TO: Chair and Members  
Audit and Administration Committee  
WARD(S) AFFECTED: CITY WIDE

<table>
<thead>
<tr>
<th>COMMITTEE DATE: February 3, 2010</th>
</tr>
</thead>
</table>

SUBJECT/REPORT NO:  
Follow Up of Audit Report 2007-09 - Administration of Outdoor Boulevard Cafés, Temporary Encumbrances, Banners and Permanent Road Closures (AUD10001) (City Wide)

| SUBMITTED BY: Ann Pekaruk  
City Manager's Office |
| PREPARED BY: Ann Pekaruk 905-546-2424 x4469 |

SIGNATURE:

**RECOMMENDATION:**

That Report AUD10001 respecting the follow up of Audit Report 2007-09, Administration of Outdoor Boulevard Cafés, Temporary Encumbrances, Banners and Permanent Road Closures, be received.

**EXECUTIVE SUMMARY**

Audit Report 2007-09, Administration of Outdoor Boulevard Cafés, Temporary Encumbrances, Banners and Permanent Road Closures, was originally issued in March, 2008 and management action plans with implementation timelines were included in the Report. In August, 2009, Internal Audit conducted a follow up exercise to determine that appropriate and timely actions had been taken. Regarding the implementation of the nine (9) recommendations made in the original Report and Addendum, three (3) have been completed, two (2) are in progress, one (1) alternative has been implemented and three (3) are incomplete.

*Alternatives for Consideration – Not Applicable*
Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork

FINANCIAL / STAFFING / LEGAL IMPLICATIONS (for Recommendation(s) only)

Financial: None.
Staffing: None.
Legal: None.

HISTORICAL BACKGROUND (Chronology of events)

Audit Report 2007-09, Administration of Outdoor Boulevard Cafés, Temporary Encumbrances, Banners and Permanent Road Closures, was originally issued in March, 2008. The report indicated nine (9) recommendations identifying areas for improvement with respect to file documentation, payment processing and administrative controls.

It is normal practice for Internal Audit to conduct follow up reviews within a 12-18 month period following the issuance of the original report in order to determine whether action plans committed to by department management have been implemented. In August, 2009, Internal Audit followed up the report to confirm appropriate and timely actions had been taken.

POLICY IMPLICATIONS

None.

RELEVANT CONSULTATION

The results of the follow up were provided to management and staff responsible for the administration of outdoor boulevard cafés, temporary encumbrances, banners and permanent road closures in the Public Works Department.

ANALYSIS / RATIONALE FOR RECOMMENDATION

(include Performance Measurement/Benchmarking Data, if applicable)

The report attached as Appendix “A” to Report AUD10001 contains the first three columns as originally reported in Audit Report 2007-09 along with an added fourth column indicating Internal Audit’s follow up comments. Two (2) items in the Addendum have also been followed up with the appropriate detail provided.
Three (3) of the nine (9) recommendations have been implemented. They are: the establishment of clear management reporting lines to ensure adequate supervision and oversight for the position administering the agreements; payments for application fees received processed weekly with proof of payment retained in the files; and agreements updated to reference the appropriate sections of the current Municipal Act.

Two (2) recommendations are in progress. The provision of a proper, secure and organized filing system has been implemented but a document checklist relating to the applications is still under development. The policies relating to road/alley closures and outdoor patio applications are expected to be completed and documented by the end of 2009.

An alternative for the updating of current additions to the database has been implemented. Historical records as well as current data are expected to be transferred to the Hansen system in mid 2010.

Three (3) recommendations are incomplete as follows: no retention of evidence of proper insurance coverage as required in the agreements; no quarterly reconciliations of applications received and funds deposited; and no decision on the need for or enforcement of temporary encumbrances.

**ALTERNATIVES FOR CONSIDERATION:**

(include Financial, Staffing, Legal and Policy Implications and pros and cons for each alternative)

Not applicable.

**CORPORATE STRATEGIC PLAN** (Linkage to Desired End Results)


**Financial Sustainability**

* Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner.

**APPENDICES / SCHEDULES**

Appendix “A” to Report CM10001

ap:dt
## Observations of Existing System

### 1. Insurance

One of the conditions placed on the approval of a patio application is that the applicant show proof of $5,000,000 public liability insurance naming the City as an added insured and holding the City harmless from all actions, causes of action, interest, claims, demands, damages, expenses and losses. The information sheet provided to applicants at the start of the application process states that should approval be granted, the applicant is to provide a certificate of liability insurance in the amount of $5,000,000 to the Operations and Maintenance Division. The applicant is to deliver to the City an endorsement from their commercial general liability insurance policy confirming that the City has been named as an additional insured.

None of the three (3) approved patio files reviewed had evidence of this documentation in the file.

One of the conditions of a banner installation is that applicants shall provide proof of liability and property damage insurance of at least $2,000,000 naming the City of Hamilton as an added insured. The proof is to be forwarded to the Public Works department.

