-Insured Property Loss Aggregate	\$7,438,644
Employee Blanket Bond Claims	\$671,476
Police Professional Liability Claims	\$2,406,288
Death Benefit	\$1,390,758

*This assumes unrealized estimated revenues in Fiscal Year 2017 of \$3,201,846.

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

– ORDINANCES ON PUBLIC HEARING –

BILL NO. BL2017-722 (COOPER) – This ordinance is the operating budget of the Metropolitan Government for Fiscal Year 2018. The budget filed by the Mayor provides for the following proposed funding:

• General Services District General Fund	\$977,081,500
• General Services District Schools Fund	\$879,299,700
• General Services District General Debt Service Fund	\$113,632,100
• General Services District Schools Debt Service Fund	\$94,371,300
TOTAL GENERAL SERVICES DISTRICT BUDGET	\$2,064,384,600
• Urban Services District General Fund	\$124,030,900
• Urban Services District General Debt Service Fund	\$21,274,600
TOTAL URBAN SERVICES DISTRICT BUDGET	\$145,305,500
TOTAL OPERATING BUDGET	\$2,209,690,100

The substitute budget adopted by the Council for Fiscal Year 2017 is \$2,087,320,200. The mayor’s proposed budget represents an overall increase of \$122,369,900 (5.9%).

The budget would appropriate a total of \$75,249,600 from the unreserved fund balances of the primary budgetary funds. These amounts are as follows:

• General Fund of the General Services District	\$49,809,300
• Schools Operations Fund of the General Services District	\$19,059,900
• Schools Debt Service Fund of the General Services District	\$1,400,000
• Debt Service – General Services District	\$900,000
• General Fund of the Urban Services District	\$0
• Debt Service – Urban Services District	\$4,080,400

Metro’s established policy is to maintain a fund balance equal to or greater than 5% for each of the six budgetary funds, the GSD General Fund, USD General Fund, and General Purpose School Operations Fund, as well as the three related primary debt service funds.

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BILL NO. BL2017-722, continued

The mayor's proposed budget is projected to result in the following fund balance percentages by June 30, 2018:

- General Services District General Fund 5.9%
- General Services District Debt Service Fund 5.3%
- General Services District Schools Operations Fund 5.7%
- Schools Debt Service Fund 5.8%
- Urban Services District General Fund 5.5%
- Urban Services District Debt Service Fund 9.5%

The current property tax rate for the GSD is \$3.924 per \$100 of assessed value. The current rate for the USD is \$0.592, giving a combined rate of \$4.516. Companion Resolution No. RS2017-682 would adopt revised property tax rates due to the reassessment taking place this year. Per the requirements of Tennessee Code Annotated (TCA) section 67-5-1701, the certified property tax rates must be set so as to produce the same ad valorem revenue for Metro as was levied during the previous year, exclusive of new construction, improvements, and deletions.

These property tax rates will be determined following certification by the state of these required rates. They are currently estimated to be \$2.755 for the GSD and \$0.360 for the USD, giving a combined rate of \$3.115

Even with the reduction in the certified rates, growth is expected to generate a combined increase of \$49.2 million in current and non-current year property taxes over the budgeted FY17 revenue. Local option sales tax revenues are projected to increase by \$25.0 million over the current budget. Expected increases in grants from other governmental entities accounts for an additional \$26.8 million. All other revenue is expected to increase by a net of \$39.4 million.

Public Investment Plans (PIPs) were introduced in FY17 and would continue for FY18. These are non-traditional plans submitted by groups of departments working cooperatively to find opportunities for improvements. Funding for specific PIPs will not be determined until the operating budget is approved by the Council. For FY18, twenty-four (24) plans were submitted. These are as follows:

- A Mother's Place: Infrastructure for Breastfeeding Support
- A Move Toward Diversity through Education
- Animal Welfare
- Art in Private Development Portal
- Community Mental Health Systems Improvement
- Coordinating Pre-K Enrollment

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BILL NO. BL2017-722, continued

- Cultivating a Community of Hope
- Drive to End Chronic Homelessness
- Engage IT: Preparing Students for IT Careers in the "IT" City
- Envision Nolensville Pike Concept Plan Implementation
- Expand Shower Access and Assess Need for Public Restrooms for Homeless People
- Expanded School Nurse Program
- Food Systems Development Project
- hubNashville - Community Response Management (CRM) Program
- Metro Digital Inclusion Coordination Internships
- Metro Volunteer Coordination & Engagement
- NashvilleMade
- North Nashville Empowerment Zone - McGruder Revitalization
- Protecting Non-Citizen Residents through Planning and Prevention
- Season 2 of Our Nashville
- Southeast Enrichment Collaborative
- Steering Clear - A Driver's License Diversion Program
- Youth Sports Expansion
- Zero Interest Loan Fund for Nashville Main Street Businesses

The proposed budget would include an increase of \$18.1 million for pay plan improvements. All employees would receive a 2% cost-of-living raise on July 1, 2017. Funding is included for increment increases for all eligible employees on their scheduled increment dates. The proposed budget would also include funding for 2% open-range pay increases, also on July 1, 2017. The department heads have the discretion to determine the actual raises to be given to each open-range employee. The purpose of this additional open-range funding is to provide the equivalent of a step increment for open-range employees who are otherwise ineligible for increments.

The budget would include funding for the first year of a proposed three-year pay plan for employees. In addition to the 2% COLA and open-range increases in the first year, the plan would include 3% COLA and open-range increases in the second and third year. Increments would be funded in each of the three years of the plan for eligible employees on their scheduled increment dates.

As recommended by the Civil Service Commission, the Vice-Mayor and Metro Council members would receive an increase of \$7,000 per member, effective after the next election in 2019. These salaries would become \$24,000 and \$22,000 respectively.

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BILL NO. BL2017-722, continued

The proposed budget provides a \$36.0 million increase (+4.3%) for Metro Schools, for a total operating budget of \$879,299,700. As noted above, \$19,059,900 would be appropriated from their undesignated fund balance.

The Municipal Auditorium would receive a subsidy of \$350,000 from the General Fund. The State Fair and the Farmers Market are enterprise operations that should not require a subsidy this year.

The Hospital Authority would receive a subsidy of \$35 million in the proposed budget for General Hospital, which is the same as the initial subsidy for the current fiscal year, as well as fiscal years 2016 and 2015. The Hospital Authority Board has expressed their commitment to implement steps to stabilize the financial position of General Hospital. \$3.5 million would be appropriated in the budget for the contract with Signature for the management of the Bordeaux Nursing Home. Likewise, \$1 million would be appropriated for the contract with Anthem Care to manage the Knowles Assisted living Facility.

The subsidy in the budget for the Metro Transit Authority (MTA) would be \$49 million, an increase of \$7 million over FY17. The increase would be used to eliminate transfer fees, grant matches, local bus passes for residents experiencing homelessness, access ride and mobility-on-demand pilots, including crosstown connections and after-hours service, and extension of the Music City Circuit to the TSU campus along the Jefferson Street corridor.

There would also be increases for public safety. The Fire Department would receive \$1.9 million for full funding for the EMS Medic ambulances started in FY17. This would also fund 14 full-time equivalent (FTE) employees for new fire recruits and inspectors. The Police Department would receive \$4 million. This would be used to add 70 officers, 48 for precincts and 22 for community policing.

The Public Works Department would receive an additional \$1.5 million to fund annexation, roving trash trucks, downtown glass recycling, and contractual increases.

The Barnes Fund for Affordable Housing will receive \$10 million as part of the continuing commitment for affordable housing and to help the homeless. This commitment would also include \$2 million for the Housing Incentive Pilot Program, \$404,000 for Social Services (outreach workers, warming shelter, direct assistance, and indigent burials), \$225,000 for local bus passes for the homeless, and \$165,000 for a veterans' affairs supportive housing pilot program.

