

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Don Jones, Special Counsel  
Metropolitan Council Office

DATE: **June 21, 2011**

RE: **Analysis Report**

Balances As Of:	<u>6/15/11</u>	<u>6/9/10</u>
<u>GSD 4% RESERVE FUND</u>	*\$11,853,490	\$13,232,956
<u>GENERAL FUND UNDESIGNATED FUND BALANCE</u>		
GSD	\$34,183,634	\$22,157,286
USD	\$24,263,010	\$22,180,965
<u>GENERAL PURPOSE SCHOOL FUND UNRESERVED FUND BALANCE</u>		
	\$27,099,790	\$27,354,569

\* Assumes estimated revenues in fiscal year 2011 in the amount of \$23,440,100

– RESOLUTIONS –

**RESOLUTION NOS. RS2011-1673 THROUGH RS2011-1675** – 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, 2011, in accordance with the mayor's proposed fiscal year 2011 operating budget, and to provide a onetime 1.5% payroll adjustment (bonus) for all Metro employees working a minimum of 32 hours per week. The amount of the bonus would be capped at \$1,500. A similar 2% adjustment capped at \$2,000 was provided last year.

The last pay plan increase for Metro employees was in 2007. The council approved a freeze of the increment pay increases and longevity pay as part of the fiscal year 2010. The current operating budget submitted by the mayor provides funding for the longevity pay and the 1.5% payroll adjustment. These resolutions provide that the increments will be reinstated effective July 1, 2012. 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. The pay plan amendments have been approved by the civil service commission, the health board and the mayor.

**Resolution No. RS2011-1673** (BARRY & TOLER) approves the amendment to the pay plan for general employees of the Metropolitan Government.

**Resolution No. RS2011-1674** (LANGSTER, BARRY & TOLER) approves the amendment to the pay plan for employees of the fire and police departments.

**Resolution No. RS2011-1675** (TOLER, FORKUM & BARRY) approves the amendment to the pay plan for the board of health employees.

**RESOLUTION NO. RS2011-1706** (BARRY) – This resolution authorizes the issuance, sale, and payment of general obligation refunding bonds in a principal amount not to exceed \$240 million. The primary purpose of this transaction is to achieve approximately \$10.2 million in debt savings.

This bond proceeds will refund all or a portion of six different bond series issued between 2001 and 2008. This debt refunding does not extend the overall maturity of the bonds, but simply lowers the interest costs to the Metropolitan Government. The lead underwriter on the refunding bonds will be J. P. Morgan. Deutsch Bank National Trust Company, Olive Branch, Mississippi, is designated as the escrow agent for the bonds. The proceeds of the refunding bonds will be used to refund certain existing debt and to pay the costs of issuance. The resolution also approves the form of the preliminary official statement, as well as the bond purchase agreement and the escrow agreement.

The preliminary official statement provides that the Metropolitan Government does not intend to issue additional long term debt for capital projects during fiscal year 2011-2012. Metro does have the authority to issue up to \$350 million in new commercial paper, however, which is used to provide short-term financing for capital projects until the long-term bonds are issued.

**RESOLUTION NO. RS2011-1707** (BARRY, JAMESON & OTHERS) – This resolution approves a grant agreement between the Metropolitan Government, the Industrial Development Board of Metropolitan Government, MDHA and IQT, Inc. IQT proposes to relocate its U.S. headquarters to and open an operations center in Nashville which would create an estimated 920 job opportunities during the following five years. IQT provides technical support and e-commerce solutions to technology and telecommunications companies.

The total amount of grants will not exceed \$1,610,000. The IDB will administer \$960,000 as an economic and community incentive grant comprised of up to \$460,000 for new jobs created during the term on the agreement. IQT will be paid \$500 for each job recreated and up to \$500,000 toward the costs and expenses incurred in locating the headquarters and operations center in Nashville and for training of employees. MDHA will provide an additional \$650,000 in UDAG funds for relocation costs and training of employees. The Capital Mall UDAG funds recognize the location of the project with the Pocket of Poverty providing for creation of jobs in that area.

In February 2011, the Council authorized incentive grants for corporate headquarters or technology firm relocation/expansion that will create at least 500 jobs over a five year period. This was an extension of the program enacted in 1999 for the benefit for Dell Corporation.

The grant is for five years. \$1,150,000 will be paid in the first year and thereafter payments will be made annually in amount equal to \$500 for each new job over 500 created. The first 500 jobs created are covered in the initial payment.

**RESOLUTION NO. RS2011-1708** (MITCHELL & BARRY) - This resolution sets a public hearing to be held at the Tuesday, August 2, 2011, council meeting relative to the proposed acquisition of public infrastructure improvements and the assessment of costs against the owners of properties within the Biltmore Ridges development. This mixed-use development is located near the intersection of Interstate 40 and McCrory Lane and is comprised of retail, shopping, restaurant, office, hotels, townhomes, single and multi-family housing, and other uses. State law requires that a public hearing be held prior to Metro undertaking the improvements and issuing special assessment revenue bonds to finance the costs of the infrastructure improvements. The bonds will be paid from the funds provided from the assessments against the development property. This resolution directs the Metropolitan clerk to publish the notice of public hearing for three consecutive weeks in *The Tennessean*, as well as give written notice of the public hearing to each of the owners of property with the development.

