

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **October 17, 2006**

RE: **Analysis Report**

Balances As Of:	<u>10/11/06</u>	<u>10/12/05</u>
<u>GSD 4% RESERVE FUND</u>	* \$25,967,937	\$31,010,163
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND</u>	Unavailable	Unavailable

- Assumes estimated revenues in fiscal year 2007 in the amount of \$21,164,732

RESOLUTION NOS. RS2006-1539 & RS2006-1540 (RYMAN) – These two resolutions approve annual grants from the state arts commission for general operating support of the Metro arts commission for the current fiscal year.

Resolution No. RS2006-1539 approves a grant in the amount of \$47,000. None of these funds are to be distributed to other arts organizations, but are solely for the operation of the arts commission. There is a required local match in the amount of \$47,000 to be provided through the arts commission's operating budget.

Resolution No. RS2006-1540 approves a grant in the amount of \$50,585. Although the resolution provides the grant funds are for "general operating support" for the arts commission, the documentation associated with the grant indicates that the funds are to be distributed to other nonprofit arts organizations. Approximately \$8,000 is kept by the arts commission for operating expenses, but the remaining funds are disbursed to other organizations through the Arts Builds Communities program, which provides arts services to underserved constituents. There is a required local match in the amount of \$50,585 to be provided by organizations that receive arts commission grant funding.

RESOLUTION NO. RS2006-1541 (RYMAN) – This resolution appropriates \$15,000 in direct appropriation grant funds from the state department of human services to the Metropolitan action commission (MAC) for programs to increase awareness of poverty issues and to assist low-income families. These funds will be used to pay for radio advertisements and community forums to increase poverty awareness. The funds would also be used to provide assistance to low-income families on a case-by-case basis for services that are not covered under other grant funded programs operated by MAC.

RESOLUTION NO. RS2006-1542 (GILMORE & RYMAN) – This resolution approves an annual grant in the amount of \$847,500 from the state department of health to the Metropolitan board of health for bioterrorism preparedness services. These federal pass-through funds will be used for the continued employment of a regional hospital coordinator, an emergency response coordinator, a toxicologist, a network technical specialist, and an environmental epidemiologist; for collaboration by the health department with emergency personnel and hospitals regarding emergency preparedness; and the continued development of a regional public health preparedness plan and communications system. The term of this grant is from August 1, 2006, through August 30, 2007.

RESOLUTION NO. RS2006-1543 (GILMORE & RYMAN) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan board of health for food safety services. The original grant agreement provided that these federal pass-through funds were to pay the salary of an environmental specialist with experience in restaurant inspections and food safety whose primary responsibility is to participate in multi-state consortium projects through the center for disease control. This resolution increases the amount of the grant by \$20,000, for a total grant award of \$102,400, for the purpose of conducting 2,000 telephone surveys to evaluate the restaurant inspection program. The health department is to provide the state with a final set of data by January 31, 2007.

RESOLUTION NO. RS2006-1544 (GILMORE & RYMAN) – This resolution approves an amendment to a grant from the U.S. environmental protection agency to the Metropolitan board

of health for the maintenance and operation of the air pollution control program of the health department. The health department is responsible for enforcing the provisions of the federal clean air act within the jurisdiction of the Metropolitan Government. This amendment increases the amount of the award by \$122,181, for a total award of \$447,266. The amendment also increases the required local match by \$8,985, for a total match of \$299,541 provided from the health department's budget. The term of the grant was for a period beginning October 1, 2005, and ending September 30, 2006.

RESOLUTION NO. RS2006-1545 (WALLACE & GILMORE) – This resolution approves a contract between the health department and Matthew Walker Comprehensive Health Center, Inc. for operation of the federal women, infants and children (WIC) program at the Matthew Walker Clinic. The services to be provided by Matthew Walker include determining WIC eligibility in accordance with federal guidelines, referral of participants for other health services, providing nutrition education and breastfeeding promotion services, implementation of a food delivery program, and coordination of outreach efforts to inform eligible persons about the availability of the WIC program. There is no monetary compensation associated with this grant. The health department will provide counseling and registration services, access to the health department computer system, IT support, and materials necessary for the operation of the WIC program.

The council office recommends that an amendment be prepared and offered for this resolution to include a new recital expressly stating that Matthew Walker is to operate the WIC program only at its clinic. This would clarify that this resolution and contract is not an attempt to privatize the WIC services provided by the health department.

RESOLUTION NO. RS2006-1546 (RYMAN) – This resolution modifies the existing master list of architectural and engineering firms to add the firm Televent Farradyne, Inc., of Rockville, Maryland. The Metro Code provides that all government contracts for architect and engineering services be with firms included on the master list.

