

ONE
DIVERTING OF FUNDING**ANIMAL CARE SERVICES SPAY AND NEUTER TRUST FUND**

Long Beach Municipal Code 6.04.070 provides a reliable and stable funding mechanism for LABCS Spay and Neuter. The code reads *“At the time of sale [adoption] of any impounded animal, the purchaser [adopter] shall pay a spay and neuter fee established by the City Council by resolution. All such fees shall be deposited in the City of Long Beach Animal Care Services Bureau Spay and Neuter Trust Account.”*

2019 LONG BEACH BUDGET, ADOPTED SEPTEMBER 2018

The City Manager has instructed the Bureau Manager, that LBACS will *not* perform animal adoptions and SpcaLA will continue doing adoptions. The City Manager’s order circumvents the legally established public funding mechanism, established in Municipal Code designed to offset the rising costs of Spay and Neuter in Long Beach. With spay and neuter mandated by law in 2015, the adoptions, which generate spay neuter fees, must be reinstated by Council and the Bureau Manager must be directed that LBACS role includes adoptions. The funding is vital for the community to increasingly comply with the life-saving Spay Neuter Laws.

RECOMMENDATION

Direct City Manager to rescind the directive prohibiting the LABCS from developing a pilot program for LABCS adoptions. Request to provide report on Spay Neuter Fund to include: (a) Is LBACS complying with code? (b) Report on usage and balance for past 5 years? (c) How is the fund used? (d) Is the adoption fee for LBACS animals deposited into the ACS Spay/Neuter Trust Acct for a LABCS animal adoption processed by SpcaLA?

TWO
UNREPORTED GIFTS AT LBACS

FURNISHING FOOD TO LABS ANIMALS

Municipal Code 6.04.050 states “*The Director shall furnish all necessary food and water.*” Many in the community are surprised when they learn the Director does not furnish all necessary food. The SpcaLA furnishes the food which amounts to hundreds of thousands of dollars of donations to the agency with no report to the public. The food is donated to SpcaLA so some may assert the food is ‘free,’ but the valuation as considered in tax law is significant.

The public perception is that the shelter manager must always be on guard to protect her food supply and never contradict the food supplier. The Shelter director has stated there is no money for food and I cannot feed my animals without the gift. This is a form of bribery and obligation and the relationship must become autonomous and because the Shelter Director’s obligation is public service.

RECOMMENDATION

Direct City Manager to request a full report and accounting on animal food donation values, both reported and unreported and evaluate the influence of the gifts on all city employees who are aware and influenced by the “free food”. Can the Shelter director reasonable be expected to accept SpcaLA furnishing all the food without an resulting in obligations and undue influence, Does this unreported gift create a conflict of interest, or the appearance of a conflict of interest for all the employees at LABCS?

THREE
THE LEASE WITH DEFAULTS

PITCHFORD ANIMAL VILLAGE LEASE COMPLIANCE

It is our understanding that the Lease/Lease Back and First Amendment to the Lease Back have not been monitored, reviewed, and certainly not enforced. This violates the City's fiduciary and civic responsibility to Long Beach tax paying residents. Given the shelter is at a critical juncture, we recommend the City be directed to immediately conduct a thorough assessment.

There are 8 missing exhibits that have not been released to the Public to review. This puts us all at a disadvantage as there is critical missing information to ensure City and spcaLA have common understanding of the land distribution.

RECOMMENDATION

Direct City Manager to conduct a thorough lease assessment with focus on compliance items that need resolution. The deliverable output to include a detailed list of by each section of the terms and compliance of each. If non-compliance noted, the next steps to resolve to be documented.

Direct City Manager to provide evidence that Exhibit B of the First Amendment to the Lease Back (the defacto division of property) was seen and authorized by City Council. Provide detailed explanation as to why exhibit B is Confidential – Do Not Distribute.” Do the unlicensed business operations shown in Exhibit B have a relationship with the confidential do not distribute classification?

FOUR
THE "SECRET" EXHIBIT B

THE DEFACTO ARRANGEMENT NEVER APPROVED BY CITY COUNCIL

Phase 2 construction at the PD Pitchford Animal Companion Village was approved by the City, but the facility site plan showing which entity occupies additional space was never shown to the Council. This has fiscal impact because the city may be underwriting high property costs for a facility it has very little use of. SpcaLA's Exhibit B was pulled and thus never approved by the City of Long Beach. Yet it is retained in City files as confidential.

As it currently stands, spcaLA uses 75% of the land, which the City pays 50% of all operating expenses, plus pays for all water and sewage utilities. City is paying 100% for water for spcaLA's unlicensed grooming business, plus watering of the 4 grass dog yards which ACS dogs are not allowed. The taxpayer pays the entire water bill (\$30,000 in 2018) but all LBACS dogs are prohibited on the P.D. Pitchford dog play lawns.

