

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Staff

DATE: **October 16, 2001**

RE: **Analysis Report**

Balances As Of:	<u>10/11/01</u>	<u>10/12/00</u>
<u>GSD 4% RESERVE FUND</u>	\$16,732,965	\$9,802,673
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$50,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	Unavailable	Unavailable
<u>SOLID WASTE</u>		
<u>DISPOSAL FUND</u>		
Solid Waste Activities	Unavailable	Unavailable

## - RESOLUTIONS -

**RESOLUTION NO. RS2001-783** (HADDOX, WATERS & FERRELL) – This resolution sets a public hearing for Tuesday, November 20, 2001, at 7:00 p.m. in the Metro Council Chamber to receive public input on the proposed Amendment No. 2 to the Phillips-Jackson Street Redevelopment Plan. An analysis of the amendment will be provided when Ordinance No. BL2001-861 (which approves the amendment) is on second reading.

**RESOLUTION NO. RS2001-784** (BLACK) – This resolution appropriates \$27,000 of community development block grant (CDBG) funds to provide funding for drainage improvements on Old Matthews Road.

**RESOLUTION NO. RS2001-785** (SHULMAN) – This resolution authorizes the issuance of special limited obligation correctional facilities revenue refunding bonds in an amount not to exceed \$17 million and provides for their sale, establishes the terms of the bonds, and disposition of bond proceeds.

In 1991 the Metropolitan Government issued \$26 million in special limited obligation correctional facilities revenue refunding bonds, the proceeds of which were used to construct the minimum security private facility at DeBerry. The debt service for these bonds was to be paid from funds received from the state of Tennessee pursuant to the contract agreeing to construct and operate the facility. These are not obligations of the Metropolitan Government and were to be paid solely from state funds.

There is now a desire to refund these bonds by issuing \$17 million in new bonds, which is the amount of debt remaining, at a lower interest rate, thereby resulting in savings to the Metropolitan Government. It is expected that there will be approximately \$1.94 million in savings for refunding these bonds. Bond proceeds from the sale of these refunding bonds will be used to retire the old 1991 bonds that remain outstanding. The debt of these new refunding bonds will not be obligations of the Metropolitan Government, but will continue to be obligations of the state of Tennessee.

**RESOLUTION NO. RS2001-786** (SHULMAN) – This resolution amends Resolution No. RS2000-510 by increasing the principal amount of general obligation multi-purpose refunding bonds that are authorized to be issued. On February 6, 2001, council adopted a resolution authorizing the issuance of general obligation facilities bonds in an amount not to exceed \$291 million in order to refund outstanding bonds at a lower interest rate, which issue will result in savings to the Metropolitan Government. It is now desired to increase the amount refunded to \$336 million so that additional maturities on other series of bonds may be refunded to result in additional savings to the Metropolitan Government. Of the previously authorized bonds, \$73,745,000 have also been issued. By increasing the amount of this authorization and assuming all of the now authorized outstanding bonds, Metro could save \$11.1 million over the life of the obligation. There are some Series 1996 bonds that may not be included, and if that occurs the savings could be reduced to \$6.9 million in bond valuation fees.

**RESOLUTION NO. RS2001-787** (SHULMAN) – This resolution authorizes the board of public education to dispose of one surplus school bus by donating it to the Project Reflect Educational Program. This program has been developed to provide a tutorial program after school to students residing in the John Henry Hale, Preston Taylor, Sam Levy, Parkway Terrace and James A. Casey public housing communities. This school bus is no longer needed by the board of education and will be utilized by the tutorial program to transport students after school to that program. The director of law and director of finance are authorized to enter into the appropriate contract for the protection of the Metropolitan Government. This is similar to not-for-profit grants that are made by Metropolitan Government.

**RESOLUTION NO. RS2001-788** (SHULMAN & WATERS) – This resolution approves an annual contract in the amount of \$150,000 between the Metro health department and the Alcohol and Drug Council of Middle Tennessee, Inc., to provide substance abuse detoxification and treatment services for the homeless. The grant is for a term beginning July 1, 2001, and extending through June 30, 2002. There is a typographical error in this resolution that needs to be corrected by an amendment.

