



Community Centre Association Joint Operating Agreement Update (Report Reference)

Regular Park Board Meeting
September 18, 2017





Overview



To provide an update to Park Board Commissioners on the Community Centre Association Joint Operating Agreement.



Background



Desired foundational principles in place since 2008:

1. Equity Among Community Centres
2. Access to a Network of Community Centres
3. Access For All
4. Operational Sustainability and Accountability

Current Joint Operating Agreement Overview



- Joint Operating Agreements (JOA) describe roles and responsibilities of the Park Board and CCAs – most were last updated in 1979
- JOAs renew automatically every two years unless notice is given
- Current JOAs do not reflect recreation system, including human resource regulations and management
- Park Board has recognized the need to update the JOAs since 1990s

Joint Operating Agreement – Renewal Efforts



Date	Summary/Model	Result
1990s	Working group	No change
2001-2005	Task Force	No change
2005-2009	Negotiations with individual Associations	One CCA signed new JOA
2008	Park Board Core Services Review	No change
2012-2013	New Framework and Interim Agreement	12 CCAs negotiate 6 CCAs opt out
2013-2014	Ongoing negotiations/mediation	No change

“A New Way Forward” - Process



- April 2016, letter from Park Board Chair outlining “A New Way Forward”;
- One inclusive consultation process with open and transparent dialogue;
- 15 meetings over 7 months to produce the draft JOA in December 2016;
- Additional amendments proposed and approved by Park Board Commissioners on January 23 and March 6, 2017;
- 30 day period to review and consider outstanding legal issues.

“A New Way Forward” – Legal Review

- CCAs were requested to submit outstanding legal concerns in writing;
- Session was held on Saturday, March 25/17, to discuss concerns
- Park Board Staff and legal counsel reviewed, considered and proposed amendments to the JOA
- Session was held on Saturday, April 1/17, to discuss draft amendments



On April 10, 2017, Park Board approved the new CCA JOA:

Joint Operating Agreement form was approved, with modifications to be enacted to reflect the intent of 6 additional revisions as reflected in the [final amended motion](#) (*also see Appendix A*):

- Both Opt In and Opt Out free membership models supported (at CCA's discretion);
- Initial term increased to 10 years (from 7);
- Use of facility generated revenue clause broadened;
- Term “Surplus Revenue” changed to “Retained Earnings”
- Operations Fee contributions fixed at 2% for years 3-10, and definition revised.

General Manager authorized to offer each CCA a new JOA, subject to the following conditions:

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.

April 28, 2017 – New JOAs were offered to CCAs, including:

- Five (5) CCAs with active litigation:
 - Kensington, Killarney, Kerrisdale, Sunset, and Hastings

- Three (3) CCAs with payments in arrears:
 - Kensington, Kerrisdale and Sunset
 - Invoices sent May 17, 2017

One (1) CCA with outstanding financial disclosure obligations and arrears has not yet been offered a JOA

- Hillcrest

Since April 28, 2017:

- Focus on finalizing individual CCA JOA appendices
 - 5 appendices complete; 2 close to finalizing
- Over 30 meetings with CCA Presidents and Directors
- Regular communication to resolve outstanding issues and answer questions to prepare CCAs for signing deadline
 - 6 CCAs with approved Employment Practices Liability insurance
- Tone of meetings has been positive



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Overview of CCA Signing Status

Current CCA JOA Signing Status - Overview

CCA	Current Status
Marpole	Signed JOA
Douglas Park	Signed JOA
Strathcona	<ul style="list-style-type: none">- Unanimous vote of Board to approve JOA in principle- Finalizing Appendices
Thunderbird	<ul style="list-style-type: none">- Appendices close to finalizing- Submitted and approved insurance- Indicated concern with body of the JOA (Sep 12)
Roundhouse	<ul style="list-style-type: none">- Appendices close to finalizing- Meeting with membership Sep 27 to discuss JOA

Current CCA JOA Signing Status - Overview



CCA	Current Status
Dunbar	<ul style="list-style-type: none">- Appendices complete- Motion to approve JOA has been made- Meeting with membership Sep 27 to discuss JOA
Mt. Pleasant	<ul style="list-style-type: none">- Finalizing Appendices- Submitted and approved insurance- Meeting with membership Sep 26 to discuss JOA- Indicated concern with body of the JOA (Sep 12)
Kensington	<ul style="list-style-type: none">- Developing Letter of Understanding re: operation of childcare- Discussing outstanding arrears- Appendices updated, pending confirmation

Current CCA JOA Signing Status - Overview



CCA	Current Status
Trout Lake	<ul style="list-style-type: none">- Submitted and approved insurance- Appendices updated, pending confirmation- Indicated concern with body of the JOA (Sep 12)
Kitsilano	<ul style="list-style-type: none">- Appendices complete- Communicating with staff to resolve questions & outstanding issues- Holding community meeting Sep 14 on JOA- Indicated concern with body of the JOA (Sep 12)
False Creek	<ul style="list-style-type: none">- Communicating with staff to resolve outstanding issues- Finalizing Appendices- Indicated concern with body of the JOA (Sep 12)
West End/Coal Harbour	<ul style="list-style-type: none">- Submitted and approved insurance- Finalizing Appendices- Holding community meeting Sep 16 on JOA- Indicated concern with body of the JOA (Sep 12)

