

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Staff

DATE: **March 19, 2002**

RE: **Analysis Report**

Balances As Of: 3/13/02 3/15/01

GSD 4% RESERVE FUND \$8,010,725 \$9,124,189

CONTINGENCY ACCOUNTS

GSD	\$35,000	\$50,000
USD	\$50,000	\$50,000

GENERAL FUND

GSD	\$63,997,770	\$46,859,389
USD	\$16,682,399	\$11,156,918

GENERAL PURPOSE

<u>SCHOOL FUND</u>	\$10,404,340	\$22,665,532
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SOLID WASTE
DISPOSAL FUND

Solid Waste Activities	\$2,293,382	\$865,517
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- RESOLUTIONS -

RESOLUTION NO. RS2002-943 (PONDER & STANLEY) - This resolution authorizes the director of public property administration to exercise an option to purchase approximately 32 acres of property on John Hager Road in Hermitage on which to construct the new Ruby Major Elementary School and a future middle school. Pursuant to the Metropolitan code of laws, the director of public property administration is authorized to negotiate for the purchase of property for such purposes and to seek to obtain an option to sell from the owner. On January 8, 2002, the director of public property obtained an option to purchase the property for \$640,000 from landowner Mary Gladys Hagar George. Metro has the option to purchase the property at any time within 180 days of January 8, 2002. The Metropolitan board of public education has approved the referenced site. No purchase can be consummated until it has been approved by the Metropolitan Council. A public hearing was held by the planning committee on February 19, 2002.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2002-956 (MCCLENDON & SHULMAN) - This resolution ratifies an agreement with the state treasury department in order to deposit local funds for the Chestnut Street bridge over the CSX railroad project into the local government investment pool. Ordinance No. BL2001-945 approved the contract between the state department of transportation and the Metropolitan Government for the Chestnut Street bridge project. Pursuant to state law, local funds to be used for Tennessee department of transportation projects can be deposited into the local government investment pool in order to earn interest on the funds until they are used.

Ordinance No. O85-740 requires that the local government investment pool agreement be ratified by resolution of the Metro council.

RESOLUTION NO. RS2002-979 (HADDOX & SHULMAN) - This resolution approves a grant from the state department of health to the Metro health department in the amount of \$514,600 for HIV/AIDS prevention and surveillance. The term of the grant is from January 1, 2002 through December 31, 2002. The Metro health department will use the funds to implement and provide services related to HIV prevention, including providing information about HIV, counseling and testing.

RESOLUTION NO. RS2002-980 (CAMPBELL) - This resolution approves a second amendment to a grant between the United States department of health and human services and the Metro office of emergency management to develop plans for responding to health and medical consequences in the event of terrorist incidents involving weapons of mass destruction. This amendment extends the term of the contract through July 2, 2002. The amendment also revises the reporting requirements of the plan for responding to a terrorist incident and for providing a list of pharmaceuticals and equipment, together with a maintenance and procurement timetable. Further, the amendment changes the delivery date for implementing the Metro medical response system program to July 2, 2002. The prior amendment,

which was the substance of Resolution No. RS2001-585 adopted by the council on April 17, 2001, extended the term of the grant through January 31, 2002, and increases funding to the present total of \$600,000.

RESOLUTION NO. RS2002-981 (MCCLENDON, SHULMAN & WALLACE) - This resolution authorizes the Metropolitan Government to enter into a utility relocation agreement with the Tennessee department of transportation for relocation of water and sewer utilities in connection with the Gateway Boulevard (Franklin Street) project. Metro's estimated cost for this relocation is \$248,145, which will be paid from the water and sewer extension and replacement fund.

This resolution also authorizes the mayor to execute all agreements related to the local government investment pool program, and ratifies an agreement with the state treasury department to transfer the funds from the local government investment pool account to the state department of transportation.

RESOLUTION NO. RS2002-982 (SONTANY, MCCLENDON & SHULMAN) - This resolution authorizes the Metropolitan Government to enter into a utility relocation agreement with the Tennessee department of transportation for relocation of water and sewer utilities in connection with the bridge at Curry Road over Briley Parkway project. Metro's estimated cost to relocate the sewer and water lines is \$185,962.10, which will be paid from the water and sewer extension and replacement fund.

This resolution also authorizes the mayor to execute all agreements related to the local government investment pool program, and ratifies an agreement with the state treasury department to transfer the funds from the local government investment pool account to the state department of transportation.

RESOLUTION NO. RS2002-983 (SHULMAN) - This resolution authorizes the department of law to compromise and settle the lawsuit of Jason Parks against Charles Rutzky, a Metro police officer, in the amount of \$15,000. Officer Rutzky is to pay \$2,500 and Metro is to pay the remaining \$12,500.

