



METRO COUNCIL OFFICE

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director and Special Counsel
Hannah Zeitlin, Assistant Legal Counsel
Maria Caulder, Finance Manager
Metropolitan Council Office

COUNCIL MEETING DATE: July 7, 2020

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 7/1/20:

4% Reserve Fund	\$52,193,623*
Metro Self Insured Liability Claims	\$1,393,465
Judgments & Losses	\$2,524,239
Schools Self Insured Liability Claims	\$3,332,742
Self-Insured Property Loss Aggregate	\$8,214,956
Employee Blanket Bond Claims	\$712,261
Police Professional Liability Claims	\$2,063,250
Death Benefit	\$1,664,350

*This assumes unrealized estimated revenues in FY21 of \$36,572,300

Note: No fiscal note is included for legislation that poses no significant financial impact.

– RESOLUTIONS ON PUBLIC HEARING –

RESOLUTION NOS. RS2020-331, RS2020-399, & RS2020-400 – These resolutions approve exemptions from the minimum distance requirements for obtaining a beer permit for the following establishments:

- **Resolution No. RS2020-331** (SLEDGE) – Saint Elle, located at 1420 3rd Avenue South.
- **Resolution No. RS2020-399** (WELSCH) – Nashville Hookah Bar and Grill, located at 2521A Nolensville Pike.
- **Resolution No. RS2020-400** (ROBERTS) – Czann’s Brewing Company, LLC, located at 4909 Indiana Avenue.

The Metro Code of Laws (MCL) prevents a beer permit from being issued to any establishment located within 100 feet of a religious institution, school, park, daycare, or one- or two-family residence. However, several exceptions exist to the distance requirements. For example, 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 such facilities to obtain beer permits upon the adoption of a resolution by the Council. (See, Code section 7.08.090(E)). Restaurants are no longer required to have state on-premises liquor consumption licenses in order to obtain such exemption.

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

– BILLS ON PUBLIC HEARING –

BILL NO. BL2019-7 (O'CONNELL) – This ordinance amends Section 17.16.250.E.1 of the Metropolitan Code pertaining to owner-occupied STRP permits for two-family dwellings. The Code currently requires both dwellings to be under the same ownership in order for a two-family dwelling to have an owner-occupied STRP permit. This ordinance would create a mechanism whereby two separate owner-occupied STRP permits could be issued for two-family dwellings when the units are owned by different persons and each unit is the primary residence of the corresponding owner. No more than two permits could be issued per lot, and only one permit could be issued per dwelling unit.

This ordinance has been approved by the Planning Commission.

BILL NO. BL2019-79 (O'CONNELL) – This ordinance implements certain requirements for a Short Term Rental Property - Owner Occupied.

This ordinance prohibits an owner-occupied STRP from advertising the availability of all bedrooms within the unit for rent, except for a two-family residential unit under common ownership with a two-family unit on the same lot, which is permitted in accordance with MCL 17.16.250.E.1.f. Also, this ordinance would make clear that an owner must reside onsite at an owner-occupied STRP at all times the property is being used as an STRP. Further, the owner could not be absent from the dwelling unit for longer than 15 consecutive hours within any 24 hour period while the property is being used as an STRP.

A proposed substitute is anticipated from the Planning Department.

This ordinance has been approved by the planning commission.

– RESOLUTIONS –

RESOLUTION NO. RS2020-367 (MENDES) – This resolution authorizes the department of law to compromise and settle the medical malpractice lawsuit brought by Lena Rivers-Simpson and her husband, Ronald Simpson, against the Metropolitan Hospital Authority for a total amount of \$300,000. On December 18, 2015, Mrs. Simpson had a hysterectomy procedure performed at Nashville General Hospital (NGH) by Dr. Gwinnett Ladson, a Meharry Medical College OB-GYN. Dr. Ladson allegedly looped through Mrs. Rivers-Simpson’s bowel three times and failed to timely diagnose the underlying cause of the medical complications that arose during the ten days following surgery. The claim against the Hospital Authority is that NGH nurses contributed to the delay in diagnosis by failing to alert the doctors about abnormal blood pressure readings and her extreme pain.

Ten days after the initial operation, Mrs. Simpson underwent an exploratory surgery, which revealed an infection that resulted in six subsequent procedures at NGH, including the placement of a wound vacuum. Mrs. Simpson continued to experience serious complications from the infection, including ostomy leaks and problems with sealing the wound vacuum. She had to undergo further surgeries after leaving NGH, and will likely require more surgeries. Mrs. Simpson’s medical bills from NGH alone total \$873,000. She also has lost earning capacity estimated at \$270,000. Mr. Simpson has a strong loss of consortium claim given the severity of his wife’s injuries and disfigurement.

The department of law recommends settling this lawsuit for \$300,000 to be paid from the self-insured liability fund. It is likely that a judgement in this case could be in the \$2-3 million range. Even a small percentage of fault assigned to the NGH nurses could result in a \$300,000 Governmental Tort Liability Act cap award for Mrs. Rivers-Simpson alone, plus Mr. Simpson’s likely sizeable loss of consortium award.

Fiscal Note: This \$300,000 settlement, along with the settlements per Resolution Nos. RS2020-408, RS2020-411, RS2020-414 and RS2020-426, would be the 1st, 2nd, 3rd, 4th, and 5th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$548,000. The fund balance would be \$1,393,465 after this payment.

RESOLUTION NO. RS2020-385 (O’CONNELL, MURPHY, & HENDERSON) – This resolution authorizes Nashville Underground, LLC to construct, install, and maintain an aerial encroachment located at 105 Broadway. The encroachment comprises one 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 provide a \$2 million 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.

The 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 the applicant. Metro further retains the right to repeal approval of the encroachment without liability.

Plan 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 encroachment'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. RS2020-401 (MENDES & HENDERSON) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-402 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-403 (MENDES, WELSCH, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-404 (MENDES & SUARA) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-405 (MENDES, WELSCH, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-406 (ALLEN & MENDES) – This resolution authorizes the Mayor to submit Substantial Amendment Three to the 2018-2023 Consolidated Plan for Housing and Community Development, and Substantial Amendment One to the 2019-2020 Annual Update to the Consolidated Plan, to the U.S. Department of Housing and Urban Development (HUD). The

purpose of this amendment is for the allocation of the federal CARES Act funds MDHA is receiving.

This amends the annual action plan to incorporate the CARES Act funding being received in the initial allocation, describes the projects/activities for use of the funds, the methods to distribute the funds, and serves as Metro's application to access the funds. It also adds language to allow preference for housing rehabilitation programs to be provided to qualifying households whose homes were damaged from the March 3, 2020 tornados and allow these program funds to be used for reconstruction of properties determined not feasible for rehabilitation.

MDHA used various methods to receive community input about the appropriate use of the CARES Act funds. This included working with representatives from the Mayor's office and the Office of Emergency Management to determine local needs eligible for funding and/or reimbursement from Community Development Block (CDBG-CV) funds that would not be funded from other resources. Additionally, MDHA sent out a survey to 826 stakeholders asking them to rank potential uses of CDBG-CV funds by priority. MDHA also facilitated a public comment period June 12-19 and a virtual public hearing on June 17.

MDHA will receive and use the following amounts from the initial CARES Act allocations to prevent, prepare for, and respond to the Coronavirus outbreak in Metro Nashville-Davidson County

- \$3,125,875 in CDBG-CV funds to provide up to three months of emergency housing assistance for households in danger of eviction or foreclosure because they have or will fall behind in rent or mortgage payments due to a COVID-19-related loss of income. Subsequent CDBG-CV allocations may be allocated toward the lease or acquisition and retrofit of a facility to allow social distancing and isolation to prevent the spread of COVID-19 amongst the homeless population, to eliminate the strain on existing shelters, and to provide associated homeless services.
- \$1,549,066 in Emergency Solutions Grant (ESG-CV) funds for overnight sheltering, rapid re-housing (rental assistance), homelessness prevention services, and transitional housing.
- \$225,186 in Housing Opportunities for Person with HIV/Aids (HOPWA) grant to be used for all eligible HOPWA activities.

RESOLUTION NO. RS2020-407 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-408 (MENDES) – This resolution authorizes the department of law to compromise and settle the claim brought by Darrian Toney against the Metropolitan

Government for a total amount of \$9,500. On January 1, 2018, a pressure relief safety valve engaged as part of the downtown library's steam infrastructure connecting the library to the District Energy System. The purpose of the pressure relief valve is to release steam through a vent above the sidewalk on 7th Ave. N. When the steam infrastructure was installed in 2005, it failed to include an appropriate drain. Mr. Toney happened to be walking by the vent at the exact moment the relief safety valve engaged, causing hot water to drip onto his neck resulting in second degree burns. An inspection after this incident revealed that the appropriate drain had not been installed. That problem has now been corrected.

Mr. Toney incurred medical bills totaling \$4,638 as a result of the burns to his neck. The department of law recommends settling this case for \$9,500 since Metro would likely be found to be liable under the Governmental Tort Liability Act given the length of time the dangerous condition had existed.

Fiscal Note: This \$9,500 settlement, along with the settlements per Resolution Nos. RS2020-367, RS2020-411, RS2020-414 and RS2020-426, would be the 1st, 2nd, 3rd, 4th, and 5th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$548,000. The fund balance would be \$1,393,465 after this payment.

RESOLUTION NO. RS2020-409 (MENDES, HAGAR, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-410 (MENDES, HAGAR, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-411 (MENDES) – This resolution authorizes the department of law to compromise and settle the personal injury claims brought by Ryan Klawitter, Kathleen Klawitter, Kylie Klawitter, Quinlyn Klawitter, and Jewel Brunet against the Metropolitan Government for a total combined amount of \$183,500. At approximately 2:30 a.m. on June 20, 2015, Ryan Klawitter was driving a Ford Expedition returning with his family to Wisconsin from Florida when he collided with a Metro ambulance on I-40 west near the Hermitage Avenue exit. The ambulance was in route to another accident with the lights and siren activated at the time of the collision. Mr. Klawitter testified that the ambulance abruptly shifted from the far left lane to the far right lane, and he tried to avoid a collision but could not. The Expedition rolled twice before landing on its hood injuring the driver and passengers. The police report indicates that the front of the ambulance struck the rear driver side of Mr. Klawitter's vehicle.

While all persons in the vehicle were injured, Kylie's injuries were the most severe, consisting of a fractured skull and a forehead laceration that will likely require future plastic surgery.

The department of law recommends settling this case since it is likely that a majority of the fault would be assigned to the ambulance driver if the case went to trial. The total medical bills and settlement amount for each plaintiff are as follows:

<u>Plaintiff name</u>	<u>Medical Bills</u>	<u>Settlement Amount</u>
Ryan Klawitter	\$4,911	\$12,000
Kathleen Klawitter	\$5,667	\$15,000
Quinlyn Klawitter	\$1,120	\$3,000
Kylie Klawitter	\$33,705 (plus future \$12,000)	\$117,500
Jewel Brunet	\$28,067	\$36,000

No disciplinary action was taken against the ambulance driver.

Fiscal Note: This \$183,500 settlement, along with the settlements per Resolution Nos. RS2020-367, RS2020-408, RS2020-414 and RS2020-426, would be the 1st, 2nd, 3rd, 4th, and 5th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$548,000. The fund balance would be \$1,393,465 after this payment.

RESOLUTION NO. RS2020-412 (MENDES, PULLEY, & OTHERS) – This resolution accepts 15,000 N95 masks from Home Depot to the Office of Emergency Management for use by first responders and healthcare workers. The monetary value of the masks is \$15,000. Section 5.04.120 of the Metropolitan Code provides that donations in excess of \$5,000 must be approved by the Council by resolution.

