



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: August 4, 2020

RE: Analysis and Fiscal Notes

Unaudited Fund Balances as of 7/29/20:

| | |
|---------------------------------------|---------------|
| 4% Reserve Fund | \$51,581,941* |
| Metro Self Insured Liability Claims | \$1,391,168 |
| Judgments & Losses | \$2,302,987 |
| Schools Self Insured Liability Claims | \$3,324,336 |
| Self-Insured Property Loss Aggregate | \$1,945,931 |
| Employee Blanket Bond Claims | \$717,412 |
| Police Professional Liability Claims | \$2,063,250 |
| Death Benefit | \$1,664,351 |

*This assumes unrealized estimated revenues in FY21 of \$36,213,745

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

– PUBLIC HEARING ORDINANCES –

BILL NO. BL2020-334 (O'CONNELL) – This ordinance amends the Bonus Height Program in the Downtown Code (DTC).

The DTC allows for “bonus height” to be transferred one time to one receiving site, provided the transferred height does not exceed the Bonus Height Maximum of the receiving site. This ordinance adds a definition for “receiving site” as “a single parcel or group of adjacent parcels with common ownership, or up to two adjacent parcels without common ownership.”

This has been approved by the Planning Commission.

– RESOLUTIONS –

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. RS2020-450 (DRUFFEL, MENDES, & OTHERS) – This resolution approves an intergovernmental agreement between the Tennessee Department of Transportation and the Metropolitan Department of Public Works for the reimbursement of railroad crossing safety improvements at Post Road. This work would involve new signal poles, mast arms, signal heads, traffic signs, and railroad crossing signage.

The total cost of the project is estimated to be \$62,786.06. Metro will be responsible for 10% of the cost, or \$6,278.61, and TDOT will be responsible for 90%, or \$56,507.45.

Fiscal Note: TDOT would pay 90% of the project costs (\$56,507.45) and Metro would pay 10% (\$6,278.61).

RESOLUTION NO. RS2020-459 (MENDES) – This resolution appropriates a total of \$1,244,000 from the General Fund of the General Services District to various nonprofit organizations selected to receive grant funds for COVID-19 pandemic response related purposes.

The Council appropriated \$1,800,000 of this federal CARES Act funding for distribution to nonprofit organizations providing services related to the COVID-19 pandemic as part of Resolution No. RS2020-394. The Department of Finance has identified nonprofit groups to provide the services. The Mayor has accepted the recommendation of the Department of Finance to distribute funds to nine specific nonprofit organizations. Resolution No. RS2020-318, as amended, requires approval by resolution of a plan for disbursement of the Coronavirus Relief Fund grant funds.

A total of \$1,244,000 from the COVID-19 Pandemic Fund would be distributed to nine nonprofit organizations as follows:

- \$275,000 to YWCA for shelter and domestic violence support services for those impacted by the COVID-19 pandemic;
- \$250,000 to In Full Motion, Inc. for mentoring, tutoring, ACT preparation and afterschool and summer programs for at-risk youth impacted by the COVID-19 pandemic;
- \$200,000 to Second Harvest Food Bank of Middle TN to provide for food distribution for the benefit of those impacted by the COVID-19 pandemic;
- \$169,000 to Legal Aid Society of Middle TN & the Cumberlandands for legal services and court advocacy for those impacted by the COVID-19 pandemic;
- \$125,000 to FiftyForward to provide meals, financial, and community support for older adults impacted by the COVID-19 Pandemic in Davidson County;
- \$100,000 to Sexual Assault Center to provide professional care services to sexual assault victim-survivors impacted by the COVID-19 pandemic;
- \$50,000 to Tennessee Immigrant & Refugee Rights Coalition (TIRRC) to ensure immigrant communities in Nashville have access to resources needed due to the COVID-19 pandemic;
- \$50,000 to Tennessee Justice for Our Neighbors to enhance public safety and trust between immigrant communities and local government to ensure access to resources needed due to the COVID-19 pandemic;
- \$25,000 to Safety Net Consortium of Middle Tennessee to better facilitate healthcare coordination for low income Nashvillians impacted by the COVID-19 pandemic.

RESOLUTION NO. RS2020-460 (MENDES, TOOMBS, & SUARA) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-461 (MENDES, STYLES, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-462 (MENDES) – This resolution authorizes the Department of Law to compromise and settle the claim brought by Sherry Haines against the Metropolitan Government for a total of \$185,000.

