



AGENDA REPORT

Meeting Date: December 2, 2008

Item Number: E-2A & E-2B

To: Honorable Mayor & City Council

From: George Chavez, Assistant Director of Community Development
Nestor Otazu, Code Enforcement Manager

Subject: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF LOS ANGELES ANIMAL SERVICES DEPARTMENT AND THE CITY OF BEVERLY HILLS FOR ANIMAL CARE AND CONTROL SERVICES; AND,

AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING BY REFERENCE ARTICLE 3 OF CHAPTER V, ANIMALS AND FOWLS, OF THE LOS ANGELES MUNICIPAL CODE, AND AMENDING CHAPTER 2 OF TITLE 5 OF THE BEVERLY HILLS MUNICIPAL CODE.

Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that City Council: (1) authorize the City Manager to execute the Memorandum of Understanding with the City of Los Angeles for Animal Care and Sheltering Services upon its finalization and approval by the City Attorney and City Manager; (2) introduce the proposed ordinance; and (3) set a public hearing for adoption of the ordinance on January 6, 2009.

INTRODUCTION

On October 15, 2008, the Los Angeles City Council voted unanimously to move forward with an agreement with the City of Beverly Hills to provide Animal Control and Sheltering Services from their newly constructed West Los Angeles Animal Care Center. In order to ensure consistency in enforcement and operations, the Memorandum of Understanding ("MOU") requires that the City of Beverly Hills adopt the Los Angeles animal-related code provisions, including their

recently enacted spay/neutral ordinance. Accordingly, the following summary of the MOU and a proposed ordinance are provided for the City Council's consideration.

DISCUSSION

1. Memorandum of Understanding

Since 1998 the City of Beverly Hills has contracted with the Los Angeles County Department of Animal Care and Control for animal care and control services. The County's Animal Shelter is located in the City of Carson, which is approximately 22 miles away from the City of Beverly Hills. The County shelter is an aging facility and is not conveniently located to Beverly Hills residents.

In June 2005, the City of Beverly Hills staff contacted the City of Los Angeles Animal Services Department and expressed interest in establishing a service agreement with them. This request was ultimately disapproved by their City Council so the department could focus on opening the newly constructed West Los Angeles facility and get a better understanding of its service demands and operating costs. This shelter opened on November 5, 2007.

After the successful opening of this shelter, the City of Beverly Hills staff again requested an agreement with the City of Los Angeles and the Council approved this request on October 15, 2008.

Approval of an agreement with the City of L.A. will provide a conveniently located state of the art animal care center in nearby West Los Angeles. The shelter is located approximately 4 ½ miles from Beverly Hills City Hall.

During business hours, all requests for animal related services will be handled by Beverly Hills Code Enforcement staff by dialing 310-285-PETS (7387). After-hours and weekend calls will be automatically redirected to Police Dispatch.

The City of Los Angeles will provide field and sheltering services including court appearances as required. Coordination meetings between both cities will take place monthly or as often as necessary. This coordination would consist of submission of written reports on incidents, injuries, crimes and animal control-related activities. A summary of services and exclusions are as follows:

Services Provided by the City of Los Angeles

1. Intake and animal care for stray animals and owner relinquishments.
2. Adoption services and other public services such as vaccination clinics.
3. Response to calls for service from the City of Beverly Hills for animals at-large, injured, potentially dangerous, or potential victims of cruelty or inhumane treatment as defined by law.
4. Issuance of dog licenses and administration of licensing information.
5. Administration of a voluntary cat registration program.
6. Administration of spay/neuter exemption registration .
7. Issuance of permits for animal-related businesses and events.
8. Issuance of Notice to Comply or Citations in the event of violations of laws and regulations.

9. Preparation of documents necessary to assist in investigation and prosecution of cases involving animals, and intake and care of animals impounded as evidence, and conduct of potentially dangerous animal administrative procedures when required.
10. Assist in animal evacuation or other emergency service requirements, as resources are available.
11. Public education information on animals, pet ownership, and related topics.

Service Exclusions

1. Trapping and removal of wildlife or any animals for reasons of nuisance to residents or property owners.
2. Dead animal pickup.
3. Euthanasia by owner request upon relinquishment.
4. Administrative processes and hearing for barking dog complaints.

Staff is initiating a separate agreement for dead animal pickup and trapping services. Code Enforcement staff will continue to handle barking dog and other animal related nuisance complaints. Staff will initially seek voluntary compliance and will utilize the existing administrative penalty and hearing process when necessary.

