

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **September 15, 2009**

RE: **Analysis Report**

Balances As Of:	<u>9/9/09</u>	<u>8/9/08</u>
<u>GSD 4% RESERVE FUND</u>	* \$28,272,406	\$30,751,910
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	Unavailable	Unavailable
USD	Unavailable	Unavailable
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	Unavailable	Unavailable

\* Assumes estimated revenues in fiscal year 2010 in the amount of \$23,023,700

**– RESOLUTIONS –**

**RESOLUTION NO. RS2009-912** (PAGE & COLE) – This resolution appoints the nine members submitted by the mayor to form the initial board of directors for the convention center authority for the Metropolitan Government. On August 21, 2009, the Council adopted Resolution No. RS2009-881 to create the convention center authority in accordance with state law. The Convention Center Authorities Act of 2009 provides that the authority is to be governed by a board of directors of not less than seven registered voters of the municipality to serve staggered terms. The directors are to serve without compensation, and cannot be an elected official or employee of the municipality. Such directors are appointed by the mayor and confirmed by a resolution adopted by the council. The board is to be composed of members who are diverse in professional and educational background, ethnicity, race, gender, and area of residency within the municipality. At least one of the directors must be female and at least one must be a minority.

The nine members submitted by the mayor for confirmation are as follows:

1. Vonda McDaniel to serve a two-year term expiring September 30, 2011
2. Leo Waters to serve a two-year term expiring September 30, 2011
3. William E. McDonald to serve a two-year term expiring September 30, 2011
4. Darrell A. Drumwright to serve a three-year term expiring September 30, 2012
5. Mona Lisa Warren to serve a three-year term expiring September 30, 2012
6. W. Lucas Simmons to serve a three-year term expiring September 30, 2012
7. C. Mark Arnold to serve a four-year term expiring September 30, 2013
8. Marty G. Dickens to serve a four-year term expiring September 30, 2013
9. Ken Levitan to serve a four-year term expiring September 30, 2013

The members appointed will hold over at the end of their terms until their successors are appointed.

Although all nine appointees are included in one resolution, the resolution could be amended to allow individual votes on whether to remove appointees from the resolution.

**RESOLUTION NO. RS2009-913** (STEINE) – This resolution approves a second amended final agreement to compromise and settle the claim of the U.S. department of justice (DOJ) against the Metropolitan Government regarding compliance with the Americans with Disabilities Act (ADA). The council initially approved an interim agreement with the department of justice pursuant to Resolution No. RS2000-280, whereby Metro agreed to review its policies and procedures under the ADA, to survey existing facilities, and to make modifications to certain physical structures by December 21, 2003. The council then approved a final agreement with the justice department in June 2003 requiring Metro to comply with applicable ADA laws regarding structural changes in existing facilities, new construction, and public rights-of-way. The final agreement was set to terminate once the plan has been implemented, or on June 1, 2006, whichever came first. The final agreement was extended through June 1, 2009, upon the adoption of Resolution No. RS2006-1353.

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**RESOLUTION NO. RS2009-913** (continued)

This resolution approves another extension of the agreement until June 1, 2012. Metro requested this extension from the (DOJ) so that we would be under the protection of the agreement while we complete the last of the ADA changes to our existing facilities, mainly the criminal justice center and the Lentz public health facility. This would eliminate any possibility that the DOJ could take action against Metro for being in violation of the ADA regarding our existing facilities.

**RESOLUTION NO. RS2009-914** (STEINE) – This resolution approves an annual grant in the amount of \$71,500 from the state arts commission to the Metro arts commission for operating support. There is a required local match in the amount of \$71,500 to be provided from the Metro arts commission budget. The funds will be used for general operating support of the arts commission, not as pass-through funding for other arts organizations. The term of the grant is from July 1, 2009 through June 30, 2010.

**RESOLUTION NO. RS2009-915** (BAKER & STEINE) – This resolution approves an application for a grant in the amount of \$4,869 from the Community Foundation of Middle Tennessee to the Davidson County sheriff's department, working with Metro animal control, to teach inmates how to build dog houses. This grant is to support the sheriff's office PAWS program, which teaches inmates to train and care for animals. The grant funds will be used to build dog houses for families who adopt pets from Metro animal control that need assistance with housing for the pet.

**RESOLUTION NO. RS2009-916** (BAKER & STEINE) – This resolution approves an application for a grant in the amount of \$4,994 from the Community Foundation of Middle Tennessee to the Metropolitan police department to provide clinical training for police crisis counselors. The crisis counselors provide crisis intervention to victims of sexual assault, therapy services to crime victims, and follow-up services.

**RESOLUTION NO. RS2009-917** (BAKER & STEINE) – This resolution approves a federal stimulus Edward Byrne Memorial Justice Assistance Grant in the amount of \$3,813,717 from the U.S. department of justice to the Metropolitan Government to support a broad range of activities to prevent and control crime. These federal funds are to help fund the following departments: police, state trial courts, sheriff, public schools, district attorney, justice integration services (JIS), juvenile court, public defender, and parks.

The grant funds will be distributed as follows:

- **District attorney:** \$116,685;
- **Public defender:** \$19,141.00 for miscellaneous office supplies and to pay a portion of the salary of a part-time law clerk to work with the legal defense teams representing juvenile offenders;
- **Juvenile court:** \$35,939.64 for broadband access;
- **State Trial Courts:** \$172,695.50 for miscellaneous equipment and supplies for the operation of the drug court treatment program;

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**RESOLUTION NO. RS2009-917** (continued)

- **JIS:** \$58,303.74 for equipment and software upgrades;
- **Sheriff:** \$146,881.39 to fund the salary and benefits for the director of community outreach, and to purchase firearms, practice ammunition, and a closed circuit television camera system;
- **Police:** \$3,129,166.73 for the non-salary costs associated with the hiring of 120 new police officers for three years;
- **Schools:** \$132,632 to install additional closed-circuit television cameras in schools;
- **Parks:** \$20,272 to purchase rifles, speed detection devices, night vision goggles, and first responder kits for the parks police.