RESOLUTION NO. RS2020-413 (MENDES & PULLEY) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-414 (MENDES) – This resolution authorizes the department of law to compromise and settle the claim brought by Andrenyonia Ensley and Latrqus Pery against the Metropolitan Government for a total amount of \$20,000. On July 3, 2019, Andrenyonia Ensley and Latrqus Pery were parked at a convenience store gas pump on Dickerson Road when a Metro police officer pulled in behind their car and activated the blue lights. The officer approached Ms. Ensley’s vehicle and informed her that her car tags were expired. She got out of the car and walked to the rear of the vehicle to look at the tags. As she was walking back to her car, the officer attempted to restrain her from behind and essentially threw her several times into her vehicle and an adjacent vehicle in clear violation of Metro police department policy. Latrqus Pery was a passenger in the car and witnessed the event. The officer then issued citations for resisting arrest and assault. The police officer was suspended as a result of this incident and resigned. Ms. Ensley did not sustain serious injuries, but did suffer from some bruising.

The department of law recommends settling this lawsuit for \$20,000 to be paid from the self-insured liability fund.

Fiscal Note: This \$20,000 settlement, along with the settlements per Resolution No. RS2020-367, RS2020-408, RS2020-411 and RS2020-426, would be the 1st, 2nd, 3rd, 4th, and 5th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$548,000. The fund balance would be \$1,393,465 after this payment.

RESOLUTION NO. RS2020-415 (MENDES, PULLEY, & HANCOCK) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-416 (HURT, WELSCH, & OTHERS) – This resolution approves a contract between the Metropolitan Social Services Commission and the University of Tennessee, College of Social Work, to provide clinical experience opportunities for its students. The students would not be considered employees of Metro and would not receive any compensation from Metro.

The term of the agreement is for five years, retroactive to July 1, 2019, but may be terminated by either party upon 90 days' written notice. The school would be required to provide assurance that the students are covered by health insurance, and all students must undergo a criminal background check. The school is responsible for any accidents or injuries to students that occur through the performance of this agreement.

Fiscal Note: There would be no cost to the Metropolitan Government for participating in this program.

RESOLUTION NO. RS2020-417 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-418 (MENDES, HURT, & OTHERS) – This resolution approves a one year contract with Neighborhood Health, Inc. to provide various medical services to homeless persons. Metro has had such a contract since 2005 to provide a portion of the medical services, including examinations, diagnosis, and treatment of medical conditions of homeless persons seen at the downtown clinic. Neighborhood Health is to provide primary medical services to at least 3,500 individuals, which is to include a 24 hour on-call system for emergencies. This contract also includes the provision of dental care for at least 500 patient visits and mental health services to at least 600 homeless clients. Neighborhood Health will be also responsible for making transportation available to its homeless patients.

Fiscal Note: UNHS is to be compensated in the amount of \$355,200 for FY21.

RESOLUTION NO. RS2020-419 (MENDES, HURT, & WELSCH) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-420 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-421 (MENDES, HURT, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-422 (MENDES, HURT, & OTHERS) – This resolution approves a contract between the Metropolitan Board of Health and the Tennessee Department of Health for the testing of mosquito samples. The state will test mosquito samples collected by Metro for West Nile Virus, St. Louis Encephalitis Virus, and Flanders Virus. Metro will pay \$2,200 to test an average of 802 mosquito pools. The contract term ends on February 28, 2021, but may be terminated by either party upon 30 days' written notice.

Fiscal Note: Metro will pay \$2,200 to the State of Tennessee, Department of Health for capacity to provide Arbovirus Testing of Mosquito Samples, to test an average 802 mosquito pools. Metro will also pay \$8.85 per mosquito pool submitted, up to a maximum liability of \$10,000 over the term of the contract.

RESOLUTION NO. RS2020-423 (HURT, WELSCH, & STYLES) – This resolution approves a standard business associate agreement between the Metropolitan Board of Health and RX Staff LLC to provide safeguards to prevent the use or disclosure of protected health information. Business associate agreements generally allow for the disclosure of otherwise privileged or protected information, under strict limitations, to those engaged as business associates with those in possession of the information. The agreement defines the permitted uses of protected health information and identifies the safeguards that must be in place for the protection of this data.

The agreement would be effective once filed in the office of the Metropolitan Clerk. It would terminate when all protected health information provided by Metro to RX Staff LLC is destroyed or returned to Metro. The maximum length of the effective term is sixty months from the effective date.

The Health Department has entered into many of these agreements over the past decade with its partners.

Fiscal Note: There would be no cost to the Metropolitan Government under this agreement.

RESOLUTION NO. RS2020-424 (HURT & WELSCH) – This resolution approves a license agreement by and between GreaterGood.org and The Metropolitan Government of Nashville and Davidson County, acting by and through the Metropolitan Board of Health, to create, exchange, and/or use certain media materials in a collaborative process relating to Supplies for Shelters – Antinol Joint Supplement. Metro will be granting the right to use video, audio, and photography generated as part of the project.

Fiscal Note: There would be no cost to the Metropolitan Government under this agreement.

RESOLUTION NO. RS2020-425 (HURT, ALLEN, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-426 (MENDES) – This resolution authorizes the department of law to compromise and settle the personal injury claims brought by Twana Williams against the Metropolitan Government for the amount of \$35,000 to be paid out of the self-insured liability fund. On September 18, 2019, a Metro Public Works employee attempted to change lanes on the Jefferson Street Bridge striking a vehicle in the adjacent lane causing personal injuries to passenger Twana Williams. The total amount of the medical bills incurred by Ms. Williams was \$25,938.59, though the vast majority of this amount was for diagnostic testing.

The department of law recommends settling this claim for the amount of the medical bills plus \$850 for lost wages and \$8,261.41 for pain and suffering.

The Public Works employee received disciplinary action consisting of written reprimand.

Fiscal Note: This \$35,000 settlement, along with the settlements per Resolution Nos. RS2020-367, RS2020-408, RS2020-411 and RS2020-414, would be the 1st, 2nd, 3rd, 4th, and 5th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$548,000. The fund balance would be \$1,393,465 after this payment.

RESOLUTION NO. RS2020-427 (CASH, MURPHY, & HENDERSON) – This resolution amends Ordinance No. BL2019-1712 pertaining to the abandonment and acceptance of sewer lines and manholes needed for the Belmont South Garage project. Ordinance No. BL2019-1712 authorized the abandonment of existing sanitary sewer main, a sanitary sewer manhole and easements, and

accepted new sanitary sewer main, sanitary sewer manholes, and easements, for six properties located on Compton Avenue, Belmont Boulevard, and Delmar Avenue. The project has been adjusted and the previous approval is no longer needed.

Instead, this resolution abandons 164 linear feet of 8" sewer main and two sanitary sewer manholes and easements, and accepts two new sewer manholes and easements for properties located at 2100 Belmont Boulevard and 1501A, 1503, 1505, and 1507 Compton Avenue.

BL2019-1712 authorizes future amendments to be approved by resolution.

This has been approved by the Planning Commission.

Fiscal Note: This resolution has no cost to Metro. Donated and abandoned easements do not have a market value according to Metro Water Services.

RESOLUTION NO. RS2020-428 (HALL, GAMBLE, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-429 (ROSENBERG) – This resolution approves the election of 496 Notaries Public in accordance with state law. Per Rule 20 of the Metropolitan Council Rules of Procedure, the Davidson County Clerk has advised that each of the applicants meet the qualifications for the office.

– ORDINANCES ON SECOND READING –

BILL NO. BL2019-8 (ROBERTS & HENDERSON) – This ordinance would amend Section 17.20.120 of the Metropolitan Code regarding the sidewalk fund.

Currently, money collected from the payment in lieu of sidewalks is collected into a pedestrian benefit fund. The funds are required to stay in the pedestrian benefit zone from where the payment was made.

This ordinance would remove the pedestrian benefit zones and instead require funds to stay within the Council district of the new development.

A housekeeping amendment would fix a drafting error which unintentionally reduced the cap on contributions in-lieu of construction. The amendment restores the cap to the current amount in the Metro Code.

This bill has been disapproved by the planning commission.

BILL NO. BL2020-148 (BENEDICT, WELSCH, & OTHERS) – This ordinance amends Section 4.12.240 of the Metro Code pertaining to future contracts with private operators of detention facilities. Ordinance No. BL2017-542 established Section 4.12.240 to require future contracts for correctional facility management services to be approved by the Metro Council, and to require reports to be submitted by the contractor to the Council regarding contractor performance for future contracts. This ordinance would delete those requirements from the 2017 ordinance and substitute with new provisions that would prohibit Metro from entering into a new contract, or renewing an existing contract, with a private contractor to manage a Metro detention facility after June 30, 2022. The ordinance would also prohibit Metro from entering into or renewing a contract with the state for the detention of incarcerated persons if the contract permits a private contractor to manage the facility.

Metro currently has a contract with CoreCivic for the operation of the Metro Detention Facility located at 5115 Harding Place housing locally sentenced felons and for the pre-trial detention of female detainees. CoreCivic (formerly Corrections Corporation of America) has been operating the facility on Metro's behalf since 1992. The term of the current emergency contract extends through July 29, 2020. Metro also has a contract with Youth Opportunity Investments, LLC for operation of the juvenile detention facility. The term of that contract extends through June 30, 2020.

The state of Tennessee originally made a \$3 million grant to Metro in 1989 to renovate and construct new facilities to provide housing for locally sentenced felons at the Harding Place Metro Detention Facility pursuant to Metro's contract with the state under the County Corrections Incentives Act (T.C.A. § 41-8-101, *et seq.*). Metro agreed to maintain at least 585 beds for felony offenders. The agreement provided that Metro would be required to reimburse the state for the

amount of the grant plus interest if it ever stopped housing felony inmates at the facility. This grant agreement has been amended multiple times over the years: in 1990, 1991, 1995, 2004, and 2008. A 1995 Addendum to the contract provides that the state will reimburse Metro for its “reasonable allowable costs as provided in T.C.A. § 41-8-106, as amended, and rules and regulations promulgated by the Department of Corrections thereunder” for housing the inmates. T.C.A. § 41-8-106 provides that the state will reimburse counties “pursuant to the general appropriations act and according to rules and regulations for determining reasonable allowable costs as promulgated by department.” The reimbursement rate for Davidson County was \$61.87 per inmate per day in 2019.

The 2008 amendment to the state agreement provided an additional \$10,275,000 from the state for the purpose of constructing additional correctional facilities for locally sentenced felons since the prior facility was at capacity. The 2008 amendment did not change the reimbursement language. The 2008 amendment does provide that if Metro stops housing locally sentenced felons at the additional facilities, then Metro would be required to transfer its interests in the facilities back to the state in lieu of repaying the additional \$10,275,000 grant.

Metro currently acts as a pass-through for the funds from the state to CoreCivic under the contract with the state discussed above. A 2017 report from the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) notes as follows:

“Davidson County’s contract allows for locally sentenced inmates, regardless of housing location within the county, to be paid for at actual costs determined by the operating cost of the Metro-Davidson County Detention Facility, with no cap. Fiscal year 2015-16 reported costs were \$57.85, which TDOC used to establish an interim rate of \$53.63 for payments in fiscal year 2016-17. After the fiscal year ended on June 30, 2017, Davidson County will report its actual costs for the year to TDOC, who will retroactively apply that amount to the prisoner numbers for all of fiscal year 2016-17 and make any necessary adjustments to its June payment to the county. TDOC will use those fiscal year 2016-17 reported costs to calculate a new interim rate for the first 11 months of fiscal year 2017-18, and make the same adjustment for June 2018. The state reimburses the county \$39 per day for backup inmates at all facilities.”

