

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **April 18, 2006**

RE: **Analysis Report**

Balances As Of:	<u>4/12/06</u>	<u>4/13/05</u>
<u>GSD 4% RESERVE FUND</u>	*\$1,632,890	\$12,403,275
<u>CONTINGENCY ACCOUNTS</u>		
GSD	- 0 -	- 0 -
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$26,413,198	\$28,765,661
USD	\$8,770,800	\$5,003,020
<u>GENERAL PURPOSE SCHOOL FUND</u>	\$17,566,775	\$25,250,424

\* Assumes estimated revenues in fiscal year 2006 in the amount of \$2,422,476

**– BILL ON PUBLIC HEARING –**

**ORDINANCE NO. BL2006-980** (DREAD & GOTTO) – This ordinance, as amended, amends the Metropolitan Code of Laws to allow building and demolition permits for property located within historic overlay districts to be renewable every six months and to be transferable from one property owner to another. The building code currently limits the validity of building permits to six months. Demolition permits are valid for 30 days after their issuance. This ordinance would add an exception to the general permit expiration provisions for property within historic zoning overlays that are approved after the enactment of this ordinance. Pursuant to this ordinance, building and demolition permits issued for property located within historic overlays could be automatically renewed every six months upon request by the applicant, without paying any type of renewal fee, for a total period not to exceed 3½ years. These permits would only be renewable if the permit was obtained within 90 days of the effective date of the historic overlay district. Thus, a property owner could obtain a permit at the time an overlay goes into effect, but would not have to spend money to commence construction within six months, as would ordinarily be required for building permits.

This ordinance would also make building and demolition permits transferable from one property owner or contractor to another property owner or contractor. The building code currently provides that permits are not transferable from one contractor, job site, or location to another. The permits would expressly not be transferable from one parcel to another.

The sponsors have indicated this ordinance is to be withdrawn.

**– RESOLUTIONS –**

**RESOLUTION NOS. RS2006-1236 & RS2006-1237** (MCCLENDON) – These two resolutions appropriate funds from the general fund reserve fund (4% fund) to the fire department and the general services department. Four percent funds may only be used for the purchase of equipment and repairs to buildings. These projects were included as part of the mayor’s capital spending plan, but held until adequate funding was in place. The balance in the general fund reserve fund as of April 12, 2006 was \$16,429,363. If these two resolutions are adopted along with Resolution No. RS2006-1271, the general fund reserve fund balance will be \$1,632,890. This assumes unrealized revenue for fiscal year 2006 in the amount of \$2,422,746. The resolutions provide that “The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund.” A copy of the supporting information sheets required by Ordinance No. 086-1534 is attached to this analysis.

**Resolution No. RS2006-1236** appropriates \$2,890,000 from the general fund reserve fund for miscellaneous firefighting equipment, furniture, and office equipment for the fire department.

**Resolution No. RS2006-1237**, as amended, appropriates \$11,866,473 from the general fund reserve fund to the department of general services for replacement vehicles, general building repairs, and preventative maintenance.

**RESOLUTION NO. RS2006-1244** (TYGARD, DOZIER & OTHERS) – This resolution appropriates \$1.8 million from the unappropriated fund balance of the general fund of the general services district to Nashville Alliance for Public Education, Inc., to provide funding for the purchase of technology and science equipment for use in public schools. Nashville Alliance for Public Education, Inc., is a 501(c)(3) nonprofit organization with the mission of raising money for Metro public schools.

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**RESOLUTION NO. RS2006-1244** (continued)

In February 2006, the council approved the assignment of the Renaissance Hotel lease. As part of the lease assignment, the Metropolitan Government received a twenty percent share of the anticipated profit from the assignment, which resulted in a payment to Metro of \$2,234,000. This resolution relies on this share of the profit from the assignment to bolster the unappropriated fund balance of the general fund of the GSD to fund this appropriation. However, the director of finance has stated that he has been advised by the legal department that this appropriation would violate an ordinance enacted by the council in 1990, which requires that such funds go to the Metropolitan Development and Housing Agency (MDHA) for affordable housing opportunities and economic development activities. In addition, the director of finance states that the department of law has raised concerns that this appropriation may violate the Charter prohibition requiring that the general funds of the Metropolitan Government be kept separate from the schools, and that it may violate state laws granting the sole authority to the school board for determining how school funds are to be expended. Therefore, the director of finance has refused to certify that funds are available for this appropriation. A copy of the director of finance's memorandum is attached to this analysis.