On May 5, 2018, a call for emergency assistance was made to a residence in Hermitage. The family of Scott Haines advised that Mr. Haines, a Caucasian male, had possibly overdosed on drugs and an ambulance was needed. MNPd and EMS responded to the scene and encountered Mr. Haines, who they attempted to convince to voluntarily be transported to a hospital. He refused. EMS personnel asked questions to determine whether Mr. Haines was competent to refuse hospital transport and it was determined that he was competent. EMS continued to attempt to convince Mr. Haines to be transported to the hospital, and he continued to refuse transport. Since the EMS personnel made no indication that Mr. Haines needed to be forcibly be transported to the hospital, MNPd officers made the decision to take Mr. Haines into custody, as drug paraphernalia had been found at the scene. Mr. Haines was uncooperative while the MNPd officers tried to handcuff him, ultimately requiring the assistance of Mr. Haines's brother.

Mr. Haines was transported to the Hill Detention Center for booking. An MNPd officer testified that he asked Mr. Haines multiple times if he was okay or if he needed to go to the hospital. The officer testified that Mr. Haines told the officer he did not want to go to the hospital and he was fine.

Upon arrival at the detention center, Mr. Haines refused to walk and claimed he was having a seizure. The officer believed Mr. Haines was faking a seizure as he was still speaking coherently and appeared to have voluntary movements. A nurse on the scene attempted to take Mr. Haines's vitals, but he resisted. The nurse did not believe that Mr. Haines was exhibiting symptoms of a seizure and he was cleared to be brought into a booking station.

As custody was transferred to the Davidson County Sherriff's Office, Mr. Haines continued to be uncooperative and he resisted efforts to exchange his handcuffs. A DCSO correctional officer deployed chemical spray on Mr. Haines twice. Officers were then able to handcuff him, but noticed that he was unresponsive. Attempts were made to revive him, but he was pronounced dead.

A lawsuit was brought by Mr. Haines's mother against Metro and certain individual Metro employees involved alleging negligence and violations of his constitutional rights, as well as a medical malpractice action against the DCSO healthcare contractor and the nurse. While the Department of Law is fairly confident that it could win on summary judgment as to the claims against Metro, the claims against the individual employees would likely go to trial. Metro retained a medical expert who will testify that Mr. Haines had so much methamphetamines in his system that, at the point he arrived at the jail, he was going to die regardless of any actions taken there. The plaintiff has retained an expert who would attempt to refute that opinion at least insofar as to what the outcome would have been had Mr. Haines been taken directly to the hospital from his

residence. Thus, that would be an issue at trial. Ms. Haines would likely be a sympathetic plaintiff at a jury trial, which could result in a substantial monetary judgment against the individuals.

It is estimated that Metro would spend approximately \$100,000 to try this case, in addition to the over \$100,000 that has already been spent. A judgment against Metro or the defendants would likely be in excess of \$350,000 if the plaintiff was to prevail at trial since the plaintiff would be entitled to recover attorney fees under federal law. The department of law recommends settling this case for \$185,000 to be paid out of the judgments and losses fund.

No disciplinary action was taken against the Metro employees involved since it was determined no policy violations had occurred.

Fiscal Note: This \$185,000 settlement would be the 1st payment from the Judgment and Losses Fund in FY21 for a cumulative total of \$185,000. The fund balance would be \$2,302,987 after this payment.

RESOLUTION NO. RS2020-463 (MENDES) – This resolution authorizes the Department of Law to compromise and settle the personal injury claim of Ismail Heger against the Metropolitan Government for the amount of \$13,500 to be paid out of the self-insured liability fund.

Mr. Heger was driving northbound on Edmondson Pike when he saw a police car with lights and siren activated in his rearview mirror. He attempted to move to the right lane but could not due to traffic. He instead slowed down for the police car to go around him. The MNPD officer saw Mr. Heger brake, but his vehicle's brakes locked and the police vehicle slid into Mr. Heger's vehicle. The claim for the damage to Mr. Heger's vehicle was previously settled for \$5,766.86.

Mr. Heger sought treatment for pain in his neck, left arm, and head. He was diagnosed with muscle strain. He was later referred to physical therapy for continued neck pain, which he underwent for two months with no improvement.

The Department of Law recommends settlement of this case for \$13,500, which includes \$6,593.25 for his medical expenses and \$6,906.75 for pain and suffering.

Fiscal Note: This \$13,500 settlement would be the 7th payment from the Self-Insured Liability Fund in FY21 for a cumulative total of \$592,500. The fund balance would be \$1,391,168 after this payment.

RESOLUTION NO. RS2020-464 (O'CONNELL, MENDES, & SLEDGE) – This resolution replaces Amendment Two to the existing lease agreement between the Metropolitan Government and the

State of Tennessee for the Farmers' Market facility to include the fully executed amendment and property survey.

Metro and the State entered into a lease agreement for the Farmers' Market facility pursuant to Resolution No. 95-1660, which allowed amendments to the lease to be approved by a resolution receiving at least twenty-one votes. Amendment One to the lease was approved pursuant to Resolution No. RS2009-606 to allow alcohol to be sold on the premises. Amendment Two was approved by Resolution No. RS2016-102 to remove the northern tract of the leased premises in exchange for \$4 million. Amendment Two has now been fully executed with a property survey, and the replacement of Amendment Two is proper.

