

**Between The Rock and a Hard Place:
Former Landfill Becomes
Entertainment Center with
Unresolved Community Concerns
Beyond the County's Ability to Solve**

August 2021



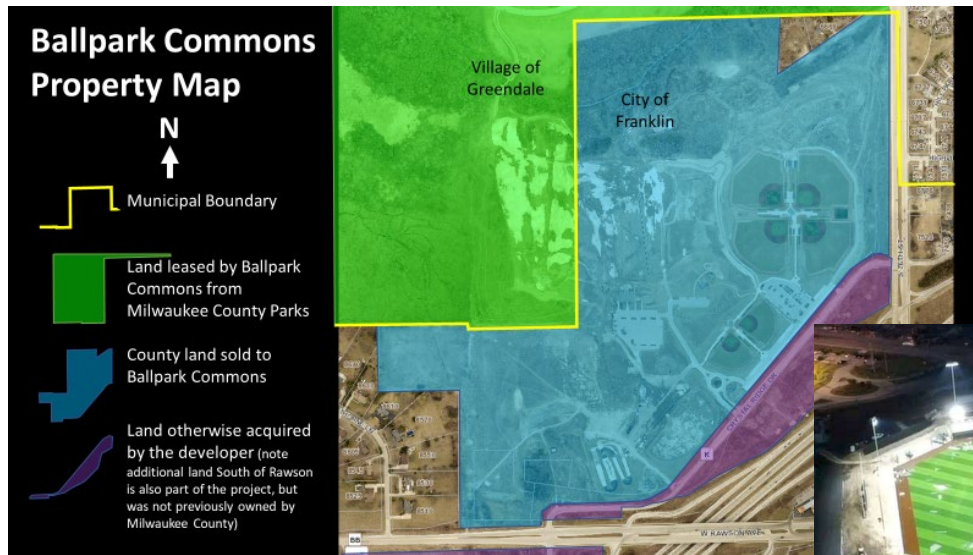
**Milwaukee County Office of the Comptroller
Audit Services Division**

**Scott B. Manske, CPA
Milwaukee County Comptroller**

Jennifer L. Folliard

**Jennifer L. Folliard, Director of Audits
Molly R. Pahl, Deputy Director of Audits**

In late 2017 and early 2018, the County entered into agreements with the Rock to allow for the development of an entertainment center on parkland in Greendale and land that was formerly a County landfill in Franklin.



Completed and projected amenities include a baseball stadium, retail/offices, apartments, an indoor sports training center, a medical service office, a hotel and restaurants.



In 2020 the Rock reported attendance of 302,485 across the amenities with projected future attendance of nearly 1.3 million annually.

A new methane control system was installed with a cost of approximately \$3.7 million.



County Departments were unable to provide a complete set of documents that were required to be provided to the Rock under terms of the agreements.

- The County entered into multiple agreements with the Rock in order to execute the development of the entertainment complex. The agreements required a number of items from Milwaukee County including due diligence materials, tests, inspections, evaluations, surveys, maps, site plans, communications between the County and the WI-DNR and property appraisals.
- The Development Agreement states that the County shall maintain depository of all due diligence materials.
- It is the responsibility of a department to retain proper records according to the Office of Corporation Counsel.
- We requested copies of these documents from County departments but were unable to obtain a complete set.
- We recommended DAS-ED to develop written policies and procedures to retain a complete set of documents related to closing of any County land sale.



