

To: City Council

From: John Tracogna  
Chief Executive Officer

Subject: **ELEPHANT TRANSFER DUE DILIGENCE REVIEW  
(TO BE CONSIDERED WITH ITEM EX24.30)**

Date: November 20, 2012

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## **SUMMARY**

As requested by the Executive Committee, this report provides the results of the Toronto Zoo's Due Diligence Review of the Performing Animal Welfare Society (PAWS) facility, in relation to the transfer of the Zoo's three African elephants, Toka, Thika and Iringa. Based on the Due Diligence Review, and in the opinion of the Toronto Zoo Senior Veterinarian, the Toronto Zoo CEO concludes that PAWS is not a suitable facility for the three elephants, due to the presence of tuberculosis in the PAWS elephant collection, lack of access to PAWS' current health records, and issues concerning biosecurity measures to prevent the spread of disease at PAWS. Additionally, there is no workable transportation plan currently in place from PAWS, for the safe and humane transport of the elephants.

As requested by the Executive Committee, Toronto Zoo has looked at some options for the re-location of the elephants. Toronto Zoo has made inquiries with the National Elephant Centre (TNEC), a new facility opening in Florida in early spring 2013. TNEC has offered to house the three Toronto Zoo elephants as per the attached letter. Given the choice between a facility with a potential disease risk and one without, the Toronto Zoo would choose the disease free location. Zoo staff will undertake a full review of TNEC and any other potential options and report to the Toronto Zoo Board of Management on a recommended future home for the three elephants.

## **RECOMMENDATIONS**

It is recommended that City Council:

1. affirm the decision of the Toronto Zoo's CEO, as set out in this report, that the Performing Animal Welfare Society and its ARK 2000 facility are not suitable to care for the Toronto Zoo's elephants Toka, Thika and Iringa; and
2. refer the matter back to the Board of Management of the Toronto Zoo to make a final decision, after having considered staff recommendations as to a suitable facility where Toka, Thika and Iringa should be sent.

## **FINANCIAL IMPACT**

There are no financial impacts to the City arising from the report recommendations, as no additional funds are required by the Toronto Zoo.

## **BACKGROUND**

On May 12, 2011 the Board of Management of the Toronto Zoo made the decision to move its three existing elephants to another facility as soon as possible, subject to a review to determine the optimal location. On October 25, 2011 City Council directed the Board of Management to transfer the elephants to the Performing Animal Welfare Society (PAWS) in California. On November 24, 2011 the Board of Management affirmed Council's direction and directed staff to undertake a due diligence review prior to transporting the elephants to PAWS. This due diligence review is required as part of the standards of the accredited zoological profession and is consistent with Council's motion that the transport of the elephants comply with all applicable laws and standards.

On September 25, 2012 the Board of Management was given an update by the CEO and the Senior Veterinarian of the Toronto Zoo on the elephant transfer to PAWS. The Board directed that the memorandum and related material be forwarded to the Executive Committee and City Council for consideration. On November 5, 2012 the Executive Committee recommended that the three elephants be moved, as soon as possible, to a facility that Toronto Zoo staff determine is the optimal location. The Executive Committee requested that the CEO: report directly to Council on the due diligence review of PAWS; attend City Council to answer any questions; and report on other options.

The decision history on the elephant transfer is summarized as follows:

### **ZB5.3: "Toronto Zoo Elephant Program", May 12, 2011, Board of Management of the Toronto Zoo**

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.ZB5.3>

The Board directed that the Toronto Zoo phase out the Elephant Program. The existing three elephants be transferred as soon as practical to an accredited AZA institution(s) and meet the Toronto Zoo's accepted processes and policies for animal transactions.

### **MM13.9: "Moving the Three Toronto Zoo Elephants to the PAWS Sanctuary as Soon and as Safely as Possible-by Councillor Michelle Berardinetti, seconded by Councillor Raymond Cho", October 24/25, 2011, City Council meeting**

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.MM13.9>

City Council directed the Board of Management of the Toronto Zoo to make the necessary arrangements with the Performing Animal Welfare Society (PAWS) sanctuary to physically transfer the 3 elephants, Iringa, Toka, and Thika to its facility in California and to transfer legal ownership to PAWS as soon as arrangements can be made by PAWS to safely transport the elephants and permits can be obtained.

### **ZB9.1: "Elephant Transfer-Status Report", November 24, 2011, Board of Management of the Toronto Zoo**

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.ZB9.1>

The Board affirmed, reviewed, assessed and corroborated City Council's decision of October 25, 2011 to move the Toronto Zoo's three elephants to PAWS sanctuary, and furthermore directed that qualified Toronto Zoo staff undertake due diligence prior to transporting the elephants to PAWS sanctuary including: site visits, documentation of health records, transportation, and associated legal agreement between the Toronto Zoo and PAWS.

