

STATUS OF IMPLEMENTATION – AUDIT SERVICES DIVISION REPORT RECOMMENDATIONS

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

File Number: 21-760
Status Report Date: February 2023

Audit Issued: August 2021
Department: DAS-Economic Development, DAS Admin, Parks

Open Recommendations

Recommendation #6	
Recommendation - August 2021	
DAS-ED develop a formal documented system to log and track any complaints about the Rock received by the multiple entities at Milwaukee County with an annual report provided to the County Board and set up a system to regularly refer non-County complaints to the responsible entity.	
Deadlines Established Y/N? Yes	
Date	Management Comments:
Current – Feb 2023	DAS-ED: DAS-ED continues to keep an Excel spreadsheet to log any incoming community complaints sent to the County directly. Additionally, DAS-ED has reached out to Parks and the County Exec’s office with emails requesting that if they or anyone in their offices receive citizen complaints about the Rock/Ballpark Commons – either noise complaints or any other kind – to please forward those to the DAS-ED Contracts Manager for including in the tracking log.
July 2022	<p>DAS-ED: DAS-ED continues to update our tracking logs with any community complaints received directly by the County, and also continues to check in with the City of Franklin to get updates on any violations/material violations. The ongoing sound study also aims to address community issues and ensure Developer equipment is working accurately to measure sound levels, and that Developer is not violating the terms of their development agreement as it relates to sound, and/or local noise ordinances.</p> <p><u>Audit Services Division:</u> ASD will review the log just prior to the next status update as that would be approximately one year of use. The item will be closed if no issues are identified.</p>
April 2022	<p>DAS-ED has created a tracking log for any community complaints and/or material violations.</p> <p>DAS-ED will provide annual reports to County Board to notify the Board of any community complaints received.</p> <p><i><u>Audit Services Division Comment:</u></i> <i>ASD will review tracking log entries as log use approaches one year.</i></p>
Audit response – August 2021	See response to recommendation 5.

Recommendation #11
Recommendation - August 2021 The Department of Administrative Services:

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- a. 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 and should identify who within a department is the responsible party.
- a. Clarify the role of service departments such as Risk Management, Office of Corporation Counsel, Office of the Comptroller and CBDP as aiding as needed rather than directly responsible for monitoring of contract requirements.
- b. 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.
- d. Explore the establishment of a countywide software system to assist departments in their contract monitoring responsibilities.

Deadlines Established Y/N?	Yes
Date	Management Comments
Current - Feb 2023	DAS: DAS worked with SBP to host a focus group with contract managers throughout the County to gather feedback for development of the requested materials. SBP has gathered relevant information on current practices and in coordination with DAS is developing a work team to satisfy the recommendations, including development of an AMOP, clarification of roles, training related to the AMOP procedure and exploration of software to assist departments with monitoring responsibilities. Target completion is year-end 2023.
July 2022	DAS: No new update.
April 2022	DAS is working with the Strategy Budget and Performance - Project Management Office to organize and host focus groups with contract managers in Q2 and Q3 of 2022. Information gathered will help inform project design. DAS intends to launch a work team to address contracting concerns before year end 2022.
Audit response – August 2021	<p>Milwaukee County Department of Administrative Services will work on creating further policies and procedures around contracts management throughout the department, including specific AMOPs and assignment of responsibilities to specific roles in each department. Milwaukee County Economic Development will institute a practice of finalizing a responsibility and tracking chart following the completion of land transactions and development agreements. The chart will help track timelines and denote responsibilities and contacts for actions. This will better position Contract Managers to track and follow up on required actions.</p> <p>DAS recognizes the need for further contract management training for practitioners throughout the Milwaukee County. DAS will work with relevant departments to pursue training opportunities and create venues for best practice sharing and support among contract managers.</p>

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Newly Closed Recommendations

Recommendation #1	
Recommendation - August 2021 DAS-ED develop written policies and procedures to retain a complete set of all documents related to closing of any County land sale.	
Deadlines Established Y/N? No	
Date	Management Comments:
Current – Feb 2023	DAS-ED: DAS-ED has drafted a written policy including the retention and organization of copies of each document related to a land sale closing. This policy will be updated as needed going forward.
July 2022	DAS-ED: Documentation in process of being created.
April 2022	DAS-ED standard policy includes retaining and saving to shared files copies of every document related to a closing. New internal procedures have been created around organization and tracking of contract documents. No written policies/procedures have been created.
Audit response – August 2021	<p>Milwaukee County Economic Development, and in particular our Contracts Manager, is in the process of developing policies and procedures around an overall system for retaining, managing, organizing, and tracking all documents related to County land sales. The initial stage of this process is creating a detailed spreadsheet of all contracts and contract-related documents around each of the department’s current projects, including contract requirements, restrictions, timelines, and deadlines for each project, which the Contract Manager plans to have completed within the by the end of this year. The next stage after creation of this spreadsheet is exploring options to organize and monitor contracts on an ongoing basis going forward.</p> <p>Contract management software systems have been explored, both within Economic Development and in conjunction with other County departments, but a system has not yet been found and approved that would provide the contract maintenance and tracking required at a reasonable cost. Economic Development will continue to work with other County departments in finding an adequate system for long-term contract management. We plan to continue to search for such a solution going forward.</p>

