

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Metropolitan Council Office

DATE: **May 20, 2003**

RE: **Analysis Report**

Balances As Of:	<u>5/14/03</u>	<u>5/15/02</u>
<u>GSD 4% RESERVE FUND</u>	\$14,397,959	\$14,735,921
<u>CONTINGENCY ACCOUNTS</u>		
GSD	\$50,000	\$35,000
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$35,852,664	\$63,997,550
USD	\$13,910,490	\$16,682,399
<u>GENERAL PURPOSE</u> <u>SCHOOL FUND</u>	\$53,181,288	\$10,404,340

- RESOLUTIONS -

RESOLUTION NO. RS2003-1417 (GREER, HAUSSER & WALLACE) – This resolution appropriates \$325,000 in community development block grant (CDBG) funds for community recreational improvements at Murrell School and streetscape improvements in the Edgehill neighborhood strategy area. CDBG funds are designated for affordable housing activities and for neighborhood community projects. These funds were allocated in the CDBG application to the Edgehill neighborhood strategy area and have been recommended for the above community improvements.

A housekeeping amendment will be offered for this resolution, as there is an incorrect reference to the Cameron neighborhood strategy area instead of the Edgehill neighborhood strategy area in a recital clause.

RESOLUTION NO. RS2003-1454 (JENKINS) – This resolution calls the Metro board of equalization (MBOE) into regular session convening June 2, 2003 and adjourning June 18, 2003, and calls the MBOE into special session convening June 19, 2003 to complete any unfinished business regarding appeals on pro-rated assessments. The special session shall not extend beyond May 31, 2004. The MBOE meets during the month of June to hear assessments on real property. State law authorizes the county legislative body to fix the number of days the board of equalization shall sit in regular session and to call the board into special session to complete unfinished business.

RESOLUTION NO. RS2003-1455 (WALLACE) – This resolution appropriates \$50,000 in community development block grant (CDBG) funds for demolition and environmental abatement of structures located at the intersection of Jefferson Street and 14th Avenue North. CDBG funds are designated for affordable housing activities and for neighborhood community projects. These funds were allocated in the CDBG application for the Jefferson Street commercial district. The proposed improvements at this intersection include a new non-profit Matthew Walker Comprehensive Health Center.

RESOLUTION NO. RS2003-1456 (JENKINS) – This resolution approves a grant in the amount of \$1,153,066.97 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide

Families First Support services. The term of this grant is from July 1, 2003 to June 30, 2004, with a possible extension of two additional one-year terms. The services to be provided as part of this grant include transportation, vehicle repairs, dental assistance, optical services, and other support services, including trade licenses.

RESOLUTION NO. RS2003-1457 (JENKINS & WALLACE) – This resolution approves a second amendment to a grant from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide space and administration services for a career center facility in workforce investment area 9. The original grant award was in the amount of \$109,497, and was subsequently increased by \$14,494.20. This amendment increases the grant award by \$7,285.80, for a total grant award of \$131,277.

RESOLUTION NOS. RS2003-1458 & RS2003-1459 (JENKINS & WALLACE) – These two resolutions approve grants from the state department of labor and workforce development, under the provisions of the Workforce Investment Act of 1998, to provide funding for the Nashville career advancement center (NCAC) to prepare adults, youth, and dislocated workers for re-entry into the labor force. These grants are essentially federal pass-through funds that provide operating funds for NCAC. The terms of these grants are from April 1, 2003, through June 30, 2005, with a possible extension of two additional one-year terms.

Resolution No. RS2003-1458 approves a grant in the amount of \$132,988.39 for administration and operating costs to establish programs to prepare adults, youth, and dislocated workers for re-entry into the labor force.

Resolution No. RS2003-1459 approves a grant in the amount of \$1,196,895.51 to establish programs and deliver services to prepare youth for re-entry into the labor force, and to offer training to those facing serious barriers to productive employment.

RESOLUTION NO. RS2003-1460 (JENKINS & WALLACE) – This resolution authorizes the mayor to submit an application for a work incentive grant from the U.S. department of labor to be administered through the Nashville career advancement center. NCAC is seeking up to \$500,000 in federal grant funds, in addition to the \$100,000 that has already been awarded from the state department of labor and workforce development. If awarded, these grant funds will be used to address service barriers to jobseekers with disabilities. Specifically, the grant would fund a program coordinator position and assistive technology to make the One Stop Career Centers more accessible to customers with disabilities. One Stop centers contain various employment resources to assist the jobseeker in finding employment opportunities.

