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February 8, 2010

159
CF09-0600-S169

ITEM 11 COUNCIL 2/9/10

M. Kostrencich

STATEMENT of J.H. McQUISTON on
THREE YEAR PLAN

Honorable President and Members of the Council:

I wish the City were able to establish a realistic plan for fiscal-sustainability which could be followed for three years. **But the reality is that even the good people in the CAO recently admitted that its "plan" for FY09-10 became useless quickly. It went awry just 2 months after the CAO said it would hold for just the 7 months remaining in the FY.** I believe the CAO failed the City, substantially, just as I believe the CAO's projections in its Three Year Plan continue to be **excessively optimistic.**

Nonetheless, the City Charter permits only the Mayor to propose the City's budget, and the Mayor proposes using the CAO and the Mayor's budget deputy.

But the City will be severely-affected by two Articles of the California Constitution if the Mayor's budgetary changes occur:

Article 13D, mandates rebates if budgets are reduced.

Article 13D prohibits using income from one payer to benefit another payer, and

Article 13B, mandates permanent (except for COLA) caps on reduced appropriations.

Article 13B forbids increases in appropriations (except for COLA), even in emergencies, without prescribed cutbacks in following years.

I believe the Mayor has overlooked these dire mandates. **The apparently-sole cure for the City's budgetary deficiency is to increase drastically the City's income** (which, however, is substantially-possible).

The CAO erred when it did not tell the Council that substantial income can be recovered, enough to eliminate any reduction in force.

Consonant with the allegations above, I submit the comments below, numbered per the Agenda Item:

1. The CAO recommendation removes the restriction already in place, because one-time revenues presently are not to exceed one-time expenditures. What CAO proposes *removes* the restriction until some later date, maybe 2011-12, but *this Council cannot restrict future Councils this way.*

Mayoral action, instead, should abide the present restriction, by employing alternative proposals.

2. Prior CAO projections into the future were always "rosier" than, for example, the Controller's, and they always used the City's "bank account" as "income", because otherwise there was a substantial deficit. Whereupon, prohibiting full- spending the residue carried-over, to become "income" for the next FY.

But each year a "boom" economy was required for the CAO's plan to be successful. **There is no evidence now that the CAO (or anyone else) can count on a resumption of the unstable boom- economy, so there may be little value in the CAO's recommendations and policies.**

This does not mean that the Council should not get valuable information for fiscal sustainability.

09-0600-S159

From: Shellie Collier <homagedesign@mac.com>
To: <Maria.Kostrencich@lacity.org>
Date: 2/9/2010 8:19 AM
Subject: Park Budget Cuts

Dear Maria,

I must express deep concern over a several items in the 3 year Sustainability Plan. Items 11, 16, and 17 could result in the complete removal of Recreation from the Dept. of Recreation and Parks. Could any one in this city imagine the impact this would create. As a child and now an adult i have found the better part of my character through the Parks and Recreation Dept. I realize the City is in financial crisis but this is simple an area that would wound the heart of the City. I also have concern over item 11 parts 27, 28 and 33c. I know this is a time for tough decision but the City must leave an outlet where character and joy is expressed and built.

thanks for your time,

Shellie Collier
LEED AP Project Manager
www.homagedesign.com

3. I believe the CAO, per Charter, must continuously monitor and opine regarding multi-year trends, particularly because acts in a current year could hamstring the City in future years. But this Council is well-advised to *conduct an independent analysis also*, and the CLA *must be expert in such analysis independently of the CAO's work*.

Otherwise the Council would have to act blindly, on CAO reports which may be critically-erroneous.

4. The City's Financial Policies have been in-place for years and must be disseminated sooner than the requested 60-day delay.

Dissemination, and penalty for disrespect, should occur forthwith.

5. There is now a Risk-management group, which I have contacted from time to time.

The Council must enact a penalty for dereliction in risk management, imposed on all Department heads if it occurs in their Departments. I believe penalty is missing; its absence causes unnecessary City liability.

6. The "previously-requested financial policies" date from long ago. I believe the Council should direct the CLA instead to prepare what the Council wants with regard to such policies. The CLA must report on those **forthwith**. The CLA listened and knows what the Council wants, and should need no delay whatsoever.

7. If the Council wishes to put its policies into an Ordinance, by Council Motion, it should employ the CLA not the CAO. Such employment is the *raison d'etre* for the Charter's including a CLA.

8. Budgets are proposals which may be modified. I detest calling the CAO Reports "Financial Status" when in reality they are just "guesstimates" (even if accurate guesses). Not calling them "Financial Estimates" confuses many people unnecessarily.

But chief among requirements for accuracy is a fully-functioning computer. Lack in the past of accurate and detailed computer data made reporting difficult and labor-intensive.

Council must require detailed, contemporaneous data from the updated computer.

The Council must instead direct the Controller (not CAO) to report specific, immediate status of budget compliance to the Council, including budget trend by budget category, at short intervals.

The Council must enact a penalty for Department's trending over-budget before Council's approval.

9. The CAO's suggestion would permit such Departments to amend their financial policies without specific Council approval. The Departments could thus violate Council policy.

