

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Jon Cooper, Director  
Metropolitan Council Office

DATE: **June 1, 2010**

RE: **Analysis Report**

| Balances As Of:  | <u>5/26/10</u> | <u>5/27/09</u> |
|--|----------------|----------------|
| <u>GSD 4% RESERVE FUND</u>                                 | * \$13,232,956 | \$5,842,251    |
| <u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>              |                |                |
| GSD  | \$22,157,286   | \$17,889,167   |
| USD  | \$22,180,965   | \$13,510,632   |
| <u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u> |                |                |
|  | \$27,354,569   | \$41,740,740   |

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

**– BILLS ON PUBLIC HEARING AND SECOND READING –**

**ORDINANCE NO. BL2010-683** (STEINE) – This ordinance is the operating budget of the Metropolitan Government for the Fiscal Year 2010-2011. The budget filed by the mayor provides for the following proposed funding:

|   |                        |
|---|------------------------|
| • General Fund of the General Services District | \$ 700,682,100         |
| • Schools Fund of the General Services District | 633,342,600            |
| • Schools Debt Service Fund                     | 32,417,300             |
| • Debt Service – General Services District      | 90,029,800             |
| • Interfund Transfers                           | <u>(53,555,300)</u>    |
| <b>TOTAL GENERAL SERVICES DISTRICT BUDGET</b>   | <b>\$1,402,916,500</b> |
| • General Fund of the Urban Services District   | \$ 105,719,000         |
| • Duplicated By Interfund Transfers             | <u>15,427,000</u>      |
| <b>TOTAL URBAN SERVICES DISTRICT BUDGET</b>     | <b>\$ 121,146,000</b>  |
| <b>TOTAL OPERATING BUDGET</b>                   | <b>\$1,524,062,500</b> |

The substitute budget adopted by the council for the current fiscal year is \$1,542,162,700. The mayor's proposed budget is an overall decrease of \$18,100,200 (-1.2%) compared to the fiscal year 2010 budget.

No funds are appropriated for use from any unappropriated fund balance. For the current fiscal year, \$12,431,400 was appropriated from the schools fund balance and \$23,565,000 from the schools debt service fund balance for the benefit of Metro schools. Appropriating funds from the schools reserve fund in fiscal year 2011 is not an option since it would cause the fund to drop below the 3% minimum required by state law.

No increase in the GSD general fund or the USD general fund property tax rate is being requested. The companion ordinance setting the tax levy for FY 2010-2011 will specify the same rates for each fund that are in effect this fiscal year. However, the budget ordinance shifts funds from the debt service funds to the operating funds as a result of the debt restructuring approved by the council on May 18, 2010. This debt restructuring resulted in the lowering of debt service payments over the next three years in order to free up these funds for operating expenses.

Resolution R89-959 established the requirement that the GSD General Fund, the USD General Fund, and the General Purpose School Fund maintain a fund balance equal or greater than 5% of the budget. This requirement was expanded per OMB Policy #8 on July 1, 2006 to include the three primary budgetary debt funds in addition to these operations funds. The mayor's proposed budget is projected to result in the following fund balance percentages by June 30, 2011:

|   |       |
|---|-------|
| • General Fund of the General Services District | 4.0%  |
| • Debt Service – General Services District      | 2.2%  |
| • Schools Fund of the General Services District | 3.6%  |
| • Schools Debt Service Fund                     | 40.1% |
| • General Fund of the Urban Services District   | 7.6%  |
| • Debt Service – Urban Services District        | 32.4% |

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**ORDINANCE NO. BL2010-683** (continued)

The proposed budget includes \$11,122,300 in the GSD General Fund and \$1,035,400 in the USD General Fund for payments to Metro employees over and above the base salaries. This includes a one-time bonus of 2% for all Metro employees working a minimum of 32 hours per week, and a restoration of longevity payments for those Metro employees who qualify. However, a continuation of the increment pay suspension is proposed for FY2010-2011. Amendments to the three pay plans to provide for the 2% bonus and the increment freeze are the subject matter of Resolution Nos. RS2010-1228 through RS2010-1230.