Mr. Parks was involved in an altercation on March 16, 1998, with Metro police officers Charles Rutzky, Neil Cook, and Phillip N. Clark while they were working in an off-duty capacity for Rock Solid Security Company at a parking lot adjoining the Music City Mix Factory Night Club. On the night in question the three officers encountered the plaintiff who was driving erratically in the parking lot. The officers subsequently removed the plaintiff from his vehicle and Officer Rutzky struck him in the face causing severe injuries. Jason Parks filed suit against the Metropolitan Government and all three officers. All claims have been dismissed except against Officer Rutzky.

This lawsuit has already been tried once and resulted in a mistrial. Since this lawsuit involves a civil rights claim, the plaintiff would be entitled to damages plus attorney fees were he to prevail at the subsequent trial. The legal department is of the opinion that the plaintiff's attorney fees alone would exceed the amount of this settlement. The \$12,500 is to be paid from the judgments and losses fund.

The disciplinary action taken against Officer Rutzky resulted in a 30-day suspension. Also, Officer Clark was suspended for 30 days and demoted to the rank of Police Officer II. No disciplinary action was taken against Officer Cook.

RESOLUTION NO. RS2002-984 (WALLACE) - This resolution authorizes Bailey's Pub & Grille and Fox & Hound of Tennessee, Inc., to install a 4'8" by 14' sign over the public sidewalk area in front of 408 Broadway. This sign is being requested by Fox & Hound of Tennessee Inc., for owner Thomas

Morales. The restaurant will be required to maintain a \$300,000 certificate of liability insurance naming the Metropolitan Government as an additional insured. This resolution has been referred to the planning commission.

- **BILLS ON SECOND READING** -

ORDINANCE NO. BL2002-973 (WALLACE) - This ordinance closes alley # 421 between Music Circle East to its terminus. Metro has deemed that there is no future need of this alley for government purposes. Metro and contracted utility companies will retain easements to construct and maintain existing and future utilities.

This closure is requested by Barge, Cauthen & Associates. Signed consent of the affected property owner is on file with the planning commission.

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

ORDINANCE NO. BL2002-974 (SHULMAN, WILLIAMS, & OTHERS) - This ordinance establishes the Council Afterschool Initiative and creates the council's taskforce on out-of-school time and youth success. This ordinance also authorizes the approval of a contract, by resolution, between Metro and Vanderbilt Child and Family Center for support, facilitation, and coordination activities, with payment for these services to be funded out of the reserve for council neighborhood aftercare account provided in the fiscal year 2001-2002 operating budget.

This taskforce is being created because of the council's desire to address the issues surrounding afterschool activities for Nashville's youth. This taskforce will be composed of members of council, parents, and representatives from youth programs and community organizations, among others, to work with the Madeline Initiative and Vanderbilt to develop a plan to increase out-of-school time programming and resources. This will include an inventory and review of existing out-of-school programs in Nashville and other cities, determining needed components, assessing appropriate locations, and publishing two informational booklets.

The taskforce will be co-chaired by a member of council and an individual from the community, both to be appointed by the vice mayor. The taskforce will be established through December 31, 2002 and will issue a report to the council not later than December 31, 2002.

A contract between Metro and Vanderbilt Child and Family Center to provide for support may be approved by resolution of the council receiving 21 affirmative votes.

ORDINANCE NO. BL2002-975 (WALLACE) - This ordinance amends the Metropolitan code of laws to exempt establishments that already have a state on-premises liquor consumption license from Metro's minimum distance requirements to obtain a beer permit. The code currently prevents a beer permit from being issued to an establishment located within 100 feet from a church, school, park, daycare, or a one or two family residence. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant's location into consideration when determining whether to grant a license for on-premises liquor consumption.

This ordinance may be withdrawn in favor of Ordinance No. BL2002-985 on first reading, which addresses this subject matter.

ORDINANCE NO. BL2002-976 (HALL & MCCLENDON) - This ordinance abandons a portion of Alley # 2027, designates Alley # 2027 between Marshall Street and Alley # 2025 as a pedestrian walkway, and authorizes the Metropolitan Government to accept property adjacent to Alley # 2025 to be used as public right of way. Under this ordinance, Metro is abandoning a three-foot strip on each side of Alley # 2027 to adjacent property owners Jimmy and Johanna Choate and Marcella Carter. Metro is also converting the remaining middle portion of Alley # 2027 from a conventional alley into a pedestrian walkway between Marshall Street and Alley # 2025. Metro will retain a utility easement to Alley # 2027. Further, Metro accepts from Jimmy and Johanna Choate approximately 350 square feet of their property adjacent to Alley # 2025 as a permanent easement for public right-of-way purposes.

