

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director
Metropolitan Council Office

DATE: **November 21, 2006**

RE: **Analysis Report**

Balances As Of:	<u>11/15/06</u>	<u>11/9/05</u>
<u>GSD 4% RESERVE FUND</u>	* \$21,260,307	\$31,010,163
<u>CONTINGENCY ACCOUNT</u>		
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$30,979,538	Unavailable
USD	\$12,243,660	Unavailable
<u>GENERAL PURPOSE</u>		
<u>SCHOOL FUND</u>	\$37,753,270	Unavailable

* Assumes estimated revenues in fiscal year 2007 in the amount of \$19,656,912

– RESOLUTIONS –

RESOLUTION NO. RS2006-1541 (RYMAN & WALLS) – 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 will 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. RS2006-1546 (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. This resolution simply adds this firm to the master list so that they will be eligible to bid on Metro projects. It does not mean that contracts will be awarded to the firm.

RESOLUTION NOS. RS2006-1573 (WALLACE) – This resolution 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. This same appropriation was 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. RS2006-1601 (HUNT, RYMAN & OTHERS) – This resolution accepts the Parkwood – Union Hill community plan 2006 update adopted by the planning commission on September 28, 2006. The Parkwood – Union Hill community plan, formerly the subarea 2 plan, is one of fourteen subarea plans making up the general plan, which is used by the planning commission in its decision making process regarding zoning. This plan update is the result of nine community meetings held between March and July 2006 where neighbors worked with planning commission staff to develop detailed plans for their neighborhoods. This resolution is simply a memorializing of the plan, as the subarea plans have no binding effect on zoning decisions made by the council.

RESOLUTION NO. RS2006-1602 (RYMAN & NEIGHBORS) – This resolution sets the date and time for the 2007 Mayor's State of Metro Address. On November 7, 2006, the voters of Davidson County approved an amendment to the Metropolitan Charter requiring the mayor to

give a State of Metro address to the council not later than May 25th of each year. The charter amendment requires that the address be given in a Metropolitan Government facility at a specially called council meeting, which is to be open to the public. This resolution provides that the address will be held on May 24, 2007, at 8:00 a.m. in the Public Square in front of the Metropolitan Courthouse. This meeting does not require a quorum and no official business may be conducted at this meeting.

RESOLUTION NO. RS2006-1603 (RYMAN) – This resolution approves an application for an annual grant in the amount of \$117,610 in juvenile accountability incentive grant program funds awarded through the Tennessee commission on children and youth. The grant funds will be used by the juvenile court to fund two community-based probation officer positions and one part-time intake probation officer. There will be a required match of \$13,068 to be provided through the juvenile court's operating budget.

RESOLUTION NO. RS2006-1604 (RYMAN) – This resolution approves an amendment to a grant from the U.S. department of health and human services to the Metropolitan action commission for the purchase of two food trucks used in the Head Start program. The grant that is being amended is the \$3,749,523 general operating grant from the federal government for the Head Start program. This resolution increases the amount of the grant by \$83,900. These additional funds will be used to reimburse the department of general services, which already purchased the two trucks.

RESOLUTION NO. RS2006-1605 (RYMAN & GILMORE) – This resolution extends the project period and appropriates \$129,639 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 board of health is responsible for air quality monitoring within Nashville and Davidson County on behalf of the U.S. environmental protection agency (EPA). A previous grant for the current fiscal year has already been approved by the council. This resolution extends the project period from September 20, 2006 to December 31, 2007.

The council office recommends that a housekeeping amendment be offered for this resolution to reflect that this legislation is a resolution amending the grant by extending the grant term and appropriating additional funds.

RESOLUTION NO. RS2006-1606 (RYMAN & GILMORE) – This resolution approves an assignment and extension of an agreement between the Metropolitan board of health and the Safety Net Consortium of Middle Tennessee, LLC, to provide more effective health care services to the uninsured of Davidson County. Pursuant to the agreement, the Safety Net Consortium has unlimited on-line access to the database operated by the health department to enter health information of patients and to view information on the success of the Bridges to Care program. The agreement provides that all patient information shared or received will be held confidentially in accordance with applicable law.

This resolution approves an assignment of the contract from the Safety Net Consortium to Saint Thomas Health Services Fund. The resolution also extends the term of the contract through July 31, 2007.

RESOLUTION NO. RS2006-1607 (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$1,755,200 from the state department of health to the Metro health department to provide nutritious food to low-income women, infants, and children. These are federal pass-through funds for the operation of the Women, Infants and Children (WIC) program in Nashville. These federal funds are used to pay the salaries and benefits of the health department employees administering the WIC program. The term of the grant is from October 1, 2006, through September 30, 2007.

RESOLUTION NO. RS2006-1608 (GILIMORE & RYMAN) – This resolution approves a grant in the amount of \$50,000 from the state department of finance and administration to the Metropolitan board of health to fund the salary for an infant mortality coordinator. The infant mortality coordinator will have the specific purpose of providing local leadership, coordinating activities related to infant mortality and serving as the representative of the Metropolitan Nashville area's core leadership group to the governor's office of children's care coordination. The term of the grant is from December 15, 2006 through December 14, 2007 with a possible extension of four additional one-year periods.

RESOLUTION NO. RS2006-1609 (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$156,190 from the Campus for Human Development to the Metropolitan health department to provide dental care and substance abuse services at the downtown clinic. The Campus for Human Development has received a federal grant to provide support services to homeless individuals and desires to subcontract a portion of this grant to the health department. The health department will use the funds to provide dental care, substance abuse counseling, and substance abuse treatment to participants in day treatment at the downtown clinic for the homeless. The term of the grant is from September 1, 2006 through August 31, 2007, with a possible extension of four additional one-year terms. There is a required local match of \$39,048 to be provided through the health department's operating budget.