A small portion of the budget appropriations (\$588,000) is contingent upon increased revenues generated by updated or new fees to be approved by the Metro Council, as follows:

- Transportation Licensing Fees                   \$54,000
- Traffic School Fees                               \$484,000
- State Trial Court Fees                           \$50,000

One of the most substantive changes initiated in the substitute FY2008-2009 budget was the elimination of certain "internal service fees". The remaining internal service fund functions were continued in the budget for FY2009-2010 and are proposed to be continued in FY2010-2011. These functions are as follows:

- Information Technology Services
- Fleet Management
- Facilities Maintenance
- Radio Shop
- Postal
- Surplus Property (e-Bid)

The proposed fiscal year 2011 budget includes the same mechanism for appropriating grants to non-profit organizations as the previous two budgets. In addition to a small number of direct contributions to non-profit agencies, the proposed budget for FY2010-2011 would award funds to other agencies that best meet the priorities of the city from three categories. They are as follows:

- Domestic violence agencies               \$675,000
- Education and afterschool care         \$675,000
- Misc. community agencies               \$450,000

The budget includes reductions averaging approximately 1.4% for the general fund departments. The average reduction by service grouping is as follows:

- Public Safety                                   1.0%
- Elected Officials                           2.1%
- All Other                                       2.1%

These reductions are projected to result in few, if any, employee layoffs. The final number of layoffs is still to be determined.

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**ORDINANCE NO. BL2010-683** (continued)

The elimination of all travel, tuition, and registration expenses from departmental budgets are proposed to be continued for FY2010-2011. An appropriation of \$225,000, compared to \$350,000 for FY2009-2010, is included to pay for essential travel that may occur during the year. All travel would be required to be approved by the finance director's office to access these funds.

New stormwater fees went into effect on July 1, 2009. This made it possible for the budget to provide for stormwater funding of \$14,827,700 in FY2009-2010. This has been reduced to \$13,680,000 for stormwater operations in FY2010-2011.

In recent years, a portion of the hotel occupancy tax proceeds has been used to fund various agencies and programs that are somewhat tied to tourism. However, these hotel occupancy tax funds are now dedicated to building the new convention center. The agencies that were funded in FY2010 through the \$12,000,000 hotel occupancy tax fund appropriation are to be funded through the general fund in the proposed FY2011 budget.

This budget includes a subsidy of \$43,190,700 for the hospital authority, which is an increase of \$1,500,000 over the appropriation of \$41,690,700 for FY2009-2010. In addition, a supplemental appropriation in the amount of \$2,239,200 was made by Resolution RS2010-1183 due to the cash flow problems being experienced by the hospital authority this spring.

Other significant increases in the proposed budget include the following:

- MTA Supplement \$2,308,100
- Required Contractual Increases \$1,524,500
- Fulton Campus Operating Costs \$1,000,000
- DNA Crime Lab Startup Costs \$500,000
- Chief Information Security Officer \$145,900

The proposed budget for the Schools General Purpose Fund is \$633,342,600, which is the full amount requested by the school board. This is an increase of \$12,580,500 over the FY2010 budget. There is also a separate line item in the ordinance appropriating \$606,700 for administrative support for Metro schools, down from \$648,700 in the current budget. \$21,832,700 of the proposed Schools General Purpose Fund budget would come from transfers from the unappropriated fund balance of other budgetary funds, as follows:

- GSD Debt Fund \$15,150,800
- USD Debt Fund \$5,902,400
- USD General Fund \$779,500

The undesignated fund balance of the schools fund is projected to be \$23,000,000 at the end of FY11, or 3.6% of the operational budget. According to state law, this balance must remain above 3%.

The budget ordinance is amendable on third reading.

**ORDINANCE NO. BL2010-688** (STEINE) – This ordinance adopts the capital improvements budget for 2010-2011 through 2015-2016. A separate analysis for the capital improvements budget will be provided to the council, which will include a list of projects by council district. The capital improvements budget is a planning document and does not in itself appropriate any money. All capital projects must be provided for in this document before a capital improvement can be approved by the council, except in the case of a public emergency.

This budget is amendable on third and final reading. The Charter requires the council to adopt the capital improvements budget not later than June 15<sup>th</sup> of each year. Once adopted, future amendments to the capital improvements budget must be approved by the planning commission, be recommended by the mayor, and then be adopted by resolution of the council receiving twenty-seven (27) affirmative votes.

– RESOLUTIONS –

**RESOLUTION NO. RS2010-1213** (MATTHEWS & STEINE) – This resolution approves a grant in the amount of \$15,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan board of parks and recreation for summer enrichment programs for youth. MDHA has funding available for these activities as part of the federal community development block grant program. These funds will be used to provide recreational, educational, social, and cultural art activities for youth in the Cleveland Park neighborhood between June 7 and August 9, 2010. There is a required in-kind match of \$20,400.

**RESOLUTION NO. RS2010-1227** (STEINE, JAMESON & MOORE) – This resolution appropriates \$310,000 in Capitol Mall urban development action grant (UDAG) repayments for the creation of a shared services center for Loews Hotels. The UDAG program is a federal program whereby funds are loaned to developers and repaid to the Metropolitan development and housing agency (MDHA) instead of the federal government. MDHA is required by federal law to use the UDAG loan repayments in the “pocket of poverty” areas of the Metropolitan Government. UDAG repayments can be used under the capitol mall redevelopment plan for affordable housing activities and economic development activities.

