

● **McQUISTON ASSOCIATES**

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

February 1, 2010

CF09-0600 S159

ITEM \_\_ B & F Cmte 2/1/10

L. Braithwaite

**STATEMENT of J.H. McQUISTON on  
MID-YEAR FINANCIAL ESTIMATE REPORT & PROPOSED MEASURES**

Honorable Chairman and Members of the Committee:

I object to the Title of the Report. **It is an *estimate***, and for clarity to readers **it should be retitled "FER"**. Subsequent Reports should be called "Financial Estimate Report".

**The proposed Budget Balancing Measures do not comply with State Law and Council Budget Policies.** Mr Fujioka as CAO had policies approved by this Committee and Council-enacted only recently. They should still be obeyed by the CAO and Mayor; accordingly, **this FER must be amended because substantial proposals therein violate them.**

**The violations worsen future budgets irreparably.**

**Each CAO estimate of income for FY 2009-10, including the Report's, was grossly high. There is no confidence that the estimate in this FER is reasonably-accurate. And a better estimate would be to reduce the amount by at least \$100 million from the FER value, if the Mayor dallies longer in exercising the City's right to recapture income unconstitutionally-withheld from the City.**

**But the FER's proposed estimates and reserve-fund transactions will reduce the reserve fund below the minimum of \$88.9 million mandated by State Law and cannot be allowed.** Note also that the "contingent" \$200 million withdrawal-proposal in the Report will make the Fund's unlawful deficit even worse.

**The FER also inherently indicates that many Departmental salary accounts are now substantially over-budget.** This Committee should insist upon detailed explanations in writing regarding why the salary accounts which are over-budget were allowed to exceed the imposed limits. **The report lists about \$16,152,227 over.**

**And, the CAO promised earlier that Reports would occur monthly. The Reports were not as promised.**

The Report does take notice of the mandatory Charter minimum for Library support, but fails to apply the mandatory Charter support for Parks & Recreation. Because both Department's budgets were set at the Charter minimums, they **cannot have their budgeted funds reduced.**

The Report does take some notice that some funds by law cannot be transferred from the Departments to which they were granted. **However, the Report fails to take notice of Article 13D regarding a Department surplus generated by fees-for-service. Such fees also may not be transferred, except as rebates.**

Many transfers are not prohibited, but some "cap fees" seem excessive and do not invite additional participation. **Examine Planning's repeated "related costs" in Attachment 8, for example.**

**Delaying purchases to another year violates the City policy not to rely on events which are not long-term funded. A purchase-delay is "income"; it is negative income and is a one-time item.** The City still must replace the item for the long term. **Thus Fire, Police, General Services, and other Depts for which the FER proposes delays as balancing-tools are not in compliance with the Council's enacted Budget Policy.**

I believe the **out-of-policy** amount of one-time items is at least **\$60 million in the Report.**

Thus the FER is defective by at least \$176 million. This amount is too large to ignore. And, the reserve fund will not be available *lawfully* to compensate for the amount of the deficit.

*Revenue must be increased.*

However, the City may be "over the Laffer curve" with respect to petty fee increases. Such fee increases may be impacting such as the Sales Tax and may be driving purchasers to the Internet instead of to the City's entrepreneurs.

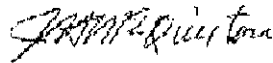
That loss of local business may create severe damage to the City's safety and environment, and could reduce tourism income.

The Mayor was put on notice over a year ago regarding the estimated-massive revenue withheld from the City unconstitutionally. If that revenue were recaptured, *no reduction in force due to shortage would have been necessary.*

It should not have taken so long for the revenue-recapture.

If the Mayor does not act *now* to recapture that revenue, which recapture will not affect the well-being of the withholder, then the Mayor will be forever personally-stained.

Respectfully submitted,



J. H. McQuiston

c: Interested parties

**Greg Nelson**  
**gregn213@cox.net**

Date: February 1, 2010  
To: Members of Budget and Finance Committee  
Via E-mail c/o Lauraine Braithwaite  
Re: C.F. #09-0600, S159

Dear Members:

As you search for solutions to the current budget crisis, I urge you to ask the following questions:

**TO THE MAYOR, CAO, AND PERSONNEL DEPARTMENT:**

1. There are 125 positions in the Personnel Department at an annual cost of over \$29 million who run the workers' compensation program for civilian employees. A Third Party Administrator runs the program for the sworn personnel at an annual cost of \$11 million. Payouts for claims are over \$100 million. Would there be significant savings if the entire program were run one way or the other?