RESOLUTION NOS. RS2006-1547 through RS2006-1549 – These three resolutions approve supplemental licensing agreements with Nashville and Eastern Railroad Corporation to increase the rental fee paid for sewer lines located in the railroad right-of-way. The supplemental agreements provide that the fees are to be adjusted every three years hereafter based upon the consumer price index. The rental cost is to be paid from the water and sewer operation and maintenance fund.

Resolution No. RS2006-1547 (Jameson & Ryman) increases the rental fee from \$84.00 to \$91.56 for the sewer line located at M.P. 0.04. This rental fee has not been increased since 2003.

Resolution No. RS2006-1548 (Brown & Ryman) increases the rental fee from \$271.08 to \$295.48 for the water line located at M.P. 2.73. This rental fee has not been increased since 1987.

Resolution No. RS2006-1549 (Toler) increases the rental fee from \$440.07 to \$479.68 for the water line located at M.P. 10.39. This rental fee has not been increased since 1987.

RESOLUTION NO. RS2006-1550 (BROWN & RYMAN) – This resolution approves an application for a Tennessee Roadscapes grant from the state department of transportation in the amount of \$10,000 for improvements to the State Route 45 (Old Hickory Boulevard) right-

of-way from the Cumberland River bridge to the City of Lakewood city limits in the Old Hickory area. The Rayon City Neighborhood Association and the Historic Old Hickory Neighborhood Association have each pledged \$1,000 to provide the required matching funds for this grant. These federal pass-through funds will be used to contract with professionals to create a plan for the creation of a roadscape project. The project will include the State Route 45 bridge over the Cumberland River and the guard houses at the bridge. Improvements will be made in the form of lighting enhancements, landscaping and signage.

RESOLUTION NOS. RS2006-1551 & RS2006-1553 – These two resolutions approve applications for state department of transportation Transportation Enhancement Program grants for proposed streetscape enhancements on Demonbreun Street and Shelby Avenue. These are federal pass-through grants that require a twenty percent local match.

Resolution No. RS2006-1551 (Jameson, Ryman & Brown) approves an application for a grant in the amount of \$661,800 for improvements to the Shelby Avenue streetscape from the intersection of South 2nd Street to South 11th Street. The streetscape improvements to be funded with this grant include the construction of medians, upgraded traffic signals, new bicycle paths, the placement of benches, updated decorative streetlights, and landscaping. If awarded, there will be a local required match of \$293,675.

Resolution No. RS2006-1553 (Wallace) approves an application for a grant in the amount of \$587,200 for improvements to the Demonbreun Street streetscape between 10th Avenue South and 6th Avenue South, and the 1st Avenue South intersection. The streetscape improvements to be funded with this grant include upgrading the sidewalks to ADA standards, landscaping similar to the landscaping between 17th Avenue South and 14th Avenue South, ornamental lighting, benches, updated crosswalks with concrete pavers, and upgraded traffic signals. If awarded, there will be a local required match of \$260,575.

RESOLUTION NO. RS2006-1552 (JAMESON, RYMAN & BROWN) – This resolution approves an application for a Tennessee Roadscapes grant from the state department of transportation in the amount of \$65,840 for improvements to the right-of-way at the Woodland Street and Main Street interchange at Interstate 24. These federal pass-through funds will be used to replace the existing chain link fencing with metal picket-type fencing, and to provide landscaping for the area. The grant application provides that Councilman Jameson has pledged \$16,460 in Council infrastructure program funds to cover the required local match.

RESOLUTION NO. RS2006-1554 (RYMAN & BROWN) – This resolution approves an application for a Tennessee Roadscapes grant from the state department of transportation in the amount of \$120,428 for improvements to the community gateway and entry corridor along 21st Avenue South. These funds will be used for improvements in three main areas:

1. Creating a landscaped pedestrian entrance to St. Bernard Park.
2. Landscaping the right-of-way along 21st Avenue South at the 21st/Fairfax/Magnolia interchange.
3. Standardizing and improving the landscaping and sidewalks in Hillsboro Village.

Numerous neighborhood and merchant groups have submitted letters along with the grant application in support of the project. There is a required match of \$30,600 for this grant. The grant application provides that Council Lady Hausser has pledged \$9,000 in Council infrastructure funds toward the required local match.