Thus, if Metro took over operation of the Harding Place facility then it would arguably be entitled to reimbursement of its reasonable costs (as determined per state regulations) with no specific cap on the amount. However, this does not directly line up with the findings from a December 2018 report commissioned by DCSO, which states that all sheriffs in Tennessee receive the same per diem rate from the state for managing state inmate population (\$37 per inmate per day). The state regulation applicable to cost reimbursement for housing inmates on behalf of the state provides that a county’s reasonable allowable costs are those that do not exceed “that which would be incurred by an ordinary and prudent person conducting a similar enterprise.”

This ordinance provides that any existing contract or agreement between Metro and a private contractor to operate, manage, or lease any detention facility that would otherwise be in effect as of June 30, 2022, shall be rescinded, voided, and canceled pursuant to the termination provisions

within the existing contract not later than June 30, 2022. Any new contract entered into after the effective date of this ordinance to operate, manage, construct, or lease any detention facility would be required to include a provision automatically terminating the contract or agreement not later than June 30, 2022.

The director of finance submitted the attached letter to the Council stating that he is unable to certify the availability of funds for this ordinance since the total operating and capital budget requirements have not been quantified.

BILL NO. BL2020-224 (TAYLOR, SUARA, & OTHERS) – This ordinance, as amended, amends Chapter 11.22 of the Metropolitan Code to require landlords to provide notice to tenants prior to a sale of the property. The ordinance would create a new requirement that landlords provide a minimum of 90 days' written notice to tenants prior to closing on a sale of the leased premises.

This is similar to Bill No. BL2020-149, adopted at the April 21 meeting, which requires landlords to provide at least 90 days' written notice to tenants before increasing the tenant's rent.

A substitute is anticipated to clarify the language adopted via amendment at the May 19 meeting.

BILL NO. BL2020-232 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance amends the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government by abandoning a portion of Alley #146 from Lafayette Street northwestward to Elm Street, between 4th Ave. S. and 5th Ave. S. This closure has been requested by Barge Design Solutions. Future amendments to the ordinance may be approved by resolution. This ordinance has been approved by the planning commission and the traffic and parking commission.

Fiscal Note: This ordinance has no cost to Metro. In the opinion of the Public Works, abandoned right of way has no market value when the Department has agreed that the abandoning of said right of way is considered acceptable. Additionally, the abandonment of rights-of-way that are unimproved, unmaintained, and serve no current or future purpose for Metro allows the abandoned area to be assessed for property tax purposes.

BILL NO. BL2020-300 (BENEDICT, BRADFORD, & HENDERSON) – This ordinance amends Section 9.30.010 of the Metropolitan Code to further restrict construction noise. The Code currently prohibits construction noise in excess of 70 decibels, except for emergency work, between the hours of nine p.m. and six a.m. This ordinance would extend those quiet hours to between seven p.m. and seven a.m.

BILL NO. BL2020-304 (WITHERS, MURPHY, & OTHERS) – This ordinance amends the official Geographic Information Systems Street and Alley Centerline Layer by renaming a portion of Summer Place between South 4th Street and South 5th Street to “Jerry Newson Way”.

This street name change request was submitted by Councilman Brett Withers, applicant, at the request of Sheriff Daron Hall. Jerry Newson was a Davidson County Sheriff’s Department deputy who was killed in the line of duty on September 22, 1995, while attempting to serve a warrant. This section of Summer Place is adjacent to the new Sheriff’s Department headquarters.

This has been approved by the planning commission and referred to the emergency communications district board. A recommendation from both is required before third reading.

Pursuant to the requirements of MCL Section 13.08.015.B, the historical commission is required to provide a report to the Council prior to second reading stating the historical significance, if any, associated with the existing street name. A copy of the report is attached to this analysis.

BILL NO. BL2020-321 (VERCHER) – This ordinance amends Chapter 2.04 of the Metropolitan Code to require members of the Metropolitan Council to receive disaster preparedness/response training and active shooter training. The disaster preparedness and response training seminar would be conducted under the direction of the Metropolitan Office of Emergency Management at least once every four years. The Office of Emergency Management shall be responsible for selecting the training curriculum. Such training is to include steps councilmembers should take before, during, and after a disaster in order to help protect and serve their constituents.

The active shooter training seminar would be conducted under the direction of the Metropolitan Nashville Police Department at least once every four years, and the police department would be responsible for selecting the training curriculum.

There is a housekeeping amendment for this ordinance.

BILL NO. BL2020-322 (HURT, TOOMBS, & OTHERS) – This ordinance amends Chapter 2.44 of the Metropolitan Code to prohibit the Metropolitan Nashville Police Department (MNPD) from hiring police officers who were previously fired or were under investigation by another law enforcement agency for serious misconduct or use of force. The ordinance defines "serious misconduct" as improper or illegal actions taken by a police officer in connection with such officer's official duties that could result in a miscarriage of justice or discrimination, including, but not limited to, a conviction of a felony, fabrication of evidence, repeated use of excessive force, acceptance of a bribe, or the commission of fraud.

The ordinance would prohibit MNPD from hiring any person as a police officer who was previously employed as a police officer by another law enforcement agency and who:

1. was dismissed for malfeasance or other serious misconduct calling into question such person's fitness to serve as a police officer;
2. resigned or retired from such officer's position while under investigation for such malfeasance or other serious misconduct; or
3. has a documented employment history evidencing any of the following:
 - a. Discrimination based on race, national origin, gender or sexual orientation;
 - b. Excessive force;
 - c. Racial bias; or
 - d. Dishonesty related to the reporting, investigation, or prosecution of a crime or the misconduct of another officer.

The ordinance would not apply to any police officer who is exonerated of each allegation of misconduct against such officer.

The Council Office would note that it is questionable whether the Council has the authority to legislate police hiring practices. Generally, the Metro Charter provides that when "...any power is vested by the Charter in a specific officer, board, commission...the same shall be deemed to have exclusive jurisdiction within the particular field." (Sec 2.01(36)). Section 3.06 of the Charter provides that the Metro Council is authorized, by ordinance, to provide for the organization, conduct, and operations of all departments, boards, commissions, offices and agencies of the metropolitan government, when the same has not been provided for by this Charter (emphasis added).

Section 8.203 of the Metro Charter states that the "department of metropolitan police shall be under the general management and control of a director thereof, who is designated the chief of police." Section 8.203 further provides that the police chief can "make regulations, with the approval of the mayor and in conformity with applicable ordinances, concerning the operation of the department, the conduct of the officers and employees thereof, their uniforms, arms and other equipment for their training" (emphasis added).

The question is whether the "in conformity with applicable ordinances" provision noted above allows the Council to actually establish employment and operation policies for MNP. The Council Office is unaware of any court decision interpreting this Charter provision.

BILL NO. BL2020-323 (SLEDGE, BENEDICT, & OTHERS) – This ordinance amends Chapter 2.44 of the Metropolitan Code to incorporate certain limitations on police use of force into Metro Nashville Police Department's (MNP) policy. This ordinance is based upon the Police Use of Force Project and 8 Can't Wait, which have identified eight key areas of meaningful protection against police violence: a use of force continuum, a required warning before shooting, a requirement to exhaust all other means before shooting; required de-escalation, ban on chokeholds and strangleholds, restricted shooting at moving vehicles, duty to intervene, and required comprehensive reporting.

The current version of the MNPD Department Manual does address some of these five areas, including a prohibition on “neck restraint” in Section 11.10.020 and a prohibition against discharging a firearm at or from a moving vehicle, unless necessary to protect the life of the employee or others, in Section 11.10.150.

This ordinance would require the chief of police to incorporate the following policies regarding use of force in any regulation concerning the conduct of officers:

1. Officers shall use de-escalation tactics such as verbal warnings and advisements before resorting to force.
2. Officers shall not use any form of chokehold nor stranglehold.
3. Any officer who is present and observes another officer utilizing force when it is not reasonably necessary shall intervene to impede the use of unreasonable force.
4. Officers shall report any use of force against civilians when any civilian is injured, complains of injury in the presence of officers, or complains of pain continuing beyond the use of physical force.

As noted in the analysis for Bill No. BL2020-322, it is questionable whether the Council has the legal authority under the Metro Charter to require the Chief of Police to modify departmental policies.

BILL NO. BL2020-324 (MURPHY & ALLEN) – This ordinance amends Section 7.16.110 of the Metropolitan Code to revise the measurement method for retail liquor establishments for the minimum distance requirements needed to obtain a certificate of compliance. Although retail liquor stores are primarily regulated under state law, T.C.A. § 57-3-208 requires liquor store applicants to obtain a certificate of compliance signed by the mayor stating that the applicant hasn’t been convicted of a felony within the past ten years and that the store complies with local location restrictions. Section 7.16.110 of the Metro Code generally prohibits liquor stores from being located within 50 yards of a private residence or a branch of the Nashville Public Library on the same side of the street as the proposed retail store, within 100 yards of any place of worship, or within 200 yards of a school or college campus.

This ordinance would provide that in determining distance from any schoolground or college campus, the distance would be measured from the nearest location of such schoolground or college campus to the center of the main entrance of the proposed retail liquor store following the usual and customary path of pedestrian travel. However, if such schoolground or college campus is surrounded by a fence, the distance would be measured from the center of the nearest gate or door of the fence.

BILL NO. BL2020-325 (WITHERS, MENDES, & OTHERS) – This ordinance approves a lease agreement between the Metropolitan Government and the Episcopal School of Nashville (the “School”) for property located at 1310 Ordway Place. This property is owned by Metro and formerly housed the Ross Head Start Center. The 24,278 square foot building is now vacant. The

School will be leasing the property for the operation of a K-8 private school. The term of the lease is for five years commencing August 1, 2020, with the option to renew for two additional five year periods. The School will pay rent in the amount of \$163,085 per year, payable in monthly installments of \$13,590. The rent for the first renewal period will increase to \$184,516 per year. The rent for the second renewal period would be based upon an appraised amount.

The School will receive a rent credit for all improvements it makes to the property. Such improvements must first be approved by Metro General Services. The School will be responsible for all utility and maintenance costs. The property is being leased in as-is condition. The lease agreement includes Metro's standard insurance and indemnification requirements.

An appraisal was performed for this property by Huber & Lamp Appraisal Group at Metro's request. The appraisal indicated a fair market value rent range of this property is between \$176,058 and \$211,762 per year, with a market rate conclusion of \$182,085 per year.

This lease agreement has been administratively approved by the planning commission. Future amendments to the lease may be approved by resolution.

Fiscal Note: The School will pay Metro rent in monthly installments off \$13,590 for the first year and will increase to \$15,376 for the first renewal period. The total payments for the first year will be \$163,085 and will increase to \$184,516 per year for the first renewal period. The rent for the second renewal period will be based upon an appraised amount.

BILL NO. BL2020-326 (SYRACUSE, MUPHY, & OTHERS) – This ordinance amends the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government by renaming a portion of Old Elm Hill Pike between McGavock Pike and Ermac Drive to “Sims Branch Way”. This request was submitted by Metro Public Works to prevent confusion for emergency services since there are currently two disconnected sections of roadway named Old Elm Hill Pike.

This ordinance has been approved by the planning commission and referred to the historic commission and ECD board.