**TO THE MAYOR, CAO, AND CITY ATTORNEY:**

1. What are the pros and cons of resuming consideration of a past CAO risk manager's suggestion that the city consider a "portfolio transfer" through which the city would sell all of its outstanding and future workers' compensation claims to a private insurance company (or companies) that would run the program? Workers would be ensured of a high quality of service because of the standards set by the state. The city's costs would be fixed and known. Future liability costs would be paid by the insurer.

**TO THE CITY CONTROLLER AND CITY COUNCIL:**

1. Of the recommendations made in past audits that would impact the city's budget by \$5,000,000 or more, which ones remain unacted upon?

**TO THE MAYOR AND CAO:**

1. If it's possibly a good idea to seek private operators for the Van Nuys and Ontario Airports, why isn't it a good idea to do the same for LAX? Legally, what is needed to sell or lease the operations of any of our airports?

2. How carefully does City Hall scrutinize and review contracts entered into by city agencies?

3. In order to help eliminate the "spend it or lose it" mentality that drives many city agencies, what are the pros and cons of adopting a policy through which a city agency that finds ways to save money on a one-time basis, the agencies should be able to "rollover" a portion of unexpected savings they generate, with the rest going to the

General Fund.

4. What are the pros and cons of outsourcing trash collection?
5. What are the pros and cons of switching from a fiscal year to a calendar year?

TO THE CAO AND GENERAL SERVICES DEPARTMENT:

1. The City Charter now allows the city to give bid preference to local firms. To what extent has this been done since 2000? What are the pros and cons of encouraging its greater use?
2. As we learned during the PRIMA 2000 (reform of the city's purchasing system) the cost for vendors to do business with the city is so high that many, as a matter of practice, add an "aggravation surcharge" to their bids, and others don't bother to bid at all. What are the requirements that must be met to do business with the city that are not common practice among all other municipalities? What are the pros and cons of amending or eliminating some of those requirements?

TO COUNCILMEMBERS AND THE MAYOR:

1. Can the city renew the research that was done for Councilman Garcetti analyzing the possibility of selling selected sponsorship rights to the private sector, and include neighborhood council members this time?
2. The Administrative Code requires city employees (excluding elected officials) who travel using city money to file a report on what they did AND what they learned. Have you been reviewing those reports to help determine which trips are defensible.

TO COUNCILMEMBERS:

1. The City Council members agreed to take a 10% cut in the current budget, but are members still allowed to transfer unused funds from their General City Purposes accounts to their salaries account at the end of the fiscal year? If yes, will they still be allowed to do so at the end of this fiscal year?

TO THE MAYOR, CAO, AND DEPARTMENT OF BUILDING AND SAFETY, AND PLANNING DEPARTMENT:

1. In order to provide an incentive for people to come to City Hall with their requests for permits in order, what are the pros and cons of charging permit fees by the hour.

TO THE MAYOR AND PLANNING DEPARTMENT:

1. How many more people should Los Angeles hold?
2. What are the arguments for continuing to promote the creation of more housing without also providing for more sewers, more parking, more transit, more teachers, and the other infrastructure that is needed to support the new residents?

3. Do we have an infrastructure plan?

Best,

Greg Nelson  
Retired City Employee

**From:** Stephen Box <stephen@thirdeycreative.net>  
**To:** <Lauraine.braithwaite@lacity.org>, Stephen Box <stephen@thirdeycreative...>  
**Date:** 02/01/2010 11:26 AM  
**Subject:** BudgetLA - letter to Mayor and City Council

BudgetLA Letter to Mayor Villaraigosa and the City Council, approved on Saturday, January 30, 2010.

February 1, 2010

Mayor Antonio Villaraigosa  
Members, Los Angeles City Council  
Los Angeles City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

Re: City of Los Angeles "City Restructuring Proposals"

Dear Mayor and Honorable City Councilmembers:

Neighborhood Councils are a vital link between City Hall and all of the residents and businesses of the City of Los Angeles. At this time of financial crisis for the City, the solutions require a partnership between the elected officials at City Hall and the elected representatives of our 90 neighborhood councils.

