

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **August 20, 2002**

RE: **Analysis Report**

Balances As Of:	<u>8/14/02</u>	<u>8/21/01</u>
<u>GSD 4% RESERVE FUND</u>	\$16,371,233	\$14,574,458
<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 SCHOOL FUND</u>		
	Unavailable	Unavailable
<u>SOLID WASTE DISPOSAL FUND</u>		
Solid Waste Activities	Unavailable	Unavailable

- RESOLUTIONS -

RESOLUTION NO. RS2002-1115 (HAUSSER) – This resolution authorizes Binlin Qin to install a 16-foot by 5.25 foot awning over the public sidewalk area in front of the Taste of Tokyo restaurant, located at 1806 - 21st Avenue south in Hillsboro Village. The awning will project 4.5 feet over and 8 feet above the sidewalk. Binlin Qin, owner of the Taste of Tokyo, will be required to maintain a \$300,000 certificate of liability insurance naming the Metropolitan Government as additional insured.

This resolution has been approved by the planning commission.

RESOLUTION NO. RS2002-1123 (JENKINS) – This resolution provides fourteen amendments to the Metropolitan Charter. Four of the proposed amendments were previously submitted pursuant to other resolutions filed earlier in this council term. These four amendments include residency requirements for Metro employees, allowing the council to adopt a redistricting plan without a public referendum, and reconfiguration of the Metropolitan transit authority (MTA) board and the electric power board. In addition, two more amendments are included in this resolution related to the MTA board and electric power board that are similar but not identical to the previously filed amendments. The prior resolutions were deferred indefinitely to allow any proposed amendments to the Charter to be included in one resolution.

The council, pursuant to the Charter, may adopt only two resolutions during the term of the council that submit amendments to the voters for ratification. In order to qualify for the November 5, 2002, election, this resolution must be adopted at the September 17, 2002, council meeting if these amendments are to be submitted to the voters for ratification. Therefore, to avoid having to call a special election for the charter amendments, this resolution should be deferred until the September 17th council meeting. A supplemental analysis will be provided discussing the charter amendments in more detail after the charter revision commission has made a recommendation on the proposed amendments.

There will be a substitute amendment offered prior to the September 17th meeting that corrects a typographical error made in one of the proposed amendments.

RESOLUTION NO. RS2002-1124 (SHULMAN) – This resolution approves an amendment and restatement of the general bond resolution approved by Resolution No. RS2001-875, which authorized the issuance of revenue bonds of the Metropolitan Government for financing of the new district energy system. Resolution No. RS2001-875 was part of the mayor's solid waste plan adopted by the council in December of 2001, which called for the decommissioning of the thermal facility and the construction of a new energy distribution facility to provide heating and cooling to various downtown buildings. Metro is prepared to issue the first set of bonds and needs to make some technical changes to the bond resolution prior to this issuance. These changes do not affect the total principal amount of the bonds, which remains at \$66.7 million with a maturity date of 33 years, nor do they affect the maximum permitted interest rate, which remains at 6.5% annually. Only net revenues from the operation of the new energy distribution system are to be used to repay the bonds.

Most of the changes relate to technical modifications and clarifications in the security for the bonds and for use of funds. The amended resolution includes various additional funds and accounts to facilitate bookkeeping and to ensure that funds are segregated appropriately. The

changes also ensure that the funds and accounts established by the resolution match up with the provisions in the customer contracts and the management agreement. There are additional definitions included that make certain technical changes to the bond resolution as it relates to the customer contracts and management agreement. For example, the definition of “revenues” is amended to clarify that reimbursements paid to Metro for costs are allowed to be retained by Metro and are not included as revenues to be deposited with the trustee.

The amended resolution provides that the funding of the debt service reserve fund may be through an insurance policy or surety bond, instead of having to use cash or issue additional Metro bonds to cover the debt service reserve. The resolution also clarifies that Metro is covenanting that it will purchase energy from the district energy system as a customer and that it will cover any system deficits, subject to appropriation by the council. There is also a provision that would allow Metro, by resolution of the council, to authorize another use of excess bond funds in the system improvement fund that was not previously expressly authorized as long as Metro’s bond council opines that it will not affect the tax-exempt status of the bonds and the use is permitted under the general resolution.

