To: Hon. Leah Golby, Chair, Ad-Hoc Committee on City Pesticide Use

From: Leif Engstrom, Chief City Auditor

Date: June 28, 2010

Re: Use of Pesticides in City Operations

At your committee’s request and pursuant to the Office of Audit and Control’s (OAC) duties specified in the City Charter, my office has investigated the scale and extent of pesticide use in City operations. OAC also examined whether the City’s pesticide use violated City or State laws.

OAC looks forward to working with your committee and as you come to conclusions on how the City’s pesticide use should be regulated, we will be glad to recommended controls to effectively encourage compliance.

Documents Reviewed:

1. Albany City Code Chapter 259 on Pesticides. (Attachment 1)
2. The 6/7/10 Mayoral Memo regarding pesticide use (Attachment 3)
3. 2009 Invoices from vendors identified in the AS 400 computer system as providing fertilizer or pesticides and vendors identified by City staff in charge of purchasing pesticides or pesticide services. (Attachment 4) The vendors included the following:
   - LESCO Inc/John Deere
   - Turflinks
   - Harrell’s Professional Fertilizer Solutions
   - Winfield Solutions
   - Erlich/Rentokil
   - Matrix Turf Solutions
   - TruGreen
   - Old Saratoga Associates
   - Andre and Son, Inc.
4. The NYS Pesticide Product, Ingredient, and Manufacturer System (PIMS) for each pesticide identified.
5. 2009 Applicator/Technician Pesticide Annual Report to NYSDEC for the City of Albany DGS. (Attachment 5)
6. A summary of the 2009 pesticide use at the golf course. (Attachment 6)
7. DGS’s 2009 and 2010 NYSDEC Permits to Use Chemicals for the Control or Elimination of Aquatic Vegetation at Buckingham Pond and Washington Lake. (Attachment 7)
8. Bethlehem Town Code Chapter 87 on Pesticides. (Attachment 8)

Interviews/Meetings:
1. 5/26/10- Call to TruGreen regarding 5/20/10 pesticide application in Ridgefield Park.
2. 5/27/10- Call to John D’Antonio, Recreation Commissioner, regarding 5/20/10 pesticide application in Ridgefield Park and other Recreation Department pesticide use.
3. 6/3/10- Meeting with Hon. Michael O’Brien and Scott Gallup, the groundskeeper at the golf course. Topic was pesticide use at the golf course and elsewhere in the City.
4. 6/4/10- Call to Vince DiTonno inquiring as to whether there has been pesticide use in Washington Park.
5. 6/4/10- Call to Tom Kelley as to whether there has been pesticide use in any of the parks maintained by DGS.

Background: On 5/26/10, OAC received an email from Erin Tobin regarding her experiences on 5/20/10 in Ridgefield Park where there was a pesticide application while she was playing with her young children. This brought to light the City’s ordinance regarding City use of pesticides on its property. OAC called TruGreen, the identified vendor, and was told what chemicals were applied to the Park on 5/20/10. The application was in clear violation of the City Code Chapter 259 as is detailed in the 5/27/10 OAC Management Comment Memo (Attachment 2).

In subsequent conversations with John D’Antonio, he expressed a lack of knowledge of Chapter 259, a commitment to future enforcement of the law within his department, a commitment to eliminate the pesticide program at Ridgefield Park, and dismay at the circumstances under which the 5/20/10 application occurred.

On 6/7/10, the Mayor issued a memo to department heads instituting new controls on the purchase and use of pesticides to encourage better compliance with City Code. (Attachment 3)

Report: The investigation found no violations of State pesticide laws, but there were significant and long-standing violations of the City Code. During the investigation the City staff was very forthcoming with information on City pesticide use. They
acknowledged that the practices did not comply with the procedures laid out in Chapter 259 and expressed commitment to coming into compliance.

The information in Attachments 4-7 make it clear that pesticides of every EPA Category and NYS Restricted Use classification were used by or on behalf of the City. Those pesticides include EPA Category 1 pesticides, which are precluded from City use in Chapter 259 with the exception of a threat to human health. Additionally, use of Category 2, 3, and NYS Restricted Use pesticides is not allowed absent a pesticide reduction plan submitted to the Taskforce on Water Resources (currently not functioning) and a committee of the Common Council. No such plans have been submitted in recent memory of the chair of that committee or the City Clerk. The Recreation Department and DGS staff have confirmed that there are no current pesticide reduction plans.