**RESOLUTION NO. RS2011-1709** (BARRY) – This resolution approves an application for a juvenile accountability block grant in the amount \$129,636 from the state commission on children and youth to the juvenile court. These federal pass through funds would be used for the continued funding of two full time community-based probation officers and partial funding for an intake probation officer in the juvenile court's diversion program. The juvenile court would be required to provide a cash match of \$14,404 from its operating budget if the grant is awarded. The grant would expire September 30, 2012.

**RESOLUTION NO. RS2011-1710** (BARRY) – This resolution approves an annual grant in the amount of \$434,333 from the state department of children's services to the juvenile court to provide case management and family support services to children at high risk of state custody and their families. The grant will be used to fund case manager positions in the community-based probation division of the juvenile court. These intervention services are provided to youth at risk of custody due to delinquency, status offenses, or unruly behavior. The programs funded by this grant are to provide services to 535 children. The term of this grant is from July 1, 2011 through June 30, 2012.

**RESOLUTION NO. RS2011-1711** (BARRY) – This resolution approves a third amendment to an annual grant from the state department of human services to the Davidson County juvenile court to enforce federal and state mandated child support guidelines concerning children born out of wedlock. This resolution extends the term of the grant through June 30, 2012 and increases the amount of the grant by \$789,700, for a total grant award of \$3,643,700. There is a required local match of \$406,813 to be provided from the juvenile court's operating budget.

**RESOLUTION NO. RS2011-1712** – (LANGSTER & BARRY) This resolution approves an application for the Encouraging Innovation: Field-Initiated Programs grant from the federal government to the Davidson County sheriff's department in the amount of \$299,716. These funds would be used to modify effective jail transition practices by delivering risk/needs assessments, case planning, post-release evidence based aftercare programs, and targeted interventions. The purpose of the grant is to reduce recidivism rates for short-term jail users. The grant will be for a period of three years and does not require a cash match.

**RESOLUTION NO. RS2011-1713** – (LANGSTER & BARRY) This resolution approves an application for a state grant in the amount of \$100,000 to provide funding for an after-care counselor to assist the counseling team at the drug court. There is a required cash match of \$33,334 which will come from the drug court's operating budget. The aftercare counselor will assist to enhance the transition process from the residential treatment program back into society.

**RESOLUTION NO. RS2011-1714** (LANGSTER & BARRY) – This resolution approves a grant in the amount of \$40,000 from the Tennessee administrative office of the courts to the state trial courts for interpreter services for indigent defendants with limited English proficiency. The interpreter services to be provided through this grant will only be available to those indigent defendants involved in a legal proceeding in which they have a constitutional or statutory right to appointed counsel. The term of the grant is from July 1, 2011 through June 30, 2012.

**RESOLUTION NO. RS2011-1715** (LANGSTER & BARRY) – This resolution approves a second amendment to a grant from the state board of probation and parole to the state trial courts to fund the Davidson County community corrections program. This program provides alternative punishments for non-violent offenders consisting of offender supervision, residential programs, and day reporting center programs. The goal of the grant is to divert felony offenders from the prison system by providing community supervision and treatment services. This amendment increases the amount of the grant by \$15,000 for a new grant total of \$4,260,336. The grant expires June 30, 2013.

**RESOLUTION NO. RS2011-1716** – (LANGSTER & BARRY) This resolution approves an application for the Paul Coverdell forensic science improvement grant in the amount of \$174,983 from the federal government to the Metro police department to improve the quality and timeliness of forensic science and medical examiner services. The funds will be used to obtain additional computer equipment, laboratory equipment, and supplies, as well as providing financing for training and certification of forensic staff. The project will start October 1, 2011, and last for one year.

**RESOLUTION NO. RS2011-1717** – (LANGSTER & BARRY) This resolution approves an application for the COPS hiring recovery grant from the federal government in the amount of \$10,246,315. This grant will be used to hire 50 additional police officers. The grant will fund the expenses for three years' salary. Once the funding expires, Metro will be required to retain the officers for one additional year. Metro presently has 1,365 full-time police officers.

**RESOLUTION NO. RS2011-1718** (FORKUM & BARRY) – This resolution approves an application for a grant in the amount of \$70,000 from the Greater Nashville Regional Council to the Metropolitan social services commission to provide transportation to eligible seniors and handicapped residents. These federal pass-through funds will be used to continue to provide transportation to appointments and congregate meal sites for approximately 625 persons. Metro will provide a local match in the amount of \$65,092. The term of the grant is from July 1, 2011, through June 30, 2012.

**RESOLUTION NO. RS2011-1719** (FORKUM & BARRY) – This resolution approves an amendment to a grant in the amount of \$250,000 from the state department of health to the Metro health department for the implementation of a diabetes project. The purpose of the grant is to reduce the risk of adolescent diabetes by focusing on obesity prevention through physical activity and exercise. The health department will coordinate the implementation of a “stepping” program at various community centers geared toward preventing Type 2 diabetes through physical activity and exercise for approximately 300 at-risk youth. The term of the grant is from October 1, 2010 through June 30, 2011. This amendment would add an addendum to the scope of service to include an end of program three-day camp at Vanderbilt University with no change in funding.

