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December 12, 2018

To: Mayor and Members of Council
City of London

Subject: CPSC Report on Zoos & Mobile Zoos at Dec 18th Council Meeting

Dear Mayor and Members of Council:

I'm writing to ask you to pull the Zoos & Mobile Zoos report (from CPSC) at the December 18th Council meeting and to support the recommendation below to provide direction to staff to conduct a more comprehensive, accurate and balanced consultation and review on the issue of zoos and mobile zoos. The report is deficient in several critical ways and is based on some demonstrably incorrect ideas warranting a referral back to staff to broaden the scope of their analysis. This is essential if the City is to make an informed decision on the staff recommendation to license zoos and mobile zoos.

An overarching concern I have is that the report evaluates the issue primarily through a land use lens rather than giving equal weight to the range of relevant animal control considerations which the City is empowered to address under the authority of the Ontario Municipal Act. For these reasons I ask that Council to **not** approve the report but that you instead to take the following actions:

1. Refer the report on Zoos & Mobile Zoos back to the Managing Director, Development & Compliance Services and Chief Building Official to conduct a more comprehensive, accurate and balanced review which includes the following:
 - a. The advantages to the City of London of the Animal Welfare Advisory Committee (AWAC) recommended approach to controlling zoos & mobile zoos through revisions to the Animal Control By-Law PH-3, including, but not limited to, an analysis of cost savings to the City, potential prevention of problems and associated complaints, reductions in staff time allocated to zoo & mobile zoo issues, benefits to public health and safety, and benefits to animal welfare.
 - b. The risks, through the permitting of zoos and mobile zoos, to the health, safety, protection and well-being of vulnerable persons such as seniors, children under 5 years of age, the developmentally handicapped, immuno-compromised persons, pregnant women and others recognized by public health authorities as being at elevated levels of risk when exposed to exotic animals, particularly reptiles and amphibians.
 - d. An analysis of the Reptilia business model of using its zoo facility as a base for a vigorously marketed program of external offsite parties, meet and greets, displays, shows, presentations, exhibits and other activities, that could potentially number in the dozens to hundreds per year, including in venues where vulnerable persons are located.
 - e. The disadvantages to the City of licensing zoos and mobile zoos, including but not limited to, costs to the City, extra staff time allocated for regulation, oversight and addressing complaints about zoos and mobile zoos, and the

capacity and expertise of the City to assess and address zoo and mobile zoo problems.

- f. An accurate, up-to-date, legal analysis of an Ontario municipality's authority under the Municipal Act to create by-laws for the municipal purpose of protecting or regulating animal welfare within its jurisdiction.
2. Consult on the above with animal welfare/animal protection/ human & wildlife health organizations with recognized expertise in these areas such as the Ontario Society for the Prevention of Cruelty to Animals (OSPCA), Zoocheck, Animal Justice, Canadian Federation of Humane Societies, World Animal Protection, Emergent Disease Foundation and others with relevant expertise and experience.

KEY CONCERNS WITH THE STAFF REPORT ON ZOOS & MOBILE ZOOS

1. ADVANTAGES OF THE ANIMAL WELFARE ADVISORY COMMITTEE (AWAC)'S

RECOMMENDED APPROACH – The report fails to provide Community and Protective Service Committee and Council members with a balanced review which would include an analysis of the advantages and legitimate municipal objective of controlling zoos & mobile zoos through the recommended revisions to the Animal Control By-Law PH-3. The staff report states that the AWAC recommendation “would eliminate the municipality’s ability to licence a zoo, fair, exhibition or circus” implying that is a negative outcome, failing to outline the positive aspects of this approach including: cost-savings of the restrictions over licensing; enhanced protection of public health and safety; greater control of permitted species of animals within the jurisdiction of London with the objective of protecting both people and animals; and permitting legitimate business activities within those parameters (e.g., using permitted species of animals within the City of London).

2. **HEALTH AND SAFETY ISSUES** – Serious health and safety concerns were well-documented in the original consultation about the use of certain species of exotic animals typically kept in zoos and mobile zoos, particularly where close interaction, including direct contact, is permitted, as is typical of mobile zoos and petting zoos, with vulnerable people such as children, seniors, pregnant women and others identified by public health bodies as being especially vulnerable when exposed to exotic animals. There are serious risks associated with zoonotic disease (transmission of disease between humans and animals), a reality articulated in both public health and medical literature around the world since the post-World War II era. There can also be direct physical risks that create a potential for trauma and injury from potentially dangerous animals, as has occurred in Ontario and more recently in New Brunswick when two young children were killed by an African rock python. The staff report allocated just one paragraph to the issue of zoonotic disease, while devoting more than one page to the land use issues associated with licensing and permitting zoos and mobile zoos. This is concerning because the Reptilia business described in the report delivers dozens to hundreds of offsite shows and markets these live animal programs to daycares, schools, shopping malls, store openings, home children’s parties, consumer shows, corporate events, seniors residences, etc. According to Reptilia they have attended, “almost every type of business or community event imaginable!” This means potentially hundreds of potentially high-risk interactions between animals and humans annually.