RESOLUTION NO. RS2006-1610 (GILMORE & RYMAN) – This resolution approves a grant in the amount of \$199,500 between the state department of health and the Metro health department for the commodity supplemental food program. This is a federal program that provides nutritious food to eligible low-income clients who are vulnerable to inadequate nutrition. The majority of these federal funds are used to pay the salaries and benefits of the health department employees in the commodity food program. The term of the grant is from October 1, 2006 through September 30, 2007.

RESOLUTION NO. RS2006-1611 (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$57,986 from the Saint Thomas Health Services Fund to the metropolitan board of health to coordinate behavioral health services for uninsured and underinsured persons. The health department will use these grant funds to establish a behavioral health advisory board composed of various behavioral health providers to oversee the development of a volunteer network of mental health and alcohol and drug treatment providers. The health department is to recruit at least 100 behavioral health providers to participate in the volunteer network during the first twelve months. The term of the grant is for a one year period with a possible extension of two additional one year terms.

RESOLUTION NO. RS2006-1612 (GILMORE & RYMAN) – This resolution approves a contract between the Metropolitan board of health and the Campus for Human Development to provide

room and board for homeless persons participating in substance abuse treatment at the downtown clinic. As stated in the analysis for Resolution No. RS2006-1609, the Metropolitan health department is obligated to provide a \$39,048 match to the grant. The health department has determined that the appropriate use for the matching funds is to provide temporary housing for participants in the downtown clinic substance abuse treatment program. Pursuant to the terms of this grant, the health department will provide \$50,000 and the Campus for Human Development will use the \$38,048 match required by Resolution No. RS2006-1609 for housing participants in the treatment program. The term of this contract is through June 30, 2007, with a possible extension of four additional one-year terms.

RESOLUTION NO. RS2006-1613 (RYMAN & GILMORE) – This resolution approves an amendment to a contract between the Metropolitan board of health and the Campus for Human Development for the operation of an educational day center for the homeless. This resolution extends the contract for one year for a new contract term of July 1, 2006 through June 30, 2007. The Campus for Human Development will be paid \$150,000 to provide these services.

RESOLUTION NO. RS2006-1614 (RYMAN & GILMORE) – This resolution approves a grant in the amount of \$4,998 to the sheriff's office for the operation and expansion of the HEEL program. The HEEL program provides inmate instruction on responsible pet ownership and animal treatment. The term of the grant is from October 1, 2006 through September 1, 2007.

The resolution purports to approve a grant from the state department of transportation to the sheriff's office for the HEEL program. However, the grant contract states that the grant is from the Community Foundation of Middle Tennessee. This resolution should be withdrawn and a new resolution filed to accept the grant from the correct entity.

RESOLUTION NO. RS2006-1615 (JAMESON & RYMAN) – This resolution approves an application for a Transportation Enhancement Program grant from state department of transportation for the East Nashville Civic Oval plan. Metro is seeking \$2,911,375 in federal pass-through funds for this project. The initial planning for this project began shortly after the tornado in 1998 that devastated vast areas of east Nashville. The project will consist of rearranging Gallatin Road between North 10th Street and North 11th Street to create a large oval containing a park and fountain plaza. Gallatin Road would remain two lanes in each direction, creating a one-way traffic pattern around the oval. The project will also incorporate landscaping, streetscaping elements in the Five Points area, sidewalk improvements, and bicycle facilities. This federal pass-through grant would require a twenty percent local match totaling \$582,275, which would be provided through bond funds.

RESOLUTION NO. RS2006-1616 (RYMAN) – This resolution approves a grant in the amount of \$36,262 from the Community Foundation of Middle Tennessee to the office of the district attorney general to provide personnel to review, coordinate, and prosecute firearms cases. This grant is part of the federal Project Safe Neighborhood Grant program. These federal pass-through funds will be applied toward the salary of an assistant district attorney to review and prosecute serious gun related crimes. The term of the grant is from October 1, 2006 through September 30, 2007.

RESOLUTION NO. RS2006-1617 (WHITE & RYMAN) – This resolution approves a grant in the amount of \$400,000 from the state department of environment and conservation to the Metropolitan parks department for the acquisition of Stone Hall located at 1014 Stones River

Road to be used as part of the Metro parks system. The grant contract provides that Metro will proceed with the acquisition of the property within 180 days from the date of the approval of the grant. There is a required local match of \$400,000 for this grant to be provided through bond funds.

RESOLUTION NO. RS2006-1618 (RYMAN) – This resolution approves a grant in the amount of \$6,000 from the University of Tennessee to the Metro department of human resources to provide professional development, supervisory, and management training for Metro employees. The term of the grant is from July 1, 2006 through June 30, 2007.

RESOLUTION NOS. RS2006-1619 THROUGH RS2006-1622 (RYMAN) – These four resolutions approve 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. The grant terms are from October 1, 2006 through June 30, 2008.

Resolution No. RS2006-1619 approves a Title One – Statewide Activities Fund grant in the amount of \$121,288. The funds will be used for the following purposes:

- \$44,000 for building space and technical assistance to agency staff and career center partners
- \$35,000 for research, demonstration, and pilot projects to improve the overall services of the career center
- \$30,160 for technology upgrades
- \$12,128 for administrative expenses

Resolution No. RS2006-1620 approves an administrative grant in the amount of \$290,330.

Resolution No. RS2006-1621 approves an adult worker grant in the amount of \$1,255,859.

Resolution No. RS2006-1622 approves a dislocated worker grant in the amount of \$1,357,124.

