



● McQUISTON ASSOCIATES

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

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CF 12-0600-S179

ITEM 5, B&F Cmte 6/3/13

E. Pulst

STATEMENT of J.H. McQUISTON on
YEAR-END FINANCIAL (FORECAST) REPORT

Honorable Chairman and Members of the Committee:

The Report of course is only an estimate, but occurring near July 1 it appears to have reasonable forecasts.

However, remindful of history, economic promise could be followed by a typical downturn. Caution is still necessary.

History teaches that people can conserve for a while, such as occurred, but then must spend because major appurtenances either need major repairs or replacement. **After they are restored, the economy dips again.**

Inability to stimulate the economy with super-low interest-rates is **appalling**. At no time has the rate been so low; yet stimulus didn't occur proportionately. Rate being "near-zero" can't have much-more effect by being lower.

Moreover, the European economy's continuing-unsettled and near-panic status doesn't promise help for the future U S economy.

1. It is time for this Committee to exert its influence on Councilmembers' budgets to have them act only as "legislators", meaning that Councilmembers must not command, nor "suggest", the Executive Departments do their individual-biddings. Legislators in the United States are Constitutionally-prohibited from "executing" even laws they enacted.

If Councilmembers leave execution to Departments, State Law and City Laws will be executed with **less administrative-effort, so CityBudget-tension will be considerably-relieved.**

Moreover, **obedience to due process of law** will lessen the belief of citizenry that the City harbors an opportunity for corruption.

2. Your attention is requested with respect to Street-Services' new allocations in the Report.

State Law and Municipal Code both **require adjacent property-owners to maintain "sidewalks"** (defined as **everything** except street (not alley) pavement) **even if they do not "own" the underlying-property.**

See California Streets & Highways Codes:

"§ 5610. Maintenance by lot owners

The owners of lots or portions of lots fronting on any portion of a public street or place when that street or place is improved or if and when the area between the property line of the adjacent property and the street line is **maintained as a park or parking strip, shall maintain** any sidewalk in such condition that the sidewalk will not endanger persons or property **and maintain** it in a condition which will not interfere with the public convenience in the use of those works or areas save and except as to those conditions created or maintained in, upon, along, or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law or by the city authorities in charge thereof, and such persons **shall** be under a like duty in relation thereto. (Added by Stats.1941, c. 79, p. 873, § 1.)

“§ 5611. Notice to repair

When any portion of the sidewalk is out of repair or pending reconstruction and in condition to endanger persons or property or in condition to interfere with the public convenience in the use of such sidewalk, the superintendent of streets shall notify the owner or person in possession of the property fronting on that portion of such sidewalk so out of repair, to repair the sidewalk. (Added by Stats.1941, C. 79, p. 874, § 1.)

“§ 5615. Repair by street superintendent

If the repair is not commenced and prosecuted to completion with due diligence, as required by the notice, the superintendent of streets shall forthwith repair the sidewalk. [] (Amend. Stats.1963, c. 648, p. 1639, § 1.)

“§ 5616. Notice of cost and hearing

Upon the completion of the repair, the superintendent of streets shall cause notice of the cost of the repair to be given in the manner specified in this article for the giving of notice to repair, which notice shall specify the day, hour and place when the legislative body will hear and pass upon a report by the superintendent of streets of the cost of the repair, together with any objections or protests, if any, which may be raised by any property owner liable to be assessed for the cost of such repair and any other interested persons. (Added by Stats.1941, c. 79, p. 874, § 1. Amended by Stats.1967, c. 615, p. 1963, § 3.)”

Notice use of “SHALL”, which means the Statutes are MANDATORY on the City and adjacent Property Owner . Notice the process is like that for City weed- or nuisance-abatement.

See also LAMC § 62.104 to the same topic and effect.

These Statutes relate-back to the 19th Century, although revised in 1940's. **The City obeyed the mandates until the mid-1970's, at which time being “flush” it stopped issuing notices to repair. However, such violation of law was not a legal “entitlement” for property-owners.** (Court citations omitted)

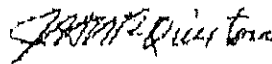
This Committee must review the Report's request for authorization for various “sidewalk” work.

There is no doubt that the work must be assessed on the adjacent property-owner after the work is done, if the City does the work. But the property-owner must be given notice and permitted to do the work before the City performs the work, per the above laws. (Those cited are excerpts with their gravamen, for brevity.)

This Committee before approving the Report should insist that the Notices required per the above and related laws be served on the appropriate property-owners **before any work or plans are executed regarding such repairs. The benefits therefrom regarding appearance, safety, and economy will be substantial.**

Committee shouldn't need a Court to find the City and its employees and officers in violation of settled-law.

Respectfully submitted,



c: Interested parties

J. H. McQuiston