The Council Office would point out that not all of the required documentation has been provided in order for Nashville Alliance for Public Education, Inc., to be eligible to receive grant funding from the Metropolitan Government. The Metropolitan Code of Laws requires that certain information be provided by nonprofits prior to receiving grant funds from Metro. This includes a copy of the organization's charter, a copy of the letter from the Internal Revenue Service certifying that the agency is tax exempt, a copy of the organization's audit, a statement of the proposed use of funds, and the proposed budget for the organization. A proposed budget and statement of the proposed use of funds has yet to be provided.

**RESOLUTION NO. RS2006-1257** (MCLENDON & WALLS) – This resolution appropriates \$90,300 in grant funds from the state department of health to the Metropolitan board of health for the women, infants and children (WIC) program. A grant award of \$1,597,400 was accepted by the health department last fall, and the funds were anticipated as revenue and appropriated by the council to the health department as part of the fiscal year 2006 budget ordinance. The federal government has awarded an additional \$90,300 for this program to be passed through the state to the Metro health department. This resolution simply appropriates the additional funds to the health department.

The department of law has advised the health department that they no longer need to obtain council approval in order to accept grants. The council office disagrees with the legal department's position. The board of health was created by the Metropolitan Charter to exercise the administrative functions of the Metropolitan Government pertaining to public health. The Charter does provide that one of the duties of the health department is to "cooperate with agencies of the United States and of the State of Tennessee in all matters of public health and sanitation and accept, receive and provide for the use of federal and state grants." However, the Charter further provides that health department contracts with other governmental agencies for health department services are subject to confirmation of the council by resolution. Grant agreements, such as this grant in question, are most definitely contracts that obligate the health department to provide certain services in exchange for the grant funding.

The council office advises the council not to appropriate these grant funds until the grant agreement is submitted to the council for approval by resolution.

**RESOLUTION NO. RS2006-1259** (MCLENDON & WALLS) – This resolution appropriates \$30,000 in grant funds from the state department of health to the Metropolitan board of health for the characterization of ambient concentrations of hazardous air pollutants. The Metro health department

is responsible for air quality monitoring within Nashville and Davidson County on behalf of the U.S. environmental protection agency (EPA). A grant award of \$419,480 has already been accepted by the health department and the funds were appropriated by the Council to the health department as part of the fiscal year 2006 budget ordinance. The EPA has awarded an additional \$30,000 for this program, which requires action by the council to appropriate the additional money to the health department.

For the reasons stated in the analysis of Resolution No. RS2006-1257 above, the council office advises the council not to appropriate these grant funds until the grant agreement is submitted to the Council for approval by resolution.

**RESOLUTION NO. RS2006-1268** (BRILEY) – This resolution provides a proposed amendment to the Metropolitan Charter to require that a special election be held to fill a vacancy in the office of district councilmember. Prior to 1996, the Charter required that vacancies in the office of mayor, vice mayor, councilmember-at-large, or district councilmember be filled by a special election whenever more than nine months remained in the term. The Charter was amended in 1996 to only require a special election for vacancies in the office of mayor. Vacancies in the office of vice mayor, councilmember-at-large, and district councilmember are to be filled at the next general election. This Charter amendment would require special elections in the office of district councilmember whenever more than nine months remains in the unexpired term.

The council, pursuant to the Charter, may only adopt two resolutions during the term of the council that submit amendments to the voters for ratification. Each proposed amendment to the Charter must be adopted by 27 affirmative votes of the council, and the resolution itself submitting the amendment must be adopted by 27 affirmative votes in order to become effective. This resolution provides that the date for holding the referendum election on the Charter amendment is to be the August 3, 2006 general election. State election law requires that resolutions requiring the holding of elections on questions submitted to the people which are to be held at the regular election must be filed with the election commission not less than 60 days prior to the August election. Thus, this resolution should be deferred indefinitely and brought back as part of a larger Charter amendments package.

