



# City of Chattanooga

INTERNAL AUDIT

City Hall

Chattanooga, Tennessee 37402

Stan Sewell  
Director

Ron Littlefield  
Mayor

November 21, 2011

Mayor and City Council  
City of Chattanooga  
Chattanooga, TN 37402

RE: Parks and Recreation Dock Rental Collections, Audit 11-07

Dear Mayor Littlefield and City Council Members:

Attached is the Internal Audit Division's report on Parks and Recreation Dock Rental Collections, Audit 11-07.

We thank the management and staff of the Parks and Recreation Department and the City Attorney's Office for their cooperation and assistance during this audit.

Sincerely,

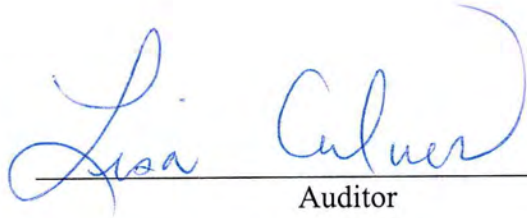
Stan Sewell, CPA, CGFM  
Director of Internal Audit


Attachment

cc: Dan Johnson, Chief of Staff  
Larry Zehnder, Parks and Recreation Administrator  
Audit Committee Members

**PARKS AND RECREATION DEPARTMENT  
DOCK RENTAL COLLECTIONS  
AUDIT 11-07  
OCTOBER 10, 2011**

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Auditor

  
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Audit Director

**PARKS AND RECREATION DEPARTMENT  
DOCK RENTAL COLLECTIONS  
AUDIT 11-07**

**INTRODUCTION**

The City's waterfront was revitalized as a part of the 21st Century Waterfront plan in 2005. This renovation to the waterfront offered the City new areas of revenue to explore. The City built docks along the north and south shore of the river providing access for vessels to dock and transport patrons on the river.

The Chattanooga Riverboat Company has been a long time fixture of the downtown waterfront and has an agreement with the City to use river front space. Since the renovations, several new operators have contracted with the City to dock on the river.

The City's Parks and Recreation Department is charged with the management and maintenance of the waterfront. They contract with entities and manage the waterfront and its usage. Parks and Recreation currently has four entities using the City's waterfront for docking or launching vessels. They are the Chattanooga Riverboat Company, River City Ducks, Tennessee Aquarium River Gorge Explorer, and the Delta Queen. The River City Ducks and the Chattanooga Riverboat Company have current contracts which were approved by Council. The Tennessee Aquarium River Gorge Explorer and the Delta Queen contracts are under development at this time.

**STATISTICS**

<b>Total Revenue Collected</b>		
<b>Dock Rental Account #532117</b>		
<b><u>FY09*</u></b>	<b><u>FY10*</u></b>	<b><u>FY11*</u></b>
\$99,792	\$60,947	\$33,540

\*Data obtained from City's accounting records as of Sept. 6, 2011.

**STATEMENT OF OBJECTIVES**

This audit was conducted in accordance with the Internal Audit Division's 2011 Audit Agenda. The objectives of this audit were to determine if:

1. A properly approved and executed contract is in place for all dock rentals on the City's riverfront.
2. Dock rental payments are being properly remitted and collected.



## **STATEMENT OF SCOPE**

Based on the work performed during the preliminary survey and the assessment of risk, the audit will cover the Parks and Recreation management of dock rental contracts and their corresponding payments posted to revenue account #532117 for the period covering July 2010 to June 2011.

## **STATEMENT OF METHODOLOGY**

During the audit, staff from the Parks and Recreation department, who manage the contracts and payments, were interviewed to gain an understanding of the contract management processes. Staff from the City Attorney's office were also interviewed to understand the contracts for the dock rentals. All contracts for those entities using the City's waterfront were reviewed and payments analyzed. We reviewed applicable City Code and the Internal Control and Compliance Manual for Tennessee Municipalities as a reference.

The sample size and selection were statistically generated using a desired confidence level of 90 percent, expected error rate of 5 percent, and a desired precision of 5 percent. Statistical sampling was used in order to infer the conclusions of test work performed on a sample to the population from which it was drawn and to obtain estimates of sampling error involved. When appropriate, judgmental sampling was used to improve the overall efficiency of the audit.

The sample transactions selected were tested to determine if they followed the Finance and Parks and Recreation collection procedures.

## **STATEMENT OF AUDITING STANDARDS**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **AUDIT CONCLUSIONS**

Based upon the test work performed and the audit findings noted below, we conclude that:

1. Currently, not all entities using the City's waterfront have written contracts.
2. All entities leasing waterfront space are making payments however, some are consistently late.

While the findings discussed below may not, individually or in the aggregate, significantly impair the operations of the Park and Recreation department, they do present risks that can be more effectively controlled.

## **ISSUES WITH CONTRACTS**

After reviewing all the dock rental contracts, it appears contract terms need to be clarified and language added. Late fee terms and language are not clear or not included in all the contracts. Some contracts have no provision for late payments or fail to specify a time when late fees should begin. During the audit, it was noted several payments were late but the City had no recourse to enforce penalties.

The City has issues with some entities for nonpayment and regular late payments. The Chattanooga Water Taxi LLC (Delta Queen) filed bankruptcy last year and their contract was terminated. However, the Delta Queen was not removed from the City's waterfront and dock. It has remained docked and operating on the City's waterfront during this time of ownership transition. Currently, a contract is under development with a new company who recently acquired the Delta Queen. However, the City has lost revenue for several months during this transition.