**ZB16.16: "Elephant Transfer Status", September 25, 2012, Board of Management of the Toronto Zoo**

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.ZB16.16>

The Board directed the Chief Executive Officer, Toronto Zoo to forward the (September 25, 2012) memorandum on the elephant transfer status to the Executive Committee, and thereon to City Council for consideration.

**EX24.30: "Elephant Transfer Status Update", November 5, 2012, Executive Committee**

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX24.30>

The Executive Committee recommends that the three elephants be moved, as soon as possible, to a facility that Toronto Zoo staff determine is the best location. The Executive Committee requested the Chief Executive Officer of the Toronto Zoo to:

1. report directly to Council setting out the results of the due diligence review of the Performing Animal Welfare Society (PAWS) facility; and
2. attend the City Council meeting to answer Questions on the Due Diligence Review of the Performing Animal Welfare Society (PAWS) facility.
3. report on other options.

## COMMENTS

### Due Diligence Process

The Toronto Zoo Board of Management at its meeting on November 24, 2011 and City Council at its meeting on October 25, 2011 established certain conditions for the transfer of the Toronto Zoo's three African elephants (Toka, Thika, and Iringa). These terms and conditions were included in a legal agreement signed between the Board of Management and PAWS on February 9, 2012. Sections 13 to 17 of the agreement provide for the exchange of information between the parties and set out the Toronto Zoo's due diligence process. Section 17 states: "If, as a result of its due diligence review of ARK 2000 and PAWS, the CEO is not satisfied that ARK 2000 and PAWS are suitable or financially viable to care for the elephants, the CEO shall report to the Board and to Toronto City Council of this decision and the reasons therefor. If the CEO's decision is affirmed by the Board and Toronto City Council, the Board may terminate this Agreement upon written notice to PAWS in which event this Agreement shall be null and void and neither party shall have recourse against the other party."

The Toronto Zoo's Due Diligence Review on PAWS is appended as Attachment 1. The report is based on observations and information obtained by Toronto Zoo staff during an inspection of the PAWS facility on December 19-20, 2011, information received from PAWS between January and July 2012, consistent with the terms of the legal agreement, and information from official documents accessed by members of the public through the Freedom of Information Act and provided to the Toronto Zoo staff.

PAWS has many positive attributes including the size of the outdoor paddocks, a modern indoor barn, professional and compassionate animal and veterinary care, and a healthy financial situation. However, there are several significant concerns that arose from the due diligence process.

As noted in the Due Diligence Review, the Zoo requested the ability to review medical and other health records that it deemed necessary, and within the terms of the legal agreement, to enable it to assess the suitability of PAWS and the ARK 2000 facility. Six written requests were sent to PAWS by Toronto Zoo and City Legal Services between February and May 2012. It was only late June 2012 that the Zoo's veterinary staff were permitted by PAWS to inspect and take notes of medical records on the elephants housed at the PAWS facility. Many of the records were not up-to-date and the Zoo was not permitted to retain copies of the records. From this review, the Zoo provided a list of follow-up questions to PAWS that needed to be answered to allow the Zoo to complete its due diligence review. Additional, but limited, health records were provided in late July 2012. On August 31, 2012, City Legal sent PAWS a letter identifying the information still required, including outstanding medical records. On September 18, 2012 a letter was received from PAWS responding that no further medical information would be made available.

There are public records that point to the presence of tuberculosis (TB) in the elephants at PAWS. These records are appended to Item EX24.30 and the Due Diligence Review for reference. As well, during the December 2011 site visit by Toronto Zoo staff at PAWS, Zoo staff were only allowed to visit two of the five elephant barns at the facility and, when access was requested, PAWS President said this limitation on access was as a result of a direction from the PAWS' lawyer. Zoo staff viewed PAWS staff caring for elephants in the other barns wearing face masks, which strongly suggested that quarantine was in operation at the PAWS facility likely as a result of a confirmed (or suspected) case of tuberculosis. Since the Toronto Zoo's elephants are TB negative, the confirmation of TB at PAWS and the threat it may pose to Toka, Thika and Iringa, is a critical component of the due diligence review. Dr. Ian Duncan, Professor Emeritus at the University of Guelph and an expert in animal welfare, explains in his letter (Attachment 5 of the Due Diligence Review), "TB is a debilitating illness that causes suffering and really reduces welfare".

Based on the limited medical records provided by PAWS, the public records obtained by the Zoo, and observations during the site visit, the Zoo's veterinary staff have concluded that there is active TB in the Asian elephant collection at PAWS. In the past 20 months, two Asian elephants have died at PAWS and both were confirmed to be infected with TB. One died in January 2011, prior to Council's decision to send the elephants to PAWS, and one died in January 2012 but this information was withheld from Zoo staff until July 2012 when PAWS allowed the Zoo's veterinary staff to view some of the records.