Pursuant to the requirements of MCL Section 13.08.015.B, the historical commission is required to provide a report to the Council prior to second reading stating the historical significance, if any, associated with the existing street name. A copy of the report is attached to this analysis.

BILL NO. BL2020-327 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance authorizes 900 Church Street, LLC, to install, construct, and maintain underground and aerial encroachments in the right-of-way at 900 Church Street. The encroachments consist of a planter wall sign, irrigation, column footings, concrete bandings, pavers and an aerial encroachment.

900 Church Street, LLC, has agreed to indemnify and hold the Metropolitan Government harmless from any and all claims in connection with the installation and maintenance of the encroachments and would be required to provide a \$2 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This proposal has been approved by the planning commission.

– ORDINANCES ON THIRD READING –

SECOND SUBSTITUTE BILL NO. BL2019-48 (ROSENBERG, YOUNG, & OTHERS) – This ordinance, as substituted and amended, amends the home occupation requirements in Section 17.16.250.D of the Metro Code.

The current provisions allow for a home occupation if no clients or patrons are served on the property and if no more than one employee (part-time or full-time) not living at the home is employed by the business. Other requirements prohibit causing a nuisance, certain limitations on mechanical and electrical equipment, and regulations on the storage of materials and goods on the premises. Permits are currently required for all home occupations.

The ordinance under consideration would remove the prohibition on serving clients on the premises and would instead allow no more than three vehicle trips per hour, with a maximum of six visits per day related to the business. Customer visits could only occur by scheduled appointment and between the hours of 8 a.m. and 7 p.m. Monday through Saturday. Only certain occupations would be permitted, including personal instruction, general office, personal care services, multimedia production, and artisan manufacturing uses. Permits would be required of all home occupations, except those where no customers are served on the property and any employees live within the dwelling. Permits would not be transferable or assignable, and a permit could be revoked upon two or more verified complaints within a calendar year.

This ordinance received a tie vote at the planning commission and, as a result, was given no recommendation.

SUBSTITUTE BILL NO. BL2019-78 (SLEDGE) – This ordinance requires a minimum distance for a new Short Term Rental Property - Not Owner-Occupied from churches, schools, daycares, and parks. No new STRP permit could be located less than 100 feet from a religious institution, a school or its playground, a park, or a licensed day care center or its playground, unless, after a public hearing, a resolution receiving 21 affirmative votes is adopted by the Council. The distance would be measured in a straight line from the closest point of the property line for which the STRP is sought to parcel line of the property on which the religious institution, school or its playground, park, or licensed daycare center or its playground are located.

Public notification of the public hearing would be required in accordance with Chapter 17.40 of the Metro Code. Public notice would be mailed to all property owners within 600 feet of the unit seeking the exemption not later than 14 days prior to the date of the public hearing. The costs of notification would be paid by the applicant.

This proposed minimum distance requirement is similar to the distance requirements applicable for the issuance of a beer permit.

This ordinance has been approved by the Planning Commission.

SUBSTITUTE BILL NO. BL2020-187 (PULLEY & JOHNSTON) – This ordinance, as substituted and amended, transfers Nashville’s Short Term Rental Property (STR) code provisions from Title 17 to Title 6, and establishes a Short Term Rental Appeals Board to hear and decide appeals from decisions made by the zoning administrator regarding STR permits. This ordinance was filed at the request of the Department of Codes Administration to relieve the burden on the board of zoning appeals, which has seen its docket clogged with STR appeals in recent months.

This ordinance does not make any substantive changes to the STR conditions, regulations, and restrictions. It just moves those provisions under the business licensing and regulation title of the Metro Code. The ordinance also establishes a Short Term Rental Appeals Board consisting of seven members to hear appeals of zoning administrator decisions. One member of the board would be a member of the Metro Council selected by the body from its membership to serve for a term of two years. The remaining six members would be appointed by the mayor and confirmed by a majority vote of the Council. Of the remaining six members, at least one must be an attorney. The board would be required to meet at least once a month, but could hold special meetings as necessary. The board would have jurisdiction to uphold, reverse, or modify in whole or in part the zoning administrator’s decision regarding STR permit issuance or revocation for all permits eligible for review.

As amended, this bill will still require a public hearing to be held before the Metropolitan Council prior to making any future changes to the STR regulations. Since the regulations would be moved out of Title 17, a public hearing would not otherwise be required by law.

This ordinance has been approved by the planning commission.

SUBSTITUTE BILL NO. BL2020-188 (HENDERSON) – This ordinance, as substituted, amends Chapters 13.08, 13.12, and 17.20 of the Metro Code to require all driveways to have an apron to be paved with a hard surface and to prohibit the runoff of gravel into the public rights-of-way. The purpose of this ordinance is to address the problems associated with gravel washing into the public rights-of-way from rainstorms and general use, which presents a hazard to pedestrians and cyclists.

This ordinance would require all driveways constructed or modified to the point of requiring a new driveway authorization application after July 1, 2020 to have an apron to be paved with a hard surface from the edge of street pavement to the edge of the right-of-way or 10 feet, whichever is greater. If the distance exceeds 10 feet, the Chief Engineer would have the authority to permit an alternate design. The design and construction of this required apron must not impede any drainage way. The ordinance also makes it a code violation for a property owner to allow gravel to wash or encroach into the right-of-way.

This ordinance has been approved by the planning commission.

BILL NO. BL2020-223 (MURPHY) – This ordinance, as amended, amends section 7.16.110 of the Metro Code to provide a mechanism for retail liquor establishments to obtain an exemption from the minimum distance requirements for obtaining a certificate of compliance upon approval of the Council by resolution. Although retail liquor stores are primarily regulated under state law, T.C.A. § 57-3-208 requires liquor store applicants to obtain a certificate of compliance signed by the mayor stating that the applicant hasn't been convicted of a felony within the past ten years and that the store complies with local location restrictions. Section 7.16.110 of the Metro Code generally prohibits liquor stores from being located within 50 yards of a private residence or a branch of the Nashville Public Library on the same side of the street as the proposed retail store, within 100 yards of any place of worship, or within 200 yards of a school or college campus.

This ordinance would allow a waiver from these location restrictions upon approval of a Council resolution after a public hearing in the same manner that waivers of the beer permit distance requirements for restaurants are approved. In considering the resolution, the Council would take into consideration (a) the unique characteristics of the property at issue, (b) whether the granting of an exemption will be injurious to other property or improvements in the area, and (c) whether the granting of an exemption will be detrimental to the public welfare. Notice of the public hearing must be sent by mail to all property owners within 600 feet of the proposed liquor store seeking the exemption from the minimum distance requirements not later than 14 days prior to the scheduled public hearing on the resolution. Further, posting of a public notice sign meeting the general requirements of Section 17.40.730 of the Metropolitan Code must be posted on the property at least 14 days prior to the scheduled public hearing. The costs for the public notification requirements are to be paid by the applicant. The applicant would coordinate the scheduling of the public hearing with the metropolitan clerk's office prior to the filing of the resolution and notify the district Councilmember within five days of submitting the request for a distance waiver.

The Council Office would note that while Metro has had a mechanism for providing a waiver of beer distance requirements for many years, court decisions have called into question whether allowing exceptions to a distance requirement could compromise enforcement of the distance requirements against future applicants. The Tennessee Court of Appeals has stated "discriminatory enforcement of a distance rule, once established, prohibits reliance upon the rule as a valid ground for the denial of a beer permit." *Boyd's Creek Enterprises, LLC v. Sevier Cty.*, 362 S.W.3d 600, 604 (Tenn. Ct. App. 2010).

BILL NO. BL2020-227 (WITHERS, MENDES, & OTHERS) – This ordinance authorizes the grant of permanent and temporary construction easements to Piedmont Natural Gas Co. on property owned by the Metropolitan Government. The easements would be across a portion of Shelby Park located at 2009 Sevier Street. The easement would be used for the purposes of installing a new natural gas line and above ground improvements to upgrade and improve service to the area. Piedmont has agreed to pay \$225,000 as compensation for this easement, reflecting fair market compensation for the easements.

Fiscal Note: Metro will receive \$225,000 for the conveyance of these easements which represents the fair market value of the easements.

BILL NO BL2020-230 (PARKER, MURPHY, & OTHERS) – This ordinance amends the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government by abandoning a portion of Alley #312 from N. 9th Street to Alley #278, between N. 9th Street and Neil Avenue. This closure has been requested by Rick Wells. Metro will retain all utility easements within the rights-of-way to be abandoned. Future amendments to the ordinance may be approved by resolution. This ordinance has been approved by the planning commission and the traffic and parking commission.

Fiscal Note: This ordinance has no cost to Metro. In the opinion of the Public Works department, abandoned right-of-way has no market value when the Department has agreed that the abandoning of said right-of-way is considered acceptable. Additionally, the abandonment of rights-of-way that are unimproved, unmaintained, and serve no current or future purpose for Metro allows the abandoned area to be assessed for property tax purposes.

BILL NO. BL2020-285 (STYLES, TOOMBS, & OTHERS) – This ordinance, as amended, requires employees of all businesses allowed to operate under an order of the Metropolitan Director of Health interfacing with the public to wear appropriate face coverings. These face coverings must comply with guidelines from the CDC.

The Amended and Restated Order No. 3 of the Metropolitan Director of Health dated April 1, 2020, known as the “Safer at home Order” (the “Order”), required all businesses not performing essential services to close their business facilities in order to help reduce the spread of COVID-19. This Order expired on May 8, 2020 and was replaced with Order No. 5 outlining Phase One of Metro’s “Roadmap to Reopening” plan. Additional businesses have been allowed to operate under this new order.

An April 3, 2020 CDC guidance recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain.

This ordinance requires all employees of businesses allowed to operate under an order of the Metropolitan Director of Health to wear cloth face coverings whenever these employees have face-to-face contact with the public. Workers at construction sites are also required to wear cloth face coverings when more than one worker is present. It also clarifies that these masks must conform to CDC guidelines.

The Metro Department of Health is empowered to enforce this ordinance, and fines are to be assessed against the business owner or management, not the individual employees. The provisions of the ordinance would be applicable for so long as the Director of Health determines appropriate.

BILL NO. BL2020-297 (ROBERTS & HENDERSON) – This ordinance abandons existing public water main easement and accepts a new fire hydrant assembly for property located at 5320 Centennial Boulevard.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-301 (ROSENBERG, HURT, & OTHERS) – This ordinance amends Section 10.18.010 of the Metropolitan Code to prohibit smoking on playgrounds. Metro has the authority pursuant to T.C.A. § 39-17-1551 to regulate the use of tobacco products in buildings owned or leased by Metro and on hospital grounds. MCL Section 10.18.020 currently exercises that authority by prohibiting smoking inside all Metropolitan Government buildings and outdoor amphitheaters. Smoking is also currently prohibited in all non-enclosed areas of public spaces where smoke can infiltrate into a Metropolitan Government building.

The bill under consideration would add a new smoking restriction for playgrounds as a result of the recent enactment of 2020 Tennessee Laws Pub. Ch. 529 (S.B. 9), which allows local governments to prohibit smoking on the grounds of government-owned playgrounds by adopting an ordinance approved by a two-thirds vote of the local legislative body.

This ordinance will require 27 votes on third reading in order to comply with the state enabling legislation.

BILL NO. BL2020-302 (MURPHY) – This ordinance amends Section 13.08.015 of the Metropolitan Code pertaining to the report from the Planning Commission and the Emergency Communications District Board for proposed changes to street names. Section 13.08.015 currently requires the planning commission and emergency communications district (ECD) board to provide the council with a recommendation approving or disapproving the proposed street name change at least one week prior to the third reading of the ordinance changing the name.

