

TRANSMITTAL

To:

THE COUNCIL

Date:

NOV 15 2012

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.



ANTONIO R. VILLARAIGOSA
Mayor

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ANTONIO R. VILLARAIGOSA
MAYOR

DEPARTMENT OF
ANIMAL SERVICES
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BRENDA F. BARNETTE
General Manager

JOHN CHAVEZ
Assistant General Manager

November 1, 2012

Honorable Antonio R. Villaraigosa
Mayor, City of Los Angeles
Room 303, City Hall
200 North Spring Street
Los Angeles, California 90012

**Subject: USE OF EXOTIC AND WILD ANIMALS, AND/OR ELEPHANTS, IN
PERFORMANCES BY TRAVELING SHOWS WITHIN THE CITY OF LOS
ANGELES**

Dear Mayor Villaraigosa:

At its meeting of October 23, 2012, the Board of Animal Services Commissioners (Board), by a 3 – 0 unanimous¹ vote, recommended to the Mayor and City Council that the City consider various options relative to regulating the use of wild and exotic animals in traveling shows and exhibitions within the City.

While several Commissioners had strong personally feelings about elephant-related issues, in their roles as Board members, the Commissioners were especially interested in having Options 1, 3, 4, and 6, enacted into ordinances and that Option 5 be considered.

The following are the various options the Board would like the City Council to consider and act on:

OPTION 1. The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions.

OPTION 2. The City consider adopting an ordinance prohibiting the use of exotic and wild animals in traveling shows and exhibitions (including circuses).

OPTION 3. The City consider adopting an ordinance prohibiting in any public performance-related context the use of bullhooks (aka "guides" or "ankuses"), baseball

¹ One Commissioner recused herself; another was absent.

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bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants (per the Board's action of April 24, 2012).

OPTION 4. The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions (including circuses) and, in any public performance-related context, the use of bullhooks/guides, baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants.

OPTION 5. The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any exotic and wild animals owned by and/or featured in traveling shows and exhibitions (including circuses).

OPTION 6. The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any elephants owned by and/or featured in traveling shows and exhibitions (including circuses).

OPTION 7. The City take no action with regard to any of these options.

The Board also recommended the following:

THAT should the City adopt an ordinance based on the above option(s), it should provide that, there be a two-year phase-in of implementation from the effective date and, in cases where violations of any such prohibition take place in the context of any performance that has received a permit from the Department of Animal Services, the violation should lead to immediate revocation of the permit to operate within the city limits and should prevent the exhibitor from obtaining another permit for a period of five years. And,

THAT the Department report back to the Board within 120 days regarding the performing animal permit process in Los Angeles, including "lessons learned" from the permitting process since the last revisions to the process undertaken in 2008 and recommendations, if any, for modifications.

BACKGROUND

On February 3, 2012, the City Council referred a motion (Koretz/LaBonge: Council File 12-0186) to the Personnel and Animal Welfare Committee requesting Animal Services to report to the Committee with recommendations on banning the use of bullhooks/guides in the handling of elephants in circuses and traveling exhibitions held in the City of Los Angeles, along with suitable enforcement mechanisms. According to that motion, the bullhook (also known as an "ankus" or "guide") is a stick with a sharp spike attached to it, whose use can lead to the abuse of elephants.

On April 24, 2012, the Board of Animal Services Commissioners approved a Department report recommending a ban on the use of bullhooks/guides (and other implements, per Option 3 above) relative to the training and performance of elephants within the City limits and instructed the Department to transmit it to the Mayor and Council. On June 5, 2012, the City Council Personnel and Animal Welfare (PAW) Committee held a brief hearing on the item and continued it to allow the public and stakeholders more time to prepare for a full hearing.

On October 1, 2012, the PAW Committee chair transmitted a letter to the Department of Animal Services and the Board president asking for the report to be returned to the Department for consideration of altering the recommendation to include a prohibition on the use of elephants in traveling shows and exhibitions (including circuses) within the city limits.

Subsequently, on October 2, 2012, the Committee held a second hearing on the matter and, as noted above, issued an instruction to Animal Services expanding the chair's October 1 request to include the review of a potential prohibition on the use of all exotic and wild animals in traveling shows and exhibitions (including circuses) within the city limits.

The Committee's direction was for the Department to explore the issues relating to the concept that elephants or, alternatively, wild and exotic animals, should not be used in a performing animal act if the animal is part of a traveling exhibition or show or living in a mobile housing facility.

Staff undertook this assignment with full knowledge that circus operators have expressed opposition to regulation that could impair their ability to do business in Los Angeles. The research done for the April 24, 2012 and the October 23, 2012 Board reports (both are attached), clearly revealed their concern, and the October 23, 2012 report includes substantial representation of their opinions and arguments. Department management met directly with local opponents as well as supporters of such regulation and the approach the more recent report takes reflects the full range of concern.

SUMMARY OF THE OPTIONS

The options for consideration are summarized below:

Option 1. The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions.

Banning the use of elephants in traveling shows has important symbolic value but, on its face, appears to be a relatively weak regulation. A traveling show – such as a large circus – for which performing elephants make up a small percentage of the length of the show would have the option of accepting the prohibition in Los Angeles while continuing to use elephants anywhere else they were allowed. The elephants would still be trained, transported and handled as usual but would be kept out of the performances

here. This wouldn't appear to be an effective or particularly desirable outcome unless and until a larger number of jurisdictions followed suit with this or some other similar regulation.

Option 2. *The City consider adopting an ordinance prohibiting the use of exotic and wild animals in traveling shows and exhibitions (including circuses).*

A full ban on performances by all wild and exotic animals also would have considerable symbolic value and perhaps more real impact on a traveling show's ability to function successfully in Los Angeles. However, the July 2012 performance of the Ringling Bros. and Barnum & Bailey (Ringling) circus in Los Angeles featured no more than 15 minutes of animal performances, which suggests that the impact would be limited depending on the circus's decisions regarding show structure. A traveling show that decided to adhere to the City's regulation and still perform here would still have its animals along for the ride, with all that might imply.

Option 3. *The City consider adopting an ordinance prohibiting in any public performance-related context the use of bullhooks (aka guides or ankuses), baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants (per the Board's action of April 24, 2012).*

This proposal, already recommended by the Board, could be expected to have considerable potential to disrupt the ability of traveling shows to employ elephants. The response of circus owners, staff and supporters in writing and during hearings held by the City Council's Personnel and Animal Welfare Committee suggests that they consider the use of bullhooks/guides fundamental to involving elephants in performances and believe - somewhat contentiously in the minds of others - that they can be thusly utilized without doing harm to the elephants.

Option 4. *The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions (including circuses) and, in any public performance-related context, the use of bullhooks/guides, baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants.*

A combination of options 1 and 3 - banning both elephant performances and the use of bullhooks/guides by traveling shows - appears to have considerable potential for impacting the way elephants are used in this context but may also serve to cause those shows to avoid visiting Los Angeles if they insist on retaining elephants as a part of their programs. More than a simple ban on the use of elephants, this tandem approach provides two separate but related disincentives.

Option 5. *The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any exotic and wild animals owned by and/or featured in traveling shows and exhibitions (including circuses).*

Perhaps the strongest approach to discouraging exotic and wild animal performances in Los Angeles is to prohibit traveling shows from bringing those animals within the city limits at all. While carrying with it all the aforementioned impacts, such a prohibition would appear to have the most potential to either inconvenience the traveling show in a serious manner or to discourage it from coming to the city altogether. At the same time, a large circus such as Ringling could choose to leave its wild and exotic animals quartered in cramped rail cars while the rest of the operation sets up and performs as usual. This would not appear to be an optimal outcome. As with many of these options, this option becomes more effective as more jurisdictions follow suit until circuses decide to drop exotic and wild animals from their programs altogether.

Option 6. *The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any elephants owned by and/or featured in traveling shows and exhibitions (including circuses).*

Similar to option 5, prohibiting traveling shows from bringing elephants within the city limits could have a powerful impact on those shows and could well lead to some of them choosing not to perform in Los Angeles.

Option 7. *The City take no action with regard to any of the above options.*

On its face this would seem to be an endorsement of the status quo. However, as the Department refines its permitting guidelines and inspection procedures (see the additional recommendation above) the status quo stands to change even more than it has even in the last couple of years. Beginning in 2008, the Department and Board began the process of strengthening the permit guidelines. In 2011, at the urging of the Mayor, the Department intensified its inspection procedures for large traveling shows. With Section 53.50 of the Los Angeles Municipal Code (LAMC) requiring the Department to undertake due diligence in determining the appropriateness of issuing performance permits and giving it broader discretion in doing so than it generally has exercised in the past, it appears likely that the landscape relative to permits for traveling shows could evolve substantially in the coming months and years.

FISCAL IMPACT

In 2011 and 2012 to date, the Department has issued four permits covering performance-related activities involving elephants in traveling shows within the city limits of Los Angeles. These permits generated \$16,000 in permit fees paid to the Department to cover the cost of issuing and enforcing the permits. The proposed regulation could serve to reduce the number of permits issued should a circus decide not to visit Los Angeles as a result of its approval.

Section 21.17 of the Los Angeles Municipal Code prohibits the public release of specific data on tax receipts received from individual payers, but tax rates for circuses specified in Section 21.74 allow for estimates to be calculated based on attendance. According

Elephants/Wild and Exotic Animals in Traveling Shows (C.F. 12-0186)
November 1, 2012

to those estimates, the permittees appear to have generated approximately \$15,000-20,000 in direct and indirect tax revenues to the City in 2011, including taxes on the events and parking, with a comparable amount anticipated in 2012. This does not factor in any taxes and fees paid by the owners of the facilities and property where the permittees set up their performances covering the time the traveling shows were on site.

Circus industry executives represented to the PAW Committee that the Ringling Bros. circus visits to Los Angeles alone generate in excess of \$2 million in circus-related and ancillary economic activity above and beyond direct payments to the City for permits and taxes. As with permit application fees, the exact level of City tax receipts from such activity could be impacted by this proposed regulation to an as-yet undetermined extent depending on choices made by the exhibitors based on the need to comply with any new or existing regulations in order to stage their performances in Los Angeles.

Attached to this transmittal are the two elephant-related reports approved by the Board. The most recent one, approved on October 23, 2012, will provide you with significantly more information relative to background, history, timeline, and issues. Both are attached for your reference.

If you require additional information regarding this action of the Board, please have your staff contact me, at (213) 482-9558 or Ross Pool, Management Analyst II, at (213) 482-9501.

Sincerely,



BRENDA F. BARNETTE
General Manager

BFB:JDC:RP

Attachments:

- April 24, 2012 Board Report, "Use of Bullhooks in the City of Los Angeles"
- October 23, 2012 Board Report, "Use of Exotic and Wild Animals, and/or Elephants, in Performances by Traveling Shows Within the City of Los Angeles"

cc: Dov Lesel, Assistant City Attorney
Jim Bickhart, Office of the Mayor
Ross Pool
File

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To:

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THE MAYOR

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 (Janelle Erickson)
for

ANTONIO R. VILLARAIGOSA
Mayor

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BRENDA F. BARNETTE
GENERAL MANAGER

JOHN D. CHAVEZ
ASSISTANT GENERAL MANAGER

DR. JEREMY PRUPAS
CHIEF VETERINARIAN

May 11, 2012

Honorable Antonio R. Villaraigosa
Mayor, City of Los Angeles
Room 303, City Hall
200 North Spring Street
Los Angeles, California 90012

Subject: Use of Bullhooks in the City of Los Angeles

Dear Mayor Villaraigosa:

At its meeting of April 24, 2012, the Board of Animal Services Commissioners (Board) voted to recommend to the Mayor and City Council that City adopt an ordinance prohibiting the use of bullhooks, baseball bats, axe handles, pitchforks and other implements designed to inflict pain for the purpose of training and controlling the behavior of elephants.