As an additional good faith commitment to the bond market and rating agencies, Metro is agreeing to fund any debt service shortfalls, which might occur prior to the completion and commencement of operation of the new energy distribution facility. Metro’s financial advisor has advised that this will reduce Metro’s cost in obtaining insurance guaranteeing payment of the bonds.

RESOLUTION NO. RS2002-1125 (HAND, BLACK & OTHERS) – This resolution amends Resolution No. RS2002-920 by appropriating an additional \$350,000 from the reserve for council infrastructure improvement program account to the department of public works for additional infrastructure improvements. The council appropriated \$2 million in the 2001-2002 operating budget for the reserve for council infrastructure account. Resolution No. RS2002-920, adopted as amended on January 15, 2002, appropriated the \$2 million of council infrastructure funds from the reserve account to the department of public works, with \$57,142.85 available for infrastructure improvements such as drainage, street paving, park equipment, and sidewalk construction and repairs in each council district. Any funds not spent in connection with this program by June 30, 2002, were reappropriated in the budget ordinance adopted by the council for fiscal year 2002-2003. Additionally, the council appropriated another \$350,000 to the reserve for council infrastructure program in the 2002-2003 operating budget. This resolution transfers the additional \$350,000 from the reserve account to the department of public works, making an additional \$10,000 available for each council district.

RESOLUTION NO. RS2002-1126 (SHULMAN) – This resolution appropriates U.S. department of justice law enforcement block grant funds in the amount of \$2,049,244 and the required matching funds to sub-accounts within a special reserve fund for various Metro departments. This grant was accepted by Ordinance No. BL2002-1123, and this resolution simply appropriates the grant funds. The grant funds will be appropriated to the various departments along with each department’s required match as follows:

Grant

Department

<u>Department</u>	<u>Amount</u>	<u>Match</u>
Police	\$677,269.20	\$75,252.21
Drug Court	\$374,375.34	\$38,597.30
Public Defender's Office	\$ 37,749.53	\$4,194.40
District Attorney General's Office	\$235,277.80	\$26,142
Justice Information System	\$117,275.37	\$13,030.61
Juvenile Court	\$ 72,281.14	\$8,031.25
Sheriff's Office	\$295,231.92	\$32,803.58
Metropolitan Schools	\$266,783.70	\$29,642.66

RESOLUTION NO. RS2002-1127 (DILLARD & SHULMAN) – This resolution approves an application for a grant in the amount of \$350,000 from the U.S. department of justice state domestic preparedness program to the Metro office of emergency management to purchase computer equipment and software to institute the E-Stat project. E-Stat is a computerized public safety/crisis management tool to assist in the protection from and response to terrorist attacks involving weapons of mass destruction. There are no matching funds required for this grant and the funds will be used solely for the purpose of purchasing the necessary equipment.

RESOLUTION NO. RS2002-1128 (MCCLENDON, SHULMAN & GILMORE) – This resolution accepts an annual grant from the state department of environment and conservation for the purpose of collecting and disposing of waste tires from Tennessee residents. Metro operates this program without the payment of tip fees. The majority of the tires collected under this program are disposed of by Metro's sub-contractor and only a small portion of tires are being collected at Metro's convenience centers. This grant is in the amount of \$435,625 and is for a term beginning July 1, 2002 and expiring on June 30, 2003.