We are deeply concerned about an impending "gutting" of the neighborhood councils and of DONE.

The City Charter mandates preserving core funding both of DONE and the neighborhood councils. We support and demand budget, collections, and NC elections reform, -- and to finding the appropriate funding for NCs required by the Charter. We recognize the need for reductions in many city departments and services, including some cuts in DONE's budget and staffing. However, we believe that maintenance of funding for NCs is both reasonable and necessary to fulfill the charter-mandated requirements of the City and of neighborhood councils. We support reform of the Neighborhood Council funding system, but proposals to slash funding are not the solutions to problems outlined in the audit of DONE recently completed by the City Controller.

In brief, the city cannot and must not violate its own charter by denying the appropriate funding specifically required by the charter. We look forward to the support of all our elected officials in doing what's right and in moving forward together through these challenging times.

Sincerely,

The BudgetLA community

BudgetLA supports the activities of several neighborhood council groups, all working together to pursue solutions to LA's Budget Crisis. Participants include the Los Angeles Neighborhood Council Coalition, the Saving Los Angeles project, the Valley Alliance of Neighborhood Councils, the Mayor's

Budget Advisory Committee and representatives from neighborhood councils throughout the city. For more information visit <http://BudgetLA.org> where you will find a Calendar of upcoming events, the Speakers Bureau, an archive of BudgetLA videos and links to individual neighborhood councils. Join BudgetLA on Facebook <<http://facebook.com/BudgetLA>> and follow BudgetLA on Twitter <<http://twitter.com/BudgetLA>> (@BudgetLA) To get involved, join BudgetLA on Saturday, February 13 at 10:00 am for "Look for the Union Label" at Hollywood City Hall, 6501 Fountain Ave., Hollywood 90028.

**From:** Joyce Dillard <dillardjoyce@yahoo.com>  
**To:** Lauraine Braithwaite <lauraine.braithwaite@lacity.org>, The Honorable Ca...  
**Date:** 02/01/2010 11:49 AM  
**Subject:** Comments to Budget and Finance Committee Special Meeting Agenda No. 1 CF 09-0600-S159  
**Attachments:** 01 Joint\_Brief\_of\_Respondent\_A\_villaraigos\_and\_Intervenors\_in\_Opposition\_to\_Petition061205.pdf; 02 1381\_Challenge\_-\_Ruling\_12.21.06.pdf; 03 Daily\_Journal\_Opinion\_-\_Appeal\_based\_on\_the\_constitutionality\_of\_the\_Romero\_Act070418.PDF

Comments to Budget and Finance Committee Special Meeting Agenda No. 1 CF 09-0600-S159

Transparency is non-existent in the financial accounting of the Assets and Liabilities of the City of Los Angeles .

This report states the direction to save employees based on the following:

- 100% Revenue generating positions
- 100% Non-General Fund positions
- Legally mandated functions
- Positions needed to protect the public's health and safety
- Positions needed to keep critical City operations intact

Three strategies are mentioned:

- Workforce Modernization
- Public-Private Partnerships
- Focus on Core Mission and Responsible Financial Management

Goals stated are:

- Balancing the Budget in the Current Fiscal Year;
- Strengthening the City's Credit Rating
- Restoring the City's Long-Term Fiscal Health and Sustainability

Steps suggested are:

- Reopen Dialogue with Our Labor Partners
- Maximize the Benefit of Early Retirements
- Downsize Government and Continue with Highest Priority Services in the Best Manner Possible
- Identify Encumbered and Unencumbered Funds
- Pursue Public-Private Partnerships
- Enhance Revenues

Missing are the accounting of and reporting of the City's assets. Besides the General Fund, there are many other funds-trust, officeholder, Christmas Fund, Measure S and otherwise that need to be accounted for.

- BANK ACCOUNTS



- PETTY CASH
- Complete List of CASH HOLDINGS
  
- Who disburses payments from these accounts
- Who audits these accounts
- Who is responsible for reporting on these accounts and to whom
- What reimbursements are expected into these accounts
- How are these accounts funded

Non-profit corporations have been legislated by the City. They need proper transparency through accounting, reporting and accessibility. Only MUNICIPAL IMPROVEMENT CORPORATION OF LOS ANGELES MICLA has been released. Even MICLA remains off the city website. Their debt affects the taxpayer. Their cash flow remains a mystery to the taxpayer. The LA NEIGHBORHOOD LAND TRUST LANLT was legislated, but never accounted for and available to the taxpayer (CFI 01-1638, CFI 01-1638-S1 and CFI 05-0600-S55).

