



Office of the Auditor General / Bureau du vérificateur général

AUDIT OF THE CITY'S ROLE REGARDING

A CANADA DAY EVENT

2010

VÉRIFICATION DU RÔLE DE LA VILLE CONCERNANT UNE

ACTIVITÉ DE LA FÊTE DU CANADA

Table of Contents

EXECUTIVE SUMMARY	ii
RÉSUMÉ.....	xv
1 INTRODUCTION	1
2 BACKGROUND.....	1
3 AUDIT SCOPE AND OBJECTIVES	3
4 AUDIT CRITERIA	4
5 APPROACH	4
6 DETAILED FINDINGS, OBSERVATIONS AND RECOMMENDATIONS	5
7 CONCLUSION.....	21
8 ACKNOWLEDGEMENT.....	21
Appendix A - Referenced Sections from Parks By-law 2004-276.....	22

EXECUTIVE SUMMARY

Introduction

This audit was added to the 2010 Audit Plan.

Background

Parks and Facilities By-law¹

The Canada Day Event held at Andrew Haydon Park would be considered a major event lasting several days with the potential for large crowds with attendance estimated by the event organizer to be 50,000. As the event is held in a City park, the Parks and Facilities By-law stipulates requirements for the event organizer such as to obtain a park permit, to maintain liability insurance coverage, to comply at all times with all other applicable municipal, provincial and federal laws, and to follow incident reporting procedures.

The Parks and Facilities By-law specifies that the By-law shall be enforced by the Chief of Police or by the By-law Officers of the City. The Parks and Facilities By-law also includes a clause that if a person who contravenes any of the provisions of the By-law is found guilty and convicted of an offence then they would be liable to a fine as provided for in the Provincial Offences Act (POA). Where the City has incurred costs due to the person's actions, in addition to penalties, the person would also be liable for all damages.

Within the POA under general provisions there is a limitation where no proceeding shall be commenced after the expiration of any prescribed limitation period or where not prescribed, six months after the date the offence was alleged to have been committed.

The Parks and Facilities By-law states that park permits may also be revoked by the Director, Parks, Recreation and Cultural Services (PRC) if in their opinion the permit holder fails to comply with the requirements of the permit or the By-law.

City Staff Roles

With respect to the Canada Day Event at Andrew Haydon Park, there were several areas at the City involved with this event. Four of the main areas have been detailed below:

1. The **City-Wide Allocations Section** within the Arenas and Outdoor Rinks Unit of the Complexes, Fitness and Aqua Venues Branch of PRC are responsible for bookings of City parks and facilities. Allocations Group management explained the application for a park permit entitled, "Request for Use of City of Ottawa Parks" is the document used to develop a tentative contract and for major events

¹ Refer to Appendix A for Referenced Sections from Parks and Facilities By-law 2004-276.

would be taken to the Events Central Office. During the event, staff from this area would attend on-site when advised of an issue.

2. The **Event Central Unit** within Cultural and Heritage Services Branch of PRC explained that they contact the event organizer asking that they complete a Special Events application providing additional information. The event organizer completes the Special Events application to include all the detailed activities planned for the event. The Special Events application is a City template which includes the City requirements such as permits (e.g., fireworks, vendor) and licenses (e.g., liquor). Event Central reviews the application and takes the lead in coordinating the event via a Special Events Advisory Team (SEAT) meeting. The meeting would normally include the event organizer, and representatives from various City departments and other organizations, as they deem appropriate (e.g., **Event Central Unit, Allocations Group, Councillor's Office, By-law and Regulatory Services, Paramedic Services, Parks, Buildings and Grounds Operations and Maintenance, Fire Services, Police Service, Community Association, etc.**). The Special Events application would be reviewed and discussed with the event organizer in attendance at the SEAT meeting held prior to the event. Event Central indicated they usually also hold a post-mortem meeting after the event. A special event circulation notice, special event attendance meeting record, and meeting minutes would be taken. During the event, if staff from this area were contacted regarding an issue they would advise/direct the Allocations Section staff of non-compliance to the permit.
3. The **By-law and Regulatory Services staff** would be on the circulation list for the Special Events application and therefore would be aware of the planned event activities. They would have attended the SEAT meetings for this event to address issues such as parking, noise exemption, food vendor and business licenses and by-law special events City wide. During the event they may receive calls relating to these issues and would attend on site, as required.
4. The **Parks, Buildings and Grounds Operations and Maintenance staff** would be on the circulation list for the Special Events application and therefore would be aware of the planned event activities and would have attended the SEAT meetings for this event. The rental contract /permit would include additional charges for staff overtime for the duration of the event. During the event, staff would be on-site for the hours covered on the permit.

In-kind Services

Event Central Management has indicated that for events the City provides in-kind services such as for staff time (e.g., Parks operations and barricades). They indicated that based on Finance advice for the City that City-Wide Allocations charges any extra staffing fees and currently only charge the event organizer for hours outside of regular operational hours.

Contractual Agreement Names

For this 2010 Canada Day Event, the PRC Request for Use of City of Ottawa Parks form (application for parks permit) requested the name of the group/club/association which was recorded as "Canada Day Arts Festival Inc." and the name of the primary contact which was recorded as an individual's name for the Canada Day Event from June 30 to July 4, 2010. The Ottawa Rental Contract² was in the name of the individual on the first line followed by Italian Canadian Community Centre on the second line. The contract was signed by the individual whose name and contact information was typed on the agreement under the signature line with Italian Canadian Community Centre handwritten above the signature. The Ottawa Rental Contract was supposed to be based on the information on the Request for Use of City of Ottawa Parks form which it was not. The 2010 Application for Special Events was in the name of the Italian Canadian Community Centre with the individual's name as the primary contact. The 2010 funding application was in the name of Canada Day Arts Festival with the individual's name as primary contact. Management indicated that as there were two organization names acknowledged on the Request for Use of City of Ottawa Parks and the Event Central application forms, the contract remained in the historical organization name as was listed on the Event Central application form and the insurance papers. The event organizer acknowledges the organization name "Italian Canadian Community Centre" by printing it above his signature on the rental contract.

The information on the application forms and contracts has not been consistent and has not been issued only in the name of the organization responsible for the event.

Audit Scope and Objectives

The Audit Scope focussed on the City's role regarding a 2010 Canada Day Event and some activities within the 2009 Canada Day Event held at Andrew Haydon Park. The 2010 Event covered the dates from June 30 to July 4, 2010 from 7 a.m. to 11 p.m. The 2009 Event covered the dates from June 26 to July 1, 2009 from 7 a.m. to 11 p.m. These dates and times exclude setup and teardown.

The Audit Objective was to evaluate the City's role in ensuring that the event complied with the park permit and City by-laws and included the following:

- 2010 Canada Day Event Helicopter Rides
- 2010 Canada Day Event Parking Variance
- 2010 Canada Day Event Non-compliant Electrical Hook-up
- 2009 Canada Day Event Diesel Spill
- 2010 Canada Day Event Funding

² Park permit

- 2010 Canada Day Event Park Permit Application Process

Summary of Key Findings

2010 Canada Day Event Helicopter Rides

1. The event organizer permitted the helicopter company to provide helicopter rides at the 2010 event without the permission of the City and Transport Canada.
2. The helicopter rides were only stopped by the Portfolio Manager of the Allocations Section at the City on July 2 when they were made aware by the Manager, Event Central. However, City staff (including 311, By-law and Regulatory Services and Parks, Buildings and Grounds Operations and Maintenance staff) were made aware around midnight June 30.
3. It was originally the opinion of the By-law licensing officer on July 1, 2010 and subsequently the Chief, By-law and Regulatory Services on July 7, 2010 that there was no action that By-law Services could have taken and that the Parks and Facilities By-law did not cover helicopters. They had noted however that the event organizer was in violation of the permit issued to him by Parks, Recreation and Cultural Services. Subsequently, August 27, 2010, when the Office of the Auditor General (OAG) followed up as part of this audit, By-law and Regulatory Services indicated that this issue would be enforceable as this activity was outside of the terms and conditions of the park permit in violation of the Parks and Facilities By-law. They indicated that they were still within the six month window and that they would certainly work with the permit issuer to ascertain if there was sufficient evidence to issue charges. August 27, 2010 Parks, Recreation and Cultural Services had indicated that Legal Services had provided legal advice that this occurrence would be enforceable through section 7(1) (b) of the Parks and Facilities By-law. However, By-law and Regulatory Services did not proceed with charges.
4. The Parks and Facilities By-law provides for the use of City parks and facilities and includes clauses to recover damages and/or charge for contravention of any provisions of the By-law. The Parks and Facilities By-law also includes a clause that if a person who contravenes any of the provisions of the by-law is found guilty and convicted of an offence, then they would be liable to a fine as provided for in the Provincial Offences Act (POA). Within the POA under general provisions there is a limitation where no proceeding shall be commenced after the expiration of any prescribed limitation period or where not prescribed, six months after the date the offence was alleged to have been committed. The OAG followed up again November 9, 2010 to determine if there were going to be charges made within the six month window. Since this incident occurred June 30, 2010 charges would need to be made by December 30, 2010. The Chief, By-law and Regulatory Services subsequently consulted with

Parks, Recreation and Cultural Services (PRC) to determine if they were in agreement with the organizer being charged and they responded that in their opinion a violation charge related to the use of helicopters at Andrew Haydon Park is not required at this time (November 12, 2010).

5. As noted in point 1, the event organizer never advised the City about the onsite helicopter, this resulted in a lack of confirmation of licenses and permits relating to the pilot, helicopter and helicopter company, a lack of a certificate of proof of liability insurance for this activity for the period of the event with the City as named insured, and a lack of confirmation of other government legislation.
6. As of November 16, 2010 Transport Canada has confirmed that no permission was granted to either the helicopter company or the event organizer to have helicopter rides at Andrew Haydon Park nor did the helicopter company apply for an authority.
7. Transport Canada Enforcement has indicated as of November 16, 2010 that they are conducting an investigation into this matter for possible violations to the Canadian Aviation Regulations.

2010 Canada Day Event Parking Variance

Since 2008, the City put in place a variance with specific conditions to allow the event organizer to charge a fee for parking. Although, the City intended to stop this practice for 2010, the practice was continued as it was considered that the event organizer was advised too late to revoke the variance in advance of the event.

2010 Canada Day Event Non-compliant Electrical Hook-up for the Vendor Trailers

1. An inspector from the Electrical Safety Authority (ESA)³ was at the park on June 30, 2010 and was going to shut down the event due to non-compliant electrical hook-ups for the trailers. The City electrician had to intervene to address the non-compliant electrical hook-up. This created additional costs for the City which were not reimbursed as at November 3, 2010.
2. The ESA advised the City that the organizer was going to be charged through them for his actions on that day and when requested by PRC subsequently indicated that they have a written report but are not willing to share with PRC due to confidentiality. *OAG has subsequently requested the report.*

³ Independent authority established by Provincial legislation responsible for conducting inspections and enforcing the Ontario Electrical Safety Code.