RESOLUTION NO. RS2003-1461 (JENKINS) – This resolution approves an application for a grant from the federal emergency management agency (FEMA) to the Metro fire department to purchase automatic personal respirators to better equip fire personnel in the event of a biochemical terrorist attack. The fire department is seeking a grant award of \$203,000 to purchase 818 air-purifying respirators and filter cartridges to protect EMS and fire personnel during incidents involving exposure to biological materials.

RESOLUTION NO. RS2003-1462 (JENKINS) – This resolution approves an amendment to a grant from the state department of agriculture to the Metro board of health to provide inspection, reporting, and enforcement of retail food stores in Davidson County. This amendment increases the amount of the grant by \$51,979, for a total grant award of \$430,979.50 over a term of January 1, 2000 to December 31, 2004. Metro will receive \$34,163.25 quarterly to provide these services. These retail food store inspection services are done by local health departments in the urban cities, as opposed to the state providing these services.

RESOLUTION NO. RS2003-1463 (JENKINS) – This resolution approves a grant agreement in the amount of \$12,000 from the state department of health to the Metro health department to provide a written design for an epidemiological study concerning Cypress (continued on next page)

RESOLUTION NO. RS2003-1463 (continued)

Creek in Memphis, Tennessee. Pursuant to the terms of this grant, the Metro health department will assist the Memphis/Shelby County health department by providing consultation services on the correlation of health related data regarding the incidence of cancer and other chronic illnesses, birth defects, and neurological/behavioral development associated with chlorinated pesticide levels from water, soil, or sediment data in the Cypress Creek area. The term of this grant is from April 1, 2003 to May 31, 2003.

RESOLUTION NO. RS2003-1464 (HALL & JENKINS) – This resolution approves a grant in an amount not to exceed \$85,000 from the state department of environment and conservation to the Metropolitan Government to provide assistance in maintaining and operating a permanent household hazardous waste collection site. The term of the grant is from July 1, 2002 through June 30, 2003. Future agreements necessary for the implementation and completion of this grant may be approved by resolution of the Metro Council receiving 21 affirmative votes.

RESOLUTION NO. RS2003-1465 (TYGARD & HALL) – This resolution approves a contract between the state department of transportation and the Metropolitan Government for the installation of traffic signals at the intersection of Highway

100 and Temple Road. The \$50,000 cost of this signalization will be funded by the state, with Metro being responsible for the maintenance of the signals.

RESOLUTION NO. RS2003-1466 (JENKINS, HALL & PONDER) – This resolution authorizes the mayor to enter into a supplemental agreement with Nashville and Eastern Railroad Corporation allowing the Metro department of water and sewerage services to increase the rental fee for the land lease in the existing railroad right-of-way west of Old Hickory Boulevard in Hermitage. This resolution increases the amount of the lease payment from \$274.32 to \$299.00 annually. Pursuant to this agreement, the next scheduled increase in rent will be April 1, 2004. This amount is to be paid from the water and sewer extension and replacement fund.

RESOLUTION NO. RS2003-1467 (JENKINS) – This resolution approves a lease agreement between the Metropolitan Government and Pitney Bowes for the lease of a copier for the department of law. The Metropolitan Code of Laws requires that all lease agreements for equipment in excess of \$5,000 annually be approved by resolution of the Metropolitan Council. This lease agreement is for a Pitney Bowes DL650 digital copier at an annual cost of \$5,016, which includes the equipment, maintenance, and operating supplies, excluding paper. This copier is being leased using a state contract with Pitney Bowes, as authorized by the Metro Code.

RESOLUTION NO. RS2003-1468 (JENKINS & HALL) – This resolution authorizes the director of public property administration to exercise option agreements to purchase eight parcels of property in connection with the Seven Mile Creek home buy-out. Metro has received a \$1,062,562 federal grant and a \$133,967 state grant to fund a substantial part of the purchase of these properties, which have either been vacated or are in danger of (continued on next page)

RESOLUTION NO. RS2003-1468 (continued)

flooding due to their proximity to a floodplain/floodway. The cost to Metro to purchase these properties is estimated at \$104,108, and is to be paid out of the stormwater fund. The properties to be acquired include 209, 213, 215, 217, and 219 Blackman Road; 4754 and 4800 Milner Drive; and 307 Milner Court.