RESOLUTION NO. RS2002-1129 (SHULMAN) – This resolution authorizes the director of finance and director of law to enter into a settlement agreement with Nelson Plumbing, Inc., Tennessee Stadium Group, LLP, Highlands Insurance Company, and Travelers Insurance Company, whereby Metro will accept \$875,000 in compromise and settlement of its claim related to a water line failure at the Coliseum. Tennessee Stadium Group, LLP, the Coliseum's general contractor, subcontracted with Nelson Plumbing to provide plumbing work at the Coliseum, including the (continued on next page)

RESOLUTION NO. RS2002-1129 (continued)

installation of water lines. On January 4, 2001, a water line alleged to have been installed by Nelson Plumbing failed, causing extensive damage. Metro filed suit against Tennessee Stadium and Nelson Plumbing to recover Metro's costs associated with repairing the damage caused by the water line failure. The parties have agreed to settle this matter for \$875,000 without admitting to any liability. The department of law believes that the acceptance of \$875,000 is a fair and reasonable settlement regarding this matter.

As part of this settlement, a first payment of \$750,000 will be made within 14 days of the adoption of this resolution. An additional payment of \$125,000 will be made after the resolution of a declaratory judgment action involving Tennessee Stadium Group, Nelson Plumbing, and Highlands Insurance Company to determine responsibility for the payment.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2002-1127 (WALLACE & TUCKER) – This ordinance prohibits cruising in certain areas of downtown Nashville. A “no cruising area”, as to be determined by the traffic and parking commission, will include streets within the boundaries of Charlotte Avenue on the north, Franklin Street on the south, 8th Avenue on the west and the Cumberland River on the east. Pursuant to this ordinance, cruising is defined as unnecessary repetitive driving past a designated traffic control point two or more times within a given three-hour period. Cruising will be prohibited in these areas between the hours of 9:00 p.m. and 3:00 a.m. Police officers will have the authority to monitor vehicles going past the traffic control points and to stop a vehicle after it drives past the control point two or more times to give notice that the cruising ordinance is in effect. If the vehicle is seen driving past the control point again after this notice has been given, the officer may issue a traffic citation to the operator of the vehicle. This cruising ordinance is not applicable to emergency vehicles, public transportation vehicles, a vehicle being used for business purposes, during special events, and to residents living within the “no cruising area”.

This ordinance should be deferred to allow the traffic and parking commission time to consider this ordinance and make a recommendation. It is on their agenda for their meeting of September 9th.

ORDINANCE NO. BL2002-1134 (SHULMAN, PONDER & OTHERS) – This ordinance establishes a property tax relief program for low-income elderly residents of the Metropolitan Government. State law allows county legislative bodies to appropriate funds for such programs and to establish guidelines for participation in the program and the disbursement of such funds. The council appropriated approximately \$1.2 million in the current fiscal year's operating budget for a property tax relief program for the elderly. This ordinance authorizes the Metropolitan trustee to establish rules and procedures for implementation of the program and directs the trustee to disburse the funds accordingly to all eligible taxpayers. All persons who qualify for the state property tax relief program and whose income does not exceed \$12,210 annually will qualify for this program. As this budgetary appropriation is non-recurring funding, this program will expire on June 30, 2003.

ORDINANCE NO. BL2002-1136 (MCCLENDON, BEEHAN & OTHERS) – This ordinance authorizes the mayor to apply for state wastewater grants and loans. The federal government, through the environmental protection agency (EPA), has entered into a grant agreement with the state to enable the state to provide assistance to local wastewater agencies in construction of water pollution abatement projects. This ordinance allows the mayor to apply for such funding from the state for various water pollution projects within the Metropolitan Government. Future projects may be added to the list by resolution of the Metropolitan Council. Further, this ordinance authorizes the department of water and sewer services to take whatever steps are necessary to receive these grants or loans.

The following projects, with a total estimated cost of between \$150-\$200 million dollars, will be repaid from the extension and replacement fund of the department of water and sewerage services over the next four to five years:

Benedict & Crutcher Sewer Separation (District 6)

Biosolids Management (Countywide)

Boscobel Sewer Separation (District 6)

Dodson Chapel Equalization Tank (District 12)

Dry Creek WWTP Optimization (District 10)

Hurricane Creek Equalization Tank (District 29)

McCrary Creek Equalization Tank (District 14)

Omohundro Backwash Improvements (District 15)

Smith Sprints Equalization Tank (District 29)

Odor Control – CWWTP (Countywide)

Odor Control – DCWWTP (Countywide)

Schrader Lane Sewer Separation (District 21)

Whites Creek P. S. (District 1)

Council office sees no problem with adding projects to this program by resolution, however, council office would recommend that this ordinance be amended to provide what the terms of repayment would be in each of these agreements so that the council could have an understanding as to its obligations and potential liability from tax revenue rather than revenues of the department of water and sewerage services.

