



October 17, 2017

**TO:** Park Board Chair and Commissioners  
**FROM:** General Manager - Vancouver Board of Parks and Recreation  
**SUBJECT:** CCA JOA - Signing Update & Next Steps

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## RECOMMENDATION

THAT the Vancouver Park Board direct staff to continue to work with the Community Centre Associations towards signature of the form of Joint Operating Agreement, approved on April 10, 2017, including any Appendices changes, with the goal of implementing a new Joint Operating Agreement on January 1, 2018.

## OVERVIEW

The purpose of this Report is to provide an update on the Community Centre Association Joint Operating Agreement following the September 30, 2017, signing deadline.

## BOARD AUTHORITY

The Vancouver Park Board has exclusive jurisdiction and control over designated public parks in the City of Vancouver and is responsible for establishing policy objectives as they pertain to parks and recreational facilities. Policy objectives are developed to ensure good governance of park operations and to benefit all Vancouver residents and, in some instances where appropriate, sub-groups of the public who may have particular needs through the delivery of recreational, social, cultural, educational, and other services.

The new Joint Operating Agreement (JOA) between the Park Board and Community Centre Associations (CCAs) supports the four foundational principles for the Community Centre Network established by the Park Board at all community centres:

1. **Equity among Community Centres:** All Vancouver citizens have access to a core set of programs that lead to healthy living and ultimately, to healthy communities.
2. **Access to a Network of Community Centres:** System that allows for a universal membership or other system to be used for all rinks, pools, fitness centres and core programs across all community centres.
3. **Access for all Citizens:** Single policy and process that respects confidentiality to ensure all residents have access to basic recreation programs and services regardless of income.
4. **Operational Sustainability and Accountability:** An operating relationship for community centres that is sustainable, accountable and transparent.

## BACKGROUND

In an [April 10, 2017 Board decision](#), the General Manager of the Park Board was authorized to offer each CCA currently operating a community centre jointly with the Park Board to enter into a new JOA, subject to the General Manager of the Park Board first being satisfied:

1. The CCA is in compliance with its financial disclosure obligations under the current Joint Operating Agreement;
2. The CCA is not in arrears of any payments due from the CCA to the Park Board; and
3. Any outstanding litigation between a CCA and the Park Board has been brought to an end through:
  - a. At the option of the Park Board, a Consent Dismissal Order being entered with the Court dismissing the outstanding litigation or a Notice of Discontinuance being filed with the Court discontinuing the action against the Park Board; and
  - b. A Mutual Release being executed by the Park Board and the CCA releasing all claims.

On April 28, 2017, JOAs were offered to nineteen of twenty CCAs. Along with their JOA, the CCAs with financial disclosure obligations, arrears, or outstanding litigation with the Park Board were notified of the conditions of signing. As of the date of this report, Riley Park Hillcrest Community Association has not yet been offered a JOA.

### JOA and JOA Appendices

The form of JOA approved by the Park Board on April 10, 2017 (the “body” of the JOA), is common to all CCAs. The CCAs received a JOA for signature that included a common “body” and a set of Appendices unique to their centre. The purpose of the Appendices is to describe current practices unique to each community centre and further clarify items in the body of the JOA as they apply to an individual CCA.

### Outstanding CCA Concerns

In response to a letter that twelve (12) CCAs sent to the Park Board Commissioners on September 12, 2017, citing outstanding concerns with the JOA, the Director of Recreation proposed six additions to the Appendices. These six additions to the Appendices were optional for all CCAs, including those who had already signed the JOA.

The six additions intended to address outstanding concerns raised by some CCAs, as follows:

1. **“Park Board infringement on the autonomy of the CCAs”:** Some CCAs expressed concern that Section 4.2(c) limits the CCAs ability to be involved in the community in ways outside of the scope of the JOA.

**Optional change:** Add to the Appendices “The Park Board recognizes that the Association is involved in its community in many ways, and confirms that Section 4.2(c) of the Agreement does not limit the right or ability of the Association to carry out other activities in addition to the provision of Programming and other services within the Community Centre Network.”