This property acquisition was approved by the planning commission on October 24, 2002.

RESOLUTION NO. RS2003-1469 (JENKINS & HALL) – This resolution authorizes the director of public property administration to exercise an option for the purchase of property located at 140 North First Street to be used for the department of water and sewerage service's Washington Regulator project. The

cost for the acquisition of the 5.8 acre property is \$850,000 and is to be paid from the water and sewer extension and replacement fund. This resolution has been referred to the planning commission.

RESOLUTION NO. RS2003-1470 (JENKINS) – This resolution accepts \$8,310.45 in compromise and settlement of the Metropolitan Government’s claim against David M. Gee. On November 18, 2002, David M. Gee was traveling on Murfreesboro Road when he drifted onto the shoulder of the road and struck a Metro police department motorcycle working a traffic accident. The motorcycle was parked with its blue lights activated. The damage to the motorcycle totaled \$8,310.45, and the department of law recommends settling this claim for the amount of the property damage. No injuries were sustained as a result of this accident.

RESOLUTION NO. RS2003-1471 (JENKINS) - This resolution accepts \$8,471.36 in compromise and settlement of the Metropolitan Government’s claim against Edna Grimsley. On February 4, 2002, Ms. Grimsley struck a Metro police department vehicle parked on the entrance ramp to I-440 West with its blue lights activated. A Metro officer was standing next to the patrol unit and was injured as a result of the collision. The Metro employee’s injuries resulted in \$6,711.36 in medical bills and \$1,760.00 in lost wages. Ms. Grimsley was charged with driving under the influence.

The Council has previously accepted \$6,225.00 in settlement for damages to the patrol unit. The department of law recommends settling this claim to recover the medical costs and lost wages.

RESOLUTION NO. RS2003-1472 (JENKINS) - This resolution accepts \$7,030.70 in compromise and settlement of the Metropolitan Government’s claim against L.W. Richards, Inc. On December 11, 2002, Steven Schaumburg, an employee of L.W. Richards, Inc., was operating a semi tractor-trailer when he failed to yield the right-of-way to a Metro police department truck pulling a trailer carrying two horses at the intersection of Couchville Pike and Donelson Pike. Neither the drivers of the vehicles nor the horses were injured as a result of this accident. The Metro 1998 Dodge Pickup R100 sustained damage in the amount of \$6,605.75 and the horse trailer sustained damage in the amount of \$424.95. The department of law recommends settling this claim for the amount of the property damage sustained.

RESOLUTION NO. RS2003-1473 (JENKINS) – This resolution modifies the existing master list of architectural and engineering firms. The Metro Code of Laws provides that all contracts for professional services of architects and engineers must be with firms included on the master list. This resolution adds the following seven firms to the master list:

- Engineering Science Technologies of America, Inc., of Nashville, Tennessee
- GMD Corporation of Nashville, Tennessee
- Hall, Blake and Associates of Nashville, Tennessee
- Harris Associates of Nashville, Tennessee
- Nine Bark, Inc., of Indianapolis, Indiana
- The Lawrence Group of Davidson, North Carolina
- Michael Van Valkenburgh Associates, Inc., of Cambridge, Massachusetts

- BILLS ON SECOND READING -

ORDINANCE NO. BL2003-1353 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to exempt restaurants 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 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 consumption, but no set distance requirements are included in the state law.

This ordinance also provides that in the event a restaurant permit holder that is exempted under this exception to the distance requirements ceases to hold a valid state liquor license for on-premises consumption for any reason, the beer permit is automatically deemed revoked and the applicant would have to reapply for a new beer permit without being exempted from any distance requirements.

An ordinance consisting of similar subject matter was defeated by the council in April of 2002.

There will likely be a substitute offered for this ordinance that provides limits to the application of the exemption from the minimum distance requirements. Pursuant to the substitute, a restaurant located within the UZO or UDO zoning district that possesses a valid state on-premises liquor license would have 90 days from the enactment of this ordinance in which to apply for a beer permit and obtain the exemption from the minimum distance requirements. After 90 days from the enactment of this ordinance, such facility would be required to be located within the MUL district. The substitute would also clarify that the state definition of “restaurant” would be used in determining the applicability of this ordinance. The state definition of restaurant includes primarily eating establishments with seating capacity of at least 75 people at tables, or a gourmet restaurant with a seating capacity of at least 40 people.