**RESOLUTION NO. RS2009-918** (STEINE & BAKER) – This resolution approves an Edward Byrne Memorial Justice Assistance grant in the amount of \$933,270 from the U.S. department of justice to the Metropolitan police department for technology purchases and to enhance the advanced records management system. These grant funds will be used to upgrade and improve the technologies used by the police department in fighting crime, although the specific equipment to be purchased is not identified in the grant. The grant letter states this is for fiscal year 2009, but the project summary shows a budget period through September 30, 2012.

**RESOLUTION NO. RS2009-919** (STEINE & BAKER) – This resolution approves an application for a grant in the amount of \$65,637 from the U.S. department of transportation to the Metropolitan police department to conduct proactive patrolling. These funds would be used to pay overtime and benefits for one sergeant and four officers to patrol areas designated by Comstat as having high traffic and incidents of crime. This initiative will be conducted once a week for five hours at a time.

**RESOLUTION NO. RS2009-920** (STEINE & BAKER) – This resolution approves an intergovernmental agreement in the form of a “Letter of Acceptance” to accept \$3,171,960.05 in grant funds from the state emergency management agency to be distributed among the seven counties in the Nashville Urban Area/Homeland Security District 5. Homeland Security District 5 includes the counties of Davidson, Wilson, Williamson, Sumner, Cannon, Rutherford, and Trousdale. The Metropolitan Government serves as the host municipality for the Nashville Urban Area Security initiative.

An amendment will be filed for this resolution identifying the specific allocation among the various counties.

**RESOLUTION NO. RS2009-921** (BAKER & STEINE) – This resolution approves a grant in the amount of \$45,000 from the state commission on children and youth to the juvenile court for training of probation officers. Juvenile court youth services officers are required to receive twenty hours of professional training each year. The term of the grant is from July 1, 2009, through June 30, 2014. The grant will provide \$9,000 annually for this training.

**RESOLUTION NO. RS2009-922** (STEINE & MATTHEWS) – This resolution approves an amendment to a grant from the Tennessee secretary of state to the Nashville public library for statewide interlibrary loans. These grant funds are used to reimburse the Nashville public library for costs in lending our books to other libraries. This resolution increases the amount of the grant by \$2,383, for a new grant total of \$9,273.

**RESOLUTION NO. RS2009-923** (STEINE) – This resolution approves a grant in the amount of \$576,000 from the Greater Nashville Regional Council to the Metropolitan social services commission for meal delivery services to eligible senior citizens. These federal pass-through funds will be used to provide home delivered meals to homebound persons, as well as transportation services to the congregate meal sites. Metro social services will be responsible for a local match in the amount of \$45,100. The term of the grant is from July 1, 2009 through June 30, 2010.

**RESOLUTION NO. RS2009-924** (STEINE) – This resolution approves an amendment to a grant from the state department of human services to the Metro social services commission to provide homemaker services. These services include assistance with personal care, help with simple healthcare routines, assistance in obtaining medical care, the performance of essential shopping and household tasks, meal preparation, and caregiver assistance and instruction. The homemaker program is for elderly persons and adults with mental and/or physical disabilities who need assistance in performing daily living activities.

This resolution approves a \$3,000 increase in the local match for fiscal year 2011, for a new total match of \$81,095 to be provided from the operating budget of the department of social services.

**RESOLUTION NO. RS2009-925** (STEINE) – This resolution approves a grant in the amount of \$201,961 from the state department of finance and administration to the Metropolitan board of health for the infant mortality program. These funds will be used to pay the salaries of a program coordinator and two other program personnel. The health department will recruit at least ten African American and ten Latina pregnant teens and match them with a volunteer “Sister Friend” to provide information, individual attention, support, and mentoring. The term of the grant is from September 15, 2009 through September 14, 2010.

**RESOLUTION NO. RS2009-926** (STEINE) – This resolution approves a grant in the amount of \$221,300 from the state department of health to the Metropolitan board of health to provide rapid HIV testing services. These federal pass-through funds will be used to pay the salaries of three communicable disease investigators and a testing coordinator to provide HIV testing to 5,100 at-risk persons in a clinical setting. The health department will be required to report positive HIV test results to the state within 24 hours, and provide counseling and referral services to those clients receiving a positive result. The term of the grant is from September 30, 2009 through September 29, 2010.

**RESOLUTION NO. RS2009-927** (STEINE) – This resolution approves a grant in the amount of \$659,700 from the state department of children’s services to the Metropolitan board of health for the Healthy Start home visitation program. This program uses health department nurses and outreach workers to provide prenatal services to mothers, as well as services to their children from birth through three years, to promote child safety, immunizations, child development, and parenting skills. The grant will be used to fund the salaries and benefits for three nurses, six outreach workers, and one office support worker. The term of this grant is from July 1, 2009 through June 30, 2010.

**RESOLUTION NO. RS2009-928** (STEINE) – This resolution approves a grant in the amount of \$881,600 from the state department of health to the Metropolitan board of health for bioterrorism preparedness services. These federal pass-through funds are primarily used to pay the salaries of the health department personnel that provide the public health emergency preparedness program for Metro.