A memorandum of understanding was established with the Tennessee River Gorge Explorer in August 2008 with the expectation a contract was going to be forth coming. This agreement was not presented to Council. This procedure is required by the Internal Control and Compliance Manual for Tennessee Municipalities 4-2-4-(i) which states complete minutes of actions taken by the governing body should include copies of contracts entered into by officials. A formal contract is currently under development.

## **RECOMMENDATION 1**

We recommend Parks and Recreation management work with the City Attorney's office in updating and/or developing language in all current and future dock rental contracts to include specific language related to penalties and when they begin. We also recommend language be developed to address issues of nonpayment and the City's ability to remove vessels from the City's waterfront. We further recommend all contracts/agreements be presented to Council, with the original kept in Finance per the City Code.

## **AUDITEE RESPONSE**

We concur and will continue our process of seeking the receipt of pending contract drafts from the City of Chattanooga Legal department. We have requested of said Legal Department to include late payment penalties and applicable penalty dates, in all future drafts.

We request that Audit's Recommendations of drafting and/or revising any contractual language and commencing any legal remedies be referred to the City Legal Department, as said Legal Department is charged with drafting the City's legal documentation and filing legal actions.



All contracts completed by said Legal department, submitted to our Department for authorized use, will be accordingly presented to City Council. It is our Department's practice to immediately submit a physical original copy of any executed contract to the City Finance Department.

### **AUDITOR COMMENT**

It is the responsibility of the City Attorney to assist with drafting and developing language for contracts. However, it is each City Department's responsibility to initiate and manage contracts utilizing the City Attorney's Office to provide assistance with review and development of contracts.

### **CONTRACT PAYMENTS AND TERMS**

Several dock rental contracts contain payment terms that include a fixed monthly rent payment plus a percentage of revenue payment. All the contracts have different criteria for the percentage payments.

The Chattanooga Riverboat percentage payment is based, in part, on the average gross revenues from 2000 to 2002. Currently, the Parks and Recreation department lacks accurate data for those years and cannot verify the percentage payment due. Also, the Chattanooga Riverboat Company has not submitted a percentage payment since 2009.

The River Gorge Explorer terms include payments based on the number of passengers per month. The River Gorge Explorer was delinquent in remitting its contract payments for almost a year. The Delta Queen also has payments based on gross receipts. They are currently several months behind on payments.

The data submitted by these entities for the percentage and passenger payments are not properly supported. Most payments are only accompanied with figures on a simple spreadsheet. Currently, Parks and Recreation management has requested all entities with percentage or passenger payments to provide in-house, or automated reports to support their payment calculations.

During the audit, Parks and Recreation management contacted all entities who were delinquent in their payments. Since then, all have made some payments towards past due balances.

### **RECOMMENDATION 2**

We recommend Parks and Recreation management monitor all account payments closely with regards to payment terms and dates and take immediate action to collect funds when they become overdue.

### **RECOMMENDATION 3**

We recommend Parks and Recreation management consider including only fixed monthly rental rates in future dock rental contracts. We also recommend, if possible, any current contracts with percentage or passenger based payments be updated to remove those terms and adjust the base monthly rental amount as appropriate. Otherwise, we recommend any percentage or passenger based payments be supported by adequate documentation such as an entities' accounting reports or audited financials.

### **RECOMMENDATION 4**

We recommend Parks and Recreation include in any future contracts an audit clause into the language of their contract. This was recommended in our report Audit Clause Audit 07-06 which was released on August 3, 2007.

### **AUDITEE RESPONSE**

We concur. Our Department will continue our regular efforts to secure appropriate reports and correlating fees from the contract parties, until alternative contracts are available for execution, and thereafter.

Contrary with prior recommendation to seek percentage fees through the subject Dock Rental contracts, which resulted in the now-existing contracts, our Department greatly prefers the flat-fee basis for such contracts. As such, our Department is developing a flat-fee scale, for application to current and future contractual arrangements, as much as possible.

We request that Audit's Recommendations to include or amend any contractual language be referred to the City Legal Department, as said Legal Department is charged with drafting the City's legal documentation.

### **AUDITOR COMMENT**

It is the responsibility of the City Attorney to assist with drafting and developing language for contracts. However, it is each City Department's responsibility to initiate and manage contracts utilizing the City Attorney's Office to provide assistance with review and development of contracts.

### **LACK OF WRITTEN POLICIES**

Parks and Recreation management has established written procedures which address cash collections and separate procedures for handling checks received in the mail, or in person. However, they have not established written procedures that cover the process for handling contract payments and the receivables account management that accompanies it.



### **RECOMMENDATION 5**

We recommend Parks and Recreation management develop comprehensive written policies regarding the entire process of contract management. This includes, but not limited to, setting renewal dates, terms, aging of receivables, collection efforts, and balances due. Once the policies are developed, they should be distributed with documented acceptance and understanding by all employees assigned the responsibility. The policies should be posted on the department's shared drive or Intranet.

### **AUDITEE RESPONSE**

Our Department is in the process of receiving instruction on posting our 'Contract Procurement and Monitoring Procedures' and other policies/procedures on the Intranet. To date, we have not been provided instruction on this process. Said Procedure is posted on the Parks and Recreation shared server.