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BILL NO. BL2017-722, continued

Other increases in the proposed budget include the following:

- Codes Department \$1,000,000
- Parks Department \$1,000,000
- Arts Department \$500,000
- Public Health Department \$334,000
- Historic Preservation Trust Fund \$250,000

The FY18 budget would also include several direct contributions for community support. These include the following:

- Summer Youth Employment Program \$3,000,000
- Community Partnerships Fund \$1,000,000
- Public Education Foundation \$275,000
- Adventure Science Center \$200,000
- Second Harvest \$200,000
- Alignment Nashville \$150,000
- Andrew Jackson Foundation \$135,000
- Nashville Civic Design Center \$125,000
- Sister Cities \$80,000

Pay plan resolutions for the GSD and USD as proposed in this operating budget will need to be approved. As the next order of business following adoption of the operating budget ordinance, the Urban Council must meet to approve a separate resolution to approve the property tax rate as proposed for the Urban Services District.

Per Rules 15 and 34 of the Metro Council Rules of Procedure, the budget ordinance is amendable on third reading. Per section 6.06 of the Metro Charter, the Council must adopt a substitute operating budget no later than June 30th. Otherwise, the budget as originally submitted by the Mayor is adopted.

BILL NO. BL2017-736 (COOPER & ALLEN) – This ordinance would adopt the Capital Improvements Budget (CIB) for FY18 through FY22. A listing of the CIB new projects for FY18, as well as removed and redirected projects -- organized by district -- was distributed to Council members on May 26, 2017. The CIB is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the Council, except in the case of a public emergency.

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BILL NO. BL2017-736, continued

The Charter requires the Council to adopt the CIB no later than June 15 of each year. The Council will hold an adjourned meeting on June 13, 2017 in order to approve the CIB on third reading prior to this June 15 Charter deadline.

This budget is amendable on third and final reading.

Once adopted, any future amendments to the CIB would need to be approved by the Planning Commission, recommended by the Mayor, and then adopted by resolution of the Council receiving at least twenty-seven (27) affirmative votes.

– RESOLUTIONS –

RESOLUTION NO. RS2017-682 (COOPER) – This resolution establishes the certified tax rate of the Metropolitan Government. State law requires that once the county reappraisal program is completed, a tax rate be set that will provide the same amount of revenue for the county that was levied during the previous year based on the old assessment values and tax levy, because a government may not realize greater revenue by means of a reappraisal program. Tennessee Code Annotated §67-5-1701, *et. seq.*

The purpose of the reappraisal program is to ensure that property assessments are “equalized” by having all property appraised at the same time. The present certified tax rate for the GSD is \$3.924 per \$100 of assessed value and \$0.592 for the USD, for a total combined rate in the USD of \$4.516. The new certified tax rate to be approved by this resolution will be lowered to \$2.755 in the GSD and \$0.360 in the USD, for a combined rate of \$3.115.

A substitute is expected to be offered for this resolution to reflect the final rates approved by the state. Otherwise, this Resolution should be deferred to track with third reading of the operating budget (BL2017-722).

RESOLUTION NO. RS2017-685 (COOPER) – This resolution would approve a new fee schedule for Metro Animal Care and Control (MACC). This fee has been approved by the Board of Health.

Section 8.04.130.A of the Metro Code requires these fee schedules and amended schedules to be approved by the Metro Council by resolution. The fees schedule must also set forth amounts to be charged for other incidental costs.

As with RS2017-682, this Resolution should be deferred to track with third reading of the operating budget (BL2017-722).

Fiscal Note: The new fee schedule would be as follows:

- *Impound fee* *\$50 per animal*
- *Boarding fees per day (dogs)* *\$18*
- *Boarding fees per day (all others)* *\$4*
- *Duplicate tag* *\$2*
- *Rabies vaccination* *\$10*
- *License fee per year* *\$8*
- *Microchip implant* *\$25*
- *Animal trap security deposit (dogs)* *\$100*
- *Animal trap security deposit (cats)* *\$50*

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RESOLUTION NO. RS2017-685, continued

The Mayor's proposed FY18 budget for the Health Department, including MACC, includes \$158,000 of increased revenue from this new fee schedule.

An amendment was approved during the meeting on May 16, 2017 to correct a misprint in the fee schedule shown in the original resolution. The license fee per year would be \$8, not \$6.

RESOLUTION NO. RS2017-713 (COOPER & ALLEN) – This resolution would issue up to \$288 million in GSD general obligation bonds to provide funding for various projects contained in the Mayor's FY18 Capital Spending Plan, submitted as Exhibit A to the resolution. This would include \$199 million for general government, \$85 million for MNPS, and the remaining \$4 million for contingencies.

This is the first step in the process toward the ultimate sale of the bonds by public bid to provide necessary financing for the listed projects. The initial bond resolution is required by state law to be approved by the Metro Council in order to expend money on proposed projects.

Approval of this initial resolution would allow the Metropolitan Government to use its commercial paper program to provide short term financing to commence construction prior to the sale of the long term bonds. Some of the capital projects to be financed would include:

- \$85 million for MNPS projects that include a Phase 2 of Hillsboro High School, Hillwood land acquisition, School of the Arts land acquisition, sidewalks, and other district-wide projects
- \$80 million for Public Works projects that include paving sidewalks, bikeways, and roads
- \$36.5 million for MTA for replacements and upgrades, grant matches, fare collection system, TSU circulator, and engineering studies
- \$25 million for affordable housing
- \$16 million for Parks projects, including a Hadley Tennis Bubble and Antioch Community Center, fairgrounds (soccer / greenway), planning and design of new projects, and the Bellevue Community Center / Ice Rink.
- \$15 million for Metro Police body / dash cameras
- \$12 million for Enterprise Business Solutions (EBS) replacement
- \$7.5 million for General Services fleet and the planning / design of the ECC Center / Juvenile Justice Center / Public Works relocation
- \$4 million for ITS system upgrades and improvements
- \$2.5 million for Metro Action Commission (MAC) repairs and maintenance
- \$0.5 million for Public Library planning of the Hadley Branch

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RESOLUTION NO. RS2017-713, continued

A more detailed list of capital projects to be funded through the spending plan, including the estimated cost for the projects, is attached to this analysis. Each of these capital projects is listed within the Capital Improvements Budget currently under consideration per companion Ordinance No. BL2017-736. The amount proposed in this Capital Spending Plan is significantly lower than the Fiscal Year 2017 Plan, resulting from an effort on the part of the Department of Finance to submit projects deemed critical for approval. In the event budgeted expenditures and revenues meet or exceed projections, the Department of Finance anticipates submission of a second Capital Spending Plan at a later date during Fiscal Year 2018.

RESOLUTION NO. RS2017-714 (COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-715 (O'CONNELL, GILMORE, & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-716 (VANREECE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NOS. RS2017-717 THROUGH RS2017-719 – These three resolutions would adopt new pay plans for the employees of the Metropolitan Government, with the exception of the Board of Education, to take effect July 1, 2017. The primary effects of these resolutions are to provide a 2.0% across-the-board pay increase effective July 1, 2017, to continue increment pay, and to provide for the possibility of merit pay increases for open range employees.

The pay plan provides step increases known as “increments” for certain employment classifications on a six month, one year, eighteen month, or two year interval, depending upon the position. The Council previously approved a freeze of the increment pay increases and longevity pay, but increments were restored in Fiscal Year 2014.

In addition to the step increases, the equivalent of an additional 2% merit pay increase will be available for open range employees (who do not receive increments). The amount of individual raises for increment employees will be determined by the department heads. The pay plan contemplates that open range employees are to be paid based upon merit, not length of service.

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RESOLUTION NO. RS2017-717 THROUGH RS2017-719, continued

In addition to these increases for FY17, the proposed pay plan would continue increments, 3% across-the-board pay increases, and 3% open range increases in FY18 and FY19. Although these additional increases are being proposed for FY19 and FY20, they are not guaranteed. They are subject to the operational budgets that will ultimately be approved by the Council for those years.