Loews Hotels has proposed the creation of a centralized shared services center in downtown Nashville that will create 187 job opportunities. This ordinance would appropriate \$310,000 in UDAG repayments for the purchase of information technology equipment for the shared services center. The ordinance provides that the jobs to be created by this center will most likely be filled by individuals residing in the pocket of poverty.

**RESOLUTION NOS. RS2010-1228 through RS2010-1230** – These three resolutions amend the pay plan for the employees of the Metropolitan Government, with the exception of the board of education, to delay increment raises for another year beginning July 1, 2010, in accordance with the mayor’s proposed fiscal year 2011 operating budget, and to provide a one time 2% bonus to be paid in August 2010 for all Metro employees working a minimum of 32 hours per week. The amount of the bonus would be capped at \$2,000.

The council approved a freeze of the increment pay increases and longevity pay as part of the fiscal year 2010. Although no real growth in tax collections is anticipated for fiscal year 2011, the debt restructuring approved by the council on May 18, 2010, will allow sufficient funds to pay the one time bonus, as well as a restoration of employee longevity pay.

In addition, these resolutions would adopt a minimum hourly rate of \$10.77 for full-time employees of the Metropolitan Government. The lowest listed hourly rate in the current pay plan is \$7.72, although there do not appear to be any full-time employees making this amount. According to the department of human resources, this hourly rate increase will impact less than 20 employees, at a total annual cost to Metro of approximately \$179,000. The pay plan amendments also includes language specifying that new full-time employees will be hired at not less than an hourly rate in the pay grade that is closest to the minimum wage, which is to be reviewed by the director of human resources periodically to recommend adjustments to the civil service commission as necessary. The resolutions encourage all other Metropolitan Government boards and agencies not covered by the Metro pay plan to adopt similar wage provisions.

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**RESOLUTION NOS. RS2010-1228 through RS2010-1230**

These resolutions provide that the increments will be reinstated effective July 1, 2011. The pay plans may not be amended by the council except by making uniform changes, as the relationship between pay grades must remain the same. These resolutions have been approved by the civil service commission or the health board and the mayor.

**Resolution No. RS2010-1228** (Barry, Steine & Others) approves the amendment to the pay plan for general employees of the Metropolitan Government.

**Resolution No. RS2010-1229** (Barry, Steine & Others) approves the amendment to the pay plan for employees of the fire and police departments.

**Resolution No. RS2010-1230** (Maynard, Barry & Others) approves the amendment to the pay plan for the board of health employees.

**RESOLUTION NO. RS2010-1231** (MCGUIRE) – This resolution approves a contract for the continued employment of Donald W. Jones as part-time special counsel for the council. Mr. Jones retired as full-time director and special counsel in July 2006, but remained in the director position on a part-time basis until 2008. Since 2008, Mr. Jones has served as part-time special counsel, working approximately 12 hours per week but not more than 19 hours per week. Under this new contract, Mr. Jones will continue to serve in this capacity for an additional year, working not more than 10 hours per week.

**RESOLUTION NO. RS2010-1232** (STEINE) – This resolution approves a grant in the amount of \$1,490,047 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to establish programs and deliver services to youth workers. This federal pass-through grant award provides part of the operational funds for the NCAC. The term of the grant is from April 1, 2010, through June 30, 2012.

**RESOLUTION NO. RS2010-1233** (STEINE) – This resolution authorizes the submission of an application to request a subzone status for Hemlock Semiconductor, LLC, as part of foreign trade zone #78. The mayor's office of economic and community development is the local agency that manages foreign trade zone #78 in the Nashville area. These zones are established under federal law for the purpose of stimulating and expediting international commerce by exempting goods from the payment of U.S. customs tariffs while they are in the zone. Such zones are designated by the U.S. department of commerce and must be within 60 miles or 90 minutes driving time from a U.S. customs and border protection port of entry.

This application requests the federal government to grant subzone status to Hemlock Semiconductor located at 1000 Solar Way in Clarksville, Tennessee. There is no cost to the Metropolitan Government for administering the foreign trade zone program, as all costs are borne by the private companies operating the zones. Metro actually receives monthly payments from the private companies. Nashville's foreign trade zone #78 was established in 1983.

**RESOLUTION NO. RS2010-1234** (STEINE) – This resolution approves a grant in the amount of \$50,625 from Dollar General Literacy Foundation to the Metropolitan Government to provide partial funding of an adult literacy coordinator position in the Mayor’s office of children and youth for fiscal year 2010-2011. This grant will fund one-half of the salary and benefits for the position. The remaining portion will be funded through the Mayor’s office operating budget.