The term of the grant is from August 1, 2009 through July 31, 2010.

**RESOLUTION NO. RS2009-929** (STEINE) – This resolution approves a third amendment to a grant from the U.S. environmental protection agency (EPA) to the Metropolitan board of health for the continued collection of data on the ambient air concentrations for fine particulate matter. The Metro health department is responsible for air quality monitoring within Nashville and Davidson County on behalf of the EPA. This resolution increases the amount of the grant by \$100,000, for a new grant total of \$255,000.

**RESOLUTION NO. RS2009-930** (STEINE) – This resolution approves an annual grant in the amount of \$735,200 from the state department of health to the Metro board of health to provide an array of local health services. The term of the grant is from July 1, 2009 through June 30, 2010. These grant funds are typically used to pay the salaries of health department administration employees.

**RESOLUTION NO. RS2009-931** (STEINE) – 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. Matthew Walker also agrees, in accordance with state and federal law, to give every qualified person seeking public assistance an opportunity to register to vote.

There is no monetary compensation associated with this contract. 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.

**RESOLUTION NO. RS2009-932** (STEINE) – This resolution approves a contract between the Metropolitan board of health and Matthew Walker Comprehensive Health Center for a mobile clinic to provide early periodic screening diagnosis and treatment exams to middle school children. The health department will provide the mobile clinic unit, as well as the driver of the unit and coordinator of the program. Matthew Walker agrees to provide the salary and benefits for the driver and coordinator, to provide the nursing and clerical staff for the mobile unit, and to provide all necessary medical equipment. The Metropolitan health department agrees to make the mobile unit available four or five days a week and to coordinate the exams with Metro public schools.

Matthew Walker will be paid \$120,872 to provide these services. The contract term will expire June 30, 2010, but may be extended for two additional one-year terms.

**RESOLUTION NO. RS2009-933** (STEINE) – This resolution approves an annual grant in the amount of \$800,500 from the state department of health to the Metropolitan board of health to provide care coordination services for the children's special services program. These funds will be used to pay the salaries of health department personnel in the children's special services program whose duties include making financial and medical eligibility determinations for enrolled children, comprehensive pediatric and developmental assessments, audiology and speech pathology services, as well as administrative and clinical support. This grant is comprised of \$361,100 in state funds and \$439,400 in federal funds. The term of the grant is from July 1, 2009 through June 30, 2010.

**RESOLUTION NO. RS2009-934** (STEINE & FORKUM) – This resolution approves a grant in the amount of \$170,636 from the state department of finance and administration to the Metropolitan board of health to create a team of health ambassadors from each of the five historically Black colleges and universities in Tennessee. This grant will fund a program coordinator position who will work to create the teams. These teams will consist of four students each from Fisk University, Meharry Medical College, Knoxville College, Lane College, and LeMonye-Owen College. Each team will plan and implement at least one campus wide education event a semester and one community event each quarter. The term of the grant is from September 15, 2009 through September 14, 2010.

**RESOLUTION NO. RS2009-935** (STEINE & FORKUM) – This resolution approves a contract between the Metropolitan board of health and Second Harvest Food Bank of Middle Tennessee to provide services to patients eligible for the federal Women, Infants and Children (WIC) program or the Commodity Supplemental Food Program (CSFP). Pursuant to this agreement, Second Harvest will provide nutrition education and will refer eligible persons to the health department's WIC or CSFP programs. Second Harvest will be paid \$125,000 to provide these services. The term of the contract is from July 1, 2009, through June 30, 2010.

**RESOLUTION NO. RS2009-936** (STEINE & FORKUM) – This resolution approves a grant in the amount of \$3,051,000 from the state department of health to the Metro health department to fund the help us grow successfully (HUGS) program. The services provided by this program include regular home visits, as well as periodic health, developmental, behavioral, and nutritional assessments. This grant will provide \$610,200 annually for the program in fiscal years 2010 through 2014.

**RESOLUTION NO. RS2009-937** (LALONDE & STEINE) – This resolution approves a grant in the amount of \$27,500 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to provide in-school youth programs to help low-income, at-risk students stay in school. The grant funds will be used by NCAC to engage Junior Achievement of Middle Tennessee, Inc., to provide these programs in the Metro public schools. NCAC will retain \$2,500 of the funds as an administrative fee. The term of the grant is from August 15, 2009 through May 30, 2010.

**RESOLUTION NO. RS2009-938** (MATTHEWS) – This resolution approves a license agreement between the Metropolitan parks department and the Tennessee department of transportation to enable Metro to use certain state rights-of-way for the Stones River greenway. This agreement will allow Metro parks to install and maintain a pedestrian walking trail. The area covered by this agreement consists of 1.8 acres. The term of the agreement is through June 30, 2019, but may be renewed for ten year periods. There is no license fee associated with this agreement.

State law allows intergovernmental agreements to be approved by resolution of the council.

**RESOLUTION NO. RS2009-939** (MATTHEWS) – This ordinance authorizes the director of public property administration to accept a quitclaim deed from the state department of transportation for property to be used as part of the Stones River greenway. This property consists of an old steel truss bridge on Lebanon Road crossing the Stones River.

This resolution has been approved by the board of parks and recreation and referred to the planning commission. This resolution should be deferred if a planning commission recommendation is not received by September 15, 2009.

The council office is of the opinion that this transaction should be approved by ordinance rather than resolution. Although state law allows intergovernmental agreements to be approved by resolution of the council, this is simply the acceptance of a deed, not a contract between the state and Metro.