RESOLUTION NOS. RS2006-1623 THROUGH RS2006-1639 – These seven 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.

The seven organizations to receive funding through these resolutions have provided the necessary information required by both state and local law. 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. RS2006-1623 (Dread) 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 Nashville Cares to provide partial funding for its program services. This organization provides services to improve the quality of life for people living with HIV/AIDS and their families. These funds will be used to pay for part of the costs of the First Person / Survivor Club program to encourage education and communication for at-risk youth with their parents and peers.

Resolution No. RS2006-1624 (Ryman) appropriates \$2,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Morning Star Sanctuary, Inc. This organization provides refuge for women and their children who have fled abusive situations. These funds will be used to pay for a portion of the cost of utilities at the shelter.

Resolution No. RS2006-1625 (Isabel) appropriates \$1,500 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to Watkins Institute. This organization provides visual arts education and community arts outreach. These funds will be used to pay for a portion of the salary costs of their instructors. The Council Office would point out that the material provided by Watkins Institute indicates that the school is in the "best financial position ever", with \$2,301,600 budgeted for salaries and instructors. Watkins Institute has confirmed that this grant would have no impact on the salaries or number of instructors employed by the school.

Resolution No. RS2006-1626 (Ryman) 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 Nashville Academy Theatre and Nashville Children's Theatre Association. This organization provides a year-round schedule of professional performances and hands-on theatre training for kids and adults. These funds will be used to offer affordable tickets to all public schools and free tickets to students from the most disadvantaged public schools in Metro Nashville.

Resolution No. RS2006-1627 (Dread) appropriates \$10,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Community Resource Center. This organization provides a link between the corporate world and nonprofit agencies in need of everything from household

supplies to clothing and toys. These funds will be used to purchase items such as kitchen and bath products from liquidation sales to give to more than 250 partner agencies, such as foster homes, treatment centers, and homeless shelters.

Resolution No. RS2006-1628 (Dozier, Forkum & Others) appropriates \$12,000 from the reserve council infrastructure program, nonprofit grants and council initiatives account of the general fund of the general services district to the Nashville Adult Literacy Council to provide partial funding for its program services. This organization teaches reading to U.S.-born adults and English skills to adult immigrants in Davidson County. These funds will be used to provide books and educational materials to teach adults in Davidson County as well as operating a drop-in learning program at the Cohn Adult Learning Center. The members of council requesting this grant and the amount designated from each are as follows:

Buck Dozier	\$5,000
Jim Forkum	\$2,500
Sam Coleman	\$2,500
Rip Ryman	\$2,000

Resolution No. RS2006-1629 (Dread) 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 Nashville Songwriters Association International. This organization provides for education and promotion of individual songwriters as well as advocating public policy for the advancement and benefit of the music industry. These funds will be used to provide workshops for aspiring songwriters.

RESOLUTION NOS. RS2006-1630 THROUGH RS2006-1639 (RYMAN) – These ten resolutions appropriate funds from the general fund reserve fund (4% fund) to various departments. 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 total amount of these ten resolutions is \$4,701,600. The balance in the general fund reserve fund as of November 15, 2006, was \$21,260,307. This consists of unrealized revenue for fiscal year 2007 in the amount of \$19,656,912. The resolutions provide that “The Director of Finance may schedule acquisitions authorized herein to ensure an appropriate balance in the Fund.” Copies of the supporting information sheets required by Ordinance No. O86-1534 are attached to this analysis.

Resolution No. RS2006-1630 appropriates \$400,000 from the general fund reserve fund to the assessor of property for the Patriot Properties computer software program.

Resolution No. RS2006-1631 appropriates \$18,000 from the general fund reserve fund to the trustee for three printers, two laptop computers, and two copiers.

Resolution No. RS2006-1632 appropriates \$500,000 from the general fund reserve fund to the election commission for 160 new electronic voting machines.

Resolution No. RS2006-1633 appropriates \$600,000 from the general fund reserve fund to the general sessions court to reimburse the court for the relocation of the DUI and traffic school to the Metro south east (MSE) facility.

Resolution No. RS2006-1634 appropriates \$200,000 from the general fund reserve fund to the human resources department for an applicant tracking system.

Resolution No. RS2006-1635 appropriates \$178,600 from the general fund reserve fund to the law department for case management application upgrade and support.

Resolution No. RS2006-1636 appropriates \$43,000 from the general fund reserve fund to the Metropolitan clerk for automated filing systems machinery and equipment.

Resolution No. RS2006-1637 appropriates \$1,500,000 from the general fund reserve fund to information technology services for the hardware/software technology revolving fund.

Resolution No. RS2006-1638 appropriates \$1,250,000 from the general fund reserve fund to the public library for new and replacement books and materials.

Resolution No. RS2006-1639 appropriates \$12,000 from the general fund reserve fund to the council office for six laptop computers.

RESOLUTION NO. RS2006-1640 (BRILEY) – This resolution authorizes the director of public property administration to exercise an option to purchase a flood prone parcel of property located at 637 Brook Drive. This purchase is part of the department of water services' on-going program to purchase flood prone properties using federal grant funds. Metro has received federal funds totaling \$1,971,765 for this program. Metro has an option to purchase this property for \$138,000.

RESOLUTION NO. RS2006-1641 (RYMAN) – This resolution authorizes the department of law to accept \$70,000 in compromise and settlement of the Metropolitan Government's claim against Federal Insurance Company. This claim originated out of MCI WorldCom's failure to pay for upgrades to the sidewalks as a result of its work on some of its cables within the right-of-way. MCI WorldCom was granted permits from the Metropolitan Government in 2001 to perform work on its cables beneath Fairfield Avenue. As required by public works, MCI WorldCom obtained a construction bond in the amount of \$90,000 from Federal Insurance Company to guarantee its performance. In 2001, Metro's Americans with Disability Act (ADA) right-of-way excavation policy required MCI WorldCom to pay 100% of the sidewalk upgrades on both sides of Fairfield Avenue. The sidewalk upgrades were never completed by MCI WorldCom, and the company filed for Chapter 11 bankruptcy protection shortly after completing the work on its cables. The department of public works eventually performed the work itself at a cost of \$81,121.14.