The City Attorney's office has been working with the Los Angeles City Attorney's office to finalize the agreement that includes the terms set forth in this agenda report. In order to provide the services to our residents as soon as this Agreement is finalized, Staff is requesting that the City Council authorize the City Manager to execute the MOU upon its finalization by the City Attorney of the City of Los Angeles and the Beverly Hills City Attorney and the City Manager.

2. Ordinance Adopting the Relevant Provisions of the Los Angeles Municipal Code

In order to ensure consistency in enforcement and operations, the MOU requires that Beverly Hills adopt the Los Angeles animal-related code provisions, including their recently enacted spay/neutral ordinance. This will ensure that services, such as licensing services, be seamlessly provided and will assist in avoiding any mistakes or confusion that may occur from using two different versions of the same enforcement tools.

Staff has prepared an ordinance that will adopt by reference Article 3 (Animal and Fowls) of Chapter 5 of the City of Los Angeles Municipal Code as amended and in effect on July 29, 2008. The ordinance, however, does delete or amend certain provisions of the Los Angeles Code that either does not apply (i.e. provisions regarding horse, sentry dogs or animals in the Los Angeles River) or that may be inconsistent with Beverly Hills' zoning or our current ordinance regarding animals. For example, provisions that pertained to maintenance of dog kennels with a permit or breeding were deleted, as Beverly Hills does not allow dog kennels or the breeding of animals within the City limits. Last, the ordinance includes a provision to ensure that where the word "owner" is referenced in the Los Angeles Municipal Code, that it be replaced with the work "guardian." This implements the direction of the City Council provided to Staff in March of this year to ensure that the term guardian is used to more accurately reflect the bond that humans and animals have in our present society.

As for the existing Beverly Hills Municipal Code provisions pertaining to animals, some provisions were maintained to ensure that provisions unique to Beverly Hills were maintained and others were deleted so as to not have two provisions on the same subject, which could cause confusion. For example, provisions relating to dog licensing, vaccinations or vicious dogs were deleted from the current Beverly Hills municipal code.

Because the proposed ordinance adopts another code by reference, State law requires that the City Council hold a public hearing on the ordinance after the first reading, which is the converse of the usual process. The public hearing can occur in conjunction with the second reading of the ordinance. In addition, the City Clerk is required to keep on file a copy of the City of Los Angeles Code to be adopted by reference for at least 15 days before the public hearing. Since there is generally 14 days between first reading and second reading, the public hearing will have to be held in January so that we may comply with this requirement. Accordingly, Staff is recommending that the public hearing be held on January 6, 2009.

FISCAL IMPACT

The fiscal impact to the City of Beverly Hills would be \$48,769 for the remainder of Fiscal Year 2008-09 based on an annual service fee is \$97,538. This agreement may be renewed annually for up to 2 years. The total estimated cost for the full term of this agreement is estimated to be \$243,845. Additional costs for the excluded services are expected to be \$20,000 annually based on estimates we have received so far.

Costs of these services were included in the 2008-2009 budget so an appropriation of funds is not necessary at this time.



Scott G. Miller, Director of
Administrative Services, CFO

Finance Approval



George Chavez, Assistant Director of
Community Development

Approved By

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS ADOPTING BY REFERENCE ARTICLE 3 OF CHAPTER V, ANIMALS AND FOWLS, OF THE LOS ANGELES MUNICIPAL CODE, AND AMENDING CHAPTER 2 OF TITLE 5 OF THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS ORDAINS AS FOLLOWS:

Section 1. Article 3 of Chapter 2 of Title 5 of the Beverly Hills Municipal Code is hereby repealed.

Section 2. A new Article 3 is hereby added to Chapter 2 of Title 5 of the Beverly Hills Municipal Code to read as follows:

“Article 3. Animal Control and Licensing Requirements.

“5-2-301 City of Los Angeles animal control ordinance adoption.

A. Except as hereinafter provided, Article 3 of Chapter V, Animals and Fowls, of the Los Angeles Municipal Code, as amended and in effect on November 2, 2008, is hereby adopted by reference as the Animal Control Ordinance of the City of Beverly Hills and may be cited as such.

A copy of Article 3 of Chapter V, Animals and Fowls, of the Los Angeles Municipal Code, as amended and in effect on November 2, 2008, has been deposited in the office of the City Clerk of the City of Beverly Hills and shall at all times be maintained by the City Clerk for use and examination by the public.