This ordinance would prohibit any action by the Council on second reading until the planning commission and ECD have provided a recommendation or 60 days has passed from the date the ordinance was forwarded by the metropolitan clerk to the planning commission and the ECD board.

A similar change was approved by Ordinance No. BL2019-110 in January 2020 to require the written report from the historical commission regarding the historical significance of the street name to be provided to the Council prior to consideration on second reading instead of third reading.

BILL NO. BL2020-303 (PULLEY) – This ordinance approves the enrollment of the Metropolitan Nashville Police Department in the CARFAX Investigative Tools Program and CARFAX Crash Report Distribution Platform.

MNPD would agree to provide to CARFAX all public record motor vehicle accident reports that are created or collected by MNPD that it is permitted to provide. MNPD would authorize CARFAX to include any and all non-personal information in the accident data in the Vehicle History Service database. MNPD would authorize CARFAX to include any and all information, including personal information, in the Crash Report Center database.

In exchange for the provision of accident data provided by MNPD, CARFAX would grant MNPD a subscription to the CARFAX databases. The Vehicle History Database provides access to CARFAX vehicle history reports, QuickVIN, VINAlert, Partial License Plate Search and other investigative services. The Crash Report Center Database allows access to motor vehicle accident reports provided to CARFAX by other law enforcement agencies and any information contained in those reports. The agreement notes that, pursuant to the Federal Driver's Privacy Protection Act, personal information contained in the reports can only be used by MNPD to "(i) to carry out its functions; (ii) in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories, or performance monitoring of motor vehicles; (iii) in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State or local court; (iv) to provide notice to the owners of towed or impounded vehicles; or (v) for any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety."

The term of this agreement begins from the date on which MNPD first provides accident data to CARFAX in a form and format that allows it to upload the data into the CARFAX databases and would continue for one year. The agreement would automatically renew for up to five additional one-year terms until either party provides the other party 90 days written notice prior to any renewal date. MNPD could terminate its subscription to any of the CARFAX services and/or databases upon 30 days written notice to CARFAX.

Fiscal Note: There is no cost to Metro to participate in the CARFAX program.

BILL NO. BL2020-305 (MENDES, MURPHY, & HENDERSON) – This ordinance accepts the donation of certain properties located on West Hamilton Avenue from Piedmont Natural Gas and approves the conveyance of easements across certain other properties to Piedmont.

Piedmont owns four parcels of property located on West Hamilton Avenue. Metro owns twenty-four parcels located on West Hamilton Avenue. All parcels are flood-prone and the Metro properties were obtained and cleared of structures in order to mitigate area flood risks. Piedmont

seeks to install underground gas lines and other equipment across both the Piedmont and Metro parcels and has requested fifty-foot utility easements across the Metro properties. In exchange for these easements, Piedmont proposes to donate the four Piedmont properties to Metro, while retaining fifty-foot utility easements across these four properties. The Metro properties and Piedmont properties are of approximate equal value.

An appraisal report is attached to the ordinance and values the right-of-way easements along the Metro-owned parcels along West Hamilton Avenue at approximately \$102,190. A second appraisal report attached to the ordinance values the four Piedmont properties at approximately \$103,800.

Fiscal Note: The appraised value of the donated easement is \$102,190 on West Hamilton Avenue. The appraised value of the conveyed easements for the four Piedmont properties is \$103,800.

BILL NO. BL2020-306 (ROSENBERG) – This ordinance readopts the Metro Code prepared by Municipal Code Corporation to include all ordinances enacted on or before December 20, 2019.

BILL NO. BL2020-307 (MURPHY & HENDERSON) – This ordinance abandons existing sanitary sewer main, a sanitary sewer manhole and easements and accepts new sanitary sewer main, sanitary sewer manholes and easements for properties located at 3717 West End Avenue and 101 Leonard Avenue.

This has been approved by the planning commission. Future amendments to this ordinance may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Abandoned and donated easements have no market value according to the Department of Water Services.

BILL NO. BL2020-308 (CASH, MURPHY, & HENDERSON) – This ordinance authorizes Vanderbilt University to install, construct, and maintain underground encroachments in the right-of-way at 2525 West End Avenue. The encroachments consist of an enhanced crosswalk with inground lighting.

Vanderbilt University 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 with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This proposal has been approved by the planning commission.

BILL NO. BL2020-309 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance authorizes SMH Holdings, LLC to install, construct, and maintain underground encroachments in the right-of-way at 1708 Pearl Street. The encroachments consist of an inground irrigation system.

Vanderbilt University 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 \$10 million certificate of public liability insurance with the Metropolitan Clerk naming the Metropolitan Government as an insured party.

This proposal has been approved by the planning commission.

GRANTS LEGISLATION – JULY 7, 2020

Legislative Number	Parties	Amount	Local Cash Match	Term	Purpose
RS2020-401	From: Flow, Inc., d/b/a Coord To: The Metropolitan Government	\$0	\$0	April 1, 2020 through December 1, 2020	This approves an in-kind grant to allow Metro to use Coord's technology tools and technical support at no charge in order to enable Metro to conduct a smart loading zone pilot program.
RS2020-402	From: The Metropolitan Government To: The Equity Alliance	Not to exceed \$500,000	N/A	July 8, 2020 through December 30, 2020	This approve a grant contract for the Equity Alliance to provide a community needs assessment related to federal coronavirus relief funding. RS2020-394 approved the appropriation of CARES funding for this purpose.
RS2020-403	From: Tennessee Administrative Office of the Courts To: Metropolitan Government	Not to exceed \$89,296	\$0	July 1, 2020 through June 30, 2021	The grant proceeds will be used for the provision of interpretation/translation services for court hearings which involve parties with limited English proficiency (LEP) in the Davidson County trial courts.
RS2020-404	From: U.S. Department of Justice To: General Sessions Court	\$342,502	\$116,168	N/A	This approves an application for an Adult Drug Court and Veterans Treatment Court Discretionary Program grant. If the grant is awarded, the proceeds will be used to provide access to or enhance treatment capacity or other critical support services.

RS2020-405	From: Tennessee Administrative Office of the Courts To: Davidson County Juvenile Court	Not to exceed \$65,250	\$7,500	July 1, 2020 through June 30, 2021	The grant proceeds will be used for the provision of interpreter/translation services for parties with limited English proficiency.
RS2020-407	From: Tennessee Department of Human Services To: Metropolitan Action Commission	Not to exceed \$1,807,794.01	\$0	July 9, 2020 through January 9, 2023	The grant proceeds will be used to address community needs resulting from the COVID-19 pandemic.
RS2020-409	From: Tennessee State Library and Archives To: Nashville Public Library	Not to exceed \$51,900	\$0	July 1, 2020 through May 31, 2021	The grant proceeds will be used to target library materials to persons having difficulty using a library and to provide special services to children and young people.
RS2020-410	From: Tennessee State Library and Archives To: Nashville Public Library	\$35,000	\$0	N/A	This approves an application for a CARES Grant. If the grant is awarded, the proceeds will be used to provide WiFi network access at library locations and improve electronic library materials and services.

<p>RS2020-413</p>	<p>From: Tennessee Emergency Management Agency</p> <p>To: Metropolitan Government</p>	<p>\$50,000</p>	<p>\$12,500</p>	<p>N/A</p>	<p>This approves an application for a Hazardous Materials Emergency Preparedness Grant.</p> <p>If the grant is awarded, the proceeds will be used to increase effectiveness in safely and efficiently handling hazardous materials accidents and incidents.</p>
<p>RS2020-415</p>	<p>From: Tennessee Office of Criminal Justice Programs</p> <p>To: Metropolitan Nashville Police Department</p>	<p>\$250,000</p>	<p>\$85,181</p>	<p>N/A</p>	<p>This approves an application for a Coverdell Forensic Science Improvement Grant.</p> <p>If the grant is awarded, the proceeds will be used to provide more comprehensive data which will include a larger testing panel and increased sensitivity to detect lower level compounds, especially opioids.</p>
<p>RS2020-417</p>	<p>From: Greater Nashville Regional Council</p> <p>To: Metropolitan Social Services Commission</p>	<p>Increase by \$1,068,035</p>	<p>\$109,218</p>	<p>Extend to June 30, 2022</p>	<p>This approves amendment five to a grant approved by RS2018-1369.</p> <p>This amendment increases the grant amount from \$1,927,353 to \$2,995,388, requires a cash match of \$109,218, extends the grant term to June 30, 2022, and updates certain provisions to reflect these changes. The grant proceeds are used to provide meals that meet RDA nutritional guidelines and transportation services to eligible seniors and handicapped residents.</p>

<p>RS2020-419</p>	<p>From: National Association of County and City Health Officials</p> <p>To: Metropolitan Board of Health</p>	<p>N/A</p>	<p>N/A</p>	<p>Extend to July 31, 2020</p>	<p>This approves amendment one to a grant approved by RS2019-1796.</p> <p>The amendment extends the end date from April 30, 2020 to July 31, 2020 and changes the submission date for Invoice II to July 31, 2020. The grant proceeds are used to participate in the Sexually Transmitted Infections Express Data Collaborative to further establish the evidence base for express services and support quality improvement of established express models.</p>
<p>RS2020-420</p>	<p>From: U.S. Department of Health and Human Services</p> <p>To: Metropolitan Board of Health</p>	<p>Decrease by \$14,039.02</p>	<p>N/A</p>	<p>N/A</p>	<p>This approves amendment three to a grant approved by RS2018-1062.</p> <p>The amendment decreases the grant amount from \$4,350,406 to \$4,336,366.98. The grant proceeds are used to enhance access to a comprehensive continuum of high quality, community-based care for low income individuals and families with HIV disease.</p>

<p>RS2020-421</p>	<p>From: Tennessee Department of Health</p> <p>To: Metropolitan Board of Health</p>	<p>Not to exceed \$54,700</p>	<p>\$0</p>	<p>April 1, 2020 through March 31, 2021</p>	<p>The grant proceeds will be used to provide HIV/AIDS core medical services and early intervention services.</p>
<p>RS2020-425</p>	<p>From: Tennessee Department of Health</p> <p>To: Metropolitan Board of Health</p>	<p>N/A</p>	<p>N/A</p>	<p>Extend to December 31, 2020</p>	<p>This approves the first amendment to a grant approved by RS2019-1814.</p> <p>The amendment extends the end date of the grant to December 31, 2020. The grant proceeds are used to purchase and plant trees in conjunction with the Root Nashville project to promote and support healthier living environments.</p>
<p>RS2020-428</p>	<p>From: Tennessee Emergency Management Agency</p> <p>To: Metropolitan Department of Water and Sewerage Services</p>	<p>Not to exceed \$496,506.60</p>	<p>\$55,167.40</p>	<p>January 8, 2020 Through June 23, 2021</p>	<p>This accepts a Flood Mitigation Assistance Grant and authorizes the acquisition and demolition of two houses located at 5432 Buena Vista Pike and 3301 West Hamilton Avenue.</p>



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

JOHN COOPER
MAYOR

DIRECTOR OF FINANCE
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TO: Council Member Benedict

FROM: Kevin Crumbo, Director of Finance *KC*

DATE: December 16, 2019

RE: Contracts with Private Operators of Detention Facilities

I am writing regarding your proposed legislation to discontinue contracting with private operators of detention facilities not later than June 30, 2022. I am returning the legislation unsigned due to a lack of funding availability. As noted in my correspondence to the Metro Council dated December 11, 2019, Metro has significant budget challenges that need to be addressed over the next year, and we simply do not have a complete understanding of the legislation's fiscal impact. Specifically, the total operating and capital budget impacts are not currently quantified.