**RESOLUTION NO. RS2010-1235** (STEINE) – This resolution approves a federal stimulus grant in the amount of \$5,975,400 from the U.S. department of energy to the general services department for the purpose of reducing fossil fuel emissions and improving energy efficiency. Metro received an initial \$250,000 grant for this program in August 2009 to develop an energy efficiency and conservation strategy plan in order to qualify the government for this additional grant. These funds will be used to implement priority projects of the green ribbon committee throughout the Metropolitan Government. Projects to be funded include building retrofits, HVAC improvements, energy efficient lighting improvements and water conservation measures at a number of libraries and fire stations, bikeways, waste reduction, and new traffic signals. The term of this grant will extend through August 2, 2012.

**RESOLUTION NO. RS2010-1236** (STEINE) – This resolution approves an application for a grant in the amount of \$134,362.32 from the Cal Turner Family Foundation to the sheriff’s office for the Sheriff’s Alcohol Awareness for Everyone (SAAFE) program. This grant would fund the salary and benefits for two staff persons operating the program, as well as programming material costs. This program is designed to help reduce drunk driving among young people through the following measures:

- Tours of the correctional facility and discussion with DUI offenders between the ages of 18 and 25.
- The establishment of an extended Sober Ride program that will provide information as to the effects of alcohol abuse and agencies that can help treat alcohol abuse problems.
- An educational curriculum for use in Metro public schools that are considered high risk for alcohol abuse.

In previous years, the sheriff’s office has received funding for this program through the Governor’s highway safety office, but this state funding has been discontinued.

**RESOLUTION NO. RS2010-1237** (STEINE) – This resolution approves an application for a grant in the amount of \$39,344.73 from the state department of finance and administration to the Metropolitan police department to fund a summer camp in North Nashville. If awarded, the police department will partner with Fourteenth Avenue Baptist Church, located at 2501 Buchanan Street, to hold the camp. The goals of the camp are to improve academic performance and strengthen the relationship between the youth and law enforcement.

**RESOLUTION NO. RS2010-1238** (STEINE) – This resolution approves an application for a grant in the amount of \$128,731 from the U.S. department of justice to the Metropolitan police department for forensic technical training and supplies. As the council is aware, capital funds have been allocated to construct a new forensic crime lab for the police department at the west (continued on next page)

**RESOLUTION NO. RS2010-1238** (continued)

precinct. In order to achieve accreditation, the police department will be responsible for providing the necessary training to the crime lab employees. This grant would help with these training costs and supplies. The police department anticipates hiring eight forensic scientists during fiscal year 2010-2011 to staff the new crime lab. The largest portion of this grant, if awarded, will be to cover the travel costs associated with the training.

The mayor's proposed FY2011 budget includes \$500,000 to hire eight new employees for the proposed crime lab that is expected to come on line in FY2012.

**RESOLUTION NO. RS2010-1239** (TYGARD & STEINE) – This resolution approves a grant in the amount of \$3,357,607 from the U.S. department of health and human services to the Metro board of health to enhance access to community-based care for low income individuals and families with HIV. These grant funds are used to provide a number of medical and support services for HIV patients. The grant is for a term of March 1, 2010, through February 28, 2011.

**RESOLUTION NO. RS2010-1240** (GOTTO & STEINE) – This resolution approves a continuation grant in the amount of \$20,000 from the Metropolitan development and housing agency (MDHA) to the Metropolitan historical commission to perform environmental review required by federal law for development proposals using federal funds to determine potential adverse effects to historic properties. MDHA is responsible for administering certain federal grant programs that require compliance with the National Environmental Policy Act, part of which requires a review under the National Historic Preservation Act to identify historic properties potentially affected by developments using the federal funds.

MDHA has contracted with the Metropolitan historical commission to review MDHA proposals and identify historic properties potentially affected by each proposal. The term of this grant is from April 1, 2010, through March 31, 2011.

**RESOLUTION NO. RS2010-1241** (TOLER, HUNT & STEINE) – This resolution authorizes the financing of a sewage treatment project through a loan in a principal amount not to exceed \$7,000,000 from the state of Tennessee, and approves the necessary agreements associated with the project. This resolution authorizes the submission of the loan application and approves the loan agreement with the state department of environment and conservation and the Tennessee local development authority. The proceeds of this low interest loan are to be spent on the Mill Creek parallel sewer project.

The loan agreement is for a term of 20 years and is to be repaid from sewer rates. However, the loan agreement also pledges Metro's unencumbered state-shared taxes as security for the loan. Metro has entered into similar loan agreements with the state for water/sewer projects in the past. State law allows this loan agreement to be approved by resolution.

The council approved a similar loan agreement for water/sewer projects in October 2009.

