

**REPORT TO PERFORMING ARTS FACILITIES SELECT COMMITTEE
MEETING OF WEDNESDAY, DECEMBER 08, 2021**

SUBJECT Options for Sub-regional Performing Arts Facilities Services

ISSUE SUMMARY

The Capital Regional District (CRD) Board has directed staff to review options for a performing arts facilities service with sub-regional participation.

BACKGROUND

On October 13, 2021, the CRD Board considered a staff report that reviewed the outcomes of the September 8, 2021, CRD Board meeting. The CRD Board passed a motion for an amended recommendation, namely:

1. That staff take no further action related to Bylaw No. 4445 at this time, nor to its proposed approval process as outlined in the recommendations brought to Board on September 8, 2021.
2. That staff be directed to report back to the CRD Arts Facilities committee with options regarding:
 - a. Moving forward with a full regional service that does not include the Alternative Approval Process
 - b. A sub-regional arts facilities service
3. That the following motion be postponed until after the CRD Performing Arts Facilities Select Committee have reviewed the above two options:

That the CRD Board Chair send a letter to all CRD jurisdictions, outlining the benefits of joining the Royal Theatre Service and McPherson Playhouse Service, along with associated costs, and encouraging non participating jurisdictions to join these existing services.

Full regional and sub-regional possibilities for a performing arts facilities service or multiple related services have distinct considerations. This report examines possible options for sub-regional services. A separate staff report, “Advancing a Full Regional Performing Arts Facilities Service without Alternative Approval Process”, should be read in conjunction with this report to understand all possible ways forward (see Appendix A for flowchart of decision-making process for all policy options in both reports).

Performing Arts Facilities with Regional or Sub-regional Impact

The 2020 report, *Stage One: A Public Conversation about Performing Arts Facilities in the CRD*, includes an analysis of venues, their capacities and their capabilities. While many smaller venues may have limited impact outside of their local jurisdiction, larger venues that draw audiences from across multiple areas of the CRD show greater evidence of having a strong sub-regional or regional impact. The largest and most significant of these are the venues already supported through sub-regional services, namely the Royal Theatre and McPherson Playhouse. The Royal Theatre is the only venue in the CRD equipped for full theatrical productions with a seating capacity over 1000 people (full seating capacity = 1,416). Similarly, the McPherson Playhouse is

the only venue in the CRD equipped for full theatrical productions with a capacity between 500-1000 people (full seating capacity = 772). There are some educational and outdoor venues of this size that can accommodate musical events with limited technical requirements, but there are no other large venues that can host the full range of performing arts shows (theatre, dance, opera, etc.). An analysis of Royal and McPherson Theatres Society ticket sales provides strong evidence that audiences travel from across the CRD to attend shows in these venues, indicating significant impact beyond the City of Victoria.

The *Stage One* report notes that the Royal Theatre and McPherson Playhouse draw audiences from every jurisdiction in the CRD and that “three municipalities are paying while the benefits are enjoyed by all [CRD] municipalities and their residents”. Consequently, the report recommends a “shift toward shared financial responsibility model for these two theatres”.¹ This provides strong rationale for the expansion of these existing sub-regional services to include new participants. Adding new participants would distribute the cost burden among jurisdictions that benefit from these facilities more fairly and would allow municipalities to come together to leverage scale, distributing the cost of any potential increases to the contribution levels to these performing arts facilities more widely, and thus, making such increases more possible.

Current Sub-regional Services for Performing Arts Facilities

Through two sub-regional services, the CRD provides a total of \$1,330,000 in operating and minor capital funding for the Royal Theatre and McPherson Playhouse (see Table 1). The Royal Theatre is owned by the CRD and the McPherson Playhouse is owned by the City of Victoria. Both facilities are managed by a non-profit organization, the Royal and McPherson Theatres Society (RMTS).

Table 1. Current CRD Funding for Royal Theatre and McPherson Playhouse

Performing Arts Facility	Operating Funding	Minor Capital Funding*	Participants
Royal Theatre	\$100,000	\$480,000	Oak Bay, Saanich, Victoria
McPherson Playhouse	\$350,000	\$400,000	Victoria

* Minor Capital Funding refers to building maintenance, renovation, and accessibility.

The mix of participating areas in the existing sub-regional services demonstrate a desire from jurisdictions to have flexibility in deciding which, if any, of these facilities they wish to support. Separate services—one for each performing arts facility—allows for contribution levels and a mix of participating areas that is more customized and suitable to that specific facility. This approach allows jurisdictions to make their own assessment of the level of impact a performing arts facility has on their local community and base their own level of participation on that assessment.