Also, as reported last week, the Administration plans to initiate the budget process in January of 2020 for the Fiscal Year 2020-2021 budget. We will fully consider the proposal as outlined in your legislation over the coming months to determine these financial impacts, so that a well-informed decision can be made about how to best move forward.

I would like to thank you in advance for working with the Administration over the coming months to conduct this evaluation.

ATTACHMENT

Copy: Vice Mayor Shulman
Metro Council Members
Law Director Bob Cooper
Metro Council Director Jon Cooper

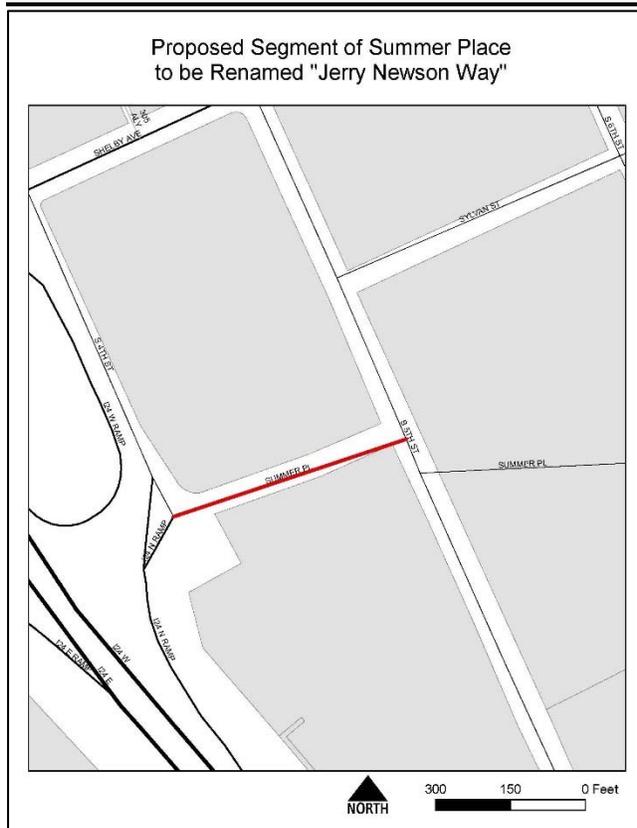
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



Metropolitan Historical Commission
Metropolitan Historic Zoning Commission
Sunnyside in Sevier Park
3000 Granny White Pike
Nashville, Tennessee 37204
Telephone: (615) 862-7970

To: Metropolitan Council
From: Metropolitan Historical Commission, Staff
Date: June 3, 2020
Re: BL2020-304

An ordinance to amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County, by renaming a portion of Summer Place between South 4th Street and South 5th Street to “Jerry Newson Way.” (Proposal Number 2020M-002SR-001).



The subject portion of Summer Place, located between South 4th Street and South 5th Street, is a continuation of the first segment of Summer Place, which was first constructed between South 5th Street and South 6th Street (Fig. 1). The original segment of Summer Place was established as a Private Drive for the James A. Cayce Homes, as shown on the *Street and Utility Easement Plat for James A. Cayce Homes No. 2* recorded in 1957 (Fig. 2).¹ It continues to serve as a private drive.

Figure 1: Proposed Segment of Summer Place to be Renamed “Jerry Newson Way.” Source: Metropolitan Planning Department, exhibit for 2020M-002SR-001.

¹ *Street and Utility Easement Plat for James A. Cayce Homes No. 2*, Recorded February 26, 1957, Plat Book 2663, Page 9.

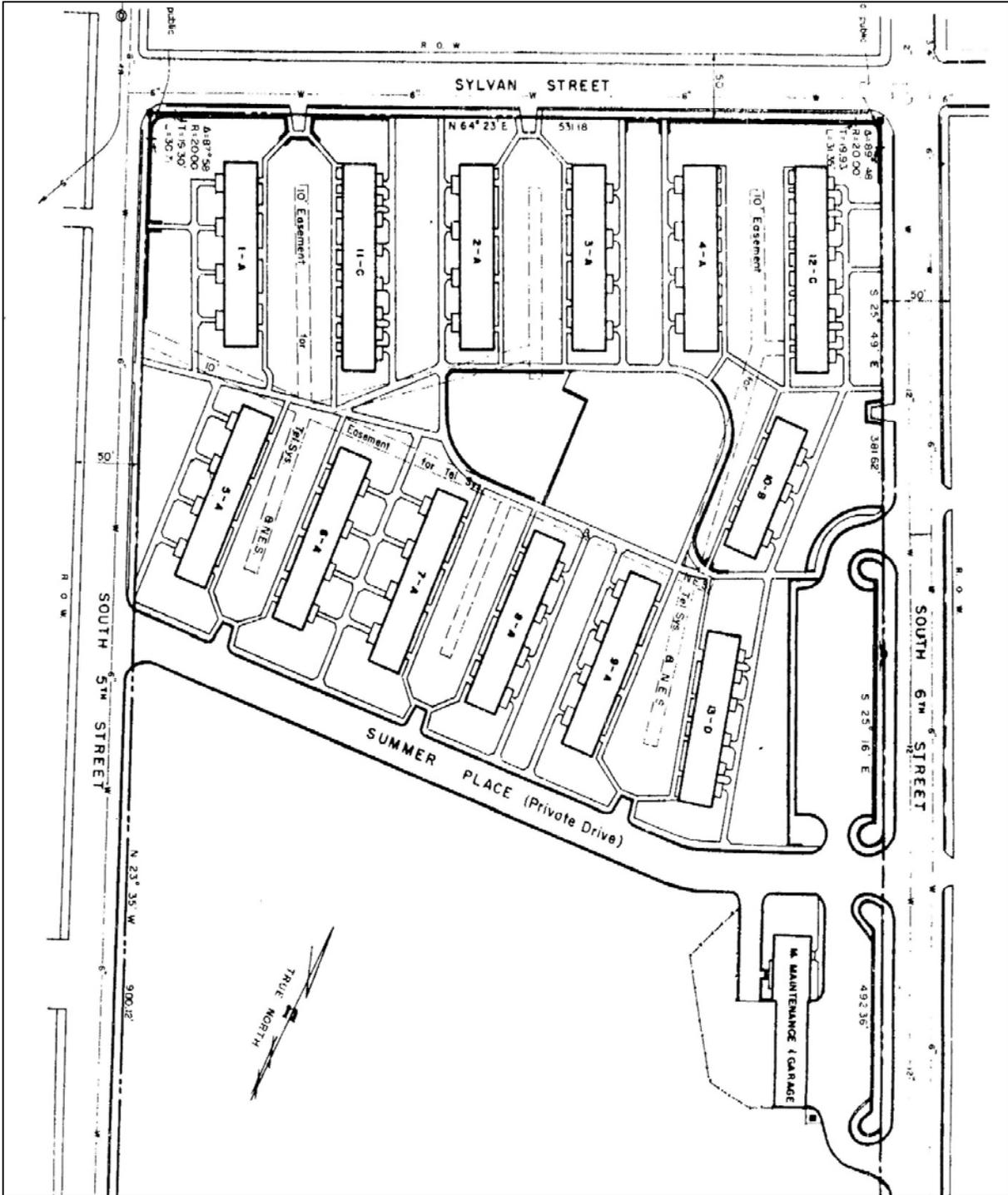


Figure 2: Street and Utility Easement Plat for James A. Cayce Homes No. 2, February 26, 1957.
 Source: Register's Office Davidson County, Online Portal.

The segment of Summer Place proposed for renaming was constructed as part of the "MDHA East Nashville, Contract T, 1962 Urban Renewal Plans." According to "As Built Plans" on file

with Metro Nashville Public Works, the road was known as “Sylvan Street” (Fig. 3). Although a road named Sylvan Street already ran from South 4th Street to South 5th Street, just one block southeast of Shelby Avenue and northwest of the new road, the plans clearly identify the new road as “Sylvan Street.” The plans show the Davidson County Highway Commission Work House south of the new road, confirming that this portion of Sylvan Street is the same road as the subject segment of Summer Place and is not the original Sylvan Street located to the northwest (Fig. 4).²

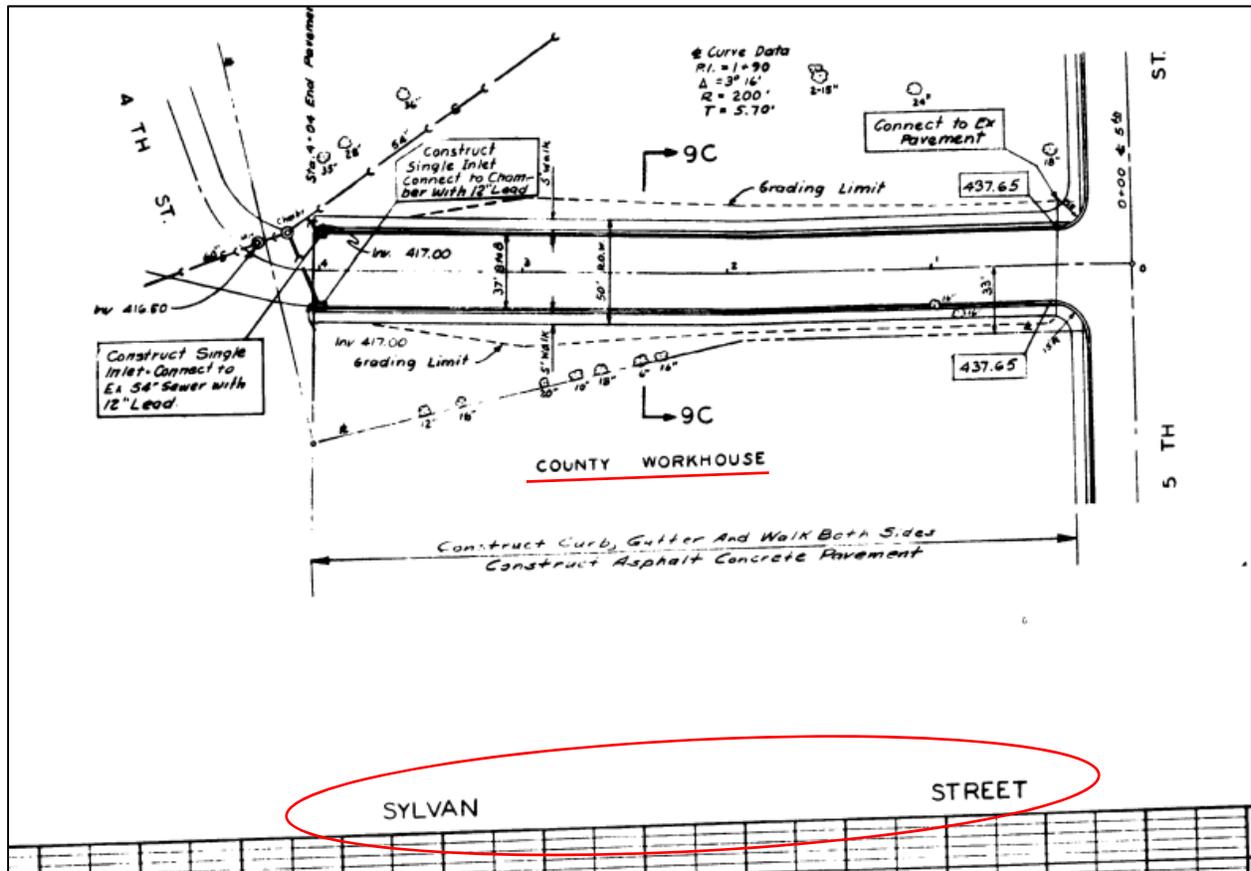


Figure 3: MDHA East Nashville, Contract T, 1962 Urban Renewal Plans, As Built Plans – Sylvan Street. Source: Metro Nashville Public Works.