**RESOLUTION NO. RS2006-1269** (MCCLENDON) – This resolution supplements and amends Resolution No. RS2004-257 authorizing the issuance of refunding bonds for the purpose of refunding general obligation bonds issued in 1996 in connection with the football stadium project. In June of 1996, the Metropolitan Government issued general obligation public improvement bonds in the original principal amount of \$74,880,000 to be used for the East Bank Redevelopment Project, which consisted of site preparation necessary for the construction of the Coliseum, including the demolition of buildings, street improvements, riverfront improvements, lighting, parking, and architect and engineering costs. On April 20, 2004, the Council authorized the issuance of general obligation refunding bonds with a principal amount not to exceed \$65 million to essentially refinance a portion of the stadium debt.

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**RESOLUTION NO. RS2006-1269** (continued)

As part of Resolution No. RS2004-257, the council allowed Metro to enter into an interest rate swap agreement, known as a "swaption", whereby a counterparty bank (in this case SunTrust Bank)

obtained an option to “swap” interest rate payments in the future on the call date in exchange for a one-time payment to Metro equivalent to the present value savings from refunding the outstanding bonds at a lower interest rate. This upfront cash payment was then used by Metro for debt service. Under the swaption agreement, if SunTrust Bank elected to exercise the contract right and “swap” interest rates on the call date, they would pay an interest rate equivalent to the present prevailing interest rate, and Metro would have to either pay the interest at the current rate of the outstanding bonds or call the bonds and pay an early call premium. The swap rate for the counterparty is a fixed rate, but is a variable rate for Metro.

SunTrust Bank has exercised its option for a variable to fixed interest rate swap for the refunded bonds. Thus, SunTrust will pay today’s prevailing fixed interest rate on the bonds, and Metro will refund the bonds and pay a variable interest rate. This is similar to a variable interest rate mortgage that fluctuates over the life of the loan. This resolution also approves a standby bond purchase agreement, commonly known as a liquidity facility, in which DEPFA Bank, PLC agrees to purchase the bonds in the event they are not purchased by other buyers because of the variable rate. In exchange for the liquidity facility, Metro will pay an annual fee to DEPFA Bank, PLC.

As with all general obligation bonds, these refunding bonds are supported by the full faith and credit of the Metropolitan Government and the debt service is to be paid from property tax revenues. The bonds will ultimately mature on May 15, 2026.

There will be a substitute offered for this resolution to substitute the preliminary official statement and to make certain technical changes to the resolution to comply with the bond rating agencies’ requests.

**RESOLUTION NO. RS2006-1270** (WALLACE) – This resolution creates a task force to address the need for an economic impact study regarding out-of-county employees, a best practices study for the council office, and other human resources issues affecting the Metropolitan Council. In July 2005, the council appropriated \$10,000 out of the unappropriated fund balance of the general fund of the general services district to fund an economic impact study regarding Metro employees living outside of Davidson County. In December 2005, the council approved a similar resolution appropriating \$75,000 out of the unappropriated fund balance to fund a best practices study to examine the current staffing of the council office and the need for additional staffing. Since the unappropriated fund balance is below the five percent threshold established by the council, no requests for proposals have been issued for either of these studies. This resolution would create a task force to address the need for these studies, as well as other human resources issues councilmembers are interested in.

The task force is to consist of not more than nine members, and is to include representatives from various Metro departments, as well as members of council. The council office and the Metropolitan clerk’s office are to provide staff support for the task force. The task force is to report its findings back to the full council within 90 days of convening.

There may be a substitute offered for this resolution that would expressly name the members of the task force, and extend the deadline for reporting to 180 days.

**RESOLUTION NO. RS2006-1271** (CRADDOCK) – This resolution appropriates \$20,000 from the general fund reserve fund (4% fund) to the parks and recreation department for the purchase of sixteen surveillance cameras and associated software to be used in certain Metro parks. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The balance in the

general fund reserve fund as of April 12, 2006 was \$16,429,363. If this appropriation, along with the appropriation in Resolution Nos. RS2006-1236 and RS2006-1237 are adopted, the general fund reserve fund balance will be \$1,632,890. This assumes unrealized revenue for fiscal year 2006 in the amount of \$2,422,476. The resolution provides that "The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund." A copy of the supporting information sheet required by Ordinance No. O86-1534 is attached to this analysis.

