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**To:** Michael Klein, Deputy County Executive for Parks, Public Works & Partnerships  
Doreen Banks, Commissioner of Parks, Recreation and Museums  
**From:** Jane Levine  
**Date:** July 1, 2004  
**Subject:** Permits for Use of County Parks by Day Camps

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*Background*

Our office conducted a review of permits for Use and Occupancy of county parkland granted by the Department of Parks, Recreation and Museums (“department”) to two for-profit day camps: Oasis Children’s Services (headquartered in Brooklyn) for the 2003 and 2004 summer seasons and Woodmont Sports (headquartered in Wantagh) for the 2004 summer season. This review was prompted by questions raised by the County Legislature and the media regarding the process the county used to award these permits. Because of the attention focused on these two permits, we think it is important at the outset that we describe the historical context of their issuance. We note, therefore, that the department has, in past years and past administrations, awarded “special recreational use” and “use and occupancy” permits to various organizations, both for profit and not-for-profit, to utilize the county parks for various purposes, including the operation of day camps.<sup>1</sup>

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<sup>1</sup> For example, the department provided us with copies of the following permits for day camps in the parks where the initial permit was issued prior to 2002: 1. *Science Adventures* (home office: Science Adventures, Science Enrichment Services, Inc., located in Huntington Beach, CA, [see www.scienceadventures.com](http://www.scienceadventures.com)), “special recreation use” permits issued to operate during the summers of 2001-04 in various county parks; fee based on a daily charge of \$50. 2. *Girl Scouts of Nassau County, Inc.*, “special recreation use” permits issued to operate during the summers of 1999-2004 in Cantiague and Wantagh; fee based on a daily charge of \$50. 3. *Coleman Country Day, Inc. & D.C. Assoc.*, use and occupancy permit issued in 1984 at Roosevelt Preserve; the camp apparently still operates at this location at the fee of \$100 per month established in the 1984 permit. According to a memorandum dated June 2, 2004, from Deputy County Executive Helena Williams to the County Executive, *Crestwood Day Camp*,

### *Scope*

Our review focused on whether the department had policies and procedures applicable to the issuance of camp permits and whether it followed those policies and procedures when it issued permits to Oasis and Woodmont. We interviewed personnel and examined departmental documents. We also contacted the Department of Purchasing to ascertain whether general policies are in place for entering into concession-type contractual arrangements. In addition, we reviewed Parks' internal controls relating to the determination and collection of fees for these uses.

### *Summary of Findings*

On March 4, 2003, as part of a "\$10 million revenue enhancement plan for county parks and museums," the department issued twelve Requests for Expressions of Interest ("RFEIs") for public/private partnerships, including an RFEI for summer day camp programs, in county parks.<sup>2</sup> The RFEIs were announced at a press conference, advertised on the county website, and "where applicable, [the day camp RFEI] was sent to parties who had previously expressed interest."<sup>3</sup>

The day camp RFEI sought responses from community, local government, not-for-profit and for-profit organizations, among others, about revenue-enhancing day camp projects that could be implemented in county parks. It asked for descriptions of suggested projects, including project concept and proposed uses, revenue and expense projections, anticipated project team, the role of any private entities in the project, and the qualifications of the respondent. The RFEI also stated that the county reserved the right to utilize responses to the RFEI as a pre-qualifying step for an RFP, and that responses were due by April 3, 2003. Woodmont was the only respondent to the RFEI. It provided a detailed day camp proposal, including revenue and expense estimates, but did not request a permit for 2003.

The department informed us that although Oasis did not respond formally to the RFEI, it had contacted the department prior to the RFEI's issuance about using county parks for day camps. The department provided us with the following documents detailing its correspondence with Oasis:

- A memorandum from Oasis to the Commissioner, dated January 27, 2003, requesting to use specific facilities at three sites: Christopher Morley, Hempstead Harbor and Whitney Pond Parks,

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headquartered in Suffolk, holds a permit first issued in 1984 for the use of horse trails and corrals in Manetto Hills Park for \$1800 a year—a fee that "has apparently remained unchanged since 1984."