I believe the Council wants otherwise.

10. I believe there could be more consolidation and modification of purposes than those listed in "a-e". However, "e" is also unclear regarding its intent.

The Department is specifically-authorized and restricted by Charter Article IX. The Council may not "transfer" it, even if its duties are partly-transferred.

The Charter does not specifically protect the funding of Neighborhood Councils. *See Comments #18-21.*

11-13. No comment.

14-15. Instead, I suggest empowering the Library Dept with ability to budget itself, including cap rate, within a target established by the CLA's forecast of the amount set forth in accordance with Charter Section 531. I see no reason for gradual amendment of process.

Such a tactic is more-amenable to the Charter's intent and puts the onus of feasibility where it belongs. Setting the amount this way permits both Department and Council to budget with something tangible.

16-17. My suggestion for R&P echoes my Library suggestion, in accordance with Charter Section 593.

18-20. I believe for the present Charter to work properly there must be Neighborhood Councils per Article IX, and they must be empowered in accordance with that Article.

Neighborhood Councils are mis-named. They are the necessary "private attorneys general" which insure for the City Council that the Mayor does what is required.

To that end, they are *mandated solely to:*

"monitor the delivery of City services in their *respective areas* and have periodic meetings with responsible officials of City departments * * *." Section 910, Charter (emphasis added)

They need not meet in any place to deliberate as a body. They must walk their areas and report issues on City 3-1-1. Each NC person is entitled to do so, and also to gain access to officials.

Nothing Charter-mandated costs a NC person more than the person's "volunteer-time".

If the official does not respond properly, then the NC or the person may ask a Court of Law for enforcement. That step is what Section 911 contemplates: funding for attorney fees for enforcement.

That step may call for concerted action of the stakeholders, or it may not, and Article IX provides for both.

Two-year funding for Court action prevents the Department from mooted legal action by cutting funding if as contemplated the Court action lasts more than in the FY in which it was brought and costs escalate.

Article IX was also carefully-structured so that funding for suit did not prevent such suits, any more than funding for the Legal Services Corp prevents suits by it against its funder.

But other groups have served as private attorneys general without receiving financial assistance from the City.

Presently, Neighborhood Councils are not performing in accordance with the Article.

Understanding the above, there is no basis for the City to dedicate arbitrary amounts to fund N.C.s. They may apply for *specific* City grants for whatever purpose they propose. Such grants are offered by such as Public Works and Cultural Affairs and other Departments.

Inasmuch as independent Neighborhood Councils are supposed to perform services which enable the City Council to achieve its objectives while safeguarding against corruption, the City Council *upon specific petition from a N.C.* could also award minimal financial assistance.

In time of necessity, if 3-1-1 remains active and Neighborhood Councils remain unfairly-tied to the City, reducing or eliminating City funding may actually produce closer-obedience to the Section 910 mandate.

In any event, as long as Neighborhood Councils are not engaging in Court actions there is no basis for awarding multi-year funds.

I believe "rollover" funds do not comply with the Charter and must be swept. I believe also that funding should now be based on compliance with Section 910, evidenced by facts showing actual monitoring of the *delivery* of statutory City services in the subject area.

I believe audit of grants should be undertaken by the auditor of other City grants.

I say the above as a fervent supporter of the Charter's Neighborhood Council Article, and as a person who *abhors* what a cabal of Mayor and City Attorney unlawfully foisted upon us instead.

22-25. No comment.

26-31. The County has had success by turning over management of some assets to non-profit, motivated volunteer groups. There is no reason why the City will not be successful also. However, there can be no

savings realized thereupon, on account of the aforementioned Constitutional Articles.

Appropriation limit would be reduced permanently. Income would be reduced also.

32. No comment.

33. **Merely consolidating Departments will not by itself produce substantial savings and efficiency.**

What is necessary is to examine the function in a Department and see if the function is a necessity. Then the issue will be if amendment will be substantially-economic and efficient, and *invite more business.*

It will be wasteful to "re-evaluate" the subjects in #33d.

34. **Include also "adherence to California Streets & Highways Code".**

State law *requires* all work on streets, alleys, curbs, gutters, parkways, sidewalks, poles, hydrants, sewers, drains, to be paid-for by the *underlying* property owner. *That in almost all cases is not the City.*

The State defined "work" and "construction" to include "construction, reconstruction, or repair". *See Code.*

Code prohibits all except the City from paving "streets", but requires the property owner to reimburse the City for its "actual costs", and allows the City to charge in excess of all "costs" (which includes overhead charges) a sum of up to 40 percent (which is profit).

The Council should set the percentage profit it will bill to underlying property owners. Such owners are permitted by State law to hire others to do any work except street paving.

35-41. No comment.

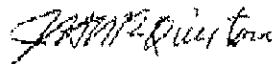
I repeat: Increasing income is the salvation of the City. COLA will worsen finances every future year, until there will be no way the City can operate.

Cutting employment will not support future well-being.

If the Mayor continues instead on the path he has chosen, the Constitution will mandate withholding services including public safety from large areas of the City.

I believe the City does not want that.

Respectfully submitted,



J. H. McQuiston

c: Interested parties