RESOLUTION NO. RS2020-465 (MENDES, HAGAR, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-466 (MURPHY, MENDES, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-467 (HENDERSON, MENDES, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-468 (HENDERSON, MENDES, & OTHERS) – See attached grant summary spreadsheet.

RESOLUTION NO. RS2020-469 (SLEDGE, MURPHY, & HENDERSON) – This resolution amends Ordinance No. BL2020-163 to authorize the Metropolitan Government to abandon additional easement rights for a property located at 1131 4th Avenue South.

Ordinance No. BL2020-163 authorized the abandonment of approximately 584 linear feet of existing 48 inch sanitary sewer main and easements, and the acceptance of approximately 939 linear feet of new 48 inch sanitary sewer main (RCP), nine sanitary sewer manholes and easements. The abandonment of an additional seven areas of easement rights are needed to construct this project.

This has been approved by the Planning Commission.

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

RESOLUTION NO. RS2020-470 (O'CONNELL, MURPHY, & HENDERSON) – This resolution authorizes OliverMcMillan Spectrum Emery, LLC to construct, install, and maintain an aerial encroachment located at 500 Broadway. The encroachment comprises one double-faced, illuminated blade sign measuring 4 feet by 15 feet and an awning.

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 \$4 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.

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 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. RS2020-471 (WELSCH, JOHNSTON, & OTHERS) – This resolution approves Amendment One to an intergovernmental agreement between the Tennessee Department of Transportation and the Metropolitan Department of Public Works for intersection improvements on Nolensville Pike from McNally Drive to Natchez Court originally approved by Resolution No. RS2019-135. TDOT did not sign the original amendment one, approved by RS2020-189 and instead issued a new amendment one, which deletes the grant budget and replaces it with a new grant budget.

The amendment simply changes the agreement number in the attachment to correct a typographical error.

– ORDINANCES ON SECOND READING –

BILL NO. BL2020-300 (BENEDICT, BRADFORD, & OTHERS) – This ordinance amends Chapter 9.30 of the Metro Code to restrict construction noise in residential areas.

Currently, Section 9.30.010 of the Metro Code prohibits noise related to construction located within or adjoining a residential zone district between the hours of 9:00pm and 6:00am. Such noise cannot measure in excess of 70 decibels. This ordinance would limit construction noise between 7:00pm and 7:00am.

BILL NO. BL2020-335 (PULLEY & STYLES) This ordinance, as amended, amends Chapter 2.08 of the Metro Code to make a violation of a mayoral executive order during a civil emergency a Class C misdemeanor. T.C.A. § 38-9-104 and Sections 2.08.070 and 2.08.080 of the Metro Code authorize the mayor, after proclamation of a civil emergency, to issue orders as deemed necessary in the interest of the public safety and welfare. T.C.A. § 38-9-105 provides that municipalities may provide by ordinance that any person violating the provisions of orders issued by the mayor during a proclaimed civil emergency commits a Class C misdemeanor.

While preparing for the issuance of a recent civil emergency curfew order, the Department of Law realized that the Metro Council never specifically designated such a violation as a Class C misdemeanor. Thus, the Governor issued an executive order for a curfew during the same time period, the violation of which is a misdemeanor. The Council Office is of the understanding that no one was arrested and issued a misdemeanor citation for violation of the curfew alone.

This ordinance simply provides that any person violating the provisions of civil emergency-related orders issued by the mayor during a civil emergency commits a Class C misdemeanor.

BILL NO. BL2020-336 (DRUFFEL & SUARA) – This ordinance requires the Director of Finance to recommend to the Metro Council revisions to the Metropolitan Government’s Debt Management policy to create debt limits for each major category of debt for the General Fund of the General Services District, the Urban Services District, and the Schools General Fund. The Director of Finance would be required to make these recommendations no later than January 1, 2021.

BILL NO. BL2020-378 (STYLES) – This ordinance amends Chapter 2.44 of the Metropolitan Code to require police officers to receive additional annual training. The ordinance provides that every MNPd officer would be required to receive at least eight hours of Diversity and Inclusion training annual, at least four hours of use of force training each year, and at least four hours of mental health training each year. According to the Metro Police Department, police officers are required to receive a minimum of 40 hours of annual in-service training. The 2019 in-service

training for police officers specifically included one hour devoted to diversity and inclusion, one hour devoted to mental illness, and one hour devoted to use of force updates.

Under this ordinance, the use of force training would be required to include training regarding the use of “intermediate weapons” which are used to overcome resistance or stop threatening actions without causing death or serious physical injury such as batons, expandable batons, pepper spray, Tasers, and more.

The Council Office would note that it is questionable whether the Council has the authority to legislate police training 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.

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.”

