



● **McQUISTON ASSOCIATES**

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

December 7, 2010

CF09-1115-S4

ITEM 1 B&F Cmte 12/8/10

E. Pulst

**STATEMENT-EXTENSION of J.H. McQUISTON on
NEIGHBORHOOD COUNCIL ELECTION PROCESS**

Honorable Chairman and Members of the Committee:

Some time ago, the City Attorney confessed to this Committee that perhaps the Mayor and Council "took the wrong fork" regarding operation of Neighborhood Councils.

The confession alluded to the morass in which the two branches enmeshed Neighborhood Councils, **deflecting them from their sole duty to the City:**

*"Neighborhood Councils shall monitor the delivery of City services in their respective areas and [shall] have periodic meetings with responsible officials of City departments * * *."* Charter Section 910.

"Shall" is a command to perform. "Monitor" requires observation, investigation, and analysis. "Delivery" indicates an act has or has not occurred. "City services" means an "act" is required by law to be performed by the City. "Their" means the specific NC cited. "Respective areas" means the area within the boundary of the specific NC cited. "Periodic meetings" requires a contact and conference. "Officials" means persons with authority over City service-delivery. "City Departments" means the Executive-branch subdivisions.

Clearly, the requirement for Neighborhood Council performance does not require nor mandate action by a representative body, nor does it therefore require elections.

In fact, Charter Section 906(a)(1) merely limits NC process by mandating a written account of how **"officers" are "chosen"**. It does not require them to be "elected", nor does it require a "NC Board" to convene.

What the City with its present Charter desperately needs is independent "monitors of City-service delivery": Persons acting as "private attorneys-general" to keep Executive Departments from failing their duties.

The Charter defined the Council as a **"Legislative" body which may only act by enacting ordinances or resolutions subject to Executive-branch approval (Section 240 ("Legislative power"))**. The Council has no power to command the Mayor to execute its City ordinances and resolutions.

December 6, the Council's Budget & Finance Committee noted the Mayor's disregarding the City Budget enacted by the Council; the Mayor **"violated" budgetary constraints but the Council can't restore them.**

The Department of Neighborhood Empowerment is a City Department organized to serve Neighborhood Councils' needs. The City Clerk is a City Department tasked by ordinance to serve Neighborhood Councils' needs. Charter Section 910 requires *Neighborhood Councils* to monitor the delivery of services to *Neighborhood Councils* by these City Departments. It *prohibits* these City Departments from impeding the Charter-mandated NC-monitoring.

1. D.o.N.E. Report

DONE's Report must be construed as embodying a Mayor's natural objection to being "monitored" while performing executive duties.

Neighborhood Councils while hamstrung by conflicting and ever-increasing "restrictions" generated by the Executive branch **certainly will have no time left to perform their required "Executive-monitoring"**.

Such hamstrings were interjected not only by a Mayor-in-power, but also by "wannabe Mayors".

Thus the Report evades by obfuscation the analysis and improvement of Neighborhood-Council activity.

Improvement obviously **has nothing to do with how elections are conducted.** The issue is how Neighborhood Councils can perform important *monitoring and consultation about City-service issues in their areas.*

2. City Attorney Report

The City Attorney, being independently-chosen by the electorate, is neither beholden-to nor a subsidiary-of the Executive Mayor. We expected the City Attorney to recognize the "balance" achieved between Executive and Legislative branches by monitoring actions of Neighborhood Councils. **It was the action of a "neighborhood council" that eradicated the corruption caused by Mayoral power during the Shaw period.**

Yet, despite the aforementioned the City Attorney in its latest Report would disembowel more of Neighborhood Councils' authority by subordination to Mayoral power.

Perhaps City Attorneys lust for being Mayor too, but without restraint of NC-monitors with "private attorney-general" powers.

3. City Clerk Report

My Statement of October 26, attached as Exhibit 1, was answered by the Clerk, attached as Exhibit 2.

You will conclude as I did that the Clerk completely misunderstood the necessity for oversight, even though the Charter in Section 906 is very clear that every stakeholder has equal right to participate in all NC activity. For the Clerk to act like "Pilate" was gross error.

My response to the Clerk, attached as Exhibit 3, excoriated the Clerk for her gross error: abdicating her duty to verify proper notification.

