



Agenda Item:

3

COUNCIL COMMUNICATION City Manager's Office

GENERAL INFORMATION

Agenda Date: 02/16/05
05-068

Communication No.:

Agenda Item Type: Resolution
No.:

Roll Call

Submitted by: Donald M. Tripp, Park and Recreation Director

SUBJECT—

Blank Park Zoo Operation Agreement (28E)

SYNOPSIS—

Approves a new Blank Park Zoo Operation Agreement with the Blank Park Zoo Foundation. The term of this agreement is ten years with two subsequent five-year renewal options.

FISCAL IMPACT—

FY 2005: Elimination of a potential liability of \$125,000 operating subsidy under the old agreement.

FY 2006 and FY 2007: \$390,000 annual operating subsidy; \$310,000 annual Capital Funds.

FY 2008 through FY 2010: \$290,000 annual operating subsidy; \$310,000 annual Capital Funds.

FY2011 through FY 2014: \$290,000 annual operating subsidy, \$35,000 annual Capital Funds. It is anticipated that there will be capital needs beyond this term but they are not guaranteed.

The City is responsible to pay the costs of the six employees listed in Exhibit E. It is estimated that these costs will be approximately \$398,000 in year one, but since one of these employees is voluntarily going to the Zoo Foundation, the actual cost will be approximately \$338,000. The

agreement requires the City to pay the difference between the \$338,000 and \$390,000 to the Foundation. If the City's personnel expense exceeds the operating subsidy amount listed above in future years, the City must either incur this additional cost or reduce the Zoo personnel listed in Exhibit E to stay below or at the operating subsidy amount. If this occurs, the Park and Recreation Department's intent is to recommend further Zoo personnel reductions.

RECOMMENDATION—

Approval

BACKGROUND—

The City has had a cooperative operating agreement with the Zoo Foundation since March 21, 1988, by Roll Call No. 88-1298, which was extended to July 21, 2003, by a fifth amendment on December 2, 2002, by Roll Call No. 02-2807. This Agreement provides for the Zoo Foundation to maintain a membership program and other fund-raising activities to financially support capital improvements, marketing, and education programs for the Blank Park Zoo.

The City and the Zoo Foundation entered into the Web of Life Discovery Center 28E Agreement on May 3, 1999, by Roll Call No. 99-1411. This Agreement stipulated that the Zoo Foundation would pay all capital construction and annual operating costs for the new Myron and Jackie Blank Discovery Center, which opened September 1, 2001. Under terms of the agreement, the Zoo Foundation's obligations to pay the operating expenses cease with the City's acceptance of ownership of the Discovery Center. Also included in this Agreement was the intent of the parties to enter into a future new cooperative operating agreement. On December 16, 2002, by Roll Call No. 02-2979, the City approved the first amendment to the Web of Life Discovery Center Agreement, whereby the City accepted ownership of the Discovery Center. On December 16, 2002, by Roll Call No. 02-2980, the City approved the second amendment to the Web of Life Discovery Center Agreement whereby the Zoo Foundation agreed to continue payment of the Discovery Center operating expenses until July 1, 2003. On May 5, 2003, by Roll Call No. 03-1089, the City entered into the current agreement with the Zoo to approve a new Blank Park Zoo 28E Operational Agreement with the Blank Park Zoo Foundation for the management and operation of the Blank Park Zoo. The term of this agreement was for two years, and it would replace the existing 1988 cooperative operating agreement.

The current 28E agreement with the Blank Park Zoo Foundation expires on June 30, 2005. That agreement was short term so that both the City and the Foundation could experiment with contracted management of the Zoo. The Council Communication on May 5, 2003 stated, "The expectation of both parties is that this two-year agreement, if successful, would lead to a longer term agreement between the City and the Foundation. The subsequent agreement would continue to transfer full authority of Zoo operations over to the Foundation." The City's obligations under that agreement can be summarized as follows:

- The City provides \$370,000 in operating support and is obligated to provide up to another \$125,000 per year if the Zoo does not meet revenue goals.

- The City provides \$300,000 per year of capital funding.
- The City provides up to 600 hours of skilled labor from Parks and Recreation to support maintenance of capital infrastructure.
- The City shares the cost of a liability insurance policy with an annual City premium of \$30,000.
- All employees of the City remain City employees, but work under the supervision of the Foundation.

This agreement with the Foundation has been very successful. Attendance at the Zoo for 2004 increased by 42 percent and the Foundation returned approximately \$55,000 of the \$125,000 revenue goal fund to the City. The Zoo Foundation has requested that a more long-term agreement be adopted that would transfer full management of the Zoo to the Foundation.

To that end, staff has negotiated an agreement with the Zoo that contains the following principles.