² The Davidson County Highway Commission built the Work House at this location (750 South 5th Street) in 1929, per Sanborn Fire Insurance Maps, 1951, Volume 3, Sheet 348.

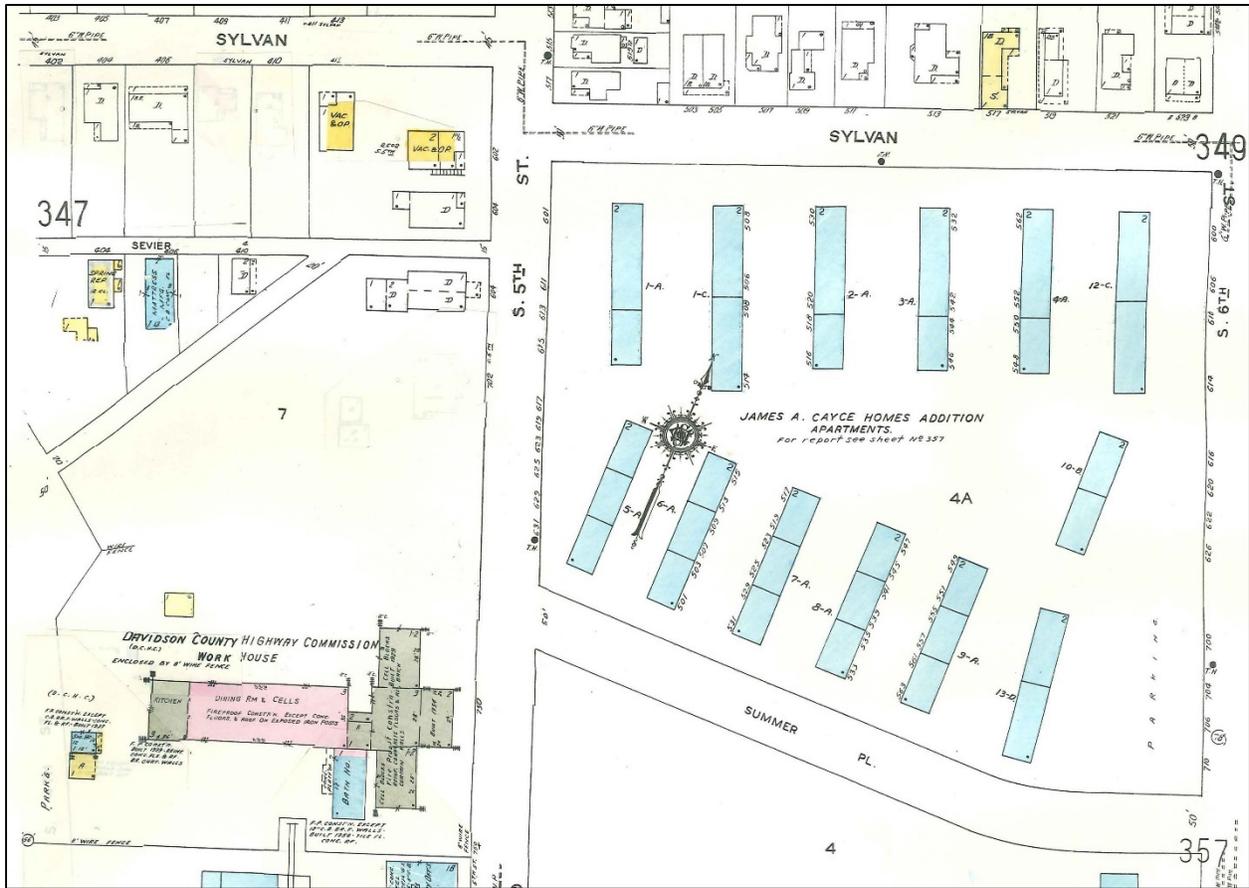


Figure 4: 1957 Sanborn Fire Insurance Map, Volume 3, Sheet 348. Image shows original segment of Summer Place, original route of Sylvan Street, and location of Davidson County Highway Commission Work House. Source: Metropolitan Historical Commission

In 1962, the City of Nashville approved the closure of the original segment of Sylvan Street and several alleys in the area between the Work House and Shelby Avenue as part of the development of the CWA Plaza Apartments.³ A 1963 newspaper article about the development, which was built on plots north and south of Shelby Avenue, indicated that the southern boundary for the apartment complex was a new street “as yet unnamed.”⁴

³ Bill No. O62-279 amended the official street name map of the City of Nashville by closing, vacating, and abandoning portions of numerous roads and alleys, including Sevier Street, South 4th Street, Sylvan Street, Alley #268, Alley #269, and Alley #269 ½, in accordance with the East Nashville Urban Renewal Project. Mayor Ben West approved the ordinance on April 18, 1962. Ordinance No. O62-279, Metropolitan Clerk’s Office.

⁴ “Apartment Project on Two Plots,” *Nashville Banner*, January 15, 1963, Tuesday, page 16. Newspapers.com, accessed May 13, 2020. The Communications Workers of America, Local 3808, sponsored the 166-unit apartment complex.

The section of CWA Plaza Apartments located on the north side of Summer Place was recorded in 1964, but the plat does not show any of the surrounding streets or indicate whether the road was called Sylvan Street or Summer Place at that time (Fig. 5).⁵

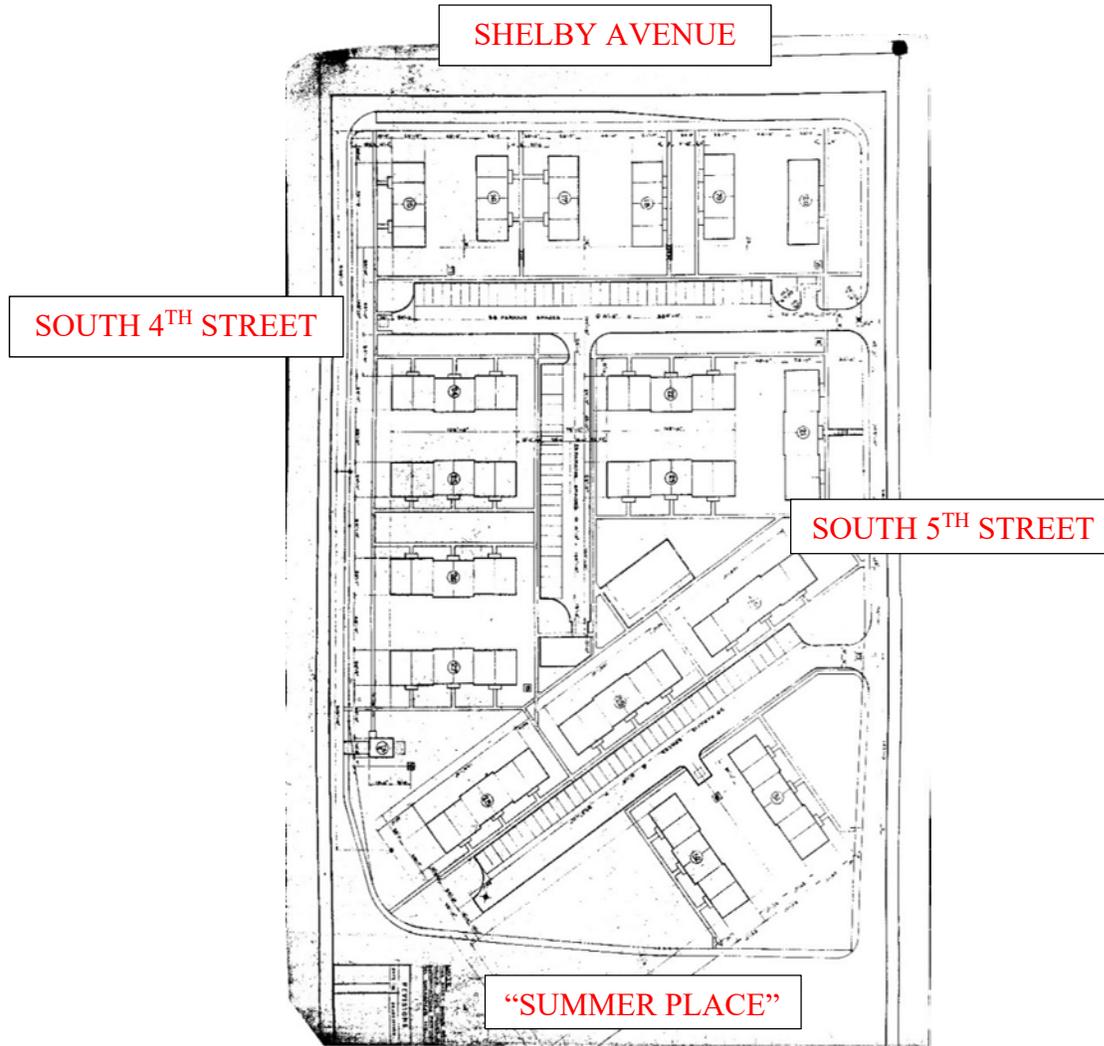


Figure 5: *CWA Apartments*, February 2, 1964.
Source: Register’s Office Davidson County, Online Portal.

Metro Nashville Public Works records do not contain information on when the street was officially named Summer Place, but Ordinance No. O64-175 indicates that the road was eventually to be called “Summer Place,” even if initially recorded as Sylvan Street. The 1964 ordinance amended “the official street name map of the City of Nashville, the predecessor of the Metropolitan Government of Nashville and Davidson County, by closing, vacating, and abandoning a portion of Alley 269 ½ (extension)” ... “from the southerly margin of Alley 269

⁵ *CWA Apartments*, Recorded February 2, 1964, Plat Book 3600, Page 41.

and in a southwardly direction to the northerly margin of proposed Summer Place.”⁶ A map attached to the bill marks the abandoned portion of Alley 269 ½ and shows it intersecting the unlabeled “proposed Summer Place” (Fig. 6).

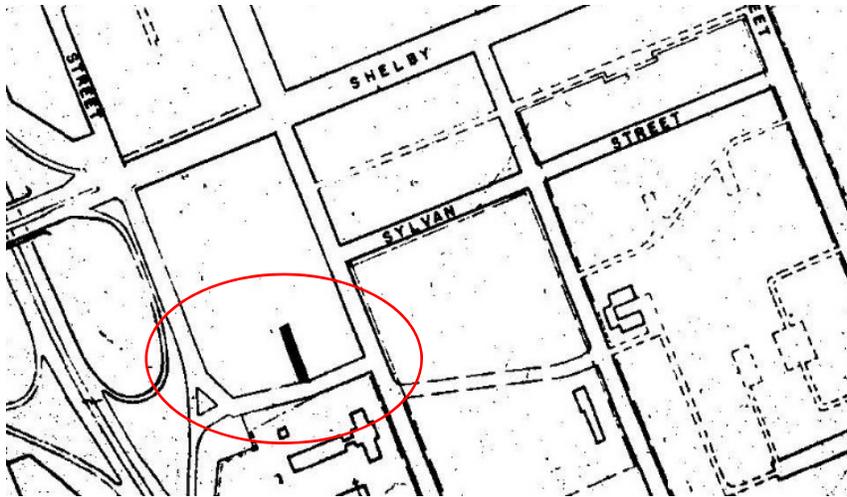


Figure 6: Attachment, Ordinance No. O64-175. Source: Metropolitan Clerk’s Office.