**RESOLUTION NO. RS2006-1272** (MCCLENDON) – This resolution approves an amendment to a grant in the amount of \$100,000 from the state department of labor and workforce development to the Nashville career advancement center to provide reintegration counselors for persons displaced by hurricane Katrina. The funds are being used to provide intensive career and life counseling directly to Katrina evacuees in Middle Tennessee with the purpose of helping these individuals return to self-sustaining employment. This resolution simply extends the term of the grant from April 12, 2006 to December 31, 2006.

**RESOLUTION NO. RS2006-1273** (RYMAN) – This resolution approves an application for a grant in the amount of \$86,592 from the National Endowment for the Arts to the Metropolitan arts commission for the creation of a cultural plan for Nashville. These funds will be used to pay part of the salaries of the arts commission staff, as well as to hire Marc Goldring of Wolf Keens Consulting to develop the plan. The goal of the plan is to present a comprehensive vision for the cultural development in Nashville over the next ten years. The plan is to be developed between January and June 2007. There will be a required match of \$41,592 to be provided from the arts commission budget.

**RESOLUTION NO. RS2006-1274** (FORKUM & MCCLENDON) – This resolution approves an application for a bulletproof vest partnership grant in the amount of \$242,190 from the U.S. department of justice to the Metropolitan Government. These funds will be used to purchase 1,404 bulletproof vests at a cost of \$345 per vest. There will be a required match of \$242,190 once the grant is awarded. The vests will be distributed as follows: 1,229 for the police department; 105 for the sheriff's department; 48 for the juvenile court; and 22 for the parks department.

**RESOLUTION NO. RS2006-1275** (MCCLENDON) – This resolution approves a grant in the amount of \$10,000 from the state department of transportation to the police department for a traffic safety project. These federal pass-through funds will be used to pay overtime for officers to conduct seatbelt checkpoints and to purchase in-car computer, video, and radar equipment. The term of the grant is from October 1, 2005 through September 30, 2006.

**RESOLUTION NO. RS2006-1276** (FOSTER, TOLER & MCCLENDON) – This resolution authorizes the director of public property administration to exercise option agreements to purchase six flood prone parcels of property. The Metropolitan Government has previously accepted a \$2 million federal grant to fund a substantial part of this home buyout program, which allows for the purchase and demolition of properties that have either been vacated or are in danger of flooding due to their

proximity to a floodplain. The properties are being acquired solely on a voluntary sale basis. The properties to be acquired and the cost for each are as follows:

- 303 Milner Court \$154,000
- 4804 Milner Drive \$170,000
- 5049 Briarwood Drive \$168,000
- 5008 West Durrett Drive \$168,000
- 105 Cedarvalley Court \$115,000
- 109 Cedarvalley Court \$121,000

**RESOLUTION NO. RS2006-1277** (MCCLENDON) – This resolution authorizes the department of law to accept \$7,576.59 in compromise and settlement of the Metropolitan Government’s property damage claim against Sigma Construction. On July 21, 2005, an employee of Sigma Construction turned in front of a Metro police officer traveling eastbound on Broadway. The accident report indicates that the Sigma Construction employee failed to yield the right-of-way and that the police officer was speeding. The accident resulted in a total loss to Metro’s 2001 Chevy Impala, having a value of \$10,421.24. The department of law recommends accepting a compromise subrogation settlement of \$7,576.59, as both drivers were comparatively at fault. The officer was injured as a result of this accident, and his medical bills and lost wages are still being addressed by the company’s insurance carrier. There was no disciplinary action taken against the officer.

**RESOLUTION NO. RS2006-1278** (JAMESON) – This resolution authorizes The Ritzen Group, Inc. to install and maintain an awning above the sidewalk at 119 Third Avenue South between Broadway and Symphony Place. The awning will measure 17 feet 4 inches wide and 5 feet deep. Ordinance No. O87-1890 allows such aerial encroachments to be approved by resolution of the council rather than ordinance. The applicant has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and is required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party. This resolution has been approved by the planning commission.