A sub-regional service that combined contributions for both Royal Theatre and McPherson Playhouse facilities into a single bylaw would provide less choice to potential participating areas and could force some existing participants (Oak Bay, Saanich) into a difficult decision of supporting either both facilities or neither of them. Furthermore, any sub-regional service that attempted to fund all performing arts facilities with sub-regional impact would need to define criteria for what constitutes sub-regional impact. This would be subject to interpretation and potentially stymied by geographical considerations of what constitutes sub-regional impact in different parts of the capital region. For instance, whether or not ArtSpring on Salt Spring Island,

¹ Strategic Moves. (2020). *Stage One: A Public Conversation about Performing Arts Facilities in the CRD*. p. 27.

currently funded by Bylaw No. 3116, “Salt Spring Island Arts Contribution Service Establishment Bylaw No. 1, 2003”, has sub-regional impact on the northern part of the Saanich peninsula and/or other southern gulf islands would require greater analysis.

Having separated sub-regional services—one for each performing arts facility—aligns to the way that the CRD funds recreation facilities and enables greater responsiveness to facility-specific needs in contribution agreements and the mix of participants.

Recent Initiatives to Amend Sub-regional Service Bylaws

Bylaw No. 2587, “Royal Theatre Local Service Area Establishment Bylaw No. 1, 1998” (Royal Theatre Service), and Bylaw No. 2685, “McPherson Playhouse Local Service Area Establishment Bylaw No. 1, 1999” (McPherson Playhouse Service), specify levels of funding that have remained unchanged since 1998 and 1999 respectively (see Appendix B and C for full text of existing bylaws).

In 2019, the CRD’s Royal and McPherson Theatres Services Advisory Committee (RMTSAC), which reports to the Finance Committee, acknowledged that the value of funding received by the theatres through their respective bylaws has eroded over the past 20 years and that the ability to adjust funding levels would be desirable. According to the RMTS, increased funding levels could address the forecasted capital plan deficits for each facility and allow for increased discounts to rental rates for local non-profit community user groups.

On April 23, 2019, the RMTSAC passed a resolution recommending amending the Royal Theatre Service and the McPherson Playhouse Service that would allow the maximum requisition amount to rise over time as the value of property assessments in the CRD increased (“the 2019 sub-regional initiative”), by way of Bylaws No. 4299, “Royal Theatre Local Service Area Establishment Bylaw No. 1, 1998, Amendment Bylaw No. 1, 2019”) and No. 4300, “McPherson Playhouse Local Service Area Establishment Bylaw No. 1, 1999, Amendment Bylaw No. 1, 2019”.

The amending bylaws were circulated to the participants of the respective services for consent with the following outcomes:

- Oak Bay Council provided consent to Bylaw No. 4299 in a letter dated June 6, 2019.
- Saanich Council requested changes to Bylaw No. 4299. Staff correspondence dated June 19, 2019, conveyed Council’s request to limit “the maximum requisition in any given year to the greater of the previous maximum or the previous maximum times a prescribed percentage increase” (note: a CRD bylaw cannot define the maximum requisition as a percent increase, see *Legislative Implications* below).
- Victoria, in correspondence dated January 23, 2020, advised the CRD of the council motion: “That Council direct staff to advise the Capital Regional District staff that the City request the CRD convene a meeting with Victoria, Saanich and Oak Bay staff to discuss funding arrangements for the Royal Theatre service.”

The requested meeting was held at which municipal staff conveyed to CRD staff the following points on which they were in agreement:

- That the existing maximum requisition should be increased,
- That specific allocations for capital and operating should be contained within the bylaw,
- That the intermunicipal formula in the bylaw did not need to be changed; and

- That a limit on maximum requisition be specified within the bylaw.

At the conclusion of the meeting there was agreement that the ability to increase funding was worth further exploring and had clear rationale.

On July 29, 2020, the RMTSAC reviewed these responses through a staff report that noted:

“Since the introduction of bylaws 4299 and 4300 a year ago, COVID19 has introduced significant uncertainty into the operations of the Royal & McPherson Theatres Society and the theatres. Some time may need to pass before the needs can be known in this changed environment.”

At that meeting, the RMTSAC passed a motion not to proceed any further with the approval process for the amending bylaws, which were subsequently withdrawn. Another key factor in halting this process was the creation, in November 2019, of the Regional Arts Facilities Select Committee. The RMTSAC indicated that it would make sense to postpone this sub-regional initiative until the results of the Board initiative to examine full regional policy options had been fully explored.