Also, in the Clerk's Report she recounted how she disqualified the winners of seats in one NC election and installed the losers instead. **However, in recent conversation with one of the disqualified, a major community leader, that person said the NC paid no attention to the disqualifications; they are on the Board.**

4. Prior Caution regarding Stakeholder Notification

Exhibit 4 reminds this Committee of my **caution in 2008 that existing notification rules require correction.**

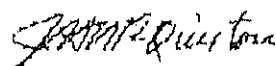
CONCLUSION

If the Council does not act quickly to regain the balance written into the Charter so the Mayor is properly constrained, not only will the Council regret its inaction but also the City could become another "Bell".

It happened before, under Mayor Shaw, with a similar Charter without NC monitoring.

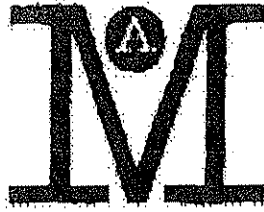
Einstein once defined "crazy" as doing the same defective act again and expecting a different outcome.

Respectfully submitted,



J. H. McQuiston

c: Interested parties
Encl: Exhibits 1-4



● **McQUISTON ASSOCIATES**
 6212 Yucca St, Los Angeles, CA 90028-5223
 (323) 464-6792 FAX same
 consultants to technical management
 October 26, 2010

CF09-1115-S4
 ITEM 1, E&N Cmte 10/27/10
 E. Pulst

**STATEMENT of J.H. McQUISTON on
 REPORT from CLERK on NC BOARD ELECTIONS**

Honorable Chairman and Members of the Committee:

I have great difficulty with the Clerk's Report, for two important reasons:

(1) The Report (at some 38 megs) was not be downloadable, even with two massive tries on a high-speed internet terminal. **If the Report is presented better, critical performance data could be viewed as required.**

(2) The Report, consequently available **only at the Clerk's office**, asserted that **notice of election would not be given to stakeholders by the Clerk, and it would address no oversight of notice, nor absence thereof.**

The average turnout of 243 is also disappointing. Average **stakeholders per N.C.** is about 40,000. **An election with only 0.61-percent voting does not a representative body make.**

1. Report unavailability. Download failed first after only 5 megs, with an "error" message after about 15 minutes. Re-try failed after 15 megs downloaded, with an "error" message after enormous downloading time.

Large files from Planing are segregated into packets which download without errors. I pray you will request the Clerk to segregate this Report into packets, so its data will be available to see and utilize.

Data pertaining to **voting by Region and by N.C.** should be accessible as one or more packets.

2. Absence of Election Notices to Stakeholders. Charter Section 906 (a)(6) requires of N.C.s:

"Guarantees that * * * every stakeholder [may] participate in the conduct of * * * decision-making."

Clerk's Policies 9 and 19 concern election-mailer and election-mailer distribution, respectively. Both policies state they were repealed, with total Clerk non-involvement with regard to execution.

Also, Clerk's list of non-challengeable acts includes the acts of not informing stakeholders that an election will be conducted for the stakeholders' area, that DONE-approved outreach (or lack thereof) is defective, and that necessary voting materials are lacking.

If the Clerk as conductor of elections does not assure that every stakeholder was given notice of the election, how can the Clerk certify that an election obeyed the Charter?

I am a stakeholder in three N.C. jurisdictions: (1) East Hollywood, (2) Central Hollywood, and (3) Hollywood United. The Clerk reported that 18 of 18 seats were elected with only 325 turnout in (1), 9 of 9 seats with only 92 turnout in (2), and 17 of 17 seats with only 186 turnout in (3). **I never got any notice of any of the three elections therefor.**

Respectfully submitted,

J. H. McQuiston, Concerned Observer and Stakeholder

EXHIBIT 1

JUNE LAGMAY
CITY CLERK

CITY OF LOS ANGELES
CALIFORNIA

OFFICE OF THE
CITY CLERK
ELECTION DIVISION

KAREN E. KALFAYAN
HOLLY L. WOLGOTT
EXECUTIVE OFFICERS



SPACE 800:
833 RAMIREZ STREET
LOS ANGELES, CA 90013
(213) 978-0444
FAX: (213) 978-6378

ARLEEN P. TAYLOR
CHIEF OF ELECTIONS

ANTONIO R. VILLARAIGOSA
MAYOR

November 9, 2010

J.H. McQuiston
6212 Yucca Street
Los Angeles, CA 90028-5223

Dear Mr. McQuiston,


We have received your letter regarding the City Clerk's After Action Report on the 2010 Neighborhood Council (NC) Elections. We apologize for the difficulty in accessing the report from the Council File Management System. We have broken down our report on the Council File Management System into smaller, more easily-downloadable segments. Please let us know if you continue to have issues with the file.