RESOLUTION NO. RS2006-1555 (BURCH) – This resolution authorizes the Metropolitan department of water and sewerage services to enter into a supplemental utility relocation contract with the state department of transportation (TDOT) in connection with the widening and rehabilitation of I-40 from I-24 to Donelson Pike. The original contract was approved by the council in 2002. This supplemental contract provides that the department of water and sewerage services will pay TDOT \$39,441.50 for removal of the existing water line, revision of the proposed retaining wall, and reconstruction of the waterline.

There is a housekeeping amendment for this resolution to correctly identify the prior ordinance authorizing this supplemental agreement to be approved by resolution.

RESOLUTION NO. RS2006-1556 (GILMORE, RYMAN & OTHERS) – This resolution approves an annual joint funding agreement between the department of water and sewerage services and the U.S. department of interior – geological survey for the continuation of a program of water resources investigation. The federal government will provide \$82,500 for this program, with a local match of \$98,900 to be provided by the department of water and sewerage services. This annual contract provides streamflow monitoring at seven sites and continuous water-quality monitors at four sites within the area of the Metropolitan Government. The term of the contract is from July 1, 2006, through June 30, 2007.

RESOLUTION NO. RS2006-1557 (RYMAN) – This resolution approves a grant in the amount of \$1,000 from the Sam's Club Foundation to the Nashville fire department for fire prevention programs in schools and senior citizen centers. This grant is specifically for the "Learn not to Burn" program provided by the fire department.

RESOLUTION NO. RS2006-1558 (RYMAN) – This resolution approves an application for a grant in the amount of \$699,076 from the state emergency management agency to the mayor's office of emergency management to support homeland security capabilities. If awarded, these federal pass-through funds will be used to provide required equipment for first responders; to purchase equipment to increase county-to-county communications; to develop citizen participation programs for state government, local government and the private sector through volunteer service activities and educational programs; and to develop incident command procedures.

RESOLUTION NO. RS2006-1559 (RYMAN) – This resolution accepts a grant in the amount of \$203,615.35 from the state department of transportation to the Davidson County sheriff's office for programs to address driving under the influence (DUI) issues. These federal pass-through funds will be used by the sheriff's office to provide tours of the correctional facility for young DUI offenders, expansion of the Sober Ride program, and the development of educational curriculum for preventing DUIs. The term of the grant is from October 1, 2006 through September 30, 2007.

RESOLUTION NO. RS2006-1560 (RYMAN) – This resolution approves an annual grant in the amount of \$278,000 from the state department of state to the Nashville public library system for general library services, library services to the hearing impaired, and materials for the disadvantaged. The term of this grant is for one year beginning July 1, 2006, and extending through June 30, 2007, with a possible extension of four additional one-year periods. The grant funds will be divided as follows: \$91,000 for general library services to provide access to and

circulation of library materials, \$182,000 for the deaf and hard of hearing, and \$5,000 for materials for the disadvantaged.

RESOLUTION NO. RS2006-1561 (RYMAN) – This resolution approves an annual grant in the amount of \$1,437 from the Tennessee secretary of state to the Nashville public library for participation in the interlibrary loan system. These federal pass-through funds are used to purchase library materials for the statewide on-line interlibrary loan system. The term of the grant is from September 1, 2006 through June 30, 2007.

RESOLUTION NO. RS2006-1562 (RYMAN) – This resolution approves a grant in the amount of \$5,300 from the state arts commission to the Metropolitan board of parks and recreation to provide free Big Band dances to the public. The term of the grant is from July 1, 2006 through June 30, 2007. There is a required match of \$5,300 to be provided through the parks department's operating budget.

RESOLUTION NOS. RS2006-1563 through RS2006-1565 (GILMORE & RYMAN) – These three resolutions approve amendments to grants from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to prepare adults, youth and dislocated workers for re-entry into the labor force and to provide training for those facing serious barriers to employment. These amendments simply increase the amount of the grant awards that provide the operational funds for the NCAC.

Resolution No. RS2006-1563 approves an amendment to a youth worker grant by increasing the grant award by \$364,825, for a total award of \$1,532,618.

Resolution No. RS2006-1564 approves an amendment to an administrative grant by increasing the grant award by \$47,372, for a total award of \$259,899.

Resolution No. RS2006-1565 approves an amendment to an adult worker grant by increasing the grant award by \$61,523, for a total award of \$268,455.

RESOLUTION NO. RS2006-1566 (RYMAN) – This resolution approves a grant in the amount of \$15,400 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide training to employees of Ingram Book Group through the state incumbent worker training program. These federal funds, under the Workforce Investment Act of 1998, will be used to upgrade skills for 21 current employees at Ingram Book Group. The training will include various process improvement methods and leadership development. Ingram Book Group applied for this grant through the state program. The grant will be administered through NCAC, and NCAC will keep \$1,400 of the funds for its expenses associated with administering the grant. The term of the grant is from September 14, 2006 through June 30, 2007, with a possible one-year extension.