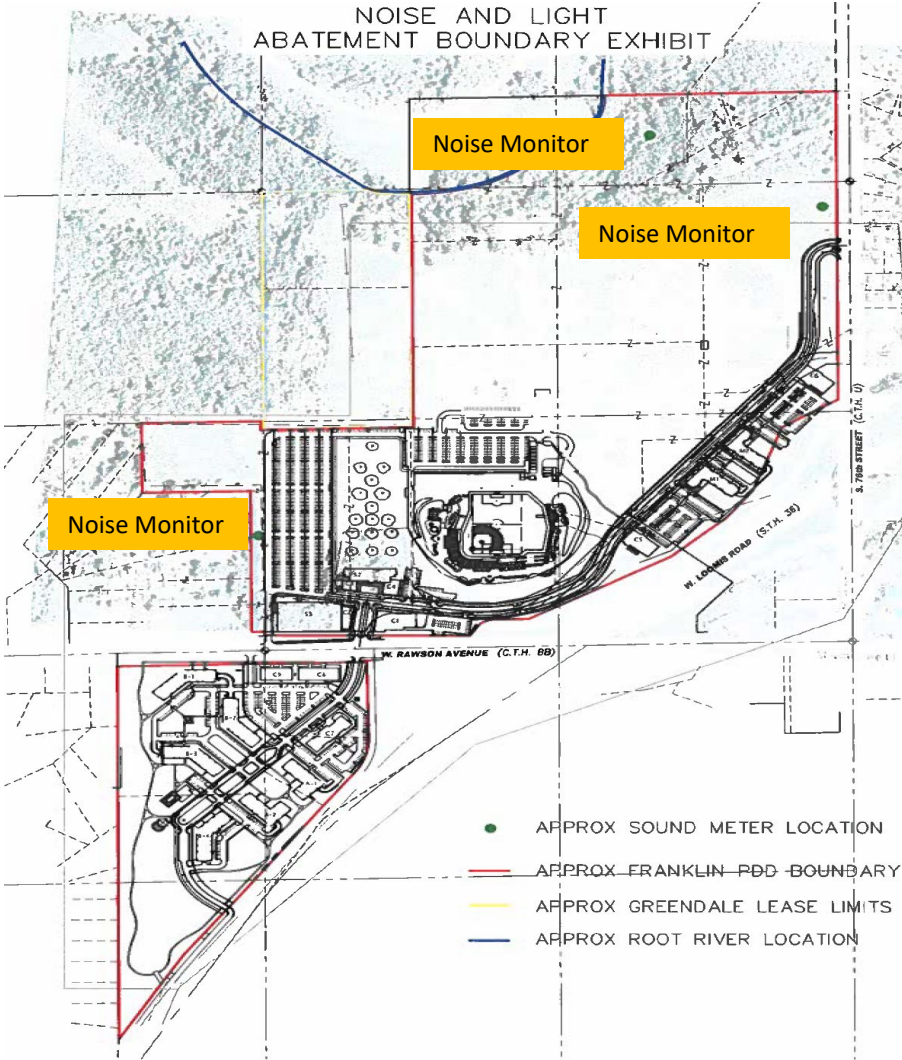
The Community Benefits goals contained in the Development Agreement have had mixed results. The Construction TBE Participation is projected to fall far short of the goal of 25%.

- The Development agreement called for a goal of 17% participation for professional service contracts. Current projections indicate that 54%, or \$1.8 million, of professional services expenses have been paid to a TBE firm.
- TBE participation on construction projects is at less than 5% versus the 25% goal in the Development Agreement. Total construction costs of \$42.3 million have been expended with less than \$2 million being paid to TBE firms. The 25% participation goal was projected to be almost \$11.0 million.
- The Rock was on pace as of 2019 to exceed its 10% goal of hours on construction projects to be dedicated to apprenticeships and training hours, however, records provided to us in April of 2021 had no payroll data from 2020 or 2021 and the projects were still listed as open.
- We recommended DAS-ED seek updated records from the Rock and work with the CBDP to determine the status of the Rock's compliance with the goals of the agreement and the good faith effort requirement to assess the possible retention of the \$10,000 compliance deposit received from the Rock in April of 2021.

TBE Construction	Total
Actual Expenses	\$42,272,205
Actual TBE expenses	\$1,985,408
% TBE of Actual Expense	4.7%
\$\$ Variance to goal	(\$8,953,342)

The Development Agreement contained a Noise and Light Addendum which required installation of noise monitors and established a tiered system of enforcement.

- The City of Franklin is established as the primary enforcer of adherence to the agreement.
- The agreement defines a noise violation as material “if it represents a complaint filed with the operator or the City of Franklin and is evidenced in the monitoring data logs by an exceedance (“Trigger Event”) that is not permitted and not corrected and remediated within 30 minutes of the Trigger Event.”
- The City of Franklin has the right to enforce payment of penalties and if the City declines, the County has the right to impose penalties on the Rock when there are four or more violations in a calendar year. The penalties are not to exceed \$1,000 for an individual violation and \$10,000 in aggregate for a calendar year.



To date, the City of Franklin has reported only one material violation has occurred which contractually prohibits the County from acting.