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**- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2006-998** (WALLACE & RYMAN) – This ordinance amends the Metropolitan Code of Laws to prohibit any temporary or permanent encroachment in the public right-of-way without a permit from Metro. The Code currently technically prohibits persons from placing encroachments into the right-of-way except when permitted by Metro. The Code provides that the council may grant encroachments within the right-of-way by ordinance, and may grant aerial encroachments over the right-of-way by resolution. However, the ordinance does not define the term “encroachment”. Thus, an argument can be made that temporary encroachments, such as news racks, do not require a permit from Metro.

This ordinance would require that a permit be obtained from Metro for all permanent or temporary encroachments in the right-of-way, including signs, sandwich boards, vegetation, news racks, fences, and walls. Any person or entity requesting such an encroachment would be required to pay a permit fee of \$100 to Metro, and must provide a public liability insurance policy in an amount directed by the department of law holding Metro harmless from claims or damages arising from the installation or maintenance of the encroachment.

**ORDINANCE NO. BL2006-1011** (WALLACE & RYMAN) – This ordinance abandons Alley #234 from the intersection of Division Street and Music Circle East around five parcels of property and back to Music Circle East. This closure has been requested by Littlejohn Engineering Associates on behalf of the property owners. There is no future governmental need for this portion of right-of-way, and the Metropolitan Government will retain all easements.

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

**ORDINANCE NO. BL2006-1012** (RYMAN) – This ordinance amends the Metropolitan Code of Laws to require the purchasing agent to submit a monthly report to the council regarding all procurement contracts awarded during the previous month. This report is to contain the following information:

1. The name of the contractor or vendor to whom the contract was awarded.
2. The total amount of the contract.
3. The payment terms of the contract.
4. A description of the goods and/or services to be provided.
5. The name of all other bidders/offerors, and the amount of each bid or offer.

The Code currently requires that procurement records be open to the public for inspection. Information about a particular procurement is open once the bid has been evaluated.

**ORDINANCE NO. BL2006-1013 & BL2006-1014** – These two ordinances would require that certain procurement contracts be approved by resolution of the council. As provided in Chapter 4.12 of the Metropolitan Code of Laws, the Metropolitan Government procurement system is based upon competitive sealed bidding and competitive sealed proposals. Competitive bidding is used for the procurement of most tangible goods, where an apples-to-apples comparison can be made between vendors selling an identical product. Under the competitive bid system, the contract is awarded to the bidder that can supply the goods at the lowest cost to Metro. On the other hand, when the purchasing agent determines that the use of competitive bidding is either not practicable or advantageous to the Metropolitan Government, a contract may be entered into by competitive  
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**ORDINANCE NO. BL2006-1013 & BL2006-1014** (continued)

proposals where factors in addition to price are considered. While the awarding of most contracts is at the discretion of the purchasing agent, the Code currently requires that contracts for the collection and disposal of solid waste with a contract amount in excess of \$500,000 and contracts for the privatization of government services be approved by resolution of the council.

These ordinances were filed in response to press reports about the intent to award a contract for security services at Metro facilities to Wackenhut Corp., whose bid was approximately \$900,000 more per year than the other qualified bidders. The entire RFP has subsequently been rescinded by the purchasing agent and a new RFP process will be initiated.

**Ordinance No. BL2006-1013** (Tygard, Craddock & Gotto) would amend the Metropolitan Code of Laws to require that all procurement contracts for goods or services with an annual payment of more than \$500,000, or an aggregate total payment of more than \$3 million over the life of the contract, and which are awarded to a contractor other than the lowest bidder, be approved by resolution of the council. Contracts for professional or consulting services would be exempt from this ordinance. The Code provides that professional services contracts, which include legal services, medical services, accounting services, fiscal agents, financial advisors, architects, and engineers, be awarded on the basis of "recognized competence and integrity", not based on the lowest cost to Metro.

**Ordinance No. BL2006-1014** (Wallace) would amend the Metropolitan Code of Laws to require that all contracts for the procurement of goods and services which provide for an aggregate payment of more than \$3 million be approved by resolution of the council. This ordinance differs from Ordinance No. BL2006-1013 in that it would require all such contracts be approved by the council, not just those that were awarded to a contractor that was not the lowest bidder.

The council office would point out that the adoption of either of these ordinances could have serious implications on the Metropolitan Government. First and foremost, these ordinances would negatively impact the government's ability to efficiently contract with minority and women-owned businesses, since they are often not the lowest bidder. Second, these ordinances could result in work stoppages on construction projects where change orders increase the contract amount above the \$3 million threshold. Such delays would likely inconvenience the public and may compromise public safety.