**RESOLUTION NO. RS2009-940** (MATTHEWS, STEINE & FORKUM) – This resolution authorizes the director of public property administration to exercise an option to purchase 32.5 acres of property located on Ashland City Highway for part of the parks system. Metro has an option to purchase this tract for \$235,000 from William E. Kantz, Jr.

The Metro Code allows for the acquisition of property through the exercise of a negotiated option to sell at a fixed price, which is subject to approval of the council by resolution.

This resolution has been approved by the board of parks and recreation and the planning commission.

**RESOLUTION NO. RS2009-941** (STEINE & MATTHEWS) – This resolution approves a grant in the amount of \$306,000 from the state of Tennessee (Tennessee Heritage Conservation Trust Fund) to the Metropolitan board of parks and recreation to protect 290 acres in the Beaman to Bells Bend Corridor through the execution of five conservation easements. The acceptance of these conservation easements is the subject matter of Ordinance No. BL2009-533 on second reading. Easements are to be accepted for the following properties:

- o 5711 Old Hickory Boulevard and Old Hickory Boulevard, unnumbered – 27 acres
- o 5268 Old Hickory Boulevard and Old Hickory Boulevard unnumbered – 43 acres
- o 4443 Pecan Valley Road – 29 .3 acres
- o 4435 Pecan Valley Road – 73 acres
- o Cleeces Ferry Road, unnumbered – 118 acres

The closing for these conservation easements is to take place no later than October 20, 2009. There is a required local match of \$250,000 to be provided by the parks department.

**RESOLUTION NO. RS2009-942** (MATTHEWS, LALONDE & STEINE) – This resolution approves a grant in the amount of \$5,650 from the state arts commission to the Metropolitan board of parks and recreation to supplement the Big Band dance program in Centennial Park. This program provides free big band dances to the public. The term of the grant is from July 1, 2009 through June 30, 2010. There is a required local match of \$5,650 to be provided through the parks department's operating budget.

**RESOLUTION NO. RS2009-943** (HUNT & STEINE) – This resolution authorizes the Metropolitan Government to enter into a contract with the City of Brentwood for the acceptance and treatment of sewage flow from Brentwood's sewage collection system. Metro has contracts with various other municipalities to transport and treat their sewage. The previous contract with the City of Brentwood has expired, and the Metropolitan Government has been involved in litigation with Brentwood regarding the rates it would pay Metro to treat its sewage. On June 19, 2007, the Council enacted Ordinance No. BL2007-1441 to establish the rates Metro would charge to those cities we no longer had a valid contract with, including the City of Brentwood. This ordinance established the following rates per hundred cubic feet for the City of Brentwood:

<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
\$1.15	\$1.18	\$1.21	\$1.24

This new contract is for a term of ten years, but may be extended upon agreement of the parties. Under this new contract, Brentwood will pay \$1.17 per hundred cubic feet up to the maximum number of gallons for each point of connection. If the sewage flow exceeds the maximum level, the price will be 125% of this price for the excess amount of flow. The contract includes a built in annual adjustment for the price Brentwood will pay to have its sewage treated. For years two through five and seven through ten, the adjustment will be based upon the percentage increase or decrease in the service charge index published by the National Association of Clean Water Agencies. The adjustment in year six of the contract will be determined by a rate consultant mutually acceptable to both parties.

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**RESOLUTION NO. RS2009-943** (continued)

The contract also provides that Brentwood will make a retroactive payment to Metro for wholesale sewer treatment service rendered from July 1, 2007, to the present. The payment for the period from July 1, 2007, through June 1, 2009, will be at the rate of \$0.83 per 1,000 gallons of flow. The rate for services rendered from June 1, 2009, through the effective date of this contract will be \$1.17 per hundred cubic feet of flow. The payment is to be made in a lump sum after deducting the actual amounts paid by Brentwood during the period the rates were in dispute.

The contract also includes a provision regarding the operation of the Brentwood pumping station. Metro agrees to operate and maintain the pumping station, and Brentwood agrees to reimburse Metro for all costs associated with its operation and maintenance.

Finally, Metro agrees to dismiss its lawsuit against Brentwood filed in 2007 regarding the disputed charges upon execution of this contract and receipt of the lump sum retroactive payment by Brentwood.

This contract was approved by the City of Brentwood Board of Commissioners on August 10, 2009.

State law allows intergovernmental agreements to be approved by resolution of the council.

**RESOLUTION NO. RS2009-944** (HUNT) – This resolution approves an amendment to a contract between Storm Reconstruction Services (SRS) and the Metropolitan Government for brush collection services within the urban services district. The original contract, which was approved by the council in November 2004, was for a term extending through September 30, 2009. Metro has the option of extending the contract for up to two additional five-year periods.

The contract included a provision allowing Metro to terminate the contract in the event funds are not appropriated to the department of public works for payment to SRS. Due to reductions in the department of public works' budget, no funds were appropriated for routine brush collection services by SRS from and after July 1, 2008. Rather, the brush collection services were taken over by public works crews.

The parties entered into an amendment of the contract on June 15, 2008, to suspend the routine brush collection provisions for the period from July 1, 2008 through June 30, 2009. However, this amendment was never submitted to the council for approval, as was expressly required by the resolution approving the contract. This resolution essentially ratifies the department's action taken last year to suspend the brush collection service.

**RESOLUTION NO. RS2009-945** (STEINE) – This resolution approves a federal stimulus grant in the amount of \$250,000 from the U.S. department of energy to the general services department for the purpose of reducing fossil fuel emissions and improving energy efficiency. These funds will be used to develop an energy efficiency and conservation strategy plan in order to qualify the government for an additional \$6,225,400 grant. The funds will also be used to hire an engineer and conduct an assessment of the Metro Courthouse for energy retrofits and LEED certification.