You expressed concern that stakeholders were not given notice of the election. It should be noted that the City Clerk was not responsible for nor did we participate in outreach for the 2010 NC Board Elections. It was the responsibility of each NC, with assistance from the Department of Neighborhood Empowerment (DONE), to coordinate all election outreach, which included candidate recruitment and election publicity.

Should you have any questions, please contact Isaias Carriz, Jr., Senior Project Coordinator, at 213-978-0444.

Thank you for your continued support and dedication to your community.

Sincerely,


June Lagmay
City Clerk



● **McQUISTON ASSOCIATES**
6212 Yucca St, Los Angeles, CA 90028-5223
(323) 464-6792 FAX same
consultants to technical management
December 5, 2010

Honorable June Lagmay, City Clerk
Los Angeles City Hall

BY FAX

Dear Ms Lagmay:

REFERENCE: Your letter dated November 9, 2010 re: Response to McQuiston letter on NC Election Report

Thank you for your letter of Reference, and for splitting the Report into segments to enable access on internet.

However, your additional comment regarding absence of notice on elections **missed the point.**

If you certify an election you oversee, you certify that the election was proper. Propriety demands that electors receive notice. Without proof of notice to electors, you may not certify the election was proper.

You do not need to be the notice-provider, but you must demand proof of service of notice from the responsible party tasked with notice-responsibility.

Clearly, your letter indicates that you failed to supervise properly.

Consider the enormity of your mistake: Without notice to the average NC stakeholders (40,000), a cabal was "elected" in the three NC areas of my Statement without the consent of the stakeholder-body.

A family could give secret notice only to eight others, and with their few votes would on average be elected without the knowledge of any other stakeholders.

This type of fraud is what we all despise of "other's corrupt elections".

You must never let any other elections you conduct be certifiable without proof of due notice to electors.

Respectfully submitted,

c: Interested parties

J. H. McQuiston

EXHIBIT 3



● **McQUISTON ASSOCIATES**
 6212 Yucca St, Los Angeles, CA 90028-5223
 (323) 464-6792 FAX same
 consultants to technical management
 October 27, 2008

CF08-0410
 ITEM 3, E & N Cmte 10/28/08
 E. Pulst

**STATEMENT of J.H. McQUISTON on
 AGENDA NOTIFICATIONS**

Honorable Chairman and Members of the Committee:

1. A fundamental requirement for Neighborhood Councils is to notify every Stakeholder and to permit them to participate :

“In the conduct of business, dellberation and decislion-maldng”. (Charter Section 906(a)(6))

The Charter requires *more notification of stakeholders by NCs than it requires of the City Council.*

Stakeholders need not reside nor work in the bounds of the NC. *Posting in the NC bounds does not constitute adequate notice to all classes of stakeholders.*

Nor will simply posting on a web-site, either of the NC’s or of the City’s.

General notice required by the Brown Act cannot by law substitute for specific law of the Charter. NCs which ignore property owners, which are an important stakeholder population, do not satisfy the test required for certification as “inclusive of their stakeholders”.

Before substantial litigation descends upon the City in its time of dire straits, the City must amend its regulation on notification so that it complies with the Law of the Charter.

2. Moreover, most agendas published by Neighborhoods are not informative enough to permit their stakeholders to ascertain the gravamen of each agenda item, thus to decide knowingly whether or not to particlpate in the discussion.

Failure to publish sufficient information in the Los Angeles City Council’s agenda (it concerned pay raises for Councilmembers) created the reaction that enacted the Brown Act.

The result is that the City’s agendas now contain information which permits persons to decide whether or not to join in the discussion, *unlike the agendas of Neighborhood Councils.*

3. *It is imperative for the City to know* that opinions of Neighborhood Councils reflect the opinions of the stakeholders, **not just a small clique. That is why the Charter requires notification and participation of *stakeholders*, not merely action by a handful of Board members.**

The City must not be swayed by a handful proposing to be the *vox populi* unless that handful **did what the Charter required of them concerning notification, information, and participation.**

If the City Council required NCs to organize in a manner which prevents them from satisfying the Charter mandate, then the City Council **must amend he requirement so that the mandate may be obeyed.**

The City Council and the Mayor must obey what the people required when the people enacted the Charter.

Respectfully submitted,