It appears that the Taskforce on Water Resources did not complete its charge to assess the feasibility of eliminating the use of EPA Category 3 pesticides by the City, though the report could yet come to light. The Taskforce is not currently functioning and pesticide reduction plans have not recently been produced by the departments. The lack of a functioning Taskforce may well be at the root of the lack of compliance with the City Code.

OAC has determined that in the past year, pesticides were used in violation of City Code at the following locations:

- The Capital Hills Golf Course
- Ridgefield Park
- Bleeker Stadium
- Washington Park Lake (aquatic weed control)
- Buckingham Pond (aquatic weed control)
- 1 Conners Blvd (trash haulers)
- Torino Soccer Fields at Frisbie & McCarty Ave

Discussions with DGS and Recreation staff indicated that there is no pesticide use at parks other than those listed above. Scott Gallup noted during the 6/3/10 meeting that State law only allows licensed applicators to be paid to apply pesticides. Since his golf course staff are the only licensed applicators working for the City, any pesticide application by the City would have to be done by his golf course staff or by a contractor. There is no indication that State law is being violated by the City and there is positive affirmation from different staff on different occasions that it is not.

As can be seen in Attachments 4-6, the vast majority of pesticides used by the City are applied at the golf course by the grounds crew. During the 6/3/10 meeting, Scott Gallup stated that pesticide applications stay at least 200ft from the Normanskill and that approximately 100 bluebirds, which are insect eaters, are fledged each year on the golf course.
In addition the applications at the golf course, the City employs three contractors to apply pesticides to its property. They are as follows:

- **TruGreen** is employed by the Recreation Department to apply fertilizer and pesticides to their ball fields at Ridgefield Park, Bleeker Stadium, and the fields on Frisbie Ave. TruGreen reported that they used Barricade 4FL Herbicide (EPA Cat. 3, NYS Restricted) and Trupower 3 Selective Herbicide (EPA Cat. 1) on Ridgefield Park on 5/20/10. Their practice has been to make two applications per year to the fields. *Since TruGreen’s 2009 invoices did not include a list of chemicals used and TruGreen had confirmed that they were in violation of City Code, OAC did not inquire about the chemicals used in 2009.*

- **Old Saratoga Associates** contracts with DGS to apply chemical aquatic weed control to the Washington Park Lake and Buckingham Pond. They use Sonar (Cat. 3, NYS Restricted), Copper Sulfate (NYS Restricted), and Aquastar (Cat. 3, NYS Restricted) and make two application per year.

- **Erlich/Rentokil** contracts with DGS to inspect buildings and trash haulers for rodent and insect infestations and to address them when found. Erlich often uses pesticides contained in baits, which is an exception allowed by Chapter 259. Erlich does apply Tempo SC Ultra (EPA Cat. 3, NYS Restricted) and Suspend SC (EPA Cat. 3, NYS Restricted) to treat infestations in the trash haulers.

The totals from the 2009 paid invoices (Attachment 4) show that the City’s expenditures on pesticides and contract application approaches $50,000 annually. *While OAC believes that the 2009 invoice list is complete or close to complete, it is nearly impossible to be sure because of the limited purchase identifiers in the AS400 computer system.*

**Current Status:** On 6/7/10, the Mayor issued a memo (Attachment 3) to department heads instituting new controls on the purchase and use of pesticides to encourage better compliance with City Code. Since early June, only Category 3 or higher pesticides are being applied to the Golf Course.

**Comparison with Bethlehem:** OAC also reviewed the Town of Bethlehem’s pesticide law (Attachment 8) in comparison to Albany’s (Attachment 1). Here are some of the findings:

- Similar to Albany’s Code, Bethlehem phased in enforcement of their law based on EPA’s Category system.
- While Albany’s Code essentially bans the use of Category 1 pesticides and allows for use of Categories 2 and 3 under a pesticide reduction plan, Bethlehem applies the same standards to all three Categories and provides tougher specific standards for their use.
- Albany’s code has no exceptions for specific facilities while Bethlehem exempts municipal golf courses from their regulation.
**Legislative Concern:** In a non-scientific review of the pesticide labels, it appears that there are EPA Category 3 pesticides that may be more harmful to the environment than some of the Category 1 pesticides. Our non-expert understanding of the EPA Toxicity Category system is that it is largely based on the ramifications of significant direct human exposure to the chemicals. OAC recommends that the Common Council consult with knowledgeable staff in the City and at NYSDEC to determine if the Code’s treatment of the Categories should be adjusted.