- Ten-year term with two five-year renewal options.
- Agreement to include the Zoo, surrounding 25 acres of former Fort Des Moines land and Blank Park. New construction projects costing over \$15,000 require the plans and specifications to receive the prior approval of the City Manager, City Engineer, all appropriate boards and, at the City's discretion, the Council. City Council prior approval of private construction contracts is required for new construction projects exceeding \$15,000. The acceptance of capital projects is by City Council resolution. Foundation would operate and maintain Blank Park according to same operating hours and rules as Des Moines' Parks except for the opportunity to occasionally close for Zoo related events.
- The Zoo will pay all operating expenses of the Zoo except for annual support provided by the City as follows: Years one and two the City will provide \$390,000 of operating support and at least \$310,000 of guaranteed capital support. In years three, four and five, the City will provide \$290,000 of operating support and at least \$310,000 of guaranteed capital support. In years 6 through 20, (years 11 through 20 require a renewal) the agreement calls for \$290,000 of City operating support and at least \$35,000 of guaranteed capital support. The City agrees to work with the Foundation, in the first six months of the agreement, to assess the condition of existing Zoo infrastructure, then develop a Plan for making the necessary major capital repairs, reconstruction and replacements through the City's Capital Improvement Program, subject to approval of the City Council. The guaranteed Capital funds listed above, will be utilized to make the infrastructure improvements as identified in the Plan.

- On new capital expansion, all expenses will be paid by the Zoo Foundation, and they agree to pay all capital and maintenance expenses on these new exhibits in the future. The City will have the capital expense responsibility of existing infrastructure, only.
- The Foundation shall be required to submit annually an audited financial statement of revenues and expenses.
- The Foundation would have total responsibility for the maintenance of infrastructure, soft goods and animals.
- The Foundation will have the right to set fees and hours of operation.
- The Foundation will be permitted to do new construction at the Zoo, Park or Ft. Des Moines property (over \$15,000) after approval of the City Manager and City Engineer. All expenses of these new exhibits will be the obligation of the Foundation.
- The Foundation will provide two voting Board slots to the City Council and the City Manager, or their designee.
- All current City employee positions, except the Zoo Administrator and five Zoo Keepers, will transition to the Foundation. The Foundation will rehire all of these employees to similar positions and assure their employment thru March 31, 2006.
- The Foundation may elect to utilize other support trade service from the Park and Recreation Department at a beginning rate of \$25/hour and may elect to continue the City's communications and information technology systems at their actual cost, and Engineering support at actual costs, all to be billed to the Foundation.
- A few conditions related to code and law compliance and to maintain American Zoo Association Accreditation of the Zoo.

City staff and the Zoo Foundation's administration have met with all Zoo employees. At this time, the majority of Zoo employees that are subject to transfer to the Zoo Foundation have agreed to voluntarily transfer and take Zoo Foundation positions with the exception of two employees who will be exercising bumping rights. It is expected, that over time, all of the employees or their positions will move to the Foundation. In addition, one employee that is scheduled to remain a City employee has agreed to voluntarily move to the Foundation.

This agreement has the following advantages to the City:

- Staff believes this agreement will result in unprecedented Zoo exhibit and program expansion. It will assist the Foundation in their private and public fundraising efforts. This agreement is good for the Zoo.

- The City caps its operating support of the Zoo at an agreed level of \$390,000, lowering to \$290,000 per year. If the City had full operating subsidy of the Zoo through the term of this agreement, it is reasonable to assume the subsidy would be well over a million dollars annually toward the latter end of the first ten years of this agreement.
- The Zoo Foundation has agreed to take over day-to-day maintenance of Blank Park, while keeping it open to the neighborhood as a park.
- Any construction of new exhibits is the stated responsibility of the Zoo Foundation. Further, they are also obligated to pay all repair and reconstruction costs associated with that new exhibit. Under the agreement, the City pays any major capital costs to rebuild existing infrastructure.
- The operating funds provided for in this agreement will come from the obligations the City will already have under the proposed BRAVO agreement.
- The current Zoo Administrator will transfer to the Park and Recreation Department Planning and Construction Division to assist with capital construction in Parks and Municipal Building. 25 percent of that salary will be paid by the Foundation to pay for his role as a liaison to this agreement for the City. Much of the remainder of his salary will be paid from capital construction projects.
- If the Zoo chooses to use Parks personnel for work at the Zoo, they will pay the City \$25 per hour.
- The City will have two slots on the Foundation Board of Directors.

The Park and Recreation Board received a summary of the agreement at their January meeting. A special Park and Recreation Board meeting was held on February 14, 2005, for them to vote on their recommendation of the final agreement, but only 3 members were able to attend. Those attending reached a consensus to approve the agreement. The Blank Park Zoo Foundation Board of Directors approved the agreement at their February 14, 2005, meeting.