The question is whether the “in conformity with applicable ordinances” provision noted above allows the Council to require certain training and operation policies for MNPD. The Council Office is unaware of any court decision interpreting this Charter provision.

An amendment is anticipated from the sponsor.

BILL NO. BL2020-379 (STYLES) – This ordinance amends Chapter 5.16 of the Metropolitan Code to require applicants to provide certain information when applying for a business tax license. T.C.A. § 67-4-705 allows municipal governing bodies by ordinance to levy a privilege tax for certain business activities. Metro has authorized the imposition of the business tax through the enactment of Article III of Chapter 5.16 of the Metropolitan Code. T.C.A. § 67-4-705 provides that “upon receipt of the prescribed application and payment of fifteen dollars (\$15.00), together with any other information reasonably required,” the county clerk is to issue a license to the taxpayer. This ordinance would require applicants for a business tax license to include a valid telephone number, email address, and physical mailing address where the applicant can be reached. A post office box could not be used for the physical mailing address.

BILL NO. BL2020-380 (O'CONNELL) – This ordinance amends Chapter 12.48 of the Metropolitan Code to allow the Traffic and Parking Commission to make rules establishing a curb loading zone management program, governing the use of certain designated curb loading zones, and allowing the Commission to set the amounts of related fees.

This is a companion ordinance to Resolution No. RS2020-401, which approved an in-kind grant from Flow, Inc., d/b/a Coord, to Metro Public Works 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.

BILL NO. BL2020-381 (MENDES, HENDERSON, & TOOMBS) – This ordinance authorizes the Metropolitan Department of Water and Sewerage Services to enter into an agreement with Great Tennessee Land Company ("Darsey") for the operation and maintenance of a public pressure sewer extension and acceptance of associated easements for the development of the Darsey Subdivision in Williamson County.

Metro will inspect the construction, accept associated easements to access the pump station and, upon acceptance of the pump station, will be responsible for ongoing operation and maintenance. Darsey agrees to fund the additional operation and maintenance costs for the proposed pump station and force main in the amount of \$148,666 and provide Metro with the associated easements. Metro will not contribute funds toward the project. Future amendments to the legislation may be approved by resolution.

Fiscal Note: This ordinance has no cost to Metro. Donated easements have no market value according to the Department of Water and Sewerage Services, but Metro will be responsible for the ongoing operation and maintenance of the pump station. The developer will pay \$148,866 for the perpetual maintenance of the pump station.

BILL NO. BL2020-382 (O'CONNELL, MENDES, & OTHERS) – This ordinance authorizes the Metropolitan Department of Water and Sewerage Services to enter into an agreement with Nashville Propco, LLC, to provide improved public sanitary sewer service through the construction of an improvement stormwater system for both its proposed development as well as the existing properties in the area.

Metro will inspect the construction of the improvements and will be responsible for ongoing operation and maintenance. Nashville Propco agrees to provide Metro with \$969,750 to fund the construction of the stormwater infrastructure. Metro agrees to begin construction within timeframes set forth by Metro Finance and Procurement, pursuant to the approved plans upon receiving the funds. Future amendments to this legislation may be approved by resolution.

This project has been approved by the Planning Commission.

Fiscal Note: The Department of Water and Sewerage Services will construct the new stormwater system and responsible for the ongoing maintenance and operation. Nashville Propco will provide \$969,750 to fund the construction of the new stormwater system. The revenue generated from the fees related to this development will offset any operating and maintenance costs.

BILL NO. BL2020-383 (ROSENBERG & WELSCH) – This ordinance readopts the Metro Code prepared by the Municipal Code Corporation to include all ordinances enacted on or before March 18, 2020.

– ORDINANCES ON THIRD READING –

SECOND SUBSTITUTE BILL NO. BL2020-147 (MURPHY) – This ordinance, as substituted, amends Chapter 2.196 of the Metro Code regarding lobbyist registration and disclosure. Various changes would be made to update the ordinance to resemble the state law governing lobbyists who conduct business at the state level. This includes updating definitions and adding specific complaint procedures.

The annual filing fee for lobbyists would be increased from \$50 to \$100. Specific complaint procedures would be added. Complaints would be filed with the Clerk. The Department of Law would review and evaluate the complaint and make a recommendation to the Board of Conduct. The Board of Conduct would further evaluate the complaint and make a recommendation for what action, if any, would be taken against the person who is the subject of the complaint. Available penalties would include a suspension from registration as a lobbyist for up to two years, or referral to the district attorney or department of law for further action. Violations of the chapter would be punishable by a fine of up to \$50 per day, per violation.

Lobbyists would not be allowed to receive compensation contingent on a particular outcome. A lobbyist would be required to identify themselves when speaking at a public hearing, presenting, speaking at community meetings, or engaging in lobbying activities. The definition of “lobbyist” would be amended to include any person who engages in lobbying “in the course of their regular employment.”