RESOLUTION NO. RS2006-1567 (BURCH & RYMAN) – This resolution approves a grant in the amount of \$110,000 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to participate in a recruitment campaign for Embraer Air and assist with additional hiring needs. Under the terms of this grant NCAC will manage the recruitment campaign for Embraer Air based upon a hiring schedule of 160 employees. The career center will provide an initial screening of all applicants, and will make every effort to refer qualified candidates from its existing customer pool of applicants. NCAC

will also provide on-the-job training for approximately 60 employees. The term of the grant is from September 15, 2006, through June 30, 2007, with a possible one-year extension.

RESOLUTION NOS. RS2006-1568 THRU RS2006-1571 – These four resolutions appropriate funds from the council discretionary reserve account. The council appropriated \$1.95 million as part of the fiscal year 2006-2007 substitute operating budget to a reserve account for the council infrastructure program, nonprofit grants and other council initiatives. It was anticipated that each of the forty council members have \$48,750 in “discretionary funds” to be appropriated from the reserve account at a later date.

State law allows local government to make grants to nonprofit organizations, provided that certain information is submitted by the organization proving their eligibility for the funds, including a statement as to the proposed use of local government funding, a letter from the Internal Revenue Service evidencing its tax exempt status, and a copy of its annual audit in compliance with state law. In order to facilitate compliance with the state law requirements, the Metropolitan Code of Laws sets out specific information that nonprofit organizations must provide in order to receive Metro funding. These requirements are as follows:

1. A copy of its corporate charter or other articles, constitution, bylaws, or instruments of organization;
2. A copy of a letter from the Internal Revenue Service evidencing the fact that the organization is a nonprofit, tax-exempt organization under the Internal Revenue Code;
3. A statement of the nature and extent of the organization's program that serves the residents of the Metropolitan Government;
4. The proposed use of the funds to be provided by the Metropolitan Government;
5. The proposed budget of the organization, indicating all sources of funds and a line-item identification of the proposed expenditure of Metropolitan Government funds;
6. A copy of the organization's audit for the most recent fiscal year.

Additional resolutions will be forthcoming once members of council inform the council office as to how they wish to have their funds allocated and all of the required information has been received.

Resolution No. RS2006-1568 (Tygard) appropriates \$1,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Youth, Inc. to provide partial funding for its program services. Youth, Inc. provides a variety of recreational and sporting activities in the Nashville-Middle Tennessee area. These funds will be used to provide scholarships for sports programs for underprivileged children living within the area of the Metropolitan Government.

The council office is of the opinion that the budget submitted by Youth, Inc. for 2006-2007 does not meet the requirements of the Metro code. As stated above, the budget is to include “all sources of funds and a line-item identification of the proposed expenditure of Metropolitan Government funds.” The budget provided by Youth, Inc. is simply a projected income and expense statement.

Resolution No. RS2006-1569 (Tygard) appropriates \$2,500 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Operation Stand Down Nashville, Inc. This organization provides social services to homeless veterans of the Armed forces of the United States. These funds will be used to pay for a portion of the cost of clothing to be provided to homeless veterans during the 14th Annual Operation Stand Down Event.

Resolution No. RS2006-1570 (Tygard) appropriates \$5,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of

the general services district to the Jewish Community Center of Nashville. This organization provides multiple programs for the community, including early childhood education, a day camp, sports and fitness, and senior citizen services. These funds will be used to provide part of the cost to upgrade the outdoor pool facilities before opening next summer.

Resolution No. RS2006-1571 (Whitmore) appropriates \$8,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Eighteenth Avenue Family Enrichment Center. This organization provides center-based and outreach programs that promote and enrich participation in family, economic, civic, and community life. These funds will be used to provide items for their center such as classroom curriculum items, arts and crafts, toys, playground mulch, teacher training materials, and classroom rugs.

RESOLUTION NO. RS2006-1572 (SUMMERS, RYMAN & GILMORE) – This resolution declares the Municipal Children’s Home located at 137 - 51st Avenue North, currently under the control of the social services commission, to be surplus and transfers the custody of the property to the director of public property administration. The Metropolitan Charter provides that one of the duties of the social services commission is to “supervise the operation of ... the Municipal Children’s Home.” The Municipal Children’s Home, commonly known as Richland Village, was a residential facility for youth until 2002. The social services commission no longer has a need for this property.