**RESOLUTION NO. RS2010-1242** (STEINE) – This resolution authorizes the department of law to compromise and settle the lawsuit of Charles L. Townsend, Sr., against the Metropolitan Government for the amount of \$6,500. On July 1, 2008, a Metro library employee struck Mr. Townsend's vehicle when he slowed to make a turn on Myatt Drive. The Metro employee was following too closely at the time of the accident. Mr. Townsend sustained severe whiplash as a result of the accident, incurring medical bills totaling \$2,850. The department of law recommends settling the claim for the amount of the medical bills plus \$3,650 for pain and suffering. The driver at fault is no longer employed by the Metropolitan Government.

**- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2010-650** (GOTTO) – This ordinance amends the Metro Code to require the department of public works to inform disabled drivers parking at Metro facilities that there is no charge for parking their vehicles. State law prohibits local governments from charging a fee to park in any municipally-owned garage or metered spot for a vehicle with a valid disabled driver license plate or placard. This ordinance would require that either signs be posted within a parking meter zone or a statement be included on all meters informing drivers about this state law. Signs would also be required at the entrances to all Metro-owned parking garages.

The traffic and parking commission deferred consideration of this matter for one month at their May 10, 2010 meeting. Since more than 30 days have elapsed from the date of referral to the traffic and parking commission, this ordinance can proceed on second reading.

**ORDINANCE NO. BL2010-679** (RYMAN) – This ordinance amends the building and mechanical code provisions pertaining to clothes dryer exhaust ducts. The ordinance would set a maximum length of 35 feet, which is to be reduced by 2.5 feet for each 45° angle and 5 feet for each 90° angle. The ordinance also includes an exception for dryer ducts installed in accordance with the dryer manufacturer's instructions as long as those instructions have been provided to the codes department.

**ORDINANCE NO. BL2010-680** (STEINE & RYMAN) – This ordinance approves an agreement between the Nashville farmers' market and Vanderbilt University Medical Center for the use of the courtyard between Langford Auditorium and the medical center as an auxiliary farmers' market site. Under this agreement, the farmers' market will have the right to operate a market between May 27, 2010, and October 28, 2010. Metro will be responsible for keeping the premises and the common area within twenty-five feet of the premises in a clean condition. There is no rental amount associated with this agreement. Future amendments to this agreement are to be approved by the council by resolution.

**ORDINANCE NO. BL2010-681** (STEINE & BAKER) – This ordinance approves a renewal of a contract between the Metropolitan Government and the Tennessee Coalition Against Domestic and Sexual Violence to provide enhanced victim notification services. The U.S. Department of Justice has awarded a grant to the Tennessee Coalition Against Domestic and Sexual Violence to implement a victim information and notification system. Pursuant to this contract, the sheriff's office will provide the Coalition and its contractor (Appriss, Inc.) with access to its facilities for maintenance of the victim notification system and training of personnel necessary to operate the system. There will be no cost to Metro to participate in this program. The term of the contract is from July 1, 2010, through January 1, 2014.

**ORDINANCE NO. BL2010-682** (BAKER) – This ordinance abandons a portion of 43<sup>rd</sup> Avenue North from Georgia Avenue to the railroad right-of-way, and abandons a portion of Alley No. 1203 from 43<sup>rd</sup> Avenue North to 44<sup>th</sup> Avenue North. These portions of right-of-way are no longer needed for government purposes. Metro will retain all easements. Consent of the affected property owners is attached to the ordinance. This ordinance has been approved by the planning commission and the traffic and parking commission.

**ORDINANCE NO. BL2010-684** (STEINE) – This ordinance adopts the property tax levy for fiscal year 2010-2011. The Metropolitan Charter requires that the council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax proposed by the mayor is \$3.54 per \$100 assessed value in the general services district (GSD) and an additional \$0.56 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.10 in the USD. The break down of the tax levy is identical to the fiscal year 2010 tax levy, although the operating budget ordinance would transfer funds from the debt service fund to the general fund and schools fund as a result of the debt restructuring approved by the council on May 18<sup>th</sup>.

**ORDINANCE NO. BL2010-685** (STEINE) – This ordinance provides for the regulation of the use and operation of non-taxi vehicles for hire. The Metropolitan Government has regulated taxicab companies and drivers for many years. However, the code defines taxicabs as those vehicles that transport passengers for hire that do not operate on a fixed route. Thus, limousine and shuttle van services that transport passengers on a fixed route are not considered taxis. Although some non-taxi transportation companies have essentially been operating in the same manner as taxis, the lack of a specific ordinance regulating this industry has made enforcement problematic.