These pay plans may not be amended by the Council except by making uniform changes because the relationship between pay grades must remain the same pursuant to the Metro Charter. The pay plan amendments have been approved by the Civil Service Commission, the Finance Director, the Board of Health, and the Mayor. The pay plans are as follows:

- **Resolution No. RS2014-717** (MURPHY & COOPER) would approve the pay plan for general employees of the Metropolitan Government,
- **Resolution No. RS2014-718** (MURPHY, COOPER, & GILMORE) would approve the pay plan for the Board of Health employees, and
- **Resolution No. RS2016-719** (MURPHY, COOPER, & PARDUE) would approve the pay plan for employees of the Fire and Police departments.

In order to track with third reading of the operating budget, these Resolutions should each be deferred.

RESOLUTION NO. RS2017-720 (MURPHY & COOPER) – This resolution would provide longevity pay for Metro employees, including employees of the Board of Health. This has been paid for many years to provide an incentive for employees to remain in the service of Metro Government.

Resolution No. RS2001-642 initially provided for this compensation to be paid to employees on the eighth working day of December of each year. It has been determined that it would be beneficial for employees to receive these payments prior to Thanksgiving.

However, changing the payment date would necessitate moving back the date an employee must be in an active pay status in order to qualify. As a result, some employees could be delayed from qualifying for a particular level of longevity pay.

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RESOLUTION NO. RS2017-720, continued

In order to avoid penalizing any employees, this resolution would shorten the service time requirements by one month for each level of longevity pay. This has been approved by the Civil Service Commissions for the general employees, Police and Fire Departments, and the Health Department.

Fiscal Note: There would be no change to the longstanding payment amounts. The only change would be to shorten each qualifying interval by one month. Payments would now begin at \$110, awarded at the end of 4 years and 11 months. The amount of the payments would increase with each additional service, finally reaching \$935 after 19 years and 11 months.

RESOLUTION NO. RS2017-721 (GILMORE & COOPER) – This resolution would approve the salary for the continued employment of William S. Paul, M.D. as the Chief Medical Director of the Health Department. Under section 10.105 of the Metro Charter, the Board of Health can employ the Chief Medical Director of the Health Department through an employment contract with a term not to exceed five years, but the amount of the salary is subject to approval of the Council by resolution. The Board of Health approved a contract extension of two years for Dr. Paul on May 9, 2017.

The resolution under consideration simply approves the compensation for the Chief Medical Director as recommended by the Board of Health, which is to be \$217,268.80 annually, plus whatever across-the-board pay raises are given to general employees of the Metropolitan Government, including any increase taking effect on or after July 1, 2017. The Chief Medical Director's compensation under the contract approved in 2012 was \$187,150.

RESOLUTION NO. RS2017-722 (GILMORE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-723 (GILMORE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-724 (PARDUE & COOPER) – This resolution would approve a renewal of an intergovernmental agreement between the U.S. Army Corps of Engineers and the Metropolitan Police Department for the use of off-duty police officers to patrol the recreation areas at Percy Priest and Old Hickory Lakes. All officers would be assigned exclusively through the Metro Police Secondary Employment Unit.

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RESOLUTION NO. RS2017-724, continued

The agreement would be effective on May 4, 2017. The agreement for both locations would be for a base year plus three option years.

Fiscal Note: The total for the base year for J. Percy Priest Lake would be no more than \$43,912. The total for each of the three option years would be \$45,610, for a possible total of \$180,742. The total for the base year and each of the three option years for Old Hickory Lake would be \$29,124, for a possible total of \$116,496.

RESOLUTION NO. RS2017-725 (GILMORE, COOPER, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-726 (SLEDGE & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-727 (GILMORE, COOPER, & MURPHY) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-728 (MURPHY & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-729 (MURPHY & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-730 (O'CONNELL, COOPER, & ALLEN) – This resolution would authorize the Director of Public Property Administration to exercise an option to purchase a portion of real property on 1715, 1717, and 1719 Jo Johnston Avenue for the use and benefit of the Metro Nashville Public Schools.

Section 2.24.250(F) of the Metro Code of Laws (MCL) requires approval of this purchase by resolution since it is for a purpose other than for rights-of-way for highways, streets, roads, alleys, and other places for vehicular traffic.

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RESOLUTION NO. RS2017-730, continued

This purchase has been approved by the Planning Commission and the Metro Board of Education.

Fiscal Note: Metro holds an option to purchase these three tracts of approximately 0.05 acres for the fee simple fair market price of \$825,000.

BILL NO. BL2016-731 (COOPER, ALLEN, & HURT) – This ordinance would approve an option agreement for the acquisition of real property at 8001 Highway 70 South from Hope Park Church. This option would be valid for a period of ninety (90) days.

The total appraised value of the parcel as shown on the current property records is \$4,308,194.

This proposed option was approved by the Planning Commission on May 17, 2017.

Fiscal Note: This purchase option would be set at Ten Million Two Hundred Thousand Dollars (\$10,200,000) based on the fair market value as determined by an independent appraisal.

RESOLUTION NO. RS2017-732 (ELROD & COOPER) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2017-733 (O'CONNELL, ELROD, & ALLEN) - This resolution would authorize Messer Construction to construct, install, and maintain an aerial encroachment at 615 6th Avenue North. The encroachment consists of an updated facade encroaching two feet into the public right of way.

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

Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of Messer Construction. Metro further retains the right to repeal approval of the encroachment without liability.

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RESOLUTION NO. RS2017-733, continued

Plans for the encroachment must be submitted to the Director of Public Works for approval, along with all work and materials; and the installation, when completed, must be approved by the Director.

The sign's construction must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2017-734 (O'CONNELL, ELROD, & ALLEN) - This resolution would authorize Whiskey Bent Saloon, LLC c/o Cumberland Hospitality Group to construct, install, and maintain an aerial encroachment at 306 Broadway. The encroachment consists of a double-faced, illuminated projecting sign.

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

Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of Whiskey Bent Saloon, LLC c/o Cumberland Hospitality Group. Metro further retains the right to repeal approval of the encroachment without liability.

Plans for the encroachment must be submitted to the Director of Public Works for approval, along with all work and materials; and the installation, when completed, must be approved by the Director.

The sign's construction must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2017-735 (O'CONNELL, ELROD, & ALLEN) – This ordinance would authorize 222 Second Avenue LLC c/o Hines Interests Limited Partnership to construct and install an aerial and underground encroachment at 222 Second Avenue South. These encroachments would consist of a property monument sign (at grade), a metal brow above the lobby entrance, one metal fin at the lobby entrance (at grade), accordion glass doors, and one metal brow above the retail entry door, encroaching the public right-of-way for property located at 222 Second Avenue South.

The applicant 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.

RESOLUTION NO. RS2017-736 (MURPHY, ELROD, & ALLEN) - This resolution would authorize Thistle Farms, Inc. to construct, install, and maintain an aerial encroachment at 5122 Charlotte Avenue. The encroachment consists of a double-faced, internally-illuminated projecting sign.

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

Metropolitan Government retains the right to pass resolutions or ordinances regulating the use of surrounding streets, including the right to construct and maintain utilities, and to order the relocation of facilities at the expense of Thistle Farms, Inc. Metro further retains the right to repeal approval of the encroachment without liability.

Plans for the encroachment must be submitted to the Director of Public Works for approval, along with all work and materials; and the installation, when completed, must be approved by the Director.

The sign's construction must be carefully guarded and must be completed promptly, so as to cause the least inconvenience to the public.

This proposal has been approved by the Planning Commission.

RESOLUTION NO. RS2017-737 (COOPER) – This resolution would authorize the Department of Law to settle the medical malpractice claim of Ms. Valda Banks as Administratrix Ad Litem of the estate of Mr. Thomas Bowers against the Metropolitan Government in the amount of \$250,000.