**RESOLUTION NO. RS2009-946** (STEINE) – This resolution authorizes the department of law to accept \$9,521.24 in compromise and settlement of the Metropolitan Government's property damage claim against William Holladay. On November 6, 2008, a Metro patrol car was stopped in the right hand lane of 26<sup>th</sup> Avenue North during a traffic stop when the patrol car was struck in the rear by a Honda Accord driven by Mr. Holladay. The accident report states that Mr. Holladay was driving in a careless manner. This resolution settles the claim for the amount of the property damage done to the patrol car.

**RESOLUTION NO. RS2009-947** (STEINE) – This resolution authorizes the department of law to accept \$6,359.60 in compromise and settlement of the Metropolitan Government's property damage claim against Lou Ann Williams. On May 6, 2009, a Metro police officer was traveling east on Lebanon Pike when a vehicle driven by Ms. Williams turned in front of the police car causing a collision. This resolution settles the claim for the amount of the property damage done to the patrol car.

**RESOLUTION NO. RS2009-948** (STEINE) – This resolution authorizes the department of law to compromise and settle the lawsuit brought by Jennifer Green, Eric Green, Charles Poteet, Debra Poteet, and Brenda Poteet against the Metropolitan Government for the total amount of \$40,000. On November 3, 2006, a Metro police officer was traveling down Gallatin Road in East Nashville looking for a known drug dealer he had spotted earlier. While looking at the side streets, the officer failed to stop in time at the Maxwell Avenue intersection and struck the rear of Jennifer Green's car. Debra and Brenda Poteet were passengers in Ms. Green's car at the time of the accident. Ms. Green incurred medical bills totaling \$15,746.72 as a result of the accident. Brenda and Debra Poteet incurred medical bills in the amount of \$4,877 and \$6,099, respectively. The remaining claims are for pain and suffering and loss of consortium.

Jennifer and Eric Green have agreed to a settlement of \$25,000, and Charles, Debra, and Brenda Poteet have agreed to a \$15,000 settlement. The department of law recommends approval of this settlement since the Metro police officer was clearly at fault, and the plaintiffs would likely be awarded more if the case went to trial.

**RESOLUTION NO. RS2009-949** (PAGE) – This resolution authorizes Garner Investments, LLC to install, construct and maintain an awning encroachment over the right-of-way at 218 3<sup>rd</sup> Avenue North. This awning will measure four feet deep by eight feet wide. Garner investments has agreed to indemnify the Metropolitan Government from all claims in connection with the construction and maintenance of the sign, and is required to post a \$1 million certificate of public liability insurance with the Metropolitan clerk naming the Metropolitan Government as an insured party. Ordinance No. O87-1890 authorizes aerial encroachments to be approved by resolution rather ordinance.

This resolution has been approved by the planning commission.

**– BILLS ON SECOND READING –**

**ORDINANCE NO. BL2008-216** (MOORE) – This ordinance amends the Metropolitan Code regarding the parking of motor vehicles on grassy areas. In June 2002, the council amended the code to require that all motor vehicles on private property be either stored inside a garage or parked on a paved or graveled area. Such paved/graveled area cannot exceed 25% of the total lot area. The department of codes administration has apparently interpreted the words “private property” in the existing ordinance to mean all property other than the public right-of-way. Thus, at least one public school has been cited for allowing parking on the grass as a fundraiser for special events in the vicinity of the school.

This ordinance simply amends the code to allow the parking of automobiles in grassy areas under the control of the Metropolitan board of public education during special events.

**ORDINANCE NO. BL2009-491** (STANLEY & COLEMAN) – This ordinance amends the Metropolitan Code to prohibit commercial vehicles on local streets. The code currently allows the traffic and parking commission to set load limits for vehicles on local streets and to erect signs giving the load limits. Failure to abide by the load limitations results in a fifty dollar fine. There is an exception to the load limitations for delivering and picking-up materials and merchandise.

This ordinance would expressly prohibit commercial vehicles from operating on any local street or minor local street unless such vehicle is making a delivery or pick up, regardless of whether the traffic and parking commission has set a load limitation or not. The ordinance defines “commercial vehicle” as a truck tractor and/or semi-trailer used to transport goods.

This ordinance was deferred at the August 10, 2009 traffic and parking commission meeting. Since more than thirty days have passed since the ordinance was referred to the traffic and parking commission, the council can proceed with action on the ordinance on second reading.

**ORDINANCE NO. BL2009-524** (CRAFTON) – This ordinance would provide a one time traffic violation amnesty program for the Metropolitan Government. The purpose of this ordinance is to provide an incentive for traffic law violators to pay their outstanding tickets both to increase revenue for the Metropolitan Government and to assist violators whose license has been suspended for failure to pay the traffic fines and fees. There is approximately \$26 million in unpaid traffic tickets and court costs owed to the Metropolitan Government. Further, thousands upon thousands of drivers in Nashville are currently driving on a suspended license. Having a suspended drivers license reinstated is a complicated, time consuming, and expensive process.

This ordinance would provide a thirty day amnesty program for unpaid traffic fines assessed within the past three years. During the period from November 1, 2009, through November 30, 2009, violators would be allowed to pay one-half of the balance of outstanding tickets and court costs to essentially have the slate wiped clean.

The general sessions judges would have to adopt this program in order for it to become effective, as the council does not have the authority to alter judgments issued by the court.