B. Notwithstanding the provisions of paragraph A of this Section, whenever any of the following words and phrases used in the Animal Control Ordinance, such name or term shall be defined as follows:

(1) “Board of Animal Services Commission” shall mean and include the Beverly Hills Hearing Officer.

(2) “City of Los Angeles” or “City” shall mean the City of Beverly Hills, except where the City of Los Angeles is the correct notation due to the circumstances.

(3) “Department” or any similar term shall mean and include the Code Enforcement Division of the Beverly Hills Building and Safety Department.

(4) "General Manager" or any similar term shall mean and include the Director of Community Development, or his designee, of the City of Beverly Hills.

(5) Whenever the Animal Control Ordinance refers to a "person owning or having charge, care, custody or control of any animal", or whenever the Animal Control Ordinance refers to a "owner", that person or owner shall be mean "guardian" for the purposes of the Animal Control Ordinance, referring to any person who cares for a domestic pet.

5-2-302. Animal control ordinance amended.

A. Notwithstanding the provisions of Section 5-2-301, the Animal Control Ordinance is amended by deleting Sections 53.08, 53.15.1, 53.38, 53.39, 53.42(c), 53.42(d), 53.43, 53.47, 53.49, 53.55, 53.59, 53.60, 53.63, 53.64, 53.68 and 53.69.

B. Notwithstanding the provisions of Section 5-2-301, the following text from Section 53.50(f) is hereby deleted: "The fees imposed herein for a pet show or a dog show shall be waived in the event that such show is held on a public park" shall be deleted.

C. Notwithstanding the provisions of Section 5-2-301, the Animal Control Ordinance is amended by amending Sections 53.00, 53.06.2, 53.15.2(c), 53.27, 53.33, 53.42(e), 53.50(a), and 53.66 to read as follows:

53.00 Cat Kennel.

"Cat Kennel" shall mean any dwelling unit, structure, or premises, whereon or wherein six (6) or more cats over the age of four (4) months are kept, harbored, or maintained for any purpose, other than in a pet store for sale to the public or for care or treatment in an animal hospital.

53.00 Dog Kennel.

"Dog Kennel" shall mean any lot, building, structure, or premises whereon or wherein four (4) or more dogs over the age of four (4) months are kept, harbored or maintained for any purposes other than in a pet shop for sale to the public or for care or treatment in an animal hospital.

53.06.2 Restraint of Dogs

Every person owning or having charge, care, custody or control of any dog shall keep such dog exclusively upon his own premises provided, however, that such dog may be off such premises if it be under the control of a competent person and restrained by a substantial chain or leash not exceeding six feet in length.

53.15.2(c) Breeding

(1) No person shall cause or allow any dog or cat owned, harbored or kept within the City of Beverly Hills to breed.

(2) Commercial establishment selling dogs and cats shall prominently display the name and address of the breeder(s) of such dogs and cats and any other information required by the General Manager.

(3) Any commercial establishment which sells or otherwise transfers a dog or cat, whether for compensation or otherwise, shall provide to the new animal owners City application(s) for a license and permit as well as written information regarding the license and permit requirements of the City applicable to such animal.

53.27. Transfer of Ownership. Notice Required

Each owner or operator of any dog hospital or pet shop or as a veterinarian who sells, gives away or in any manner causes the ownership or permanent possession of any dog, whether over four (4) months or age or not, to be transferred to any person, shall notify in writing the Department of that fact within five (5) days after the date of such sale or transfer. Such notice shall state the kind of dog, the name of such dog, if any, and the person to whom such dog has been sold or transferred.

53.33 Vicious Animals – Private Premises

It shall be unlawful for any person to keep within the city a vicious dog, nor shall any person, owning or having custody or control of any dog, or any other animal known by such person to be vicious or dangerous, shall permit it to run at large, or permit it to run loose on or within the premises of such person in such a manner as to endanger the life or limb of any person lawfully entering such premises.

53.42(e) Animals, Sale of – As Novelties – On Streets.

(e) This section shall not be construed to prohibit the display or sale of rabbits, natural chicks, ducklings or other fowl, in proper facilities by stores engaged in the business of selling the same, to be raised for food purposes.

53.50. Permits.

53.50(a) Permit Required.