This ordinance will require all companies operating non-taxi passenger vehicles for hire, as well as their drivers, to obtain licenses through the Metropolitan transportation licensing commission (MTLC), much in the same manner as taxicab companies and drivers are currently licensed. The ordinance includes three classifications of vehicles and services: livery, shuttle, and special-purpose passenger vehicles for hire. Applicants would be required to designate the category of passenger vehicle for hire service they intend to provide. A description of the three types of vehicles and services is as follows:

1. Livery services are those that operate sedans or SUVs for hire, such as limousine companies. The transportation is to be prearranged either directly with the livery service or through a third party (hotel concierge desk). The fare is to be determined based upon the amount of time the vehicle is in use, not a meter or mileage. The ordinance gives the MTLC the authority to set a minimum charge for livery services in accordance with the commission's rules. The taxicab provisions in the code specifically set out the amount of the fare, except for rates between specific destinations, which are left to the MLTC to set.
2. Shuttle services would be limited to those vehicles specifically labeled on the exterior as a shuttle, must use pre-approved routes, and must charge a fare based upon a per-passenger basis, not a meter or mileage.
3. Special-purpose passenger vehicles for hire are all other passenger vehicles for hire that are not considered a livery vehicle, shuttle, taxicab, or horse-drawn carriage. The fare would be determined based upon a pre-determined rate schedule for the proposed destination or by a time usage basis, but not based upon a meter or mileage. These services must be pre-arranged in the same manner as livery services.

The application for a certificate of public convenience, along with a permit fee to be established by the MTLC, is to be submitted for approval by the commission. The application will contain business and personal information about the applicant including prior experience, references (continued on next page)

**ORDINANCE NO. BL2010-685** (continued)

regarding financial responsibility, a background check, driver training procedures, number of vehicle permits requested, and a copy of the prearrangement contract. Applicants will be ineligible for a certificate if any of the owners have been convicted of a felony, or of certain drug or sexual offenses, within the past ten years. Applicants would also be required to provide proof of insurance coverage in the amount of \$1 million for general liability and property damage, and \$1.5 million coverage for automobile liability. After a certificate has been issued, it may be suspended or revoked if the commission finds a violation of the regulations or a failure to pay taxes due to Metro. There is an appeal process for applicants who are denied.

Also mandated by this ordinance is a requirement for a driver's permit to operate a passenger vehicle for hire. The requirements for a driver's permit are similar to those of taxicab drivers. The application must include proof that a driver is at least 21 years old, number of years experience in the industry, educational and criminal background, drug test results, and a valid Tennessee special chauffeur's driver's license. No driver's permit will be issued for any applicant that has been convicted within the past five years of driving offenses involving bodily injury or death or of certain criminal offenses. All applicants for a driver's permit must also undergo a fingerprint criminal background investigation.

This ordinance also requires a permit for each of the passenger vehicles for hire in operation. Each vehicle must be examined by a MTLC inspector to ensure it is safe to operate. A detailed mechanical inspection is required on an annual basis. No vehicle may be more than five years old at the time it begins its service unless it is classified as a vintage limousine or sedan. The ordinance sets forth maximum age and mileage requirements for the different types of vehicles, at which point the vehicle must be taken out of service.

Passenger vehicle for hire services that only provide pre-arranged services must present trip tickets in either written or electronic form at least fifteen minutes prior to the time the transportation is to begin. There is an exception to this fifteen minute requirement for full-service hotels operating their own passenger vehicle for hire services. The ordinance also prohibits passenger vehicle for hire services from entering into arrangements with hotels or other third parties for the right to pick up passengers at a particular destination. If a driver violates this requirement, his/her driver's permit is subject to a suspension of up to 12 months for the first violation, and revocation for repeat violations.

As noted above, this ordinance gives the MTLC the authority to set the amount of the application fees for a certificate of public necessity through the adoption of their rules. The council has historically been reluctant to give commissions the authority to set fees without being ratified by the council.

The mayor's proposed operating budget includes \$95,800 to hire an additional inspector and office support position to implement this ordinance.

This ordinance has been approved by the transportation and licensing commission.

**ORDINANCE NO. BL2010-686** (STEINE) – This ordinance establishes a fee for individuals convicted of driving under the influence who are required to pick up litter as part of their sentence. State law requires that the DUI offenders ordered to pick up litter pay a fee equivalent to the jailer's fee to offset the cost of administering the litter pick up program. The jailer fee, which was set at \$44.00 per day in 1997, is to help cover the cost of incarceration of misdemeanor prisoners. This ordinance formally adopts a litter pick up fee to be paid by the DUI offenders, and provides that the fee is to be divided equally between the fines and forfeitures account of the state trial courts and the sheriff's office.

This ordinance is estimated to generate \$50,000 in increased revenue, which is anticipated as revenue in the mayor's proposed fiscal year 2011 operating budget. Thus, if this ordinance is not enacted, the operating budget will have to be reduced accordingly.

**ORDINANCE NO. BL2010-687** (STEINE) – This ordinance amends the Metro Code to create a separate traffic safety school and DUI school. The council enacted legislation in 1999 that created a general sessions court safety center. The purpose of the 1999 legislation was to formalize the structure of the traffic school and DUI school by placing them under the general sessions court. The DUI school was operated by the probate court prior to 1995.