2009 Canada Day Event Diesel Spill

1. At the 2009 event, a diesel spill occurred by the ride operator's trailer which was parked near a pond. The matter was reported to the Ministry of the Environment (MOE) July 6, 2009 and remedial work was performed by the City in consultation with MOE.
2. The City submitted a claim for remediation costs to the insurer for the ride operator in the amount of \$57,000 and not to the event organizer. As of September 27, 2010, the amount has not been paid. The rental contract for use of the park is with the event organizer and not the ride operator and covers the dates of the event which runs from June 26, 2009 to July 1, 2009. The City should have considered actions against the event organizer.
3. The 2009 Certificate of Insurance for the event organizer includes the City as the certificate holder but does not include the complete dates for the event. After the spill, the event organizer provided the City with the 2009 Certificate of Insurance for the ride operator which does not include the City as the named insured and does not cover the complete dates for the event.
4. The post-mortem for the 2009 event was actually held at same time as the Special Events Advisory Team (SEAT) meeting for the 2010 event which was not held until April 16, 2010. Email correspondence shows that there was an October 2009 meeting scheduled that was cancelled as the event organizers were unavailable. Management has indicated that any event occurrence related to risk/liability is investigated immediately and prior to the post-mortem meeting. The extended timeframe for addressing this and other matters with the event organizer puts at risk the City's ability to potentially recover damages and enforce charges in accordance with City by-laws as all the appropriate parties may not have been named in the claim and the proper insurance may not have been in place.

2010 Canada Day Event Funding for Fairs and Festivals

1. The 2010 funding application from the event organizer for Fairs and Festivals Funding contained some areas of weaknesses which the Funding Supervisor noted resulted in a lower amount of funds being awarded.
2. The event organizer did not meet the clause in the terms and conditions to acknowledge funding from the City. The Funding Supervisor was not aware the condition was not being met until we informed them during the course of the audit. Management indicated that consideration is given to not awarding future funding where terms and conditions are not being met. Issues are discussed and resolved with the organization prior to making a final decision on an organization's ineligibility.

2010 Canada Day Event Park Permit Application Process

1. The Ottawa Rental Contract (park permit) was issued jointly in the name of an individual and the Italian Canadian Community Centre even though the application was in the name of Canada Day Arts Festival Inc.
2. The rate charged was the non-profit rate even though the Allocations Group did not obtain proof to confirm that the parties renting are all non-profit. Management has indicated that as this is the same individual who has been running this event through the Italian Canadian Community Centre for the past six years, there was no reason to verify if the party had changed status to for-profit. However, the OAG believes this should be confirmed annually as the status may change.
3. The event hours on the Ottawa Rental Contract shown as 7:00 a.m. to 11:00 p.m. differed from the organizer application and liquor license which showed an end time to 12:00 a.m. The later end time could result in additional City staff charges.
4. The number of participants identified by the event organizer ranges from 200 noted on the application, to 50,000 in the SEAT meeting minutes for the 2010 post-mortem, to 20,000 on the rental contract, to 200 on the liquor license, to 1,001+ on the Special Event application, to 4,000 on Canada Day and 200 on other days on the SEAT pre-event meeting minutes.
5. The application for a park permit entitled, "Request for Use of City of Ottawa Parks" which was explained by Allocations Group management as the document used to develop a tentative contract which is taken to the SEAT meeting. The application does not include sections to complete to identify if the organization is not-for-profit which would impact the price or that a SEAT meeting or Special Events application would be required.
6. The events file did not contain all required confirmations of documentation and lacked confirmation and proof that all required permits were in place (e.g., Ottawa Fire Services permit for fireworks, vendor permits). The Allocations Group did not have these permits. Management indicated that the Allocations Group, responsible for the park permit, only had the permits that are pertinent to them for issuing the use of the park, which included the liquor licence and insurance. The Program Manager, Event Central indicated that these permits would be located in the files of the various service areas and that Event Central staff would have called to confirm that these permits existed prior to the event. OAG requested copies of these permits which had not been provided to the OAG until January 27 and 28, 2011 as the Program Manager indicated they were under the impression that Ottawa Fire Services and By-Law and Regulatory Services were providing them. With respect to the 2010 food vendor permits, there were three vendor permits provided for food vendors which differed from

the one food vendor listed on the "Application for Special Events". Therefore, there continues to be a lack of confirmation that all proper permits were in place.

Recommendations and Management Responses

Recommendation 1

That the City consider not renting the park to this event organizer based on past experiences.

Management Response

Management agrees with this recommendation.

The department has considered the issue by consulting with the Ward Councillor, members of SEAT (Special Events Advisory Team) and other stakeholders and determined that the positive community impact of this event outweighs the negative issues associated with it. Management will attach appropriate conditions to future rentals and ensure suitable monitoring and enforcement to make sure that identified non-compliant activities do not reoccur with this event organizer.

Recommendation 2

That the City consider charging the event organizer with failing to comply with the terms and conditions of their park permit in violation of the Parks and Facilities By-law and that the event organizer be held accountable for any subsequent charges in violation of other policies or legislation. In the case of the helicopter, there was legal advice that this occurrence was enforceable through the Parks and Facilities By-law.

Management Response

Management agrees with this recommendation.

Legal action has been considered. By-law and Regulatory Services consulted with Special Events and the General Manager of Parks, Recreation and Culture. It was determined that charges, in this instance, were not warranted since:

- the organizer discontinued the helicopter service immediately upon being contacted by the City
- the organizer met with SEAT and members of the Community Association to acknowledge his non-compliance with the Terms and Conditions
- the City and the Community Association had contacted Transport Canada to report the violation.

Recommendation 3

That upon receipt of by-law requests for service, that the City investigate compliance with City by-laws on a timely basis (including the Parks and Facilities By-law) and other legislative requirements and enforces City by-laws.

Management Response

Management agrees with this recommendation.

The audit states: *"In our opinion, upon receipt of by-law requests for service, the City's By-law and Regulatory Services needs to take a lead role in ensuring that compliance with the City's by-laws and other legislative requirements are appropriately investigated and enforced in a timely manner."* The By-law and Regulatory Service Branch's enforcement protocol is reactive enforcement and the deployment model is staffed accordingly.

The goal of By-law and Regulatory Services is to gain voluntary compliance through education as this is a more cost-effective, timely and amicable process vs. enforcement action, which can take months to achieve, all for the same outcome which is compliance.

Recommendation 4

That the City ensure that agreements include an audit clause to allow the City access to monitor the event organizer's records in order to confirm that money collected is used for the intended purpose.

Management Response

Management agrees with this recommendation.

Event Central will be seeking Council's approval on a Special Events By-law in Q4 2011, to streamline the business process and event requirements for special events. The draft by-law, to be considered by Council later this year, will have an audit clause requirement that will allow the City access to monitor records for events that have conditions attached to their permits (e.g., parking), even if they don't receive any City funding for it.

Recommendation 5

That the City review the full costs incurred related to special events, such as this Canada Day Event, and establishes a policy to clearly define the costs that will be recovered for special events.

Management Response

Management agrees with this recommendation.

Currently Event Central does track in-kind corporate costs for events that are processed through Event Central; however, more consistency is required in terms of how each department tracks their in-kind costs.

The draft Special Events By-law will allow for a supporting policy to be developed in 2012 to satisfy this recommendation.

Recommendation 6

That the City review the City's spill reporting process to ensure that it includes complete and accurate documentation to clearly identify the complainant.

Management Response

Management agrees with this recommendation.

The Spills reporting procedure at 311 has been reviewed and amended where an agent is now required to identify if the caller is a City employee or not and to note such for the record, in addition to asking for and recording name, address and contact information.

Recommendation 7

That the City recover the costs related to the 2009 diesel spill.

Management Response

Management agrees with this recommendation.

The Parks, Recreation and Cultural Services department worked with the Claims Unit to put the owner of the vehicle on notice of claim shortly after the City was aware of damage to the park. Staff has been corresponding with the insurance representatives for the vehicle that is suspected to have caused the fuel spill. On March 3, 2011, the insurer for the vehicle owner denied the City's claim on behalf of the insured. Legal Services will be reviewing this claim and, if appropriate, will initiate a lawsuit against the parties who appear to be responsible.

Recommendation 8

That the City ensure that liability issues are appropriately managed and mitigated and that damages to City parks and facilities are recovered on a timely basis. As indicated in this audit, this would relate to helicopter rides, the diesel spill, and the non-compliant electrical hook-up.

Management Response

Management agrees with this recommendation.

The City will manage and mitigate liabilities as it relates to events and festivals by seeking Council approval on the draft Special Events By-law in Q4 2011.

Further, all future permits to this organizer will include additional stringent Terms and Conditions that he will be required to meet. Also additional visits by City staff will be made to ensure enhanced on-site monitoring.

Staff will continue to work to recover costs to the extent it provides value to the City. Of note, the reimbursement of costs associated with the diesel spill was denied on March 3, 2011. Legal Services will review and take any appropriate legal action. The cost related to non-complaint electrical hook-up involved minimal overtime by the City electrician. The administrative cost for recovering the overtime amount was more than the amount itself and did not justify the recovery.

Recommendation 9

That the City ensure that post-mortems are pre-established on a timely basis within one month of the event especially for major events.

Management Response

Management agrees with this recommendation.

For events where serious incidents have occurred as well as for routine events and festivals that take place during non-event season (September-April), post-mortems will be done within one month of the event. However, for routine events and festivals held during event season (May-August), post-mortems will be scheduled starting September when resources with the event history are available to participate.

Recommendation 10

That the City streamline the business process for permits for events in City parks and facilities to ensure documentation for requirements are met in advance of the event and that staff, especially grounds and enforcement staff, are familiar with the requirements and scope and limitations of the event.

Management Response

Management agrees with this recommendation.

The Special Events By-law targeted to be before Council in Q4 2011 will streamline the business process for permits for events. The business process will address documentation requirements, the timing of them, and a step to ensure staff is familiar with the requirements, scope and limitations of the event.

Conclusion

The organizer of the 2010 Event did not comply with the terms and conditions of the park rental contract (park permit) and the City's by-laws with respect to permitting a helicopter company to provide rides. The rides were not stopped until July 2, 2010 even though City staff were aware around midnight June 30. There was also an incident relating to non-compliant electrical hook-ups that is being addressed by the Electrical Safety Authority and a diesel spill in 2009 where the City's clean-up costs have not yet been recovered. The City needs to ensure that it

performs its role to monitor compliance with the terms and conditions of the park rental contract, City by-laws and other legislative requirements and subsequent enforcement with consequences for non-compliance.

The City also needs to ensure that safety and liability issues are appropriately managed and mitigated and that damages to City parks and facilities are recovered on a timely basis.

Acknowledgement

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.

RÉSUMÉ

Introduction

La présente vérification a été ajoutée au plan de vérification de 2010.

Contexte

Règlement sur les parcs et les installations¹

L'activité de la fête du Canada organisée au parc Andrew-Haydon serait considérée comme un événement de grande envergure, durant plusieurs jours et ayant le potentiel d'attirer une foule importante, le nombre de participants étant estimé à 50 000 par l'organisateur de l'événement. Étant donné que cet événement se déroule dans un parc municipal, le Règlement sur les parcs et les installations stipule que l'organisateur doit se procurer un permis d'utilisation de parc, souscrire une assurance responsabilité, se conformer en tout temps à toutes les autres lois municipales, provinciales et fédérales applicables, et respecter les procédures de signalement des incidents.

Le Règlement sur les parcs et les installations spécifie que le règlement sera appliqué par le chef de police ou par les agents des règlements municipaux. Ce règlement comprend aussi une clause qui précise qu'une personne qui enfreint une disposition du règlement et qui est trouvée coupable d'une infraction est passible d'une amende conformément à la *Loi provinciale sur les infractions provinciales* (LPI). Si la Ville a engagé des frais en raison des actions de cette personne, cette dernière est aussi responsable de tout dommage encouru, en plus des pénalités qui s'appliquent.

Dans la LPI, il existe une prescription, dans les dispositions générales, précisant qu'aucune poursuite ne sera entreprise après l'expiration d'une période prescrite de limitation ou, s'il n'y a pas prescription, six mois après la date où il est allégué que l'infraction a été commise.