Recommendation #2
Recommendation - August 2021 DAS-ED should work with Community Business Development Partners to:

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<p>c. Determine whether the Rock has completed the construction projects with associated TBE goals.</p> <p>b. Determine whether the Rock has fulfilled its good faith effort required in the community benefits program.</p> <p>c. Begin the process to retain the community benefits deposit if necessary.</p> <p>d. Report back to the County Board in three months on the review process.</p>	
Deadlines Established Y/N?	
No	
Date	Management Comments:
Current – Feb 2023	DAS–ED: Letter confirming that Developer is in breach, and notifying them of the forfeiture of their deposit and ban from working on County projects for 3 years, has been drafted and sent out by DAS-ED.
July 2022	<p>DAS–ED: Developer has submitted letter to the County demonstrating their intent to provide no further community benefits reporting, and has agreed to forfeit their \$10,000 deposit and forego doing business with Milwaukee County for three years. DAS-ED is working on finalizing documentation to retain the \$10,000 deposit and confirm County will not do business with Developer for at least 3 years.</p> <p><u>Audit Services Division:</u> Once DAS ED has provided the documentation regarding the forfeiture of the deposit and the three year ban this item will be closed.</p>
April 2022	Developer has not provided any further reporting on their community benefits goals, and DAS-ED has been informally informed they do not plan to provide any further reporting. DAS-ED has requested that the Developer formalize this response for our records. As Developer has not fulfilled their good faith efforts as required by Community Benefits sections of the Development Agreement, DAS-ED declares the Developer to be in default and is finalizing formal notification that we will retain Developer’s community benefits deposit for noncompliance and prohibit the Developer from working with Milwaukee County for three years.
Audit response – August 2021	<p>Milwaukee County Economic Development sent a letter to the Rock Developer dated May 20, 2021, as noted in the updated audit report, to encourage them to fulfill reporting obligations related to the Development Agreement. The preference is for the Developer to complete reporting on past projects, and submit any reporting needed for any new projects before the County comes to a conclusion about their compliance with development agreement goals.</p> <p>However, the Developer has proven noncommunicative and has not yet submitted any further reporting on past, current, or future projects. In addition, current reporting suggests the Developer is unlikely to reach the Development Agreement’s TBE goals overall. If the Developer does not submit further reporting, Economic Development is prepared to work with Community Business Development Partners to document, as needed, Developer’s failure to fulfill</p>

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	<p>development agreement goals on their projects. Without further documentation or progress, County will seek to retain the Developer’s compliance deposit. We will discuss with CommunityBenefits Development Partners what the process is for documenting retention of the deposit.</p> <p>Milwaukee County Economic Development will plan to report to the County Board on any developments, related to further reporting and/or County’s plans to retain the compliance deposit, in the next 3 months (by December 2021).</p>
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Recommendation #5	
<p>Recommendation - August 2021 DAS-ED establish a scheduled check in for material violations at Franklin and Greendale, expand its current tracking log and provide an annual informational report to the County Board on any reported violations by the municipalities.</p>	
<p>Deadlines Established Y/N? Yes</p>	
Date	Management Comments:
Current – Feb 2023	<p><u>DAS-ED:</u> DAS-ED has continued to check in with the City of Franklin on a quarterly basis to get updates on any material violations and/or community complaints, as well as keeping our own Excel spreadsheet to log any incoming community complaints sent to the County directly.</p> <p>I have sent emails to the City of Franklin in August, September, October, December, and January of 2022-23, and spoken with someone at the City of Franklin to get an update on any material violations (there were none recently) most recently on January 13, 2023.</p> <p><u>Audit Services Division Comment:</u> Given the recent submittal of a log tracking this activity by DAS-ED, and its plans for periodic checking-in with the City of Franklin in 2023, we feel that sufficient infrastructure is in place going forward.</p>
July 2022	<p><u>DAS-ED:</u> DAS-ED continues to check in with the City of Franklin and update our tracking logs of any material violations and/or updates on community complaints. The ongoing sound study also aims to address community issues and ensure Developer equipment is working accurately to measure sound levels, and that Developer is not violating the terms of their development agreement as it relates to sound, and/or local noise ordinances.</p> <p><u>Audit Services Division:</u> ASD will review the log just prior to the next status update as that would be approximately one year of use. The item will be closed if no issues are identified.</p>