3. **ANIMAL WELFARE AS A MUNICIPAL PURPOSE UNDER THE ONTARIO MUNICIPAL ACT** – The staff report concludes incorrectly that “the welfare of animals does not constitute a municipal purpose” and provides insufficient analysis of this complex issue. The report primarily cites *Xentel DM Inc v. Windsor (City)* [2004] O.J. NO. 3656 but fails to mention that the Ontario Municipal Act has since been changed rendering that decision moot. If this argument is to be used to deter members of the Community and Protective Services Committee from adopting the AWAC recommendations, then it behooves staff to provide a more sophisticated, accurate and up to date analysis of this issue. A great deal has changed



in recent years as to the legitimate purposes permitted municipalities under the Ontario Municipal Act vis a vis animal control, welfare and protection. This is an area that has already been analyzed by legal experts. Zoocheck would be pleased to provide documentation and analysis supporting this position.

4. BUSINESS MODEL OF PRIVATE ZOOS AND MOBILE ZOOS –

- a. The staff report fails to adequately analyze the business model of private zoos and mobile zoos. The report takes the promotional material of these facilities at face value, for example, assuming that the permanent facility is the primary business component while the mobile facet of the business is secondary or peripheral. This is not necessarily true. For example, Reptilia vigorously markets their offsite live animal programs, devotes a substantial portion of their website to their promotion and states that Reptilia has been to “almost every type of business or community event imaginable!” A recent Reptilia advertisement for commission-based program sales staff states they are looking for people with experience in any of the following sectors: Auto Dealers, Camps, Child Care Centers, Community Centers, Events Planning, Fairs, Festivals and Exhibitions, First Responders, Hospitals, Hotels, Libraries, Museums, Religious Organizations, Retail, Malls and Shopping Centers, Scouts, Guides, 4-H and other Youth Groups, Schools/School Boards: Elementary, Secondary & College/University, Ticket and Corporate Admission Sales, Wrangling/Film.” This does not suggest a secondary or peripheral business activity. In addition, the claim that the facilities provide an educational experience isn’t challenged or balanced with other points of view, especially given the commercial imperative of these facilities.
- b. The report also fails to make clear that private zoos and mobile shows would still be permitted under the revisions proposed by AWAC using permitted animals. This means that the City of London’s land use objectives outlined in the report (e.g., encouraging the distribution of educational, social and recreational facilities throughout the city; incorporating a mix of use patterns in an Urban Thoroughfare in The London Plan; accommodating intensification and redevelopment; an adaptive reuse of an existing commercial building for a place of entertainment; creating employment and tourism opportunities) need not be impacted. These objectives can still be achieved without jeopardising public health and safety, and animal welfare, while avoiding increased costs to the City through a licensing regime.

5. BURDEN AND COST OF LICENSING TO THE CITY OF LONDON – The report fails to outline the burden and costs placed on the City of London should a licensing scheme be instituted for zoos and mobile zoos, considering the following:

- a. Currently there is no comprehensive regulatory regime in Ontario governing the keeping of exotic animals in zoos, zoo-type displays or in mobile live animal programs; therefore, the onus for providing meaningful oversight of zoo and mobile zoo activities, and addressing any problems associated with them, would fall to the City itself.
- b. Unfortunately, the City does not possess the internal expertise or capacity to properly assess and regulate zoos or zoo-type facilities or to provide oversight of potentially dozens to hundreds of mobile live animal program events within its boundaries to ensure compliance with local laws and acceptable levels of animal welfare and human health and public safety. To change that situation would require a massive investment of staff development time to bring internal expertise up to even a basic (but still insufficient) level, as well as a considerable investment of financial resources.
- c. The staff report tries to address this issue by incorrectly stating that animal welfare is not a municipal purpose and by referencing the Ontario SPCA Act (and the Ontario SPCA) as being responsible for animal welfare. It should be noted that the Ontario SPCA is not



statutorily required to enforce the OSPCA Act and the organization, with just 70 inspectors, does not enforce in all areas of the province.

- d. In addition, the OSPCA recently announced a reduction in its enforcement function regarding livestock, the Dog Owner's Liability Act and other enforcement practices. The OSPCA does not have the financial or staff resources to provide oversight of all of the existing mobile live animal programs in the province, let alone potentially dozens to hundreds of additional programs and activities in London should Reptilia set up in the City.
- e. The staff report also make reference to Canada's Accredited Zoos and Aquariums (CAZA). It is not a regulatory body but is a zoo industry trade group that maintains a membership and operates an accreditation program. As a small organization with approximately three staff members, CAZA does not have the capacity to consistently monitor the dozens to hundreds of mobile live animal programs conducted by their members who carry out these activities. Instead, they simply ask members to adhere to a brief set of guidelines. The CAZA accreditation designation, which denotes members who have passed an inspection that occurs only once every 5 years, is not an oversight vehicle. Additionally all CAZA investigations and results are confidential and findings are not made available to external parties. In past years, a number of CAZA-accredited institutions have been the subject of widespread criticism, official investigations and cruelty charges.

It is in fact the failure to consider these kinds of matters that has made municipalities vulnerable to legal challenges in the past.

For the reasons stated above (which I must stress are not comprehensive) , I urge you to support the recommendation made at the beginning of this letter. Thank you for your consideration.

Sincerely,

Rob Laidlaw
CBiol MRSB
Executive Director