A review of file applications resulted in very few submitted proofs of required insurance coverage.

### Recommendation for Strengthening System

That all files include documentary evidence of insurance coverage to the limits noted in the applications as proof that the City has been added as an insured party for Outdoor Boulevard Café and Banner agreements.

### Management Action Plan

Agreed. An agreement management plan is currently being developed with the assistance of Legal Services to address the deficiencies. Expected completion (this component) 1st quarter 2008.

### Follow Up

Not Completed. In a randomly selected sample of patio applications and banner installations, there was no evidence of insurance documentation.
PUBLIC WORKS – ADMINISTRATION OF OUTDOOR BOULEVARD CAFÉS, TEMPORARY ENCUMBRANCES, BANNERS AND PERMANENT ROAD CLOSURES FOLLOW UP – AUGUST 2009

<table>
<thead>
<tr>
<th>#</th>
<th>OBSERVATIONS OF EXISTING SYSTEM</th>
<th>RECOMMENDATION FOR STRENGTHENING SYSTEM</th>
<th>MANAGEMENT ACTION PLAN</th>
<th>FOLLOW UP (August 2009)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td><strong>Filing</strong> Application files should be maintained to serve as back up for the recommendation of staff to the Public Works Committee for approval of Outdoor Boulevard Cafés and Permanent Road Closures. Most files reviewed lacked complete information that would provide for more accurate representations of the status and processing of the applications. Lack of complete file documentation compromises the audit trail for applications processed. Further, files are currently not adequately secured. They are stored on the desk of the Road Programming Clerk (RPC) who has an open work station in the Traffic Engineering and Operations division. Non-secure storage of files and especially cheques leaves information and funds open to loss, inappropriate access or misappropriation.</td>
<td>That a proper, secure and organized filing system be maintained. Individual application files should include adequate documentation and details concerning the status of the application.</td>
<td>Agreement. A filing system will be developed and files will be stored in centralized cabinets. Cheques will be secured in a locked area (this component 1st quarter 2008). In regard to file documentation, an agreement management plan is currently being developed with the assistance of Legal Services to address the deficiencies. Expected completion (this component) 4th quarter 2008.</td>
<td>In Progress. Documents are secured and filed in a cabinet according to the type of request: encroachments, alley closures, road closures, and patios and then alphabetically by street name. A document checklist is under development for alley and road closures and patio applications. Status of the files is tracked via an Excel spreadsheet maintained by the Road Programming Technician (RPT).</td>
</tr>
<tr>
<td>3.</td>
<td><strong>Policies and Procedures</strong> There are no formal written policies and procedures detailing the steps and controls that should be performed when administering agreements for Boulevard Cafés, Banners and Permanent Road Closures. Lack of written procedures makes it difficult for an uninterrupted flow of activity in the absence of the Road Programming Clerk (RPC). There is currently no back up for this position.</td>
<td>That the policies and procedures governing the administration of agreements for Boulevard Cafés, Banners and Permanent Road Closures be formally documented.</td>
<td>Agreement. Available procedures and related customer materials will be written and distributed or developed where missing. Expected completion 4th quarter 2008. An annual review of the procedures will take place thereafter, as required. An agreement management plan is currently being developed with the assistance of Legal Services to address the deficiencies (see response to #1).</td>
<td>In Progress. Formal procedures related to road/alley closures and outdoor patio application processing have been completed with the assistance of the Legal Services Division. The working group (comprised of Legal and Operations staff) are currently developing formal policies for road and alley closures and outdoor patios with a target completion date of 4th quarter 2009.</td>
</tr>
</tbody>
</table>
## Observations of Existing System

### Management Oversight
- The position that administers the items audited in this review (Road Programming Clerk) is formally listed on the organizational chart under Operations and Maintenance – Business Services. However, in practice, the staff person is situated in Traffic Operations under a supervisor new to this area and unfamiliar with the work carried out by the Clerk.

This has resulted in the lack of clear reporting lines and accountability.

**Recommendation for Strengthening System**
- That clear management reporting lines be established to ensure adequate supervision and oversight.

**Management Action Plan**
- Agreed. This position is scheduled to be transferred to the Business Services Section from the Traffic Engineering and Operations Section by the end of the 1st quarter 2008. All parties, including the RPC, have been aware of the actual reporting lines so do not agree that this was the cause of inadequate supervision or oversight.

**Follow Up (August 2009)**
- Completed. The position (RPT) has been transferred to the Operations and Maintenance Division – Business Services section. Supervision is provided by the Supervisor of Operations Administration.

### Payments Received and Reconciliations
- Payments for application fees are often directly forwarded to the RPC who then forwards them to Public Works Reception (PWR) for POS processing and deposit. However, it was noted that these payments are not always forwarded to PWR on a timely basis resulting in delays in the deposit and receipting of payments. These cheques are kept in a tray on the RPC’s desk and are not secured overnight.