The council office would also remind members of council that the Charter grants the responsibility for the procurement of government goods and services to the purchasing agent. Adoption of these ordinances could be deemed to be an unlawful attempt by the council to remove authority given to the purchasing agent by the Charter. While the Code does require that privatization and solid waste contracts be approved by the council, these are related to policy issues that directly impact employees and services provided by the Metropolitan Government.

Only one of these two ordinances should be enacted, as they deal with the same subject matter and amend the same Code language.

**ORDINANCE NO. BL2006-1015** (MCCLENDON) – This ordinance would allow the Metropolitan Government to accept donations valued at less than \$5,000 without council approval, and would allow the acceptance of donations in excess of \$5,000 upon council approval by resolution. Certain  
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**ORDINANCE NO. BL2006-1015** (continued)

Metro departments and boards, such as the health department, the board of parks and recreation, and the library, have the authority to accept donations without council approval. However, donations to all other departments, such as police and fire, must be approved by ordinance.

Ordinance No. BL2002-1186 was enacted by the council several years ago to allow grants to be approved by resolution. This ordinance essentially expands this ability to include donations over \$5,000. Further, the council would no longer be required to approve donations valued at less than \$5,000. From time to time, donations of a nominal value are made to various Metro departments. In most cases, the value of the employee time in preparing and filing the legislation exceeds the value of the donation. This ordinance would allow for the expedited acceptance and use of the donations.

**ORDINANCE NO. BL2006-1016** (DREAD) – This ordinance amends the Metropolitan Code of Laws to require after hours clubs to obtain a permit from the beer permit board. According to documentation prepared by the police department, 563 calls for police assistance were answered at after hours establishments between January 1, 2004 and December 31, 2005. However, after hours clubs are not regulated by any Metro agency unless they serve beer or are considered sexually oriented businesses. Therefore, it is difficult for police and other Metro agencies to make sure these clubs are being operated in a safe manner.

This ordinance essentially incorporates after hours establishments into the regulations governing dancehalls. The Code currently requires that all dancehalls obtain a permit from the beer permit board in order to operate. By broadening these regulations to include after hours clubs, such establishments would have to submit an application to the beer permit board, along with a \$500 application fee, indicating the name of the applicant, name and location of the business, and the name of any person or entity having at least a five percent ownership interest in the establishment. There would be a \$100 renewal fee for the permit. The ordinance defines “after hours establishment” as a commercial establishment open to the public after 3:00 a.m. that allows customers to bring alcoholic beverages onto the premises.

Pursuant to this ordinance, no permit could be issued for any after hours establishment if any person having at least a five percent ownership interest in the establishment has been convicted during the past five years of a crime of moral turpitude. The beer permit board defines a crime of moral turpitude as being murder, any sex crime, the sale of illegal drugs, and embezzlement. In addition, it would be unlawful for an after hours establishment to allow any indecent or violent act to occur on the premises, or to allow persons under the age of twenty-one to consume alcohol on the premises. Failure by a permit holder to abide by this provision would make the permit holder strictly liable for property damage or injury caused by anyone under the age of twenty-one that was consuming alcohol on the premises. After hours establishments would also be responsible for providing licensed security guards to patrol the premises. The ordinance grants the authority to the beer permit board to adopt rules and regulations to effectuate the purpose of the law and to secure compliance.

**ORDINANCE NO. BL2006-1017** (MCCLENDON) – This ordinance approves a contract between the Metropolitan police department and the University of Massachusetts to provide reporting services in conjunction with a federally-funded research project conducted by the university. Pursuant to this contract, the police department will be paid \$9,268.80 to collect and photocopy incident, arrest, and supplemental reports on domestic violence cases for research conducted under the federal grant.