Operation of the DUI school was transferred to the sheriff's department as part of the fiscal year 2010 budget. This ordinance simply codifies the current operation status. The ordinance also authorizes general sessions court to increase the maximum traffic school fee from \$65 to \$90. The fee increase is expected to generate an additional \$484,000, which has been factored into the mayor's proposed fiscal year 2011 budget.

**ORDINANCE NO. BL2010-689** (RYMAN & STEINE) – This ordinance waives the fees for permits issued by the department of codes administration for property owners that sustained damage as a result of the flooding the first weekend in May. This ordinance will apply retroactively to May 1, 2010, for building, electrical, plumbing, and gas/mechanical permits for a total maximum fee waiver of \$1,300. The fee waiver would apply to any residential or commercial property owner whose property was damaged or destroyed by the winds, rain, and flooding as a result of the storms on May 1<sup>st</sup> and 2<sup>nd</sup>. The breakdown for the fee waiver is as follows:

- \$750 – Building permit
- \$150 – Electrical permit
- \$200 – Plumbing permit
- \$200 – Gas/mechanical permit

A \$750 building permit would be the typical permit fee to construct a \$161,500 house.

**ORDINANCE NO. BL2010-690** (STEINE & COLE) – This ordinance abolishes the existing convention center commission and approves an interlocal agreement between the Metropolitan Government and the convention center authority for the financial, administrative, and operational services for the existing convention center and for the construction phase of the (continued on next page)

**ORDINANCE NO. BL2010-690** (continued)

new center. The Metropolitan convention center commission was created by ordinance in 1985 to operate the convention center located at 601 Commerce Street. This ordinance would repeal the code chapter that provides for the existing convention center commission. Pursuant to this ordinance, the convention center commission would cease to exist on July 1, 2010.

Under the interlocal agreement to be approved by the ordinance, the convention center authority will assume the responsibility for the current center, as well as oversee the construction of the new center. All current employees of the convention center commission will remain employees of the Metropolitan Government under the department of finance, but will be assigned to the convention center authority as contemplated by the state enabling legislation. The finance department will provide all accounting services for the convention center authority and will administer the issuance of bonds on behalf of the authority. The finance department will also provide procurement services upon the request of the authority. The convention center authority agrees to compensate the finance department in the amount of \$175,000 annually for providing these services through the end of the fiscal year in which the construction of the new convention center is completed. The existing fund balance of the convention center commission will be transferred to an account managed by the director of finance for use by the convention center authority.

The term of this agreement is from July 1, 2010, through the closeout of the construction of the new convention center, but either party may terminate the agreement upon 60 days written notice. The agreement may be extended for three additional five year terms.

**ORDINANCE NO. BL2010-691** (HOLLIN) – This ordinance amends the beer permit requirement provisions in the Metro Code to exempt restaurants that already have a state on-premises liquor consumption license from Metro’s minimum distance requirements to obtain a beer permit. The code currently prevents a beer permit from being issued to an establishment located within 100 feet of a church, school, park, daycare, or one or two family residence. However, in 2003, the council enacted Substitute Ordinance No. BL2003-1353 establishing an exemption from the minimum distance requirements for restaurants located on property subject to a planned unit development (PUD) that already have a state on-premises liquor consumption license. Substitute Ordinance No. BL2003-1353 was essentially a compromise bill in an effort to provide a mechanism for restaurants with a state liquor license to obtain an on-sale beer permit without meeting the established distance requirements in the code. Pursuant to state law, the Tennessee alcoholic beverage commission can take the applicant’s location into consideration when determining whether to grant a license for on-premises consumption, but no set distance requirements are included in the state law.

This ordinance would exempt any restaurant possessing a valid license issued by the state alcoholic beverage commission for on-premises liquor consumption from the Metro beer permit distance requirements. The ordinance incorporates the state law definition of “restaurant”, which includes eating establishments with seating capacity of at least 75 people at tables, or gourmet restaurants with a seating capacity of at least 40 people.

**ORDINANCE NO. BL2010-692** (MATTHEWS & MAYNARD) – This ordinance authorizes the director of public property administration to accept an easement for use in the development of the Harpeth River greenway. The easement is to be accepted at no cost to Metro from Ryan C. Gore for property located at 781 Harpeth Bend Drive. Metro agrees to construct a wood privacy fence between the greenway area and Mr. Gore's property. This will be a perpetual easement that can only be terminated through judicial action. This ordinance has been approved by the planning commission and the board of parks and recreation.