Additionally, the Board recommended that this ordinance should provide that, in cases where violations of this prohibition take place in the context of, or the preparation for, any performance including animals that has received a permit from the Department of Animal Services (LAAS), the violation should lead to immediate revocation of the permit to operate within the city limits. Individuals found to be in violation would be subject to prosecution for a misdemeanor and potentially subject to prosecution for animal cruelty depending upon the severity of the offense.

Additionally, the Mayor and City Council also should adopt a policy strongly supporting a progressive elephant management method called "protected contact" as the approved system for training elephants in Los Angeles and affirm its intention to enforce existing state laws against the use of any electric prods, stun guns or other electrically-powered instruments in the handling of elephants or other animals in the context of public performances or training of animals for such performances.

BACKGROUND

On February 3, 2012, the City Council referred a motion (Koretz/LaBonge: Council File 12-0186) to the Personnel and Animal Welfare (PAW) Committee requesting Los Angeles Animal Services to report to the Committee with recommendations on banning the use of bullhooks in the handling of elephants in circuses and traveling exhibitions held in the City of Los Angeles, along with suitable enforcement mechanisms. Current City law is silent on this topic. According to the motion, the bullhook (also known as an "ankus" or "guide") is a stick with a sharp spike attached to it, whose use can lead to the abuse of elephants.

The Los Angeles Zoo dropped its use of bullhooks in 2010 upon opening its "Elephants of Asia" exhibit, switching instead to a more humane form of elephant handling known as "protected contact,"

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2012 MAY 22 PM 1:18
CITY OF LOS ANGELES

in which a protective barrier separates trainer and elephant, and positive reinforcement training is used to elicit behaviors. Protected contact is safer for handlers and arguably more humane for the elephants. The motion goes on to define traveling circuses or exhibitions as any non-permanent live exhibition open to the public, including but not limited to any circus, public show, public photographic opportunity, carnival, fair, ride, parade, performance or similar undertaking, but does not include any use closed to the general public.

The employment of techniques that allegedly could lead to physical and/or psychological injury has been questioned in complaints to the United States Department of Agriculture and in litigation before the federal courts, with the fundamental issue of the welfare of elephants in captivity always looming in the background.

According to a 2008 report by the American Veterinary Medical Association (AVMA), "Between five and six hundred elephants are kept in North America, more than 280 of them in Association of Zoos and Aquariums (AZA)-accredited zoos and the rest by non-accredited zoos, sanctuaries, circuses, other entertainment providers, or private individuals."

"Because of their large size, intelligence, and social needs, elephants can be challenging to keep in a way that is safe for humans and satisfactory for animal welfare. Training can assist in assuring human safety when working with elephants, reducing the need for chemical restraint. For their own health and welfare, elephants must be able to calmly tolerate routine husbandry procedures such as foot care, checks of reproductive status, and tuberculosis testing. Training also provides elephants with intellectual challenge and exercise, and can encourage positive relationships with handlers. The use of training to provide care is becoming more widespread in zoos. The two main training approaches currently used for elephants are 'free contact' and 'protected contact.'"

THE ROLE OF THE BULLHOOK

The bullhook resembles a fireplace poker, with a pointed steel tip and hook at the end, and it can puncture and tear the skin. A handler may use the device to prod, jab, hook and even strike an elephant to elicit desired behaviors. The bullhook is effective because the elephant has at some point learned to associate it with a painful consequence. If trainers were able to control elephants with light touches and voice commands, as some claim to be able to do, they could carry a lightweight stick instead of a steel-tipped weapon. Even when not in use, the bullhook is a constant reminder of the painful punishment that can be meted out at any time, for any reason. The negative association with the bullhook is sufficiently powerful that an elephant who has not seen the device in years will respond immediately to its presence.

The bullhook is used in the "free contact" system of management, in which a trainer must dominate an elephant through the use of negative reinforcement training (an aversive stimulus, the bullhook, is withdrawn only when the correct behavior is performed), physical punishment or threat of it, and some positive reinforcement (food rewards). Trainers may embed the hook in the soft tissue behind the elephant's ears, in the trunk, and in tender areas under the chin and around the feet to elicit a behavior.

Training is always secretive and performed at animal training compounds to assure the total control and consistent performance that the handler needs during a performance before an audience. Elephant calves begin training at a young age, when they are taken from their mothers and subjected to a regimen that includes being bound with ropes, chained, and jabbed and struck with a bullhook. Coverage of free contact training in the *Washington Post*, *Mother Jones* and elsewhere revealed these realities. This training is life-long and unrelenting, meant to force an elephant to be compliant and obedient.

In the performing animal industry there can be no room for error with an animal as powerful and intelligent as an elephant. To ensure that elephants perform consistently they are kept under the constant control of a handler who always carries a bullhook. However, there have been several serious incidents in which handlers were powerless to stop an elephant from escaping or rampaging, despite use of the bullhook. Based on the growing body of video evidence and legal testimony documenting the physical suffering inflicted on elephants with the bullhook, an increasingly vocal faction of elephant experts, renowned scientists, trainers and animal welfare organizations condemn its use. They allege that there is no humane or "right" way to use a bullhook which, by its very design, is meant to cause pain and fear.

WHY CONTINUE TO USE A BULLHOOK?

Setting aside for a moment the fundamental questions of whether it's healthful for elephants to be trained to regularly perform a series of actions and tricks that some experts argue are inherently unnatural and that may cause or contribute to health problems, whether it's wise to employ them in situations that expose members of the public to potential danger, and whether it's healthful to confine them in captivity and subject them to the rigors (such as extensive travel, restraints and standing around on hard pavement) associated with being performing animals in the first place, the basic argument for permitting the continued use of bullhooks and other free contact pain-infliction methodologies on performing elephants is straightforward: Many experts believe that, without being able to apply these methodologies, elephants simply would not be suitable participants in circuses and other performance situations.

CHANGING CIRCUMSTANCES

Since the publication of the above-referenced AVMA report, attitudes about elephant handling and training have continued to evolve. The deliberate infliction of physical and psychological pain increasingly is viewed as cruel and inhumane. Negative training methods are now thought by some to result in aggression and chronic stress. Given the widely acknowledged empathetic nature of elephants, even those animals not being poked or hit likely will feel stress as well when in the company of those that are.

The body that oversees accreditation of zoos, the Association of Zoos and Aquariums (AZA), of which a number of prominent entities featuring performing elephants, such as Ringling Brothers Barnum and Bailey Circus, are members, has mandated a transition to protected contact by September 1, 2014. Veterinarians and trainers are increasingly employing protected contact and positive reinforcement in the process of providing veterinary care, husbandry procedures and reproductive assessments. Zoos and circuses already employ protected contact in their handling of older male elephants, which are more unpredictable and dangerous than the females that primarily populate the performance arena.

AN EVOLVING REGULATORY ENVIRONMENT

The effectiveness of free contact training and handling in protecting trainers and the public also increasingly is being challenged. Since 1990, some 15 human deaths and 135 injuries in the U.S. have been attributed to elephants, primarily due to circus-related incidents. Since 2000, there have been 35 incidents of circus elephant escapes, some resulting in human deaths or injuries. First responders to elephant escapes are often local law enforcement, which, in some cases, have been responsible for destroying an elephant even though they lacked the firearms necessary to quickly kill one. Use of a tranquilizer may not be an option if human safety is immediately endangered.

Use of Bullhooks in the City of Los Angeles
May 11, 2012

As has been repeatedly shown, even the bullhook is no protection against an elephant bent on escape. Between these threats to human safety and the humane concerns, public opinion against the use of bullhooks and other potentially injurious tools in elephant training has been growing. In 2011, the Ringling Brothers Barnum and Bailey Circus was fined \$270,000 for mistreatment of its animals and the *Los Angeles Times* published an editorial calling for Ringling to stop using elephants. Ringling also had to defend itself in court against charges of animal cruelty and, depending on whose arguments are to be believed, escaped further punishment for the time being primarily because of procedural issues and legal technicalities.

Additionally, a number of local jurisdictions have taken legislative steps to prohibit the use of bullhooks. The largest of these are Fulton County, Georgia (where Atlanta is located), Tallahassee, Florida and Ft. Wayne, Indiana. The ban in Fulton County, enacted in 2011, is under legal challenge and, in February 2012, a judge stayed its enforcement apparently due to jurisdictional concerns. In 2011, for the first time ever LAAS employed an outside veterinarian to assist staff in inspecting Ringling Brothers' elephants upon their annual arrival in Los Angeles. The Department will continue this practice.

The goal in Los Angeles as set forth in the Koretz/LaBonge motion, the proposed ban on bullhooks primarily is intended to cover animal performances in public settings. It is silent on training and handling done in private and/or to prepare elephants for film and television appearances. It also is silent on other painful forms of control, such as the use of electric prods and stun guns, but since those already are illegal under California law, they don't need to be regulated at the municipal level.

While the motion does not appear to call for making it completely impossible for elephants to be used in performances, at events, and in films and TV, the Department does question the feasibility of allowing the use of free contact training methods and tools in private but banning them in public. We also question the benefit of banning only bullhooks, as proposed in the original motion, with other arguably inhumane tools remaining readily available.

Much as they are in zoos, elephants are fascinating, popular attractions in the performance realm, though their appearances in circuses are typically brief and represent just one of many performances in a show. Proposals to totally remove them from either context may arouse objections (though mainly from the circus industry). The Department believes that, much as the auto industry adapted to air quality and fuel economy regulations it initially claimed were unworkable, the performing animal industry should be given an opportunity to adapt as well.

Southern California circus audiences may already be leading the way with changing consumer habits, considering that Cirque du Soleil, with human-only performers, found it profitable to launch a new show, "IRIS, a Journey Through the World of Cinema," created exclusively for its permanent home at the Kodak Theatre in Los Angeles. In sharp contrast, Piccadilly Circus, a traveling circus that still uses wild animals, had to cancel shows across Southern California in 2011 due to poor ticket sales, and reports show that hundreds of people have come out in recent years to protest outside the Staples Center when Ringling Bros. performs.

CONCLUSION

If the City's goal is to take a step toward protecting the welfare of elephants when they are within the City limits, then banning the use of a bullhook as described in this motion would be consistent with that goal. So is including other implements that might be substituted for bullhooks. Given that elephants are dangerous wild animals capable of causing great bodily harm to members of the public, the City would also be acknowledging the risk to public safety posed by reliance on the

Use of Bullhooks in the City of Los Angeles
May 11, 2012

bullhook as a sole means of controlling an 8,000-10,000 pound elephant. If, at some point, the City's goal becomes broader, it might consider the more sweeping approach made by hundreds of other municipalities around the world, which is simply to ban the exhibition of wild animals in circuses and other public exhibitions. Since this was not the direction provided in the Council motion, it is not addressed here.