In June of 2002, the council enacted Ordinance No. BL2002-1024, which requires council approval by resolution before any Metro home or facility for the care of children can be transferred to the director of public property administration. Once property is transferred to the possession of the director of public property administration, the property is to be made available to other Metro departments or agencies for their use. If no other department or agency needs the property, the director of public property, upon approval of the Metro Council, can sell the property.

This resolution has been approved by the planning commission.

RESOLUTION NOS. RS2006-1573 & RS2006-1574 (WALLACE) – These two resolutions appropriate funds from the unappropriated fund balance of the general fund for an economic impact study regarding Metro employees living outside of Davidson County, and a best practices study of the council office. These same appropriations were made from the unappropriated fund balance during last fiscal year, but the funds were never encumbered, and therefore, lapsed on June 30th.

Rule 15 of the Council Rules of Procedure provides that "no resolution or ordinance involving the appropriation or expenditure of money, upon being filed, shall be placed on the agenda by the Metropolitan Clerk until the Director of Finance has furnished a statement of the availability of funds." The director of finance has provided a statement that he cannot determine whether the funds are available for this appropriation until the annual certified financial audit of the Metropolitan Government has been completed, which is usually in November of each year. The council has established a policy of maintaining a minimum unappropriated fund balance of five percent. If the unappropriated fund balance is shown by the annual audit to be below five percent, adoption of this resolution could be deemed by credit rating agencies as a violation of the previous council policy adopted by resolution.

Resolution No. RS2006-1573 appropriates \$10,000 from the unappropriated fund balance of the general fund for an economic impact study regarding Metro employees living outside of Davidson County.

Resolution No. RS2006-1574 appropriates \$75,000 from the unappropriated fund balance of the general fund to fund a best practices study. This appropriation would provide funds to employ necessary consultants to conduct a best practices study of the council office. Such study would include a study of the current council office, current staffing of the council office, and the need for additional staffing.

RESOLUTION NO. RS2006-1575 (RYMAN) – This resolution authorizes the department of law to accept \$58,992.88 in settlement of the Metropolitan Government’s lawsuit against American Disposal Service, LLC. Prior to the closing of the downtown thermal transfer plant in 2002, American Disposal Service disposed of solid waste at the facility incurring delinquent tip fees totaling \$52,109.88. The Metropolitan Government filed suit in chancery court against American Disposal Service in May of 2006 in an effort to recover the tip fees owed. This resolution settles the claim for \$58,992.88, which represents the total amount of the tip fees owed plus interest. This amount will be paid in six monthly installments.

RESOLUTION NO. RS2006-1576 (RYMAN) – This resolution authorizes the department of law to accept \$18,902 in settlement of the Metropolitan Government’s subrogation claim against Daryl Hutchison. On January 23, 2005, a Metro police officer was traveling north on South Graycroft Lane when his police car was struck by a vehicle driven by Mr. Hutchison at the intersection of Chadwell Drive. The officer sustained injuries consisting of a fractured pelvis and concussion, which required hospitalization and physical therapy. The officer continues to suffer pain and is unable to participate in many of the activities he enjoyed prior to the injury. He will also likely suffer future arthritic pain due to the accident.

The officer involved in the accident was off work until February 21, 2005. He remained on light duty until April 25, 2005. Although the officer was paid his full wages while off work, he did lose approximately \$6,700 in missed job opportunities through the secondary employment unit. The officer has negotiated a compromise with Mr. Hutchison’s insurance company of approximately \$95,000.

The Metropolitan Government has a subrogation interest in the \$25,968.61 medical bills paid by the government, as well as lost wages totaling \$2,394.89. Since there are only \$100,000 in insurance funds to satisfy this claim, the department of law recommends settling the subrogation claim for \$18,902, which is a reduction of approximately thirty percent of Metro’s total subrogation claim. This will allow the officer to be better compensated for his injuries.

The council has previously approved the acceptance of \$10,994.47 in settlement of the property damage portion of the claim.

RESOLUTION NO. RS2006-1577 (RYMAN) – This resolution authorizes the department of law to accept \$3,000 in compromise and settlement of the Metropolitan Government’s counterclaim against Mary Hutto. On April 28, 2004, a Metro police officer was traveling northbound on Bell Road behind another officer in response to a call for assistance. As they approached Ms. Hutto’s vehicle from behind, Ms. Hutto began to yield into the far right lane but swerved back into the police officers’ lane to avoid hitting another vehicle. The Metro officer could not avoid hitting Ms. Hutto’s vehicle. Ms. Hutto filed suit against the Metropolitan

Government for property damage and Metro counter-sued for damage to the police car, medical expenses and lost wages totaling \$5,357.57. The police department crash review committee found this to be a dual at-fault accident.