RECOMMENDATION

Ask City manager to release to the public, Exhibit B of the First Amendment to the Lease Back (the defacto division of property) and investigate is it was seen and authorized by City Council, Provide detailed explanation as to why exhibit B was pulled from the signed document, then marked is Confidential – Do Not Distribute” and circulated within City management as the defacto site plan. Do the unlicensed business operations shown in Exhibit B have a relationship with the confidential do not distribute classification? What are the city expenditure for a site that City has very little tenancy in and are the property expenses paid by the city fair, or are we unknowling underwriting the business of the SpcaLA?

Direct City Manager to reallocate the additional space given the land was to be divided up 50% to each entity. LB desperately needs a spay/neuter clinic, this space should be reallocated for this shelter and community need which is in line with the land "Use" as documented in the Lease. Given the state of CA is restricting water usage, spcaLA should be required to pay their own water or replace with gravel similar to ACS offsite dog play yard.

FIVE

LEASE DEALT BY FOUR UNLICENSED BUSINESS, NOT ZONED

SPCALA HAS DEFAULTED ON TERMS OF THE LEASE BACK

Per the Lease Back page 16-17, item 17 IV which states” *the occurrence of any of the following acts shall constitute a default by spcaLA...failure to maintain or pay for all necessary permits and business licenses required by the city of Long Beach in its municipal capacity.*”

RECOMMENDATION

Direct City Manager to reallocate the additional space given the land was to be divided up 50% to each entity. LB desperately needs a spay/neuter clinic, this space should be reallocated for this shelter and community need which is in line with the land “Use” as documented in the Lease pg 3-4. (Retail business is NOT a “USE” outlined in the lease”). Given the CA is restricting water usage, spcaLA should be required to pay their own water or replace with gravel similar to ACS offsite dog play yard.

LICENSE, PERMIT AND ZONING NOT ENFORCED

Municipal Code enforcement has been strictly applied to two other LB Animals Businesses (1) Feeling Good Cat Café and (2) The Kitty Nursery, for which both are attempting to save Long Beach Shelter Animal lives and provide service to the community. The City of Long Beach is failing to perform code enforcement at the Pitchford and allows SpcaLA to operate four businesses without licenses and the lands is not zones commercial or retail.

An elected leader has commented that the City cannot selectively enforce licensing laws, and therefore enforcing laws at SpcaLA would amount to targeting a business. This reasoning does not meet the test of reason. Any business found to be in violation of Municipal Code is subject to penalties and code enforcement. It is not the burden of the City to search for all unlicensed businesses before it is able to perform its code enforcement duties.

RECOMMENDATION

Direct City Manager to enforce Municipal Code for business licensing and zoning. City MUST act in its municipal capacity with code enforcement. We hereby request, the City to serve spcaLA notice to close the 4 unlicensed businesses as they cannot be cured as land not zoned for commercial and rezoning would not be in the City best interest.

SIX

SHELTER PUBLIC RECORDS WITHHELD

**CITY MANAGER INSTRUCTING CITY CLERK TO WITHHOLD
SHELTER DOCUMENTS/PRAS?**

The City Manager may be violating the City's Code of Ethics and State Laws by withholding Requested Shelter Records. For months, the city has withheld information about the Shelter that might present a deeper understanding of the reform that is needed. The interest in and knowledge of a key for a municipal agency to achieve the kind of reform the public is asking for.

Eleven Public Record Requests (PRAs) were submitted on 3/6/2019. Over two months have transpired, and the records have not been provided violating the City's code of ethics.

RECOMMENDATION

Direct City Manager to release all requested public records related to the Shelter, allowing for full and informed participation by the public

SEVEN
BUDGET GAPS NEED REVIEW

FINANCIAL MISMANAGEMENT PREVALENT...AUDIT TO ADDRESS & SET_UP NEW MANAGER FOR SUCCESS

ACS mismanagement has been prevalent throughout all areas of the Bureau. The operational and resource audits were a great start as evidenced by 173 items noted for improvement. They indicate a systemic problem of mismanagement and neglect. Thus, it's critical that ACS financial, facility, and lease/lease back agreements be audited. This will benefit ACS greatly; positioning the Bureau for success at this pivotal time. Financial mismanagement is abundant...below are just a few examples.

- **Example 1.** The city is paying for spcaLA electricity (\$12K in 2018), yet the Lease clearly states that "SpcaLA shall arrange and pay for utilities, including gas, electricity... (see Lease, pg 12, #10 Utilities).
- **Example 2.** The city is paying animal disposal, yet this is not defined in the Lease as a City expense.
- **Example 3.** The 2018 Budget was exceeded by \$611K on 9 items alone (see table below).