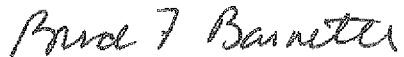
FISCAL IMPACT

In 2011, the Department issued six permits covering 18 days of performance-related activities involving elephants within the City of Los Angeles. These permits generated \$9,450 in fees paid to the Department to cover the cost of issuing and enforcing the permits. The proposed regulation could serve to reduce the number of permits issued at least for an interim period while the applicants adjust the training regimens of the elephants to achieve compliance.

Section 21.17 of the Los Angeles Municipal Code prohibits the public release of specific data on tax receipts received from individual payers, but tax rates for circuses specified in Section 21.74 allow for estimates to be calculated based on attendance. According to those estimates, the permittees appear to have generated approximately \$15,000-20,000 in direct and indirect tax revenues to the City in 2011, including taxes on the events and parking. As with permit application fees, this level of revenues could be impacted by this proposed regulation to an as-yet-undetermined extent depending on choices made by the exhibitors based on the need to comply with the regulation in order to stage their performances in Los Angeles.

If you require additional information regarding this action of the Board, please have your staff call me at (213) 482-9558 or Ross Pool, Management Analyst II, at (213) 482-9501.

Sincerely,



Brenda F. Barnette, General Manager
Department of Animal Services

BFB:JC

cc: Jim Bickhart, Office of the Mayor
Dov Lesel, Assistant City Attorney
File

Attachment

**BOARD OF
ANIMAL SERVICES
COMMISSIONERS**

JIM JENSVOLD
TARIQ A. KHERO
LISA McCURDY
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ALANA YANEZ

**City of Los Angeles
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MAYOR

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BRENDA F. BARNETTE
General Manager

Report to the Board of Animal Services Commissioners

Brenda F. Barnette, General Manager

COMMISSION MEETING DATE: April 24, 2012 **PREPARED BY:** Brenda Barnette

REPORT DATE: April 19, 2012

TITLE: General Manager

SUBJECT: Use of Bullhooks in the City of Los Angeles

BOARD ACTION RECOMMENDED:

That the Board Recommend to the Mayor and City Council that:

The City consider adopting an ordinance prohibiting in any context the use of bullhooks, baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants.

Additionally, this ordinance should provide that, in cases where violations of this prohibition take place in the context of any performance including animals that has received a permit from the Department of Animal Services (LAAS), the violation should lead to immediate revocation of the permit to operate within the city limits. Individuals found to be in violation would be subject to prosecution for a misdemeanor and potentially subject to prosecution for animal cruelty depending upon the severity of the offense.

Additionally, the Mayor and City Council also should adopt a policy strongly supporting a progressive elephant management method called "protected contact" as the approved system for training elephants in Los Angeles and affirm its intention to enforce existing state laws against the use of any electric prods, stun guns or other electrically-powered instruments in the handling of elephants or other animals in the context of public performances or training of animals for such performances.

I. SUMMARY:

On February 3, 2012, the City Council referred a motion (Koretz/LaBonge: Council File 12-0186) to the Personnel and Animal Welfare (PAW) Committee requesting LAAS to report to the committee with recommendations on banning the use of bullhooks in the

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handling of elephants in circuses and traveling exhibitions held in the City of Los Angeles, along with suitable enforcement mechanisms. Current City law is silent on this topic.

According to the motion, the bullhook (also known as an "ankus" or "guide") is a stick with a sharp spike attached to it, whose use can lead to the abuse of elephants.

The Los Angeles Zoo dropped its use of bullhooks in 2010 upon opening its "Elephants of Asia" exhibit, switching instead to a more humane form of elephant handling known as "protected contact" first developed at the San Diego Zoo, in which a protective barrier separates trainer and elephant, and positive reinforcement training is used to elicit behaviors. Protected contact is safer for handlers and arguably more humane for the elephants. (Bullhooks are commonly used in the "free contact" method of handling, an approach in which the trainer instills fear as a way to dominate elephants.)

The motion goes on to define traveling circuses or exhibitions as any non-permanent live exhibition open to the public, including but not limited to any circus, public show, public photographic opportunity, carnival, fair, ride, parade, performance or similar undertaking, but does not include any use closed to the general public.

II. BACKGROUND:

Few issues have aroused as much passion and concern before the Los Angeles City Council in recent years as the treatment of elephants. Multiple standing-room-only debates since 2006 over the fate of the elephant exhibit at the Los Angeles Zoo led to the enlargement of that exhibit and possibly influenced Zoo management in its decision in 2010 to implement the protected contact approach to the handling of elephants.

The same concerns underlying those debates also are relevant to the methodologies for training and handling of performing elephants in an entertainment context. The employment of techniques that allegedly could lead to physical and/or psychological injury has been questioned in complaints to the United States Department of Agriculture (which is responsible for enforcement of the federal Animal Welfare Act) and in litigation before the federal courts, with the fundamental issue of the welfare of elephants in captivity always looming in the background.

According to a 2008 report by the American Veterinary Medical Association (AVMA), "Between five and six hundred elephants are kept in North America, more than 280 of them in *Association of Zoos and Aquariums* (AZA)-accredited zoos and the rest by non-accredited zoos, sanctuaries, circuses, other entertainment providers, or private individuals.

"Because of their large size, intelligence, and social needs, elephants can be challenging to keep in a way that is safe for humans and satisfactory for animal welfare. Both Asian and African elephant species are dangerous to work with due to their size

and variable temperament. Males are currently less commonly maintained in captivity in the United States as they enter a periodic reproductive state called musth during which they may become excitable and intractable...

"Asian elephants have a long history, in many countries, of being intensively trained for purposes, including warfare, religious ceremonies, timber harvest and circus performances. Training can assist in assuring human safety when working with elephants, reducing the need for chemical restraint. For their own health and welfare, elephants must be able to calmly tolerate routine husbandry procedures such as foot care, checks of reproductive status, and tuberculosis testing. Training also provides elephants with intellectual challenge and exercise, and can encourage positive relationships with handlers. The use of training to provide care is becoming more widespread in zoos. The two main training approaches currently used for elephants are 'free contact' and 'protected contact..."

The report goes on to explain free and protected contact methodologies, methods of restraint and the evolving nature of elephant handling. It suggests that, for elephants involved with performing and breeding, free contact (with all that it implies) may be both preferred and necessary, while protected contact works best in circumstances in which "elephants that are potentially dangerous, do not need to perform, or have negligible need for human intervention."

A. The Role of the Bullhook

As noted above, the bullhook resembles a fireplace poker, with a pointed steel tip and hook at the end, and it can puncture and tear the skin. A handler may use the device to prod, jab, hook and even strike an elephant to elicit desired behaviors.

The bullhook is effective because the elephant has at some point learned to associate it with a painful consequence. If trainers were able to control elephants with light touches and voice commands, as some claim to be able to do, they could carry a lightweight stick instead of a steel-tipped weapon.

Even when not in use, the bullhook is a constant reminder of the painful punishment that can be meted out at any time, for any reason. The negative association with the bullhook is sufficiently powerful that an elephant who has not seen the device in years will respond immediately to its presence. Sometimes an elephant will, without a bullhook even being present, react negatively to the sight of a human who has used a bullhook on it in the past.

The bullhook is used in the "free contact" system of management, in which a trainer must dominate an elephant through the use of negative reinforcement training (an aversive stimulus, the bullhook, is withdrawn only when the correct behavior is performed), physical punishment or threat of it, and some positive reinforcement (food rewards). Trainers may embed the hook in the soft tissue behind the elephant's ears, in the trunk, and in tender areas under the chin and around the feet to elicit a behavior.

Though thick, an elephant's skin is quite sensitive. The bull hook is only used on elephants.

Training is always secretive and performed at animal training compounds to assure the total control and consistent performance that the handler needs during a performance before an audience. (Handlers never use this same training in front of an audience, which suggests they know that the public may find it unacceptable.) Elephant calves begin training at a young age, when they are taken from their mothers and subjected to a regimen that includes being bound with ropes, chained, and jabbed and struck with a bullhook. Coverage of free contact training in the *Washington Post*, *Mother Jones* and elsewhere revealed these realities.

This training is life-long and unrelenting, meant to force an elephant to be compliant and obedient. In the performance industry there can be no room for error with an animal as powerful and intelligent as an elephant. To ensure that elephants perform consistently they are kept under the constant control of a handler who always carries a bullhook. However, there have been several serious incidents in which handlers were powerless to stop an elephant from escaping or rampaging, despite use of the bullhook.

Based on the growing body of video evidence and legal testimony documenting the physical suffering inflicted on elephants with the bullhook, an increasingly vocal faction of elephant experts, renowned scientists, trainers and animal welfare organizations condemn its use. They allege that there is no humane or "right" way to use a bullhook which, by its very design, is meant to cause pain and fear.

B. Why Continue to Use a Bullhook?

Setting aside for a moment the fundamental questions of whether it's healthful for elephants to be trained to regularly perform a series of actions and tricks that some experts argue are inherently unnatural and that may cause or contribute to health problems, whether it's wise to employ them in situations that expose members of the public to potential danger, and whether it's healthful to confine them in close captivity and subject them to the other rigors (such as extensive travel, restraints and standing around on hard pavement) associated with being performing animals in the first place, the basic argument for permitting the continued use of bullhooks and other free contact pain-infliction methodologies on performing elephants is straightforward: Many experts believe that, without being able to apply these methodologies, elephants simply would not be suitable participants in circuses and other performance situations.

C. Changing Circumstances

Since the publication of the above-referenced AVMA report, attitudes about elephant handling and training have continued to evolve. The deliberate infliction of physical and psychological pain increasingly is viewed as cruel and inhumane. Negative training methods are now thought by some to result in aggression and chronic stress. Given the

widely acknowledged empathetic nature of elephants, even those animals not being poked or hit likely will feel stress as well when in the company of those that are.

The body that oversees accreditation of Zoos, the Association of Zoos and Aquariums (AZA), has mandated a transition to protected contact by September 1, 2014. Veterinarians and trainers are increasingly employing protected contact and positive reinforcement in the process of providing veterinary care, husbandry procedures and reproductive assessments. Zoos and circuses already employ protected contact in their handling of older male elephants, which are more unpredictable and dangerous than the females that primarily populate the performance arena.

D. An Evolving Regulatory Environment

The effectiveness of free contact training and handling in protecting trainers and the public also increasingly is being challenged. Since 1990, some 15 human deaths and 135 injuries in the U.S. have been attributed to elephants, primarily due to circus-related incidents. Since 2000, there have been 35 incidents of circus elephant escapes, some resulting in human deaths or injuries. First responders to elephant escapes are often local law enforcement, which, in some cases, have been responsible for destroying an elephant even though they lacked the firearms necessary to quickly kill one. Use of a tranquilizer may not be an option if human safety is immediately endangered. As has been repeatedly shown, even the bullhook is no protection against an elephant bent on escape.