No person, without first obtaining a permit therefor in writing from the Department, shall keep, conduct or operate within the City any pet shop, animal grooming parlor, pony ring or pony ride, circus, pet show, cat show or animal acts or exhibitions.

53.66 Guard Dogs

(a) No person shall keep, use or maintain any guard dog or sentry dog within City limits.

(b) For the purposes of this section, "guard dog" means any dog kept, used or maintained on any commercial or industrial premises or any dog used to guard, protect, patrol or defend any property or person.

(c) For the purposes of this section, "sentry dog" means any dog trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained as a sentry or to protect, defend or guard any person or property or any dog which is schutzhund or any similar classification.

5-2-303. Violations – Penalty

A. Unless a different penalty is provided for in this Chapter, violation of any provision of the Animal Control Ordinance shall be punishable as provided for Article 1, of Chapter 3 of Title 1 of the Beverly Hills Municipal Code.

B. Any person violating any of the following sections of the Animal Control Ordinance is guilty of a misdemeanor that is punishable as provided for in Article 1, of Chapter 3 of Title 1 of the Beverly Hills Municipal Code.

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| Section 53.03(c) | Section 53.34 |
| Section 53.06.5(c) | Section 53.34.2(a) |
| 53.15(f) | Section 53.34.4(f)(1) |
| 53.15.2(b)(2)(F)(7) | Section 53.58 |
| 53.15.2(d) | Section 53.64(E) |
| 53.15.3(a)(2) | Section 53.70(G) |
| 53.18.5(n) | |

5-2-304. Fees

The City Council shall establish by resolution the fee schedule for permits, spaying, neutering, impounding, licensing and all other fees to be collected by the City for providing services under this Chapter 2 of Title 5, including fees for services to be performed by the City of

Los Angeles or other entity designated by the City of Beverly Hills.”

Section 3. Section 5-2-104 of the Beverly Hills Municipal Code is hereby deleted.

Sections 5-2-105, 5-2-106, 5-2-107, 5-2-108, 5-2-109, 5-2-110, 5-2-111, 5-2-112, 5-2-113, 5-2-114 and 5-2-115 are hereby renumbered as follows: 5-2-104, 5-2-105, 5-2-106, 5-2-107, 5-2-108, 5-2-109, 5-2-110, 5-2-111, 5-2-112, 5-2-113 and 5-2-114 respectively.

Section 4. Sections 5-2-201, 5-2-202, 5-2-205, 5-2-206 and 5-2-207 of the

Beverly Hills Municipal Code are hereby deleted. Sections 5-2-203 and 5-2-204 are hereby renumbered as follows: 5-2-201 and 5-2-202 respectively.

Section 5. Section 5-2-401 of Article 4 of Chapter 2 of Title 5 of the Beverly

Hills Municipal Code is hereby amended to read as follows:

“5-2-401: Exemption for Police Dogs:

The provisions of sections 5-2-107, “Dog Kennels Prohibited”, 5-2-211, “Liability For Injury Or Damages”, 53.06, “Animals at Large”, 53.33, “Vicious Animals – Private Premises”, 5-2-201, “Walking Dogs”, and 53.15.3, “Dog License Fee” of this Chapter, shall not apply to any dog or dogs owned, controlled or maintained by the police department of the City of Beverly Hills.”

Section 6. If any section, subsection, subdivision, sentence, clause, phrase, or

portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence,

clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 7. The City Clerk is directed to forward a certified copy of this ordinance to the Director of the City of Los Angeles Department of Animal Services.

Section 8. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall certify to the adoption of this Ordinance and shall cause this ordinance and this certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

Section 9. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2009.

BARRY BRUCKER
Mayor

ATTEST:

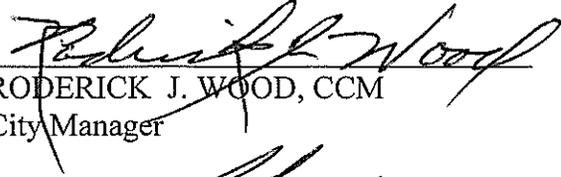
BYRON POPE
City Clerk

APPROVED AS TO FORM:

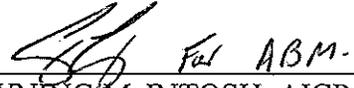


LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:



RODERICK J. WOOD, CCM
City Manager



ANNE BROWNING McINTOSH, AICP
Interim Director of Community
Development