**RESOLUTION NO. RS2011-1720** (BARRY) – This resolution approves a grant in the amount of \$2,039,782 from the state department of labor and workforce development to the Nashville career advancement center (NCAC) to establish programs and deliver services to prepare youth workers for re-entry into the labor force. This federal pass-through grant award provides part of the operational funds for the NCAC. The term of the grant is from April 1, 2011, through June 30, 2013.

**RESOLUTION NO. RS2011-1721** (BARRY, HOLLEMAN & MAYNARD) – This resolution approves a second amendment to a grant from the Tennessee Stormwater Association to the Metropolitan parks department to assist with the cost of implementing green technology at the McCabe Park community center. This amendment extends the term of the grant through September 1, 2011.

**RESOLUTION NO. RS2011-1722** (PAGE, MAYNARD & BARRY) – This resolution authorizes the director of public property administration to exercise an option to purchase 4.09 acres of property, located on East Thompson Lane and Old Glenrose Avenue, to be used for the construction, operation, and maintenance of the Mill Creek greenway system. The option contract provides that Metro can purchase this property for \$105,000 on or before September 7, 2011. The current property owner will be responsible for paying the pro-rated amount of this year’s property taxes.

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. The owner of the property is Roberta Ann Harper. The park board has approved this acquisition.

**RESOLUTION NO. RS2011-1723** – (BARRY & HODGE) This resolution approves an intergovernmental agreement between the Metropolitan Government and the City of Belle Meade concerning street paving in connection with water line replacement along and near Belle Meade Boulevard. Metro has completed the replacement and Metro will pay Belle Meade \$508,234 for the repaving work, thereby relieving Metro of any further responsibility in the project.

**RESOLUTION NO. RS2011-1724** (CLAIBORNE, MCGUIRE & OTHERS) – This resolution approves a fifth application for a hazard mitigation grant from the Tennessee Emergency Management agency and authorizes the department of water and sewerage services (MWS) to acquire 22 homes and two vacant lots located within various floodways/floodplains in Davidson County. Ordinance No. BL2010-765 authorized such action to be taken upon approval of a resolution receiving 21 affirmative votes once the funding was made available. The Tennessee emergency management agency is accepting additional grant applications for the home buyout program in an amount not to exceed \$5,112,161.25, with a local match of \$730,308.75. The federal emergency management agency has already awarded Metro \$7,097,318 to acquire 81 homes in the Delay Drive and West Hamilton Avenue areas, which was the subject matter of Resolution No. RS2010-1466 approved in December 2010. The council approved three subsequent grant applications totaling \$31,153,872.50 to acquire 218 additional homes.

This new grant is to consist of \$5,112,161.25 in federal funds representing 75% of the costs to acquire the homes. The remaining 25% would be split equally by the state and Metro. Once the funds are guaranteed, MWS will take the action necessary to acquire and demolish these homes to be maintained as permanent green space. There is no obligation for the homeowners to participate in this home buyout program.

The Metro Code provides that the director of public property administration must first negotiate an option to purchase property at a fixed price subject to the approval of the council by resolution prior to the acquisition of real property for any purpose other than as Metro right-of-way. Ordinance No. BL2010-765 created an exception to the option requirement for this flood buyout since MWS had already determined the amount the government will pay for each property and this amount had been relayed to the property owners. A list of the properties to be acquired with the corresponding purchase amount is attached to this analysis.

**- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2010-822** (HOLLIN, CRAFTON & CRADDOCK) – This ordinance amends the Metropolitan Code to prohibit persons that serve on boards or commissions from engaging in any lobbying activity at the local level. The ethics code currently allows lobbyists and attorneys serving on boards and commissions to continue to represent clients before the council or other Metropolitan Government departments and boards/commissions, provided they do not represent clients before the specific board or commission they serve on. This ordinance would delete this lobbyist exception in the ethics code. The code defines a lobbyist as a person that communicates, directly or indirectly, with any official in the legislative branch or executive branch for pay or for any consideration for the purpose of influencing any legislative action or administrative action.

**ORDINANCE NO. BL2011-835** (CRAFTON & DOMINY) – This ordinance amends the Metropolitan Code to eliminate the minimum charge for livery services. Ordinance No. BL2010-685 (as amended), approved by the council on June 15, 2010, established a mechanism for the regulation of non-taxi vehicles for hire. One of the requirements of Ordinance No. BL2010-685 was that livery services (limo companies) charge a minimum of \$45 per trip, regardless of the duration or mileage of the trip. The transportation licensing commission recommended the inclusion of a minimum fee provision, but wanted the authority to set the amount themselves. The amount of the \$45 minimum charge added by amendment was recommended by the Tennessee Livery Association, which is an association representing limo companies. The purpose of this minimum charge is to distinguish livery services from taxicabs.

This ordinance would delete the minimum charge provision in its entirety.