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<p>April 2022</p>	<p>DAS-ED has created a tracking log for any community complaints and/or material violations. DAS-ED will check in with Franklin and Greendale monthly going forward to inquire about any material violations.</p> <p>DAS-ED will provide annual reports to County Board to notify the Board of any material violations.</p> <p><i><u>Audit Services Division Comment:</u></i> <i>ASD will review tracking log entries as log use approaches one year.</i></p>
<p>Audit response – August 2021</p>	<p>Milwaukee County Economic Development currently contacts the City of Franklin regarding noise complaints and violations on a semi-annual basis, and maintains a record of material violations. Please note that enforcement is only available by the County if more than four material violations occur within a given year. To date, Milwaukee County is only aware of one such violation.</p> <p>Milwaukee County will work with the City of Franklin and the City of Greendale to get more information on how they handle and track noise and light complaints generally, and material violations specifically. We will ensure they have a process in place to notify the County of any material violations, either immediately or on a scheduled basis.</p> <p>The Economic Development Contracts Manager will set up a tracking log, to be shared by the Economic Development team, to track any material violations, as well as any other issues reported by police, and any complaints that reach our department directly from citizens, even when they don’t rise to the level of a material violation. We will also set up a standard procedure for addressing and documenting any such complaints within our department, including how and when to refer or escalate complaints to the relevant authority at each City’s police department.</p> <p>Economic Development will plan on reporting on any material violations reported by the City of Franklin, as well as our internal log of citizen complaints, to the County Board on an annual basis.</p>

Closed Recommendations

<p align="center">Recommendation #3</p>	
<p>Recommendation - August 2021 The DAS-ED immediately request the missing data from the Rock if the projects are not yet completed. DAS-ED should determine if the Rock is still in compliance with the goals contained within the Development Agreement and report back to the County Board within three months with its findings.</p>	
<p>Deadlines Established Y/N?</p>	<p>n/a</p>
<p>Date</p>	<p>Management Comments:</p>

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April 2022	DAS-ED has requested missing data from Developers multiple additional times since the Audit. Developer has not provided any further reporting information, and we have been verbally informed that they will provide no further reporting.
Audit response – August 2021	<p>Milwaukee County Economic Development has requested information related to completed and ongoing or future projects that are subject to community benefits and TBE reporting requirements, in prior communication, including a letter sent to the Rock Developer sent May 20, 2021. In the same letter, we requested submittal of reporting information to close out the completed projects in our systems, as well as information to allow reporting on any new projects since reporting was last submitted. Developer is currently out of compliance due to the lack of timely reporting, but it is uncertain whether their TBE subcontracting, and community benefits goals would be within reach or not if reporting was up to date. We would prefer to complete any such reporting in our systems before making further determinations related to whether Developer will end the project(s) in compliance with Development Agreement goals, though past reporting suggests they may not be able to achieve those goals even if reporting is completed.</p> <p>Milwaukee County intends to use the full extent of available consequence, as outlined in the development agreement, to respond to Developer’s lack of reporting (and inability to make significant progress towards mutually agreed upon goals), including County retaining the Developer’s compliance deposit, and refusing to do business with the Developer on any future projects, both of which we are prepared to do if further reporting is not submitted and/or if further reporting shows a failure to achieve community benefits or TBE goals.</p> <p>Milwaukee County Economic Development will plan to report to the County Board on any further developments in the next 3 months (by the December board meeting).</p>

Recommendation #4	
Recommendation - August 2021	
DAS-ED should confirm with the Rock the status of the east monitor and, if necessary, the anticipated date the east monitor will return to functionality and work to establish a system to be alerted to any non-functioning monitor.	
Deadlines Established Y/N?	n/a
Date	Management Comments:
April 2022	DAS-ED confirmed with Developers that the east monitor was never non-functioning. It seems there was some confusion on the report that the monitor was non-functioning, because it does take longer to load data because of ambient noise from the road in that direction.
Audit response – August 2021	Milwaukee County Economic Development has reached out, both informally (by email sent 8/17/21) and formally (via a letter being sent 8/18/21) to the Rock Developer to request an update on the status of the east monitor, as well as request a notification

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	system or process for the Developer to notify the County of any similar issues in the future.
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Recommendation #7	
Recommendation - August 2021 DAS-ED should work with the Office of the Comptroller to immediately seek any outstanding funds due to the LIC Fund or provide clarification in writing as to the required submittal date of the Rock payments to the LIC Fund.	
Deadlines Established Y/N? Yes	
Date	Management Comments:
July 2022	DAS-ED: The Office of the Comptroller and Economic Development provided a report to the Audit Committee on July 20, 2022, file number 22-801, updating the Board on the LIC Fund payments.
April 2022	Comptroller has confirmed that County has provided our 2022 payment to the LIC Fund. The funds due to the LIC fund from the Rock will be reviewed at the Annual Oversight Meeting.
Audit response – August 2021	Milwaukee County Economic Development will reach out to the Office of the Comptroller to confirm what outstanding funds are currently due related to the LIC Fund. We will also work with the Office of the Comptroller to clarify roles between Economic Development and the Office of the Comptroller around future payments. We will reach out to the Rock Developer to communicate expectations and deadlines for future expected payments.