**ORDINANCE NO. BL2009-525** (CRADDOCK & JERNIGAN) – This ordinance amends the Metropolitan Code to require booting companies to obtain a license from the transportation licensing commission in order to operate within the area of the Metropolitan Government. In June 2009, the council enacted Ordinance No. BL2009-434 to prohibit private companies from engaging in the practice of “booting” vehicles. This ordinance is an attempt to relax the outright prohibition and allow booting, provided the company is licensed and follows the specific requirements of this ordinance.

In order to obtain a license, the following would have to be provided to the commission:

1. Proof of a liability policy in the amount of \$500,000 naming the Metropolitan Government as additional insured.
2. Payment of a \$500 licensing fee. All fees received by the commission are to be used to defray the expenses of the commission in enforcing this ordinance.
3. A statement that the applicant is of a good moral character.
4. The names and addresses of at least two references regarding the applicant's financial responsibility.
5. The names and addresses of all employees of the company.

This ordinance would also require all employees of a booting service that will be installing and removing the booting devices to obtain a permit from the commission. This permit would be for a two-year period at a fee of \$150 plus \$40 for a background check. Future increases in the fee could be approved by resolution of the council. This employee permit must be carried by the employee while on duty. Employees would be required to wear an identification badge including the employee's name, company name, and permit number.

In addition to the permitting and licensing provisions, this ordinance sets forth a number of standards pertaining to the equipment used and the operation of the booting service. Each vehicle operated by the booting company would be required to include the company name on both sides of the vehicle and must be equipped with all of the equipment deemed by the commission to be necessary for the safe operation of the booting service. A notice would be affixed to the driver side window of every vehicle for which a booting device is installed. This notice must include a warning to the driver not to move the vehicle, the reason the booting device was installed, the 24-hour telephone number of the booting service, and the fee to remove the booting device, which cannot exceed fifty dollars.

This ordinance also includes a number of prohibited acts, which would allow for the suspension or revocation of a booting license. These prohibited acts include:

1. Towing a booted vehicle from private property if the boot has been on the vehicle for less than 24 hours.
2. Towing a booted vehicle from an attended commercial parking lot if the boot has been on the vehicle for less than four hours, or from an unattended commercial lot if the boot has been on for less than six hours.
3. Charging a booting fee in addition to the towing fee.
4. Failure to remove the boot within one hour after being called by the owner of the vehicle.

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**ORDINANCE NO. BL2009-525** (continued)

Commercial parking lots would not be allowed to use a booting service unless a permanently affixed sign is on the property advising drivers that violators will be booted with a maximum charge of fifty dollars. The sign must also include the number for the booting company. Further, unattended commercial parking lots would be prohibited from booting a vehicle unless such vehicle has three or more unpaid parking violations on the company's lots.

Finally, the ordinance includes a hearing process in the event a license is denied, suspended, or revoked.

License/permit fees charged by the Metropolitan Government cannot exceed the cost to the government for providing the service. The council office recommends that the council obtain a statement from the director of the transportation licensing commission or from the finance department as to the reasonableness of the \$500 annual license fee before approving the ordinance on third reading.

**ORDINANCE NO. BL2009-526** (COLEMAN, CLAIBORNE & OTHERS) – This ordinance amends the Metropolitan Code to make it unlawful for the Metropolitan Government to discriminate on the basis of non-merit factors. This ordinance was filed in response to Ordinance No. BL2009-502, currently on third reading, that would prohibit the Metropolitan Government from basing decisions as to whether to hire, fire, or promote an employee because of the person's gender identity or sexual orientation.

This ordinance would prohibit Metro from discriminating against any person in recruitment, examination, hiring, appointment, training, promotion, retention, or employee discipline because of "non-merit factors". The ordinance defines "non-merit factors" as those factors that relate exclusively to a personal or social characteristic or trait and are not substantially related to successful performance of the duties of the position.

Like Ordinance No. BL2009-502, this ordinance would only apply to the Metropolitan Government; not to any employer in the private sector. Further, this ordinance would not provide partner medical and/or pension benefits.

There is a proposed amendment to this ordinance that would specifically identify some of the non-merit factors the ordinance is intended to protect.

**ORDINANCE NO. BL2009-527** (CRAFTON) – This ordinance amends the water and sewer provisions of the Metropolitan Code to suspend the charging of tapping and capacity fees for a one year period. The council recently reduced the capacity fees by one-half in March 2009 as part of the Clean Water Infrastructure Program (Substitute Ordinance No. BL2009-407). The current capacity fees are \$250 per unit of flow for water and \$750 per unit of flow for sewer.

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**ORDINANCE NO. BL2009-527** (continued)

The current tapping fees are based upon the size of the connection, as follows:

**Water Tap Fee**

Size of tap	Fee
3/4"	\$ 430.00
1"	610.00
2"	780.00
3"	1,300.00
4"	1,730.00
6"	2,590.00
8"	3,460.00
10"	5,190.00
12"	6,200.00

**Sewer Tap Fee**

Size of tap	Fee
4" or 6"	\$ 860.00
8"	2,590.00
10"	3,850.00
12"	6,050.00
15"	6,900.00

This ordinance would suspend the charging of these capacity and tap fees for a period of 365 days following the effective date of this ordinance. The purpose of the ordinance as stated in the recitals is to stimulate the local economy and increase Metro's property tax base during this period of economic recession.

The director of finance has refused to certify that funds are available for this ordinance since the council recently took action to reduce the capacity fees and the operating budget for Metro water services is based in part upon the revenue generated by these fees.