LA's BEST acts under the control of the Mayor as do the PARTNERSHIP FOR LOS ANGELES SCHOOLS PLAS. LA's BEST is the fiscal agent for PARTNERSHIP FOR LOS ANGELES SCHOOLS.

There is no accounting for the salaries and expenses related to those named non-profit corporations including City employee salaries and in-kind contributions from independent non-profit corporations who benefit from council approved legislation for funding.

In spite of the Second Appellate Court upholding the Judgment on MENDOZA v. STATE OF CALIFORNIA ET AL which prohibited the enforcement of AB 1381 (Romero Act), the Mayor continues to involve himself and the City, its employees and resources in the operation and legislation of State Public Schools. You, the City Council, approved the appropriation of \$100,000 for outside counsel to represent the interests of the Mayor and the interveners LOS ANGELES PARENTS UNION ET AL, a movement affiliated with GREEN DOT PUBLIC SCHOOLS.

We find missing the lobbyists registrations for City representation of the LOS ANGELES UNIFIED SCHOOL DISTRICT.

The CITY OF LOS ANGELES CONTINUING DISCLOSURE FILING RULE 15C2-12(B) (5) FOR THE PERIOD ENDED JUNE 30, 2008 states:

#### "MUNICIPAL GOVERNMENT

Under the State Constitution, charter cities are generally independent of the State Legislature in matters relating to municipal affairs and in their ability to raise revenues. Charter cities are subject to State Constitutional restrictions; see "LIMITATIONS ON TAXES AND APPROPRIATIONS" herein. The City is a charter city originally incorporated in 1850. The most recent charter was adopted in 1999, effective July 1, 2000.

The City is governed by the Mayor and the Council. The Mayor is elected at-large for a four-year term. As executive officer of the City, the Mayor has the overall responsibility for administration of the City. The Mayor recommends and submits the annual budget to the Council and passes upon subsequent appropriations and transfers, approves or vetoes ordinances, and appoints certain City officials and

commissioners. He supervises the administrative process of local government and works with the Council in matters relating to legislation, budget, and finance. As prescribed by the Charter and City ordinances, the Mayor operates an executive department, of which he is the ex-officio head. The current Mayor, Antonio R. Villaraigosa, was elected on May 17, 2005 and took office on July 1, 2005. He was re-elected Mayor on March 3, 2009.

The Council, the legislative body of the City, is a full time council and enacts ordinances subject to the approval of the Mayor. If the Mayor vetoes, the Council may override the veto of the Mayor by a two-thirds vote. The Council orders elections, levies taxes, authorizes public improvements, approves contracts, adopts zoning and other land use controls, and adopts traffic regulations. The Council adopts or modifies the budget proposed by the Mayor. It authorizes the number of employees in budgetary departments, creates positions and fixes salaries. The Council consists of 15 members elected by district for staggered four-year terms.

The other two elective offices of the City are the Controller and the City Attorney, both elected for four-year terms. The Controller is the chief accounting officer for the City. The position is currently occupied by Rushmore D. Cervantes, serving as Acting City Controller. Wendy Gruel (sic) has been elected to assume the office as of July 1, 2009. The City Attorney is attorney and legal advisor to the Council and all officers, boards, and departments of the City, and prosecutes misdemeanors. The current City Attorney, Rockard J. Delgadillo, took office on July 1, 2001. He was elected to a second term commencing July 1, 2005. Carmen Trutanich has been elected to assume the office as of July 1, 2009.

The City Administrative Officer is the chief fiscal advisor to the Mayor and Council and reports directly to both. Raymond P. Ciranna has been serving as Interim City Administrative Officer since January 2008 pending an appointment by the Mayor and confirmation by Council of a permanent City Administrative Officer.

The City Treasurer (the "Treasurer") receives, invests and is the custodian of the City's funds and those of affiliated entities. The Treasurer also serves as the City's Investment Officer. The Treasurer is appointed by the Mayor and confirmed by the Council. The current Treasurer is Joya C. De Foor, who has served in that capacity since January 2001.