ORDINANCE NO. BL2002-1137 (SHULMAN & DERRYBERRY) – This ordinance approves a grant in the amount of \$360,000 from the U.S. department of justice to the district attorney general's office for the community gun violence prosecution program. These funds are to be used to pay the salaries of prosecutors whose time is devoted to the prosecution of firearm-related violent crime. The term of the grant is from October 1, 2001 through September 30, 2004. Metro is required to make an in-kind match of \$40,000 during the first and second year of the grant term, and \$10,000 during the third year. Amendments to the grant may be approved by resolution of the Metropolitan Council.

ORDINANCE NO. BL2002-1138 (MCCLENDON & SHULMAN) – This ordinance authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation in connection with the James Avenue over Briley Parkway state road project. Pursuant to the terms of the agreement, Metro will pay the state \$110,000 out of the water and sewer extension and replacement fund for relocation of the water and sewer utilities. The \$110,000 amount represents 100% of the estimated cost. This ordinance also authorizes Metro to enter into a local government investment pool (LGIP) agreement with the state treasury department to allow Metro to earn interest on the \$110,000 until the funds are spent.

ORDINANCE NO. BL2002-1139 (WHITMORE & SHULMAN) – This ordinance approves an urban and community forestry grant in the amount of \$4,400 between the state board of agriculture and the Metro board of parks and recreation. The grant is for a term of July 1, 2001 through September 30, 2002, with a possible four month extension. The grant funds will be used to reprint 6,500 copies of the educational brochure “Trees for Middle Tennessee Homes”. An additional \$4,400 must be provided as matching funds; \$900 as a cash match and \$3,500 as in-kind matching funds.

ORDINANCE NO. BL2002-1140 (SHULMAN) – This ordinance approves a license agreement with the American Society of Composers, Authors and Publishers (ASCAP) for use of ASCAP’s musical compositions at Metro facilities. ASCAP requires businesses, governments and other organizations to pay a license fee in order to play recorded music or allow live performance of music written by their composers and/or published by their publishers. This agreement is a result of Metro’s failure to be in compliance with ASCAP requirements as they relate to music played at Metro facilities. The agreement was negotiated between ASCAP and representatives of the Metropolitan Government and other cities, and it ensures that “Music City, USA” is in compliance with the regulations governing the use of music in government-owned facilities.

Pursuant to the license agreement, Metro is required to pay a base annual license fee of \$3,800 for a population of 500,000, plus \$500 for each additional 100,000 population. This base amount may increase incrementally each year based upon a consumer price index. Additionally, Metro will be required to pay 1% of gross revenues generated in excess of \$25,000 from special events where ASCAP music is played. Metro must submit a report within 90 days of a special event indicating the name of the performers and the gross revenue from the special event. It is estimated that there will be very few special events to which this fee will be applicable since Metro typically does not act as its own promoter of events. This agreement does not cover music played at any professional sporting events. It is estimated that this license agreement will cost the Metropolitan Government about \$5,000 annually. The license agreement is for a term of one year and must be renewed on an annual basis. Amendments to this agreement may be adopted by resolution of the Metropolitan Council.

In the future, there may be additional similar license agreements before the council with BMI and SESAC, the other two large organizations of music publishers and composers.