**ORDINANCE NO. BL2009-528** (RYMAN) – This ordinance abandons a portion of Old Baker Road between the two points it intersects with Baker Road. This closure has been requested by Lloyd C. Crawford, an adjacent property owner. This section of right-of-way is not maintained and is no longer needed for government purposes. The ordinance does retain all Metro easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2009-529** (TOLER & FORKUM) – This ordinance approves an extension of the contract for recycling services between Metro public works and QRS, Inc. (formerly Rivergate Recycling). The original contract was entered into with Rivergate Recycling in 2004 through a competitive bid process. Under the contract, QRS is required to operate two facilities for the acceptance and processing of recyclable materials through Metro's recycling program. This includes recyclables collected through the Curby curbside recycling program, as well as the drop-off sites located throughout the county. The contract includes a guaranteed daily processing capacity of 250 tons per day, with a required recycling rate of at least 95 percent. The contract provides that QRS was to pay Metro \$10.00 per ton for recyclables collected through the Curby program for the years 2004 through 2009.

This amendment extends the term of the contract through November 1, 2014. Under the extended contract, QRS will pay \$13.00 per ton in the first year, which will increase by fifty cents in each of the remaining four years. QRS also pays \$35.00 per ton for cardboard, \$45.00 per ton for paper, and a payment based upon a set formula for aluminum, metal, and plastic containers. QRS also pays an annual education payment of \$30,000 for the benefit of the Nashville Earth Day Festival and other education programs approved by Metro.

**ORDINANCE NOS. BL2009-530 & BL2009-531** (LANGSTER, FORKUM & TODD) – These two ordinances authorize the director of public property administration to accept an easement and execute a lease agreement for use in the development of a greenway along the Cheatham County Railroad Authority tracks in the vicinity of Ed Temple Boulevard and Buchanan Street.

These two ordinances have been approved by the board of parks and recreation and referred to the planning commission.

**Ordinance No. BL2009-530** accepts a 25-foot perpetual conservation easement encompassing 0.15 acre that will only be used for greenway purposes, include a bike/pedestrian pathway, nature trail, and/or natural area.

**Ordinance No. BL2009-531** authorizes the director of public property to enter into a lease agreement for property that is presumably adjacent to the conservation easement that is the subject matter of Ordinance No. BL2009-530. However, no lease agreement has even been prepared for the property. The ordinance includes a copy of a 1998 lease agreement for a completely unrelated property, and states that the lease agreement to be authorized by this ordinance is to be "substantially in the form" of the 1998 lease. If, after negotiation, the terms of the lease are substantially different from the form lease, the new lease would have to be approved by resolution of the council.

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**ORDINANCE NOS. BL2009-530 & BL2009-531** (continued)

The council office is of the opinion that a lease agreement should be negotiated before the transaction is submitted to the council for approval. Based upon the documentation attached to this ordinance, we know that William Otey, Jr., and his wife, Willie Ann Otey, own property next to the conservation easement area. The 1998 lease that is used as the "form" for the attachment to this ordinance is for property located at 2583 Greer Road. That lease was for a twenty year term and a monthly rental amount of \$600. However, we do not know how much land is being leased under the transaction that is the subject matter of this ordinance and what the rental amount will be.

**ORDINANCE NO. BL2009-532** (MATTHEWS, LANGSTER & OTHERS) – This ordinance authorizes the director of public property administration to accept the donation of property for use as part of the parks system. The first parcel consisting of 9.62 acres is being donated by Greenways for Nashville for use as part of Shelby Park. The second donation consists of 5.68 acres from Friends of Beaman located on each side of Blue Berry Hill Road.

This ordinance has been approved by the board of parks and recreation and the planning commission.

**ORDINANCE NO. BL2009-533** (LANGSTER, FORKUM & TODD) – This ordinance authorizes the director of public property administration to accept conservation easements for use in the development of Metro's greenway system to protect 290 acres in the Beaman to Bells Bend Corridor. Easements are to be accepted for the following properties:

- 5711 Old Hickory Boulevard and Old Hickory Boulevard, unnumbered – 27 acres
- 5268 Old Hickory Boulevard and Old Hickory Boulevard unnumbered – 43 acres
- 4443 Pecan Valley Road – 29.3 acres
- 4435 Pecan Valley Road – 73 acres
- Cleeces Ferry Road, unnumbered – 118 acres

Metro is receiving a grant in the amount of \$306,000 from the Tennessee Heritage Conservation Trust Fund for the acquisition of these conservation easements, which is the subject matter of Resolution No. RS2009-941.

**ORDINANCE NO. BL2009-534** (TOLER) – This ordinance abandons an unnamed road from Holt Road southward to a dead end. This closure has been requested by Elm Hill Development Corporation. This section of right-way is not needed for government purposes. The ordinance does retain all Metro easements. Consent of the affected property owners is on file with the department of public works.

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

**ORDINANCE NO. BL2009-539** (STEINE) – This ordinance removes Ujima House, Inc., as one of the agencies to receive funding from the \$45.00 “victims assistance assessment” imposed on all criminal cases in Davidson County. State law allows local governments to impose this \$45.00 litigation tax to create a program or fund existing programs that assist victims of crime and their families. The state enabling legislation provides that the types of programs that can be funded through the assessment include “rape crisis centers, domestic violence shelters, victim of crime hotlines and information programs, individual, group and family counseling services, crisis intervention programs, support groups and other similar programs designed to assist victims of crime, their families or survivors.” On July 15, 2008, the council enacted Second Substitute Ordinance No. BL2008-218 to authorize the assessment and to designate six agencies to receive the funds, including Ujima House.