The City has 39 departments, bureaus, commissions and offices for which operating funds are annually budgeted by the Council. In addition, five departments (the Department of Water and Power ("DWP"), the Harbor Department, the Department of Airports, the City Employees' Retirement System Department and the Fire and Police Pension System Department), The Community Redevelopment Agency of the City and the Housing Authority of the City are under the control of boards appointed by the Mayor and confirmed by the Council.

Public services provided by the City include police; fire and paramedics; residential refuse collection and disposal, wastewater collection and treatment, street maintenance, traffic management, storm water pollution abatement, and other public works functions; enforcement of ordinances and statutes relating to building safety; public libraries; recreation and parks; community development; housing and aging services; and planning.

The City obtains water and electricity from DWP, the largest municipally-owned utility in the nation."

The Mayor's office is involved in more than what is disclosed for the sale of debt, yet you do not review the

budget in terms of his Charter mandated duties nor do you deny funding for activities the Mayor has taken outside his Charter mandated duties. You have not provided positions by ordinance for other than the First Executive Deputy and Second Executive Deputy. You, the Council, have the power to remove positions.

The Charter states:

"Sec. 101. Powers of the City.

The City of Los Angeles shall have all powers possible for a charter City to have under the constitution and laws of this state as fully and completely as though they were specifically enumerated in the Charter, subject only to the limitations contained in the Charter."

"Sec. 104. Restrictions on the Powers of the City.

(g) Business Enterprises. The City shall not engage in any purely commercial or industrial enterprise, except upon a majority vote of the voters of the City voting on the question, unless the enterprise was engaged in by the City at the time the Charter becomes effective, or unless engaging in the enterprise is elsewhere specifically authorized in the Charter."

"EXECUTIVE BRANCH

Sec. 230. Mayor.

Except as otherwise provided in the Charter, management authority shall be vested in the Mayor who shall be the Chief Executive Officer of the City and shall devote his or her entire time to the duties of the office. The Mayor shall execute and uphold all laws and ordinances of the City.

Sec. 231. Powers and Duties.

The Mayor shall have the power and duty to:

- (a) exercise management authority over all departments, agencies and appointed offices of the City, except where the Charter provides otherwise;
- (b) appoint and remove staff as may be needed to perform the duties and carry out the responsibilities of the Mayor's office, subject only to budgetary appropriation;
- (c) unless provided otherwise in the Charter, appoint chief administrative officers of City departments and appointed offices, and the members of the boards of commissioners created by the Charter, each subject to Council confirmation as provided in the Charter;
- (d) unless otherwise provided in the Charter, appoint the members of standing commissions and boards created by ordinance that are advisory to or manage a department or appointed office, or perform regulatory functions, subject to Council confirmation as provided in the Charter;
- (e) remove from office any chief administrative officer or commissioner, except where otherwise provided in the Charter;
- (f) publicly address the Council on the state of the City, annually prior to the submission of the proposed budget;
- (g) prepare and submit the Mayor's proposed annual budget to the Council for consideration in accordance with Article III of the Charter;
- (h) represent the City in intergovernmental relations in accordance with City policy and supervise the City's intergovernmental relations function;
- (i) declare a local emergency and coordinate the City's emergency response activities in accordance with procedures established by ordinance, and supervise emergency preparedness activities in the various

departments and offices, including the Mayor's office, in a manner consistent with City policy;

(j) establish procedures and implement policies not inconsistent with the Charter or ordinance as are necessary to effectively manage and supervise the responsibilities entrusted to the Mayor through the issuance of executive directives, which, in the absence of conflicting provisions in the Charter or ordinance, and until revised or rescinded by the Mayor, shall be binding on all departments, commissions, appointed officers and employees of the City.

Executive directives shall be filed with the City Clerk and be published in the manner described in Section 251. Executive directives shall take effect 15 days after publication;

(k) certify in writing to the Council, for each appointment that requires Council confirmation, that in the Mayor's opinion the appointee is especially qualified by reason of training and experience for the position, and that the appointment is made solely in the interest of the City; and

(l) perform other duties and have other powers as are provided elsewhere in the Charter or by ordinance."