Mr. Bowers was admitted to the Bordeaux Long Term Care facility (BLTC) in 2008 at the age of 45 after suffering a debilitating stroke. Prior to this episode, he was unmarried, had no children, and was employed in construction. Following his admission to BLTC, Mr. Bowers was diagnosed with high blood sugar and placed on insulin which was eventually discontinued. In 2011, however, he exhibited signs of diabetes. His physician – Dr. Donald Vollmer – issued a standing order for blood chemistries to be conducted every 6 months. The initial blood chemistry was performed in May 2011. But no record of any further blood chemistry appears afterward. On January 8, 2012, Mr. Bowers appeared non-responsive when he was transported to Baptist Hospital for treatment. He never regained consciousness and died on January 11, 2012 from severe septic shock.

Tennessee Code Annotated §29-26-115 requires litigants in medical malpractice actions to establish the elements of their claims through the testimony of licensed medical practitioners, *i.e.*, expert witnesses. In this instance, experts disclosed on the part of Ms. Banks have uniformly stated that BLTC staff should have executed the standing order for blood chemistry tests every 6 months. Had the test been performed in November 2011 as ordered, it would have revealed dangerously high blood sugar levels, likely prompting treatment of Mr. Bowers' diabetes and prevention of the sepsis he subsequently developed. Additionally, other signs and symptoms appear to have been overlooked or undetected, including dehydration, urinary tract infection, a toe infection, and a high blood sugar level in May 2011.

This matter is scheduled for trial July 17, 2017. Based upon the probable proof, the court will likely conclude that BLTC staff, as well as Mr. Bowers' physician and nurse practitioner (who were not BLTC employees), violated the acceptable standards of medical professional practice, and that their deviations from these standards proximately caused Mr. Bowers' death.

Under the Tennessee Governmental Tort Liability Act, the maximum amount of damages that can be recovered against the Metropolitan Hospital Authority is \$300,000. Additionally, the MHA is not liable for the negligence alleged against the physician and nurse practitioner. However, the Metro Legal Department estimates that the likely damage in this case will approach \$1,000,000, and that the fault apportioned to the physician and nurse practitioner will be less than 75%, thereby exposing MHA to a judgment in excess of \$250,000 plus costs.

The Metro Legal Department recommends settlement of Ms. Banks' claims in the amount of \$250,000.

Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$250,000.

RESOLUTION NO. RS2017-738 (COOPER) – This resolution would authorize the Department of Law to settle the property damage claim of Mr. George Brandt against the Metropolitan Government in the amount of \$30,618.81.

On February 22, 2017, Mr. Brandt called the Metropolitan Water and Sewer Department (MWS) to request that the water service to 1109 Elkader Court South be turned on. Within minutes thereafter, Mr. Brandt called back to request that the water service be left *off* because the property was vacant. It is undisputed that this second call was placed. However, MWS failed to make the requested change.

On February 23, 2017, Mr. Brandt visited the property and discovered a burst pipe on the second floor which flooded the property and caused extensive damage requiring replacement of hardwood flooring, carpet, laminate, cabinets, ceiling, duct work and light fixtures. The total damages amounted to \$30,618.81. The Metropolitan Department of Law recommends a settlement for this amount.

No disciplinary action has been taken because the MWS employee involved is no longer employed by Metro.

A substitute is anticipated to correct a slight calculation error regarding the settlement amount.

Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$30,618.81.

RESOLUTION NO. RS2017-739 (COOPER) – This resolution would authorize the Department of Law to settle the medical malpractice claim of Ms. Jacqueline Hoskins as Administrator Ad Litem of the estate of Mr. Everett W. Vest, III against the Metropolitan Government in the amount of \$180,000.

On November 1, 2011, Mr. Vest fell from a truck while disposing of aluminum siding, rendering him a quadriplegic. He was treated at Vanderbilt University Medical Center (VUMC) until November 29, 2011 when he was transferred to the Bordeaux Long-Term Care (BLTC) facility. At the time of the transfer, the discharge notes from VUMC noted the presence of a stage one decubitus ulcer and a suspected deep tissue injury on his coccyx (tailbone).

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RESOLUTION NO. RS2017-739, continued

Upon admission to BLTC, the nurse assessment notes described an “excoriation” (skin abrasion) on Mr. Vest’s coccyx – despite VUMC discharge notes describing the stage one decubitus ulcer and suspected deep tissue injury. The initial care plan called for Mr. Vest to be turned every two hours, a skin assessment to be performed twice weekly, and the application of a zinc oxide cream upon every shift.

Upon his discharge and transfer to Baptist Hospital on December 12, 2011, a large stage four ulcer was noted on his coccyx, ultimately requiring debriding and a wound vacuum.

Medical records fail to show that Mr. Vest was turned every two hours by nursing staff at BLTC as initially planned. Rather, he appears to have been turned every eight hours (or per shift). And while excoriation cream was applied as planned through December 8, medical records do not indicate treatment for the ulcer afterward. Moreover, BLTC medical records fail to document the status or progression of the ulcer while Mr. Vest remained at BLTC.

Additionally, while at BLTC, Mr. Vest developed a urinary tract infection detected from a urine sample drawn December 6th. The nurse did not change his catheter. Lab results dated December 10th confirmed the infection, yet a broad spectrum antibiotic was not administered until the following day.

The Hospital Authority and presiding physician, Dr. Faiza Rehman, have been sued for medical malpractice. The Department of Law recommends settlement of this claim for \$180,000. If this case proceeds to trial, the Metropolitan Government will almost certainly be found that the treatment received at BLTC by Mr. Vest fell below the standard of care.

Fiscal Note: This settlement would reduce the balance of the Self-Insured Liability Fund by \$180,000.

RESOLUTION NO. RS2017-740 (COOPER) – This resolution would authorize the Department of Law to settle the civil rights claim of Mr. William James McGilmer against the Metropolitan Government in the amount of \$11,500.

On July 11, 2014, the Metro Police Department received a 911 call reporting that a man had pointed a handgun at the caller at the Executive Inn on Harding Place. Three officers, as well as the Sergeant in command, responded to the motel room where the suspect was thought to be located. Mr. McGilmer eventually came out of the room at the repeated command of the officers, but he stood directly in front of the door and refused to move away from it. The Sergeant advised the other officers to remain covered because of the threat of a weapon.

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RESOLUTION NO. RS2017-740, continued

The report states that the Sergeant warned Mr. McGilmer that he would be tasered if he refused to comply with the command to move away from the door and go to the contact officer. Mr. McGilmer denies that any warning was given. He also claims he was standing with his hands held up in the air.

Mr. McGilmer was tasered with an immediate effect and he fell on his back onto a concrete floor. He was then transported to General Hospital. After being released that night, he was taken to jail for booking. He was charged with aggravated assault and resisting arrest. These charges were dismissed on September 15, 2014 in General Sessions Court. No subpoenas had been issued for the initial caller or for witnesses, and no witnesses had been called to testify.

Mr. McGilmer filed a civil rights lawsuit under 42 U.S.C. §1983, alleging violation of his Fourth Amendment rights due to the use of excessive force. On February 9, 2017, an order was granted to dismiss the malicious prosecution claim against Metro. However, the defense of qualified immunity concerning the excessive force claim was not dismissed, due to the disputed issue of whether Mr. McGilmer was indeed obeying police commands with his hands held up before he was tasered.

On March 2, 2017, an interlocutory appeal was filed with the Sixth Circuit Court of Appeals based upon the denial of the defense of qualified immunity. The Sixth Circuit ordered that the parties participate in mediation, resulting in the settlement now under consideration by this resolution.