**RESOLUTION NO. RS2001-789** (SHULMAN) – This resolution approves Amendment No. 1 to a grant between the state department of agriculture and the board of health to provide inspection, reporting and enforcement of retail food stores in Davidson County. The term of this contract is for five years beginning January 1, 2000, and extending through December 31, 2004. The health department has been conducting these inspections for several years. These retail food store inspection services are done by local health departments in urban cities. Our health inspectors will make inspections of every retail food store twice each year. To cover the cost of these inspections, Metro will be paid \$68,000 per year, which amount is increased from \$28,000 per year by this amendment. Metro provides similar services for the inspection of restaurants, thereby avoiding duplication of services provided in the Metro and state health codes.

**RESOLUTION NO. RS2001-790** (SHULMAN) – This resolution approves a cooperative agreement by and between the U.S. department of veteran affairs and the Metro board of health to provide funding of \$75,000 for continuation of research involving directly-observed therapy during the continuation phase of treatment for pulmonary tuberculosis. This treatment involves an investigational drug called “rifapentine”, which has not yet been approved for commercial distribution by the federal drug administration. The health department will administer this drug to approximately ten patients who will volunteer for this study and maintain approximate protocol records to determine its effectiveness.

**RESOLUTION NO. RS2001-791** (SHULMAN & WATERS) – This resolution authorizes the acceptance of a grant by the board of health from the U.S. department of health and human services in

the amount of \$1,080,819. The term of the grant is one year beginning September 1, 2001, and terminating August 30, 2002. These funds will be utilized in the health department's community access program in an attempt to improve and expand access to medical services, substance abuse, and mental and dental health services offered by the health department. There is a required match that will be provided from the current operating budget of the health department.

**RESOLUTION NO. RS2001-792** (MCCLENDON & SHULMAN) – This resolution authorizes acceptance of a grant in the amount of \$326,719 between the state department of environment and conservation and the Metropolitan Government, which is for the purpose of collecting and disposing of waste tires from Tennessee residents. Metro operates this program without the payment of tip fees. The term of the grant begins July 1, 2001, and extends through June 30, 2002.

**RESOLUTION NO. RS2001-793** (WATERS & SHULMAN) – This resolution approves a second amendment to a grant between the state department of finance and administration and the general sessions court for creation of a mental health court. The purpose of this mental health court is to address problems of persons who are mentally ill or developmentally disabled. This amendment corrects an omitted amount for fiscal year 2002-03 in the original grant. The amount to be received in this fiscal year is \$79,584.

This grant, which was approved by Ordinance No. 2000-416, provided that amendments to the grant could be approved by resolution receiving 21 affirmative votes.

**RESOLUTION NO. RS2001-794** (SHULMAN & WATERS) – This resolution appropriates the funds received from the law enforcement block grant recently approved by the Metropolitan Council. The following amounts and grants will be appropriated to the responsible department with the required match. In addition to the amounts of the match that will be funded from the operating budgets, some 4% funds will be used for the police and sheriff's departments for their match. In addition, matching funds required from the public defender and the district attorney will be provided in subsequent fiscal years. The departments to receive funding are as follows:

<u>Department</u>	<u>Grant</u>	<u>Required Match</u>
District Attorney	\$299,008.84	\$12,459
Public Defender	\$47,974.88	\$1,999
Juvenile Court	\$91,860.00	\$10,207
Drug Court	\$441,471.00	\$49,052.33
Justice Information System	\$149,042.00	\$16,560
Sheriff	\$375,203.03	- 0 -
Police	\$860,725.37	- 0 -
Board of Public Education	\$339,049.00	\$37,672

**RESOLUTION NO. RS2001-795** (SHULMAN) – This resolution authorizes the department of law to compromise and settle the lawsuit of Margaret Dowdy, administrator for the estate of Calvin Wayne