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

ORDINANCE NO. BL2002-977 (LORING, MCCLENDON, & SHULMAN) - This ordinance authorizes the acquisition of property, by negotiation or condemnation, for utility easements related to the Pennington Bend at Briley Parkway sewer system. Easements are required on three Pennington Bend Road properties for the purpose of constructing, maintaining, and operating sanitary and storm sewers. Costs of the easements, estimated at \$1,500, will be paid from the water and sewer extension and replacement fund. This ordinance also authorizes the director of public property administration to acquire additional temporary construction easements as needed.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-978 (BRILEY, GILMORE & BLACK) - This ordinance authorizes Nashville Data Link, Inc., to construct, install, and maintain fiber optic cable in Davidson County as long as the cable is not being used to offer local telecommunications service to retail customers in Davidson County. Nashville Data Link, Inc., plans to construct approximately 17 miles of cable within Davidson County from the Cheatham County line along Clarksville Pike to Lloyd Road, then along Highway 431, then along Trinity Lane. Nashville Data Link, Inc., is to pay all costs related to the construction and maintenance of the cable.

The plans and specifications for the cable must be submitted to and approved by the director of public works. The mayor and the Metropolitan Council reserve the right to repeal this ordinance at any time, and Nashville Data Link, Inc., would be required to remove the cable at their own expense. This authority granted to Nashville Data Link, Inc., will not interfere with Metro's existing utility rights. Further, Nashville Data Link, Inc., must obtain a \$1 million certificate of liability insurance naming Metro as insured if the cable is installed on existing poles, or a \$10 million certificate of insurance if installation of the cable requires any excavation in the right-of-way of Metro.

This ordinance has been referred to the planning commission.

ORDINANCE NO. BL2002-979 (WHITMORE) - This ordinance closes a portion of Leslie Avenue, a portion of 24th Avenue, Alley # 909, and Alley # 927. The sections of streets and the alleys to be closed are located at the corner of Charlotte Avenue and 23rd and 24th Avenues. Metro and the contracted utility companies will retain easements to construct and maintain existing and future utilities.

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ORDINANCE NO. BL2002-979 (continued)

These closures are requested by Tom Ramsey of HCA Realty, Inc., the abutting property owner. The properly executed application showing consent of the affected property owner is on file with the planning commission.

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

ORDINANCE NO. BL2002-980 (MCCLENDON) - This ordinance closes portions of 5th Avenue North, 4th Avenue North, and Alleys # 201, # 508, # 509, and #510. The sections of streets and alleys to be closed are located within the borders of Metrocenter Boulevard, Dominican Drive, and Clay Street. Metro and the contracted utility companies will retain easements to construct and maintain existing and future utilities.

This closure is requested by Phillip Piercy of Littlejohn Engineering Associates, on behalf of abutting property owners. Properly executed letters showing consent of the affected property owners are on file with the planning commission.

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

Staff would recommend deferral of this ordinance to allow the traffic and parking commission the thirty-day period provided in the Metro charter to act on the ordinance. Pursuant to the charter, if the ordinance is not approved by the traffic and parking commission within thirty days of the date of its referral, it is deemed approved.

- **BILLS ON THIRD READING** -

ORDINANCE NO. BL2001-833 (BLACK) – This ordinance abandons Alley No. 1088, from Brick Church Pike to its terminus located north of Haynie Avenue. This abandonment is being requested by Mark Carver of Sherrard & Roe, PLC, for Budig Realty, LLC, the abutting property owner.

This abandonment has been approved by the planning commission and the traffic and parking commission. The necessary consents of abutting property owners are on file with the Metro clerk.

ORDINANCE NO. BL2001-892 (WALLACE) - This ordinance, as amended, amends the Official Street and Alley Acceptance and Maintenance Map for the Metropolitan Government, as enacted by Ordinance No. BL2001-916, by closing Alley No. #86 and a portion of Alley No. #87. The alleys run perpendicular to each other off 7th Avenue South. This closure is requested by Richard Ropelewski for abutting property owners. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2002-945 (GREER, MCCLENDON & SHULMAN) - This ordinance authorizes the acceptance of a contract between the state department of transportation and the Metropolitan Government for improvements to the bridge on Chestnut Street over the CSX railroad. The total cost of the project is \$1,590,000, of which Metro will pay 20% of the cost (\$318,000) and the state will pay the remaining 80%. Metro agrees to maintain and provide electric power to all devices, wiring, and signs regulating traffic.

This ordinance also provides that any additional contracts required for this project, such as for installation and maintenance of traffic signals, street lighting, and the appropriation of funding for the relocation of water mains and sewer lines, may be approved by a resolution by the council.

ORDINANCE NO. BL2002-948 (WILLIAMS) - This ordinance readopts the Metropolitan Code to include all ordinances adopted by the Metropolitan Council before July 17, 2001.