The department of law recommends accepting \$3,000 from Ms. Hutto representing her portion of the liability. The officer involved in the accident received disciplinary action consisting of the loss of one vacation day and was required to attend a remedial driving course.

- BILLS ON SECOND READING -

ORDINANCE NO. BL2006-1125 (FOSTER) – This ordinance names the new Head Center campus for the southeast quadrant of Davidson County, located at 445 Cotton Lane, the “Phillip A. Pratt Campus”. The Metro Code of Laws provides that no building of the Metropolitan Government may be named except pursuant to an ordinance enacted by the council. Phillip A. Pratt, a lifelong Nashvillian, was owner of the Jefferson Street Carpet Service until his death in 1998. The property on which the new Head Start Center is being constructed was owned by the Pratt family for many years.

The council office would point out that this property was purchased from the Pratt family at fair market value. Metro government buildings are typically only named for persons that donated the property.

The Metro action commission reportedly has made a recommendation on this ordinance, which is required by the Metro code before the ordinance can be adopted on second reading. The council office is of the understanding that the Metro action commission recommended an amendment to this ordinance. However, the council office has not been advised as to what the substance of that recommendation is. This ordinance should be deferred if the recommendation is not received prior to the October 17 council meeting.

SUBSTITUTE ORDINANCE NO. BL2006-1185 (CRAFTON) – This ordinance amends the Metropolitan Code of Laws to declare English to be the official language of the Metropolitan Government, and to require that all government communications and publications be in English, with certain exceptions. State law currently establishes English as the official language of the State of Tennessee, and requires all communications and publications produced by governmental entities to be in English. This substitute ordinance essentially incorporates this state provision into the Metro code with the intent that the Metropolitan Government communicate in English first, except when required by federal law or when necessary to protect or promote public health, safety or welfare.

Prior to the introduction and adoption of the substitute ordinance, the department of law submitted a memorandum to the council raising several legal issues associated with the original version of the bill, which would have required all government communications to be in English only. Since this substitute ordinance is no longer “English-only” legislation, the council office is of the opinion that all legal issues raised by the department of law have been adequately addressed.

ORDINANCE NO. BL2006-1193 (WALLACE) – This ordinance renames a portion of 13th Avenue North between Jo Johnston Avenue and Alley #611 as “Pearl Street”. This renaming request was made by the Metropolitan development and housing agency. This ordinance has been approved by the planning commission and the ECD board.

ORDINANCE NO. BL2006-1196 (JAMESON) – This ordinance abandons an unnumbered alley between South 14th Street and South 15th Street. This closure has been requested by Ted J. Miller, the owner of adjoining properties who wishes to consolidate the two properties. The Metropolitan Government will retain all easements. Consents of the affected property owners are on file with the department of public works, however, the property owner consent form contains the signature of a daughter of the deceased owner of one of the adjacent properties. The property tax records still show the deceased father as the owner. This ordinance has been approved by the planning commission and the traffic and parking commission.

ORDINANCE NO. BL2006-1207 (WALLACE & TYGARD) – This ordinance amends the Metropolitan procurement code to expressly require contractors for Metropolitan Government construction projects to obtain a Metro business tax license. State law requires that businesses operating within the area of the Metropolitan Government register with the county clerk and obtain a business privilege tax license. State law includes an exception for businesses domiciled outside of Davidson County that receive less than \$50,000 of compensation from contracts within Davidson County.

This ordinance would require any person entering into a contract with Metro for any type of building or construction work, other than those businesses exempt by state law, to obtain a business tax license from the Davidson County clerk prior to commencing any work on the project. As stated above, state law already requires such contractors to have a Metro business tax license. This ordinance simply makes the requirement part of the Metro procurement code, as well.

ORDINANCE NO. BL2006-1208 (SHULMAN & WALLS) – This ordinance amends the animal cruelty provisions of the Metropolitan Code of Laws to place restrictions on outdoor pet tethering. An ordinance dealing with the same subject matter was withdrawn at the September 19, 2006 council meeting. This new version of the ordinance is the result of discussions between interested parties, members of council and the health department.