Shaw, against the Metropolitan Government in the amount of \$187,500, and directs that this amount be paid from the self-insured liability fund. Mr. Shaw was arrested by the Metro police department in 1996 and incarcerated in the criminal justice center. Mr. Shaw suffered from mental illness, which was known to our sheriff's employees from Mr. Shaw being previously arrested and treated while under arrest. While in custody Mr. Shaw mutilated himself, causing him to bleed profusely and after being transported to Nashville general hospital, subsequently died. This matter was tried in federal court with a jury awarding damages of \$375,000 against the Metropolitan Government for use of excessive force and being indifferent to Mr. Shaw's medical needs. After much discussion, the law department has agreed to settle the matter for \$187,500. In addition, Prison Health Services, who is under contract to the Metropolitan Government, will also pay a similar amount. This case is an unusual situation which has occurred. Several other charges were alleged in the suit against Metro Government and the sheriff's department, however, they were dismissed by the court. It is in dispute as to Mr. Shaw's actual cause of death.

**RESOLUTION NO. RS2001-796** (SHULMAN) – This resolution authorizes the department of law to compromise and settle the lawsuit of Stephen Williams against the Metropolitan Government in the amount of \$35,000, and directs that this amount be paid from the self-insured liability fund. This claim is the result of an accident that occurred on June 2, 2000, when a Metro police officer failed to keep a lookout for a stopped bus, swerved to avoid the bus, and struck a bus bench and pedestrians. This claim is for \$1,406.41 in property damages, \$4,755.25 in medical expenses, and lost wages of \$4,605.44 for Mr. Williams. Mr. Williams suffered a fractured leg and wrist as a result of this accident. The remainder of the claim is for pain and suffering.

Our police officer was suspended five days as a result of this accident.

### **- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2001-832** (SUMMERS) – This ordinance abandons an unbuilt portion of Long Meadow Drive, from West Hillwood Drive to its terminus at Hillwood Country Club. This abandonment has been requested by Ms. Denise M. Smith, the abutting property owner.

This abandonment has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2001-841** (MAJORS) – This ordinance readopts the Metropolitan Code to include all ordinances adopted by the Metro Council before May 15, 2001.

**ORDINANCE NO. BL2001-842** (SONTANY, LINEWEAVER & OTHERS) – This ordinance amends the Metropolitan Code by repealing the current Chapter relating to vicious dogs, and adopting new provisions for vicious dogs. Several definitions are changed, including providing a definition for "bite" which would include a puncture or tear of the skin sufficient to cause blood to be present. There

is also a definition for “provocation” which means any act that causes an animal to bite, scratch, or attack to protect itself, offspring, or owner. Curiously, this definition does not deem it provocation when the animal is protecting his property or persons other than its owner.

There are some provisions that relate solely to “guard dog” which are being changed. Presently, any guard dog must be confined or must be under the absolute control of a handler at all times when not confined by lead or leash. Where a guard dog is located must be adequately posted by warning signs stating that such a dog is on the premises. There are some changes in what constitutes “confined”, including requirement that the sides of the pen or structure must be set in concrete no less than eighteen (18) inches in the ground, and any pen or structure that confines a guard dog must be no smaller than ten (10) feet by ten feet. A guard dog who bites a person entering a commercial premise would be deemed vicious as it is protecting property and not the owner. This will be a serious impediment on the use of guard dogs.

There are some additional changes relating to court proceedings and investigation of complaints. One change would now require that any dog that is subject to the investigation of a complaint that the dog is vicious may not be relocated by its owner during the investigation. It would also allow the director of Metro animal control services that if they believe any dog is vicious of this charge that they can be impounded at animal control services or with a licensed veterinary facility pending court proceedings.

Presently, dogs that are found to be vicious may be ordered destroyed. Under this ordinance some additional orders may be issued by the court providing that rather than being destroyed, that they must be properly housed in an enclosure approved by the department of Metro animal services, or such dog could be required to be tattooed or implanted with an electronic microchip for identification if found to be vicious.

This ordinance has been recommended by the director of Metro animal control services.

