

Laguna Honda Hospital Commingling of Public and Private Funds

by Patrick Monette-Shaw

Two Non-Profit Organizations, and the City, Quietly Mix Their Funds

The on-going scandal of Laguna Honda Hospital's patient gift fund reveals that not only did administrators in charge of charitable contributions divert funds intended for patients for use by staff, other ethical lapses occurred involving the commingling of public and private funds between two separate non-profit affiliates and this public City hospital.

The chief finding of the City Controller's audit of LHH's patient gift fund determined that LHH needs to improve the management of its gift fund. The audit report outlined many sloppy accounting practices at LHH that appear to be a result of confusion about whether funds are private or public, and administrators who apparently believed they could spend public and private funds however they pleased.

On March 24, the Board of Supervisors' Government Audit and Oversight Committee held a hearing on the City Controller's audit of LHH's patient gift fund. At the end of the hearing, Supervisor David Campos asked whether there was a clear finding of fact that money intended for the benefit of patients had not been used for the benefit of LHH's staff. Campos wanted a reassurance that, in fact, that had not happened. Tonia Lediju, director of the Controller's audits program, first tried to claim the problem wasn't with expenditures, the problem was with donations; she couldn't bring herself to say that the problem with donations having been incorrectly deposited into staff subaccounts obviously led to expenditures from staff subaccounts for the benefit of staff, even though the audit eventually restored \$350,000 in improper spending back to patient subaccounts.

Campos pushed harder, asking whether there was a guarantee that no money donated for the benefit of patients was in fact used for the benefit of staff. When Lediju replied that had not been the case for the 212 expenditure transactions reviewed during the audit, Campos then asked whether funds intended for patients but potentially spent on staff may have occurred for expenditures not in the 212 audited transaction sample pool. Lediju — remarkably — finally admitted for the first time that it could be possible patient funds were spent on staff for expenditures that weren't audited.

This substantiates the audit report's statement in Finding 3.3 that the audit team was unable to determine the cause of discrepancies, nor could it determine in many cases whether subaccounts had been incorrectly charged.

Campos continued the hearing to the call of the chair, providing an opportunity to hold a follow up hearing at some point in the future. What is clear is that private funds raised to benefit patients were used for perks for City employees, whether or not those funds were subsequently refunded as a result of the long-delayed audit.

Consider Laguna Honda Hospital's "rebranding" public relations spending. Although the Public Health Department already had a public information officer paid \$129,000 annually, LHH spent an additional \$819,441 between 2008 and 2010 on just salaries for its in-house PR department. It's believed those salaries came from the City's General Fund.

LHH's spending on PR salaries will reach \$1 million by December, across just four years. In response to a public records request, LHH has refused disclosing its total annual PR budget.

LHH's PR spending isn't meant to enhance its image with safety-net Medi-Cal patients it purportedly serves, who have nowhere else to go. It's meant to assure Laguna Honda Foundation philanthropic donors everything is hunky-dory at LHH. That's public funds being used to "market" a non-profit entity to private donors, eerily reminiscent of CSU's commingling of public and private funds.

LHH's Priest's Quarters were remodeled in 2003 and 2004 using City funds; the A-150 wing of LHH was specifically remodeled to house the offices of former City Attorney Louise Renne's non-profit entity, Laguna Honda Foundation, which eventually moved into the remodeled space in 2004. The remodel was designed around the operational needs of Renne's Foundation, possibly with its input.

In response to a public records request, the Controller's Office — after Gregg Sass, CFO of the Public Health Department initially claimed he could find no “responsive” records — later acknowledged that LHH's Priest Quarters remodel in 2003 cost only \$50,095, funding provided by LHH's annual \$900,000 capital improvements and facilities maintenance budget from the City's General Fund. The remodeling included lighting and electrical work of approximately \$16,000; flooring work of approximately \$16,000; and painting of windows, floors, and ceiling of approximately \$17,000.