**ORDINANCE NO. BL2011-916** (STEINE) – This ordinance amends the Metropolitan Code provisions regarding the regulation of valet parking services. In 1997, the Code was amended to require individuals engaged in valet parking on public streets to obtain a permit from the department of public works. Under the existing regulations, valet parkers are allowed to use two spaces in front of the establishment being serviced during specified hours upon obtaining permit from the traffic and parking commission.

This ordinance would require valet parking operators to obtain an annual license from the traffic and parking commission in addition to the parking permit. The license would only be required for those companies that provide valet services using the public right-of-way. The application for the license is to include references as to financial responsibility, the names and addresses of all employees, and proof of a valid business tax license. The fee for the annual license is \$100. The applicant must also maintain insurance of not less than \$1 million per occurrence naming the Metropolitan Government as an additional insured.

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**ORDINANCE NO. BL2011-916** (continued)

The valet parking operator, as well as all employees of the operator, must undergo a background check. No person will be eligible to serve as a valet operator or employee if he/she has been convicted of certain crimes within the past five years. Employees must have a valid Tennessee driver's license, and are not to be considered independent contractors of the operator. The ordinance also includes procedures pertaining to the suspension or revocation of a license.

The traffic and parking commission will have the authority to adopt the necessary rules and regulations to implement the ordinance.

**ORDINANCE NO. BL2011-938** (TYGARD) – This ordinance amends the Metro Code to add standards regarding the use of Metropolitan Government vehicles. This ordinance is modeled after the department of general services policy pertaining to the authorized use of Metro vehicles that is currently in place. However, since this policy is not codified, it is arguably unenforceable as it relates to certain Metro officials.

The ordinance expressly states that Metro vehicles may only be used for official government business. The ordinance also includes a list of prohibited uses, including the following:

- Travel outside the geographical jurisdiction of Metropolitan Government without the proper administrative approvals.
- Driving/operating a Metro vehicle while drinking alcohol or while under the influence of any drug (including alcohol) that impairs the employee's ability to safely operate the vehicle.
- Transporting alcoholic beverages or illegal drugs of any kind, except as required for law enforcement purposes.
- Any use for personal purposes, other than incidental.
- Transporting family members, friends, associates or other persons who are not employees of Metro or serving the interest of Metro.
- Attending sporting events that are not in the service of Metro.
- Transporting any political campaign literature or matter, or to engage in soliciting votes, or to transport any person or persons soliciting votes in any election or primary.

The ordinance authorizes the department of general services to adopt additional rules and regulations pertaining to the use and operation of Metro vehicles and equipment.

**ORDINANCE NO. BL2011-939** (GOTTO) – This ordinance amends the Metro Code to allow non-projectile canons and rifles used as part of an outdoor memorial service without obtaining a fireworks permit. The Metro code requires all persons shooting fireworks within the area of the Metropolitan Government to obtain a permit from the fire marshal. The definition of "fireworks" in the code includes anything capable of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, which would technically include ceremonial canons and rifles. This exempts canons and rifles used as part of an outdoor memorial service or commemoration as long no projectile is shot and the police department is notified 24 hours in advance.

**ORDINANCE NO. BL2011-941** (BAKER & BARRY) – This ordinance authorizes the industrial development board of the Metropolitan Government (IDB) to negotiate and accept payments in lieu of ad valorem taxes (PILOT) for the benefit of Carlex Glass America, LLC. Carlex is a subsidiary of a Japanese company that recently acquired all of the assets of Zeledyne, the former owner of the Nashville glass plant. The company is the exclusive distributor of aftermarket Carlite branded parts in the United States. Carlex intends to make a total capital investment of \$80 million in the glass plant over the next two years in two phases: \$42 million in 2011 and \$38 million in 2012.

As an incentive to Carlex for making this investment, and for retaining 400 jobs at the glass plant plus the anticipated creation of 50 new jobs, the mayor has proposed that the council authorize the IDB to enter into a PILOT agreement with the company that will essentially provide them with a partial property tax abatement for up to six years. State law permits local governments to delegate the authority to industrial development boards to enter such agreements provided that the payments are in furtherance of the public purpose of the board. PILOT programs have been used by the Metropolitan Government in the past to provide incentives to large employers to create more job opportunities, and are subject to approval by the council. Some of the more prominent PILOT agreements from previous years include agreements with Columbia/HCA Healthcare Corporation, Inc., and Dell Computer Corporation. Most recently, the council approved a PILOT for HealthSpring in December 2010.

Pursuant to this ordinance, the council would be delegating the authority to the IDB to negotiate and accept payments in lieu of both real and personal property taxes. The ordinance will effectively result in a 50% personal property tax abatement for the company for three years and a 60% real property tax abatement for five years. The current appraised value of the glass plant land and buildings is \$14,252,100, and the personal property consisting of machinery and equipment is valued at \$42 million, resulting in a combined tax bill of \$755,824.

Using these capital investment amounts as a basis for valuation of the property, the council would be approving a total tax abatement of approximately \$2,193,000 over the next five years. It is important to note that the cost of a project is only one factor the assessor of property considers in determining the appraised value of the property. Thus, the actual amount of tax revenue Metro will be foregoing could be higher or lower than the council office's projection.