**ORDINANCE NO. BL2001-843** (SONTANY, LINEWEAVER & OTHERS) – This ordinance amends the Metropolitan Code by amending provisions relative to cruelty to animals. Presently, the Code provides that no person shall willfully or knowingly kill, maim or grossly overwork or overload an animal, and no person can unreasonably fail to provide food, water or shelter to any animal in his or her custody. This ordinance will provide for a definition of shelter, which will require a structure or enclosure which provides an animal with protection from the elements, including requiring they must have a roof, floor, and three sides, and be sufficient size as to allow each animal to stand up, lie down, and turn around in a natural position. This ordinance, therefore, sets requirements for dog houses that may be used by animal owners which, if violated, would be cause to be cited as being cruel to animals.

Another new provision provides that a person may not allow an animal’s ability to move within confinement by way of carrier or by way of rope, chain or cord that is less than fifteen (15) feet in length.

The ordinance also authorizes the animal control officer to chemically capture an animal, which means use of a tranquilizer drug in a humane manner.

These changes in the Code relative to cruelty to animals have also been recommended by the director of Metro animal control.

**ORDINANCE NO. BL2001-844** (DERRYBERRY & SHULMAN) – This ordinance authorizes the acceptance of a donation of two parcels of property bordering the right-of-way of Matthews Avenue, which are each one-foot wide. This property is being donated for the future widening of Matthews Avenue, and is being donated by Jackson Park Christian Homes, Inc.

**ORDINANCE NO. BL2001-845** (SHULMAN) – This ordinance approves the sale of surplus property located at 910 – 11<sup>th</sup> Avenue North (map 92-4, parcel 279) by the director of public property administration due to the previous owner’s failure to pay delinquent property taxes. The property value of the parcel has been estimated at \$3,000. The sale of this surplus property has been approved by the planning commission.

**ORDINANCE NO. BL2001-846** (DERRYBERRY & MCCLENDON) – This ordinance authorizes the acquisition of property, by negotiation or condemnation, for three utility easements in relation to the Currey Road Bridge and approaches project of the water and sewer department. The estimated cost of easement acquisition is \$4,500, which will be funded from the water and sewer extension and replacement fund.

**ORDINANCE NO. BL2001-847** (ARRIOLA) – This ordinance closes Old Wallace Road from its intersection with Wallace Road to its intersection with Old Welch Road, lying between Harding Place and Wallace Road. This closure has been requested by Larry Alexander of CESP, Inc., on behalf of the abutting property owner, HCA Realty, Inc.

This ordinance has been approved by the planning commission and the traffic & parking commission.

There is no signed petition of abutting property owners on file with the Metro clerk.

**ORDINANCE NO. BL2001-848** (ARRIOLA) – This ordinance closes Old Welch Road, which intersects with Wallace Road and lies east of Hopedale Drive. This closure has been requested by Larry Alexander of CESP, Inc., on behalf of the abutting property owner, HCA Realty, Inc.

This ordinance has been approved by the planning commission and the traffic & parking commission.

There is no signed petition of abutting property owners on file with the Metro clerk.

**ORDINANCE NO. BL2001-750** (SHULMAN) – This ordinance, as amended, amends the zoning text relative to provisions of the Code relating to landscaping, buffering, and tree requirements. They are recommended by the Metro tree advisory committee and are essentially changes to the tree ordinance that was initially adopted several years ago. The purpose of these amendments is, principally, to improve the prospects of trees to be retained and that new requirements for trees being planted to have a better chance of survival.

To accommodate this there are changes such as requiring hose attachments for irrigation of plants and trees and by limiting to 100 feet, rather than the current 200 feet, which is used when developers decide not to use sprinklers for irrigation for landscaping plants. It also removes an exemption that allows plants naturally climated to Nashville be planted without irrigation. It would authorize the urban forester to develop regulations, which must be approved by the planning commission, to govern excavation and trenching for utilities at construction sites. This is essentially to assure that during construction trees and plants are not damaged and, therefore, lost.

There is a screening requirement adopted which would require that automobile salvage yards must be screened from properties “zoned” residential and from public streets by use of opaque fencing not larger than 6 (six) feet in height.