Mr. McGilmer has agreed to accept a total of \$11,500 in full settlement of this case. If this case proceeds to trial, the Metro Legal Department estimates that the prospects of a jury verdict in favor of the officer are somewhat better than 50%. However, due to the costs that would be involved to prepare for the case – including expert witness fees of approximately \$15,000 -- as well as the desire to provide a certain outcome for the officer, the Department of Law recommends settlement of this claim for \$11,500.

No disciplinary action was taken against the officer and the use of the taser was deemed consistent with policy.

Fiscal Note: This settlement would reduce the balance of the Judgments and Losses Fund by \$11,500.

– ORDINANCES ON SECOND READING –

BILL NO. BL2017-645 (PARDUE & VANREECE) – Chapter 12.54 of the Metro Code of Laws (MCL) sets forth regulations concerning horse-drawn carriages. Section 12.54.210 provides that it is an offense if the certificate holder or driver of such carriage provides an alcoholic beverage to a passenger for a fee or as part of the passenger transport service. It is further an offense if the certificate holder or driver provides or permits any alcoholic beverage in the carriage.

The ordinance under consideration, as amended, would allow persons who are legally permitted to consume alcoholic beverages to do so while riding as passengers in horse-drawn carriages, so long as the beverage is consumed from a plastic cup, paper cup, or cups made from lightweight, recyclable materials. (Glass, aluminum, or other metal containers would not be allowed.) It would remain an offense for alcoholic beverages to be provided by the certificate holder or driver.

It is currently an offense under the Metro Code to possess an alcoholic beverage in a glass, aluminum or metal container for purposes of consumption while on a street, alley, sidewalk or other public area. (Metro Code § 7.24.040).

BILL NO. BL2017-687 (ELROD) – This ordinance would amend chapter 13.26 of the Metro Code to establish a more formalized process for the naming of public buildings, structures, and spaces within Metro, including provisions for soliciting public input and historical perspective.

Under the proposed process, no public building, structure, or space may be named in honor of any living person. In addition, a waiting period of two (2) years would be required before naming in honor of a person who is deceased.

However, this prohibition would not apply to persons who have made significant and long-lasting contributions to Nashville's history and culture through deeds, words, or inspiration. In addition, in order to encourage philanthropic donations or contributions, the prohibition would not apply to persons who have contributed significantly to a specific public building, structure, or space or the immediate surrounding area through the contribution of land, money, or other resources, provided the proposed naming was stipulated as a condition of the contribution.

A public building, structure, or space would also not be allowed to be named in honor of an elected or appointed public official or employee until such time as they are no longer an official or employee of Metro. Additionally, public buildings, structures, or spaces may only be named after current or former residents of Nashville and Davidson County.

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BILL NO. BL2017-687, continued

The Metropolitan Historical Commission would administer the process of the naming of any public building, structure, or space. Requests in writing would be submitted to the Historical Commission for consideration. The Historical Commission would establish a formal procedure, including a mechanism for soliciting and measuring public input, and the ordinance specifies six (6) criteria to be considered by the Historical Commission:

- The articulated preference of the public, particularly from residents in the immediate area;
- Natural or geographic references;
- Historic and cultural significance;
- Civic values or principles embodied by or within the building, structure or space;
- Common or colloquial names which have previously been applied; and
- Avoiding duplication of, confusion with, or similarity to existing names.

After their consideration, the Historical Commission would forward their recommendation to the Council.

After receiving and considering such recommendations, the Council would vote to approve the name by resolution receiving at least twenty-one (21) affirmative votes. The Council may also vote to remove an existing name of a public building, structure, or space. This would also require a resolution receiving at least twenty-one (21) affirmative votes. The ordinance would not apply to names for items of comparative insignificance (trees, refuse cans, flagpoles, water fountains, etc.) nor to the Metropolitan Board of Parks & Recreation or to the Metropolitan Board of Education.

BILL NO. BL2017-688 (SWOPE) – This ordinance would modify Section 16.04.200 of the Metro Code of Laws (MCL) concerning the construction and use of electric fences. This section currently prohibits electric fences in all zoning districts unless under the requirements of keeping domestic animals or wildlife on the property per Section 17.16.330 of the MCL.

The ordinance under consideration would change this to allow electric fences in non-residential zoning districts, subject to the following standards:

- The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. This battery would be charged primarily by a solar panel, but the panel may be augmented by a commercial trickle charger.
- The electric charge produced by the fence upon contact shall not exceed energizer characteristics as set forth in Paragraph 22.108 of the International Electrotechnical Commission (IEC).

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BILL NO. BL2017-688, continued

- Electric fences would be required to be completely surrounded by a non-electrical fence or wall not less than six feet (6') in height.
- Electric fences would be permitted on any non-residential outdoor storage area.
- Electric fences would be required to be at least ten feet (10') high.
- Electric fences would be required to have warning signs at intervals on not less than thirty feet (30').
- A Knox Box or similar device would be required for purposes of minimizing damage and to allow access to the enclosed area.

A substitute is anticipated that would limit installation in residential districts to the AG, AR2a, RS80, RS40, RS30, RS20, R80, R40, R30, and R20 zoning districts when installed per Code section 17.16.330 for the keeping of domestic animals and wildlife. The substitute would also reduce the minimum height of ten feet (10') to a height not to exceed the maximums permitted by Title 17 of the Metro Code of Laws (MCL). Finally, the substitute would attach as an exhibit the referenced International Electro-technical Commission standards.

BILL NO. BL2017-691 (MURPHY, ELROD, & ALLEN) – This ordinance would abandon existing easement rights for property located at 3900 Alabama Avenue, formerly 39th Avenue North, between Alabama Avenue and I-40. It has been determined that these easements are no longer needed.

This was approved by the Planning Commission on April 13, 2017. Amendments to this legislation may be approved by resolution.

BILL NO. BL2017-705 (SHULMAN & BLALOCK) – This ordinance would establish a new incentive program to give awards to neighborhoods that meet all Codes requirements.

Some neighborhoods in Metro have a persistent problem with various Codes violations, such as grass too high, trash piled up, or cars parked in the front yard. The traditional method of dealing with violations through enforcement would be supplemented by the establishment of this new incentive system.

Under this plan, neighborhoods could request a review by the Codes Department without enforcement penalties. The neighborhood could then work to come into full compliance. If successful, such neighborhoods could obtain an incentive grant from Metro for the further benefit of the neighborhood.

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BILL NO. BL2017-705, continued

These grants could not exceed \$5,000 per neighborhood, with no more than \$25,000 being awarded per Council district per year. The Codes Department would be required to draft policies and procedures for this program, aiming for implementation of the program no later than September 30, 2017.

Fiscal Note: The potential cost of this program would be \$875,000 per year, based on \$25,000 per district. No money for this program has been included in the proposed FY18 operating budget for the incentive awards themselves nor for the increased operational costs that would result for the Codes Department.

BILL NO. BL2017-707 (MURPHY & COOPER) – The Metro Code regulates sole source contracts in Chapter 4.12. Under section 4.12.080, purchasing agents may purchase or contract for various utility services, including telephone, electricity, gas, and other services for which a rate has been “established by a public authority.” This section does not, however, allow for purchase of internet or telecom services because these rates are not established by a public authority. This ordinance would amend Section 4.12.080 of the Metro Code of Laws (MCL) to allow for more flexibility in procuring internet and telecom service at specific facilities.

Although a competitive purchasing process in general is preferable, when a provider is determined to be the "sole source" of specified equipment or services, it is permissible to award the contract to that provider. This is in addition to authority of the Purchasing Agent to procure utility services with rates established by a public authority without bidding when determined to be in Metro's best interest.

The ordinance under consideration would expand this authority. In cases involving telephone, telecommunications, and internet access services where rates for their use have not been established by a public authority, they may be procured at the lowest rates available for comparable services upon the determination by the Purchasing Agent -- with the concurrence of the Director of Information Technology Services and the Director of Finance -- that requiring a competitive process is not in the best interests of Metro.