State law allows the council to require the PILOT agreement to be submitted to the council for approval once it is negotiated. This ordinance does not provide for any subsequent council approval of the PILOT agreement. However, the ordinance does provide that the final version of the PILOT agreement must be approved as to legality by the Metro director of law.

**ORDINANCE NO. BL2011-942** (GILMORE, HODGE & OTHERS) – This ordinance approves an agreement between the Metropolitan government and AT&T Tennessee related to the construction of the Gateway Boulevard (Korean Veterans Boulevard) extension. The council approved a grant agreement with the state department of transportation in January 2010 to provide 80% of the funding for the extension of this roadway from 4<sup>th</sup> Avenue to 8<sup>th</sup> Avenue. In order for the project to be constructed, AT&T will be required to relocate some of its facilities and/or place a new conduit and manhole in the right-of-way, with an estimated cost of \$158,649.58.

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**ORDINANCE NO. BL2011-942** (continued)

Pursuant to this agreement, Metro will have its contractor perform the utility relocation work. AT&T agrees to pay the estimated cost of the utility relocation to Metro prior to the advertisement for bids. AT&T agrees to indemnify the Metropolitan Government for claims resulting from its negligence.

**ORDINANCE NO. BL2011-944** (BARRY) – This ordinance approves Amendment 2 to a contract between the Metropolitan Government, acting by and through the purchasing agent, and Ovations Food Services, LP. The contract was issued initially by the purchasing agent pursuant to the purchasing code for a term of five years. Ovations Food Services provides food and beverage services at various facilities, including Municipal Auditorium, the Convention Center, and the Fairgrounds. The original contract provided the contract could be extended for an additional five years under the same terms and conditions if approved by the council. The extension shall be renegotiated/reconsidered when the Music City Center begins operations.

**ORDINANCE NO. BL2011-946** (GILMORE & BARRY) – This ordinance authorizes the director of public property administration to execute the necessary quit claim deeds to achieve a property swap with Academy Square, Inc. This transaction includes the transfer of a 0.085-acre section of property to Academy Square and to accept a 0.003-acre area from Academy Square. This transaction is part of a settlement agreement between Metro and Academy Square to resolve a property line dispute. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2011-947** (STANLEY, HODGE & BARRY) – This ordinance authorizes the acquisition of a 100 square foot utility easement for an upgrade to the Munn Road pump station turnaround. The acquisition of additional easements for this same project may be approved by resolution.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2011-950** (CLAIBORNE & BARRY) – This ordinance authorizes the industrial development board (IDB) to negotiate and accept payments in lieu of ad valorem taxes (PILOT) for the benefit of Standard Candy Company (Standard Candy). Standard Candy, located at 715 Massman Drive, in 2009 expanded its operations and facilities by adding fifteen thousand (15,000) square feet to the existing location. The project resulted in an additional two hundred thirty seven (237) employees within the area of the Metropolitan Government, providing significant employment for area citizens. The IDB holds title to the project and thereby is exempt for taxation.

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**ORDINANCE NO. BL2011-950** (continued)

Under the agreement, Standard Candy will pay in lieu of real property taxes zero percent (0%) of the property tax during the first year, fifty percent (50%) of the tax during each of years two through five, and one hundred (100%) for the sixth year and thereafter. With respect to the capital investment of personal property, machinery, and equipment associated with the project, the payments in lieu of personal property taxes will be zero percent (0%) of the personal tax during the first year, fifty percent (50%) of the tax during each of years two through five, and one hundred (100%) for the sixth year and thereafter. With respect to the personal property located at and used in connection with Standard Candy prior to the commencement of the project, the payments in lieu of personal property taxes shall be one hundred percent (100%) during each year of the agreement.

State law allows the council to require PILOT agreement to be submitted to the council for approval once it is negotiated. This ordinance does not provide for any subsequent council approval of the PILOT agreement. However, the ordinance does provide that the final version of the PILOT agreement must be approved as to legality by the Metro director of law.

– **BILLS ON THIRD READING** –

**ORDINANCE NO. BL2011-901** (COLE & TOLER) – This ordinance, as amended, amends the zoning code to add single-family cottage developments as a use permitted with conditions in all two-family (R) zoning districts within the urban services district. Cottage developments are defined in the zoning code as single family residential developments of four to ten dwelling units arranged on small lots toward a common open space on at least two sides. These cottage developments are currently only permitted in multifamily districts, not the R and RS districts. This use was added as part of the multi-family districts in 2006, but developers have not taken advantage of it due to the density restrictions created by the bulk standards.

Under this ordinance, single-family cottage developments would be allowed in the R zoning districts if certain conditions are satisfied. Buildings must be 1 or 1 ½ stories with a maximum height of 25 feet. The maximum building footprint would be 1,000 square feet. All units must either face the street or common open space. A minimum of four and a maximum of twelve units would be allowed around a common open space. The development must designate at least 350 square feet of common open space per unit. Further, each unit must have at least 200 square feet of contiguous private open space next to the unit for use by the homeowner.

All parking must be screened from the common open space, from all public streets, and from the properties adjacent to the cottage development. A covered front porch at least 60 square feet in size is required for all units. The ordinance also modifies the required rear setbacks under the base zoning districts to accommodate cottage development units abutting an alley.