MCI WorldCom has disputed the legality of Metro's former policy requiring them to pay for sidewalk upgrades. The current policy only requires the permit holder to pay for 20% of the cost of upgrading sidewalks to ADA standards. The department of law recommends accepting \$70,000 to settle this claim.

RESOLUTION NO. RS2006-1642 (RYMAN) – This resolution authorizes the department of law to compromise and settle the wrongful death lawsuit brought by Angela Rhoades against the Metropolitan Government in the amount of \$100,000. On December 4, 2005, James Denham, who was a suspect in an attempted robbery, was fleeing from a Metro police officer. After stopping his car once and fleeing again, Mr. Denham crashed into a concrete barrier on Demonbreun Street and began to flee on foot. After detaining Mr. Denham, a Metro sergeant,

who had joined the chase, gave Mr. Denham the verbal command "don't move." The sergeant approached Mr. Denham from the rear with his gun drawn. As the sergeant was reaching for his handcuffs, the gun discharged striking Mr. Denham in the back. Mr. Denham was transported to Vanderbilt Hospital where he was later pronounced dead.

A wrongful death action was brought by Angela Rhoades, the mother of Angela Denham, who is a minor. Under the Governmental Tort Liability Act, the Metropolitan Government could be liable for up to \$250,000 were this case to go to trial. Although there is no proof that the sergeant fired his gun intentionally, Metro is liable for the negligent acts of its employees. The department of law recommends settling this lawsuit for \$100,000 based upon the clear liability of the Metropolitan Government. Since the beneficiary of the settlement is a minor, court approval of the settlement is also required.

The police sergeant involved is currently in a decommissioned status, and the police department's office of professional accountability has recommended charges concerning failure to adhere to the department's gun handling procedures and deficient performance of duties.

RESOLUTION NO. RS2006-1643 (RYMAN) – This resolution authorizes the department of law to compromise and settle the breach of contract claim of Gilbert Companies, Inc., against the Metropolitan Government in the amount of \$92,500. Prior to the April 1998 tornado in Nashville, the Metropolitan Government had a contract with Gilbert to provide chipper services. After the tornado, the contract was expanded to include assistance with debris removal from the public rights-of-way. The contract anticipated that Gilbert would provide tree stump removal on a per stump basis and stump grinding services on a per-inch basis. Previously, all work performed by Gilbert had been billed on an hourly basis. The contract provided that Gilbert would submit adequate documentation of the work performed for stump removal and grinding so that Metro public works could go to the locations and verify the work. Although Gilbert provided documentation of many of the locations, no one at public works ever verified the work. However, public works refused payment for all stump removal and grinding.

Gilbert filed suit against the Metropolitan Government in 2003 seeking \$192,839.50 for stump removal and grinding services it claims to have performed. The department of law recommends settling this lawsuit for \$92,500, which amount represents stump grinding and removal services for which actual documentation was provided plus a small amount to cover interest.

RESOLUTION NOS. RS2006-1644 AND 1645 – These two resolutions authorize aerial encroachments above the public right-of-way. Ordinance No. O87-1890 allows such aerial encroachments to be approved by resolution of the council rather than ordinance. The applicants have agreed to indemnify the Metropolitan Government from all claims in connection with the installation and maintenance of the encroachments, and are required to provide a \$300,000 certificate of public liability insurance naming the Metropolitan Government as an insured party.

Resolution No. RS2006-1644 (Wallace) authorizes Dialysis Clinic, Inc., to install and maintain aerial cable along an existing pole line from 1710 Hayes Street to 308 15th Avenue North. This encroachment has been requested by Stansell Electric Company on behalf of Dialysis Clinic, Inc. This resolution has been approved by the planning commission.

Resolution No. RS2006-1645 (Jameson) authorizes Mike's Ice Cream Fountain to install a 3' 6" x 6' 6" double faced illuminated aerial sign extending over the right-of-way at 208 Broadway. This encroachment has been requested by Joslin and Son Signs on behalf of Mike's ice Cream Fountain. This resolution has been approved by the planning commission.

- BILLS ON SECOND 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.

The department of law has raised several First Amendment concerns related to this ordinance. The legal department recommends that any such ordinance contain specific licensing criteria, establish time periods for deciding whether to grant or deny a permit, provide the cost basis for the permit fee, and specify whether the fee is per box or per entity. The legal department is currently working on a draft of a new ordinance modeled after news rack ordinances from other cities that have withstood legal challenge. The council office recommends that this ordinance be deferred so that the new ordinance can proceed.

ORDINANCE NO. BL2006-1065 (WALLACE) – This ordinance, as amended, amends the Metropolitan Code of Laws to prohibit chain link fences along arterial and collector streets. The code currently prohibits the use of barbed or razor wire on fences along sidewalks within the urban services district. This ordinance would essentially prohibit any chain link fence along the right-of-way of a collector or arterial street, which are the classifications used for the major streets and roads in Davidson County. This ordinance would apply to both the urban services district and the general services district, and would prohibit chain link fences in both commercial and residential areas. The ordinance expressly exempts temporary fencing and fences used around places of incarceration.