ORDINANCE NO. BL2003-1363 (WATERS) – This ordinance amends the Metro Code of Laws to prohibit the sale of single container beers by off-sale beer permit holders within an urban zoning overlay district and to provide that certain other acts by beer permit holders are prohibited. The Code of Laws currently provides

that certain acts by beer permit holders are prohibited, such as the sale of beer to minors, the sale to intoxicated persons, and allowing intoxicated persons to loiter on the premises. This ordinance would add certain other prohibited acts including allowing gambling on the premises, allowing solicitation of prostitution, and allowing criminal activity on the premises. This ordinance would also prohibit off-sale permit holders from displaying or selling beer from an ice tub within an urban zoning overlay district. Further, off-sale permit holders within an urban zoning overlay district would be prohibited from selling single beers in containers less than 70 ounces in size or smaller than a factory-packaged six pack. The prohibitions regarding the sale of beer in ice tubs or single containers less than 70 ounces in size would not apply to holders of on-sale permits (restaurants) or to holders of special events permits.

There will likely be an amendment offered for this ordinance that would delete the provisions prohibiting the sale or display of beer from an ice tub and prohibiting the sale of single container beers.

ORDINANCE NOS. BL2003-1387 & BL2003-1388 (WALLACE & HAUSSER) –

These two ordinances amend the permit parking program sections of the Metropolitan Code to enable single-family residential lots located within 1,500 feet of a college, university, or other post-secondary school to be eligible for residential permit parking. The Metro Code currently provides for a residential permit parking program. In order for an area to be designated for residential permit parking, a petition requesting the permit parking area must be filed with the councilmember representing the district in which the proposed area is located. The petition must be signed by seventy-five percent (75%) of the residents within the geographic limits requested to be included in the residential permit parking area. The petition must include each petitioner's name and driver's license number, the time of day the permit is to be required, a description of the geographic boundaries of the area, and the maximum time limit that a non-permit holder should be allowed to park. The councilmember then submits the petition, with a written recommendation, to the chief traffic engineer. The chief traffic engineer in turn makes a recommendation to the traffic and parking commission, who then either approves or disapproves. If approved, the area is designated as a residential permit parking area and residents are required to apply for a parking permit and pay a fee set by the traffic and parking commission and approved by the council to cover the administrative costs.

The Metro Code also provides for a downtown area residential permit parking program whereby residents of the downtown area may apply for a permit that enables them to park on downtown streets without payment of the required parking meter charges. Applicants for the downtown area are required to pay an annual fee set by the traffic and parking commission and approved by the council.

These two ordinances essentially accomplish the same result in that they both would allow permit parking at single-family residences located within 1,500 feet of a college or university. However, the first ordinance amends the current code

section regarding residential permit parking, whereas the second creates a new residential permit parking program specifically for university area lots. Only one of these two ordinances should be adopted on third and final reading since the ordinances are related to the same subject matter. These two ordinances have been referred to the traffic and parking commission. A more detailed analysis of the two ordinances is as follows:

Ordinance No. BL2003-1387 amends the Metro Code to provide that university area residential lots are eligible for residential permit parking on an individual lot basis without first having the geographic area designated as a residential permit parking area and without having to obtain signatures of seventy-five percent of the residents in the area. Pursuant to this ordinance, a “university area individual residential lot” means any lot within the area of the Metropolitan Government that has an erected and occupied single-family residence within 1,500 feet of a university, college, junior college, or other post-secondary school. This ordinance also provides that in addition to the regular residential permit parking fee, the applicant would be required to pay the reasonable costs incurred in the installation of the parking signs.

Ordinance No. BL2003-1388 amends the Metro Code by creating a separate university area individual residential lot permit parking program. The definition of university area individual residential lot is the same as provided in Ordinance No. BL2003-1387. This ordinance is essentially modeled after the existing residential permit parking program ordinance. Pursuant to this ordinance, the chief traffic engineer is authorized to restrict parking on streets in front of a university area individual lot to vehicles bearing a valid (continued on next page)

ORDINANCE NOS. BL2003-1387 & BL2003-1388 (continued)

permit, subject to approval by the traffic and parking commission. An application would have to be submitted to the chief traffic engineer for review by staff of the traffic and parking commission. The application is to include the following information: (1) the applicant’s name and address; (2) the make, model, color, registration and license plate numbers of the vehicle; (3) driver’s license number; (4) time of day that permits will be required; and (5) the maximum amount of time that non-permit holders may legally park. The applicant’s vehicle registration must show the applicant’s present address, and the applicant must have a valid Tennessee license plate unless the applicant is a full-time college student. The chief traffic engineer would then recommend to the traffic and parking commission whether to designate the lot for a university area individual residential lot permit. The traffic and parking commission would be required to either approve or disapprove the recommendation of the chief traffic engineer.

