

● **McQUISTON ASSOCIATES**

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

April 24, 2016

CF16-0600

ITEM 1 B&F 4/27/16

**STATEMENT of J.H. McQUISTON on
OVERVIEW of PROPOSED 2016-17 BUDGET**

Honorable Chairman and Members of the Committee:

One who was of age in the Depression remembers that the United States believed in the mid-thirties it had emerged from its "crash", only to find emergence was fiction; people only re-stocked or repaired by necessity and thereafter resumed parsimony, causing the economy to collapse.

Today the interest-rate is "zero", yet there is no substantial rebound except for "one-time", external investments. Those investors now are experiencing cutbacks "at home" which may jeopardize further injections of investment in our City. And, locals are increasingly-insistent that the City's ad-hoc accommodations for foreign investment must be curtailed.

Setbacks and cool-offs in clothing and computational-device industries in the City, and curtailment of parcels for new industrial use, may deprive the City of future stability.

Thus it is well for this Committee to examine the underlying issues which will put the budget to future risk.

And, it is the hour for this City to put itself in order with its Charter; the proposed budget does not do so.

Particulars:¹

1. Property-tax and Fee growth

BUDGET is unrealistic because Article 13 limits ad-valorem yearly increase, and it restricts fees assessed on properties to the amount actually required to provide the special benefit to that parcel.

Budget assumes 6.5 percent property-tax growth, but Article 13 limits "static" property tax to 2 percent growth, so assuming redevelopment City-wide will raise the aggregate so hh is incautious, economy-wise.

Also Budget's *method*, assessing property-fees for non property-related expenses, was declared unconstitutional per Article 13D in *Silicon Valley Taxpayers v Santa Clara County OSA*, 44 Cal 4th 431 (Cal S Ct 2008).²

2. "Sidewalk" budget is incomplete³

This Committee is well-aware that **State Code requires landowners to compensate City for any work it performs on their "sidewalks"**, including tree-work, alleys, curbs, etc. Those "sidewalks" are not City-owned, except for "sidewalks" at City properties.

1. This overview will be supplemented by Statements regarding specific Budget Items needing substantial rework, as they become Agenda Items.

2. That case not only invalidated parcel fees but also belatedly recognized that Article 13 now puts the burden of proof of lawful assessments on the government, reversing the long-standing burden on complainants of yore. The City Attorney has a poor record of convincing the Courts that present City regs and processes are lawful per State Const & Law.

3. More to come on this subject in a separate Statement.

Although the Budget may contain amounts enabling the City to perform work **for the property, on credit, City must be paid for the work according to Schedules and law in the California Streets & Highways Code.**

The Budget must make that requirement clear, **including assessments for ramps.**

However, it is improbable that most landowners, except the City, will engage the City to perform "sidewalk" work.⁴

3. **Budget shouldn't assume City prevails in litigation**

The City Attorney's record in recent litigation shouldn't inspire a belief that current and future major issues regarding major Budget items will be decided in the City's favor.

It is better to take a conservative approach and avoid wrenching recalculations as cases become final.

4. **Budget shouldn't provide "profit" in excess of that allowed by State law.**

City will always have a "statutory deficit" because the prior year's "profit" is used to finance items in the succeeding year's budget. That is an immutable fact of accounting.

One year not long ago, on a \$4 billion budget the City made a \$1 billion "profit", merely by not spending the entirety of what was budgeted. Next year it had a \$1 billion "statutory deficit" because it used the prior "profit" for budget-items.

And, the amount budgeted for stabilization reserves exceeds the statutory amount allowed by California law.

5. **Budget must specify work required to get Municipal Code to Conform to State Law and Charter**

Several Departments' processes do not comply with the Charter enacted in 1999 by the voters. Worse, even before then substantial City-department's processes were incompatible with State law.⁵

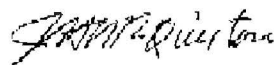
Without clear direction to confer consistency with Charter and State law, the Budget will not force the necessary corrections.

6. **Budget fails to address CEQA-issue deficiencies which upset every prior Budget.**

Increasing lawsuits over ad-hoc General Plan "special privileges" divert Budget resources into City's defending indefensible acts, and prevent critically-needed infrastructure work.

Tighter budgetary-controls regarding litigation is necessary.

Respectfully submitted,



J. H. McQuiston

4. Sidewalk repair may be the vehicle to substantially-cure the City's homeless issue. Giving employment to large numbers of homeless may be more valuable to the City than giving-away large sums for housing which, with substantial income from gregarious work on sidewalk repairs, they wouldn't need.

5. In 1970's the State enacted laws to stop ad-hoc, corrupt "gifts" or "special privileges" to parties by cities and counties. The City declared it was unconstitutional to enforce such laws on it. In *City of Los Angeles v State of California*, **138 Cal App 3d 526** (1982), the Court ridiculed and over-ruled the City's declaration. The Supreme Court cited that Court's decision as correct in *deVita v County of Napa*, **9 Cal 4th 763** (1995).