First, this ordinance would prohibit confining an animal in such a manner as to unreasonably restrict the animal's ability to move. Persons would be prohibited from using a chain, cord or rope to tie up their dog unless the rope, chain or cord is not unreasonably heavy in proportion to the weight of the animal, contains a swivel at both ends, and no choke collar is used. Second, the ordinance would enable the court to order violators of the animal cruelty laws to do any or all of the following:

1. Prohibit the person from owning companion animals for a period of time the court deems reasonable.
2. Require the person to participate in animal cruelty prevention and/or education programs operated or approved by the animal control division of the health department.
3. Require the person to undergo a mental health evaluation and comply with any recommendations resulting from the evaluation.
4. Forfeit all animals that are the basis of the conviction.
5. Sterilize the companion animals.
6. Pay appropriate fees and fines.

It is unclear whether general sessions court has the authority under state law to impose these additional penalties for cruelty to animals violations.

In addition to the above penalties, first offense violators of the tethering provisions would be required to abide by the above provisions that prohibit restricting the animal's ability to

adequately move. Second and subsequent offenses would be required to install a running cable line or trolley system of restraint.

This ordinance further requires that any fees paid for the animal cruelty prevention and education programs be directed to the operating budget of the animal control division. The council office is of the opinion that all such fees must go to the general fund, as there is no authorization under the charter for "earmarking" such funds.

ORDINANCE NOS. BL2006-1209 & BL2006-1210 – These two ordinances rename sections of Metropolitan Government right-of-way.

Ordinance No. BL2006-1209 (Shulman) renames a portion of Observatory Drive as "North Observatory Drive" and another portion as "South Observatory Drive". This name change is necessary due to some duplicate addresses on Observatory Drive. This will help speed emergency service to the location. This ordinance has been approved by the planning commission and the ECD board.

Ordinance No. BL2006-1210 (Murray) renames Spring Court as "Lischey Place". This renaming request was made by the Metropolitan development and housing agency. This section of roadway now ties into Lischey Place dedicated by the plat for the Sam Levy homes. This street renaming is in conjunction with the right-of-way abandonment as part of Ordinance No. BL2006-1211. This ordinance has been approved by the planning commission and referred to the ECD board.

ORDINANCE NOS. BL2006-1211 through BL2006-1214 – These four ordinances abandon portions of Metropolitan Government right-of-way that are no longer needed for government purposes. Consents of the affected property owners are on file with the department of public works. These ordinances have been approved by the planning commission and the traffic and parking commission.

Ordinance No. BL2006-1211 (Murray) abandons a portion of Meridian Street and Spring Court right-of-way across from the Sam Levy homes. This closure has been requested by the Metropolitan development and housing agency. All easements will be retained by the Metropolitan Government. The roadway and utilities have been relocated and new right-of-way has been dedicated by a recorded plat.

Ordinance No. BL2006-1212 (Toler) abandons the right-of-way and easement for a portion of Carothers Road, east of Battle Road. There will be no need for this right-of-way once the two new local roads in the Carothers Crossing subdivision are accepted by Metro, which have already been approved by the planning commission and the council as part of the Carothers Crossing urban design overlay. This closure has been requested by Wood Ridge Investments.

Ordinance No. BL2006-1213 (Loring & Briley) abandons an unnumbered alley adjacent to Fairway Drive, south of Lebanon Pike. This closure has been requested by Jordan Properties, Inc., the owner of the adjacent properties. All easements will be retained by the Metropolitan Government.

Ordinance No. BL2006-1214 (Greer) abandons an unnumbered alley located between Culvert Street and Alley # 2086. This closure has been requested by Lukens Engineering Consultants on behalf of the adjacent property owner who wishes to consolidate the two parcels. All easements will be retained by the Metropolitan Government.

ORDINANCE NO. BL2006-1230 (ISABEL, GILMORE & OTHERS) – This ordinance authorizes the director of public property administration to transfer property located at 3315 John Mallette Drive (the old Bordeaux library property) to Senior Citizens, Inc., for use as a senior citizens center. This property will be donated at no cost to Senior Citizens, Inc. However, the deed is to include a reversionary clause prohibiting Senior Citizens, Inc. from transferring the property, and requiring that it be used solely as a senior citizens center. This ordinance has been approved by the planning commission.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2006-998 (WALLACE, RYMAN & OTHERS) – 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. BL2006-1126 (WILHOITE & FOSTER) – This ordinance would require that all brochures, pamphlets and reports published by the Metropolitan Government contain a statement regarding the number of copies published and the cost per copy. This would apply to any publication prepared by a Metro department, agency, board or commission for distribution outside of the particular department. The total cost per copy is to include the costs for materials, copying and the labor involved in the preparation of the publication.

The council office would remind members of council that several of the large publications prepared by various Metro departments are required by council ordinance.