De plus, le Règlement sur les parcs et les installations prévoit que les permis d'utilisation de parc peuvent être retirés par le directeur du Service des parcs, des loisirs et de la culture (PLC) si, de l'avis de ce dernier, le détenteur du permis ne respecte pas les conditions du permis ou du règlement.

¹ Se reporter à l'annexe A pour les articles cités du Règlement sur les parcs et les installations 2004-276.

Rôles du personnel municipal

En ce qui concerne l'activité de la fête du Canada organisée au parc Andrew-Haydon, plusieurs secteurs de la Ville ont été mis à contribution. En voici quatre des principaux :

1. **La Section des allocations à l'échelle de la Ville** de l'Unité des aré纳斯 et des patinoires extérieures de la Direction des complexes et des installations aquatiques et de conditionnement physique de PLC est responsable des réservations des parcs et des installations de la Ville. La direction du groupe des Allocations a expliqué que la demande de permis d'utilisation de parc intitulée « Demande d'utilisation des parcs de la Ville d'Ottawa » est le document qui sert de base à la rédaction d'un contrat provisoire; pour les événements de grande envergure; il est soumis au Centre des fêtes et des festivals. Lors de l'événement, le personnel de cette unité se rend sur place s'il est informé d'un problème.
2. **Le Centre des fêtes et des festivals** au sein de la Direction des services culturels et patrimoniaux de PLC a expliqué qu'il communique avec l'organisateur de l'événement en lui demandant de remplir une demande d'événement spécial qui fournirait des précisions. L'organisateur de l'événement remplit la Demande d'événement spécial en décrivant en détail toutes les activités prévues dans le cadre de l'événement. La Demande d'événement spécial est un formulaire de la Ville qui énonce des exigences municipales comme les permis (p. ex., feux d'artifice, vendeurs) et les licences (p. ex., le permis d'alcool). Le Centre des fêtes et des festivals passe en revue la demande et assure la coordination de l'événement par l'intermédiaire d'une réunion de l'Équipe consultative des événements spéciaux (ECES). L'organisateur de l'événement assiste normalement à la réunion, de même que des représentants des divers services de la Ville et d'autres organismes, lorsqu'il convient de le faire (par exemple, **le Centre des fêtes et des festivals, la Section des allocations à l'échelle de la Ville, le Bureau du conseiller, les Services des règlements municipaux, le Service paramédic, les Opérations et l'Entretien relatifs aux parcs, aux immeubles et aux terrains, le Service des incendies, le Service de police et l'association communautaire, etc.**). La Demande d'événement spécial est passée en revue et discutée avec l'organisateur de l'événement lors de la réunion de l'ECES tenue avant l'événement. Le Centre des fêtes et des festivals a indiqué qu'il tient habituellement une réunion de bilan après l'événement. Une distribution d'avis d'événement spécial, un compte rendu des présences à la réunion sur l'événement spécial, et un procès-verbal de réunion sont consignés. Pendant l'événement, si le personnel de ce secteur est avisé d'un problème, il donne des conseils ou des directives au personnel de la Section des allocations du non-respect des conditions du permis.

3. **Le personnel des Services des règlements municipaux** figure sur la liste de distribution de la demande d'événement spécial et est donc au courant des activités planifiées dans le cadre de l'événement. Il assiste aux réunions de l'ECES concernant l'événement afin d'aborder des questions comme le stationnement, l'exemption aux dispositions du Règlement sur le bruit, les permis et licences de vendeurs de nourriture et les permis d'affaires pour les événements spéciaux à l'échelle de la Ville. Pendant l'événement, il peut recevoir des appels dans les cas où des problèmes relatifs à ces questions surviennent et s'en occupe sur place, au besoin.
4. **Le personnel des Opérations et de l'Entretien relatifs aux parcs, aux immeubles et aux terrains** est sur la liste de distribution de la Demande d'événement spécial et est donc au courant des activités prévues en lien avec l'événement; il a assisté aux réunions de l'ECES concernant cet événement. Le contrat de location/permis comprend des frais additionnels pour les heures supplémentaires du personnel pour la durée de l'événement. Pendant l'événement, le personnel est sur place durant les heures couvertes par le permis.

Services en nature

Le Centre des fêtes et des festivals a indiqué que la Ville fournit pour des événements des services en nature sous la forme d'heures de personnel (par exemple les opérations des parcs et les barricades). Elle a indiqué que d'après l'avis de Finances pour la Ville, Allocations à l'échelle de la Ville facturent uniquement les frais supplémentaires de personnel et, à l'heure actuelle, ne facturent à l'organisateur de l'événement que les heures en dehors des heures de travail normales.

Titres des accords contractuels

Pour cet événement organisé dans le cadre de la fête du Canada 2010, le formulaire de Demande d'utilisation des parcs d'Ottawa de PLC (Demande de permis d'utilisation de parc) exigeait que soit précisé le nom du groupe, du club ou de l'association, lequel a été indiqué comme « Canada Day Arts Festival Inc. », et le nom de la personne-ressource principale, qui a été inscrit comme le nom d'un particulier pour l'événement de la fête du Canada du 30 juin au 4 juillet 2010. Le contrat de location d'Ottawa² portait le nom du particulier à la première ligne, suivi de Italian Canadian Community Centre sur la deuxième ligne. Le contrat a été signé par le particulier dont le nom et les coordonnées ont été dactylographiés sur le contrat, sous la ligne de signature avec les mots Italian Canadian Community Centre écrits à la main au-dessus de la signature. Le contrat de location d'Ottawa était censé être fondé sur l'information contenue dans le formulaire de Demande

² Permis d'utilisation de parc

d'utilisation des parcs de la Ville d'Ottawa, ce qui n'était pas le cas. La demande d'événement spécial 2010 a été faite au nom du Italian Canadian Community Centre avec le nom du particulier à titre de personne-ressource. La demande de financement 2010 était établie au nom de Canada Day Arts Festival, avec le nom du particulier comme personne-ressource principale. La direction a indiqué que comme il y avait deux noms d'organisme indiqués sur la Demande d'utilisation des parcs de la Ville d'Ottawa et sur les formulaires de Demande d'événement spécial, le contrat est resté au nom historique de l'organisme comme il est précisé sur le formulaire de Demande d'événement spécial et sur les documents d'assurance. L'organisateur de l'événement reconnaît le nom de l'organisation « Italian Canadian Community Centre » en l'écrivant en lettres moulées au-dessus de sa signature sur le contrat de location.

L'information qui figure sur les formulaires de demande et sur les contrats de demande n'était pas toujours cohérente et qui n'ont pas été émis uniquement au nom de l'organisme responsable de l'événement.

Objectif et portée de la vérification

La portée de la vérification s'est concentrée sur le rôle de la Ville concernant un événement organisé dans le cadre de la fête du Canada 2010 et quelques activités organisées dans le cadre de la fête du Canada 2009, au parc Andrew-Haydon. L'événement 2010 se déroulait du 30 juin au 4 juillet 2010, de 7 h à 23 h. L'événement 2009 se déroulait du 26 juin au 1^{er} juillet, de 7 h à 23 h. Ces dates et ces heures excluent les temps d'installation et de démontage.

L'objectif de la vérification consistait à évaluer le rôle de la Ville en s'assurant que l'événement se conformait au permis d'utilisation de parc et aux règlements municipaux et comprenait ce qui suit :

- Tours d'hélicoptère de l'événement de la fête du Canada 2010
- Dérogation aux dispositions du Règlement sur le stationnement – fête du Canada 2010
- Raccordement électrique non conforme – fête du Canada 2010
- Déversement de diesel – fête du Canada 2009
- Financement de l'événement de la fête du Canada 2010
- Procédure de demande de permis à l'occasion de l'événement de la fête du Canada 2010

Résumé des principales constatations

Tours d'hélicoptère de l'événement de la fête du Canada 2010

1. L'organisateur de l'événement a permis à l'entreprise d'hélicoptères d'offrir des tours d'hélicoptère dans le cadre de l'événement 2010 sans autorisation de la Ville ou de Transports Canada.
2. Les tours d'hélicoptère ont seulement été interdits par le gestionnaire de portefeuille de la Section des allocations de la Ville le 2 juillet, lorsqu'il a été mis au courant par le gestionnaire du centre des fêtes et des festivals. Cependant, le personnel de la Ville (y compris le personnel du 311, des Services des règlements municipaux et des Opérations et de l'Entretien relatifs aux parcs, aux immeubles et aux terrains) a été mis au courant le 30 juin vers minuit.
3. À l'origine, l'agent des règlements et du traitement des permis municipaux, le 1^{er} juillet, et par la suite le chef des Services des règlements municipaux, le 7 juillet 2010, étaient d'avis qu'il n'y avait aucune mesure que les Services des règlements municipaux auraient pu prendre et que le Règlement sur les parcs et les installations ne couvrait pas les hélicoptères. Ils avaient toutefois remarqué que l'organisateur de l'événement enfreignait le permis qui lui avait été fourni par le Service des parcs, des loisirs et de la culture. Par la suite, le 27 août 2010, lorsque le Bureau du vérificateur général (BVG) a effectué un suivi dans le cadre de la présente vérification, les Services des règlements municipaux ont indiqué que cette question serait exécutoire, car cette activité sortait des modalités du permis du parc et enfreignait le Règlement sur les parcs et les installations. Ils ont indiqué qu'ils étaient toujours dans la fenêtre de six mois et qu'ils collaboreraient certainement avec l'autorité qui avait délivré le permis afin de déterminer si les éléments de preuve étaient suffisants pour porter des accusations. Le 27 août 2010, le Service des parcs, des loisirs et de la culture avait indiqué que les Services juridiques avaient donné une opinion juridique que cette occurrence serait exécutoire par l'entremise de l'alinéa 7(1) (b) du Règlement sur les parcs et les installations. Toutefois, les Services des règlements municipaux n'ont pas porté d'accusation.
4. Le Règlement sur les parcs et les installations régit l'utilisation des parcs et des installations de la Ville et comprend des dispositions qui permettent de recouvrer des dommages ou de percevoir des frais en cas de non-respect d'une disposition du règlement, ou les deux à la fois. Le Règlement sur les parcs et les installations comprend également une disposition qui stipule que si une personne qui enfreint une disposition du règlement est trouvée coupable d'une infraction et condamnée, elle serait passible d'une amende conformément à la *Loi provinciale sur les infractions*. Dans les dispositions générales de la LPI, il existe une limite : aucune démarche ne sera amorcée après l'expiration de toute période de prescription, ou, s'il n'y a pas prescription, six mois après la date où l'infraction est alléguée avoir été commise. Le BVG a effectué un suivi de

nouveau le 9 novembre 2010 afin de déterminer si des accusations allaient être portées dans la fenêtre de six mois. Comme cet incident s'est produit le 30 juin 2010, des accusations devraient être portées au plus tard le 30 décembre 2010. Le chef des Services des règlements municipaux a plus tard consulté le Service des parcs, des loisirs et de la culture (PLC) afin de déterminer si ce dernier était d'accord avec le fait de porter des accusations contre l'organisateur; ils ont répondu qu'à leurs avis, une accusation d'infraction liée à l'utilisation d'hélicoptères au parc Andrew-Haydon n'était pas nécessaire pour le moment (12 novembre 2010).