**ORDINANCE NO. BL2006-1018** (LORING, TOLER & MCCLENDON) – This ordinance approves a licensing agreement with the Nashville and Eastern Railroad Corporation for the purpose of installing

fiber optic cable above and across the railroad right-of-way at mile post 3.29. The license would be in perpetuity, provided however, that the agreement may be terminated by either party upon six months written notice, and Metro would be required to remove the line from the railroad right-of-way. Metro will pay an annual license fee of \$186.00 subject to increases every three years based on the national consumer price index average. In addition, Metro is required to pay a one-time fee of \$270.00 to cover the railroad's costs in preparing the agreement. Metro agrees to indemnify the railroad, to the extent it legally may, for claims or injuries arising from the installation and maintenance of the line. Metro, or its contractor, will also be required to maintain a \$2,000,000 certificate of public liability insurance. License agreements with railroads are typically the only contracts in which Metro agrees to provide a certificate of liability insurance, especially since Metro can require the contractor actually performing the installation work to maintain the insurance.

This ordinance further provides that any future overhead cable agreements with Nashville & Eastern Railroad may be approved by resolution of the council.

**ORDINANCE NOS. BL2006-1019 & BL2006-1020** – These two ordinances declare Metropolitan Government-owned property located in the 19<sup>th</sup> council district to be surplus and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The proceeds of the sales will be credited to the general fund. These ordinances have been approved by the planning commission.

**Ordinance No. BL2006-1019** (Wallace) approves the disposition of property located at 1312 - 3<sup>rd</sup> Avenue North.

**Ordinance No. BL2006-1020** (Wallace & Ryman) approves the disposition of the following properties:

- 1701 McKinney Avenue
- 2409 Middle Street
- 1824 12th Avenue N.
- 1726 Delta Avenue
- 1632 Dr. D.B. Todd Jr. Blvd.
- 303 Taylor Street
- 1822 D. B. Todd Jr. Blvd.
- 1013 9th Avenue North
- 1410 Hynes Street

**ORDINANCE NO. BL2006-1021** (TOLER & MCCLENDON) – This ordinance authorizes the director of public property administration to acquire easements by negotiation or condemnation in conjunction with intersection improvements at Dodson Chapel Road and Central Pike. A proposed right-of-way easement, slope easement, and temporary construction easement is to be acquired on two parcels of property located to the east side of Dodson Chapel Road. The estimated cost for the project, including the acquisition of right-of-way, signalization and engineering costs is \$257,000, which is to be paid from the public works traffic signal modification fund.

**ORDINANCE NOS. BL2006-1022 & BL2006-1023** – These two ordinances abandon portions of Metropolitan Government right-of-way that are no longer needed for government purposes. The Metropolitan Government will retain all easements. Consent of the affected properties is on file with the department of public works. These ordinances have been approved by the planning commission.

**Ordinance No. BL2006-1022** (Jameson) closes alley #316 between South 11<sup>th</sup> Street and Alley #292. This closure has been requested by Martin Corner, LP.

**Ordinance No. BL2006-1023** (Greer) abandons a portion of Expressway Park Drive from Murfreesboro Pike northeastwardly approximately 220 feet. This portion of Expressway Park Drive has been relocated at the expense of Purity Dairies as part of the expansion to their facilities.

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**- BILLS ON THIRD READING -**

**ORDINANCE NOS. BL2006-990** (GILMORE & MCCLENDON) – This ordinance declares property located at 5022 Old Hydes Ferry Pike to be surplus and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. The Metropolitan board of public education has determined that this property is no longer needed for school purposes. The council must approve the disposition of all property maintained by the school board before it can be sold. The proceeds of the sale will be credited to the unappropriated school fund. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2006-1000** (SHULMAN, TOLER & OTHERS) – This ordinance authorizes the mayor to enter into a licensing agreement with the Nashville and Western Railroad Corporation for the purpose of installing a fifty-foot-long water main in the railroad right-of-way at the intersection of Charlotte Avenue and 31<sup>st</sup> Avenue. This water main will consist of a 12" ductile iron pipe and a 24" steel carrier pipe. The license would be in perpetuity, provided however, that the agreement may be terminated by either party upon 90 days written notice, and Metro would be required to remove the water main from the railroad right-of-way. Metro is required to pay a one-time fee of \$300.00 to cover the railroad's costs in preparing the agreement.

Metro agrees to indemnify the railroad, to the extent it legally may, for claims or injuries arising from the installation and maintenance of the water main. Metro, or its contractor, will also be required to maintain a \$2,000,000 certificate of public liability insurance. License agreements with railroads are typically the only contracts in which Metro agrees to provide a certificate of liability insurance, especially since Metro can require the contractor actually performing the installation work to maintain the insurance. This ordinance further provides that any future agreements with Nashville & Western Railroad concerning the use of railroad right-of-way for stormwater drainage and water/sewer line construction may be approved by resolution of the council. Metro has several similar licensing agreements with other railroads.