ORDINANCE NO. BL2002-1141 (MCCLENDON) – This ordinance authorizes the acquisition, by negotiation or condemnation, of utility easements on 126 tracts of property for the Grizzard Manor grinder pump installation project. The current septic system for the Grizzard

Manor subdivision has been identified as a health threat by the Metro department of health. To remedy this situation, Metro water and sewerage services (MWS) has installed a pressure-type sewer system that requires individual grinder pumps for each residence. This ordinance authorizes the acquisition of the easements to install the grinder pumps. The easements will be acquired at no cost to the Metropolitan Government pursuant to an agreement between MWS and the Grizzard Manor homeowners. Pursuant to the agreement, the homeowners will pay a one-time maintenance and tap fee of \$3,000, which may be financed through MWS at a 7% annual interest rate.

ORDINANCE NO. BL2002-1142 (TUCKER) – This ordinance amends the Metropolitan Code of Laws by adopting the latest edition of several standard codes. Copies of the new editions of the standard codes are on file with the Metropolitan Clerk. Metro adopts new codes when they are amended and updated, which is generally every few years. The last time new standard codes were adopted was in December of 1998 for the 1997 standard codes. State law requires local governments to adopt a building code edition that is within six years of the latest published editions. Generally, Metro also adopts some amendments to the standard codes that are local in nature, which are included as part of this ordinance. This ordinance adopts the 2000 edition of the fire prevention and life safety code, the standard building code, the CABO model energy code, the international energy conservation code, the standard plumbing code, and the standard mechanical code. The various building and fire codes are being adopted at the same time to avoid conflicts between the various codes. The new standard codes have been approved by the board of fire and building code appeals, the board of plumbing examiners and appeals, and the board of gas/mechanical examiners and appeals.

In addition, this ordinance clarifies that the enforcement of the Metro fire ordinances, the investigation of fires, and the powers of the fire marshal are applicable county-wide. The current Metro Code of Laws technically makes these provisions only applicable to the urban services district. Further, this ordinance provides that a person ordered by the fire marshal to remedy a fire hazard may appeal such order to the board of fire and building code appeals prior to the next scheduled meeting of the board, as opposed to appealing to the mayor as the code currently provides.

As stated above, in addition to adopting the standard codes, this ordinance adopts some local amendments. These amendments include changes in some definitions and technical requirements to make the new code read in the manner that is consistent with the previous language. This ordinance also makes a technical clarification to an amendment of the existing electrical code and amends the building permits section of the code of laws to clarify the calculation methods for partial permit fees.

ORDINANCE NO. BL2002-1143 (BLACK) – This ordinance closes Hale Street from West Alpine Avenue to its terminus. Hale Street is currently unbuilt and there is no future need for the street by the Metropolitan Government. Metro will retain all easements. Consent of affected property owners is on file with the planning commission.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2002-1075 (DERRYBERRY, WATERS & SONTANY) - This ordinance, as amended, provides for the regulation of the use and operation of horse-drawn carriages within the Metro area by requiring carriage owners and operators to obtain licenses through the Metropolitan transportation licensing commission, much in the same manner as taxicab companies and drivers are currently licensed. Pursuant to this ordinance, all owners of horse-drawn carriages will be required to obtain an annual certificate to operate such a business. The application, along with a \$100 permit fee, is to be submitted for approval by the commission. The application will contain business and personal information about the owner including a list of drivers, number of carriages, the number of horses along with four separate color photographs of each horse (with a shot of the front, both sides, and rear of the horse), documentation from a veterinarian as to the horse's physical condition, \$1 million in liability insurance per carriage, and an applicant's criminal history. If the commission deems an application to meet all of the requirements, a permit is issued for each carriage. After a permit has been issued, it may be suspended or revoked if the commission finds a violation of the regulations or a criminal conviction. There is an appeal process for applicants who are denied. Carriage companies must also file a list of their basic rates of fare with the commission.

Also mandated by this ordinance is a requirement for a driver's permit to operate a horse-drawn carriage. The requirements for a driver's permit are very similar to those of taxicab drivers. The application must include proof that a driver is at least 21 years old, experience in the industry, educational and criminal background, a federal department of transportation drug and alcohol test, and a valid Tennessee special chauffeur's driver's license. Once a driver's permit is issued, the driver must display the permit prominently on his/her clothing or in the carriage. A permit may be revoked for a criminal conviction. Drivers must also take adequate measures to keep a horse from dropping excrement from its "diaper", must obey all traffic laws, and must keep the speed of the horses to a trot, among various other restrictions.