5. Comme nous l'avons indiqué au point 1, l'organisateur de l'événement n'a jamais informé la Ville de la présence de l'hélicoptère sur place, ce qui a entraîné l'absence de confirmation des permis et des autorisations concernant le pilote, l'hélicoptère et l'entreprise d'hélicoptères, l'absence d'un certificat d'assurance-responsabilité pour cette activité pour la durée de l'événement indiquant la Ville en tant que partie assurée, et l'absence de confirmation du respect d'autres lois.
6. À compter du 16 novembre 2010, Transports Canada a confirmé qu'aucune permission n'a été accordée ni à l'entreprise d'hélicoptères ni à l'organisateur de l'événement pour organiser des tours d'hélicoptère au parc Andrew-Haydon; et que l'entreprise d'hélicoptères n'avait demandé aucune autorisation à cet égard.
7. Les agents d'exécution de la loi de Transports Canada ont indiqué qu'au 16 novembre 2010, ils menaient une enquête à ce sujet concernant des infractions possibles au Règlement de l'aviation canadien.

Dérogation aux dispositions sur le stationnement – fête du Canada 2010

Depuis 2008, la Ville a mis en place une dérogation assortie de conditions précises afin de permettre à l'organisateur de l'événement de percevoir des frais de stationnement. Bien que la Ville ait prévu la cesser pour 2010, cette pratique s'est poursuivie, car on estimait que l'organisateur de l'événement avait été avisé trop tard pour révoquer la dérogation avant l'événement.

Raccordement électrique non conforme des roulottes des vendeurs pour l'événement de la fête du Canada 2010

1. Un inspecteur de l'Office de la sécurité des installations électriques (ESA)³ était au parc le 30 juin 2010 et allait interdire l'événement en raison du raccordement électrique non conforme des roulottes. L'électricien de la Ville a dû intervenir pour rendre les raccordements électriques conformes. Il en a résulté des coûts additionnels pour la Ville qui n'avaient pas été remboursés au 3 novembre 2010.

³ Autorité indépendante créée par une loi provinciale, responsable des inspections et de l'application du *Code de sécurité relatif aux installations électriques de l'Ontario*.

2. L'ESA a avisé la Ville qu'elle allait porter des accusations contre l'organisateur pour ses actions ce jour-là; et à la demande de PLC, a déclaré par la suite avoir un rapport par écrit, qu'elle refuse de partager avec PLC pour des raisons de confidentialité. *Le BVG a par la suite demandé à recevoir le rapport.*

Déversement de diesel – fête du Canada 2009

1. Lors de l'événement de 2009, un déversement de diesel s'est produit à côté de la roulotte de l'organisateur de tours d'hélicoptère qui était garée près d'un étang. Le problème a été signalé au ministère de l'Environnement (MOE) le 6 juillet 2009, et des travaux de réparation ont été effectués par la Ville en consultation avec le MOE.
2. La Ville a soumis une demande de remboursement des coûts de réhabilitation, soit 57 000 \$, à l'assureur de l'organisateur de tours d'hélicoptère et non à l'organisateur de l'événement. Au 27 septembre 2010, cette somme n'avait pas été payée. Le contrat de location pour l'utilisation du parc avait été conclu avec l'organisateur de l'événement et non avec l'organisateur de tours d'hélicoptère, et couvrait les dates de l'événement qui s'est déroulé du 26 juin 2009 au 1^{er} juillet 2009. La Ville aurait dû envisager de prendre des mesures contre l'organisateur de l'événement.
3. Le certificat d'assurance de 2009 de l'organisateur de l'événement spécifiait que la Ville était détentrice de certificat, mais ne précisait pas les dates complètes de l'événement. Après le déversement, l'organisateur de l'événement a fourni à la Ville le certificat d'assurance 2009 de l'organisateur de tours d'hélicoptères qui ne précisait pas la Ville comme partie assurée et ne couvrait pas les dates complètes de l'événement.
4. Le bilan de l'événement 2009 a en fait eu lieu en même temps que la réunion de l'Équipe consultative de l'événement spécial (ECES) pour l'événement 2010, qui n'a pas eu lieu avant le 16 avril 2010. La correspondance par courrier électronique montre qu'une réunion prévue pour octobre 2009 a été annulée parce que l'organisateur de l'événement n'était pas libre. La direction a indiqué que tout incident survenu dans le cadre de l'événement qui est lié au risque ou à la responsabilité est étudié immédiatement et avant la réunion de bilan. Le délai écoulé avant que soient abordées cette question, et d'autres, avec l'organisateur de l'événement, nuit à la capacité de la Ville de recouvrer possiblement des dommages et de percevoir des frais conformément aux règlements municipaux, étant donné que toutes les parties concernées pourraient ne pas avoir été nommées dans la demande d'indemnité et qu'une couverture d'assurance adéquate n'était peut-être pas en place.

Financement des foires et des festivals dans le cadre de l'événement de la fête du Canada 2010

1. La demande de financement 2010 de l'organisateur de l'événement pour le financement des foires et des festivals présentait quelques lacunes qui, d'après le superviseur du financement, ont entraîné une baisse du financement accordé.
2. L'organisateur de l'événement n'a pas satisfait à la disposition des conditions générales qui précise qu'il doit reconnaître le financement accordé par la Ville. Le superviseur du financement ne savait pas que cette exigence n'avait pas été respectée jusqu'à ce que nous l'en informions au cours de la vérification. La direction a indiqué qu'on envisage de ne pas accorder d'autre financement lorsque les conditions générales ne sont pas satisfaites. Les questions sont discutées et résolues avec l'organisme avant qu'une décision définitive soit prise sur l'inadmissibilité d'un organisme.

Procédure de demande de permis d'utilisation de parc pour la fête du Canada 2010

1. Le contrat de location d'Ottawa (permis d'utilisation de parc) a été émis conjointement au nom d'un particulier et de l'Italian Canadian Community Centre, bien que la demande ait été faite au nom de Canada Day Arts Festival Inc.
2. Le taux facturé était celui facturé aux organismes sans but lucratif, bien que la Section des allocations n'ait pas obtenu de preuve qui confirme que toutes les parties locatrices étaient des organismes sans but lucratif. La direction a indiqué que comme c'est la même personne qui organise cet événement par l'entremise de l'Italian Canadian Community Centre depuis six ans, il n'y avait aucune raison de vérifier si cette partie était devenue un organisme à but lucratif. Cependant, le BVG croit que cela doit être confirmé chaque année, car le statut est sujet à changement.
3. Les heures de l'événement indiquées dans le contrat de location d'Ottawa étaient de 7 h à 23 h, ce qui ne correspond pas aux heures indiquées sur la demande de permis de l'organisateur et sur le permis d'alcool, lesquels indiquaient minuit comme heure de fin. L'heure d'achèvement plus tardive pourrait entraîner des frais additionnels en personnel de la Ville.
4. Le nombre de participants déterminé par l'organisateur de l'événement varie : la demande indique 200 personnes; le procès-verbal de la réunion de l'ECES pour le bilan 2010 indique 50 000; le contrat de location, 20 000; le permis d'alcool, 200; la demande d'événement spécial, 1 001 et plus; contre 4 000 à la fête du Canada et 200 pour les autres jours dans le procès-verbal de la réunion pré-événement de l'ECES.

5. La demande de permis d'utilisation de parc intitulée « Demande d'utilisation des parcs de la Ville d'Ottawa » est, nous a expliqué la direction de la Section des allocations, le document utilisé pour élaborer un contrat provisoire qui est soumis à la réunion de l'ECES. La demande ne contient pas de section à remplir qui permet de préciser si l'organisme est sans but lucratif, ce qui a une incidence sur le tarif, ou si une réunion de l'ECES ou une Demande d'événement spécial est nécessaire.
6. Le dossier de l'événement ne contenait pas tous les documents de confirmation nécessaires, et certaines confirmations ou preuves d'obtention de tous les permis nécessaires manquaient (p. ex., le permis de feux d'artifice du Service des incendies d'Ottawa, les permis des fournisseurs). La Section des allocations ne détenait pas ces permis. La direction a indiqué que la Section des allocations, responsable du permis d'utilisation de parc, n'avait que les permis pertinents pour lui permettre d'autoriser l'utilisation du parc, ce qui comprenait le permis d'alcool et la preuve d'assurance. Le gestionnaire de programme, Centre des fêtes et des festivals, a indiqué que ces permis se trouvaient dans les dossiers des divers secteurs de services et que le personnel du Centre des fêtes et des festivals aurait confirmé par téléphone l'existence de ces permis avant l'événement. Le BVG a demandé des copies de ces permis qui n'avaient pas été fournies au BVG avant les 27 et 28 janvier 2011, car le gestionnaire de programme a dit croire que le Service des incendies d'Ottawa et les Services des règlements les fourniraient. En ce qui concerne les permis des vendeurs de nourriture en 2010, trois autorisations ont été accordées à des vendeurs de nourriture qui différaient de l'unique fournisseur de nourriture indiqué dans la « Demande d'événement spécial ». Par conséquent, il persiste une absence de confirmation que tous les permis requis étaient en place.

Recommandations et réponses de la direction

Recommandation 1

Que la Ville envisage de ne pas louer le parc à cet organisateur d'événements en se fondant sur des expériences antérieures.

Réponse de la direction

La direction est d'accord avec cette recommandation.

Le service s'est penché sur la question en consultant le conseiller de quartier, les membres de l'ECES (Équipe consultative des événements spéciaux) et d'autres intervenants et a déterminé que l'incidence positive de cet événement sur la collectivité l'emporte sur les aspects négatifs. À l'avenir, la direction associera des exigences adéquates aux locations et assurera la surveillance et l'application adéquates pour faire en sorte que les activités non conformes déterminées ne se reproduisent pas avec cet organisateur d'événements.

Recommandation 2

Que la Ville envisage d'accuser l'organisateur de l'événement de ne pas avoir respecté les conditions générales de son permis d'utilisation de parc en violation du règlement sur les parcs et les installations et que l'organisateur de l'événement soit tenu responsable de tous les frais subséquents découlant des infractions aux autres lois ou politiques. Dans le cas de l'hélicoptère, l'avis juridique était que cette occurrence serait exécutoire par l'entremise du règlement sur les parcs et les installations.

Réponse de la direction

La direction est d'accord avec cette recommandation.

On a envisagé une poursuite en justice. Les Services des règlements ont consulté l'Unité des événements spéciaux et le directeur général du Service des parcs, des loisirs et de la culture. Il a été déterminé que des accusations n'étaient pas justifiées dans ce cas puisque :

- l'organisateur a annulé le service d'hélicoptère aussitôt que la Ville a communiqué avec lui;
- l'organisateur a rencontré l'ECES et les membres de l'association communautaire afin de reconnaître son non-respect des conditions générales;
- la Ville et l'association communautaire étaient entrées en contact avec Transports Canada afin de signaler l'infraction.

Recommandation 3

Qu'à la réception des demandes de services en vertu des règlements municipaux, la Ville étudie la conformité aux règlements municipaux en temps utile (y compris le Règlement sur les parcs et les installations) et aux autres exigences législatives et applique les règlements municipaux.

Réponse de la direction

La direction est d'accord avec cette recommandation.

La vérification précise : « À notre avis, à la réception des demandes de services concernant les règlements municipaux, les Services des règlements municipaux doivent jouer un rôle clé pour s'assurer que la conformité aux règlements municipaux et aux autres exigences législatives est étudiée convenablement et imposée en temps utile. » Le protocole d'application de la Direction des services des règlements municipaux est une imposition réactive, et le modèle de déploiement est doté en personnel en conséquence.

L'objectif des Services des règlements municipaux est de susciter la conformité volontaire par l'éducation, car il s'agit d'une méthode plus rentable, plus opportune et plus conviviale que l'imposition, qui peut prendre des mois à se concrétiser, le tout afin d'atteindre le même objectif, c'est-à-dire la conformité.

Recommandation 4

Que la Ville s'assure que les contrats comprennent une clause de vérification qui autorise l'accès de la Ville afin de surveiller les dossiers de l'organisateur de l'événement dans le but de confirmer que l'argent perçu sert bel et bien aux objectifs prévus.