Between these threats to human safety and the humane concerns, public opinion against the use of bullhooks and other potentially injurious tools in elephant training has been growing. In 2011, the Ringling Brothers Barnum and Bailey Circus was fined \$270,000 for mistreatment of its animals and the Los Angeles Times published an editorial calling for Ringling to stop using elephants. Ringling also had to defend itself in court against charges of animal cruelty and, depending on whose arguments are to be believed, escaped further punishment for the time being primarily because of procedural issues and legal technicalities.

Additionally, a number of local jurisdictions have taken legislative steps to prohibit the use of bullhooks. The largest of these are Fulton County, GA (where Atlanta is located), Tallahassee, FL and Ft. Wayne, IN. The ban in Fulton County, enacted in 2011, is under legal challenge and, in February of this year, a judge stayed its enforcement apparently due to jurisdictional concerns.

In 2011, for the first time ever the Department employed an outside veterinarian to assist staff in inspecting Ringling Brothers' elephants upon their annual arrival in Los Angeles. We expect to continue this practice going forward.

E. The Goal in Los Angeles

As set forth in the Koretz/LaBonge motion, the proposed ban on bullhooks primarily is intended to cover animal performances in public settings. It is silent on training and handling done in private and/or to prepare elephants for film and television appearances. It also is silent on other painful forms of control, such as the use of electric prods and stun guns, but since those already are illegal under California law, they don't need to be regulated at the municipal level.

While the Department does not desire to make it completely impossible for elephants to be used in performances, at events, and in films and TV, we do question the feasibility of allowing the use of free contact training methods and tools in private but banning them in public. We also question the benefit of banning only bullhooks, as proposed in the original motion, with other arguably inhumane tools remaining readily available.

Much as they are in zoos, elephants are fascinating, popular attractions in the performance realm, though their appearances in circuses are typically brief and represent just one of many performances in a show. Proposals to totally remove them from either context may arouse objections (though mainly from the circus industry). The Department believes that, much as the auto industry adapted to air quality and fuel economy regulations it initially claimed were unworkable, the performing animal industry should be given an opportunity to adapt as well.

Southern California circus audiences may already be leading the way with changing consumer habits, considering that Cirque du Soleil, with human-only performers, found it profitable to launch a new show, "IRIS, a Journey Through the World of Cinema," created exclusively for its permanent home at the Kodak Theatre in Los Angeles. In sharp contrast, Piccadilly Circus, a traveling circus that still uses wild animals, had to cancel shows across Southern California in 2011 due to poor ticket sales, and reports show that hundreds of people have come out in recent years to protest outside the Staples Center when the Ringling Bros. Circus performs.

F. Conclusion

:
If the City's goal is to take a step toward protecting the welfare of elephants when they are within the city limits, then banning the use of a bullhook as described in this motion would be consistent with that goal. Given that elephants are dangerous wild animals capable of causing great bodily harm to members of the public, the City would also be acknowledging the risk to public safety posed by reliance on the bullhook as a sole means of controlling an 8,000-10,000 pound elephant. If, at some point, the City's goal becomes broader, it might consider the more sweeping approach made by hundreds of other municipalities around the world, which is to ban the exhibition of wild animals in circuses and other public exhibitions. Since this was not the direction provided in the Council motion, it is not addressed here.

III. FISCAL IMPACT:

In 2011, the Department issued six permits covering 18 days of performance-related activities involving elephants within the city limits of Los Angeles. These permits generated \$9,450 in permit fees paid to the Department to cover the cost of issuing and enforcing the permits. The proposed regulation could serve to reduce the number of permits issued at least for an interim period while the applicants adjust the training regimens of the elephants to achieve compliance.

Section 21.17 of the Los Angeles Municipal Code prohibits the public release of specific data on tax receipts received from individual payers, but tax rates for circuses specified in Section 21.74 allow for estimates to be calculated based on attendance. According to those estimates, the permittees appear to have generated approximately \$15,000-20,000 in direct and indirect tax revenues to the City in 2011, including taxes on the events and parking. As with permit application fees, this level of revenues could be impacted by this proposed regulation to an as-yet undetermined extent depending on choices made by the exhibitors based on the need to comply with the regulation in order to stage their performances in Los Angeles.

Approved:

Brenda F. Barnette, General Manager

BOARD ACTION:

_____ Passed	Disapproved _____
_____ Passed with noted modifications	Continued _____
_____ Tabled	New Date _____

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BRENDA F. BARNETTE
General Manager
JOHN CHAVEZ
Assistant General Manager

Report to the Board of Animal Services Commissioners

Brenda F. Barnette, General Manager

COMMISSION MEETING DATE: October 23, 2012 **PREPARED BY:** Brenda Barnette

REPORT DATE: October 18, 2012

TITLE: General Manager

SUBJECT: Use of Exotic and Wild Animals, and/or Elephants, in Performances by
Traveling Shows Within the City of Los Angeles

BOARD ACTION RECOMMENDED:

That the Board Recommend to the Mayor and City Council that:

The City consider various regulatory options relative to regulating the use of wild and exotic animals in traveling shows and exhibitions within the city limits:

Option 1. The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions.

Option 2. The City consider adopting an ordinance prohibiting the use of exotic and wild animals in traveling shows and exhibitions (including circuses).

Option 3. The City consider adopting an ordinance prohibiting in any public performance-related context the use of bullhooks (aka guides or ankuses), baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants. (Per the Board's action of April 24, 2012.)

Option 4. The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions (including circuses) and, in any public performance-related context, the use of bullhooks/guides, baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants.

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Option 5. The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any exotic and wild animals owned by and/or featured in traveling shows and exhibitions (including circuses).

Option 6. The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any elephants owned by and/or featured in traveling shows and exhibitions (including circuses).

Option 7. The City take no action with regard to any of these options.

(Additionally, should the City adopt an ordinance based on one of the above options, it should provide that, there be a two-year phase-in of implementation from the effective date and, in cases where violations of any such prohibition take place in the context of any performance including that has received a permit from the Department of Animal Services (LAAS), the violation should lead to immediate revocation of the permit to operate within the city limits and should prevent the exhibitor from obtaining another permit for a period of five (5) years.)

Supplemental Recommendation:

That the Department be instructed to bring a report to the Board within 120 days regarding the performing animal permit process in Los Angeles, including "lessons learned" from the permitting process since the last revisions to the process undertaken in 2008 and recommendations, if any, for modifications.

I. A BRIEF SUMMARY OF THE OPTIONS:

Option 1. *The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions.*

Comment: Banning the use of elephants in traveling shows has important symbolic value but, on its face, appears to be a relatively weak regulation. A traveling show – such as a large circus – for which performing elephants make up a small percentage of the length of the show would have the option of accepting the prohibition in Los Angeles while continuing to use elephants anywhere else they were allowed. The elephants would still be trained, transported and handled as usual but would be kept out of the performances here. This wouldn't appear to be an effective or particularly desirable outcome unless and until a larger number of jurisdictions followed suit with this or some other similar regulation.

Option 2. *The City consider adopting an ordinance prohibiting the use of exotic and wild animals in traveling shows and exhibitions (including circuses).*

Comment: A full ban on performances by all wild and exotic animals also would have considerable symbolic value and perhaps more real impact on a traveling show's ability

to function successfully in Los Angeles. However, the July 2012 performance of the Ringling Bros. and Barnum & Bailey (Ringling) circus in Los Angeles featured no more than 15 minutes of animal performances, which suggests that the impact would be limited depending on the circus's decisions regarding show structure. A traveling show that decided to adhere to the City's regulation and still perform here would still have its animals along for the ride, with all that might imply.

Option 3. *The City consider adopting an ordinance prohibiting in any public performance-related context the use of bullhooks (aka guides or ankuses), baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants. (Per the Board's action of April 24, 2012.)*

Comment: This proposal, already recommended by the Board could be expected to have considerable potential to disrupt the ability of traveling shows to employ elephants. The response of circus owners, staff and supporters in writing and during hearings held by the City Council's Personnel and Animal Welfare Committee suggests that they consider the use of bullhooks/guides fundamental to involving elephants in performances and believe - somewhat contentiously in the minds of others - that they can be thusly utilized without doing harm to the elephants.

Option 4. *The City consider adopting an ordinance prohibiting the use of elephants in traveling shows and exhibitions (including circuses) and, in any public performance-related context, the use of bullhooks/guides, baseball bats, axe handles, pitchforks and other implements and tools designed to inflict pain for the purpose of training and controlling the behavior of elephants.*

Comment: A combination of options 1 and 3 - banning both elephant performances and the use of bullhooks/guides by traveling shows - appears to have considerable potential for impacting the way elephants are used in this context but may also serve to cause those shows to avoid visiting Los Angeles if they insist on retaining elephants as a part of their programs. More than a simple ban on the use of elephants, this tandem approach provides two separate but related disincentives.

Option 5. *The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any exotic and wild animals owned by and/or featured in traveling shows and exhibitions (including circuses).*

Comment: Perhaps the strongest approach to discouraging exotic and wild animal performances in Los Angeles is to prohibit traveling shows from bringing those animals within the city limits at all. While carrying with it all the aforementioned impacts, such a prohibition would appear to have the most potential to either inconvenience the traveling show in a serious manner or to discourage it from coming to the city altogether. At the same time, a large circus such as Ringling could choose to leave its wild and exotic animals quartered in cramped rail cars while the rest of the operation sets up and performs as usual. This would not appear to be an optimal outcome. As with many of

these options, this option becomes more effective as more jurisdictions follow suit until circuses decide to drop exotic and wild animals from their programs altogether.

Option 6. *The City consider adopting an ordinance prohibiting the presence within the city limits of Los Angeles of any elephants owned by and/or featured in traveling shows and exhibitions (including circuses).*

Comment: Similar to option 5, prohibiting traveling shows from bringing elephants within the city limits could have a powerful impact on those shows and could well lead to some of them choosing not to perform in Los Angeles.

Option 7. *The City take no action with regard to any of the above options.*

Comment: On its face this would seem to be an endorsement of the status quo. However, as the Department refines its permitting guidelines and inspection procedures (see the Supplemental Recommendation above) the status quo stands to change even more than it has even in the last couple of years. Beginning in 2008, the Department and Board began the process of strengthening the permit guidelines. In 2011, at the urging of the Mayor, the Department intensified its inspection procedures for large traveling shows. With Section 53.50 of the Los Angeles Municipal Code (LAMC) requiring the Department to do due diligence in determining the appropriateness of issuing performance permits and giving it broader discretion in doing so than it generally has exercised in the past, it appears likely that the landscape relative to permits for traveling shows could evolve substantially in the coming months and years.

II. BACKGROUND:

A. Relevant terminology definitions (from Webster's New World Dictionary)

Domestic: ...3. Tame: said of animals.

Domesticated: 1. Tamed, trained, housebroken.

Exotic: 1. Foreign. 2. Strangely beautiful, enticing, etc.

Wild: 1. Living or growing in its original, natural state...3. Not civilized; savage. 4. Not easily controlled. 5. Lacking social or moral restraint; dissolute...