**ORDINANCE NOS. BL2006-1001** (BRILEY & TOLER) – This ordinance authorizes the Metropolitan Government to enter into a renewal of an easement on property that is part of the J. Percy Priest Dam and Reservoir project owned by the U.S. Army Corps of Engineers. This easement is being renewed for a twenty-year period on behalf of the department of water and sewerage services at no cost to the Metropolitan Government. The purpose of this easement is for the operation and maintenance of a water pipeline servicing the landlocked property near 1757 Bakers Grove Road. The term of the easement is from December 24, 2005 through December 25, 2035.

This ordinance has been approved by the planning commission.

**ORDINANCE NOS. BL2006-1002 through BL2006-1005** – These four ordinances accept easements to allow for the completion of multiple stormwater projects. These easements are being donated by the property owners at no cost to the Metropolitan Government. These resolutions have been approved by the planning commission.

(continued on next page)

**ORDINANCE NOS. BL2006-1002 through BL2006-1005** (continued)

**Ordinance No. BL2006-1002** (Toler & Isabel) authorizes the acceptance of easements for the following properties:

- 2629 Old Buena Vista Road
- Melvin Jones Blvd, unnumbered
- Melvin Jones Drive, unnumbered
- Welch Road, unnumbered

**Ordinance No. BL2006-1003** (Tucker, Toler & Others) authorizes the acceptance of easements for the following properties:

- 726 4th Avenue North
- 3000 West End Avenue
- 7454 Old Hickory Blvd.
- 33 Burton Hills Blvd.
- 1831 Linder Industrial Drive
- 6682 Nolensville Pike
- 8400 Highway 100

**Ordinance No. BL2006-1004** (Cole, Toler & Dread) authorizes the acceptance of easements for the following properties:

- 506 Madison Street
- 504 Madison Street
- 1201 5<sup>th</sup> Avenue N., #101
- 1415 Lebanon Pike
- 5010 Old Hickory Blvd.
- 555 Church Street East
- 740 Darden Place
- 1510 Branch Street
- 1017 Fatherland Street

**Ordinance No. BL2006-1005** (Coleman, Gilmore & Others) authorizes the acceptance of easements for the following properties:

- 217 W. Maplewood Lane
- 6815 Nolensville Road
- 275 Jackson Meadows Drive
- 950 Fiber Glass Road
- 110 31<sup>st</sup> Ave. North
- 3017 Hedrick Street
- 7164 Whites Creek Pike
- Mercomatic Drive, unnumbered
- 12330 Old Hickory Blvd.
- 701 Marriott Drive
- Ermac Drive, unnumbered
- Marriott Drive, unnumbered
- 7335 Charlotte Pike

**ORDINANCE NO. BL2006-1006** (GOTTO, MCCLENDON & TOLER) – This ordinance authorizes the director of public property administration to acquire three easements by negotiation or condemnation in conjunction with the Roxborough water tank project. Easements are to be acquired for the following properties:

- 3108 Earhart Road
- 5164 Roxborough Drive
- 5168 Roxborough Drive

The estimated cost for the easements is \$1,500. This ordinance has been approved by the planning commission.

**ORDINANCE NOS. BL2006-1008 through BL2006-1010** – These four ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. These ordinances have been approved by the planning commission.

**Ordinance No. BL2006-1008** (Greer & Toler) abandons an 8-inch sanitary sewer line and easement at the Charlotte Pike Advance Auto Parts store. This sewer line will be replaced with a new sewer line of equal size.

**Ordinance No. BL2006-1009** (Wallace & Ryman) abandons a 10-inch sanitary sewer line and easement for the Walgreen's development located at Charlotte Pike and D.B Todd Boulevard. This sewer line will be replaced by a new sewer line of equal size.

**Ordinance No. BL2006-1010** (Toler) abandons an 8-inch sanitary sewer line and easement at the Hermitage Home Depot on Old Hickory Boulevard. This sewer line will be replaced with a sewer line of equal size.

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