Réponse de la direction

La direction est d'accord avec cette recommandation.

Le Centre des fêtes et des festivals demandera l'approbation du Conseil sur un règlement concernant les événements spéciaux durant le T4 2011 afin de rationaliser le processus d'affaires et les exigences relatives aux événements spéciaux. La version préliminaire du règlement, qui sera étudiée par le Conseil plus tard cette année, devra contenir une clause de vérification qui permet l'accès de la Ville afin de surveiller les dossiers des événements qui ont des conditions rattachées à leurs permis (p. ex., le stationnement), même s'ils ne reçoivent aucun financement municipal à cette fin.

Recommandation 5

Que la Ville passe en revue le total des frais engagés en lien avec des événements spéciaux, comme cet événement dans le cadre de la fête du Canada, et établisse une politique ayant pour but de définir clairement les frais qui seront recouverts pour des événements spéciaux.

Réponse de la direction

La direction est d'accord avec cette recommandation.

À l'heure actuelle, Le Centre des fêtes et des festivals suit les dépenses d'entreprise en nature pour les événements traités par le Centre des fêtes et des festivals; toutefois, une plus grande cohérence est nécessaire en ce qui concerne la manière dont chaque service suit ses dépenses en nature.

La version préliminaire du règlement sur les événements spéciaux permettra l'élaboration d'une politique de soutien en 2012 afin de satisfaire à cette recommandation.

Recommandation 6

Que la Ville passe en revue le processus de signalement des déversements de la Ville afin de s'assurer qu'il inclut la documentation complète et précise qui permet d'identifier clairement le plaignant.

Réponse de la direction

La direction est d'accord avec cette recommandation.

La procédure de signalement des déversements au 311 a été étudiée et modifiée dans la mesure où un agent doit maintenant déterminer si l'appelant est un employé de la Ville ou non et en prendre note, en plus de demander et de noter son nom et ses coordonnées.

Recommandation 7

Que la Ville recouvre les frais liés au déversement de diesel survenu en 2009.

Réponse de la direction

La direction est d'accord avec cette recommandation.

Le Service des parcs, des loisirs et de la culture a collaboré avec l'Unité des plaintes afin d'aviser le propriétaire du véhicule de la plainte peu de temps après que la Ville a été mise au courant des dommages causés au parc. Le personnel avait correspondu avec les représentants de l'assureur du véhicule qui est soupçonné d'avoir occasionné le déversement de carburant. Le 3 mars 2011, l'assureur du propriétaire du véhicule a rejeté la réclamation de la Ville au nom de l'assuré. Les Services juridiques passeront en revue cette réclamation et, s'il y a lieu, entameront des poursuites judiciaires contre les parties qui semblent en être responsables.

Recommandation 8

Que la Ville s'assure que les responsabilités sont gérées convenablement et atténuées, et que les dommages subis par les parcs et les installations de la Ville sont recouverts en temps voulu. Comme il est indiqué dans la présente vérification, cela se rapporte aux tours d'hélicoptère, au déversement de diesel et aux raccordements électriques non conformes.

Réponse de la direction

La direction est d'accord avec cette recommandation.

La Ville gèrera et atténuera les responsabilités découlant des événements et des festivals en demandant l'approbation du Conseil sur la version préliminaire du règlement sur les événements spéciaux durant le T4 2011.

De plus, toute autorisation future accordée à cet organisateur sera assortie d'autres conditions générales rigoureuses qu'il sera tenu de respecter. Enfin, d'autres visites de la part du personnel municipal seront effectuées afin d'exercer un meilleur suivi sur place.

Le personnel continuera de travailler à recouvrer les frais dans la mesure où il est rentable pour la Ville de le faire. Fait à noter, le remboursement des coûts liés au déversement de diesel a été refusé le 3 mars 2011. Les Services juridiques étudieront la question et prendront les actions judiciaires appropriées. Le coût relatif aux frais de raccordement électrique non conforme a entraîné un minimum d'heures supplémentaires de la part de l'électricien de la Ville. Le coût

administratif du recouvrement de la somme versée en heures supplémentaires était plus élevé que la somme elle-même et ne justifiait pas le recouvrement.

Recommandation 9

Que la Ville s'assure que le bilan est fixé à l'avance en temps utile, soit dans le mois qui suit l'événement, en particulier dans le cas d'événements de grande envergure.

Réponse de la direction

La direction est d'accord avec cette recommandation.

Pour les événements où des incidents graves se sont produits comme pour les événements et les festivals courants qui ont lieu pendant la basse saison (septembre-avril), le bilan sera réalisé dans le mois suivant l'événement. Cependant, pour les événements et les festivals courants qui ont lieu pendant la saison des événements (mai-août), le bilan sera programmé à compter de septembre, lorsque les personnes-ressources qui connaissent l'histoire de l'événement sont disponibles pour y participer.

Recommandation 10

Que la Ville harmonise le processus d'affaires menant à l'obtention de permis pour des événements dans les parcs et les installations de la Ville afin d'assurer que les exigences de documentation sont satisfaites avant l'événement et que le personnel, en particulier le personnel des terrains et de l'application des règlements, est au courant des conditions et de la portée et des limitations de l'événement.

Réponse de la direction

La direction est d'accord avec cette recommandation.

Le règlement concernant les événements spéciaux qui doit être présenté au Conseil municipal durant le T4 2011 rationalisera le processus d'affaires pour l'obtention de permis d'événements. Le processus d'affaires abordera les exigences en matière de documentation ainsi que leur échéance, et il comprendra une étape visant à s'assurer que le personnel est au courant des exigences, de l'ampleur et des limitations de l'événement.

Conclusion

L'organisateur de l'événement de 2010 ne s'est pas conformé aux conditions générales du contrat de location de parc (permis d'utilisation de parc) et aux règlements de la Ville en ce qui concerne l'autorisation à une entreprise d'hélicoptère d'offrir des tours. Les tours n'ont pas été interrompus avant le 2 juillet 2010, même si le personnel de la Ville en a été informé le 30 juin vers minuit. Il y a eu également un incident concernant des raccordements électriques

non conformes qui est traité par l’Autorité de sécurité électrique et un déversement de diesel survenu en 2009 dont les coûts de nettoyage engagés par la Ville n’ont pas encore été recouverts. La Ville doit faire en sorte d’exercer son rôle de surveillance de la conformité aux conditions générales du contrat de location de parc, aux règlements municipaux et à toute autre exigence législative ainsi qu’à son application subséquente, avec des conséquences en cas d’infraction.

La Ville doit également s’assurer que les questions de sécurité sont gérées adéquatement et les responsabilités atténuées, et que les dommages aux parcs et aux installations de la Ville sont recouverts en temps utile.

Remerciements

Nous souhaitons exprimer notre satisfaction pour la coopération et l’aide offertes par la direction à l’équipe de vérification.

1 INTRODUCTION

This audit was added to the 2010 Audit Plan.

2 BACKGROUND

2.1 Parks and Facilities By-law¹

The Canada Day Event held at Andrew Haydon Park would be considered a major event lasting several days with the potential for large crowds with attendance estimated by the event organizer to be 50,000. As the event is held in a City park, the Parks and Facilities By-law stipulates requirements for the event organizer such as to obtain a park permit, to maintain liability insurance coverage, to comply at all times with all other applicable municipal, provincial and federal laws, and to follow incident reporting procedures.

The Parks and Facilities By-law specifies that the By-law shall be enforced by the Chief of Police or by the By-law Officers of the City. The Parks and Facilities By-law also includes a clause that if a person who contravenes any of the provisions of the By-law is found guilty and convicted of an offence then they would be liable to a fine as provided for in the Provincial Offences Act (POA). Where the City has incurred costs due to the person's actions, in addition to penalties, the person would also be liable for all damages.

Within the POA under general provisions there is a limitation where no proceeding shall be commenced after the expiration of any prescribed limitation period or where not prescribed, six months after the date the offence was alleged to have been committed.

The Parks and Facilities By-law states that park permits may also be revoked by the Director, Parks, Recreation and Cultural Services Department (PRC) if in their opinion the permit holder fails to comply with the requirements of the permit or the By-law.

2.2 City Staff Roles

With respect to the Canada Day Event at Andrew Haydon Park, there were several areas at the City involved with this event. Four of the main areas have been detailed below:

1. The **City-Wide Allocations Section** within the Arenas and Outdoor Rinks Unit of the Complexes, Fitness and Aqua Venues Branch of PRC are responsible for bookings of City parks and facilities. Allocations Group management explained the application for a park permit entitled, "Request for Use of City of Ottawa

¹ Refer to Appendix A for Referenced Sections from Parks By-law 2004-276.

Parks” is the document used to develop a tentative contract and for major events would be taken to the Events Central Office. During the event, staff from this area would attend on-site when advised of an issue.

2. The **Event Central Unit** within Cultural and Heritage Services Branch of PRC explained that they contact the event organizer asking that they complete a Special Events application providing additional information. The event organizer completes the Special Events application to include all the detailed activities planned for the event. The Special Events application is a City template which includes the City requirements such as permits (e.g., fireworks, vendor) and licenses (e.g., liquor). Event Central reviews the application and takes the lead in coordinating the event via a Special Events Advisory Team (SEAT) meeting. The meeting would normally include the event organizer, and representatives from various City departments and other organizations, as they deem appropriate (e.g., **Event Central Unit, Allocations Group, Councillor's Office, By-law and Regulatory Services, Paramedic Services, Parks, Buildings and Grounds Operations and Maintenance, Fire Services, Police Service, Community Association, etc.**). The Special Events application would be reviewed and discussed with the event organizer in attendance at the SEAT meeting held prior to the event. Event Central indicated they usually also hold a post-mortem meeting after the event. A special event circulation notice, special event attendance meeting record, and meeting minutes would be taken. During the event, if staff from this area were contacted regarding an issue they would advise/direct the Allocations Section staff of non-compliance to the permit.
3. The **By-law and Regulatory Services staff** would be on the circulation list for the Special Events application and therefore would be aware of the planned event activities. They would have attended the SEAT meetings for this event to address issues such as parking, noise exemption, food vendor and business licenses and by-law special events City wide. During the event they may receive calls relating to these issues and would attend on site, as required.
4. The **Parks, Buildings and Grounds Operations and Maintenance staff** would be on the circulation list for the Special Events application and therefore would be aware of the planned event activities and would have attended the SEAT meetings for this event. The rental contract /permit would include additional charges for staff overtime for the duration of the event. During the event, staff would be on-site for the hours covered on the permit.

2.3 In-kind Services

Event Central Management has indicated that for events the City provides in-kind services such as for staff time (e.g., Parks operations and barricades). They indicated that based on Finance advice for the City that City-Wide Allocations charges any extra staffing fees and currently only charge the event organizer for hours outside of regular operational hours.

2.4 Contractual Agreement Names

For this 2010 Canada Day Event, the PRC Request for Use of City of Ottawa Parks form (application for park permit) requested the name of the group/club/association which was recorded as "Canada Day Arts Festival Inc." and the name of the primary contact which was recorded as an individual's name for the Canada Day Event from June 30 to July 4, 2010. The Ottawa Rental Contract² was in the name of the individual on the first line followed by Italian Canadian Community Centre on the second line. The contract was signed by the individual whose name and contact information was typed on the agreement under the signature line with Italian Canadian Community Centre handwritten above the signature. The Ottawa Rental Contract was supposed to be based on the information on the Request for Use of City of Ottawa Parks form which it was not. The 2010 Application for Special Events was in the name of the Italian Canadian Community Centre with the individual's name as the primary contact. The 2010 funding application was in the name of Canada Day Arts Festival with the individual's name as primary contact. Management indicated that as there were two organization names acknowledged on the Request for Use of City of Ottawa Parks and the Event Central application forms, the contract remained in the historical organization name as was listed on the Event Central application form and the insurance papers. The event organizer acknowledges the organization name "Italian Canadian Community Centre" by printing it above his signature on the rental contract.