- Multiple complaints have been received at a variety of Milwaukee County offices by mostly members of nearby communities regarding the noise levels of entertainment entities at the Rock.
- The County does not currently track its inquiries to the City of Franklin regarding material violations nor its receipt of complaints from the community.
- The City of Franklin indicated it did not have data from the East monitor from November of 2020 to at least June of 2021 although the Rock states the monitor is functional.
- Continued calls for a comprehensive sound study of the Rock culminated in a provision in the 2021 Adopted Budget for the issuance of a Request for Proposals for a sound study. The RFP was issued in April of 2021.
- We recommended DAS-ED confirm the status of the east monitor with the Rock, establish a schedule to check in with the City of Franklin for violations and develop a system to track complaints. An annual report to the County Board on these items is also recommended.



The Contribution and Participation Agreement is complex and is projected to last until 2078.



The agreement requires the Rock to rebuild and perform on-going operation and maintenance of the methane monitoring and extraction system. The agreement calls for the creation of a trust account funded by both the Rock and the County called the Landfill Infrastructure Capital (LIC) fund. The LIC fund and the agreement are slated to dissolve in 2078.



- The purchase price of the land was \$840,000 offset by the annual landfill costs. Based upon the estimates the landfill costs would fully offset the purchase price by 2024 with the final price being no less than \$1.00.
- The agreement calls for an annual contribution from the County of \$20,000 and \$127,000 from the Rock with payment due by February 1 of each year.
- We found that the payments were not made by February 1 in 2019, 2020 and 2021 except for the County's 2021 payment. As of February 28, 2021 the bank account for the LIC fund reflected two payments from the Rock instead of the required three payments. It was mutually agreed that the 2021 payment would be delayed due to the pandemic. At the time of our review, no withdrawals had been made.
- We recommended DAS-ED work with the Comptroller to clarify the schedule of payments and provide an annual report to the County Board on the status of financial items contained within the agreement.



The Ski Hill Lease has seen minor issues.

- The lease for the ski hill replaces a lease executed in 2012 and has an initial term of 20 years with automatic successive 20 year extensions so long as the Rock is responsible for the landfill.
- We found the ski hill’s operating hours to be in line with other Wisconsin ski hills as required in the lease.
- The Rock was issued nine citations in 2019 by the Village of Greendale for violations of the Greendale special permit for the Hill Has Eyes event which takes place in part on the leased land. The Rock paid in full its citations of \$11,889 in September of 2020.
- Required annual reports submitted by the Rock show continued and increased use of the Ski Hill amenities.
- The Parks Department does not have a centralized system to track complaints received by their department. We recommended Parks explore the creation of a centralized complaint system.
- We found a typographical error in the ski hill lease which states, “The hours of operation of the Ski Hill shall now allow any event to begin later than 9:00 p.m. on any night.” We recommended Parks execute a formal amendment to clarify the allowable start times of events at the ski hill.



Attendance by Activity Type 2018-2021			
	2018-2019	2019-2020	2020-2021
Ski/Snowboarding	10,255	9,433	13,274
Snow Tubing	19,439	21,529	44,999
Wedding & Events	2,500	2,500	3,750
Total	32,194	33,462	62,023

The County continues to have a problem with monitoring of its contracts which requires additional training and guidance to eliminate recurring issues.

While reviewing the three agreements we found contract monitoring items that were of concern. These items were similar to issues we have found in prior audits which included:

- Execution of revenue contracts which lack the proper signature and review
- Provision of services without a revenue contract in place
- Changes to contract terms agreed to verbally without documentation
- A lack of spot checking of complaints with items required of contractors
- Relationships between County and non-County entities without an executed agreement in place



We recommended that the Department of Administrative Services:

- When developing an updated AMOP for contracts ensure that the AMOP specifies that departments are responsible for the monitoring of all aspects of a contract.
- Clarify the role of service departments such as Risk Management, Office of Corporation Counsel, Office of the Comptroller and CBDP as providing assistance as needed rather than directly responsible for monitoring of contracts.
- Create a training program to be provided to all department heads and contract managers on an annual basis as to their responsibility in monitoring of contracts.
- Explore the establishment of a countywide software system to assist departments in their contract monitoring responsibilities.

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Audit Team

Lolita Davis-Spears

Diana Xiong

Candice Lindstrom

Tevin Roundtree

Review Team

Paul Grant, CPA

Narcisia (Edie) Bland

Administrative Support

Cheryl A. Hosp