B. History

On October 2, 2012, the City Council Personnel and Animal Welfare (PAW) Committee instructed (pertaining to existing Council File 12-0186) LA Animal Services (LAAS) to generate a report on the possibility of banning the use of elephants in traveling exhibitions and shows (including circuses) and also on banning the use of wild and exotic animals in those circumstances. Current City law is silent on this topic though, as

noted earlier, LAMC Section 53.50 prescribes certain rigorous investigation and oversight requirements relative to the issuance of performance and other animal-related permits that could theoretically lead to the withholding of such permits without additional legislation.

The committee's direction was for the Department to explore the issues relating to the concept that elephants or, alternatively, wild and exotic animals, should not be used in a performing animal act if the animal is part of a traveling exhibition or show or living in a mobile housing facility.

Staff undertook this assignment with full knowledge that circus operators have expressed opposition to regulation that could impair their ability to do business in Los Angeles. The research done for the April 24, Board report as well as for this one clearly revealed their concern, and this report includes substantial representation of their opinions and arguments. Management has met directly with local opponents as well as supporters of such regulation and the approach this report takes reflects the full range of concern.

For the purposes of this discussion an animal is deemed to be part of a traveling exhibition or show if, during the 15-day period preceding such participation, the animal was traveling in a mobile housing facility. A 15-day period is contemplated because it recognizes an interest in ensuring that any resulting regulation covers only those shows that are constantly traveling, and not other performing animal suppliers. It also contemplates a reasonable rest period for animals with traveling shows. The Department will stipulate for the record that such a regulation could severely impact circuses and that they are expected to oppose it.

This report in response to the committee's latest request is intended to supplement and expand upon the previous report on bullhooks/guides. Consistent with the chair's motion proposing a prohibition on the use of bullhooks, this new request defines traveling circuses or exhibitions as any non-permanent live exhibition open to the public, including but not limited to any circus, public show, public photographic opportunity, carnival, fair, ride, parade, performance or similar undertaking, but does not include any permanent exhibit (such as a zoo) or any use closed to the general public.

Thus the proposed new restriction would not apply to the use of an elephant or, alternatively, a wild or exotic animal, in an exhibition at a non-mobile, permanent institution or facility, including an accredited zoo or aquarium; as part of an outreach program for educational or conservation purposes by an accredited zoo or aquarium, if the animal used for such purposes is not kept in a mobile housing facility for more than 12 hours a day; in film, television, or advertising if such use does not involve a live public exhibition; or in a rodeo.

1. Timeline

On February 3, 2012, the City Council referred the aforementioned original motion (Koretz/LaBonge) (also pertaining to Council File 12-0186) to the PAW Committee requesting LAAS to report to the committee with recommendations on banning the use of bullhooks/guides in the handling of elephants in circuses and traveling exhibitions held in the City of Los Angeles, along with suitable enforcement mechanisms. According to that motion, the bullhook (also known as an "ankus" or "guide") is a stick with a sharp spike attached to it, whose use can lead to the abuse of elephants.

The Los Angeles Zoo dropped its use of bullhooks/guides in 2010 upon opening its "Elephants of Asia" exhibit, switching instead to a form of elephant handling known as "protected contact" (or "restricted space management") first developed at the San Diego Zoo, in which a protective barrier separates trainer and elephant, and positive reinforcement training is used to elicit behaviors. Protected contact is safer for handlers and arguably more humane for the elephants because the need for the use of an implement such as a bullhook/guide is greatly diminished. (Bullhooks/guides are commonly used in the "free contact" [or "non-restricted space management"] method of handling, an approach in which the trainer uses them in a variety of ways to control an elephant's behavior and movements.)

On April 24, 2012, the Board approved a Department report recommending a ban on the use of bullhooks/guides (and other implements, per Option 3 above) relative to the training and performance of elephants within the city limits and instructed the Department to transmit it to the Mayor and Council. On June 5, 2012, the City Council Personnel and Animal Welfare (PAW) Committee held a brief hearing on the item and continued it to allow the public and stakeholders more time to prepare for a full hearing.

On October 1, 2012, the PAW Committee chair transmitted a letter to LAAS and the Board president asking for the report to be returned to the Department for consideration of altering the recommendation to include a prohibition on the use of elephants in traveling shows and exhibitions (including circuses) within the city limits.

Subsequently, on October 2, 2012, the committee held a second hearing on the matter and, as noted above, issued an instruction to LAAS expanding the chair's October 1 request to include the review of a potential prohibition on the use of all exotic and wild animals in traveling shows and exhibitions (including circuses) within the city limits.

C. Wider Context

So far in 2012, three circuses utilizing performing animals have visited Los Angeles: Ringling Bros. and Barnum & Bailey; Ramos Brothers Circus; and Circus Gatti. Among the exotic and wild animals employed in these circuses are elephants, tigers, lions, bears, camels, llamas and zebras. Among the domesticated animals employed in these circuses are dogs, donkeys, goats, ponies and adult horses.

As society re-examines its treatment of animals, the use of elephants and other wild and exotic animals in circuses has become controversial and a point of contention between the circus industry and animal activist community. This is due to the conditions that are inextricably linked with these traveling shows of which some activists are extremely critical. Animals employed in circuses spend the majority of the day in close confinement, and they are subject to what some allege is physical and social deprivation, long periods of time in unnatural transport, and methods of control that sometimes include techniques that are described as questionable and potentially (and allegedly) abusive.

1. Criticisms of Using Animals in Traveling Shows

Traveling shows and circuses, by their very nature, have a limited ability to change these conditions. In order to include animals in the shows, they must transport animals to show locations and they must train them to perform, thus fueling the debate as to whether the modes of transport and methods of training are safe and humane or inherently abusive. Stereotypic and abnormal behaviors have been observed and videotaped in almost all circus animal species, including horses, ponies, llamas, camels, giraffes, elephants, lions, tigers and bears.

The use of these animals in shows may also present a threat to public health and safety. There are numerous accounts of animals having escaped from circuses, sometimes causing injury to handlers and/or the public, and elephants can carry a form of tuberculosis that is transmissible to humans.

Supporters of bans on the use of elephants argue that the primary purpose of displaying them in traveling shows and circuses is entertainment and not conservation as some in the industry argue. They further contend that the shows trivialize endangered species such as tigers, lions, elephants, primates and reptiles. They also assert that venues such as Staples Center, which hosts the annual visit of Ringling Bros. and Barnum & Bailey Circus to L.A., ultimately would be able to fill the dates currently occupied by the circus with other attractions should a ban on bullhooks/guides or elephant or wild animal performances be enacted and motivate the circus to stop coming to this city.

They go on to assert that many of the circus workers whose jobs would allegedly be in jeopardy if wild animals were removed from the show also have other tasks between and during shows that have nothing to do with the animals, such as ticket-taking and concessions. They argue that most such jobs shouldn't be impacted by the absence of wild animals, especially if a sufficient phase-in period (such as two years) is afforded by any new prohibition.

2. Support for Using Animals in Traveling Shows

By contrast, advocates for traveling shows and circuses, and for retaining the use of wild and exotic animals in them, contend that their presence in the shows inspires

concern for their long-term well-being in the wild and complements domestic breeding operations that help to preserve each species. They argue that staff - especially the animal handlers - working for these shows and at the breeding facilities responsibly and humanely care for, train and manage the animals. They also argue that the common training and management techniques are absolutely necessary in a circus environment.

A June 4, 2012, letter to PAW by Feld Entertainment's Vice President-Government Affairs Thomas Albert regarding the bullhook/guide ban proposal adamantly notes, "The question of how elephants are managed and cared for triggers strong and divergent opinions. The guide is not only humane, but it is essential for free contact handling of elephants, which is the method used in all circuses and most zoos. Without this tool no one can have elephants in a circus and there are no alternatives for circuses. The animal rights activists seek to encourage the passage of 'bullhook bans' in order to eliminate circuses and prevent the exhibition of elephants...Circuses are lawful and licensed exhibitors and the effort to convert them into criminal conduct is nothing less than an attempt at illegal censorship."

Circus advocates also assert that existing federal regulations sufficiently protect performing animals in the United States, that federal inspectors properly administer those regulations, and that the implements (such as guides) and methodologies used to train the animals for performances are inherently benign and are rarely - if ever - used in a manner that could be considered harmful to the animals. Additionally, they take issue with contentions that the public is at risk of contracting tuberculosis from elephants.

They also contend that banning either bullhooks/guides or the use of wild and exotic animals in Los Angeles would negatively impact the employment opportunities for drivers, animal handlers, facility staff and other local residents whose work includes supplementing the staff of traveling shows when those shows visit the city. They estimate that such bans could affect up to 300 workers and cost the City more than \$1 million in cumulative economic activity during those visits. Proponents of bans allege that the numbers of potentially impacted workers would be considerably fewer - perhaps as few as two or three dozen - based on their discussions with such locally-based workers and their representatives.

Because those shows primarily visit Los Angeles during the summer season when most indoor sports leagues are inactive and many large concerts are held at the area's many large outdoor venues, circus advocates contend that a venue such as Staples may not readily be able to fill the dates an operation such as Ringling might abandon. This would cost the City venue- and parking-related taxes and Department permit fees.

Other than the Ringling Bros. and Barnum & Bailey Circus, in the current time-frame three other smaller circuses annually visit Los Angeles with wild animals, including Circus Vasquez, Circus Gatti and the Ramos Bros. Circus. There are other shows and exhibitions for which the Department issues permits that might be subject to a prohibition, but an initial review of the data does not reveal whether they involve

transporting wild or exotic animals within 15 days of their arrival and, in any case, they do not represent significant economic activity compared to Ringling Bros. and the others noted above.

D. Animal Welfare Issues Relating To Traveling Shows:

1. Intensive Confinement and Travel

In circuses, elephants are constantly being transported, as circuses rarely spend more than a week or so in one location. Keeping animals in non-permanent mobile accommodations for the majority of their time potentially creates a series of insurmountable compromises to their welfare unlike those they would experience in the wild (especially if protected) or in a zoo or sanctuary that provides a naturalistic environment for them.

The animals are subjected to the stress of forced movement, human handling, noise, loading and unloading, cage motion, restraint, and close confinement. They may spend hours standing in their own urine and feces and be deprived of food and water. Wild elephant species found in circuses include both Asian and African elephants, with Asian elephants predominating.

a. The Schedule

Performance schedules can span 48-50 weeks a year as circuses travel back and forth across the country. The animals spend the vast majority of their time in cages, train cars and trucks, often including before, during and after travel. Ringling Bros. and Barnum & Bailey Circus' documentation shows that its animals travel 26 hours straight on average, with some journey legs lasting as long as 70 hours without a break. The longest periods of travel have been known to last up to 100 hours.

While Ringling has asserted that rest stops are built into the travel schedule and animals are removed from the trains and exercised before the trips are restarted, records covering the years from 2000 to 2008 encompassing 600 trips that were revealed in legal proceedings documented only 14 such stops. Because the legal proceedings concerned elephants, the handling of lions, tigers and other animals were not discussed in that context, but since all the animals in any of Ringling's several U.S. performing circus units travel as part of one troupe, it appears reasonable to conclude that they are transported according to the same schedules. By one estimate, big cats spend between 75 and 99% of their time in cages on the backs of trailers.

b. Space Issues

Minimum space requirements under the federal Animal Welfare Act only require that an animal be able to "make normal postural and social adjustments with adequate freedom of movement." Captivity-related stress caused by reduced space and lack of movement

is associated with the animals developing abnormal repetitive behaviors and chronic, long-term behavioral and physiological problems. Elephants often travel with anywhere from three to five housed in each train car and those cars allegedly aren't consistently cleaned of urine and other filth. Certainly it would be impractical to do so while the train is actually in motion.