Fiscal Note: Although fewer services would be obtained through the customary RFPs, requiring the evaluation and concurrence by the Purchasing Agent, Director of Finance, and the Director of ITS should continue to assure that Metro is receiving these services at the best available prices.

BILL NO. BL2017-723 (COOPER) – This ordinance would adopt the property tax levy for Fiscal Year 2017-2018. The Metropolitan Charter provides in Section 6.07 that the Council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds that budget.

The property tax rate proposed by the Mayor is being decreased to \$2.755 per \$100 of assessed value in the General Services District (GSD) and an additional \$0.360 per \$100 of assessed value in the Urban Services District (USD), for a total tax rate of \$3.115 in the USD. This rate reduction is intended to assure compliance with state law providing that total property tax revenues are not increased solely as a result of this year's reassessment of real property values.

An amendment to the Charter approved by the voters in 2007 provides that the tax rates cannot be increased above their 2007 levels unless approved by the voters at a referendum election. The 2007 property tax levy was \$4.040 in the GSD and \$0.650 in the USD for a total combined tax levy of \$4.690.

The tax levy is amendable on third reading.

BILL NO. BL2017-724 (COOPER) – This ordinance establishes the property tax relief program for low-income elderly residents of the Metropolitan Government for fiscal year 2017-2018. This is essentially an extension of an existing tax relief program that has been in existence for many years.

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. \$3,900,000 has been included in the proposed FY18 operating budget in the Property Tax Relief Program Account.

This ordinance would direct 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 would expire on June 30, 2018.

Fiscal Note: The FY18 operating budget includes \$3,900,000 for the property tax relief program for the elderly, which is \$200,000 more than the appropriation for FY17.

BILL NO. BL2017-725 (COOPER & HENDERSON) – Recommendations were included in the 2017 Livable Nashville Report, the 2017 Plan to Play Parks & Greenways Master Plan, the 2015 Nashville Next General Plan, the 2011 Open Space Plan, and the 2009 Green Ribbon Report to establish a fund to facilitate conservation and preservation of properties with great natural, cultural, and environmental importance.

The ordinance under consideration would establish a Conservation Assistance Grant Fund for this purpose. Several changes would be made to the Metro Code of Laws for this purpose, as follows:

- The title of Chapter 2.154 would be amended by adding the words "and Open Space" between the words "Greenway" and "Commission".
- The first sentence of Section 2.154.010 (Establishment/Membership) would be amended by adding the phrase "and open space" between the words "greenway" and "commission".
- Section 2.154.010(A) would be amended by replacing the word "seven" with "eight".
- Section 2.154.010(C) would add Subsection 6 (The Director of the Department of Water and Sewerage Services or his designee) and 7 (The Director of the metropolitan Development and Housing Agency or his designee)
- Section 2.154.015 would be added to provide for staffing and assistance to the Commission by the Department of Parks and Recreation
- Section 2.154.030(A) would be amended to add oversight of the management and operation of the Conservation Assistance Grant Fund. This would include the process for making grants from the Fund, obtaining interests in real property worthy of conservation or preservation (with Council approval), conducting studies, making recommendations, and promoting public understanding of the benefits of conserving and preserving important natural, cultural, and environmental properties.
- Section 2.154.040 would be added to give the Commission the authority to enter into contracts, elect officers, promulgate bylaws and regulations, solicit, accept, and receive gifts on behalf of the Fund, receive and expend monies for the purposes of the Commission, establish criteria and enter contracts for making grants to nonprofit entities from the Fund, and perform any additional authorized functions consistent with the Commission's purpose.
- Section 2.154.050 would be added to require approval by Council resolution for any grant agreements proposed by the Commission.
- Section 2.154.060 would be added to require reports by the Commission to the Council not later than December 31 of each year.

Fiscal Note: Initially, \$500,000 would be appropriated to this fund. This would come from the GSD FY15 Capital Projects Fund (#40015).

BILL NO. BL2017-726 (MENDES, SWOPE, & OTHERS) – This ordinance would amend Title 5 of the Metro Code of Laws (MCL) to add a requirement for the Finance Department to maintain a written debt management policy.

Metro first issued a debt management policy in 2006. This was revised and accepted by the Council per Resolution No. RS2011-94 and approved by the state, but was never codified. (As a reference, a copy of this policy is attached to this analysis.) Although this policy is current, there is no specific requirement in place that would mandate such policy be maintained in the future nor the content of such policy. Additionally, the ordinance under consideration would add certain specific requirements, as follows:

- The maximum amount of outstanding debt and debt service;
- Multiple metrics by which Metro's financial condition is monitored, measured, and evaluated;
- A discussion of available metrics for measuring the amount of debt as well as the reasons why the metrics in use are most appropriate;
- A discussion of available metrics for measuring debt service as well as the reasons why the metrics in use are most appropriate;
- A discussion of what factors regarding financial performance trends must be considered in determining the maximum outstanding amount of debt and debt service;
- A discussion of the purposes for which each debt category may be utilized;
- A strategy for managing Metro's net pension obligation;
- A discussion of what impact, if any, the net pension obligation has on the amount of debt by category;
- A strategy for managing Metro's unfunded Other Post-Employment Benefits (OPEB) obligation; and
- A discussion of what impact, if any, the unfunded OPEB obligation has on the amount of debt by category.

The Finance Department would be required, per Title 5 of the Code, to maintain a debt management policy meeting the above criteria at all times. This policy would be required to be posted on the publicly-accessible portion of Metro's website.

Fiscal Note: Metro would be prohibited by this ordinance from issuing or incurring any debt in violation of the debt management policy currently in effect unless approved in advance by Council resolution.

BILL NO. BL2017-727 (POTTS) – The Transportation Licensing Commission (TLC) regulates passenger vehicles for hire. Section 6.72.170 of the Metro Code of Laws (MCL) currently requires every driver to whom a taxicab permit has been issued by the TLC to "display his driver's permit in accordance with commission rules while such driver is operating a taxicab." The TLC has determined that taxicab drivers are failing to display their permits as intended.

The ordinance under consideration would amend section 6.72.170 to require permitted drivers to have such permit "affixed to the interior of the vehicle for hire, in full view of the passengers at all times."

BILL NO. BL2017-728 (POTTS & HURT) – Chapter 6.81 (Booting Services) of the Metro Code of Laws (MCL) does not currently require any background check before issuing a permit to an individual to engage in the practice of installing and removing booting devices. It also does not give the Transportation Licensing Commission (TLC) or its Director the authority to suspend, revoke, place on probation, or otherwise restrict licenses or permits issued to booting companies or their employees for violation of the Metro Charter or MCL.

The ordinance under consideration would make several changes to Section 6.81.020 of the MCL as follows:

- B.8. The applicant must be at least twenty-one (21) years old;
- C. A criminal background investigation of applicants would be required;
- D. Upon disapproval of a license application, the applicant may file an appeal with the TLC within thirty (30) days; and
- E. Upon denial of an application, no new application could be considered for a period of three (3) months.

The ordinance under consideration would also make several changes to Section 6.81.020 of the MCL as follows:

- Each employee of a booting service must make an application to the TLC for a booting permit;
- The applicant must be at least twenty-one (21) years old;
- The applicant must have a valid Tennessee driver license.
- A criminal background investigation of applicants would be required;
- Upon disapproval of a license application, the applicant may file an appeal with the TLC within thirty (30) days;
- Upon denial of an application, no new application could be considered for a period of three (3) months;
- Permits issued by the TLC shall be for a period of two (2) years and cost \$150, plus \$40 to pay for the investigation;

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BILL NO. BL2017-728, continued

- No permits could be transferred from one person to another;
- Such permit shall be carried by the employee at all times booting is being performed;
- All persons engaged in the act of booting shall wear a proper ID badge; and
- These permits would be coterminous with the permittee's valid Tennessee driver's license.