The current lobbyist registration ordinance was first adopted in 1991 and has not been significantly updated since.

Fiscal Note: There are currently 260 lobbyist registrations listed on the Metro Clerk’s website. At the current \$50 rate, that equates to \$13,000 in revenue. If the rate is increased to \$100 and there are the same level of registrations going forward, the revenue would increase to \$26,000.

The Metropolitan Clerk has indicated that the additional duties assigned by this bill to the Clerk’s Office could pose staffing challenges for her office. At this point, it is not possible to accurately predict what that impact will be since we do not know how many, if any, lobbyist complaints will be filed and how many hearings will be held by the Board of Ethical Conduct. The Council Office met with the Metropolitan Clerk and representatives from the Mayor’s Office and the Finance Department to talk through the fiscal impact. It was agreed that the increased revenue to be generated from the lobbyist registration fees could be appropriated to the Clerk’s Office during Fiscal Year 2021 for overtime costs in the event this bill does require additional staff time. There was also discussion about the possibility of adding a new staff position for Fiscal Year 2022 if the evidence for the second half of Fiscal Year 2021 supports the need for such a position.

BILL NO. BL2020-322 (HURT, TOOMBS, & OTHERS) – This ordinance amends Chapter 2.44 of the Metropolitan Code to prohibit the Metropolitan Nashville Police Department (MNP) 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).

Further, and more importantly, Sections 12.01, 12.06, and 12.07 of the Charter grants the Civil Service Commission the authority to adopt rules necessary to establish "...a personnel policy and administration under which entry into the service shall be on the basis of open competition and service shall be on the basis of merit, efficiency and fitness. The civil service commission, sometimes called commission, shall be responsible for developing and fostering the effectiveness

of this personnel policy in the metropolitan government.” The only court decision the Council Office is aware interpreting these Charter provisions is a Chancery Court case from 2006, *Teamsters Local 327 v. Metropolitan Government*, 06-1325-IV. In this case, the court ruled that the Charter vests authority over personnel matters in the Civil Service Commission, and that this constitutes a clear delegation of personnel powers to the executive branch of government.

There is a proposed amendment for this resolution prepared in consultation with the Police Department that would replace the word “exonerated” with the phrase “for which, after investigation, there was no finding of wrongdoing related to the accusation.”

BILL NO. BL2020-324 (MURPHY & ALLEN) – This ordinance, as amended, 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 access point 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. In no instance could a proposed retail liquor store be located within one hundred yards of the closest property line of a schoolground or college campus following the usual and customary path of pedestrian travel. For the purposes of this ordinance, “access point” means the first point at which a pedestrian is able to step onto the property of a schoolground or college campus, such as the opening or gate in a fence or similar barrier, or the property line if no such barrier exists.

BILL NO. BL2020-333 (BENEDICT, MENDES, & OTHERS) This ordinance, as amended, amends Title 12 of the Metropolitan Code to prohibit personal delivery devices, also known as autonomous delivery robots, within the Metropolitan Government rights-of-way. Public Chapter 685, signed by Governor Lee on June 15, 2020, allows personal delivery devices powered by electric motors to operate on sidewalks and within crosswalks. The state statute defines “personal delivery devices” as a device that:

1. Is solely powered by an electric motor;
2. Is operated primarily on sidewalks and crosswalks;
3. Is intended primarily for the transport of property on public rights-of-way; and
4. Is capable of navigating with or without the active control or monitoring of a natural person.

Public Chapter 685 provides that personal delivery devices may be prohibited by local ordinance if the local government determines that such prohibition is necessary in the interest of public safety. This ordinance first makes a finding that allowing these personal delivery devices within the public rights-of-way could cause accessibility issues for disabled and elderly persons. Second, the ordinance places a moratorium on personal delivery devices within the Metropolitan Government public rights-of-way until December 31, 2020, provided however that the expiration date shall be automatically extended until April 30, 2021, unless the Metropolitan Council terminates this prohibition by a resolution receiving 21 affirmative votes before the initial expiration date.

BILL NO. BL2020-337 (MENDES, SLEDGE, & TOOMBS) – This ordinance approves Amendment 1 to a contract for program management services between Metro and Gobbell Hays Partners, Inc. Gobbell Hays entered into a contract with Metro in 2015 to provide a wide range of administrative, management, technical, and/or inspection services to the Department of General Services and other Metro departments, agencies, commissions, and boards. Gobbell Hays has served as the project manager for the various recent improvements to the Fairgrounds Nashville.

This ordinance approves an extension of the contract for another 28 months until December 26, 2022. Section 4.12.160(A) of the Metropolitan Code limits the term of contracts for services to 60 months, unless otherwise authorized by the Council. Given the involvement Gobbell Hays has had in the Fairgrounds projects, replacing the firm would likely result in additional costs to the Metropolitan Government and potential project delays.