In addition to these issues, there are other ways that circus animals are at risk of injury from being transported. A November 18, 2010, a routine inspection of the Ringling "Blue Unit" (the same one that visited Los Angeles in July 2012) by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) noted the following:

"Primary enclosures, such as compartments, transport cages, cartons, or crates, used to transport live animals shall be constructed in such a manner that the interior of the enclosure shall be free from any protrusions that could be injurious to the live animals contained therein; On July 19, 2010 the licensee documents that Asian elephant Asha was injured sustaining abrasions over her right eye. Notes state that the animal scraped her forehead on trailer ride from the train to the building. On October 19, 2010, the licensee documents that Asian elephant Rudy had an abrasion over the right eyebrow noted during unloading from the transport vehicle.

"The licensee stated that it routinely uses the same trailer to transport Rudy, Asha, Bonnie, and Barack. During this inspection, APHIS examined the transport trailer used to transport these elephants from the licensee's train to the performance venue. It had numerous burnished bolts in an elevated compartment which serves as a compartment or primary enclosure for the animals. Several of these bolts have sharp edges on their sides which could cause injury to these animals during transport. Compartments used to transport live animals shall be free of any sharp edges that could injure the live animals contained therein, namely elephants."

The report went on to instruct Ringling to correct the condition by January 1, 2011. It is not known whether the problem was remedied.

The Association of Zoos and Aquariums (AZA), the primary accreditation entity for animal exhibitors in the United States, in its "Standards for Elephant Management and Care" provides nominal instruction for the transport of elephants. The standards basically specify that federal and International Air Transport Association animal transport guidelines must be adhered to.

c. Satisfaction and Seat Belts

Circus industry officials and expert court witnesses defend travel-related practices in various – and sometimes unusual – ways. According to court records cited in an exhaustive investigative piece featured in *Mother Jones* magazine ("The Cruellest Show on Earth," November/December 2011), Professor Ted Friend of Texas A&M opined to a court that the long train rides likely satisfy the well-known urge of elephants to roam (the latter being a belief that is central to the controversies that arise over the

sometimes minimal size of zoo elephant exhibits). The article also reported that a defense attorney for Ringling in court likened the chains that are used to tether elephants in the train cars to seat belts for humans in automobiles.

Performances and training make up a small part of an elephant's daily activities – as little as 1-9% of the day. Therefore, the claim that these activities provide adequate exercise or somehow compensate for their unnatural lifestyle remains in question.

A 2009 study by Iossa, Soulsbury and Harris for the University of Bristol in England ("Are Wild Animals Suited to a Travelling Circus Life?") on the welfare of wild animals in circuses concluded, "We argue that there is no evidence to suggest that the natural needs of non-domesticated animals can be met through the living conditions and husbandry offered by circuses. Neither natural environment nor much natural behavior can be recreated in circuses." Unlike zoos, circuses cannot create more complex environments that provide a more diverse array of stimuli.

2. Training

a. Difficult Issues Regarding Training Techniques and Elephant Guides (Bullhooks)

According to those who are critical of the process, animals are forced to perform tricks through a process based on intimidation, emotional deprivation and withholding of food and/or water. In Ringling's Florida-based breeding operation, young female elephants are assertively separated from their mothers and rigorously trained to perform movements that would otherwise be unnatural to them, sometimes constrained by ropes and harnesses.

Trainers use bullhooks/guides and electric shock devices (though these are prohibited for such uses in California) to train and control the elephants in a manner some criticize as being through fear and, allegedly, violence. Trainers are reluctant to allow the process to be photographed or video recorded. Nevertheless, circus workers have been observed, photographed and videotaped screaming at, punching, kicking and hitting the animals, often with bullhooks or other types of sticks or rods.

Department staff has watched several of the videos depicting training techniques and the handling of elephants by circus staff (for examples see <http://www.youtube.com/watch?v=Cdt-RBbmiyE>, <http://www.youtube.com/watch?v=eDMYEHY6ELs&feature=related>, <http://www.peta2.com/heroes/alec-baldwin-uncovers-elephant-abuse-under-big-top/>).

The pointed advocacy comments they include notwithstanding, the techniques visibly on display appear to be in direct conflict with the representations made by elephant trainers and circus officials at the October 2, 2012, PAW hearing. They also conflict with written standards and guidelines described in the International Elephant Foundation's "Elephant Husbandry Resource Guide," the Elephant Managers' Association's "Standard Guidelines for Elephant Management," the Association of Zoos and

Aquariums' "Standards for Elephant Management and Care," and the American Veterinary Medical Association's "Welfare Implications of Elephant Training."

The "Elephant Husbandry Resource Guide," published in 2004 by the International Elephant Foundation (an organization formed in the late 1990s by scientists and representatives from zoos, circuses and academia; <http://www.elephantconservation.org/>), sets forth a standard for the use of guides that is largely defensible on its face:

"The guide is a tool that is used to teach, guide, and direct the elephant into the proper position or to reinforce command. This is accomplished by adding a physical cue to a verbal command. The ultimate goal of the elephant handler is to have the elephant respond to verbal commands alone, using the guide as little as possible.

"The guide is used in many facilities throughout the elephant management continuum. The guide can be used to move the leg of the elephant closer to the straps of a restraint device, or indicate to the elephant to lean into the bars of the holding stall to allow greater access for the keeper standing outside of those bars. It is also used by the handler to teach an elephant to lift a leg, move forward, and move backward, and the list goes on and on.

"A guide consists of a hook (preferably stainless steel) mounted on one end of a fiberglass, wood, lexon, or nylon shaft. The design of the hook allows for the elephant to be cued with either a pushing or pulling motion. The ends on the hook are tapered to efficiently elicit the proper responses from the elephant with the handler exerting very little pressure. The ends of the hook should catch but not tear or penetrate into the skin. On a rare occasion, superficial marks may result but generally do not require medical attention.

"On rare occasions, the shaft of the guide may be used as punishment after the elephant acts in an inappropriate or aggressive manner. Contact between the elephant and the shaft of the guide should be immediate, in response to the incorrect behavior, and should stop immediately upon the elephant demonstrating appropriate behavior (see Training, p. 21).

"All new handlers should be instructed and knowledgeable in the proper use of the guide prior to working with an elephant so that the guide is not used improperly. As new handlers must learn the use of the guide, so must the elephant learn what is expected from the cues of the guide. An untrained elephant does not understand the "language" of the cues, similar to a dog, that has not been taught to walk on a lead and pulls its owner."

Similarly, in the Elephant Managers Association education manual, "Elephants: Conservation Today and Tomorrow," a comparable methodology is presented:

"In free-contact management, the elephant hook (stimulus) is used as a directional tool. The animal is conditioned to move away from the touch of the hook. This tool is not meant to penetrate the skin or cause any harm; however, it is uncomfortable and the elephant learns quickly that the appropriate behavior leads to the removal of the hook (negative reinforcement) and is usually followed by praise and a treat (positive reinforcement.) A verbal command (cue) is usually given along with the touch of the hook. It doesn't take long until the elephant will respond with the correct behavior to the verbal command alone. But just like with dogs, some elephants are a little more head-strong than others, and both the hook and verbal commands are necessary."

Some questions occur to staff:

- Can providing "a physical cue" be overdone? In what way is "the animal...conditioned to move away"?
- How is the guide's hook uncomfortable if it is just touching the elephant's skin, as opposed to hitting it or penetrating it?
- If, in the application of a guide's hook, "superficial marks may result but generally do not require medical attention," how can the numerous reports of broken skin and bleeding be explained?
- If the animal "will respond with the correct behavior to the verbal command alone," is the video depiction of what appears to be the routine striking of the elephants standing backstage prior to a performance consistent with the manual's assertion that once the animal is trained anything more than verbal commands should be unnecessary for most elephants?
- Are all of the elephants featured in the video "a little more head-strong" and, in the minds of the handlers, constantly in need of "both the hook and verbal commands" on a regular basis?

As Thomas Albert, the Vice President-Government Relations and a board member (and former board president) of the International Elephant Foundation, told the PAW Committee on October 2, 2012, in essence, just because a guide can be used in an abusive manner doesn't mean that it is inherently an abusive tool. If there is an issue with guides, it is with inconsistent application and use that does not always square with the standards noted above.

A similar discussion could be undertaken relative to the training and handling of big cats, bears and other performing animals, but staff feels it is not productive to do so in this context. The fundamental issues are the same.

b. Nature and Early Preparation

According to some animal behaviorists, unlike domestic species, these animals have not been selectively bred for compliance and companionship with humans over thousands of years. Therefore their wild instincts and nature are in constant conflict with their captive environment and the behavior of their captors. High levels of stress are likely to increase the level of suffering and also means these animals are less

predictable and potentially more dangerous in public.

The training sessions that are shown to the media apparently are rehearsals and reinforce movements the animals have previously been trained to reproduce. Studies, accounts of former show employees and undercover observation and videos have revealed how the real training goes on behind closed doors at animal training compounds to assure the total control and consistent performance that the handler needs. (Handlers almost never use this same training in front of an audience, which suggests they are aware that the public may find it unacceptable.) Elephant calves begin training at a young age, when they are taken away from their mothers and subjected to a regimen that typically includes being bound with ropes, chained, and jabbed and struck with a bullhook/guide.

The modes of training in traveling circuses are related to the need for direct and very close control over the animals, especially because they are held in temporary facilities in public areas and are often in close proximity to the public. It has been noted that the level of violence associated with the training appears to correlate with perceived danger, with the level of aggression vastly increased for lions, tigers and other large cats, elephants and such stubborn exotics as camels.

c. Mixed Messages

Given the relatively small number of circuses employing animals in the U.S. as compared to zoos or other wild animal exhibits, a disproportionate number of incidents of violent treatment of animals has been caught on film. The prevalence of these incidents cannot be dismissed as being related to the misbehavior of just a few individuals. Incidents probably are inevitable due to the nature of the husbandry, the requirements for close control, training methods, and the type of tricks being taught.

Yet, the animal trainers themselves sometimes present a mixed message with regard to training and management techniques. The testimony of Ringling elephant trainer Brian French before PAW was clear in portraying a belief that the elephants are treated appropriately:

"Bullhooks are used as an extension of our hands helping to cue the elephants, to show them what we're asking them to do," French testified. "It's not used to inflict pain. It would be an ineffective tool to do that..."

Based on the aforementioned videos and accounts of at least one circus elephant visibly bleeding during a performance allegedly as the result of the use of a bullhook/guide on her just prior to entering the ring, it seems possible that certain of Mr. French's industry colleagues may view the tool's uses differently.

Daniel Raffo, another Ringling animal handler, presented the following perspective in his testimony as transcribed during ASPCA, et al. v. Feld Entertainment, Inc. on March 4, 2009 (presented verbatim from the transcript):

THE COURT: Could you control the elephants with those bamboo sticks you use with the tigers?

THE WITNESS: I did use the bamboo sometimes, yes.