The information on the application forms and contracts has not been consistent and has not been issued only in the name of the organization responsible for the event.

3 AUDIT SCOPE AND OBJECTIVES

The Audit Scope focussed on the City's role regarding a 2010 Canada Day Event and some activities within the 2009 Canada Day Event held at Andrew Haydon Park. The 2010 Event covered the dates from June 30 to July 4, 2010 from 7 a.m. to 11 p.m. The 2009 Event covered the dates from June 26 to July 1, 2009 from 7 a.m. to 11 p.m. These dates and times exclude setup and teardown.

The Audit Objective was to evaluate the City's role in ensuring that the event complied with the park permit and City by-laws and included the following:

² Park permit

- 2010 Canada Day Event Helicopter Rides
- 2010 Canada Day Event Parking Variance
- 2010 Canada Day Event Non-compliant Electrical Hook-up
- 2009 Canada Day Event Diesel Spill
- 2010 Canada Day Event Funding
- 2010 Canada Day Event Park Permit Application Process

The audit did not include:

- A review of the Festival Services Agreement with Ottawa Festivals d'Ottawa for promotion and advocacy of festivals;
- An overall review of the park permit or special event business processes; or,
- An assessment of in-kind services.

4 AUDIT CRITERIA

1. To assess that the park rental contract for the Canada Day Event was compliant with all legislation.
2. To assess that proper monitoring was conducted during the event to ensure that the event was compliant with the terms and conditions of the park rental contract.
3. To assess that proper follow-up was conducted during and after the event to address matters that were not compliant with the park rental contract.

5 APPROACH

- Interviews and correspondence with City Management and staff;
- Review of City By-laws and related legislation;
- Review of the park permit and related files and correspondence;
- Review of websites related to the event;
- Review of payments through the City's accounting system.

6 DETAILED FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

6.1 2010 Canada Day Event Helicopter Rides

6.1.1 2010 Canada Day Event helicopter rides provided without City and Transport Canada permission

The event organizer did not advise the City prior to the 2010 Canada Day Event on the permit applications and the Special Events Application, during Special Events Advisory Team (SEAT) meetings or during a walk through with City staff the day before the event opened.

Example correspondence shows that the organizer permitted the helicopter company to provide helicopter rides at the 2010 Canada Day Event and advised them that the permit issued by the City of Ottawa was already in place. Correspondence also indicates that of the cost of \$40 per person that 2.5% or \$1 from each passenger was going towards the Heart and Stroke Foundation. However, there was no supporting documentation to prove the amount of the funds or that they were donated for the intended purpose. In the post-mortem meeting minutes for the 2010 event, the event organizer indicated that a \$1,000 donation was given to CHEO from the revenue for the helicopter rides.

The Special Events application contained details relating to the activities being offered but did not mention the helicopter rides and only referred to a website for further details. When the OAG checked the event organizer's website in July 2010 the helicopter rides for \$40 were identified. The Program Manager, Event Central of Parks, Recreation and Cultural Services (PRC) noted that they had not checked the website for details prior to the event. They have since noted that the event organizer already has the website setup for 2011 even though the permit has not been issued. The website continues to refer to helicopter rides for \$40 even though these had not been approved previously, had been stopped and there was not a plan to approve them in future.

Aside from the seriousness of this incident, there were a number of additional reasons why the City should have been advised in advance in order that the City could have the option to disallow the helicopter rides. Examples of these include the fact:

- there was a re-fuelling truck on-site and given issues with diesel spillage last year this may have caused another costly clean-up;
- this event occurred during the Queen's visit and while CF-18's were doing fly-overs;

- there was a lack of confirmation of licenses and permits relating to the pilot, helicopter and helicopter company, a lack of a certificate of proof of liability insurance for this activity for the period of the event with the City as named insured, and a lack of confirmation of other government legislation.

The PRC management has indicated that the City and Community Association have subsequently sent emails to Transport Canada which may result in a formal complaint against the helicopter company. As of November 16, 2010, Transport Canada has confirmed that no permission was granted to either the helicopter company or the event organizer to have helicopter rides at the park nor did the helicopter company apply for an authority. Transport Canada Enforcement has indicated that they are conducting an investigation into this matter for possible violations to the Canadian Aviation Regulations.

The "Specific Terms and Conditions for Park Use" that form part of the park rental contract (park permit) indicate that non-compliance with the terms and conditions of this contract could result in the immediate suspension of the contract or a written warning and that a second incidence of non-compliance will result in the cancellation of the contract. Within this same document, the General Terms and Conditions clause 11 states that, *"the contract holder must comply with all applicable rules and regulations, policies and procedures of the City of Ottawa, all City By-laws, including but not limited to the Smoking By-law, Noise By-law, Signage By-law, and Parks and Facilities By-law."* Clause 16 states that, *"permission to use City of Ottawa facilities/premises in no way constitutes approval to engage in any unlawful activity or conduct in a manner that would violate any Federal, Provincial or Municipal Law."*

In our opinion, the City needs to take timely and appropriate action including considering not renting the park to this organizer to ensure that they do not continue with activities that do not comply with the park permit in violation of the Parks and Facilities By-law and potentially other legislation and policies.

Recommendation 1

That the City consider not renting the park to this event organizer based on past experiences.

Management Response

Management agrees with this recommendation.

The department has considered the issue by consulting with the Ward Councillor, members of SEAT (Special Events Advisory Team) and other stakeholders and determined that the positive community impact of this event outweighs the negative issues associated with it. Management will attach appropriate conditions to future rentals and ensure suitable monitoring and enforcement to make sure that identified non-compliant activities do not reoccur with this event organizer.

6.1.2 2010 Canada Day Event helicopter rides continued even though City staff were aware

There was correspondence on file which showed complaints made to 311 starting around midnight June 30, 2010 and that City staff from Parks, Buildings and Grounds Operations and Maintenance staff and By-law and Regulatory Services staff were aware. The Manager, Event Central was not made aware of the helicopter rides until July 2, 2010 at which time they arranged with the Portfolio Manager of the Allocations Section at the City to shut down the helicopter rides at that time.

There was an example of an email from a resident who indicated they called 311 on July 1, 2010 and that a few minutes later someone from Parks called them and advised them that they had spoken with the event organizer who confirmed that the helicopter was permitted. On-site staff did not take appropriate action and should have been aware from their participation in SEAT meetings that this activity had not been identified.

By-law and Regulatory Services should also have been aware from their participation in SEAT meetings that this activity had not been identified. There appears to be a disconnect on the part of City staff between the SEAT meeting and the event.

In our opinion, the City needs to take timely and appropriate action to communicate, escalate and enforce activities which do not comply with the park permit, Parks and Facilities By-law, and other legislation and policies. As identified in Recommendation 1 this could include considering not renting the park to this event organizer.

6.1.3 By-law staff did not take appropriate action in enforcing the Parks and Facilities By-law relating to 2010 Canada Day Event helicopter rides

It was originally the opinion of the By-law licensing officer on July 1, 2010 and subsequently the Chief, By-law and Regulatory Services on July 7, 2010 that there was no action that By-law Services could have taken as By-law Services did not license or regulate helicopters. They initially indicated that the Parks and Facilities By-law did not cover helicopters. They had noted however that the event organizer was in violation of the permit issued to him by Parks, Recreation and Cultural Services Department. Subsequently, on August 27, 2010 when the OAG followed up as part of this audit, By-law and Regulatory Services thought that this matter was enforceable as it was outside of the park permit in violation of the Parks and Facilities By-law clause 7 which deals with permits and the requirement to comply with the conditions of the permit including any additional conditions imposed by the Director. However, the Chief, By-law and Regulatory Services was waiting for the Parks, Recreation and Cultural Services (PRC) staff to advise them whether or

not to charge for a violation and they indicated that they were still within the six month window and that they would certainly work with the permit issuer to ascertain if there was sufficient evidence to issue charges. August 27, 2010 Parks, Recreation and Cultural Services had indicated that Legal Services provided legal advice that this occurrence would be enforceable through section 7(1) (b) of the Parks and Facilities By-law. Even though Legal Services had confirmed that this occurrence would be enforceable through the Parks and Facilities By-law, By-law and Regulatory Services did not proceed with charges.

November 9, 2010, as part of this audit, the OAG asked the Chief, By-law and Regulatory Services (BRS) whether or not BRS would be pursuing charges as there is a six-month window to allow the City to charge the event organizer. For example, the Parks and Facilities By-law provides for the use of City parks and facilities and includes clauses to recover damages and/or charge for contravention of any provisions of the By-law. The Parks and Facilities By-law also includes a clause that if a person who contravenes any of the provisions of the By-law is found guilty and convicted of an offence then they would be liable to a fine as provided for in the Provincial Offences Act (POA). Within the POA under general provisions there is a limitation where no proceeding shall be commenced after the expiration of any prescribed limitation period or where not prescribed, six months after the date the offence was alleged to have been committed. Since this incident occurred June 30, 2010, charges would need to be made by December 30, 2010. BRS subsequently asked PRC if they were in agreement with the organizer being charged and PRC responded November 12, 2010 that in their opinion a violation charge related to the use of helicopters at Andrew Haydon Park is not required at this time. The City's intranet shows that, *"By-law Services is unique in that it protects health, safety, and property. General municipal enforcement and functions include, but are not limited to Parking control and the coordination of special events."* The City's website on the Internet includes a section entitled By-law Violation which identifies that you may report a possible violation and an officer will investigate your complaint and requests that 311 be called for possible violations relating to a number of subject matters which lists Park and separately lists Parking. During the course of this audit we have not encountered any reference to By-law Services consulting with a department prior to initiating charges.

The Parks and Facilities By-law 7(5) (b) states that, “no holder of a permit issued by the Director shall access or use the park unless the permit holder: produces his or her permit upon being so directed by the Director or By-law Officer, immediately vacates the park upon being so ordered by the Director or a By-law Officer and complies with the conditions of the permit, including any additional conditions imposed by the Director...” The Parks and Facilities By-law section 17 entitled Enforcement states that, “The by-law shall be enforced by the Chief of Police or by the By-law Officers of the City.” As By-law and Regulatory Services attended the SEAT meetings they would have been aware of the issues and conditions of the permit and would have been aware that a helicopter had not been included.

Management has indicated that By-law and Regulatory Service Branch's enforcement protocol is reactive enforcement and the deployment model is staffed accordingly.

In our opinion, upon receipt of by-law requests for service, the City's By-law and Regulatory Services needs to take a lead role in ensuring that compliance with the City's by-laws and other legislative requirements are appropriately investigated and enforced in a timely manner.

Recommendation 2

That the City consider charging the event organizer with failing to comply with the terms and conditions of their park permit in violation of the Parks and Facilities By-law and that the event organizer be held accountable for any subsequent charges in violation of other policies or legislation. In the case of the helicopter, there was legal advice that this occurrence was enforceable through the Parks and Facilities By-law.

Management Response

Management agrees with this recommendation.

Legal action has been considered. By-law and Regulatory Services consulted with Special Events and the General Manager of Parks, Recreation and Culture. It was determined that charges, in this instance, were not warranted since:

- the organizer discontinued the helicopter service immediately upon being contacted by the City
- the organizer met with SEAT and members of the Community Association to acknowledge his non-compliance with the Terms and Conditions
- the City and the Community Association had contacted Transport Canada to report the violation.