Options to Create Greater Flexibility Funding Requisition

The CRD's current sub-regional services for performing arts facilities each contain a fixed maximum level of requisition with no option for increases above that maximum. For the Royal Theatre (Bylaw No. 2587), that fixed maximum level is \$580,000. For the McPherson Playhouse, that fixed maximum level is \$750,000.

A typical establishing bylaw provides flexibility in the potential requisition by defining the maximum requisition with two “the greater amount of either” clauses, either a fixed dollar amount or a potential linked to property assessments, which allows the potential requisition to expand with growth in the region. One approach would be to allow the greater of a) the current fixed maximum requisition amount and b) an assessment factor that would provide an amount equal to that current fixed maximum amount based on the most recent property assessments. This would establish baseline funding at the current level and enable future growth based on assessed value.

Also, there is no cost apportionment method set out in Bylaw No. 2685 (McPherson Playhouse Service), as Victoria is the only participant. Revisions to Bylaw No. 2685 should identify a cost apportionment method to enable cost estimates for jurisdictions interested in joining that service.

The current recommendation incorporates outcomes from both the 2019 sub-regional initiative, as well as the Board priority initiative to explore a new full regional performing arts facilities service. Feedback from municipalities on the 2019 sub-regional initiative was never incorporated into a revised version of the amending bylaws in large part due to the disruption of COVID-19 and desire to explore a full regional performing arts facilities service. The CRD Board has now directed staff to provide sub-regional options. A modified version of the 2019 sub-regional initiative that incorporates feedback from municipalities on the first draft of the amending bylaws would both: a) address the key identified need for greater budgetary flexibility in funding the Royal Theatre and McPherson Playhouse and b) reflect input from current participating areas (see Table 2).

Table 2. Comparison of 2019 Sub-regional Initiative to Current Recommendation

Bylaw	2019 Sub-regional Initiative	Current Recommendation	Notes
2587 & 2685	Change requisition formula from based on Intermunicipal formula to based 100% property assessment.	Do not include this change.	Municipal staff from Oak Bay, Saanich, and Victoria indicated the change was not desired.
2587 & 2685	Remove specific spending allocations for operating and capital.	Do not include this change.	Municipal staff from Oak Bay, Saanich, and Victoria indicated the change was not desired.
2587	Change maximum requisition to the greater of \$580,000 or equivalent per \$1,000/assessments.	Include this change.	Creates greater budgetary flexibility to address capital plan deficit and increase discounts to local user groups.
2685	No change to maximum requisition formula.	Include a change to maximum requisition to the greater of \$750,000 or equivalent per \$1,000/assessments.	Creates greater budgetary flexibility to address capital plan deficit and increase discounts to local user groups.
2685	Add details on cost sharing apportionment method and calculation.	Include this change.	Clarifies cost sharing calculation for potential participants.

ALTERNATIVES

Alternative 1

The Performing Arts Facilities Select Committee recommends to the Capital Regional District Board:

That the Royal and McPherson Theatres Services Advisory Committee be directed to reconsider changes to Bylaws No. 2587, “Royal Theatre Local Service Area Establishment Bylaw No. 1, 1998”, and No. 2685, “McPherson Playhouse Local Service Area Establishment Bylaw No. 1, 1999”, to create greater budgetary flexibility for the funding of the Royal Theatre and McPherson Playhouse.

Alternative 2

The Performing Arts Facilities Select Committee recommends to the Capital Regional District Board:

1. That Board initiative 12a-1 has been fully explored; and
2. That the CRD Board Chair send a letter to all CRD jurisdictions, outlining the benefits of joining the Royal Theatre Service and McPherson Playhouse Service, along with associated costs, and encouraging non participating jurisdictions to join these existing services.

Alternative 3

That this report be referred back to staff for other revisions or additional information.

IMPLICATIONS

Financial Implications

This report does not recommend how much funding is needed. It recommends amendments to the establishing bylaws that would provide greater budgetary flexibility.

The case for the amount of funding needed is the responsibility of the RMTS to provide to the RMTSAC. The amount of funding approved is the result of RMTSAC deliberation, their recommendation to the Finance Committee, and approval of the Board through the CRD budget approval process. The changes recommended in this report would allow for more flexibility in the budget approval process, as the allowable requisition in Bylaw 2587 and Bylaw 2685 could result in increases in the overall level of funding to the Royal Theatre and McPherson Playhouse.

The addition of any new participants to either service would result in cost reductions to current participants through a wider distribution of cost sharing.

Alignment with Board & Corporate Priorities

Board Initiative 12a-1 in the 2019-2022 Corporate Plan indicates there is a priority to:

“Facilitate a discussion of the region’s art facility needs & explore partnerships to support 100% participation in the CRD arts functions.”