As an incentive to developers to utilize the cottage development approach, this ordinance provides a density bonus of up to 1 ½ times the units allowed under the base zoning district, with no minimum lot size. This would allow significantly greater density on infill lots in established neighborhoods. However, the density bonus would not be available if an historic structure has been demolished on the site within the two years prior to site plan approval.

Like the specific plan (SP) district, cottage developments would be required to have a final site plan approved by the planning commission.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2011-903** (COLEMAN & DOMINY) – This ordinance amends the Metropolitan Code to require the planning department to provide written notice to every property owner whose property is being included in the floodway or floodplain for the first time. The planning department would be required to provide this written notice within 30 days of the publication of new flood maps. The planning department has advised the sponsor that this ordinance will have a negligible financial impact.

**ORDINANCE NO. BL2011-912** (TYGARD, WILHOITE & OTHERS) – This ordinance, as amended, amends the Metropolitan Code to create an office of administrative hearing officer. In 2010, the Tennessee General Assembly enacted legislation authorizing municipalities to create, by ordinance, the “office of administrative hearing officer” to hear building and property maintenance code violations. The purpose of this enabling legislation is to provide an alternate enforcement mechanism for certain codes violations. Today, all citations for violations of the property standards code are processed through the environmental court, which is a division of the general sessions court. Judgments entered by the environmental court referee may be appealed *de novo* to the environmental court judge, whose judgments are then appealable *de novo* to the circuit or chancery court. The Tennessee constitution limits the assessment of fines without a jury trial to fifty dollars per violation, which has limited the ability of local governments to adequately address serious codes violations.

This ordinance creates the office of administrative hearing officer in accordance with state law. The administrative hearing officer process would be in lieu of the standard environmental court process, but would not take the place of environmental court. It is envisioned that the administrative hearing officer would hear codes violations that are considered the “worst of the worst”, as well as repeat offenders that continue to commit new codes violations even after going through the environmental court process a number of times.

When this enforcement method is chosen by the codes department for a particular defendant, the codes department is to issue a citation to the alleged violator. Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property. Notice of the citation must also be provided to the administrative hearing officer within two days of issuance. Upon receipt of a citation, an administrative hearing officer will review the alleged violation and can levy a fine upon the alleged violator in an amount not to exceed \$500 per violation for violations occurring upon residential properties, and \$500 per violation *per day* for commercial properties.

Upon the levy of a fine, the hearing officer must, within seven business days, provide notice via certified mail to the alleged violator regarding the amount of the fine and the time and place of the hearing. The hearing must be held no less than 30 calendar days following the issuance of the citation. If an alleged violator remedies the violation prior to the hearing, the fine will be canceled. A person who is aggrieved by a final decision in a contested case is entitled to file a petition for review in the chancery court. Such petition must be filed within 60 days after the entry of the final order.

Each administrative hearing officer must be appointed by the council and will serve at the pleasure of the council. This ordinance creates two administrative hearing officer positions to be appointed by the council whose compensation is to be established by a resolution receiving twenty-one affirmative votes. Pursuant to the state enabling legislation, an administrative hearing officer must be a licensed building inspector, plumbing inspector, electrical inspector, attorney, architect, or engineer. The ordinance provides for the creation of an advisory committee to recommend qualified persons to the council to serve in this capacity. The state law also allows municipalities to contract with the secretary of state for the employment of an administrative law judge on a temporary basis to serve as an administrative hearing officer. State law requires administrative hearing officers, within six months of being appointed, to  
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**ORDINANCE NO. BL2011-912** (continued)

participate in a training program conducted by the municipal technical advisory service (MTAS). Administrative hearing officers would also be required to complete six hours of continuing education every calendar year.

The clerical and administrative support for the officer of administrative hearing officer is to be provided by the department of codes administration. The director of finance was unable to certify that funds are available for the implementation of this ordinance due to a lack of information regarding the costs associated with the position. Any cost incurred by the codes department should be offset by the increased amount of the fines that may be levied by the administrative hearing officer.

**ORDINANCE NO. BL2011-913** (BARRY) – This ordinance is the operating budget of the Metropolitan Government for the fiscal year 2011-2012. The budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 696,532,900
• Schools Fund of the General Services District	638,145,600
• Schools Debt Service Fund	38,036,500
• Debt Service – General Services District	<u>86,092,900</u>
<b>TOTAL GENERAL SERVICES DISTRICT BUDGET</b>	<b>\$1,458,807,900</b>
• General Fund of the Urban Services District	\$ 108,561,400
• Debt Service – Urban Services District	<u>14,879,000</u>
<b>TOTAL URBAN SERVICES DISTRICT BUDGET</b>	<b>\$ 123,440,400</b>
<b>TOTAL OPERATING BUDGET</b>	<b>\$1,582,248,300</b>

The substitute budget adopted by the council for the current fiscal year is \$1,524,062,500. The mayor's proposed budget is an overall increase of \$58,185,800 (3.8%) compared to the fiscal year 2011 budget.