In summary, the portion of Summer Place proposed for renaming was constructed around 1962, but the record is unclear regarding when it was officially named Summer Place.

⁶ Mayor Beverly Briley approved the ordinance on February 6, 1964. Ordinance No, O64-175, Metropolitan Clerk’s Office.



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

Metropolitan Historical Commission
Metropolitan Historic Zoning Commission
Sunnyside in Sevier Park
3000 Granny White Pike
Nashville, Tennessee 37204
Telephone: (615) 862-7970

To: Metropolitan Council
From: Metropolitan Historical Commission, Staff
Date: June 15, 2020
Re: BL2020-326

An ordinance to amend the Geographic Information Systems Street and Alley Centerline Layer for the Metropolitan Government of Nashville and Davidson County, by renaming a portion of Old Elm Hill Pike between McGavock Pike and Ermac Drive to “Sims Branch Way.” (Proposal Number 2020M-001SR-002).

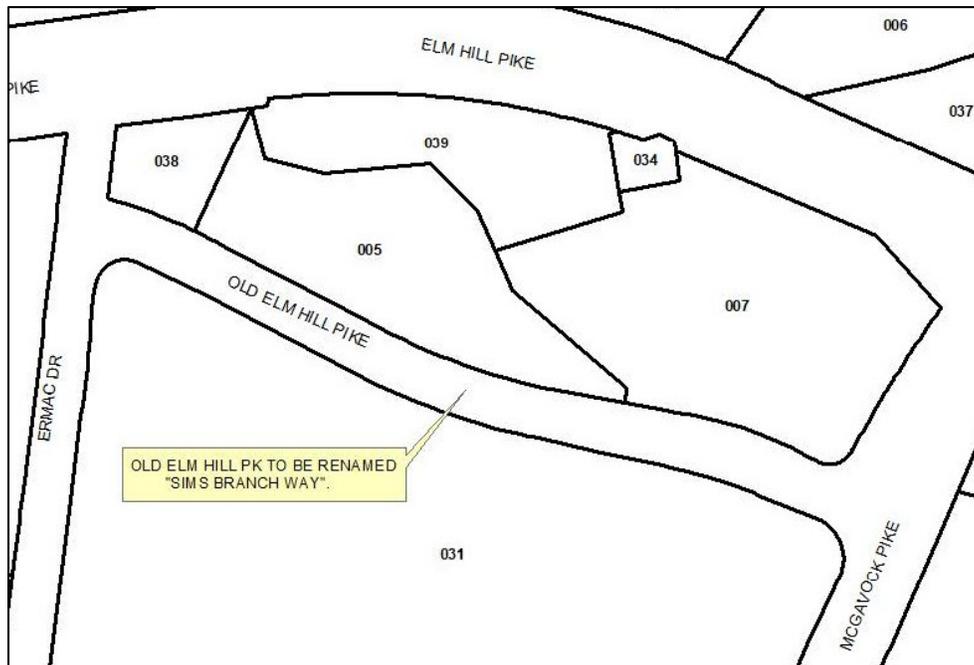


Figure 1: Sketch, Metro Public Works.

Elm Hill Pike is one of the oldest thoroughfares in Davidson County. According to writer Ann Moss Betts, “It has been called ‘the mother of all the roads’ in Middle Tennessee, because it predated Lebanon, Murfreesboro, and the other major highways which now spread out from

Nashville.”¹ Local historian Leona Taylor Aiken claimed, “Elm Hill Road is the oldest road in Middle Tennessee. Pioneers came over it from Virginia and the Carolinas. Perhaps it was the longest road in the United States at that time, for it ran from Philadelphia, Pa., to Nashville and all merchandise was transported over it by wagon.”²

The road was not always called Elm Hill Pike. Passing through the Mud Tavern/Hite community easterly towards the Stones River, it has been called Lebanon Road (before the construction of Lebanon Turnpike) and Stones River Road. More recently, it was known as “Chicken” Road or Pike. Historical Commission staff did not determine when the road was first called “Chicken Pike,” but it is clear that by 1910, residents along the pike were tired of the “homely moniker.”³ In its accounting of the April 1910 quarterly session of the Davidson County Court, the *Nashville Banner* reported, “Squire [W.G.M.] Campbell submitted a petition from numerous citizens along [the pike] requesting that the court restore the name of the pike ‘Elm Hill.’ The petition recites that the name, ‘Chicken Pike,’ is not the right name, but that the general public has followed in the use or [of] the erroneous synonym. The petition was granted, and hereafter the ‘Chicken’ Pike will be known as the ‘Elm Hill Pike’ or ‘Elm Hill’ Road.”⁴ From this point forward, maps and newspapers, which had been varied in their use of the names Elm Hill and Chicken Pike, appear to consistently use the name “Elm Hill.”

In 1919, Davidson County officially included Elm Hill Road among the list of pikes comprising the county’s general road system.⁵ The county prepared the "General Road Map, Davidson County, Tenn.," in accordance with Senate Bill No. 494 of the Private Acts of the State of Tennessee passed by the Sixtieth General Assembly in 1917. The act aimed "to provide for a system of good public roads in counties having a population of not less than 149,000, not more than 190,000 inhabitants by the Federal Census of 1910." It also included requirements for counties "to create a Board of Highway Commissioners, to have charge of the building and repairing of all the highways of said counties," and to designate, classify, and map public county

¹ Ann Moss Betts, “Elm Hill Pike: The Mother of All Roads,” *The News Herald*, August 15, 1991.

² Leona Taylor Aiken, “Donelson Has History of Famous Names,” *The News Diary*, February 20, 1980. Aiken’s quotes closely resemble those provided in “Elm Hill Community Wants Better Roads,” *Nashville Tennessean*, February 27, 1921.

³ “Homely moniker” from Betts. For the scope of this project, Historical Commission staff did not research the complete history of the road, such as when it was first established. Although unlabeled, the road appears on Wilbur F. Foster's 1871 Map of Davidson County. Wilbur F. Foster and G.W. & C.B. Colton & Co. *Map of Davidson County Tennessee, from actual surveys made by order of the county court of Davidson County*. New York: G.W. & C.B. Colton & Co., 1871. Map. <https://www.loc.gov/item/2006626025/>. Accessed April 24, 2020.

⁴ “Occupies New Courtroom, April Term of Davidson County Court Transacts Lot of Business,” *Nashville Banner*, April 4, 1910. “Solons Meet in Courthouse,” *The Nashville American*, April 5, 1910.

⁵ Davidson County Highway Commission, *1936 Code*, 8. The 1936 Code Book provides additional details that were not included in the earlier 1931 Code Book, including this reference to the 1919 Map. The 1936 Code also corrects the length to 8.1 miles.

highways and roads.⁶ By 1931, the road's official history as Chicken Pike began to disappear. The 1931 Code book of the Davidson County Highway Commission reported that Elm Hill Pike, running 8.2 miles from Murfreesboro Road to Fuqua Road, was previously known as Elm Hill Road, with no reference to its term as Chicken Pike.⁷

The subject road segment, Old Elm Hill Pike, was created when the route of Elm Hill Pike was adjusted to accommodate the construction of nearby entrance/exit ramps for Briley Parkway. According to Metro Public Works staff, the State of Tennessee realigned and widened Elm Hill Pike as part of the Briley Parkway construction.⁸ Comparison of 1957 and 1968 topographic maps provides the best visual for understanding these changes (Figures 2 and 3).⁹ By 1968, as shown in Figure 3, Old Elm Hill Pike runs westerly from McGavock Pike, crosses Ermac Drive, and terminates near the Briley Parkway exit ramp.¹⁰ The new route of Elm Hill Pike is located about 150 feet north of the intersection of Old Elm Hill and Ermac Drive.

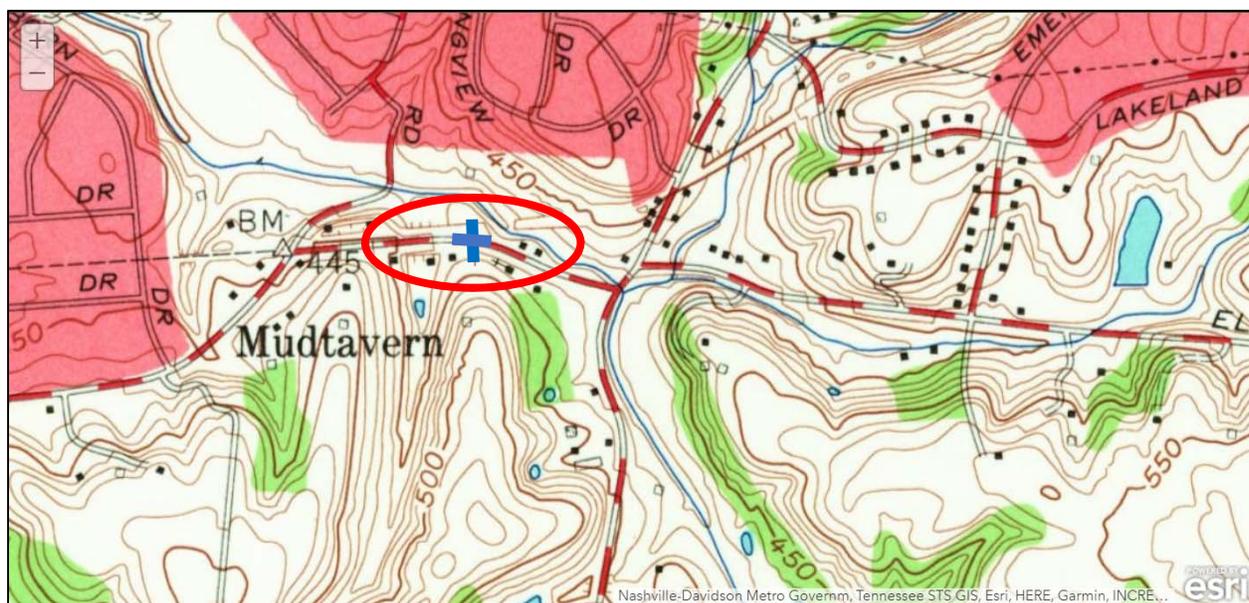


Figure 2: 1957 USGS Topographic Map. Intersection of present-day Old Elm Hill Pike and Ermac Drive marked with "+".

⁶ County Committee (Finley M. Dorris, Samuel G. Douglas, James R. Allen, and John Langham) and Engineers (Freeland, Roberts & Co.), *General Road Map, Davidson County, Tenn.* 1919. Metropolitan Government Archives. Tennessee, *Senate Bill No. 484, Private Acts (1917)*, 441: 1375-1390.

⁷ Davidson County Highway Commission, *1931 Code*, 10.

⁸ Email correspondence, April 24, 2020.

⁹ USGS topographic maps, Nashville East quadrangles: 1957, 1968.

<http://historicalmaps.arcgis.com/usgs/>. Accessed April 27, 2020.

¹⁰ Ermac Drive platted by *The Highlands*, recorded May 1, 1959, Plat Book 2663, Page 127, RODC.



Figure 3: 1968 USGS Topographic Map. Intersection of present-day Old Elm Hill Pike and Ermac Drive marked with "+".
"New" Elm Hill Pike route visible just north of the intersection.