ORDINANCE NO. BL2002-949 (MAJORS & BRILEY) - This ordinance amends Ordinance No. O92-210 by extending the sunset date for the 1992 Procurement Code from June 30, 2002 to December 31, 2002. The 1992 Procurement Code, as adopted by Ordinance No. O92-210, restated the purchasing procedures for the Metropolitan Government and created a procurement standards board. The 1992 Procurement Code was primarily just a re-write of the purchasing laws that were already in place. By extending the sunset date, more time is allowed to study the purchasing Code for possible revisions.

ORDINANCE NO. BL2002-950 (BRILEY) - This ordinance approves an amendment to a contract between the Metropolitan Government and Volume Services, Inc. for food and beverage services for the Nashville Convention Center. The original term of the contract was from January 31, 1997 to January 30, 2002. This amendment extends the term of the contract to January 30, 2004. In consideration for the extension, Volume Services, Inc. will invest an additional \$350,000 upon signing of the extension, of which \$300,000 will go toward the renovation of the convention center ballroom and \$50,000 will be spent on additional smallwares. The \$350,000 will be amortized in monthly installments over a four-year period. In the event the contract is terminated by either party before the cash grant is amortized over the four-year period, Metro will repay Volume Services, Inc. the unamortized portion within thirty days of the termination. This is a typical arrangement between government owned facilities and concessions vendors.

ORDINANCE NO. BL2002-951 (HAND) - This ordinance amends the official street and alley acceptance and maintenance map for the Metropolitan Government, as enacted by Ordinance No. BL2001-916, by naming an unnamed road "White Bridge Place." The unnamed access road abuts White Bridge Road near the Charlotte Pike intersection next to the I-40 entrance ramp. Naming the road "White Bridge Place" will improve E-911 efficiency because parcels on this road are currently listed as "White Bridge Place". This ordinance is requested by the interim director of public works.

This ordinance has been approved by the planning commission and the emergency communications district board.

ORDINANCE NO. BL2002-952 (TURNER & MAJORS) - This ordinance amends the official street and alley acceptance and maintenance map for the Metropolitan Government, as enacted by BL2001-916, by renaming a portion of Belmont Boulevard "Jamesborough Place". This portion of Belmont Boulevard lies between Lone Oak Road and Jamesborough Place. This renaming is requested by the interim director of public works.

This ordinance has been approved by the planning commission and the emergency communications district board.

ORDINANCE NO. BL2002-953 (MCCLENDON) - This ordinance amends the official street and alley acceptance and maintenance map for the Metropolitan Government, as enacted by BL2001-916, by closing alley # 1846. This alley is between Glenrose Avenue and I-440. Easements are retained by Metro and its contractors for the right to construct, operate, and maintain existing or future utilities. Any future construction in the area of the existing utilities must be approved by the director of public works and/or the director of water and sewerage services, as well as by the utility companies.

This closure is requested by abutting property owner James Haygood on behalf of all of the abutting property owners. Staff would point out that it is unclear from the petition whether all affected property owners have consented to the closing.

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

ORDINANCE NO. BL2002-954 (WHITMORE & BLACK) - This ordinance amends the official street and alley acceptance and maintenance map for the Metropolitan Government, as enacted by BL2001-916, by closing a portion of alley # 932 abutting the CSX railroad track between 25th and 26th Avenue North. This alley is serving no purpose and the closure is requested by abutting property owner Lawrence Murphy of Murphy Plumbing Co. Easements are retained by Metro and its contractors for the right to construct, operate, and maintain existing or future utilities. Any future construction in the area of the existing utilities must be approved by the director of public works and/or the director of water and sewerage services, as well as by the utility companies.

The properly executed application indicating consent of the affected property owners is on file with the planning commission.

ORDINANCE NO. BL2002-955 (SUMMERS) - This ordinance amends the official street and alley acceptance and maintenance map for the Metropolitan Government, as enacted by BL2001-916, by closing a portion of unimproved alley # 1190 located adjacent to Park Circle. Easements are retained by Metro and its contractors for the right to construct, operate, and maintain existing or future utilities. Any future construction in the area of the existing utilities must be approved by the director of public works and/or the director of water and sewerage services, as well as by the utility companies.

This closure is requested by abutting property owner Charles V. Smith. The properly executed application indicating consent of the affected property owners is on file with the planning commission.

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

ORDINANCE NO. BL2002-969 (MAJORS, WATERS & OTHERS) – This amendment to the zoning text expands the exempt signs provision pertaining to official government, fraternal, religious or civic flags. Section 17.32.040 (H) presently exempts these flags from the sign regulations provided that they are mounted individually on permanent poles attached to the ground or building. This amendment removes the limitation that the flags be mounted on poles, and therefore would permit flags to be displayed by other means.

This text change has been approved by the planning commission, subject to a proposed amendment which will be proposed.