But the furniture for the Priest Quarter's remodel; a photocopier, fax machine, and kitchen appliances purchased; other telecommunication work thought to have been performed by the City's Department of Technology and Information Services, potentially including pulling cable into the Priest's Quarters; and additional electrical work was not included, and hasn't been itemized by the City despite a public records request for additional information, nor has the source(s) of funding for this additional scope of work been revealed. Was this additional work performed using private or public funds, or a combination of both? How much more did this work cost, above the first \$50,095?

As previously reported, Supervisor Elsbernd's February 2009 crab fest raised \$151,000 according to the tax returns for Community Initiatives, the separate fiscal sponsor that handles finances for the Laguna Honda Foundation. But after Nichelle Lyons was paid \$42,998 for fundraising expenses — almost one-third of the event's purse — only \$108,652 reached Renne's Foundation.

Nine days before LHH's former executive director John Kanaley died on March 19, 2009, news had already broken on March 10 that Elsbernd's February 27, 2009 crabfest fundraiser for Renee's Laguna Honda Foundation had raised \$110,000.

It's remarkable that in the 11-day span between February 27 and March 10, 2009 the event's net proceeds later reported on IRS tax Form 990's had already been determined, or at least approximated. Here we are 10 months after LHH's June 2010 Gala Dinner, and we still don't know how much money was raised, or who the proceeds benefited.

But back in 2009, the March 10, 2009 minutes of Laguna Honda Hospital's Executive Committee show that Marc Slavin, LHH's Director of Government and Community Relations, and Arla Escontrias, LHH's then Director of Community Affairs, were tasked with “looking into” — soliciting — putting money from Renne's Foundation and the separate Volunteers, Inc. into public relations materials for the hospital. Neither Renne's Foundation nor Volunteers, Inc. have an IRS designation to fund PR materials, but it appears private donations solicited to fund either patient amenities or furniture, fixtures, and equipment for the new hospital were likely used to fund PR materials for the public hospital, instead.

Clearly, public funds are being used to support PR efforts and the salaries of City employees performing PR work that accrues to the benefit of Renne's Laguna Honda Foundation, in addition to private funds probably being used to fund PR materials for the public hospital. In addition, LHH's web site — likely paid for from City General Fund expenditures — directs Laguna Honda Foundation's potential donors to call LHH's PR staff, who now occupy the Priest's Quarters that were renovated to house Renne's Foundation.

As previously reported, there's a question about why Laguna Honda Volunteers, Inc. had a sudden surge spending \$84,711 for equipment in 2003 and 2004, which by unconfirmed report may have funded acquisition of computer equipment for the Laguna Honda Foundation. Volunteers, Inc. also donated \$375,000 to Laguna Honda Hospital, which is thought to have been transferred to Renne's Foundation to fund salaries of her new non-profit. Among the \$350,000 restituted to the patient gift fund as a result of the Controller's audit, \$176,000 in patient gift funds transferred to a capital account is thought to have potentially funded remodeling of LHH's “A” wing that houses its Quality Management Department, an expense alleged by the Department of Public Health to have been instigated by the Controller's Office. An additional \$54,000 spent for capital improvements that was quietly restituted to the patient gift fund has never been explained.

The commingling of public and private funds at Laguna Honda Hospital mirror the scandal of commingling public and private funds at California State University. Both cases point to a need that finances of these entities be brought under the purview of the California Public Records Act to allow for greater public scrutiny, in part because the tax returns for the Laguna Honda Foundation continue to report zero revenue and zero expenses to the IRS, when clearly commingling of private and public funds is occurring.

Because the large amount of funds involve a “substantial nature” and there is reasonable cause to believe the gift fund whistleblower complaint was well-founded, records of the Ethics Commission’s and City Controller’s investigations of Drs. Kerr’s and Rivero’s gift fund whistleblower complaint should be made public. And a completely independent audit of the gift fund should be redone — given provisions in the Charter to hire independent auditors — since the City Controller has a potential conflict of interest auditing City employees who may have knowingly commingled public and private funds.

Monette-Shaw is an accountability advocate and a member of California’s First Amendment Coalition. Feedback: monette-shaw@westsideobserver.com.