The finance department recently completed a routine audit of a previous Metro grant made to Ujima House in 2008 that evidenced serious deficiencies concerning the operation of the program. These deficiencies included: a failure of the board of directors to meet during the year-long grant period; more than \$8,000 in questionable expenses such as out-of-state department store purchases and travel expenses; and a failure to segregate Metro funds from other sources of funding. Further, the grant contract stated that Ujima House was to provide shelter to 75-100 women and children, but in fact only served one documented client and her three children during the grant period. As a result of these deficiencies, the department of finance has recommended that Ujima House immediately repay \$32,426 to the Metropolitan Government from the previous grant award.

The victims assistance assessment has generated \$13,336.37 for each of the agencies through July 2009. Upon enactment of this ordinance, the remaining five agencies to receive funding through the victims assistance assessment are CASA, Inc., the Mary Parish Center, the YWCA Domestic Violence Program, Nashville Children’s Alliance, and the Sexual Assault Center (formerly known as the Rape and Sexual Abuse Center).

**– BILLS ON THIRD READING –**

**ORDINANCE NO. BL2009-499** (BURCH & GOTTO) – This ordinance amends the zoning code provisions pertaining to the keeping of animals on residential property to add a definition for “common domestic farm animals” and “exotic animals”. The zoning code currently allows “domestic animals/wildlife” as an accessory use in the residential zoning districts. The zoning code defines such animals as native and exotic animals and common domestic farm animals (specified as Class II and Class III animals under state law) “which are kept outdoors for any purpose other than agricultural business.” There is no specific definition as to what constitutes a common domestic farm animal. The conditions applicable to the keeping of domestic animals/wildlife in residential areas include the following:

1. The animals are only permitted as an accessory use in the RS80, RS40, RS30, RS20 and R80, R40, R30 and R20 residential zone districts with a minimum lot size of five acres.
2. The property containing the residence and farm animals/wildlife cannot be located within the urban services district.
3. All pens, runs, paddocks, pastures and other open outdoor areas must be fully enclosed by fencing. Barns, stables, stalls, and similar shelters cannot be within 250 feet of a residence.
4. All required permits must be obtained from the Tennessee wildlife resources agency and/or the department of health.

The zoning administrator has always interpreted these provisions to prohibit the keeping of chickens within the urban services district, and on lots within the general services district less than five acres in size. However, the health code provides that chickens may be kept as long as they do not create a nuisance. The board of zoning appeals recently overturned the zoning administrator's decision and allowed a property owner to keep her chickens since the chickens were essentially kept as pets (not farm animals) and there was no proof they were a nuisance.

The new definition for “common domestic farm animals” under this ordinance includes chickens, cows, donkeys, ducks, geese, goats, horses, mules, peafowl, pigs, and sheep. The ordinance also includes a definition for “exotic animals” that is based on the state law classification. These common domestic farm animals and exotic animals would be prohibited in the urban services district, and only allowed as an accessory use in the larger-lot residential zoning districts in the general services district on property having a minimum of five acres.

**ORDINANCE NO. BL2009-502** (BARRY, GARRETT & OTHERS) – This ordinance, as amended, amends the Metropolitan Code to make it unlawful for the Metropolitan Government to discriminate on the basis of sexual orientation or gender identity in employment practices. This ordinance is modeled after the language used in the board of education's agreement with the teachers union, which was approved by the board in 2008.

Pursuant to this ordinance, the Metropolitan Government would be prohibited from basing decisions as to whether to hire, fire, or promote an employee because of the person's gender identity or sexual orientation. Employees found to be discriminating on the basis of gender identity or sexual orientation would be subject to disciplinary action under the civil service rules. While the ordinance does not include any specific definitions for “sexual orientation” or “gender identity”, the courts have held that these terms are of common usage and are not impermissibly vague.

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**ORDINANCE NO. BL2009-502** (continued)

This ordinance would only apply to the Metropolitan Government; not to any employer in the private sector. Further, this ordinance would not provide partner medical and/or pension benefits for homosexual Metro employees. The ordinance is strictly limited to employment practices.

**ORDINANCE NO. BL2009-509** (HUNT & RYMAN) – This ordinance amends the recently adopted 2006 edition of the International Fire Code (IFC) pertaining to the fire flow requirements for single-family homes constructed on lots of one acre in size or greater within the general services district (GSD). On August 6, 2009, the council enacted Substitute Ordinance No. BL2008-350 to adopt the International Fire Code with certain local amendments in place of the National Fire Prevention Association (NFPA) fire code and life safety code.

Substitute Ordinance No. BL2008-350 included some special exemptions from the more stringent fire-flow requirements for existing building lots, which includes infill lots in an established subdivision. Single and two-family homes less than 3,600 square feet on existing building lots are exempt from the fire-flow requirements contained in Appendix B of the IFC as long as such existing building lots either (1) meet the Insurance Services Office (ISO) fire-flow requirements; (2) have a fire hydrant within 500 feet that flows at least 750 gallons per minute with 20 psi pressure; (3) have a fire hydrant within 500 feet and a secondary fire hydrant within 1,000 feet, even if such hydrants do not pump 750 gallons per minute; or (4) they meet the fire-flow requirements that were set forth by the fire marshal at the time the subdivision plat was approved. Single and two-family dwellings exceeding 3,600 square feet constructed on existing building lots must either meet the ISO requirements or Appendix B of the IFC.

This ordinance would add another exception from the more stringent fire flow requirements for single-family homes within the GSD constructed after May 30, 2009, on a lot of one acre in size or more. In the event such a lot of one acre in size or more within the GSD is subdivided in the future, all dwellings constructed on the subdivided lots would be required to meet the fire flow requirements of Appendix B of the International Fire Code.

Local governments that enforce their own fire codes have the authority under state law to adopt a code that is at least as restrictive as the state standards.