ORDINANCE NO. BL2006-1186 (TYGARD & GOTTO) – This ordinance amends the Metropolitan Code of Laws to reinstate the so-called “sprinkler adjustment” on sewer bills for customers using additional water during the warm months for watering their lawns and gardens and filling their swimming pools. The code currently provides that the department of water and sewerage services may, at its discretion, approve a method for estimating the amount of water diverted from the public sewer system. Until August of this year, the water department provided an adjustment to the sewer bills for customers that showed an increased amount of water usage during the warmer months. The reason for the adjustment is that it is presumed that the increased water usage during the summer months is for the purpose of watering lawns or filling pools, which does not end up in the sewer system. As part of the revenue enhancements for the water department, the sprinkler adjustment has been eliminated. As a result of this policy change, it is estimated that approximately 29,000 homeowners will see a \$176 average increase in their sewer bill.

This ordinance would essentially require the water department to reinstate the sprinkler adjustment effective July 1, 2007. The sprinkler adjustment would be based upon the customer’s average monthly usage during the months of January, February and March. Customers would not be required to install a separate irrigation meter to determine the amount of water diverted from the sewer system.

The director of finance refused to certify that funds are available for this ordinance since reinstating the sprinkler adjustment would result in approximately \$5.2 million in lost revenue. Metro's water rate consultant recommended abolishing the sprinkler adjustment as an alternative to a general rate increase.

ORDINANCE NO. BL2006-1187 (GOTTO) – This ordinance amends the Metropolitan Code of Laws to prohibit the parking of boats and trailers in the front yards of residential property. In June 2002, the council amended the code to prohibit the parking of motor vehicles in yards, but did not address boats and trailers. This ordinance would require that all trailers and watercraft stored on private single-family and two-family residential property be parked on a paved or graveled driveway, or behind the front façade of the structure.

A similar ordinance failed to receive approval of the council in September 2005. The previous ordinance would have prohibited boats from being parked in the side yard, as well.

ORDINANCE NO. BL2006-1188 (BRILEY) – This ordinance is simply a housekeeping measure that corrects a section number in Ordinance No. BL2006-1096.

ORDINANCE NO. BL2006-1189 (DOZIER & NEIGHBORS) – This ordinance authorizes the police department to accept the donation of two walking horses. These horses will be used by the police department's mounted patrol unit. The two horses to be accepted are as follows:

- Society's Red Bear, donated by Joe and Emily Siciensky
- Armed SG's Boy Scout, donated by Harlan and Eva Knight

ORDINANCE NO. BL2006-1190 (TYGARD & TOLER) – This ordinance authorizes the director of public property administration to accept a completed bridge over the CSX railroad tracks serving the Riverwalk community in Bellevue. In August 2002, the council approved an agreement with CPS Land, LLC (CPS) and CSX Transportation, Inc. for construction of a concrete two-lane bridge with sidewalks on both sides extending over the CSX railroad tracks. This agreement contemplated acceptance of the bridge by the Metropolitan Government once it was completed. The bridge and all right-of-way improvements were constructed by CPS at its own expense, and the bridge meets Metro's standards. By accepting the bridge, Metro agrees to be responsible for all of the repair and maintenance of the bridge.

This ordinance also accepts an easement from CSX to facilitate the bridge's use and maintenance. An easement was granted to Metro in November 2003, but this deed was never recorded and has been lost. CSX has submitted a replacement deed of easement which is to be recorded with the register of deeds evidencing its acceptance.

This ordinance further provides that any future agreements with CSX or the developer for bridge or roadway improvements in which the department of public works participates may be approved by resolution of the council, rather than by ordinance.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-1192 (COLEMAN) – This ordinance renames Summerfield Boulevard as "Summercrest Boulevard". This name change is necessary to ensure the continuity of the street names, as Summercrest Boulevard will eventually connect with this portion of Summerfield Boulevard. This ordinance has been approved by the planning commission and the ECD board.

ORDINANCE NOS. BL2006-1994 & BL2006-1995 – 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. Consents of the affected property owners are on file with the department of public works. These ordinances have been approved by the planning commission and the traffic and parking commission.

Ordinance No. BL2006-1994 (Coleman) abandons a portion of Cane Ridge Road right-of-way across from Blairfield Drive. This closure has been requested by Dale and Associates. The roadway and utilities have been relocated and new right-of-way has been dedicated by a recorded plat.

Ordinance No. BL2006-1995 (Hunt and Tucker) abandons an unnumbered alley off of Whites Creek Pike. This closure has been requested by First Baptist Church of Joelton.