Fiscal Note: The amended contract term is 88 months. The amendment will not change the contract life value and is paid from Fund #30276, Business Unit #6430100.

BILL NO. BL2020-338 (TAYLOR & GAMBLE) – This ordinance provides the honorary street name designation of “Pastor Percy J. Clark Way” for a portion of Herman Street. Pastor Clark served Mt. Calvary Missionary Baptist Church as its pastor for 38 years. Pastor Clark was also a renowned gospel singer who traveled the country singing gospel music.

Section 13.08.025 of the Metro Code provides a procedure for the use of honorary street signs whereby the Council, by ordinance, can authorize and direct the Department of Public Works to install two honorary street signs per street – at each end of a street – beneath the official street name sign for any street identified on the official Street and Alley Centerline Layer map. This ordinance would not officially rename the designated street. Therefore, there would be no change of official street address for any residents or businesses on Herman Street.

Fiscal Note: Pursuant to M.C.L. Section 13.08.025, the Department of Public Works will absorb the costs for making and installing up to five honorary street sign designations per calendar year. Any additional honorary signs after these first five must identify a specific funding source for the new signs. The sign for the honorary designation for Pastor Percy J. Clark Way would be the

second in 2020. The historic cost for one of these honorary signs has been between \$80 and \$90. If a sign is mounted on a separate post, this would add approximately \$22 to the cost. The total cost would depend upon the number of signs necessary for the number of intersections in the street being so designated

BILL NO. BL2020-339 (GAMBLE, MENDES, & OTHERS) – This ordinance authorizes the acceptance or acquisition of easements for the construction, operation, maintenance, repair, replacement and inspection of a proposed streambank stabilization project along Whites Creek south of Old Hickory Boulevard. Metro has received confirmation of funding from the Emergency Watershed Protection (EWP) program from the Natural Resource Conservation Service, a division of the United States Department of Agriculture, to survey, design, and construct this streambank stabilization project. A 12-inch sanitary sewer main line parallels the creek along this section of the bank and is at risk of being compromised if erosion continues. Completion of this project will remove a source of sediment loss into the creek.

This ordinance 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. Donated easements do not have a market value according to the Department of Water Services.

BILL NO. BL2020-340 (WELSCH, MURPHY, & HENDERSON) – This ordinance authorizes the acceptance of permanent and temporary easements for the Dumas Drive Stormwater Improvement Project for two properties located at 3329 and 3331 Dumas Drive.

This ordinance 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. Donated easements do not have a market value according to the Department of Water Services.

BILL NO. BL2020-341 (HAGAR, MUPHY, & HENDERSON) – This ordinance authorizes the acquisition and acceptance of permanent and temporary easements for the Big Horn Drive Stormwater Improvement Project for three properties located at 4881, 4885 and 4889 Big Horn Drive.

This ordinance 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. BL2020-342 (RUTHERFORD, MURPHY, & HENDERSON) – This ordinance accepts 1,036 linear feet of new 8-inch water main, 193 linear feet of new 4-inch main, 921 linear feet of sanitary sewer main, two fire hydrant assemblies, eight sanitary sewer manholes, and easements for properties located at 6424 and 6434 Pettus Road, also known as Southpoint Ph3.

This ordinance 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. Donated easements do not have a market value according to the Department of Water Services.

BILL NO. BL2020-343 (LEE, MURPHY, & HENDERSON) – This ordinance abandons 480 linear feet of existing 8-inch sanitary sewer main, two sanitary sewer manholes, and easements, and accepts 498 linear feet of new 12-inch water main, 46 linear feet of new 6-inch water main, 716 linear feet of new 8-inch sewer main, 238 linear feet of new 8-inch PVC sanitary sewer main, two fire hydrant assemblies, seven sanitary sewer manholes, and easements for property located at 3864 Logistics Way.

This ordinance 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. BL2020-344 (GAMBLE, MURPHY, & HENDERSON) – This ordinance abandons 783 linear feet of existing 2-inch water main and easements, and accepts 881 linear feet of new 8-inch water main, 445 linear feet of new 2-inch sanitary sewer force main, and easements for property located at Lowes Lane (unnumbered).

This ordinance 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. BL2020-345 (SLEDGE, MURPHY, & HENDERSON) – This ordinance accepts a sanitary sewer manhole for property located at 2080 12th Avenue South.

This ordinance 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. Donated easements do not have a market value according to the Department of Water Services.

BILL NO. BL2020-346 (PARKER, MURPHY, & HENDERSON) – This ordinance abandons 523 linear feet of existing 8-inch sanitary sewer main, two sanitary sewer manholes, and easements, raises two existing sanitary sewer manholes, and accepts 631 linear feet of new 8-inch sanitary sewer main, eight sanitary sewer manholes, and easements for property located at 905 Elvira Avenue.