**ORDINANCE NO. BL2010-693** (JAMESON & HUNT) – This ordinance abandons a portion of Peabody Street from north of the Hermitage Avenue intersection to its terminus. This abandonment has been requested by the Metropolitan development and housing agency. This portion of Peabody Street is no longer needed for government purposes. Metro will retain all easements. This ordinance has been approved by the planning commission and the traffic and parking commission.

**– BILLS ON THIRD READING –**

**SUBSTITUTE ORDINANCE NO. BL2010-637** (HUNT & TOLER) – This ordinance amends the restrictions in the zoning code to allow recycling operations at recycling facilities to be conducted outdoors. The Zoning Code only allows recycling facilities as a use permitted with conditions (PC) use in the industrial districts. A recycling facility is defined in the Zoning Code as any facility that separates, processes, converts, treats, or otherwise prepares non-putrescible waste for recycling. Non-putrescible waste consists of material that is not capable of decomposing. Such facilities are required to meet certain conditions in order to operate as a recycling facility. These conditions include the following:

1. A minimum lot size of one acre;
2. A building setback of at least 150 feet from a residential zoning district or legally occupied residential structure;
3. Driveway access can be from a local street as long as the street is not bounded by any residential zoning district from the driveway to an intersection with a collector or major street;
4. Opaque fencing at least eight feet in height is required along all zoning districts permitting residential uses. For facilities not adjacent to zoning districts permitting residential uses, the entire facility must be enclosed by an eight-foot tall chain link fence;
5. All sorting and separation activity must take place within an enclosed structure;
6. The enclosed areas of recycling facilities must have concrete floors, and high traffic areas around the facilities must be paved;
7. The hours of operation are limited from 7:00 a.m. to 6:00 p.m. for any facility adjacent to a zoning district permitting residential uses; and
8. Light and glare must be directed on-site for facilities adjacent to a zoning district permitting residential uses.

The requirement that the recycling operations take place entirely within an enclosed structure has acted as a barrier to the opening of these facilities, which has likely resulted in more debris being taken to landfills.

This ordinance would delete the requirement in the Zoning Code that the compacting, sorting, processing or storage of materials at recycling facilities take place entirely within an enclosed building unless the facility is located within 1,000 feet of certain residentially-zoned districts. It is important to point out that under this substitute only a small number of sites in Davidson County would be eligible for outdoor recycling. Most of these available sites are located in the Cockrill Bend, Omohundro, and Sidco industrial areas.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2010-652** (JAMESON & DOMINY) – This ordinance amends the Metropolitan building code to specifically allow the use of alternative lighting forms in the common halls and stairways of residential buildings. The code requires the common halls and stairways to be lighted at all times with at least a 60-watt incandescent light bulb for each 200 square feet, or equivalent illumination. This ordinance would clarify that “equivalent illumination” includes the use of compact fluorescent lights and light emitting diodes, which use less electricity than standard incandescent bulbs.

**ORDINANCE NO. BL2010-676** (BAKER & LANGSTER) – This ordinance authorizes the police department to accept the donation of a Tennessee walking horse named The Autobahn. This horse will be used by the police department's mounted patrol unit. The Autobahn is being donated by Rhonda A. Martocci of Franklin, Tennessee.

**ORDINANCE NO. BL2010-677** (BAKER, HUNT & LANGSTER) – This is essentially a housekeeping ordinance to clarify the correct size of a sanitary sewer line abandonment and relocation in connection with the Hill Center project located at 6604 and 6616 Charlotte Pike. Ordinance No. BL2009-453, approved by the council in June 2009, abandoned an 8 inch sanitary sewer line and easement and accepted a relocated 8 inch sanitary sewer line and easement plus 3 manholes. This ordinance repeals Ordinance No. BL2009-453, abandons a 21 inch sanitary sewer line and easement, and accepts a replacement 21 inch sewer line and easement along with three manholes.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2010-678** (HUNT) – This ordinance amends the Metropolitan Code pertaining to industrial waste discharges. The department of water and sewerage services (MWS) is required by state and federal regulations to provide limitations on industrial waste discharges and to adjust the limits periodically to meet state and federal pretreatment standards. The purpose of these regulations is to prevent the discharge of harmful pollutants by industrial establishments in the sewer system. In 2005, the U.S. environmental protection agency approved a "pretreatment streamlining rule" in further implementation of the Clean Water Act. This ordinance will make our Code provisions consistent with the latest regulations.

This ordinance includes expanded definitions pertaining to industrial waste discharges and updated pretreatment requirements. The ordinance also includes a mechanism for MWS to file its wastewater plant limits with the Metropolitan clerk's office as opposed to codifying these limits in the Metro Code. The purpose of this change is to facilitate future changes of the plant limits as the state requirements change. MWS does not expect these changes to have a major impact on industrial customers. This ordinance has been approved by the wastewater hearing authority and the Tennessee department of environment and conservation.