The Los Angeles Administrative Code Chapter 2 provides for an EXECUTIVE DEPARTMENT:

"Sec. 3.9. Powers and Duties.

There is hereby created a department of the City of Los Angeles to be known as the Executive Department. The powers and duties of said Department shall not conflict with the powers and duties of any other office or department of the City. That said department shall have powers and duties as follows, to-wit:

- (a) To aid and assist the Mayor in the performance of his duties as Mayor;
- (b) To enforce, so far as is within its power and assist and require all departments to enforce, all ordinances of the City and the laws of the State applicable to the City;
- (c) To mediate and conciliate employer and labor disputes when requested by either or both disputants;
- (d) To require departments of the City to make such reports to the Executive Department, of their several activities as may appear beneficial to the public interest and which will enable the Mayor to more completely perform his duties as such;
- (e) To establish and maintain, in all ways available, an understanding relationship between citizens and the City government and the several departments;
- (f) To inspect the records, files, proceedings and orders of the several departments, and all officers, members of boards and employees shall cooperate and assist the said Department to this end;
- (g) To receive and consider appeals by citizens from orders, actions, omissions of duties, discourteous conduct of officers, boards or employees, and, after hearing or investigation, make such recommendations relative to the same, as in its judgment appear reasonably necessary;
- (h) To provide for more efficient government by conducting research upon any subject relating to municipal government for the purpose of recommending legislative enactment, executive action, or more efficient administration under existing laws;
- (i) To seek for persons available for appointment and to encourage competent persons to offer themselves to public service and to inquire into all qualifications of persons presently being considered for appointment by the Mayor.
- (j) To call and hold meetings from time to time or periodically of the presidents of the several commissions, collectively or in groups, the general managers of the several departments, collectively or in groups, the secretaries of the several commissions, collectively or in groups, and chiefs of bureaus, and said meetings may include all, or a lesser number than all, of the several presidents, general managers, secretaries or chiefs of bureaus, and may include partly presidents and general managers, or partly general managers and secretaries, or partly presidents and secretaries or partly chiefs of bureaus or any other official personnel herein provided for; and

It shall be specified in any notice of said meetings those officials it desires to attend and it shall be the duty of those officials designated in said notice to attend any such meetings.

(k) To perform such other and further duties as may be designated by the Mayor but consistent with the provisions of the Charter and State law."

"Sec. 3.10. Mayor is Chief Executive.

The Mayor, ex officio, shall be Chief Executive of said Department and there shall be one First Executive Deputy and one Second Executive Deputy, and such other deputies and employees as the Council by ordinance may provide.

The Mayor, as such Chief Executive of said Department, may appoint the Deputies herein provided for, and such assistants, deputies, clerks, stenographers and other persons as the Council shall prescribe; and shall have power to remove the same."

Charter Article I Incorporation and Powers states:

"(b) The City may exercise any of its powers or perform any of its functions and may participate in the financing of its efforts, jointly or in cooperation, by contract or otherwise, with one or more other cities, states, or other governmental bodies, the United States or any of its agencies."

Account for all the JOINT POWERS AUTHORITIES or MEMORANDUMS OF UNDERSTANDING, their jurisdiction; control of funds including revenue and disbursements; responsibility of disclosure and reporting; and its financial statements.

Supply a listing of all FIXED ASSETS including but not limited to REAL PROPERTY, PERSONAL PROPERTY and LEASEHOLDS.

Review all BUSINESS IMPROVEMENT DISTRICTS BID and make available all financial statements and bank accounts.

Review all COMMUNITY BENEFIT AGREEMENTS including but not limited to STAPLES CENTER/LA LIVE and LAX. Provide for an accounting including financial statements and bank accounts of any non-profit entities that benefit from those agreements.

Review the INDENTURE for GRIFFITH PARK.

The PUBLIC needs to know ALL the facts. TRANSPARENCY has been lacking in this process. You cannot make proper decisions, on behalf of the VOTERS and TAXPAYERS until those facts have been presented in their entirety.

Joyce Dillard  
P.O. Box 31377  
Los Angeles , CA 90031

Attachments;  
01-Joint Brief Respondent Villaraigosa  
02-AB 1381 Challenge Ruling  
03-Appellate Opinion AB 1381 (Romero Act)