This ordinance 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. BL2020-347 (SYRACUSE, MURPHY, & HENDERSON) – This ordinance abandons 319 linear feet of existing 6-inch water main and easements, and accepts 582 linear feet of new 8-inch water main and easements for property located at 100 Blue Hills Drive.

This ordinance 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. BL2020-348 (HAGAR, MURPHY, & HENDERSON) – This ordinance abandons 236 linear feet of existing 15-inch sanitary sewer main and easements, and accepts 646 linear feet of 6-inch water main, 287 linear feet of new 15-inch sanitary sewer main, two fire hydrant assemblies, nine sanitary sewer manholes, and easements for property located at 616 Hadley Village Boulevard.

This ordinance 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. BL2020-349 (LEE, MURPHY, & HENDERSON) – This ordinance abandons 1,049 linear feet of existing 8-inch sanitary sewer main, 282 linear feet of existing 10-inch sanitary sewer main, nine sanitary sewer manholes, and easements, and accepts 1,049 linear feet of new 15-inch sanitary

sewer main, 282 linear feet of 16-inch sanitary sewer main, nine sanitary sewer manholes, and easements for six properties located on Murfreesboro Pike, Old Hickory Boulevard, and Logistics Way.

This ordinance 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. BL2020-350 (CASH, MURPHY, & HENDERSON) – This ordinance abandons 22 linear feet of existing 16-inch water main, 115 linear feet of existing 6-inch water main, and easements, and accepts 117 linear feet of new 8-inch water main, 17 linear feet of new 6-inch water main, one fire hydrant assembly, and easements for property located at 2100 Belmont Boulevard.

This ordinance 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. BL2020-351 (STYLES, MURPHY, & HENDERSON) – This abandons an existing 30-foot sanitary sewer easement rights for property located at 2901 Old Franklin Road. The abandonment has been requested by Catalyst Design Group, on behalf of the owner.

This ordinance 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 easements have no market value according to the Department of Water Services.

BILL NO. BL2020-352 (STYLES, MURPHY, & HENDERSON) – This ordinance abandons 153 linear feet of existing 8-inch sanitary sewer main, one existing sanitary sewer manhole, and easements, and accepts 1,222 linear feet of new 8-inch water main, 1,145 linear feet of new 8-inch sanitary sewer main, 158 linear feet of new 8-inch sanitary sewer main, four fire hydrant assemblies, nine sanitary sewer manholes, and easements for property located at Asheford Trace (unnumbered), also known as Treehaven Phase 5.

This ordinance 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. BL2020-353 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance abandons 222 linear feet of existing 15-inch sanitary sewer main and easements, and accepts 290 linear feet of new 18-inch sanitary sewer main, three sanitary sewer manholes, and easements for property located at 810 Division Street.

This ordinance 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. BL2020-354 (STYLES, MURPHY, & HENDERSON) – This ordinance accepts 350 linear feet of new 8-inch sewer main and sanitary sewer manholes for property located at Murfreesboro Pike (unnumbered).

This ordinance 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. Donated easements do not have a market value according to the Department of Water Services.

BILL NO. BL2020-355 (BENEDICT, MURPHY, & HENDERSON) – This ordinance abandons 79 linear feet of existing 8-inch water main and easements, and accepts 114 linear feet of new 8-inch water main and easements for property located at 200 Porter Village Circle.

This ordinance 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. BL2020-356 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance abandons 304 linear feet of existing 3-inch water main and easements, and accepts 304 linear feet of new 8-inch water main, a fire hydrant assembly, a sanitary sewer manhole, and easements for property located at 700 1st Avenue North.

This ordinance 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. BL2020-357 (O'CONNELL, MURPHY, & HENDERSON) – This ordinance abandons 106 linear feet of existing 12-inch sanitary sewer main, a sanitary sewer manhole, and easements, and accepts 97 linear feet of new 12-inch sanitary sewer main, two sanitary sewer manholes, two fire hydrant assemblies, and easements for property located at 1221 Broadway.

This ordinance 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. BL2020-358 (WITHERS, MURPHY, & HENDERSON) – This ordinance abandons nine linear feet of existing public sanitary sewer main and easements, and accepts one sanitary sewer manhole and easement for property located at 700 South 12th Street.

This ordinance 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. BL2020-359 (SLEDGE, MURPHY, & HENDERSON) – This ordinance abandons 454 linear feet of existing 2-inch water main, 222 linear feet of existing 8-inch sanitary sewer main, and easements, and accepts 753 linear feet of new 8-inch water main, 419 linear feet of new 8-inch sanitary sewer main, two fire hydrant assemblies, four sanitary sewer manholes, and easements for properties located at 1 Buchi Court, 2600 Fessey Park Road, 708 Berry Road, and Berry Road (unnumbered).