THE COURT: With elephants?

THE WITNESS: Yes, I did that. I always try different things and try this can work, this can be like that, it can be easy for me to work. I, you know, I always try different things myself. I always try to find a better way to do it.

3. Social Conditions

In circuses, social animals are frequently housed singly or in groups smaller than the average in the wild, or in unnatural groupings, or mixed species. This prevents the establishment of normal social dynamics, which can have negative consequences on welfare and behavior. Elephants are kept separately chained and are unable to interact normally, and some circuses travel with solitary elephants. Big cats typically are kept in small cages except when being trained and during performances.

Animals that are natural (or circumstantial) prey for, for example, big cats, can suffer considerable stress being kept in proximity to lions or tigers. All of these problems are exacerbated by close confinement and the limited space available to traveling circuses.

Unnatural social conditions are found for wild animals, such as a singly-housed zebra and capuchin monkey with the Bailey Brothers Circus, and Sterling and Reid toured with just two macaque monkeys. Tigers, who are naturally solitary in the wild, are often housed in groups, which can result in discord leading to injury and death. In 2008, a tiger with Circus Vazquez was killed by other tigers when six of the animals were confined in a cage during the circus' run in nearby Huntington Park.

4. Abnormal Behaviors

Severe confinement, lack of free exercise and the inability to perform natural behaviors causes both mental and physical suffering. Abnormal repetitive behaviors (known as stereotypes) such as pacing, swaying and rocking often are present in all wild animals used in circuses. These behaviors are associated with a sub-optimal environment, deprivation and poor welfare. Stereotypic behaviors are sometimes seen in animals living in zoos but, according to most characterizations from wildlife experts, rarely in those living in the wild.

5. Stress of Performance

According to experienced observers, performance in front of an audience may cause

severe stress to wild animals. Loud noise is a well-known stressor in captive animals and may especially affect animals with sensitive hearing such as prey species, big cats and elephants. Grazing and browsing animals display huddling, aversive behavior in the presence of human crowds.

Repetitive stereotypic behavior increases for elephants in the hour leading up to performance and when the animals are on public display. It has been suggested that the greatest stressor for captive wild animals may indeed be their inability to escape or avoid stressors.

E. Public Safety

1. Direct Dangers

Traveling circuses pose a serious threat to public safety by bringing people into dangerously close proximity to already stressed wild animals. Elephants perform without any type of barriers to protect the public and sometimes are used to give rides, such as when Circus Gatti performs in Los Angeles. In some cases they have escaped their handlers, and trainers also have been injured and killed by elephants (as well as tigers). Since 1990, some 15 human deaths and 135 injuries in the U.S. have been attributed to elephants, primarily due to circus-related incidents. There have been nine escapes since 2000 alone.

Other than elephants, public safety issues typically concern big cats. There have been 22 incidents involving big cats, including 15 injuries, one death and six escapes. In 2004, a 450-pound white tiger escaped a circus in New York City causing considerable alarm as he prowled through a crowded park before being captured.

First responders to animal escapes are often local law enforcement, which, in some cases, have been responsible for destroying an animal even though they lacked the firearms necessary to quickly kill one. Use of a tranquilizer dart usually is not considered to be an option if human safety is immediately endangered. LAPD officials have expressed concerns regarding the presence of these exotic and wild animals in proximity to humans, both in and outside of performances.

2. Public Health

Elephants used in traveling circuses also may pose a public health risk. An estimated 12% of Asian (the species primarily used in circuses) and 2% of African elephants in North America are infected with mycobacterium tuberculosis, a contagious disease that can be transmitted from elephants to humans. Most infected elephants do not display clinical signs of the disease and transmittal to humans typically requires extended exposure. Nonetheless, according to one apparently reputable study, it has happened.

"In July 2009, routine screening detected conversion of tuberculin skin test (TST) results

from negative to positive among caregivers at a nonprofit elephant refuge in south-central Tennessee, USA. In addition, records review revealed that respiratory secretions obtained by trunk wash of a quarantined elephant (elephant L) in December 2008 contained *M. tuberculosis*. To determine the extent of the outbreak, identify risk factors for TST conversion among humans, and develop strategies to prevent ongoing zoonotic transmission, we conducted an investigation..." ("Elephant-to-Human Transmission of Tuberculosis," Murphree, Warkentin, Dunn, Schaffner, Jones; Tennessee Department of Health, 2009; from "Emerging Infectious Diseases," Centers for Disease Control; www.cdc.gov/eid; Vol. 17, No. 3, March 2011).

The report goes on to state that, "Epidemiologic and observational data indicate that *M. tuberculosis* was transmitted from an elephant with active TB to humans working at the elephant refuge....in this outbreak the inability to accurately and expeditiously detect *M. tuberculosis* infection and disease in elephants contributed to unrecognized, and therefore uncontrolled, risk...our study suggests that employees without close contact with elephant L were infected through indirect transmission of *M. tuberculosis* aerosolized during routine barn maintenance...or suspended in shared air."

The Center for Elephant Conservation (affiliated with Ringling) recently issued a "Frequently Asked Questions" paper (available at http://www.elephantcenter.com/Tuberculosis_In_Elephants.aspx) on tuberculosis in elephants that appears to take issue with these findings without specifically referring to the Murphree study.

According to Dr. Dennis Schmitt, Chair of Veterinary Services and Director of Research, "The strain of tuberculosis, the *Mycobacterium tuberculosis*, that is found in elephants can be found in humans, however there has been no proven case of the tuberculosis bacterium being transmitted from elephants to humans." Responding to a question regarding studies such as Murphree's, he adds, "The data in those studies did not prove that tuberculosis bacterium was transmitted from elephants to humans."

Earlier this year the state of Maine, apparently coming to a different conclusion, barred the Piccadilly Circus from bringing an elephant into the state based on a positive test for tuberculosis antibodies, and Wisconsin barred an elephant who also tested positive for antibodies and was scheduled to give rides at a Renaissance Faire. An elephant owned by the Carson & Barnes Circus was barred from public contact at Circus World in Wisconsin due to a positive test result for tuberculosis antibodies.

F. Animal Welfare Act Enforcement

No amount of costly government oversight can completely prevent animal escapes and physical abuse, or protect wild animals traveling for months on end in small, temporary accommodations. (And this assumes that government could afford to provide that level of oversight in the first place, which is an unrealistic assumption in this era.) The transient nature of traveling circuses, where the animals and their handlers constantly

change, make law enforcement difficult. Because the agency is limited both in staffing and budget, USDA inspections of the nearly 9,000 animal entertainment, breeding and research facilities in the U.S. are infrequent at best and tend to focus on what are considered to be the most egregious cases.

The federal Animal Welfare Act (AWA), which is the primary applicable law in the United States dealing with exotic and wild animals (as well as domesticateds) describes minimum welfare standards for dogs and primates but not for other species in other commercial contexts. USDA and APHIS policy guidelines arguably are not enough by themselves to bring about an overall improvement in the welfare of animals with traveling circuses.

Section 16(a) describes the inspection and regulation protocol. However, a specific provision for annual inspections, follow-up inspections and enforcement applies only to research facilities. APHIS guidelines on inspections currently advise, "You do not have to inspect every circus or traveling exhibitor that exhibits in your territory" (APHIS Animal Care Resource Guide, Exhibitor Inspection Guide, 11/04 17.10.1).

Further, no government agency monitors training sessions, even though undercover video footage of these sessions has shown that elephants are beaten with bullhooks and shocked with electric devices.

Animal advocates argue for a strengthening of the AWA that would include more specificity with regard to the needs of animals and broader application of the law to make sure any lawful activities and purposes involving animals are covered. In the meantime, they add, USDA cannot be relied upon to adequately protect animals in traveling shows.

In California, Penal Code Section 596.5, prohibits a number of cruel and inhumane elephant training methods such as the use of electricity; deprivation of food and water; physical punishment; insertion of any instrument into any bodily orifice; use of martingales; and the use of block and tackles. However, existing law does not address the most common controversial training methods used on elephants: the bullhook and chaining.

Further, the California Department of Fish and Game is responsible for enforcing the laws relating to restricted species as set forth in the Fish and Game Code Sections 2116 et al. and Title 14, Section 671 of the California Code of Regulations. These laws relate to the keeping of exotic animals, including elephants, for exhibition. Since the law's inception (1992) these provisions, specifically with respect to inspection of these facilities and violations of the various provisions of the codes and regulations relating to care and treatment have not, to the best of our knowledge, been enforced.

Accordingly, traveling shows with animals, for the most part, operate largely unconstrained in the state of California unless there is a municipal or county ordinance regulating such activity.

G. An Evolving Regulatory Environment

The Ringling Bros. and Barnum & Bailey Circus is considered to be one of the largest and most highly-financed circuses, yet in 2011 the circus paid the largest fine ever assessed against an exhibitor (\$270,000) under the federal Animal Welfare Act to settle multiple animal care violations. These violations included animal escapes, losing control of an elephant inside an arena with the public present, and forcing an elephant to perform even though she suffered from a painful physical condition. (A pertinent incident in San Diego is depicted in an amateur video found at: http://www.huffingtonpost.com/2011/08/10/elephant-abuse-adi-protest_n_923882.html. The 2012 Department veterinary inspection report received on July 29, shortly after the Ringling blue traveling unit left Los Angeles, opined that at least two of the blue unit elephants were in need of a break from active performing for similar reasons.)

In 2011 the Los Angeles Times published an editorial calling for Ringling to stop using elephants. Ringling also had to defend itself in court against charges of animal cruelty and, depending on whose arguments are to be believed, escaped further punishment for the time being primarily because of procedural issues and legal technicalities. This year, 15 California humane societies, including spcaLA, jointly called for a boycott of Ringling based on animal welfare concerns.

1. Multiple Jurisdictions

Additionally, 38 local jurisdictions have taken legislative steps to restrict the use of wild animals in circuses, and the number is growing. The largest of these is Santa Ana, which bans the use of wild animals in public shows. The City of Irvine instituted a similar ban just last year. Around the world, over 20 countries have passed national restrictions on the use of exotic animals in circuses. Most countries have banned all wild animals, including Austria, Czech Republic, Peru, Costa Rica, Taiwan, India and Israel. Legislation to prohibit the use of wild animals in circuses is being discussed in other countries, including the United Kingdom, Brazil, Netherlands, Chile, Colombia and Norway.

Last year, federal legislation was proposed in the U.S. that would ban the use of exotic wild animals in traveling circuses but its ultimate fate remains uncertain. Given the nature of the issue, staff feels that a federal solution would be preferable to piecemeal localized regulations, but in the absence of such a solution, the issues remain pertinent.

2. Ongoing City Efforts

Also in 2011, for the first time ever the Department employed an outside veterinarian to assist staff in inspecting Ringling Brothers' elephants upon their annual arrival in Los Angeles. The elephants were again inspected this year, generating findings that raised certain concerns. As noted earlier, veterinarian Phillip Ensley, formerly of the San Diego Zoo, reported that a number of the Ringling elephants exhibit physical and medical conditions that suggest they needed a break – perhaps a long or permanent

one - from traveling and performing.