If the lot is designated for university area individual residential permit parking, then a permit would be issued to the applicant on an annual basis. The fee for the permit must be set by the traffic and parking commission and approved by the council. This ordinance provides that a fee of \$25.00 is approved. The applicant would also be required to pay the reasonable costs associated with the installation

of the parking signs. The holder of such permit would be the only vehicle allowed to park on the street in front of the university area individual lot with the exception of service vehicles and vehicles for which a visitor's permit is obtained.

These two ordinances were deferred by the traffic and parking commission at their meeting of May 12, 2003.

ORDINANCE NO. BL2003-1400 (WATERS) – This ordinance amends the Metropolitan Code of Laws to provide for reimbursement of customer overpayments for water and sewer services. The Metro Code sections regarding water rates and charges provide for the classification of customers into four classes for the purpose of billing. These four classes are described as follows:

1. Residential – Up to 2 housing units on a common meter
2. Small commercial – Up to 1,600 cubic feet per month
3. Intermediate commercial and industrial – 1,600 to 200,000 cubic feet per month
4. Large commercial and industrial – Over 200,000 cubic feet per month.

Pursuant to this ordinance, if the director of water and sewerage services determines that a customer has been overcharged because of an inaccurate classification, or otherwise, based upon any 12-month consecutive period, then the customer shall be reimbursed upon written request. This reimbursement provision is to take effect from the date of enactment of this ordinance, and is not to apply retroactively.

There will likely be an amendment offered for this ordinance, which has been submitted by the department of water and sewerage services, the department of law, and the Mayor's office. This amendment would provide that only the customer's most recent 12-month usage period would be used in determining the applicable rate in the event of a claimed error in usage classification. The amendment would also clarify that no reimbursement shall be made for any overcharge that occurred prior to the effective date of this ordinance.

ORDINANCE NO. BL2003-1401 (LORING & DERRYBERRY) – This ordinance authorizes the Metropolitan Government to enter into a utility relocation contract with the state department of transportation (TDOT) for reimbursement of engineering and construction inspection provided by Metro water services in connection with the I-40 widening and rehabilitation from I-24 to Donelson Pike. The reimbursable engineering and inspection costs under this agreement are estimated to be \$11,000. This is a typical agreement entered into by Metro and TDOT for reimbursement of inspection costs.

ORDINANCE NO. BL2003-1402 (HALL & JENKINS) – This ordinance abandons an existing 6" water line and easement at the James A. Caycee Homes conditioned

upon the installation and acceptance of a relocated 6” water line and easement. The department of water and sewerage services is no longer using the line and easement to be abandoned. The planning commission has approved this abandonment.

ORDINANCE NO. BL2003-1403 (HALL) – This ordinance abandons a portion of an 8” sewer line and easement on the Meigs Magnet School property. The department of water and sewerage services is no longer using the sewer line and easement. The planning commission has approved this abandonment.

ORDINANCE NO. BL2003-1404 (HALL & HADDOX) – This ordinance abandons a portion of a 10” sanitary sewer line and easement in connection with the Buena Vista Elementary School addition project. The department of water and sewerage services is no longer using the sewer line and easement. This abandonment is conditioned upon the installation of a manhole over the existing 10” sewer line to establish separation of public and private lines. The planning commission has approved this abandonment.

ORDINANCE NO. BL2003-1405 (DERRYBERRY) – This ordinance renames a portion of McCrory Creek Road as “Pulley Road”, north from Couchville Pike to the existing Pulley Road. This name change has been approved by the planning commission. A letter of notification sent to the affected residents in the area is on file with the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2003-1346 (BRILEY & MCCLENDON) – This zoning text amendment corrects a mistake in the codification of the Zoning Code by formally adopting the code provisions identifying waste transfer stations as special exception (SE) uses, rather than permitted by right (P) or permitted with conditions (PC). The Zoning Code currently identifies waste transfer stations as a special exception use, but there was evidently a mistake in the codification since there is no record of any formal action by the Council in adopting such provisions. The mistake was made as part of the Metropolitan Zoning Ordinance contained in Ordinance No. SO96-555 that became effective January 1, 1998, as amended. This ordinance formally adopts three sections in the Zoning Code in order that waste transfer stations shall be designated as special exceptions, and not as permitted with conditions or permitted by right.