In 2019, the CRD tasked the Regional Arts Facilities Select Committee with holding discussions on the region’s arts facilities needs and engaging a consultant to design and facilitate a process for public and stakeholder input. The Regional Arts Facilities Select Committee convened five times between November 2019 and March 2021 to hold discussions and advance this work. In 2020, consultations were conducted, leading to a report, *Stage One: A Public Conversation about Performing Arts Facilities in the CRD*, as well as an online resource that documents an inventory of arts facilities in the region, including their capacity, location, and functions.

On April 14, 2021, the CRD Board approved a recommendation from the Governance Committee to create a Performing Arts Facilities Select Committee whose purpose would be “to define the scope and functions of a regional service that will lead to the drafting of an establishing bylaw for the Performing Arts Facilities Service”. The Performing Arts Facilities Select Committee convened three times between May and September 2021. On September 8, 2021, the Performing Arts Facilities Select Committee reviewed an establishing bylaw, accompanying service plan and financial simulation for a regional performing arts facilities service, and made recommendations to the CRD Board.

Through these two select committees, consultations with stakeholders and the general public, the resultant publically-available report and online inventory of arts facilities in the region, the CRD Board has facilitated discussion of the region’s art facility needs and has fulfilled the scope of work outlined in this Board initiative.

Legislative Considerations

Reconciling the 2019 request of Saanich Council to provide incremental percent increases is not possible as the options for defining a maximum requisition are contained in the *Local Government Act*:

339. (1) An establishing bylaw for a service must do the following: [...]
- (e) set the maximum amount that may be requisitioned for the service by
 - (i) specifying a maximum amount,
 - (ii) specifying a property value tax rate that, when applied to the net taxable value of land and improvements in the service area, will yield the maximum amount, or
 - (iii) specifying both a maximum amount and a property value tax rate as referred in the subparagraphs (i) and (ii), in which case the maximum amount is whichever is greater at the applicable time.

Increases cannot be fixed in the bylaw as indexed to inflation or any specific percentage amount.

The mandate of the Royal and McPherson Theatres Services Advisory Committee (RMTSAC) is to advise and make recommendations on CRD services related to the Royal Theatre and McPherson Playhouse. The RMTSAC is composed of representatives from the participating areas of the existing services with two members from Victoria, two members from Saanich, and one member from Oak Bay.

If the recommendation of this report is advanced as proposed, the process for the approval of amending bylaws can be expected to take five to eight months, involving the following steps:

- The CRD Board directs the RMTSAC to reconsider amending Bylaw Nos. 2587 and 2685 to create greater budgetary flexibility,
- The RMTSAC reviews options for amendments, implications for current participating areas, and recommends policy direction to CRD Board,
- The CRD Board directs staff to draft amendments,
- Amending bylaws receive approval and three readings by the CRD Board,
- The respective bylaws are circulated to the current participating areas for consent (2/3 consent is required):
 - For amendments to Bylaw No. 2587 (Royal Theatre Service), two of the three participating areas of Oak Bay, Saanich and Victoria must consent; and
 - For amendments to Bylaw No. 2685 (McPherson Playhouse Service), the sole participating area of Victoria must consent,
- Approval by the Provincial Inspector of Municipalities is sought and if granted; then
- The CRD Board gives final reading and adopts the bylaws.

CONCLUSION

The CRD Board directed the Performing Arts Facilities Select Committee to review options for a sub-regional performing arts facilities service. These options were informed by previous work by the Royal and McPherson Theatres Services Advisory Committee to create amending bylaws for the Royal Theatre and McPherson Playhouse services. Subsequent feedback from current participants was incorporated in the revised approach to amending Bylaw Nos. 2587 and 2685.

RECOMMENDATION

The Performing Arts Facilities Select Committee recommends to the Capital Regional District Board:

That the Royal and McPherson Theatres Services Advisory Committee be directed to reconsider changes to Bylaws No. 2587, “Royal Theatre Local Service Area Establishment Bylaw No. 1, 1998”, and No. 2685, “McPherson Playhouse Local Service Area Establishment Bylaw No. 1, 1999”, to create greater budgetary flexibility for the funding of the Royal Theatre and McPherson Playhouse.

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ATTACHMENT(S)

Appendix A: Flowchart of Decision-Making Process for Policy Options

Appendix B: Bylaw 2587, “Royal Theatre Local Service Area Establishment Bylaw No. 1, 1998”

Appendix C: Bylaw 2685, “McPherson Playhouse Local Service Area Establishment Bylaw No. 1, 1999”