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Oscar Leeser

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**NEWS
RELEASE**

05/19/2024

City of El Paso Issues Comprehensive Statement Regarding Zoological Society City Committed to Full Transparency

EL PASO, Texas—The City of El Paso is providing an inclusive response regarding ongoing discussions to close out the 2012 license agreement between the City and the Zoological Society.

On February 26, 2024 the City Council unanimously voted to thank the Society for its work and directed the City Manager to close-out the agreement. The agreement ended on March 17, 2024.

Since mid-March, the City has repeatedly declined media inquiries regarding this topic due to the Society's request through their lawyer that the City stop making statements to the press. The City believed that this dispute could be resolved amicably between City staff and the Society's board members.

However, in light of the Society's recent press release, the City is once again compelled to provide answers to numerous questions asked by media.

"Ensuring the El Paso Zoo continues to thrive is a top priority for our community. The funds raised must directly benefit the zoo and fulfill their intended purpose. Transparency and accountability are vital, and we urge the Zoological Society to work with us to resolve these matters responsibly. We remain committed to finding a solution that supports the zoo's mission and serves the best interests of our citizens. Our number one priority is the success of the zoo as we close out the prior agreement, and explore various avenues to continue to support the zoo for the benefit of our entire community," said Mayor Oscar Leeser.

Accompanying this press release are the [numerous letters and emails](#) between the City and the Society, and additional information referenced in the letters regarding the City's efforts to close out the agreement.

WHAT WERE THE TERMS OF THE AGREEMENT?

The Society is a nonprofit organization with the purpose of either running its own or supporting a Zoo in the El Paso area. It has an executive director and between six to 12 staff members. Under the contract, the Society was allowed to conduct fundraising activities, events, sell membership, help with the Zoo's volunteer program and support some education programs.

Under the licensing agreement with the City (provided in attachments), the Society was allowed to sell memberships in lieu of the Zoo's gate admission.

Persons who purchase a membership with the society don't pay a gate entrance fees, instead they are allowed admission into the zoo for one year from the date of their membership.

Per the agreement, only 25 percent of membership sales were designated for Zoo operations and promotions. The Society set aside this amount in a "Zoo Support" account.

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Historically, the City was not provided access to these funds. The City was reimbursed from the 25 percent account by providing receipts to the Society of Zoo expenses.

The Society then retained 75 percent of membership sales, as well as proceeds from fundraising events, which were required to be used for Zoo betterment and projects; provided however, a "reasonable" amount for Society operations. The City has not received a clear accounting of these dollars, which is one of the reasons why the City is asking for full accounting.

During 2022 and 2023, staff was directed to re-evaluate the terms of the agreement with the Society. It became clear that the 25%/75% arrangement with the society deprived the zoo of the funds it needs for the ongoing operation of the zoo.

WHAT IS THE CITY REQUESTING OF THE SOCIETY?

Despite the contract expiring, the Society still holds substantial funds collected during the term of the agreement. The Society has an obligation to account for and transfer those funds to the City for their intended and contracted for purpose.

On February 16, 2024, the City Comptroller requested detailed financial information from the Society.

Despite not providing the detailed financial information, on February 22, 2024, the Society's Executive Director Renee Neuert provided their FY24 first quarter balance sheet. However, the balance sheet was dated November 30, 2024, but stated that it was from November 2023. The document shows \$1,482,399 in cash and investments including petty cash.

On March 8, 2024, Pam Agullo emailed Deputy City Manager Dionne Mack and said, "Remittance of the 25% of membership can be expected on or before [March] the 17th." **As of this release, the balance of the 25 percent is still being held by the Society.**

On April 19, 2024, the Interim City Manager Cary Westin met with the Society's Board President Pam Agullo. During that meeting, Westin clearly explained to Agullo the need to close out the previous contract, and again requested a third-party accounting of the funds held by the Society and an accounting of the Zoo's funds.

On April 29, 2024, the Society via its lawyer offered \$146,693.57 from various accounts as a "donation." It is the City's position that it would be improper to allow the Society to unilaterally reclassify all of the funds collected during the term of the agreement as a "donation." Furthermore, this appears to be only a portion of the funds that should be remitted to the City, of which some are not donations. This is yet another reason the City is asking for full accounting.

The need for an accounting is not based on assumption of wrongdoing, but to enable the City to properly direct the expenditure of the funds.

Furthermore, the City has offered on numerous occasions to agree to retain a mutually accepted third-party Certified Public Accountant to conduct such a review. The Society has repeatedly declined this request relying on the fact that the agreement between the parties has already expired.

The City has an obligation to ensure that all public funds are used for their intended purpose and as such it requires that the Society participate in a full accounting of its funds.

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Since launching the new City-run membership program in April, the City anticipates an annual increase in revenue of \$400,000, of which 100 percent will support the Zoo and its conservation efforts.

WHAT THE SOCIETY CLAIMS

Ownership of Funds:

The Society says the funds were generated through public memberships and donations earmarked for specific zoo-related purposes, and they are responsible to ensure the funds are utilized in accordance with donors' wishes.

The City agrees the funds must be used in accordance with the donors' wishes; however, the most recent donation information and amounts are far below the amounts reflected in their balance sheet. This is yet another reason for the need of a full accounting.

Demand for Fund Transfer:

The Society opposes the City's unrestricted access to the Society's accounts because the contract has expired. The Society also claims the City has not articulated plans for fund utilization and will not adhere to donor intent.

The City has never asked for unrestricted access, the City does require knowledge of each fund and purpose in order to carry out their intended purpose. Once again, this is another reason for the full accounting.

Regarding the claim that the City has not articulated how it plans to use the funds, in the May 9, 2024 letter from the City to the Society, the City advised that some of funds would be used to address deferred maintenance as identified by the Association of Zoos and Aquariums 2024 Audit and donated funds would be used in accordance with the purpose as outlined in the letter.

Legal Obligations:

The Society advised that it will not submit to further analysis beyond what was previously agreed upon, unless a new arrangement or contract is made that outlines and justifies the need for such scrutiny.

The City will not contemplate entering a new agreement because the Society refuses to be transparent with the funds it holds which were collected under the previous agreement.

The City's Internal Audit office conducted a limited scope audit, which generally focused on the major requirements of the License Agreement; however, the audit did not include a financial analysis of the use of the funds.

Call for Mediation:

The Society desires to resolve the dispute by way of mediation, without resorting to litigation, and underscores its commitment to the Zoo's well-being.

Traditionally, parties engage in mediation after a period of fact finding and the exchange of information, which is another reason a full accounting is needed. The Society continue to hold the 25% of zoo memberships, money that belongs to the zoo.

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Furthermore, at no time has the City been unwilling to meet and discuss how to move forward. The City has repeatedly in March and April asked to meet with the Society's entire board, but have only been allowed to meet with the board president Pam Agullo.

Lastly, according to observations made in a recent re-accreditation inspection of the El Paso Zoo by the Association of Zoos and Aquariums, "The formal agreement among the Society, the zoo and the city is not being adhered to in practice and does not clearly delineate the current roles and responsibilities of the support organization." "There is no formal fundraising plan in place, nor have there been discussions about the Society's fundraising priorities or plans, so it is impossible to determine whether the activities sponsored by or funds raised by the Society meet the goals of the zoo. While the Society raises some funds for the zoo, they seem very limited. The support organization does not appear to share the institution's goals and objectives."

NEXT STEPS

The Mayor and City Council will be provided legal advice in Executive Session on Monday, May 20, 2024, at which time they may act and direct staff on next steps.

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