Recommendation 3

That upon receipt of by-law requests for service, that the City investigate compliance with City by-laws on a timely basis (including the Parks and Facilities By-law) and other legislative requirements and enforces City by-laws.

Management Response

Management agrees with this recommendation.

The audit states: *"In our opinion, upon receipt of by-law requests for service, the City's By-law and Regulatory Services needs to take a lead role in ensuring that compliance with the City's by-laws and other legislative requirements are appropriately investigated and enforced in a timely manner."* The By-law and Regulatory Service Branch's enforcement protocol is reactive enforcement and the deployment model is staffed accordingly.

The goal of By-law and Regulatory Services is to gain voluntary compliance through education as this is a more cost-effective, timely and amicable process vs. enforcement action, which can take months to achieve, all for the same outcome which is compliance.

6.1.4 By-law staff did not take appropriate action in enforcing the Signs By-law relating to 2010 Canada Day Event signage

In the meeting minutes for the post-mortem for the 2010 Canada Day Event, Management from By-law and Regulatory Services indicated that, again this year, signs were illegally posted and not removed after 48 hours in non-compliance with the Signs By-law even though information had been given as to where signage was permitted. This would also result in another reason for the event organizer being non-compliant with the parks rental contract (clause 11) and the Parks and Facilities By-law. There was no indication that actions had been taken with the event organizer to address this matter.

In our opinion, this matter should also be addressed.

6.2 2010 Canada Day Event Parking Variance

In 2008, in response to the event organizer's request for a variance to the Parks and Facilities By-law, a letter and parking permit was provided by the City to grant permission to charge fees of \$5 per vehicle at Andrew Haydon Park and in the overflow parking at Dick Bell Park for the period from June 27 to July 1, 2008. The letter stated that parking was not permitted on the grass, which would result in having vehicles ticketed or towed at the owner's expense.

In their request, the event organizer explained the fees would be used to recoup costs of parking attendants and to offset festival expenses. However, there is no audit clause or agreement between the event organizer and the City to allow the City to follow-up to confirm that fees were used for the intended purpose. Management estimated there could be 400 parking spots.

There was email correspondence between PRC staff in the file from 2008, identifying a number of issues including parking on the grass, sometimes three deep, damaging the grass, rides parked close to the pond and extension cords throughout puddles. These issues should have been addressed with the event organizer in 2008 prior to the 2009 event, as they may have prevented the diesel spill near the pond and the resulting clean-up costs in 2009.

Although, the City intended to discontinue this practice of a parking variance for 2010, management indicated the automatic renewal letter from the licensing system had been sent to the organizer who was not advised until the SEAT meeting April 19, 2010 that City By-law and Regulatory Services were not going to renew their parking license for 2010. The practice was renewed again for 2010 by a letter from the General Manager, PRC as the event organizer was advised at the April 19, 2010 SEAT meeting which PRC considered was too late to revoke the variance in advance of the event. The letter contained conditions including:

- Not parking on the grass except in the overflow area, responsibility for signage, vehicles on grass or non-designated parking ticketed or towed at owner's expense, responsibility for damages as per park rental contract;
- Not permitted to park any midway attraction or attending vehicle along the waterside;
- That parking levy shall not be applied to residents who want to visit the park but not the Canada Day festivities.

PRC management has indicated that they again intend to advise the event organizer that they will not renew the variance for next year.

In our opinion, City management and staff from PRC and BRS need to properly coordinate this matter to ensure the event organizer is advised on a timely basis that they will not renew the variance for next year. In the absence of an agreement with an audit clause between the event organizer and the City, the City is unable to follow-up that fees collected were used for the intended purposes. In our opinion, the agreement should contain conditions with a right to audit clause and there should be a post-mortem for major events within a reasonable period of time such as one month.

Recommendation 4

That the City ensure that agreements include an audit clause to allow the City access to monitor the event organizer's records in order to confirm that money collected is used for the intended purpose.

Management Response

Management agrees with this recommendation.

Event Central will be seeking Council's approval on a Special Events By-law in Q4 2011, to streamline the business process and event requirements for special events. The draft by-law, to be considered by Council later this year, will have an audit clause requirement that will allow the City access to monitor records for events that have conditions attached to their permits (e.g., parking), even if they don't receive any City funding for it.

6.3 2010 Canada Day Event Non-compliant Electrical Hook-up for the Vendor Trailers

Based on an extract of notes to file relating to June 30, 2010, *"PRC staff was notified by the Area Manager, District Core within Parks, Buildings and Grounds Operations and Maintenance Branch that an inspector from the Electrical Safety Authority (ESA) was at the park and was going to shut down the event due to illegal electrical hook-ups for the trailers at this event. The Area Manager also said there was a city electrician on-site and he had disconnected the illegal³ hook-ups for safety reasons giving the organizer a chance to resolve the situation properly. They noted that the ride company passed the electrical inspection.*

The event organizer was advised that a master electrician was required to do the work. The event organizer decided to go with generators instead but was told he still required a master electrician to ensure units were grounded properly and the proper permits obtained. The event organizer was allegedly going to cancel the event and send everyone home. PRC staff tried to assist as much as possible so the facility supervisor contacted the electrical safety authority and was advised that as long as the generator was no larger than 10kw there would not be a requirement for an electrician or a permit. So, the organizer agreed to bring in generators of that size.

The ESA later advised the Facilities Supervisor that the organizer was going to be charged through the ESA for his actions on that day. The ESA subsequently indicated that they have a written report but were not willing to share with PRC due to confidentiality." OAG has subsequently requested the report.

³ Non-compliance with Ontario Electrical Safety Code

In addition, the 2010 meeting minutes from the November 3, 2010 post-mortem meeting state that there may be overtime charges (to the event organizer) for the City electrician and the Parks, Recreation and Cultural Services staff that had to stay on site longer than agreed to. Management has indicated that any event occurrence related to risk/liability is investigated immediately and prior to the post-mortem meeting.

In our opinion, given the extent of City staff involvement in resolving the matter on that day, the City should assess their legal responsibility and liability and additional costs with respect to non-City events held at City facilities. This would include safety-related issues as well as responsibility in cases where the event organizer cannot or does not hold the event.

Recommendation 5

That the City review the full costs incurred related to special events, such as this Canada Day Event, and establishes a policy to clearly define the costs that will be recovered for special events.

Management Response

Management agrees with this recommendation.

Currently Event Central does track in-kind corporate costs for events that are processed through Event Central; however, more consistency is required in terms of how each department tracks their in-kind costs.

The draft Special Events by-law will allow for a supporting policy to be developed in 2012 to satisfy this recommendation.

6.4 2009 Canada Day Event Diesel Spill

6.4.1 2009 Canada Day Event Diesel spill reported to MOE

At the 2009 Event, a diesel spill occurred by the ride operator's trailer which was parked near a pond. The matter was reported to the Ministry of the Environment (MOE) July 6, 2009 and remedial work was performed by the City in consultation with MOE. The costs related to this work were recorded in the City's accounting system but the claim to the ride operator has not yet been paid as detailed in section 6.4.2.

In accordance with spill reporting protocol, the 311 report did not contain the document trail for the call to the MOE Spills Action Centre although the OAG confirmed there is a record at MOE of the call having been made. Management indicated that the procedural document is to be reviewed and clarified and changed to have 311 agents note who was called on any spill on the work they create. The 311 report included the name of the PBG supervisor reporting the matter but in the report only referred to them as a caller and did not refer to them as a City employee with their City position title. In a covering email 311 staff also incorrectly referred to the individual as a resident. The 311 report should have identified them as a City employee. We would have expected a more thorough reporting mechanism for spill reporting especially since the Audit of the 2006 Sewage Spill.

The Manager, Parks, Buildings and Grounds Operations and Maintenance indicated that, *"this matter was reported to 311 on July 6, 2009 by Parks, Buildings and Grounds field operations On-site Supervisor and Acting Zone Supervisor as a result of their return to work following weekend days off and their discovery of the spill during rounds on Monday, July 6, 2009. When staff left for the weekend Friday, July 3, various pieces of carnival equipment had not been removed from the park. It had rained for two days and the ground was very muddy and removal of the equipment took longer than expected. Therefore, removal continued into the evening of July 3 and the staff was no longer on site as work hours are from 7 am to 3:30 pm."* The OAG notes that the park rental contract included additional staff charges for the time period of 7:00 a.m. to 11:00 p.m. for the event dates from June 26, 2009 to July 1, 2009. In our opinion arrangements should have been made to have City staff on-site to supervise and inspect set-up and tear-down and the park rental contract should have included additional charges to the event organizer for this time.

The Manager indicated that, *"the leak or spill could have happened any time between June 25 and July 3 and was found where a generator which was used to power some of the carnival units was parked for the event. The City has no way to determine if the fuel spill was caused by a slow leak from the generator tank or a onetime overflow during a diesel fuel refill operation."*

In our opinion, there needs to be improvements to the City's record keeping of spills reported and to the City supervision and inspection of venues during and after event tear down. As identified in Recommendation 5 this should also include a review of full costs incurred and a policy to clearly define costs that will be recovered.

Recommendation 6

That the City review the City's spill reporting process to ensure that it includes complete and accurate documentation to clearly identify the complainant.

Management Response

Management agrees with this recommendation.

The Spills reporting procedure at 311 has been reviewed and amended where an agent is now required to identify if the caller is a City employee or not and to note such for the record, in addition to asking for and recording name, address and contact information.

6.4.2 2009 Canada Day Event outstanding claim for recovery of diesel spill cleanup costs

A total of \$57,000 was claimed by the City to the ride company's insurer in September 2009 and not to the event organizer. The amount was not paid to the City as of September 27, 2010.

The rental contract for use of the park is with the event organizer and not the ride operator and covers the dates of the event which ran from June 26, 2009 to July 1, 2009. The City should have considered actions against the event organizer.

In our opinion, the City risks being unable to recover this amount as all the appropriate parties may not have been named in the claim and the proper insurance may not have been in place as detailed in section 6.4.3.

Recommendation 7

That the City recover the costs related to the 2009 diesel spill.

Management Response

Management agrees with this recommendation.

The Parks, Recreation and Cultural Services department worked with the Claims Unit to put the owner of the vehicle on notice of claim shortly after the City was aware of damage to the park. Staff has been corresponding with the insurance representatives for the vehicle that is suspected to have caused the fuel spill. On March 3, 2011, the insurer for the vehicle owner denied the City's claim on behalf of the insured. Legal Services will be reviewing this claim and, if appropriate, will initiate a lawsuit against the parties who appear to be responsible.

6.4.3 2009 Canada Day Event Incomplete Insurance Certificates

The dates on the 2009 park rental contract between the City and the event organizer were from June 26, 2009 to July 1, 2009.

The 2009 Certificate of Insurance for the event organizer includes the City as the Certificate Holder but does not include the complete dates for the event. The Certificate of Insurance dated April 1, 2009 shows the City of Ottawa as the certificate holder and Italian Canadian Community Centre as Insured and Canada Day Arts Festival Inc. as additional insured with the description of operations as Canada Day Arts Festival May 18, 2009 and July 1, 2009.

After the spill, the event organizer provided the City with the 2009 Certificate of Insurance for the ride operator which does not include the City as the named insured and does not cover the complete dates for the event. The Certificate of Insurance provided by the event organizer September 9, 2009 to Event Central was in the names of Canada Ottawa Days Festival Inc. and Canada Arts Festival Inc. and Italian Canadian Community Centre of the National Capital Region Inc., the insured name was Homeniuk et al with a Damage Liability of \$5 million per occurrence and was dated June 30, 2009 effective from July 1, 2009 to July 1, 2010. The City is not the named insured and the City's rental contract for the event would be between the City and the event organizer.