In Section 53.50 of the LAMC, before it issues performance permits the Department is empowered (and required) to conduct investigations "as it deems proper" and may withhold, revoke or suspend such permits if it finds that the applicant or permittee is out of compliance (with an appeal hearing available). These powers rarely have been fully invoked, but as is clear from the events of the last couple of years, the Department is moving in a direction of applying them in a more robust manner.

H. The Goal in Los Angeles

As set forth in the chair's letter, the proposed restriction on the use of elephants or all exotic and wild animals in traveling shows primarily is very narrowly focused on traveling circuses that perform in public settings. It is silent on the use of these animals for film and television appearances, or those taken from a static, permanent facility and then returned to that facility each day.

Much as they are in zoos, elephants and exotic and wild animals are fascinating, popular attractions in the performance realm, though their appearances in circuses are typically brief and represent just a few of the many aspects of a show. Of the two-hour performance put on at Staples Center by the Ringling Bros. and Barnum & Bailey Circus in 2012, less than 15 minutes involved wild animals, with elephants taking up only a portion of that time.

It should be noted that several of the proposed options would not prevent a large traveling show such as Ringling from bringing its animals to Los Angeles during one of its typical visits as long as those elephants or exotic and wild animals were not employed as part of the public performance. While not optimal from the circus' perspective, this acknowledges that, for the time being, a ban on their use in performances in Los Angeles may not in and of itself be sufficient to discourage the circus from using these animals in performances in other jurisdictions.

Proposals to remove elephants or exotic and wild animals from traveling shows arouse objections, mainly from the circus industry and a portion of its audience. The industry vociferously disagrees with the comment in the April 24, 2012, report that, much as the auto industry adapted to air quality and fuel economy regulations it initially claimed were unworkable, the performing animal industry should be given an opportunity to adapt to any new regulations as well. Feld Entertainment's aforementioned June 4, 2012, letter to PAW was adamant in asserting that Ringling could not conduct its elephant performances without using a bullhook/guide in the process of training.

The proposed options (except for #7) in this report call for a 24-month phase-in period, easing the transition to whatever regulation may emerge from this discussion. Obviously, whether that would allow for a transition away from the use of bullhooks/guides while still allowing elephants to perform is the subject of strenuous

debate and, based on the other issues relating to animals in traveling shows, there appears not to be much agreement amongst animal advocates as to whether that would be a desirable outcome anyway.

Animal-free circus options are being promoted by advocacy organizations as an alternative to traditional circuses featuring animal performances. The American Society for the Prevention of Cruelty to Animals (ASPCA) has taken up this cause (<http://www.aspca.org/fight-animal-cruelty/circus-cruelty/animal-free-circuses.aspx>), as have others (<http://www.bornfreeusa.org/facts.php?p=419&more=1>).

Southern California circus audiences may already be becoming accustomed to this change in consumer habits, considering that Cirque du Soleil, with human-only performers, gained an early foothold here in the early 1990s and more recently found it profitable to launch a new show, "IRIS, a Journey Through the World of Cinema," created exclusively for its long-term home at the Dolby (formerly Kodak) Theatre in Hollywood.

Human-only circuses are increasingly popular; Cirque du Soleil has grown from one show in 1990 to 19 shows performing in 271 cities, generating an estimated \$810 million a year. And the highly-regarded Circus Vargas remains a regular visitor to the city after having become animal-free. In sharp contrast, the Piccadilly Circus, a traveling circus that still uses wild animals, had to cancel shows across Southern California in 2011 allegedly due to poor ticket sales.

F. Issues Raised Regarding the April 24, 2012 Report

At the October 2, 2012, PAW Committee hearing, representatives of the Elephant Manager's Association, Feld Entertainment and Ringling raised what they termed misrepresentations and omissions from the Department's Board report on bullhooks presented at the April 24, 2012, Commission meeting. We feel their concerns need to be addressed in this context.

Thomas Albert, Vice President-Government Relations, Feld Entertainment: "...the report misrepresents the AVMA on the use of bullhooks..."

Dr. Danielle Graham, veterinarian, Ringling Bros. and Barnum & Bailey Circus: "...the AVMA has submitted a letter objecting to the mischaracterization of AVMA policy regarding bullhooks..."

Harry Peachey, Elephant Manager, Columbus (Ohio) Zoo and a boardmember of the International Elephant Foundation, representing the Elephant Manager's Association (EMA): "...the AZA policy doesn't address 'protected contact.' It refers to restricted and non-restricted space management..." "...nowhere is the 'Elephant Husbandry Resource Guide' cited."

1. Response:

a. AVMA:

The April 24 report quotes verbatim from the AVMA's "Welfare Implications of Elephant Training" issued on April 14, 2008, as background. It also accurately summarizes other content contained in the document. At no time does the Board report suggest that the AVMA had taken a position against the use of bullhooks. Neither the PAW Committee, the City Clerk nor the Department has on file any correspondence from AVMA on this matter as of this writing.

Therefore staff can only conclude that the AVMA and those referencing the organization in testimony on October 2nd apparently object to the AVMA being mentioned and quoted in the report without noting that the AVMA has not taken a position in opposition to the use of bullhooks. The Department apologizes for that oversight, but does not retract the quotes used in the report.

Additionally, we note the following from the AVMA's publication, "Elephant Guides and Tethers," approved by the AVMA Executive Board in April 2008 with oversight from its Animal Welfare Committee: "Elephant guides are husbandry tools that consist of a shaft capped by one straight and one curved end. The ends are blunt and tapered and are used to touch parts of the elephant's body as a cue to elicit specific actions or behaviors, with the handler exerting very little pressure. The ends should contact, but should not tear or penetrate the skin. The AVMA condemns the use of guides to puncture, lacerate, strike or inflict harm upon an elephant."

Further, we also note the AVMA's "Animal Welfare Principles" approved by the AVMA Executive Board in November 2006:

"The AVMA, as a medical authority for the health and welfare of animals, offers the following eight integrated principles for developing and evaluating animal welfare policies, resolutions, and actions.

- The responsible use of animals for human purposes, such as companionship, food, fiber, recreation, work, education, exhibition, and research conducted for the benefit of both humans and animals, is consistent with the Veterinarian's Oath.
- Decisions regarding animal care, use, and welfare shall be made by balancing scientific knowledge and professional judgment with consideration of ethical and societal values.
- Animals must be provided water, food, proper handling, health care and an environment appropriate to their care and use, with thoughtful consideration for their species-typical biology and behavior.
- Animals should be cared for in ways that minimize fear, pain, stress and suffering.

- Procedures related to animal housing, management, care and use should be continuously evaluated and, when indicated, refined or replaced.
- Conservation and management of animal populations should be humane, socially responsible, and scientifically prudent.
- Animals shall be treated with respect and dignity throughout their lives and, when necessary, provided a humane death.
- The veterinary profession shall continually strive to improve animal health and welfare through scientific research, education, collaboration, advocacy, and the development of legislation and regulations."

b. AZA and "Protected Contact":

The report also referred to an edict contained in the AZA's policy, "Maximizing Occupational Safety of Elephant Care Professionals," issued on August 12, 2011, which mandates a conversion to "restricted space management" in AZA-affiliated facilities by September 1, 2014. Mr. Peachey objected to the term "protected contact" being used in place of the term, "restricted space management" contained in the policy. However, staff has subsequently found "protected contact" to be used interchangeably with and, in fact, more often than, "restricted space management" in discussions of this topic.

Ironically, the EMA's own September 1, 2011, highly critical comment letter to the AZA regarding the August 12 policy states: "The EMA recognizes and supports the use of protected contact elephant management as an effective and efficient method for certain animals and programs..." before going on to voice serious concerns. Thus, staff finds Mr. Peachey's objection to the use of the term to be non-substantive and contradictory to the rhetorical practice of his own organization.

c. Elephant Husbandry Resource Guide:

Regarding the "Elephant Husbandry Resource Guide" also referred to by Mr. Peachey, it has been cited in this report.

G. Conclusion

If the City's goal is to take a step toward protecting and enhancing the welfare of elephants and exotic and wild animals, then restricting their use as described in the chair's letter would be consistent with that goal and may, but not necessarily, surpass the perceived benefits of banning bullhooks/guides (at least with regard to elephants).

Another option would be to combine those approaches. A broader approach would be

to prohibit the use of all exotic and wild animals in performances in Los Angeles. Still another would be to prohibit traveling shows from bringing any of these animals into the city.

Given that exotic and wild animals often can be dangerous and capable of causing great bodily harm to handlers and/or members of the public, any step the City might take implicitly would also be acknowledging to members of the public the risk to public safety posed by the presence of these animals in a context of temporary, unreinforced containment and close proximity to the large numbers of people.

There is little doubt that the options presented have the potential to interfere with the ability of certain traveling shows to do business in Los Angeles and that is not a trifling consideration. At the October 2 PAW hearing Ringling officials contended that the direct financial impact of their circus visits approximated \$1M and that their indirect impact approached a doubling of that figure. A relatively small number of people might have full-time or temporary employment opportunities disrupted and there are competing perceptions as to the extent of that disruption and whether the absence of circuses would create a lasting impact on those jobs. But, as some would argue, to someone who needs it, a job is a job.

As with so many decisions facing the City, whether and how to regulate the use of exotic and wild animals in traveling shows basically comes down to a weighing of values and the rendering of both pragmatic and moral judgments. Potentially compelling arguments have been offered by advocates on both sides of the issue that represent fundamentally divergent interpretations of certain facts and perceptions of what constitutes appropriate treatment for exotic and wild animals at the hands of humans.

The Department's review of the literature on both sides, legal proceedings and public testimony certainly suggests that the City's decision makers are faced with a difficult decision. No matter what it proves to be, the Department stands ready to implement it and to do its best due diligence to strengthen the City's oversight of animal performances going forward.

III. FISCAL IMPACT:

In 2011 and 2012 to date, the Department has issued four permits covering performance-related activities involving elephants in traveling shows within the city limits of Los Angeles. These permits generated \$16,000 in permit fees paid to the Department to cover the cost of issuing and enforcing the permits. The proposed regulation could serve to reduce the number of permits issued should a circus decide not to visit Los Angeles as a result of its approval.

Section 21.17 of the Los Angeles Municipal Code prohibits the public release of specific data on tax receipts received from individual payers, but tax rates for circuses specified in Section 21.74 allow for estimates to be calculated based on attendance. According

to those estimates, the permittees appear to have generated approximately \$15,000-20,000 in direct and indirect tax revenues to the City in 2011, including taxes on the events and parking, with a comparable amount anticipated in 2012. This does not factor in any taxes and fees paid by the owners of the facilities and property where the permittees set up their performances covering the time the traveling shows were on site.

Circus industry executives represented to the PAW Committee that the Ringling Bros. circus visits to Los Angeles alone generate in excess of \$2 million in circus-related and ancillary economic activity above and beyond direct payments to the City for permits and taxes. As with permit application fees, the exact level of City tax receipts from such activity could be impacted by this proposed regulation to an as-yet undetermined extent depending on choices made by the exhibitors based on the need to comply with any new or existing regulations in order to stage their performances in Los Angeles.

Approved:

Brenda F. Barnette
Brenda F. Barnette, General Manager

BOARD ACTION:

_____ Passed	Disapproved _____
_____ Passed with noted modifications	Continued _____
_____ Tabled	New Date _____