<sup>2</sup> See also *New York Times*, Sunday April 13, 2003, "Improved Parks, Not Privatized," an op-ed piece by Commissioner Banks in which she describes the anticipated revenue enhancement plan.

<sup>3</sup> The department, however, could not provide us with a list of those parties.

- A letter from the department to Oasis dated March 13, 2003, establishing a value of \$14,328 for the activities at the three sites, and proposing a discounted fee of \$9,000 based on 75 campers participating in the program,
- Correspondence from Oasis dated March 14, 2003, suggesting a compromise fee of \$6,000 for between 40-50 campers (which was accepted by the department),
- A projected revenue and expense statement based on 60 campers submitted by Oasis showing a net loss of \$75,100 in the first year of operation. (In the revenue/expense projections, Oasis proposed reserving 10% of its gross revenue as a fee to the county in subsequent years.)

Oasis was granted a permit to operate in Christopher Morley for the period June 30 through August 22, 2003, for a maximum of 150 campers in return for a fee of \$4,000, payable before the first day of camp (The other two sites were permitted for \$1,000 each, but were not used). Oasis, however, did not pay anything to the department until September 2003, when the department received a check from Oasis for \$6,000. The department did not perform a formal evaluation of Oasis's 2003 Nassau parks program and its compliance with the permit terms and conditions, although the park director at Morley did submit a letter to the Commissioner complimenting the manner in which the Oasis program operated.<sup>4</sup>

In 2004, the department issued undated permits for the summer season to Oasis to operate camps at Christopher Morley, North Woodmere and Cantiague Parks and to Woodmont to operate a camp in Wantagh Park. (The department informed us that the Oasis permits were signed on February 25, 2004). We found that Woodmont agreed to pay a fee of \$73,125 for a maximum of 200 campers; Oasis agreed to pay a total of \$47,500 for a maximum of 400 campers. Neither permit provides for additional payments based on gross revenue. Woodmont's business plan states that it reserves 20% of its gross revenue for facility use. Oasis is to pay the county approximately 5% of its potential gross revenue, while Woodmont is to pay approximately 13%<sup>5</sup>. Yet, as noted previously, Oasis's revenue and expense projections from 2003 proposed payment of 10% of its 2004 gross revenue, based on a maximum enrollment of 125 campers. The department did not document why a reduced amount was accepted for 2004. The permits require Woodmont to provide its own electrical generation; the county will provide electricity to Oasis, the cost of which, according to a permit term, is to be reimbursed by Oasis. The department informed us that this permit term is "boilerplate," and is unenforceable because it does not have any billing mechanism, such as sub-metering, for calculating utility use separately.

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<sup>4</sup> The department also provided us with a number of letters from parents of campers attesting to the professionalism of Oasis counselors and staff, and to the quality of Oasis programs. We note that we are unaware of whether the department historically formally evaluated the performance of the other camp programs operating in county parks.

<sup>5</sup> We determined Oasis's potential gross revenue by: multiplying 400 campers times \$2,500 (Oasis per camper charge for the season) for a total of \$1 million potential gross revenue and calculating that \$47,500 (the amount Oasis is to pay the county) is 4.75% of \$1 million. For Woodmont, we multiplied 200 campers times \$2,760 (Woodmont's per camper charge for the season) for a total of \$552,000 potential gross revenue and calculating that \$73,125 (the amount Woodmont is to pay the county) is 13.2% of \$552,000

As part of our review, we examined a letter the department sent on November 24, 2003, to 87 county health department permitted camp operators inviting the camps to a December 2003 meeting “to gather information from [the camps] about [their] operation.” We contacted four of the nine camp operator participants who attended the meeting in response to the letter. Three of the four camp participants contacted stated that they have their own sites and are not looking for additional sites at this time. The fourth, a not-for-profit organization, is trying to secure a permit for this summer (2004). We understand that the department is in the process of finalizing a permit for this organization.