This ordinance 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. BL2020-360 (WITHERS, MURPHY, & HENDERSON) – This ordinance abandons 310 linear feet of existing 6-inch water main, 37 linear feet of existing 12-inch sanitary sewer main, two fire hydrant assemblies, one sanitary sewer manhole, and easements, and accepts 650 linear feet of new 8-inch water main, 289 linear feet of new 8-inch sanitary sewer main, two fire hydrant assemblies, three sanitary sewer manholes, and easements for property located at 804 Dew Street.

This ordinance 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. BL2020-361 (ROSENBERG, MURPHY, & HENDERSON) – This ordinance abandons 358 linear feet of existing 8-inch sanitary sewer main, two sanitary sewer manholes, one fire hydrant assembly, and easements, and accepts 443 linear feet of new 8-inch sanitary sewer main, four sanitary sewer manholes, one fire hydrant assembly, and easements for property located at 7114 Charlotte Pike.

This ordinance 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. BL2020-377 (TAYLOR & GAMBLE) – This ordinance amends Ordinance No. BL2020-234, as amended, to extend the time period for the waiver of certain building permit fees for the repair or rebuilding of property damaged as a result of the March 3, 2020 tornado. BL2020-234, as amended, was approved May 5, 2020, to waive building permit fees for property owners (or their authorized agents) who met the following conditions:

- The permits are obtained to repair damage to the owner's property caused by the March 3, 2020 tornado.
- The permits are obtained on or before June 3, 2020.
- The permits are issued to construct, alter, repair, enlarge, move or demolish any building or structure or part thereof or any appurtenances connected or attached thereto.
- The owner must provide evidence satisfactory to the Director of Codes Administration, or his designee, that the work is being performed as a result of damage sustained as a result of the March 3, 2020 tornado.
- Property owners who paid building permit fees prior to the adoption of the ordinance will be entitled to a refund if they provide evidence satisfactory to the Director of Codes Administration, or his designee, that the work is being performed as a result of damage sustained as a result of the March 3, 2020 tornado.

- Property owners or their agents had to sign an affidavit that the permit fees will not be reimbursed by insurance or other funding sources in order to receive the fee waiver.

Due to the COVID-19 pandemic, some tornado victims were unable to obtain their building permit prior to June 3, 2020. This ordinance would extend the time period until September 30, 2020.

Fiscal Note: As of June 30, 2020, 55 tornado-related building and demo permits were issued on or after March 3, 2020. The total permit fee amount waived was \$84,125.23.

GRANTS LEGISLATION – AUGUST 4, 2020

| Legislative Number | Parties | Amount | Local Cash Match | Term | Purpose |
|---------------------------|--|---------------------------|-------------------------|------------------------------------|---|
| RS2020-460 | From: Tennessee Department of Corrections To: State Trial Courts | Not to exceed \$1,512,148 | \$75,600 | July 1, 2020 through June 30, 2021 | The proceeds from this Community Corrections and Substance Abuse grant will be used to divert eligible offenders from the Tennessee prison system by providing community supervision and treatment services. |
| RS2020-461 | From: Tennessee Department of Finance and Administration To: Office of the District Attorney | Not to exceed \$756,612 | \$189,153 | July 1, 2020 through June 30, 2023 | The grant proceeds will be used to work with Hispanic victims of crimes and their families. |
| RS2020-465 | From: Tennessee Department of Finance and Administration To: Nashville Public Library | Increase by \$18,656 | \$0 | N/A | <p>This approves amendment two to a Youth Development Center Grant approved by RS2019-1555.</p> <p>The amendment increases the grant from \$329,577 to \$348,233. Grant proceeds are used to improve community adults' (out-of-school-time educators, families, and school staff) readiness to support positive child/youth development and cultivate safe environments in the lives of children/youth.</p> |

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|--------------------------|--|----------------------------------|------------|------------|--|
| <p>RS2020-466</p> | <p>From: McCabe Park Little League To: Metropolitan Department of Parks and Recreation</p> | <p>Not to exceed \$11,482.41</p> | <p>\$0</p> | <p>N/A</p> | <p>The grant proceeds will be used to provide materials and labor to be used in the installation of an irrigation system for the McCabe Park baseball field.</p> |
| <p>RS2020-467</p> | <p>From: Friends of Warner Parks To: Metropolitan Board of Parks and Recreation</p> | <p>Not to exceed \$3,000</p> | <p>\$0</p> | <p>N/A</p> | <p>The grant proceeds will be used to fund the installation of a blind to hide a port-a-potty in the park at Indian Springs.</p> |
| <p>RS2020-468</p> | <p>From: Friends of Warner Parks To: Metropolitan Board of Parks and Recreation</p> | <p>Not to exceed \$10,472.05</p> | <p>\$0</p> | <p>N/A</p> | <p>The grant proceeds will be used to fund the installation of three kiosks in Warner Parks.</p> |