The council office would point out that this ordinance could result in a substantial cost to the Metropolitan Government, especially schools, if Metro facilities were required to have stone, brick or wood fences. The council office sent an email to the department of public works on October 12, 2006, requesting a list of all arterial and collector streets so that school board could determine which schools would be affected by this ordinance. However, the council office never received a response to this request.

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. BL2006-1191 (TOLER) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Spring Hollow Development, LLC to provide sewer service to the Silver Stream Farm development in Williamson County, and also accepts an easement from Spring Hollow Development, LLC. The developer has agreed to contribute \$8,000 toward the cost of the project in aid of construction for a total of four single-family home connections. This amount will be offset by the \$5,000 value of the easement being granted to Metro, resulting in a net contribution of \$3,000. The easement will be used for future expansion of the Mill Creek trunk line. These funds are to be deposited into the water and sewer extension and replacement fund. This is a typical participation agreement entered into by the Metropolitan Government, acting through the department of water and sewerage services, whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

ORDINANCE NO. BL2006-1210 (MURRAY) – This ordinance 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 the ECD board.

ORDINANCE NOS. BL2006-1211, BL2006-1212 AND BL2006-1214 – These three 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. BL2006-1214 (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. BL2006-1231 (WALLACE) – This ordinance amends the Metropolitan code of laws to give the full council operation over the council office, and to make certain council office employees part of the classified service. The Metro code currently provides that the council executive committee, which is made up of the council president pro tempore and the chairpersons of the council standing committees, has the authority over the organization of the council office, the designation of job specifications, and other matters “necessary for the orderly and efficient operation of the staff.” This ordinance would remove this authority from the executive committee and place it with the full council for action by resolution.

This ordinance would also place all employees of the council office, except for the director and the special assistant to the director, within the classified service. This would give civil service protection to these employees, which means they would no longer be at-will employees. Rather, they could only be dismissed for cause after following the hearing procedures and requirements set by the civil service commission.

ORDINANCE NO. BL2006-1232 (BURCH) – This ordinance establishes a centralized employee safety program for the Metropolitan Government. As part of this fiscal year’s operating budget, the council approved the funding for a division of employee safety and the transfer of all risk management and safety functions to the department of law. The funding for this division is through a premium paid by all Metro departments to the department of law.

The code currently provides that employee safety functions are to be administered by the employee benefit board. This ordinance creates the division of employee safety within the department of law that will serve various safety-related functions and transfers administration of the safety program from the benefit board to the department of law. The employee safety division will implement and administer a program of compliance with the state occupational health and safety standards, as well as develop policies to minimize hazards and reduce work-related injuries. The division will also investigate all in-line-of-duty injury claims to determine the cause of the injury and prevent such injuries in the future.

ORDINANCE NO. BL2006-1233 (SUMMERS) – This ordinance amends the Metropolitan code of laws to require the mayor to notify the council upon making any multi-year funding agreements or commitments to nonprofit organizations. This ordinance would apply to both formal and informal agreements or commitments. Such notice would have to be sent to the council within thirty days of making a funding commitment.

The council office would point out that the mayor does not have the authority to enter into funding agreements without the approval of the council.

ORDINANCE NOS. BL2006-1234 & BL2006-1235 (GOTTO) – These two ordinances amend the Metropolitan code of laws to prohibit businesses from hiring illegal workers and to prohibit landlords from renting to illegal aliens. These two ordinances are almost verbatim copies of legislation enacted by the City of Hazelton, Pennsylvania. Hazelton is a rather small city totaling six square miles with a population of approximately 23,300. After having had a prior version of this legislation struck down by the federal court in Pennsylvania, the City of Hazelton enacted the version that these two ordinances are modeled after. On October 31, 2006, the federal court barred the City of Hazelton from implementing and enforcing the new immigration law.

Ordinance No. BL2006-1234 would make it unlawful for the owner of a dwelling unit to knowingly, or in reckless disregard of the facts, harbor an illegal alien or rent a dwelling unit to an illegal alien. A separate violation would be deemed to occur on each day that such harboring or renting occurs, and for each adult illegal alien harbored in the dwelling unit. A separate violation would also be deemed to occur for each day the owner of the property fails to provide the codes department with the information needed to obtain a federal verification of immigration status upon being requested to do so by the department.

The provisions of this ordinance would be enforced by the department of codes administration. Upon a written complaint, the codes department would be required to verify the immigration status with the federal government. If the owner of the property is found to be harboring or leasing property to an illegal alien, the owner would have five days to correct the violation. If not corrected after five days, the codes department would initiate court proceedings against the property owner. If the owner is found by the court to be in violation, the property owner would be prohibited from collecting any rent for the dwelling unit until the violation is corrected. For second and subsequent violations, the owner would be fined \$50 per day for each separate violation and would be prohibited from renting property within Davidson County for three months.

Ordinance No. BL2006-1235 would prohibit the hiring of illegal workers and provide certain penalties for violations of the ordinance. The ordinance would make it unlawful for any business to “recruit, hire for employment, or continue to employ” an unlawful worker. Every business that applies for a business tax license from the Davidson County clerk would be required to sign an affidavit stating that they do not knowingly employ unlawful workers.

Upon the initiation of a complaint with the department of law that a business is employing illegal workers, the department of law would request documentation from the business regarding any persons alleged to be unlawful workers. If it is determined that the business is employing illegal workers, the business would have three days to correct the violation and submit a sworn affidavit stating that the violation has ended. The business would also have to submit proof to the department of law that the business has enrolled in the Basic Pilot Program established by the federal Illegal Immigration Reform and Immigration Responsibility Act of 1996. The Basic Pilot Program allows employers to verify a worker’s immigration status using an online database from the social security administration and the department of homeland security. If the violation is not corrected within three days, the county clerk would be required to suspend the employer’s business license until the business is no longer employing illegal

workers. For a second or subsequent violation, the business license would be suspended for a fixed twenty-day period.