To our knowledge, based on limited 2011 test results, the three African elephants at PAWS are not currently infected, however, in the opinion of the Zoo's veterinary staff there remains a significant risk to the Toronto Zoo's African elephants for three reasons. First, there is some evidence that one or more of PAWS African elephants previously lived with TB-infected Asian elephants either at PAWS or elsewhere. The incubation period of TB in elephants is prolonged, from two to 20 years, so previously exposed elephants may develop the infection later in life. Treatment is a difficult and expensive process, therefore prevention of exposure is the preferable option. Secondly, the TB situation at PAWS is still evolving. The Zoo's veterinary staff did not receive the additional

information requested from PAWS to demonstrate that the disease has been contained. Thirdly, the Zoo did not receive sufficient assurance that the PAWS biosecurity program, which includes their protocols to control, diagnose and treat diseases, was adequate and was adequately implemented to prevent the possible spread of TB to our three elephants, should they be sent to the PAWS facility. Although the African and Asian barns are separate, they are in close proximity (40 metres) to one another and the same staff appear to care for both groups.

Another key issue is the transportation plan. Under the legal agreement, PAWS is responsible for and is required to make all of the arrangements for, and cover all costs relating to, the safe and humane transport of the elephants to their facility. PAWS and the Toronto Zoo mutually agreed that air transportation would be best for the welfare of the elephants. Toronto Zoo staff requested that PAWS obtain confirmation from the US Fish & Wildlife Service (USFWS) that PAWS' transportation plan meets the animal welfare requirements as required by the International Air Transportation Association (IATA) worldwide standard for shipping live animals. Based on concerns expressed by Zoo staff, PAWS agreed that the air carrier (AN124) originally proposed by them was not suitable to transfer the elephants to California because the cargo area was not sufficiently pressurized to ensure the safe transport of the elephants and accompanying personnel. The noise and vibrations of this aircraft may also be a concern and cause unacceptable stress to the elephants. At present, PAWS has not provided an updated transportation plan for the safe and humane transport of the three elephants.

At the time of its decision on October 25, 2011, City Council was not aware of tuberculosis in the PAWS elephant collection. Based on the Due Diligence Review, I am not satisfied that the Performing Animal Welfare Society and ARK 2000 are a suitable facility because of the presence of active TB in the elephant collection, lack of full access to relevant health records, and possible inadequacy of appropriate biosecurity measures, which could pose a significant and unacceptable risk to the Toronto Zoo's elephants, Toka, Thika and Iringa, if they were to be transferred to PAWS.

#### Option(s)

There are other viable options for the relocation of the Toronto Zoo elephants.

There is a new elephant facility in Florida that the Toronto Zoo considers as a viable and excellent option for the future home of the Toronto Zoo's elephants. The National Elephant Center (TNEC) is a collaborative project of North American accredited zoos. Located in Fellsmere Florida (one hour southeast of Orlando), TNEC will be a professional elephant care facility focused on advancing the care of elephants in North America. The master site plan includes four barns, quarantine facilities, a keeper work centre, a conservation/education centre, elephant overlooks and a group pavilion. The full site includes 225 acres for the elephants with a series of varied yards and paddocks designed for optimal flexibility.

Phase One construction will encompass about one quarter of the site, including a large barn with attached paddocks and four interconnected pastures, and will begin receiving elephants in early spring 2013. TNEC will be an Association of Zoos and Aquariums (AZA) certified related facility, which means there will be external oversight to ensure the welfare of the elephants.

Subsequent to the Executive Committee direction on November 5, 2012, the Toronto Zoo contacted TNEC and sent a staff member to visit the site. TNEC has sent the attached letter indicating their willingness to accept the Toronto Zoo's elephants (Attachment 2). TNEC has the support of the Mayor of Fellsmere and the surrounding community (Attachment 3).

Zoo staff will be prepared to report to the Toronto Zoo Board of Management on TNEC and other potential facility options for Toronto Zoo's elephants. Consistent with applicable legislation and the standards of the accredited zoological profession, Zoo staff will conduct a more formal review before a facility recommendation is made to the Board of Management.

## **CONTACT**

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## **SIGNATURE**

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John Tracogna  
Chief Executive Officer

## **ATTACHMENTS**

1. Due Diligence Review on the Performing Animal Welfare Society (PAWS)
2. Letter from Mr. John Lehnhardt, Executive Director, The National Elephant Center
3. Letter from Mayor Susan Adams, Fellsmere, Florida