2. **“Use of Retained Earnings”**: Some CCAs expressed concern that restrictions on retained earnings would prevent uses of revenue that would support the CCAs’ purposes as set out in their constitutions.

**Optional change:** Add a list of specifics for a CCA’s current use of Retained Earnings that are for the benefit of the community. Add to the Appendices “The Park Board acknowledges that the Association currently uses Retained Earnings to pay for \_\_\_\_\_, which is of benefit to the community. The Park Board supports this initiative by the Association and agrees that it is an appropriate use for Retained Earnings.”

3. **“Term and renewal”**: Some CCAs requested a more specific commitment for fulsome, good faith discussions at the end of the Term.

**Optional change:** Add to the Appendices “The Park Board and the Association agree that, during the last year of the Term, the System-wide Planning Sessions will be used by the parties to discuss the ongoing relationship of the parties after the Term and what changes may be required to this Agreement prior to the parties entering into a new joint operating agreement for a new term, should both parties wish to continue joint operation of the Jointly Operated Facilities after such discussions. If the parties consider it prudent, they may schedule additional sessions in addition to the System-wide Planning Sessions to ensure fulsome good faith discussions about the continuing relationship of the parties after the Term.”

4. **“Ability of the Park Board to terminate the JOA”**: Some CCAs expressed concern that the 90-day notice period and 60-day cure period are too short to allow for a proper remedy of a material breach by a CCA. Furthermore, the proposed JOA allows the Park Board to unilaterally determine whether a CCA is “continually and diligently” working to resolve the breach.

**Optional change:** Add to the Appendices “The Park Board confirms that the termination provisions in Section 21.1 apply only in the case of a sustained, material, un-remedied breach of the Agreement. If the Association disagrees whether or not a breach meets these criteria, they may invoke the dispute resolution mechanism set out in Section 18.1 of the Agreement. The Park Board further confirms that the Association has a cure period of 60 days (as more specifically set out in Section 21.1) to remedy such breach (except in the case of emergency) and that if more than 60 days is required to remedy the breach (using reasonable resources and acting diligently), then the Association will not be considered to be in breach after 60 days provided the Association is making reasonable and diligent efforts to resolve the breach in a timely manner (as more specifically set out in Section 21.1). For additional clarity, the Park Board confirms that “reasonable and diligent efforts” must be objectively reasonable and it is not in the sole discretion of the Park Board whether efforts to remedy a breach are “reasonable and diligent”. If the parties disagree with whether efforts have been reasonable and diligent, either party may invoke the dispute resolution mechanism set out in Section 18.1.”

5. **“Contradictions between JOA and Appendices”**: Some CCAs were concerned with how potential differences between the JOA and the Appendices would be handled if there were a contradiction. Additionally, concern was expressed about how the Appendices have equal force to the JOA when the Park Board said that CCAs can sign the JOA and finish the Appendices later.

**Optional change:** Add to the Appendices “This Appendix forms part of the Agreement, and in the event of any conflict between the terms of the Agreement and the terms of the Appendices, the terms of the Appendices will prevail.”

6. **“Beneficial changes to one CCA’s Appendices”**: Some CCAs expressed concern that any beneficial changes to one CCA’s Appendices would not apply to all CCA Appendices.

**Optional change:** Add to the Appendices “The Park Board agrees that if, prior to the Effective Date, the Park Board agrees to include wording in the appendices of another CCA that would have the effect of modifying or amending a section of the body of the Agreement, the Park Board agrees that it will provide such wording to the Association and such wording may be added to this Appendix C at the election of the Association. The foregoing will not apply in the case of modifications to the appendices of a CCA which are intended to address current practice or unique operations of a particular CCA.”