Current CCA JOA Signing Status - Overview



CCA	Current Status
West Point Grey	<ul style="list-style-type: none">- Finalizing Appendices- Communicating with staff to resolve questions & outstanding issues- Indicated concern with body of the JOA (Sep 12)
Champlain	<ul style="list-style-type: none">- Appendices complete- Communicating with staff to resolve questions & outstanding issues- Indicated concern with body of the JOA (Sep 12)
Renfrew	<ul style="list-style-type: none">- Finalizing Appendices- Indicated concern with body of the JOA (Sep 12)
Sunset	<ul style="list-style-type: none">- Met with Director and Rec Manager Jun 12 to discuss JOA

Current CCA JOA Signing Status - Overview



CCA	Current Status
Killarney	<ul style="list-style-type: none">- Indicated disagreement with body of the JOA- Sent Letter of Understanding re: Seniors Centre- Appendices updated, pending confirmation- Holding community meeting Sep 26 on JOA
Hastings	<ul style="list-style-type: none">- Indicated disagreement with body of the JOA- Appendices updated, pending confirmation- Holding community meeting Sep 20 on JOA
Kerrisdale	<ul style="list-style-type: none">- Need to resolve outstanding invoice- Indicated disagreement with body of the JOA- Appendices updated, pending confirmation- AGM vote on Sep 19 on JOA

CCA Outstanding Issues



- July 29, 2017 letter from three CCAs articulating six outstanding issues with body of JOA discussed below
- September 12, 2017 letter from twelve CCAs indicating concerns with body of JOA – not comfortable recommending adoption of current JOA to their Boards

“Infringement on the autonomy of the CCAs”

CCA Concern

- Section 4.2 Governance Defaults “lists wholly internal CCA issues and makes each a potential material breach”
- Section 6.1 “requires CCAs to adopt and comply with a number of specified internal policies” – it is “unnecessary for one contracting party to hold this level of oversight”
- *BC Societies Act* and *Income Tax Act* “sufficient for maintaining compliance with operating norms in the non-profit sector”

Park Board response

- 4.2 Governance Defaults added to address new *BC Societies Act*
- Language requires basic good governance practices and an acknowledgement of corporate policies as appropriate
- CCAs held to higher level of accountability than other independent societies. *BC Societies Act* as minimum threshold is not adequate.
- Good governance critical to ensuring that CCA’s exclusive use of space is for purposes that benefit the community

“Restrictions on use of retained earnings”

CCA Concern

- Section 14.3 (e) of JOA “seems to suggest that funds kept as an operating contingency may be spent differently”
- Restrictions on retained earnings – cannot be used “or otherwise in furtherance of the CCAs purposes as set out in its constitution” as with general revenue
- This section is “unreasonably restrictive”

Park Board response

- 5-year time period to spend funds no longer required
- Park Board Commissioners considered CCA feedback on use of revenue and altered provision in amendment to motion
 - Intentionally allowed broader scope for general revenue, but not for retained earnings in Section 14.3 (e)
- JOA requires a plan for reinvesting surplus revenue back into community centre system
- Plan must be updated and made public

“Ability to evict CCA from community centre”

CCA Concern

- Sections 20.1 and 20.3 “give the Park Board ability to arbitrarily oust the CCA”
- Park Board only needs to have “reasonable concerns” about CCA’s ability to manage space in “safe, professional and compliant manner” to evict CCA from community centre
- “Too much power to grant to the Park Board”
- Sections 20.1 and 20.3 “allow Park Board to remove new or renovated space” from scope of JOA if CCA has ever been in breach

Park Board response

- Language in JOA does not allow Park Board to “evict” CCAs arbitrarily
- In the case of expansion or new facility, allows the Park Board to ensure the capability of the organization matches the scope of the facility

“Ability of Park Board to Terminate JOA”

CCA Concern

- JOA “allows the Park Board to unilaterally determine whether CCA is ‘continually and diligently’ working to resolve” breach
- “90-day notice period and 60-day cure period are too short for a proper remedy of a material breach by a CCA”
- “Language is harsh and overreacting”

Park Board response

- If CCA disagrees they are in breach, they have access to dispute resolution
- 90 day written notice for sustained, material un-remedied breach of JOA and 60 days to remedy breach
- If more than 60 days required to remedy breach, CCA will not be considered in breach if using reasonable resources and acting diligently
- Accountability to the public requires CCA or Park Board to work continuously and diligently towards resolving a breach

CCA Concern

- They feel it is “Reasonable that in Section 3 at the end of the initial term both parties attempt to renegotiate another agreement in good faith”
- Want to add: “During any period of negotiations, the existing agreement shall remain in full force and effect until a new agreement is negotiated” to JOA