The ordinance would also require the Metropolitan Government to enroll in the Basic Pilot Program. Further, the city would be prohibited from awarding a grant or contract in excess of \$10,000 to any business entity that is not enrolled and participating in the Basic Pilot Program.

There is a housekeeping amendment for this ordinance that corrects a reference to the City of Hazelton.

The council office is of the opinion that the Metropolitan Government does not have the legal authority under federal or state law to implement and enforce these two ordinances. Federal law already prohibits the activities these two ordinances seek to prohibit and punish. Further, federal law expressly preempts local governments from imposing civil or criminal sanctions upon businesses employing illegal workers. These new ordinances would unlawfully create a regulatory scheme that is in addition to the federal system. The U.S. Congress has made it clear that immigration regulation and enforcement is within the purview of the federal government, not state and local governments. In addition, the prohibition on renting to illegal aliens may violate federal housing regulations that authorize the renting of housing to families that include a mixture of U.S. citizens and illegal immigrants.

There is also no authority under state law for the suspension of business licenses for employing illegal workers or for prohibiting landlords from renting property. Unlike home rule municipalities in some other states, local governments in Tennessee only have the authority granted to them by the state constitution or the general assembly. Immigration enforcement does not fall within this limited authority.

ORDINANCE NO. BL2006-1236 (SHULMAN) – This ordinance amends the Metropolitan code of laws to allow the transportation and licensing commission to increase the fee charged to wrecker driver permit applicants for background investigations. The code currently sets the fee for wrecker driver background checks at \$10.00. According to the transportation licensing commission, this fee only covers background checks to determine Davidson County criminal history, and that a more thorough background check is needed to protect public safety. This ordinance would delete the \$10.00 fee referenced in the code, and would authorize the transportation and licensing commission to charge a fee “for the cost of investigation.” The amount to be charged would be set by the commission and could not exceed the actual costs for obtaining the background check.

ORDINANCE NO. BL2006-1238 (JAMESON) – This ordinance amends the Metropolitan code of laws to include a definition for abandoned property, to prohibit persons from leaving abandoned property within the right-of-way, and to provide for a means of removal and disposal of abandoned property. The code currently only prohibits abandoned motor vehicles from being left in the right-of-way. This ordinance defines “abandoned property” as personal property, other than motor vehicles, which the owner voluntarily places within the public right-of-way for more than twenty-four hours without obtaining an encroachment permit from the Metropolitan Government. The ordinance authorizes the department of public works to remove abandoned property after the twenty-four hour period and store it. If the property is deemed to have no monetary value, it may be disposed of immediately. If it does have value, it is to be stored for thirty days. If the property is not claimed by the owner after the thirty day storage

period, it can be sold through Metro's online auction system in the same manner as other surplus government property.

ORDINANCE NO. BL2006-1239 (JAMESON & BROWN) – This ordinance is a comprehensive revision to the Metropolitan code provisions pertaining to water service connections and lines, and regulations governing use of the sewer system. The purpose of the ordinance is to update the code language to current industry standards and practices of Metro water services, and to clarify who is responsible for the maintenance of certain portions of the service lines.

The primary change made by this ordinance is to specifically designate which portions of the water and sewer lines are under the responsibility of the department of water and sewerage services and which are the responsibility of the customer. This has been a matter of contention in the past, especially when there is a failure in a sewer main. The ordinance provides that the department will own and maintain the meter and the portion of the water line extending from the water main to the meter. The customer will own, maintain and operate the portion of the water line from the meter box to the structure, and will own and maintain all required backflow prevention and pressure reducing devices on the customer side of the meter. Sewer lines will be owned and maintained by the customer from the sewer main to the structure served. If the owner experiences a sewer service interruption as a result of a sewer service interruption, and demonstrates a good faith effort to remedy the problem, the department will make the necessary repairs from the main to the boundary of the right-of-way or sewer easement. The property owner will first have to provide an excavated access to the sewer service at the boundary line. Residential customers will not be billed for the work done by the water department, but commercial customers will be required to reimburse the department for its expenses associated with the repair.

This ordinance also makes changes to the code provisions outlining when connection to the sewer system is required. The code requires that all existing buildings connect to the sewer system whenever service becomes available, and all new buildings must connect at the time they are constructed. This ordinance consolidates these provisions into one section to require owners of improved property contiguous to public rights-of-way or easements containing public sewers to connect within sixty days of being notified by the department to do so. All service fees and charges will be billed on the next billing cycle.

This ordinance also deletes certain specific procedures contained in the code pertaining to service line installations and ditch regulations, instead requiring such construction to be in accordance with the water department's specifications. In addition, the ordinance clarifies that all sewer connections and service lines must be either through the public right-of-way or Metro utility easements to the property being served. Further, the ordinance authorizes the water department to charge the customer for any related expenses associated with shutting off and reinstating water service whenever the customer fails to repair their portion of the service line. The code currently authorizes the department to charge a \$3.00 fee for shutting off and reinstating water service in such circumstances.

There is a housekeeping amendment for this ordinance adding a provision contained in the current code authorizing the health department to require connections to the system whenever health concerns are identified, which was mistakenly deleted from this ordinance.

ORDINANCE NO. BL2006-1240 (BROWN) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Roy Maynard to provide one public sewer service connection to 1119 Waller Road in Williamson County. This is a typical agreement entered into by Metro acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend or upgrade public water and sewer services. Pursuant to this agreement, Mr. Maynard has agreed to pay \$2,000 for one single-family home sewer connection. These funds are to be deposited into the water and sewer extension and replacement fund.