### JOA signing deadline

At the time of the JOA signing deadline, six CCAs signed the JOA: Douglas Park Community Association, Dunbar Community Centre Association, Marpole-Oakridge Community Association, Roundhouse Community Arts and Recreation Society, and Strathcona Community Centre Association. Five CCAs approved the JOA in principle, pending completion of their JOA Appendices, and seven more CCAs have requested more time to review the six proposed JOA Appendices additions.

### DISCUSSION

The CCAs’ JOA signing status as communicated to the Director or Recreation is captured in Table 1 below.

Table 1: CCA JOA Signing Status

| CCA              | Current Status   |
|------------------|--|
| Marpole-Oakridge | Signed JOA.  |
| Douglas Park     | Signed JOA.  |
| Strathcona       | Signed JOA.  |
| Thunderbird      | Signed JOA.  |
| Roundhouse       | Signed JOA.  |
| Dunbar           | Signed JOA.  |
| False Creek      | Voted to approve terms of proposed JOA in principle, subject to completion and approval of Appendices. |

| CCA                   | Current Status  |
|-----------------------|---|
| Mount Pleasant        | Voted to approve terms of JOA subject to six issues in Sep 12 letter being satisfactorily addressed.<br>Need time to review Appendices with legal.  |
| Trout Lake            | Officially approved signing body of JOA, will sign pending approval of Appendices.  |
| West End/Coal Harbour | Approved in principal pending review of appendices with West End/Coal Harbour's legal counsel   |
| West Point Grey       | Voted to approve terms of proposed JOA in principle, subject to finalizing Appendices   |
| Champlain             | Wishes to continue relationship with Park Board and appreciates proposed changes and additions. Reviewing Appendices with legal.  |
| Hastings              | Will not sign the current document, but commit to continuing to work toward an acceptable JOA<br>Change in appendices language is substantial, thus need more time for legal review.<br>"Happy to continue to work on things and want to achieve a deal." |
| Kensington            | Reviewing Appendices.   |
| Kerrisdale            | Reviewing with legal new wording offered by Park Board to strengthen the Appendices.<br>Requires two weeks to frame an initial response.  |
| Killarney             | Change in appendices language is substantial, thus need more time for legal review.<br>"Happy to continue to work on things and want to achieve a deal."  |
| Kitsilano             | Encouraged by recent Appendices, request additional time to have Appendices reviewed.   |
| Renfrew               | Want to move towards signing, request additional time to have Appendices reviewed.  |
| Sunset                | Requested negotiations directly with Park Board and staff in October, 2016.   |

The seven CCAs who are not in litigation against the Park Board and have not signed the JOA continue under the current JOAs, dated approximately 1979 (with the exception of West End/Coal Harbour) until the options for proceeding with those CCAs are considered. Park Board staff are optimistic that a new JOA can be achieved with these CCAs; however, more time is required to finalize their Appendices.

Of the CCAs who have not signed the JOA, five have active litigation against the Park Board: Hastings, Kensington, Kerrisdale, Killarney and Sunset. A condition of the Park Board signing a new JOA with any of these five CCAs is for the existing litigation between the Park Board and the respective CCA to be brought to an end. For any of the five litigating CCAs who do not sign the JOA, the Park Board will seek legal advice on how to proceed with the active litigation; however, Park Board staff remain optimistic that a new JOA can be achieved with these CCAs.

On October 10, 2017, Park Board staff received correspondence from two CCAs including the legal opinion they received on the six Appendices additions. Park Board staff wish to continue working with the CCAs who have received a legal opinion to support their review of the Appendices. As these discussions progress, Park Board staff will keep the Park Board Commissioners informed of any status changes.

### **SUMMARY**

As of the September 30, 2017 deadline, six CCAs signed the JOA, five CCAs approved the JOA in principle subject to review and completion of the Appendices, and seven CCAs have asked for an extension to review the proposed Appendices changes. Park Board staff remain optimistic that a new Agreement can be achieved with the CCAs who have approved the JOA in principle or have asked for an extension to review the proposed Appendices changes.

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