This text change has been approved by the planning commission.

**ORDINANCE NO. BL2001-813** (KNOCH, TURNER & JENKINS) – This ordinance authorizes the acquisition of approximately 28 acres of property located on Nolensville Road to be used for construction of the new W. H. Oliver Middle School and a future elementary school in the Nolensville Road area. This acquisition, by either negotiation or condemnation, has been approved by the Metro board of public education. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2001-830** (TURNER & GENTRY) – This ordinance closes a portion of General Bates Drive, from south of Melville Drive to the south property line of parcel 144 on tax map 132-5. This closure has been requested by the interim director of the Metro public works department for improved E-911 system efficiency and effectiveness.

This closure has been approved by the planning commission and the traffic and parking commission.

There is no signed petition of abutting property owners on file with the Metro clerk.

**ORDINANCE NO. BL2001-836** (DILLARD) – This ordinance authorizes the abandonment of a sewer line and easement in the Ravenwood community, south of Cheyenne Boulevard, on property owned by Allen Earps. New sewer lines have been installed which serve these properties and the

neighboring community, and there is no longer a need for the easement. The planning commission has recommended the abandonment of this easement.

**ORDINANCE NO. BL2001-837** (MCCLENDON & SHULMAN) – This ordinance authorizes a participation agreement between the department of water and sewerage services and Southern Woods Section Six, LP, in relation to the Owl Creek trunk sewer. Metro has funded construction of the Owl Creek trunk sewer project, which also serves customers and potential customers in Williamson County. The original project provided that developers could connect onto the sewer upon payment of a \$2,000 connection fee. This agreement authorizes Southern Woods to have two connections for a total of \$4,000. The funding from this agreement will be paid into the water and sewer extension and replacement fund.

**ORDINANCE NO. BL2001-838** (LORING, MCCLENDON & SHULMAN) – This ordinance authorizes the Metro water and sewerage services to accept \$2,500 as contribution towards funding for a public water line from Pennington Bend Road to 109 Barton Lane, which is owned by Jack C. and Gail A. Stroud. The cost of extending this line is \$2,500, and the Stroud's have agreed to participate in this construction to expedite this project.

**ORDINANCE NOS. BL2001-839 & BL2001-840** (WILLIAMS & BOGEN) – These two ordinances adopt amendments to the Metro Code relative to cable television space as related to the public, educational and governmental (PEG) access oversight committee and the authority to create a Metro educational access corporation (MEAC).

**Ordinance No. BL2001-839** amends the Code provision relative to PEG to accommodate the expected creation of the MEAC. MEAC will have a member on the PEG board, the same as the community access corporation. There is also some housekeeping amendments, such as deleting the cable television franchise holder by name and referring to them as just franchise holders, and providing that funds received by PEG cannot be expended until appropriated. The ordinance further specifically clarifies that PEG has no authority or control over government access television, which is operated by the department of information services.

**Ordinance No. BL2001-840** provides for the creation of the MEAC. This ordinance structures MEAC similar to the government access channel, which has authority to operate the community access channels on cable television. The MEAC will be a not-for-profit organization whose directors, after creation, must be appointed by the mayor and approved by the council. There will be seven directors authorized, and not more than two of whom can be residents of the same council district.

(continued on next page)

**ORDINANCE NOS. BL2001-839 & BL2001-840** (continued)

The function of MEAC will be to have responsibility for program production and management of the educational access channels on all cable television systems. The charter of the MEAC must be

approved by the Metro Council prior to filing it with the secretary of state as a corporation. The books and records of the MEAC must be open at all times to the department of finance and they will be required to prepare and furnish an independent audit to the department of finance. This corporation will be required to adopt a business plan which must be approved by the director of finance, the council, and PEG.

In the event this business plan is not approved by June 30, 2003, the corporation will cease to exist.

A similar method was used several years ago to provide for the community access corporation. Presently, there are two channels set aside for education access, and this is an attempt to provide for an interested group to begin programming on these channels.