ORDINANCE NO. BL2006-1241 (RYMAN & BROWN) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with Nolensville Paint and Body to provide one public sewer service connection to Haley Industrial Park in Williamson County. This is a typical agreement entered into by Metro acting through the department of water and sewerage services whereby private developers contribute a portion of the cost to extend or upgrade public water and sewer services. Pursuant to this agreement, Nolensville Paint and Body has agreed to pay \$2,000 for the single sewer connection. These funds are to be deposited into the water and sewer extension and replacement fund.

ORDINANCE NO. BL2006-1242 (BROWN & RYMAN) – This ordinance authorizes the Metropolitan Government to enter into a participation agreement with TWD I Partnership to provide a public pressure sewer extension through the construction of a sewerage pump station and force main for the Reserve at Old Hickory subdivision. The construction of the pump station will be at the sole expense of the developer. In addition, TWD agrees to contribute \$200,000 toward the additional operation and maintenance costs for the proposed pump station and force main. This amount is to be paid at the time TWD requests a sewer connection permit. The agreement provides that future amendments may be approved by resolution of the council, however, no such provision is included in the ordinance itself.

ORDINANCE NO. BL2006-1243 (SHULMAN, FORKUM & RYMAN) – This ordinance declares the Randalls Learning Center property located at 3501 Byron Avenue to be surplus and authorizes the director of public property administration to dispose of the property. The board of education has determined that the Randalls Learning Center is no longer needed for school purposes and has transferred the property to the director of public property administration. The proceeds from the sale of the property will be credited to the schools unappropriated school fund.

This ordinance has been approved by the planning commission.

ORDINANCE NO. BL2006-1244 (ADKINS, FOSTER & RYMAN) – This ordinance accepts a donation of 12.61 acres of property located in the vicinity of Edmonson Pike and Nolensville Road for the benefit of the department of parks and recreation. This property is being donated by H.G. Hill Realty Company, LLC. If the property ceases to be used as a public park, the property will revert to H.G. Hill Realty. The board of parks and recreation has recommended that the Metropolitan Government accept this property. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2006-1245 THROUGH BL2006-1248 – These four ordinances authorize the acceptance of easements for various stormwater projects in Davidson County. These easements are being donated at no cost to the Metropolitan Government. These ordinances have been approved by the planning commission.

Ordinance No. BL2006-1245 (Cole & Brown) accepts easements for the following properties:

- 1132 Delmas Avenue
- 1134 Delmas Avenue
- 1136 Delmas Avenue
- 2700 Bronte Avenue
- 2704 Bronte Avenue
- 2706 Bronte Avenue
- 2708 Bronte Avenue
- 638 Northview Avenue
- 1640 Northview Avenue
- 1642 Northview Avenue
- 1700 Northview Avenue
- 1702 Northview Avenue
- 1301 Otay Street

Ordinance No. BL2006-1246 (Ryman, Jameson & Others) accepts easements for the following properties:

- 4020 Jordon Station Road
- 1433 Cowan Court
- 5811 River Road
- 8283 River Road
- 5431 Edmondson Pike
- 711 Myatt Center Lane
- 1000 Gallatin Pike
- Gallatin Pike, unnumbered
- 1008 Gallatin Pike

Ordinance No. BL2006-1247 (Hart, Tygard & Summers) accepts easements for the following properties:

- 8101 Highway 100
- 1010 E. Trinity Lane
- 2900 Lebanon Pike
- 2121 Metrocenter Boulevard
- 655 Grassmere Park Drive
- 329 Donelson Pike
- 407 42nd Avenue North

Ordinance No. BL2006-1248 (Summers) accepts easements for the following properties:

- 23 White Bridge Pike
- 1215 21st Avenue South
- 3723 Keystone Avenue
- 75 Lester Avenue
- 3634 Central Pike

ORDINANCE NO. BL2006-1249 (ADKINS & BROWN) – This ordinance authorizes the director of public property administration to acquire easements, by negotiation or condemnation, in connection with the installation of a 36-inch water main at the CSX railroad crossing yard on Powell Avenue. All costs associated with this acquisition will be paid from the water and sewer extension and replacement fund. This ordinance has been approved by the planning commission.

ORDINANCE NOS. BL2006-1251 & BL2006-1252 – These two ordinances abandon water and sewer lines and easements that are no longer needed by the department of water and sewerage services. The ordinances provide that future amendments may be approved by resolution of the council. These ordinances have been approved by the planning commission.

Ordinance No. BL2006-1251 (Adkins & Brown) abandons a 12-inch water line and easement at the Wal-Mart project located at the Nolensville Pike and Harding Place intersection. The existing water line will be replaced by a new 10-inch water line and two fire hydrants.

Ordinance No. BL2006-1252 (Burch & Brown) abandons an 8-inch sanitary sewer line and easement at the Kaplan School project on Dabbs Avenue. The caption of the ordinance provides that the existing sewer line will be replaced with another 8-inch sewer line and three fire hydrants, however the body of the ordinance does not provide for this replacement.

ORDINANCE NO. BL2006-1261 (HAUSSER) – This ordinance amends the Metropolitan code to require the police department to provide quarterly and annual crime reports to the council public safety committee. The quarterly reports are to include an update of criminal activity during the previous quarter broken down by type of crime and by police sector. The annual report will be due on or before January 30 of each year, and is to include the following information:

- Crimes allegedly committed during the previous year broken down by type of crime, by police sector and by council district.
- Maps showing crime hotspots.
- City-wide crime figures for each of the previous five years.