The budget appropriates \$9,661,900 from the schools debt service fund balance and \$13,435,500 from the general fund of the urban services district. These fund balance appropriations make it possible to transfer \$5,000,000 from the schools debt service fund to the schools operating fund, and \$3,930,300 from the general fund of the urban services district to the general fund of the general services district in lieu of modifying the tax rate distributions to achieve this funding. The use of the debt service fund balance is the result of the debt restructuring approved by the council in May 2010.

No increase in the GSD general fund or the USD general fund property tax rate is being proposed. The companion ordinance setting the tax levy for fiscal year 2011-2012 (Ordinance No. BL2011-914) specifies the same tax rates for each fund that are in effect this fiscal year.

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**ORDINANCE NO. BL2011-913** (continued)

Resolution No. R89-959 established a policy of maintaining a fund balance equal to or greater than 5% of the budget for the GSD General Fund, the USD General Fund, and the General Purpose School Fund. This requirement was expanded in 2006 by an office of management and budget (OMB) policy 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, 2012:

- General Fund of the General Services District 5.1%
- Debt Service – General Services District 8.8%
- Schools Fund of the General Services District 4.2%
- Schools Debt Service Fund 15.7%
- General Fund of the Urban Services District 9.9%
- Debt Service – Urban Services District 20.2%

The proposed budget includes \$4,979,800 in the GSD General Fund and \$813,400 in the USD General Fund for payments to Metro employees over and above their base salaries. This includes a one-time salary adjustment of 1.5% for all Metro employees working a minimum of 32 hours per week, and longevity payments for those Metro employees who qualify. However, a continuation of the increment pay suspension is proposed for fiscal year 2012. Amendments to the three pay plans to provide for the 1.5% bonus and the increment freeze are the subject matter of Resolution Nos. RS2011-1673 through RS2011-1675.

The proposed fiscal year 2012 budget includes the same mechanism for appropriating grants to non-profit organizations as the previous three budgets. In addition to a small number of direct contributions to non-profit agencies, the proposed budget for fiscal year 2012 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 in the general fund departments ranging from 0% to 3%. The overall reduction to the operating budgets of the general fund departments is approximately \$5,000,000 (1%). These reductions are projected to result in few, if any, employee layoffs. The final number of layoffs is still to be determined. Although all departments received some level of "cuts", a few departments will receive a net budgetary increase, excluding internal service fee reductions. Specifically, the budget provides operating increases for Metro schools, the police department, general services, public works, parks, and the public libraries.

The elimination of all travel, tuition, and registration expenses from departmental budgets are proposed to be continued for fiscal year 2012. An appropriation of \$164,500 is included to pay for essential travel that may occur during the year, compared to \$225,000 for fiscal year 2011. All travel would be required to be approved by the finance director's office to access these funds.

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**ORDINANCE NO. BL2011-913** (continued)

New stormwater fees went into effect on July 1, 2009. This made it possible for the budget to provide for dedicated stormwater funding of \$13,680,000 in fiscal year 2011. This has been reduced to \$13,285,500 for stormwater operations in fiscal year 2012, although \$14,366,000 is budgeted for stormwater revenues. The difference of \$1,080,500 will be added to the stormwater fund balance.

This budget includes a subsidy of \$43,190,700 for the hospital authority, which is the same as the subsidy for fiscal year 2011. From this subsidy, \$30,690,700 is being provided for the operating budget and \$5,000,000 for repayment of outstanding debt for capital projects due to Metro. In addition, \$7,500,000 of this subsidy is to provide Nashville General Hospital the opportunity to utilize these funds through an intergovernmental transfer to the state of Tennessee as a match to access federal funds for use by the Hospital Authority.

Other significant increases in the proposed budget include the following:

- General Services Fuel, Facility, and Utility Costs \$3,900,000
- MTA Supplement \$3,300,000
- DNA Crime Lab and New Police Precincts \$3,000,000
- Pensioner Injury-On-Duty Medical Expenses \$2,400,000
- Public Works Contractual Services \$950,000
- McCabe Community Center and Riverfront Park \$850,000
- Goodlettsville Library and Limitless Library Program \$788,600

The proposed budget for the Schools General Purpose Fund is \$670,534,800, which is the full amount requested by the school board. This is an increase of \$37,182,200 over the fiscal year 2011 budget. However, this appropriation does not specifically include the additional \$4.5 million in state-mandated teacher pay increases for which the school board will be responsible. There is also a separate line item in the ordinance appropriating \$404,300 for administrative support for Metro schools, down from \$606,700 in the current budget. \$5,000,000 of the proposed Schools General Purpose Fund budget would come from a transfer from the undesignated fund balance of the Schools Debt Fund.

The undesignated fund balance of the schools fund is projected to be \$28,100,000 at the end of fiscal year 2012, or 4.2% of the operational budget. The budget does not appropriate any funds from the schools general fund balance, only the debt service fund balance. According to state law, funds cannot be appropriated from the schools fund balance if such appropriation would cause the balance to drop below 3%.

The budget ordinance is amendable on third reading.