Delays in forwarding cheques for deposit and the inadequate safeguarding of these payments prior to being forwarded to PWR for deposit increases the risk of misplacement, theft or misappropriation.

There being no formal reconciliation of the fees collected and deposited against the applications received only intensifies the potential risk of undeposited payments.

- That payments received be forwarded for deposit on a daily basis.
- That quarterly reconciliations of applications received to funds collected and deposited be performed. Any discrepancies should be investigated.

**Recommendation for Strengthening System**
- Agreed. Deposits will be made on a regular basis and secured when not deposited. A more efficient deposit process will be investigated by the division with assistance from Finance & Administration (F&A). Expected completion 2nd quarter 2008.

**Management Action Plan**
- Agreed. Quarterly reconciliations will be performed by F&A through information supplied by the division. Procedures will be developed and communicated by F&A. Expected completion 2nd quarter 2008. F&A will require a review of available documentation and records to assess the logistics.

**Follow Up (August 2009)**
- Completed. F&A now processes payments on a weekly basis and provides copies of receipts to the RPT to indicate proof of payment. These copies are retained with the application file. There was evidence of receipt copies included with the files sampled.

- Not Completed. With the exception of banner revenues, where an attempt has been made to perform a reconciliation, no quarterly reconciliations are performed of funds collected and deposited against applications received. No procedures have been developed by F&A.
<table>
<thead>
<tr>
<th>#</th>
<th>OBSERVATIONS OF EXISTING SYSTEM</th>
<th>RECOMMENDATION FOR STRENGTHENING SYSTEM</th>
<th>MANAGEMENT ACTION PLAN</th>
<th>FOLLOW UP (August 2009)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.</td>
<td><strong>Access Database</strong>&lt;br&gt;An Access database is available to store key information about each application/agreement. It is an effective way to inventory all agreements/applications, their status and pertinent historical data. However, the RPC has not maintained these records up-to-date and important information is missing for those records that have been input.&lt;br&gt;With no inventory listing and considering the poor state of the filing as noted in observation #2 above, there is no reliable record of applications/agreements.</td>
<td>That the database be brought up-to-date and maintained with timely entries for new applications and approved agreements.</td>
<td>Agreed. Regarding new records, a database will be kept up to date from this point forward. The steps respecting the maintenance of agreement records will be developed as part of the agreement management plan currently being developed with the assistance of Legal Services to address the deficiencies. Expected completion (this component) 1st quarter 2008.&lt;br&gt;Regarding past records, this will need to be investigated in terms of feasibility, time and effort and will form part of the agreement management plan currently being developed with the assistance of Legal Services to address the deficiencies. Expected completion (this component) 4th quarter 2008.</td>
<td>Alternative Implemented. Road and alley closures and outdoor patio applications are currently tracked via an Excel spreadsheet.&lt;br&gt;Data (historical and current) stored in the database and on the spreadsheet referenced above will be transferred to the Hansen system by the 2nd quarter 2010 in order to increase the efficiency of tracking and reporting of active and completed files.</td>
</tr>
</tbody>
</table>
ADDENDUM

The following items were noted during the course of the audit. Although they do not present internal control deficiencies, they are indicated in this Addendum so management is aware of the issues and can address them as necessary.

References to the Municipal Act in Documentation

1. The Municipal Act was revised in 2007. Agreements currently on file, that are legally binding documents, still reference sections of previous Acts. For example, the patio agreements refer to section 308(3) of the Municipal Act, 1990. The Temporary Encumbrances agreements make reference to section 309(3) of the Municipal Act, 1980. These forms have not been updated with the proper references to the current Act.

   It is recommended:
   That all documents be revised with reference to the appropriate sections of the current Municipal Act (2007).

   Management Response:
   Agreed. Documentation will be updated by the 1st quarter 2008 to delete references to the old Municipal Act.

   Follow Up Comment:
   Completed. Agreements have been updated to reference the current Municipal Act.

Temporary Encumbrances

2. Temporary encumbrances are moveable objects (i.e. pop machines, fruit stands) that are placed against a building on City property. A policy approved by Regional Council back in 1982 required agreements for these encumbrances. However, there are no signed records on file as such agreements have never been requested or issued. By-law enforcement has been used to handle any complaints received for such encumbrances.

   Having no signed agreement in place may expose the City to liability issues.

   It is recommended:
   That a decision be made on whether agreements for temporary encumbrances are necessary and how they will be enforced.

   Management Response:
   Agreed. Temporary encumbrance matters will be included in the policies and procedures that are currently being developed to form part of the agreement management plan currently being prepared with the assistance of Legal Services to address the deficiencies. Expected completion 4th quarter 2008.

   Follow Up Comment:
   Not Completed. The working group (comprised of Legal and Operations staff) currently developing policies for encroachments, road and alley closures and outdoor patios will also investigate temporary encumbrance matters. Revised expected completion date is 4th quarter 2009.