Rev/Exp	Description	Program	Object	FY17 Budget ADOPTED	FY17 Budget ADJUSTED	FY17 ACTUALS	FY17 Variance	FY18 Budget ADOPTED	FY18 Budget ADJUSTED	FY18 ACTUALS	FY18 Variance
EXPENSES	Other Contractual Svcs	34004 - Maintenance	831404	\$5,750	\$5,750	\$18,335	(\$12,585)	\$5,750	\$31,441	\$66,398	(\$60,648)
EXPENSES	Water Utility	34001 - Admin	830102	\$15,000	\$15,000	\$19,974	(\$4,974)	\$15,000	\$15,000	\$26,570	(\$11,570)
EXPENSES	Property Mgmt Svcs	34200 - General Programming	830008	\$23,000	\$23,000	\$33,740	(\$10,740)	\$23,000	\$23,000	\$79,373	(\$56,373)
EXPENSES	Grounds Maintenance	34200 - General Programming	830212	\$15,000	\$15,000	\$30,452	(\$15,452)	\$15,000	\$15,000	\$38,134	(\$23,134)
EXPENSES	Machinery & Equipment	34200 - General Programming	830324	\$10,000	\$10,000	\$25,619	(\$15,619)	\$10,000	\$10,000	\$25,848	(\$15,848)
EXPENSES	Building Materials & Supplies	34200 - General Programming	832128	\$5,000	\$5,000	\$7,634	(\$2,634)	\$5,000	\$5,000	\$12,469	(\$7,469)
EXPENSES	Other Contractual Svcs	34501 - Veterinary Services	831404	\$115,000	\$115,000	\$284,483	(\$169,483)	\$115,000	\$255,515	\$428,515	(\$313,515)
EXPENSES	TI Infrastructure Services Exp	34504 - Special Investigations	900400	\$240,209	\$241,556	\$291,459	(\$49,903)	\$263,121	\$263,121	\$339,893	(\$76,772)
EXPENSES	TI Infrastructure Services Exp	34505 - Rehoming	900400	\$71,817	\$72,510	\$133,648	(\$61,138)	\$87,832	\$87,832	\$133,292	(\$45,460)
	TOTALS			\$500,776	\$502,816	\$845,344	(\$342,528)	\$539,703	\$705,909	\$1,150,492	(\$610,789)
REVENUE	Trust Revenue	34501 - Veterinary Services	710100	\$60,000	\$60,000	\$0	\$60,000	\$60,000	\$211,938	\$211,938	(\$151,938)

RECOMMENDATION

Direct City Manager to conduct comprehensive financial audit of LBACS to identify areas to streamline/resolve budget irregularities.

EIGHT
EXPENDITURES DO NOT ADD UP

**MAINTENANCE, PROPERTY MANAGEMENT, SPCALA
EXPENDITURES**

In fiscal year 2018 and 2018 LBACS maintenance expenditures have tripled, jumping from \$100,000 to \$300,000 while the budget remained \$100,000. The table below depicts some of the spcaLA expenses which the City subsidizes. These items 2018 actuals do not add up. ACS is surpassing their budget by \$66,540. For example, Property Management is budgeted for \$23,000 in 2017 and 2018, but in 2018 actual costs were close to \$80,000. That is a HUGE increase. Why?

Character	Title/Description	Object	FY 17 Budget	YTD Adj. Budget 9/30/17 EXPENSE	FY 18 Budget	FY 18 Actuals	FY 18 Variance
020 - Materials, Supplies, & Services							
250001	Power (electricity)	830100	\$52,000		\$52,000	\$11,595	(\$40,405)
250003	Property Operation/Management	830008	\$23,000		\$23,000	\$79,371	\$56,371
220002	Machinery & Equipment Repair Srvc	830324	\$10,000		\$10,000	\$25,847	\$15,847
223001	Grounds Maintenance	830212	\$15,000		\$15,000	\$38,134	\$23,134
250007	Other Building Materials & Supplies	832128	\$5,000		\$5,000	\$12,469	\$7,469
250005	Security	831420	\$11,380		\$11,380	\$12,173	\$793
223006	Janitorial Supplies	832304	\$4,500		\$4,500	\$7,831	\$3,331
TOTALS			\$120,880	\$180,015	\$120,880	\$187,420	\$66,540

RECOMMENDATION

Direct City Manager to request legal interpretation and determination of conflict between Lease/Lease Back for Maintenance obligations/expenses of Lease Back (Lease pg 12, Lease-Back pg5). Is city paying for maintenance of the common areas (spcaLA required to pay/maintain common areas as per Lease pg 12).

Direct City Manager to provide detailed financial report of SpcaLA's operating expenses and provide detailed financial report for past 5 years (2014-current), including spcaLA's certified invoices. Deliverable to include financial expenses (budget to actuals) line item detail (include character#, object#, and description. (City has the right at any time to examine and audit the books and records of spcaLA relating to Operating Expenses (refer to Lease Back pg 11, #24). Is LBACS paying for animal disposal? Electricity? Neither outlined as an LBACS expense in the Lease/Lease Back (See Lease Pg 12, #10 & 11).