This ordinance also requires that horses be examined every six months and provides restrictions on horse and carriage equipment, as well as limits on the number of passengers a horse can pull. The ordinance further provides numerous restrictions regarding the care and condition of horses used in the carriage business. The operation hours for horse-drawn carriages will be 6:00 p.m. to 6:00 a.m. Monday through Friday, and during any hours on weekends and holidays. The carriages will be limited to specific routes developed in consultation with the traffic and parking commission.

ORDINANCE NO. BL2002-1116 (WALLACE) - This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit the feeding of any fowl, except water fowl, in public streets, alleys and sidewalks within the urban services district.

ORDINANCE NO. BL2002-1128 (MAJORS & DERRYBERRY) – This ordinance amends the Metropolitan Code of Laws section related to abandoned vehicles by including the vehicle's contents within the definition of "abandoned motor vehicles" and providing for the disposition of those contents. The language in the current code of laws section does not address the contents left in an abandoned vehicle, and this change is necessary to clarify that the contents of the vehicle can be disposed of in the same manner as the vehicle itself.

ORDINANCE NO. BL2002-1129 (SHULMAN, BRILEY & DERRYBERRY) – This ordinance approves a grant to the police department in the amount of \$3,546.84 from the U.S. department of justice for the purchase of bulletproof vests. Metro is required to provide a matching sum in the amount of \$3,546.84. Amendments to this grant may be approved by resolution of the Metropolitan council receiving 21 affirmative votes.

ORDINANCE NO. BL2002-1130 (WILLIAMS) – This ordinance readopts the code of the Metropolitan Government to include all ordinances enacted on or before May 24, 2002.

ORDINANCE NO. BL2002-1131 (WHITMORE & JENKINS) – This ordinance authorizes the director of the board of parks and recreation to enter into a lease agreement with the state of Tennessee for property located at the Ellington agriculture center to be used as a public park. This lease is a renewal of a lease. Metro parks have controlled this land for many years with the present use being primarily soccer fields. The two tracts of property to be leased consist of approximately 15 acres located on the northeast corner of the Ellington agriculture center property along Edmondson Pike. The lease is for a term of 25 years expiring in 2027 and requires no rent to be paid on the part of the Metropolitan Government. If Metro ceases to use this property for public recreation, the lease is automatically terminated and the property reverts back to the state. The lease may be terminated by either party upon 90 days written notice. Amendments the lease agreement may be approved by resolution of the Metropolitan Council receiving 21 affirmative votes. The planning commission has approved this ordinance.

SUBSTITUTE ORDINANCE NO. BL2002-1132 (MCCLENDON) – This substitute ordinance authorizes the director of finance to convey Metro’s interest in two parcels of property by quitclaim deed to the Nashville & Eastern Railroad Authority in connection with the Gateway Boulevard project. Metro will convey the first parcel, consisting of approximately 220 square feet, subject to Metro’s retention of a two-year temporary construction easement and a permanent easement for use of the air space. Pursuant to this agreement, Metro will also convey a permanent easement in a second parcel of property, consisting of approximately 1,375 square feet, for use by the railroad in its business activities. The planning commission has approved this ordinance.

ORDINANCE NO. BL2002-1133 (LORING, MCCLENDON & OTHERS) – This ordinance authorizes the director of public property administration to acquire 22 utility easements by negotiation or condemnation for the purpose constructing and maintaining water mains in connection with the Briley Parkway widening from Elm Hill Pike to Windmere Drive. The estimated cost for the easements is \$11,000, and will be paid from the water and sewer extension and replacement fund. Further amendments to this ordinance may be adopted by resolution of the Metropolitan Council. The planning commission has approved this ordinance.