The first sentence Section 6.81.170 of the MCL currently states: "It is declared that the following acts are prohibited and unlawful and the license or permit of any person doing any such acts may be revoked, suspended, placed on probation or not renewed." This ordinance would change "person" in this Section to say "person and/or company". It would also change "doing any such acts" to say "doing any such acts or failing to comply with the provisions of this chapter". Finally, "or not renewed" would be changed to say "or not renewed by the TLC Director or the Transportation Licensing Commission".

BILL NO. BL2017-729 (COOPER & ELROD) – Ordinance No. BL2015-1308 approved an agreement between Metro and Piedmont Natural Gas Company (PNG) for the payment of \$159,617 and the conveyance of Metro-owned property to reimburse Piedmont for its costs to relocate a gas line during the construction of the downtown ballpark. After financing for the ballpark was approved, it was determined that a natural gas line needed to be moved in order to construct the ballpark. Piedmont relocated the gas line at a cost of \$529,901.40. This cost was not factored into the construction price of the ballpark at the time the financing was approved.

Metro owned three parcels of property totaling approximately 80 acres near County Hospital Road in the Bordeaux area that were located next to a Piedmont natural gas plant. The property was declared surplus per Ordinance No. BL2015-1308. The appraised value of this property was \$273,383. Metro was using a portion of this property for a mulching facility, operated by Red River. The contract with Red River for operation of the facility extended through November 20, 2016. The remainder of the property was open space. To address PNG's costs to relocate the gas line, Metro agreed to transfer the property to PNG per BL2015-1308, and add a payment of \$159,617 to partially make up the difference between the appraised value and PNG's costs.

Red River was unable to remove all of the accumulated mulch within the time contemplated by the original agreement. The ordinance under consideration would amend the agreement to give additional time for the removal of the mulch and reestablish times for closing of the sale of the property to PNG.

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BILL NO. BL2017-729, continued

The closing date for the sale of the property per this agreement to PNG would now be no later than July 31, 2017. All remaining mulch, equipment, structures, buildings, waste debris, or other materials related to the mulching operation would be removed from the property no later than June 1, 2017.

Fiscal Note: If Metro were to fail to remove all items related to the mulching operation by June 1, 2017 or was otherwise unable to close the sale of the property by July 31, 2017, PNG would have the right to terminate the agreement. Metro would then be liable to PNG for their actual and reasonable costs, including reasonable attorney fees to the extent permitted by Tennessee law, incurred by PNG as a result of the extension of the original closing date of December 20, 2016 through July 31, 2017.

BILL NO. BL2017-730 (COOPER, ELROD & ALLEN) – This ordinance would authorize a participation and maintenance agreement between the Metro Department of Water and Sewerage Services ("Metro") and Meritage ("Clover Glen").

Meritage wishes to provide public pressure sewer extension through construction of a sewerage pump station and force main for its development at Clover Glen. Metro would be responsible for inspecting the construction and for the ongoing operation and maintenance.

Future amendments to this agreement may be approved by resolution.

Fiscal Note: Davenport would pay \$290,418 to Metro prior to filing for final plat approval or as soon as possible to obtain sewer availability. This would be used to pay for Metro's additional operational and maintenance costs.

BILL NO. BL2017-731 (PULLEY, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain right-of-way easements, drainage easement, temporary construction easements, and property rights by negotiation or condemnation for public projects for Lone Oak Sidewalk Improvements.

This has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY16 Capital Projects Fund.

BILL NO. BL2017-732 (ELROD & ALLEN) – This ordinance would abandon existing sanitary sewer main, sanitary sewer manholes and easements and to accept a new sanitary sewer manhole and any associated easements, for property located at 2400 Gallatin Pike.

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

BILL NO. BL2017-733 (SHULMAN) – This ordinance would readopt the Metro Code prepared by Municipal Code Corporation (MCC) to include supplemental and replacement pages for ordinances enacted on or before February 22, 2017. Per contract with Metro, the MCC provides Code updates four (4) times annually. This Ordinance is a routine re-adoption to ensure the Metro Code is up to date.

BILL NO. BL2017-735 (COOPER & MURPHY) – This ordinance would create 54 new positions within the Metropolitan Government, enabling them to be a part of the employee pay plan. The Metropolitan Department of Human Resources has determined the need to create these positions in order to place employees effectively in appropriate classifications. Each of these positions would be in the classified service.

In addition to the above, positions of Associate Administrator - Police & Fire and Deputy Director would be added to the unclassified service.

As required by section 12.10 of the Metropolitan Charter, these newly created positions have been recommended by the Mayor and the Civil Service Commission. In order to become official, they must now be approved by Council ordinance.

Fiscal Note: Each of the positions addressed by this ordinance has been included in the pay plans being considered under separate resolutions. Salary levels for specific individuals may vary, depending on if they continue in their old job classifications or move to one of the classifications now under consideration. However, the total salary dollars included in the recommended operations budget are anticipated to be sufficient.

– ORDINANCES ON THIRD READING –

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

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

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

This ordinance was originally introduced at the December 6, 2016 Council meeting. The third reading has now been deferred twice.

BILL NO. BL2017-646 (ROSENBERG & SLEDGE) – Chapter 13.08 of the Metro Code of Laws (MCL) lists the regulations concerning streets and sidewalks within Metro. The ordinance under consideration would add Section 13.08.080 within this chapter concerning surveillance or electronic data gathering devices on the public rights of way.

The new section to this chapter would limit the use of "surveillance technology" beginning on July 1, 2017. Approval by the Council would be required before any department, board, or commission, or any individual acting on their behalf, installed unmanned surveillance technology on any public right of way. Additionally, Council approval would be granted only upon determination that the benefits to citizens and residents of Nashville outweighed the costs; that the proposal will safeguard civil liberties; and that, in the judgment of the Council, no alternative with a lesser economic cost or impact upon civil rights would be as effective.

As amended, paragraph A.(2)(a) of the new section lists fourteen (14) different types of equipment under the "surveillance technology" definition. In addition to typical devices (e.g., closed-circuit television cameras), the list includes more exotic technologies including as x-ray vans, biometric software and databases, mobile DNA capture technology, and through-the-wall radar or similar imaging technology.

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BILL NO. BL2017-646, continued

Paragraph A.(2)(b) lists six (6) items that would not be identified as "surveillance technology" for the purposes of this section. These would include items such as televisions, printers, handheld digital cameras, radios, and email systems.

In addition to the prohibited devices already listed, Paragraph H would make it "unlawful to operate any license plate scanner installed onto or within the public right of way."

As amended, the ordinance would not apply to facilities or areas of facilities that are not open to the general public.

The ordinance as amended would further define "installing" to exempt mobile devices intended to be present for limited periods.

Subsection E specifies that the ordinance would not apply to activities conducted by or on behalf of law enforcement agencies which are part of an active investigation targeting a specific person or persons, provided that any data collected that isn't pertinent to the investigation would be destroyed at the conclusion of the investigation.

The new Subsection F would further specify that the changes per this ordinance would not apply to surveillance equipment installed for securing a building or facility from unlawful entry.

The second amendment now provides for the following: (1) exempt surveillance technology that collects data in anonymized form; (2) incorporate a public hearing process; (3) require approval for installations of new technology types or of significant increase (*i.e.*, 50%) of previously deployed technologies; (4) facilitate the use of license plate scanners used in conjunction with emissions sensors; (5) exclude criminal investigations; (6) exempt technology used to secure facilities; and (7) exempt certain departments.

Fiscal Note: The primary costs that would be generated by the requirements of this proposed ordinance are difficult to quantify, but would be borne by the Council in the form of additional legislation and staff time that would be required to comply.

BILL NO. BL2017-708 (SLEDGE & MURPHY) – The State of Tennessee now requires governmental entities within the state to establish and adopt a written public records policy no later than July 1, 2017. (See, 2016 Tennessee Laws Pub. Ch. 722). As part of this policy, an individual or individuals must be designated as the Public Records Request Coordinator.