ORDINANCE NO. BL2006-1262 (JAMESON) – This ordinance amends the building code to allow the installation of plumbing fixtures designed to reduce or eliminate water consumption. The code currently requires all plumbing fixtures be supplied with water. However, recent technological advancements in the plumbing fixture industry designed to conserve water have resulted in the development of the “non-water urinal,” which uses a specialized cartridge in the drain that allows waste fluids through while preventing odors from being released. This technology has been endorsed by the U.S. Green Building Council. This ordinance would allow the installation of these non-water urinals, as well as other plumbing fixtures specifically designed to reduce water consumption.

ORDINANCE NO. BL2006-1263 (WHITMORE & WALLACE) – This ordinance amends the building code to require applicants for building and demolition permits to submit a plan for the disposal of construction and demolition waste at the time the permit is requested. The property standards code already requires that exterior property areas be maintained in a clean and sanitary condition and prohibits the storage of trash, debris, and building materials on the

property. The plan of disposal is also to include a signed statement by the applicant that no construction and demolition waste is to be stored on the property that is not in accordance with the property standards code.

There is a housekeeping amendment for this ordinance substituting the word "construction" in place of the word "commercial" in the last sentence.

ORDINANCE NO. BL2006-1264 (WALLS, EVANS & OTHERS) – This ordinance approves various real property transactions associated with the expansion of the west Nashville police precinct on Charlotte Pike and improvements to the H.G. Hill park. Nashville West Shopping Center, LLC (Nashville West), is currently constructing a large retail development in the vicinity of the police station and is in need of various construction easements from Metro to complete the project. Metro desires to expand the police precinct and park and is in need of property owned by Nashville West. This rather complex ordinance consists of eleven different property transactions, which are summarized as follows:

- The director of public property administration will be authorized to exercise an option to acquire the two-acre tract next to the police precinct at an acquisition cost to be determined by a qualified independent appraiser selected by Metro. Under the option contract, Metro has two years to purchase the property before the option expires. However, it is anticipated that Metro will exercise the option within the next several months. This property will be used for the expansion of the police precinct and upgrades to H.G. Hill Park, which is located next to the precinct.
- Metro is granting two temporary construction easements to Nashville West. One easement is for 5.51 acres and the other is for 0.21 acres.
- Metro is granting two permanent access easements to Nashville West. One is a 35' easement across the park property consisting of 0.35 acres. The other is an 11' sidewalk and access easement along the Charlotte Pike right-of-way adjacent to the park consisting of 0.11 acres.
- Metro is granting a 20' easement totaling 0.21 acres to Nashville Electric Service along the Charlotte Pike right-of-way.
- Metro is granting three public utility and drainage easements located on the park property. The easements consist of 0.19 acres, 0.03 acres and 0.20 acres, respectively.
- Metro is abandoning an 8" sanitary sewer line and easement, which is to be replaced with a sewer line and easement of equal size.

The council office recommends that the option contract included in this ordinance either be amended to include a fixed price, or the ordinance be amended to simply authorize the director to acquire the property by negotiation.

The planning commission approved this ordinance subject to the condition that construction on the property to be acquired be consistent with the planned unit development (PUD) plan adopted by the council. The council has already approved a PUD showing a building to be constructed on the property to be acquired as part of the Nashville West development. This PUD will have to be amended by the council before the police precinct can be expanded.

- BILLS ON THIRD READING -

ORDINANCE NO. BL2006-937 (BRILEY & CRAFTON) – This zoning text change amends the definition of “two-family structure” to allow two-family dwelling units to be separate structures. The zoning code currently defines a two-family structure as two attached dwelling units forming a single structure connected by not less than eight feet of continuous floor, roof and walls. A common practice in recent years has been for developers to build two separate single-family structures, but construct a connecting wall between the two to allow both structures to be on a single lot. This ordinance would essentially remove the requirement that a connector wall be constructed between the units. This ordinance has been approved by the planning commission.

SUBSTITUTE ORDINANCE NO. BL2006-1125 (FOSTER) – This ordinance, as substituted, names the new Head Center campus for the southeast quadrant of Davidson County, located at 445 Cotton Lane, the “Phillip A. Pratt Campus” and names the center itself the Susan Gray Head Start Center. 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. Susan Gray was a professor at Peabody College who is credited as being the inspiration for the founding of the head start program in North America.

The council office would point out that this property was purchased from the Pratt family at fair market value.

The Metro action commission has recommended approval of this substitute ordinance.

ORDINANCE NO. BL2006-1173 (CRAFTON) – This zoning text change amends the Metro Code to provide for the waiver of application fees for rezonings initiated by members of council that would rezone property from a mixed-use district to a residential or residential single-family district. In February 2005, the council enacted Ordinance No. BL2004-409 to provide that the zoning application fee may be waived for rezoning requests initiated by members of council in the following circumstances:

1. To rezone property from a greater intensity residential use to a lesser intensity residential use (i.e. an "R" district to an "RS" district); or
2. To rezone property from an office, commercial, or industrial district (excluding mixed-use districts) to a residential or residential single-family district; or
3. To apply the urban design overlay district, historic preservation district, neighborhood conservation overlay district, or urban zoning overlay district to the property.

This ordinance would extend the fee waiver provisions to include property being rezoned from a mixed-use district to a residential district.

The planning commission voted to make no recommendation regarding this zoning text change on the grounds that this is a matter of council policy.

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 & COLE) – This ordinance, as amended, 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. Forfeit all animals that are the basis of the conviction.
4. Sterilize the companion animals.
5. 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 NO. BL2006-1209 (SHULMAN) – This ordinance 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. BL2006-1213 (LORING & BRILEY) – This ordinance 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. Consent of the affected property owners are on file with the department of public works. This ordinance has been approved by the planning commission and the traffic and parking commission.

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.