The intent of the Council has been to designate waste transfer stations as special exceptions requiring council approval of the site prior to consideration by the board of zoning appeals. The Code specifically provides in the section regarding special exception uses, which has been formally adopted, that “[t]he specific location of a sanitary landfill, asphalt plant, historic bed and breakfast homestay, waste transfer facility, airport runway, hazardous operation and wastewater treatment facility shall first be approved by a resolution adopted by the

metropolitan council prior to the public hearing by the board of zoning appeals.” This text change has been approved by the planning commission.

ORDINANCE NO. BL2003-1352 (DREAD, BRILEY & WALLACE) – This ordinance amends the Metropolitan Code of Laws to enable a beer permit holder whose permit has been revoked for the unlawful sale of beer to a minor, and who has filed an appeal of that decision, to continue to sell beer upon posting a \$25,000 bond with the Metropolitan clerk. The Code provides that the beer board has the authority to revoke or suspend a permit if the permit holder sells beer or allows beer to be sold to a minor. The Code also provides, in accordance with state law, that a decision of the beer board to revoke a permit may be appealed to the chancery or circuit court. The intent of this ordinance is to allow for a permit holder that has appealed the beer board’s decision to be allowed to continue selling beer during the appeal process only upon posting the \$25,000 bond, unless the court issues a stay providing otherwise. The ordinance provides that any subsequent finding by the beer board that the permit holder has sold beer to a minor will result in a forfeiture of the bond.

ORDINANCE NO. BL2003-1364 (GILMORE & MCCLENDON) – This ordinance makes applicable to the Metropolitan Government the provisions of Part 7 of Chapter 211 of Title 68 of Tennessee Code Annotated (commonly referred to as the “Jackson Law”) to require local approval of landfills, solid waste disposal facilities, and solid waste processing facilities prior to construction of such facilities and prior to an issuance of a permit by the state department of environment and conservation. The Jackson Law was enacted principally to enable smaller local government legislative bodies with limited zoning requirements to have some control over the siting of proposed landfills and solid waste facilities. If this ordinance is adopted it would require that public notice be given to inform interested persons in the area of a proposed landfill, waste processing facility, or waste disposal facility, and that interested persons be given the opportunity to request that the local legislative body hold a public hearing prior taking action on the matter.

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ORDINANCE NO. BL2003-1364 (continued)

The Jackson Law does not expressly define the terms “waste processing facility” and “waste disposal facility”, though the terms are defined in the Tennessee Solid Waste Act. “Solid waste disposal” is defined under the Act as “the process of permanently or indefinitely placing, confining, compacting, or covering solid waste.” “Solid waste processing” is defined as “any process that modifies the characteristics or properties of solid waste, including but not limited to, treatment, incineration, composting, separation, grinding, shredding, and volume reduction; provided, that it does not include the grinding or shredding of landscaping or land clearing wastes or unpainted, unstained, and untreated wood into mulch or other useful products.” According to a decision by the Tennessee Court of Appeals in *Profill Development, Inc. v. Dills*, a recycling facility that falls within the definition of “solid waste processing facility” is covered by the provisions of the Jackson Law and requires local government approval. The *Profill* case also clarified that both public and private permit applicants must obtain local legislative approval if the municipality has opted into the provisions of the Jackson Law.

The Metropolitan Code of Laws already requires that all requests for special exceptions, including sanitary landfills and waste transfer facilities, be approved by resolution of the Metropolitan Council prior to consideration by the board of zoning appeals. The Council Office contacted the state department of environment and conservation to obtain some clarification as to the types of facilities to which the Jackson Law would apply. The department indicated that the Jackson Law would be applicable to a recycling center that fell within the definition of "waste processing facility", but a collection center would not. The Metro Zoning Code defines "collection center" as "a facility which is staffed and fenced that has waste receptacles on site that are open to the public, when an attendant is present, to receive household waste, municipal solid waste and recyclable material." State law requires that this ordinance be adopted by a two-thirds majority vote of the council (27 votes) prior to its adoption on third reading.