Recommendation #8	
Recommendation - August 2021 DAS-ED should work with the Office of the Comptroller to provide an annual informational report on the status of the financial items contained within the Contribution and Participation agreement to the County Board within three months of the annual oversight committee meeting.	
Deadlines Established Y/N? Yes	
Date	Management Comments:
July 2022	DAS-ED: The Office of the Comptroller and Economic Development provided a report to the Audit Committee on July 20, 2022, file number 22-801, providing information on the April 19 meeting.
April 2022	Comptroller has confirmed that the annual oversight meeting is coming up on April 19. Information/updates can be provided within the months after that meeting.

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Audit response – August 2021	<p>Milwaukee County Economic Development will reach out to the Office of the Comptroller to review the status of financial items in the Contribution and Participation Agreement and seek to clarify the Office of the Comptroller’s responsibilities related to the oversight committee and monitoring of financial items in the Agreement going forward.</p> <p>Economic Development will work with the Office of the Comptroller to provide an annual informational report to the County Board on the status of the Contribution and Participation Agreement within three months of each annual oversight committee meeting.</p>
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Recommendation #9	
Recommendation - August 2021	
Parks explore the creation of a centralized complaint system to log any complaints received from the public regarding parks services including location, date, and issue reporting by the public and resolution of the complaint.	
Deadlines Established Y/N? n/a	
Date	Management Comments:
April 2022	<p><u>Parks Comments:</u> Policy and procedure developed and implemented for all contracted Parks Partners that provide services to the public including a partner feedback form that is posted in a prominent location by the contracted partner. This is monitored by Parks Contracts Division. Additionally, Parks uses Scout Help to track complaints, concerns, recommendations, etc. from the public, which includes location, date, and issue. Two Parks staff monitor this system and resolve issues or forward them to the appropriate manager to resolve. Tracking is included in Scout Help, including resolution.</p> <p><u>Audit Services Division Comment:</u> <i>Parks implemented a feedback process for all its contracted Parks Partners. However, when resources allow, the feedback process should be expanded to include parks services that are provided outside of contracted Parks Partner relationships.</i></p>
Audit response – August 2021	<p><u>Parks Response:</u> It is mentioned in the audit report that in response to a similar recommendation in another audit “It was determined by Parks that Parks does not have enough staffing to conduct vendor specific surveys.” This is also true of Parks’ capacity to centrally monitor feedback from the public, whether the nature of that feedback is a complaint, is informational, or is some other general communication. Parks has implemented a comment option for customers of our vendors that was advised through that other audit as well. In collaboration with Milwaukee County Department of Transportation, Parks has created an online issues tracker - https://t.co/V6zVrWfz2N</p>

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	<p>It is also referenced in the audit that “As of May 2021, we had received either directly or forwarded from another County entity, 63 complaints regarding the Rock. Those complaints were from 12 individuals in total with one individual being responsible for 34 emails alone.” While we can strive to respond to every communication from the public, we must also use judgement and at some point Parks must assess the reasonableness of these complaints. It may be unreasonable to expect any entity to respond to 34 complaints from one individual regardless of whether there is a system of centralizing these complaints in place. What is certain is that the Parks Department is under-resourced in all aspects including in the ability to consistently monitor and respond to the public’s feedback. Staff must prioritize their response and balance their day-to-day responsibilities with being responsive to the public, and good customer service is a cultural standard that is embraced by the Parks Department.</p>
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Recommendation #10	
Recommendation - August 2021	
Parks follow their policy and procedure and execute a formal amendment to the lease agreement to correct the typographical error regarding the allowable start times of events located at the ski hill.	
Deadlines Established Y/N? n/a	
Date	Management Comments:
April 2022	<u>Parks Comments:</u> Formal amendment was executed and has been communicated to the Snow Park operator.
Audit response – August 2021	<u>Parks Response:</u> It is mentioned in the audit report that “The Ski Hill’s operating hours are in line with other Wisconsin ski hills as required in the lease.” At issue is a typographical error in the Lease agreement which uses the word “now” instead of “not”. This is a scrivener’s error that will be corrected.