Park Board response

- Language in Section 3.3 of JOA commits the parties to working in good faith if both sides want to continue their working relationship
- We cannot agree to a JOA in perpetuity

“Mutual responsibility for service provision”

CCA Concern

- “Proposed JOA concentrates on internal operations of the CCAs”
- JOA “does not reflect that the Park Board has a legislated responsibility for provision of recreation programs and services to Vancouver residents”
- “Park Board can adopt policies that limit provision of programs at community centres”

Park Board response

- *Vancouver Charter* denotes fiduciary duty of Vancouver Park Board to offer parks and recreation services – outside of scope of agreement
- Whereas section of JOA acknowledges mutual interest of both parties to “work cooperatively to ensure successful and financially sustainable offering of programming and services from the facilities to improve community engagement and participation...”



Welcome To ਜੀ ਮਾਇਆ
KENSINGTON COMMUNITY CENTRE

Next Steps

- Deadline for CCAs to JOA – September 30, 2017
- All CCAs who have not signed by that date will be contacted to confirm their intent
- There will be a subsequent report to Park Board to summarize JOA signing outcomes
- New CCA JOA implementation – January 1, 2018

- Collaborative approach to discussions with CCAs
- Discussions about community centre operations have been healthy
- CCAs engaging positively with front-line staff and pleased with approach of recreation team

JOINT OPERATING AGREEMENT



Community Centre Associations

Vancouver Park Board

Thank you!



NOTICE OF SPECIAL GENERAL MEETING

TAKE NOTICE that the Dunbar Community Centre Association will hold a Special General Meeting at 7:30pm on Wednesday, September 27, 2017 at the Dunbar Community Centre, located at 4747 Dunbar Street in the City of Vancouver in the Province of British Columbia to conduct the following business:

1. Receive a presentation on a proposed Joint Operating Agreement between the Vancouver Board of Parks and Recreation and the Dunbar Community Centre Association to replace the existing Joint Operating Agreement dated February 14, 1979. The Board's recommendation is subject to satisfactory resolution of insurance, indemnification, constitutional and financial issues still being investigated and discussed.
2. BE IT RESOLVED BY SPECIAL RESOLUTION TO amend the By-laws of the Dunbar Community Centre Association as set out in Attachment A to this Notice.
3. BE IT RESOLVED BY ORDINARY RESOLUTION THAT the Dunbar Community Centre Association Board of Directors accept and sign the Joint Operating Agreement annexed to this Notice as Attachment B on behalf of the Dunbar Community Centre Association.

***Special resolutions are effective only if passed by a 2/3 majority vote**



The Vancouver Park Board approved the JOA form with modifications to reflect the intent of each of the following revisions;

1. Modify Clause 8, Association Membership, in support of an Opt Out or an Opt In model, at the Association's discretion, with such membership to be free of charge.
2. Modify Clause 3, Term of Agreement, to include: a) (3.1) - an initial term of (10 years) b) (3.2) – a renewal term of (5) years as well as various references to the “7 year term” to become “10 year term”;
3. Modify Clause 14.1 (c) paragraph one to insert “& purposes” as follows: *All Facility-Generated Revenue or other revenue generated through the use of the Jointly Operated Facilities, Common Spaces or with the assistance of the Park Board or Park Board Personnel that is received by the Association will be used by the Association to directly benefit the public through the provision of Programming and services at or from the Jointly Operated Facilities, the acquisition of equipment, minor capital and supplies used for the provision of such Programming and services, or for the payment of expenses incurred in respect of the Association's operations **and purposes** pursuant to this Agreement, unless otherwise agreed to by the Park Board;*

4. Modify the definition and Clause 14.3 (c) Surplus Revenue to amend terminology to Retained Earnings

Prior to the end of the first year of the Term, the Association will develop a plan to spend and/or to keep as operating contingency at the Association's discretion, its Retained Earnings and will update that plan on an annual basis to reflect amounts actually spent in the past year, use of funds, the current balance of Retained Earnings and any revised plans for future spending of the Retained Earnings. The Association will make its plan publically available and will post its plan and all updates on the Association's website.

The Association will use its best efforts to execute on its plan and shall make expenditures of Retained Earnings in accordance with the plan, as it is updated from time to time. Subject to the foregoing, the Association agrees that Retained Earnings may only be spent on physical improvements to or capital projects within the Community Centre Network or for the direct provision of Programming or services to the public at or from the Jointly Operated Facilities

The Association acknowledges and agrees that the buildings and Fixtures comprising the Entire Facility are and will continue to be owned by the City and Park Board, notwithstanding any contribution of funds (including Retained Earnings and grant revenue) by the Association;

5. Modify 14.5 (a) Operations Fee table to reflect 2% each year for Years 3-10;

6. Amend the definition of Operations Fee in Section 1 (dd) to state: "Operations Fee" means a fee paid by the CCAs to the Park Board to be used to increase equity and achieve Public Policy goals across the Community Centre Network.