ORDINANCE NO. BL2003-1365 (LORING, DERRYBERRY & OTHERS) – This ordinance approves an agreement between the U.S. Army and Metro water and sewerage services (MWS) for the Mill Creek Watershed Feasibility Study in Davidson County. MWS currently provides water, sewer, and stormwater services in the Mill Creek watershed. The U.S. House of Representatives committee on transportation and infrastructure has requested the Secretary of the Army to review the reports for the Chief of Engineering on the Cumberland River and tributaries, including the Mill Creek basin, in the interest of environmental restoration, streambank protection, and greenways for Davidson County. The U.S. Army Corps of Engineers has determined that a feasibility phase study is required and desires to enter this agreement with Metro. This study is to take approximately three years. Pursuant to this agreement, Metro agrees to contribute cash and in-kind services equal to fifty percent (50%) of the study costs. The total cost for the three-year study is estimated to be \$1,600,000, with Metro being responsible for \$800,000 of that amount consisting of an estimated cash contribution of \$645,000 and the remainder furnished through in-kind services. This agreement is for the first year of the study with Metro providing \$215,000 from the stormwater division of MWS. Any amendments, renewals, or extensions of the term of this agreement may be approved by resolution of the Metropolitan Council.

ORDINANCE NO. BL2003-1386 (SHULMAN) – This zoning text change amends the Green Hills urban design overlay (UDO) design guidelines to provide an additional incentive to include residential development in mixed-use buildings by excluding residential use floor space from being calculated as part of the floor area ratio. Mixed-use development is consistent with the UDO guidelines, and by excluding residential space from the calculation of floor area ratio, developers will have an incentive to include space for residential use as part of a mixed-use development. This text change has been approved by the planning commission.

ORDINANCE NO. BL2003-1389 (WALLACE & WATERS) – This ordinance approves the release of an access restriction limiting access to and from Demonbreun Street to a portion of property located at 1610 Division Street, near the intersection of Demonbreun Street, Division Street and 17th Avenue South. This property consisting of approximately 3,020 square feet was

conveyed by the Metropolitan Government to Mary S. Buckner in 1976. The deed contained an access restriction that provided that there could be no entrance or exit ramps from or onto Demonbreun Street. As a result of the construction of the Music Row roundabout, this access restriction is no longer necessary and the Metropolitan Government now desires to release the restriction.

ORDINANCE NO. BL2003-1390 (TUCKER, JENKINS & MCCLENDON) – This ordinance approves a lease agreement between the state and the Metropolitan Government for use of a portion of the Tennessee Preparatory School (TPS) campus at 1200 Foster Avenue for relocation of the Nashville School of the Arts magnet. The term of the lease is from April 1, 2003 through July 31, 2004, with a possible extension of four additional one-year terms. Metro will not be required to pay any “rent” for the premises, but will be responsible for providing the “fair market value for use” of the premises. This includes the payment of all utilities, routine operating and maintenance expenses, and taxes. Metro will be permitted to make alterations and renovations to the premises, including the construction of additional parking, at Metro’s expense. Metro will also be entitled to use the existing furnishings at TPS such as desks, tables, and chairs and will be responsible for damage to any furnishings or to the facility. Metro agrees to maintain general liability self-insurance in accordance with the Governmental Tort Liability Act.

This lease may be terminated by either party upon 120 days written notice. This lease shall be automatically terminated if the portion of the TPS premises to be leased ever ceases to be used for operation of a magnet school program for a continuous six month period. Any amendments or renewals to this lease must be approved by resolution of the Metropolitan Council. This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2003-1391 (JENKINS & BRILEY) – This ordinance, as amended, approves a lease agreement between J.D. Eatherly Properties and the Metropolitan Government for 2,800 square feet of office space located at 1121 12th Avenue South for continued use by the police department as the police alert center. This facility is used to provide community policing services. The term of this lease is from February 1, 2003 through January 31, 2008, with a possible five year extension. Metro will be required to pay rent for the first three years in the amount of \$28,000 annually (\$2,333.33 monthly), and \$28,840 annually (\$2,403.33 monthly) in years four and five. Metro is also required to pay a pro rata share of property taxes and insurance premiums paid by J.D. Eatherly Properties. The rent is to be paid out of the police department’s budget.

J.D. Eatherly Properties will be responsible for maintaining the exterior of the premises and Metro will be responsible for maintaining the interior and fixtures. Metro agrees to maintain self-insured liability coverage in accordance with the Governmental Tort Liability Act. Any amendments to this lease must be approved by resolution of the Metropolitan Council receiving twenty-one affirmative votes.

This ordinance has been approved by the planning commission.