Although we have concerns about the process by which the department established the terms and conditions—and in particular, the fees-- of the Use and Occupancy Permits for Oasis and Woodmont, we note that the process appears to have been no worse than previous “processes” for permitting camp uses in the parks. The county does not have written policies and procedures in place for entering into concession-type revenue contracts, or “use and occupancy” or “special recreation use” permits. The Board of Supervisors authorized the Parks Commissioner to issue permits within his or her discretion,<sup>6</sup> and the Legislature historically approves the department’s fee schedule for many park uses,<sup>7</sup> most recently in May, 2004.

At times, the department charged day camps permit fees by multiplying the number of days of use times a use fee (*see, for example*, Girl Scouts and Science Adventures). The fees for Oasis and Woodmont, however, appear to have been negotiated. In either case, the county is entitled to receive “fair consideration”<sup>8</sup> for the use of its parkland.

We contacted Suffolk and Westchester Counties, and New York City concerning their policies with regard to day camps with operations in their parks. None of these jurisdictions has agreements similar to Nassau’s with private providers of day camp services, although both Westchester and New York City operate specialty day camps in the summer.<sup>9</sup> All three stated that they would issue Requests for Proposals prior to entering into concession agreements.

Because the county lacks policies and procedures for entering into revenue agreements or concession permits/contracts and did not follow a formal request for proposals or other similar process to contract with the camp operators, it left itself open to charges—

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<sup>6</sup> Nassau County, N.Y., Ord. No 265-1970 § 4 (d) (2) (July 13, 1970)

<sup>7</sup> The first public park in Nassau County was designated by the Board of Supervisors in 1944. Nassau County, N.Y. Ord No 76-1944 (Dec, 4, 1944). The first rules and regulation for Nassau County’s park, including the fees for admission were fixed by ordinance in 1947. Nassau County, N.Y. Ord. No 81-1947 (Dec. 15, 1947). Since then, the fees for admission and other uses of all of Nassau County’s parks have been fixed by ordinance adopted by the Board of Supervisors, and its successor, the Legislature. *See e.g.* Nassau County, N.Y., Ord. No. 185-1986 (Apr. 7, 1986)

<sup>8</sup> Op. N.Y. State Compt. No. 92-5 (Feb, 25, 1992)

<sup>9</sup> According to Oasis’s website, its programs in New York City use city parks for various activities but are headquartered outside of the parks. *See* <http://www.oasischildren.com/summer.html>.

whether or not meritorious-- that it acted arbitrarily and did not receive fair consideration for the use of county parkland.

Recommendations:

To ensure that revenue-producing agreements to use county parkland for camps are awarded equitably, that the county receives reasonable revenue for parkland use, and that camp operators are in compliance with the terms and conditions of their agreements to operate in the parks, the department should:

1. Award agreements to operate camps in county parks pursuant to a request for proposals or other similar process.
2. Document outreach efforts, and clearly describe the programs it is seeking when it issues RFEIs, RFPs, etc. for revenue-generating programs to operate in county parks. (While we commend the department's outreach efforts in 2003 and 2004, the RFEI was apparently not widely circulated beyond the county's website, and the November 2003 letter about potential park camp programs was not specific about when the department expected these camp programs to begin, and the scope of the camp programs the department was seeking to have operated in the parks.)
3. Document analyses performed to support decisions to enter into revenue-producing agreements for the use of parkland, and to support conclusions that fees charged in agreements provide the county with "fair consideration."
4. Evaluate the feasibility of requiring for-profit operators of camps in county parkland to pay fees based on a percentage of gross revenue.
5. Monitor camp operators to ensure that they comply with the terms and conditions of their agreements and that all required fees are paid in accordance with the agreements.
6. Ensure that mechanisms are in place to monitor reimbursable costs, such as utilities, and ensure that they are billed to camp operators. If mechanisms are not in place, remove "boilerplate" clauses in agreements that refer to unenforceable reimbursement requirements and ensure that the fees paid by camp operators are adequate to include such costs.

C: Elizabeth Botwin, Chief Deputy County Attorney  
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