**ORDINANCE NO. BL2011-914** (BARRY) – This ordinance adopts the property tax levy for fiscal year 2011-2012. 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 breakdown of the tax levy is identical to the fiscal year 2011 tax levy, although the operating budget ordinance would transfer funds from the schools debt service fund to the schools operating fund as a result of the debt restructuring approved by the council last May.

**ORDINANCE NO. BL2011-917** (BARRY & FORKUM) – This ordinance amends Ordinance No. BL2007-1460 to transfer the homelessness commission in Nashville from the Metropolitan housing and development agency (MDHA) to the department of social services effective July 1, 2011. The homelessness commission was created by the Council in May 2005 based upon the recommendations of the homelessness task force’s “Strategic Plan to End Chronic Homelessness in Nashville 2005-2015”. The commission is charged with overseeing the implementation of the strategic plan.

The homelessness commission employees were originally a part of the department of social services, but were transferred to MDHA in 2007. This ordinance simply transfers the employees back to social services, which will have no impact on the operation of the commission. The employees will continue to serve in a non-civil service capacity.

The proposed fiscal year 2012 operating budget recognizes this transfer.

**SUBSTITUTE ORDINANCE NO. BL2011-940** (JERNIGAN, EVANS & FORKUM) – This ordinance amends the stormwater provisions in the Metro Code pertaining to the construction of structures within the floodway. In December 2010, the council enacted Substitute Ordinance No. BL2010-794 to prohibit development from having an adverse impact as it relates to flooding, which included a prohibition on the construction of any new structure within the floodway. A structure that is already located in the floodway may be repaired in the event of a casualty loss up to fifty percent of the appraised value of the property.

This blanket prohibition on the construction of structures within the floodway has resulted in several unintended consequences. For example, the code as written would prohibit the construction of a parking lot, bridge, or stormwater infrastructure in the floodway. This ordinance is an attempt to provide some flexibility without compromising the intent and effectiveness of the 2010 ordinance.

This ordinance would give the stormwater management committee the authority to grant a variance to allow the construction of certain types of structures within the floodway as long as the structure is designed and constructed so as to have no adverse impact on other properties along the same waterway and will not result in a rise in flood elevation. The structures for which a variance may be granted include surface parking lots, temporary structures less than 100 square feet in size that are not used as a dwelling unit, water-related features (such as bridges, wharfs, docks, and boat ramps), and water/sewer infrastructure. This ordinance would also allow a variance for the rebuilding of an existing home in the floodway that was damaged in the May 2010 floods, provided the structure is rebuilt within the same building footprint and is elevated in accordance with the Metro stormwater regulations.

**ORDINANCE NO. BL2011-943** (JAMESON & HODGE) – This ordinance authorizes Omni Nashville, LLC to install and maintain an underground encroachment in the 4<sup>th</sup> Avenue South and 5<sup>th</sup> Avenue South rights-of-way between Franklin Street and Demonbreun Street to allow for the construction of the Omni Hotel parking garage. The encroachment will include the installation of foundation walls, as well as miscellaneous landscaping and irrigation lines. The foundation wall is to be approximately 433-feet long by two-feet wide. Omni has agreed to indemnify the Metropolitan Government from all claims in connection with the installation and (continued on next page)

**ORDINANCE NO. BL2011-943** (continued)

maintenance of the encroachments, and is required to provide a certificate of public liability insurance of \$1 million per occurrence and \$2 million in the aggregate naming the Metropolitan Government as an insured party. This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2011-945** (JAMESON & HODGE) – This ordinance abandons seven water/sewer easements necessary for construction of the Omni convention center hotel. These easements are no longer being used by the department of water and sewerage services. The specific easements to be abandoned are as follows:

**Easement #1** - a 40' public drainage easement as recorded in plat book 9700. Page 382-R.O.D.C., TN (centered on 66" drain, now abandoned); to be abandoned from the eastern right-of-way of 5th Ave South to the western right-of-way of 4th Avenue South;

**Easement #2** - a 20' sewer easement as recorded in plat book 9700, Page 382, R.O.D.C. TN (centered on a 66" RCP); to be abandoned from the southern edge of the easement north 62 feet to the relocated storm connection;

**Easement #3** - a 20' public utility and drainage easement as recorded in plat book 9700, page 382, R.O.D.C. TN (centered on 36" storm sewer, to be removed); to be abandoned in its entirety, to include an implied easement located over the connection to the north to the Wilson Springs sewer shown in Easement No. 1;

**Easement #4** - a stormwater quality easement as recorded in instrument No. 200703120030220, R.O.D.C. TN; and stormwater detention agreement in instrument No. 200703120030182, R.O.D.C. TN; both to be abandoned in their entirety;

**Easement #5** - easements retained in the closing of 20' Alleyway #132 "Hog Alley" (closed by Council Bill #098-1197) to be abandoned in their entirety;

**Easement #6** - easements retained in the closing of 12' Alleyway #68 "& unnumbered Alleyway (closed by Council Bill #098-1145) to be abandoned in their entirety;

**Easement #7** - a 20' N.E.S. easement as recorded in instrument 200606270076558, R.O.D.C. TN; to be abandoned from the northern edge of the easement south 61 feet to the northerly right-of-way of future Korean Veterans Boulevard.

This ordinance has been approved by the planning commission.