In our opinion, properly completed insurance certificates including the City as named insured and the appropriate dates should be obtained prior to the awarding of the rental contract.

Recommendation 8

That the City ensure that liability issues are appropriately managed and mitigated and that damages to City parks and facilities are recovered on a timely basis. As indicated in this audit, this would relate to helicopter rides, the diesel spill, and the non-compliant electrical hook-up.

Management Response

Management agrees with this recommendation.

The City will manage and mitigate liabilities as it relates to events and festivals by seeking Council approval on the draft Special Events By-law in Q4 2011.

Further, all future permits to this organizer will include additional stringent Terms and Conditions that he will be required to meet. Also additional visits by City staff will be made to ensure enhanced on-site monitoring.

Staff will continue to work to recover costs to the extent it provides value to the City. Of note, the reimbursement of costs associated with the diesel spill was denied on March 3, 2011. Legal Services will review and take any appropriate legal action. The cost related to non-complaint electrical hook-up involved minimal overtime by the City electrician. The administrative cost for recovering the overtime amount was more than the amount itself and did not justify the recovery.

6.4.4 Extended timeframe for 2009 Canada Day Event post-mortem

The post-mortem for the 2009 event was actually held at same time as the Special Events Advisory Team (SEAT) meeting for the 2010 event which was not held until April 16, 2010. Email correspondence on file shows that there was an October 2009 meeting scheduled that was cancelled as the event organizers were unavailable.

Management has indicated that any event occurrence related to risk/liability is investigated immediately and prior to the post-mortem meeting.

In our opinion, the extended timeframe for addressing this and other matters with the event organizer puts at risk the City's ability to potentially recover damages and enforce charges in accordance with City by-laws.

Recommendation 9

That the City ensure that post-mortems are pre-established on a timely basis within one month of the event especially for major events.

Management Response

Management agrees with this recommendation.

For events where serious incidents have occurred as well as for routine events and festivals that take place during non-event season (September-April), post-mortems will be done within one month of the event. However, for routine events and festivals held during event season (May-August), post-mortems will be scheduled starting September when resources with the event history are available to participate.

6.5 2010 Canada Day Event Funding provided for Fairs and Festivals

The 2010 funding application from the event organizer for Fairs and Festivals Funding, in our opinion, contained some areas of weaknesses which are noted below. The Funding Supervisor noted these resulted in a lower amount of funds being awarded. Of the \$15,000 requested, \$3,000 was awarded.

The City's application review checklist was not up to date to reflect outstanding issues and subsequent follow-up. Examples on the application included adding errors and some references to in-kind revenues and expenditures which did not appear to balance.

The Funding Supervisor confirmed that some of the issues that were meant to be addressed on their review checklist had not been checked off and some notes were not up-to-date and that this will be corrected to reflect the contents of the file and the follow-up that was done. Examples of issues that had not been identified as having been addressed included that more detail was needed regarding program merit and that support material (posters, program and media) was missing. The Funding Supervisor also indicated that not all issues are captured on the checklist and that the allocations jury reviews all budgets and financial information within the allocation meeting and weaknesses are taken into consideration.

The 2010 and 2009 funding applications for civic events were denied as the application did not meet the program criterion.

The event organizer did not meet the clause in the terms and conditions to acknowledge the Fairs and Festival funding from the City. The Funding Supervisor indicated they were not aware the condition was not being met until we informed them during the course of this audit and will follow-up this matter.

In our opinion, the documentation to evidence the review of grants could be improved and consideration could be given to not awarding future funding where grant or event terms and conditions are not being met. Management indicated that consideration is given to not awarding future funding where terms and conditions are not being met. Issues are discussed and resolved with the organization prior to making a final decision on an organization's ineligibility.

6.6 2010 Canada Day Event Park Permit Application Process

The Ottawa Rental Contract (park permit) was issued in the name of an individual and the Italian Canadian Community Centre even though the application was in the name of Canada Day Arts Festival.

The event hours on the Ottawa Rental Contract were shown as 7:00 a.m. to 11:00 p.m. differed from the organizer application and liquor license which showed an end time to 12:00 a.m. The later end time could result in additional City staff charges.

The number of participants indicated by the event organizer ranges from 200 noted on the application, to 50,000 in the 2010 post-mortem meeting minutes, to 20,000 on the rental contract, to 200 on the liquor license, to 1,001+ on the Special Events application, to 4,000 on Canada Day and 200 on other days on the SEAT pre-event meeting minutes.

The City-Wide Allocations Section within the Arenas and Outdoor Rinks Unit of the Complexes, Fitness and Aqua Venues Branch of PRC are responsible for bookings of City parks and facilities. Allocations Group staff explained the application for a park permit entitled, "Request for Use of City of Ottawa Parks" is the document used to develop a tentative contract which is taken to the Special Events Advisory Team (SEAT) meeting. We found the application does not include sections to complete to identify if the organization is not-for-profit which should be confirmed as it would impact the price. The rate charged was the non-profit rate even though the Allocations Group did not obtain proof to confirm that the parties renting are all non-profit. Management has indicated that as this is the same individual who has been running this event through the Italian Canadian Community Centre for the past six years, there was no reason to verify if the party had changed status to for-profit. However, the OAG believes this should be confirmed annually as the status may change. The application also did not identify if a Special Events application and meeting would be required or all of the event requirements.

The Event Central Unit within Cultural and Heritage Services Branch of PRC explained that the event organizer submits an application for special events to the Special Events Advisory Team for review. The event organizer completes the Special Events application to include all the detailed activities planned for the event. The Special Events application is a City template which includes the City requirements such as permits (e.g., fireworks, vendor) and licenses (e.g., liquor). A meeting would be coordinated by Event Central which would normally include the event organizer, and representatives from various City departments and other organizations, as they deem appropriate (e.g., Allocations Group, Event Central, By-law and Regulatory Services, Paramedic Services, Parks, Buildings, Grounds Operations and Maintenance, Fire Services, Police Service, Community Association). The Special Events application would be reviewed and discussed with the event organizer in attendance prior to the event. Despite this fact, for City staff, there appears to be a disconnect between the SEAT meeting and the event. Event Central indicated they usually also hold a post-mortem meeting after the event. A special event circulation notice, special event attendance meeting record, and meeting minutes would be taken.

In addition to issues noted in prior sections, we also found that events files did not include confirmation and proof that all required permits from the different areas were in place (e.g., Ottawa Fire Services permit for fireworks, vendor permits). The Allocations Group did not have these permits. Management indicated that the Allocations Group, responsible for the park permit, only had the permits that are pertinent to them for issuing the use of the park, which included the liquor licence and insurance. The Program Manager, Event Central indicated that these permits would be located in the files of the various service areas and that Event Central staff would have called to confirm that these permits existed prior to the event. The OAG requested copies of these permits which had not been provided to the OAG until January 27 and 28, 2011 as the Program Manager indicated they were under the impression that Ottawa Fire Services and By-Law and Regulatory Services were providing them. With respect to the 2010 food vendor permits, there were three vendor permits provided for food vendors which differed from the one food vendor listed on the "Application for Special Events". Therefore, there continues to be a lack of confirmation that all proper permits were in place.

Event Central Management indicated that in 2011 they plan to go forward with a by-law for events with requirements which would then require event organizers to show proof.

In our opinion, there should have been evidence in a centralized location to confirm that all event requirements were in place prior for the event.

Event Central of PRC indicated that they held a post-mortem meeting with the event organizer in early November 2010 in order to get the facts together and that they plan to send a formal follow-up letter to him to address issues. As noted in section 6.1, PRC do not plan to charge the event organizer even though he violated the Parks and Facilities By-law and the terms and conditions of the park rental contract. They previously indicated that they had met with the event organizer and spoken to the seriousness of the issues and that the event was too big for that location. The Program Manager, Event Central provided a copy of the meeting minutes. The minutes showed that management indicated that in future the event organizer would not be permitted to charge for parking on public property and would be responsible for the activities of any sellers or on site fireworks and damages to the park. The meeting minutes also indicated that management stressed the importance of advising SEAT of all activities and noting them on the event application.

In our opinion, the issues raised in this report for which the event organizer is responsible are serious issues requiring immediate attention and follow-through in terms of enforcement of City by-laws, policies, and the terms and conditions of the park rental contract.

Recommendation 10

That the City streamline the business process for permits for events in City parks and facilities to ensure documentation for requirements are met in advance of the event and that staff, especially grounds and enforcement staff, are familiar with the requirements and scope and limitations of the event.

Management Response

Management agrees with this recommendation.

The Special Events By-law targeted to be before Council in Q4 2011 will streamline the business process for permits for events. The business process will address documentation requirements, the timing of them, and a step to ensure staff is familiar with the requirements, scope and limitations of the event.

7 CONCLUSION

The organizer of the 2010 Event did not comply with the terms and conditions of the park rental contract (park permit) and the City's by-laws with respect to permitting a helicopter company to provide rides. The rides were not stopped until July 2, 2010 even though City staff were aware around midnight June 30. There was also an incident relating to non-compliant electrical hook-ups that is being addressed by the Electrical Safety Authority and a diesel spill in 2009 where the City's clean-up costs have not yet been recovered. The City needs to ensure that it performs its role to monitor compliance with the terms and conditions of the park rental contract, City by-laws and other legislative requirements and subsequent enforcement with consequences for non-compliance.

The City also needs to ensure that safety and liability issues are appropriately managed and mitigated and that damages to City parks and facilities are recovered on a timely basis.

8 ACKNOWLEDGEMENT

We wish to express our appreciation for the cooperation and assistance afforded the audit team by management.

Appendix A – Referenced Sections from Parks By-law 2004-276

Refer to By-law 2004-276 for complete text.

- A permit (page 4 section 7(1)) issued by the Director of Parks and Recreation or authorized designate would be required to sell or offer, expose or advertise for sale food or drink,... art, skill or service in a park;
 - Have in his/her possession any alcoholic beverage (Beer tent);
 - Ignite, discharge or set off any fireworks;
 - Use ... Equipment for amplifying sounds;
 - Allow a hot air balloon to land or take off from a park, except in emergency situations.
- Permit holder shall not use park unless they (Page 4 section 7 (3))
 - Maintain liability insurance coverage of at least \$1M per occurrence in the name of the permit holder or sponsoring organizer of the event and where applicable with City of Ottawa as named insured;
 - Do not charge admission or sell refreshments except as authorized by the Director;
 - Follow incident reporting procedures outlined in the permit in the event of an incident;
 - Comply with any other conditions of the permit issued by the Director (page 5 Section 7 (6) indicates the Director may attach such additional conditions to a permit as deemed necessary to ensure public safety, protect City property or maintain the enjoyment of the park for the public)
- The permit holder shall comply at all times with all other applicable municipal by-laws and federal and provincial laws. (Page 5 Section 7(8))
- No person in a park shall disturb any animal (Page 6 Section 9(4))
- No person shall engage in any activity so as to interfere with or become a nuisance to the general public using the park (Page 7 Section 12(2))
- The applicant for a permit to access any park shall indemnify and save harmless the City of Ottawa (Page 7 Section 14)
- Permits under this by-law may be revoked by the Director (Page 7 Section 15)
- Any person who contravenes any of the provisions of this by-law is guilty of an offence and if convicted of an offence under this by-law is liable to a fine as provided for in the Provincial Offences Act (Page 8 Section 18)

- Every person who acts in contravention of this by-law so as to cause the City to incur costs due to his or her actions in addition to penalties would be liable for all expenses incurred to repair or replace damaged property (Page 8 section 19)

The Sports and Activities Section of the by-law (page 3 section 5(1)) indicates that no person shall participate in ... any other sport or activity in a park except in an area designated by the Director for such respective purpose