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BILL NO. BL2017-708, continued

Section 2.140.010 of the Metro Code of Laws (MCL) established the Public Records Commission for the purpose of providing for the orderly disposition of public records created by all departments, agencies, boards, and commissions of Metro.

The ordinance under consideration would appoint the Metropolitan Clerk as the Public Records Request Coordinator for Metro. It would also accept and adopt the Public Records Policy for Metro, authorizing the Metropolitan Public Records Commission to establish rules and regulations expanding upon the policy. The head of each department would be required to designate a Records Officer and Records Custodian, which may be the same person. These would be the primary facilitator(s) between the department and the staff of the Records Commission.

However, certain departments, agencies, boards, or commissions with public records policies of their own would be allowed to opt out of this policy. In such cases, they would be required to appoint their own Public Records Request Coordinator to comply with the state requirements for public records.

BILL NO. BL2017-709 (COOPER) – This ordinance would approve a contract between the Department of Public Works and the Nashville Downtown Partnership (NDP) for the management of public parking facilities of Metro.

Metro has had a contract with the NDP for operation of parking garages since 2002. The NDP currently manages the Public Library garage (with 1,030 spaces) and the Historic Courthouse garage (with 1,050 spaces). The ordinance under consideration would continue this relationship between Metro and the NDP.

In addition to these two garages, the NDP also incurs shuttle program expenses. This is defined as the operational and marketing expenses of the parking program operated by NDP, consisting of parking and shuttle transportation for the parking lots surrounding LP Field, including lots used primarily for parking by Metro employees.

The NDP would be required to create a yearly budget and operations forecast, including any requests for capital expenses for review and approval by Metro. This would include marketing, access, shuttle support, NDP fee and parking ticket equipment upgrades and replacement.

The term of this contract would begin on the date it is signed by all required parties and filed in the office of the Metropolitan Clerk and end sixty (60) months later.

This contract may be amended by Council resolution receiving at least 21 affirmative votes.

(continued on next page)

BILL NO. BL2017-709, continued

Fiscal Note: The NDP would pay a partnership management fee of \$5,250 per month to Metro for operating the Library garage and \$3,750 per month for the Historic Courthouse garage. In addition, NDP would be required to pay sixteen percent (16%) of all revenues from the Library garage to Metro.

The NDP would guarantee that the minimum amount of the payment to Metro from the Library garage would not be less than \$301,200. This amount could be reduced if Metro were to withdraw this garage from the terms of this contract or if the number of usable parking spaces at the garage were to be reduced.

This contract would also address the use of any surplus revenues, defined as the gross profit of the Library garage less the payments to Metro, the NDP management fee for the Library garage and the shuttle program expenses.

These surplus revenues would be allocated equally between Metro and the NDP. The portion allocated to Metro could be used for any purpose. The portion allocated to the NDP would be required to be used for projects or activities to improve the downtown area.

BILL NO. BL2017-710 (COOPER, ELROD, & ALLEN) – This ordinance would authorize Metro to enter a consulting contract with CDM Smith, Inc. for the development of a long-term solid waste management plan. This would involve the evaluation of the existing solid waste management system and provide options to improve and enhance the system and increase waste reduction and diversion.

The ultimate goal of this plan would be zero waste, setting the vision for waste reduction, diversion, and management for the next thirty (30) years.

This would be an Indefinite Delivery / Indefinite Quantity (ID/IQ) contract. The term of this contract would be from June 1, 2017 through May 31, 2021.

Exhibit A of the ordinance lists the scope of services to be performed by CDM Smith, Inc. in their development of this plan. The tasks involved in this project are as follows:

- Task 1 - Research
- Task 2 - Evaluation
- Task 3 - Public Engagement
- Task 4 - Recommendations and Goals
- Task 5 - Cost Studies
- Task 6 - Waste Stream Characterization

(continued on next page)

BILL NO. BL2017-710, continued

Fiscal Note: The estimated value over the four-year term of this contract is \$2,000,000. This would be paid from the Public Works' FY17 USD Capital Projects Fund.

The initial master plan development services are estimated to cost \$499,999 plus \$220,000 for the waste characterization scope of services which is to be reimbursed by the Tennessee Department of Environment and Conservation (TDEC).

Task #5 calls for a triple bottom line (3BL) cost study on the top three recommendations and on the cost to landfill waste. The 3BL on landfilling should include the social, environmental, and economic cost to landfill a typical ton of municipal solid waste in a landfill instead of recovering all reusable, recyclable, and compostable materials.

BILL NO. BL2017-711 (COOPER, ELROD, & ALLEN) – This ordinance would authorize the acquisition of certain right-of-way easements, drainage easements, temporary construction easements, and property rights by negotiation or condemnation for use in public projects for Hobson Pike Sidewalk Improvements.

This has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY16 Capital Projects Fund.

BILL NO. BL2017-712 (PRIDEMORE, COOPER, & OTHERS) – This ordinance would authorize the acquisition of certain right-of-way easements, drainage easements, temporary construction easements, and property rights by negotiation or condemnation for use in public projects for Delaware Avenue Sidewalk Improvements.

This has been approved by the Planning Commission.

Fiscal Note: The price to be paid for the easements and property rights has not yet been determined. This would be paid from the FY16 Capital Projects Fund.

BILL NO. BL2017-713 (MURPHY, ELROD, & ALLEN) – This ordinance would abandon and accept sewer and water mains and easements and to accept new sanitary sewer main, manholes, and easements for property located at 4101 Ridgefield Drive and 211 Ensworth Place.

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

BILL NO. BL2017-714 (KINDALL, ELROD, & ALLEN) – This ordinance would abandon existing combination sewer main and any associated easements and to accept a new sanitary sewer manhole, fire hydrants, and any associated easements for property located at 350 22nd Avenue North.

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

BILL NO. BL2017-715 (ELROD & ALLEN) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation or condemnation for the Forest Drive Stormwater Improvement Project for two (2) properties located at 3617 and 3621 Roundwood Forest Drive.

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

BILL NO. BL2017-716 (ELROD & ALLEN) – This ordinance would authorize the acquisition of certain permanent and temporary easements by negotiation for the Van Buren Street Stormwater Improvement Project for two (2) properties located at 101-A and 101 Van Buren Street.

This was approved by the Planning Commission on April 5, 2017. Future amendments to this ordinance may be approved by resolution.

BILL NO. BL2017-717 (VANREECE, ELROD, & ALLEN) – This ordinance would amend the official Geographic Information Systems Street and Alley Centerline Layer by changing the name of a portion of Due West Avenue to "West Due West".

This was approved by the Planning Commission and the Emergency Communications District. A recommendation from both, prior to third reading, is required under Section 13.08.015.D of the Metro Code of Laws (MCL).

Pursuant to the requirements of Section 13.08.015.B. of the MCL, the Historical Commission provided a report to the Council on May 30, 2017 regarding the historical significance, if any, associated with the existing street name.

BILL NO. BL2017-718 (ELROD & ALLEN) – This ordinance would authorize Drury Nashville, LLC to install, construct, and maintain underground and aerial encroachments in the right-of-way located at 315 3rd Avenue South. These encroachments are comprised of upper tower signage on 3rd Avenue, corner overhang at Korean Veterans Boulevard and Almond Street, parking garage overhang on 3rd Avenue, entry canopy and signage at the corner of Korean Veterans Boulevard and 3rd Avenue, tower element on 3rd Avenue, signage at northwest corner and an NES vault encroaching the right-of-way. Section 13.16.030 of the Metro Code provides for the approval of aerial encroachments by Council resolution.

Drury Nashville, 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 \$3 million certificate of public liability insurance naming the Metropolitan Government as an insured party.

This proposal has been approved by the Planning Commission.