

METROPOLITAN EXPOSITION-RECREATION COMMISSION

Resolution No. 02-20

For the Purpose of Setting User Fees, Rental Rates and Other Policies for the Portland Center for the Performing Arts, effective July 1, 2002.

WHEREAS, over the past decade, PCPA has repeatedly encountered serious financial challenges, followed by short-term remedies. PCPA remains financially vulnerable because it relies heavily on earned revenue affected by changing market trends, because it heavily discounts rates for its non-profit Principal Tenants, and because subsidy dollars are not guaranteed and may vary over time; and

WHEREAS, finding ways to protect PCPA financially is challenging given the other needs of the City and community and the delicate financial health of its primary tenants. PCPA must have sufficient fiscal reserves to keep the doors open, the buildings adequately staffed, safe, secure and well maintained, and still provide subsidized rates for its non-profit Principal Tenants and other non-profit users; and

WHEREAS, PCPA obtains earned revenue from rental rates paid by tenants of the facility and from user fees paid by ticket purchasers to help pay for the maintenance and operations of the halls; and

WHEREAS, the user fee for commercial and regular non-profit users (other than children's shows) of the facility is set at 6% of ticket price, similar to that at other City of Portland owned facilities. The user fee for tickets to non-profit Principal Tenants was set in April 1997 at a flat 50 cents per ticket, regardless of ticket price, and has not been increased since then; and

WHEREAS, commercial and other non-profit users (other than children's shows) pay a flat rate or a percentage of the gate, whichever is higher. Rents for non-profit Principal Tenants are flat rates (without gate percentages) set at approximately an 80% discount from commercial rates. Principal Tenants' flat rate rent has been raised several times since 1997, but has not kept pace with either the rate of inflation or the actual costs of maintaining and operating the facilities; and

WHEREAS, MERC's standard facility limited license agreements provide that user fees—a fee paid by the ticket purchaser and collected by PCPA's tenants for PCPA's benefit—are due and payable to PCPA at settlement or at direction of the PCPA Director, but in all cases are considered past due if not received within 30 days of invoicing. MERC has twice received auditor findings criticizing the historical practice of allowing user fees to remain past due beyond 30 days. MERC must pursue corrective action on this issue in order to comply with best practices as noted by both our external and internal auditors; and

WHEREAS, MERC commissioned a study by the respected AMS consulting firm last year to analyze PCPA's operations. That study found, among other things, the following:

- (a) PCPA's commercial rates are slightly above market or average.
- (b) PCPA's overhead rates are average or somewhat low.
- (c) PCPA's government subsidy rates were second highest among comparable facilities.
- (d) PCPA's rates for non-profit Principal Tenants were the lowest of any comparable facility by a significant margin, regardless of whether user fees were counted in the calculation or not; and

WHEREAS, MERC used the results obtained from the AMS study in formulating a Strategic Plan for the next five years of PCPA's operations; and

WHEREAS, MERC adopted its Strategic Plan in October 2001 after a lengthy public planning process. The Plan calls for PCPA to attain and maintain long-term financial stability. It was determined during this process that a six (6) month operating reserve is necessary to carry PCPA through economic or market downturns so it can focus on its mission to foster an environment in which the performing arts may flourish. This operating reserve also is necessary to maintain adequate cash to pay bills for emergency repairs and maintain cash flows in the event of late payments by PCPA's tenants; and

WHEREAS, The Commission has studied a variety of options and solicited commentary from stakeholders on how best to achieve this fund balance. The Commission has also received the recommendation of the PCPA Advisory Committee that user fees for non-profit Principal Tenants be increased by 50 cents effective July 1, 2003, another 50 cents effective July 1, 2004, and that rental rates for all users be increased annually by at least the rate of inflation; and

WHEREAS, after lengthy consideration, the Commission finds that long-term financial stability is best achieved in an equitable manner and with the least impact on its arts tenants by increasing the user fee paid by ticket purchasers of the non-profit Principal Tenants over the remaining years of the Strategic Plan as specified below, and by making sure that their discounted rental rates at least keep pace with the rate of inflation

BE IT THEREFORE RESOLVED that the Metropolitan Exposition-Recreation Commission:

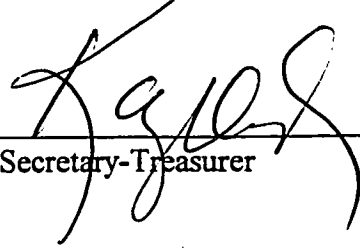
1. Approves new PCPA user fee rates charged to PCPA non-profit Principal Tenants (as defined in the Policy for Rental Rates At The Portland Center For The Performing Arts, adopted by MERC resolution 95-06), effective July 1, 2002, as follows:
 - July 1, 2002 through June 30, 2003 (no change from FY 01/02 user fees)
 - \$.50 per ticket user fee.
 - 4% per ticket on tickets priced at \$5.00 or below for student, youth or other special community outreach performances by the non-profit Principal Tenants.

- July 1, 2003 through June 30, 2004 (\$.50 increase from prior year)
 - \$1.00 per ticket user fee.
 - 4% per ticket on tickets priced at \$5.00 or below for student, youth or other special community outreach performances by the non-profit Principal Tenants.
 - July 1, 2004 through June 30, 2005 (\$.50 increase from prior year)
 - \$1.50 per ticket user fee.
 - 4% per ticket on tickets priced at \$5.00 or below for student, youth or other special community outreach performances by the non-profit Principal Tenants.
 - July 1, 2005 through June 30, 2006 (no change from FY 04/05 user fees)
 - \$1.50 per ticket user fee.
 - 4% per ticket on tickets priced at \$5.00 or below for student, youth or other special community outreach performances by the non-profit Principal Tenants.
2. Tears of Joy Puppet Theater performances, Oregon Children's Theater performances, Portland Youth Philharmonic performances and the Oregon Symphony Orchestra's Family Sunday Concerts will remain at the \$.50 user fee on tickets above \$5.00.
 3. The General Manager is delegated authority to exercise any or all of MERC's contractual and legal rights, options and remedies, in the event that user fees are not remitted as required. The General Manager may institute rules and requirements concerning the placement of user fees on tickets to PCPA events and any language used to describe the fee.
 4. Rental rates for all tenants (with the exception of rental rates for office, workshop and storage space governed by existing contracts that establish specific rates) will increase annually effective July 1, 2002, and thereafter, by no less than increases in the Portland area consumer price index (CPI). Any increases above CPI will require further Commission approval.
 5. In the event that these measures generate funds above those necessary to establish and maintain a six (6) month operating reserve, any such funds will fall to MERC pooled capital for dedicated use by PCPA. In the event that these measures do not generate funds sufficient to establish and maintain a six (6) month operating reserve, Commission staff are directed to so inform the Commission and propose corrective action.
 6. The General Manager is directed to study the possibility of a pro rata increase in the user fee paid on tickets for student, youth or other special community outreach performances by the non-profit Principal Tenants, and recommend whether any such action should be taken by the Commission.
 7. The General Manager is directed to ensure that all contracts for use of PCPA contain written provisions necessary to implement the requirements of this resolution. The General Manager is directed, authorized and delegated authority to take all actions he deems necessary to implement the provisions of this resolution.

Passed by the Commission on June 19, 2002.

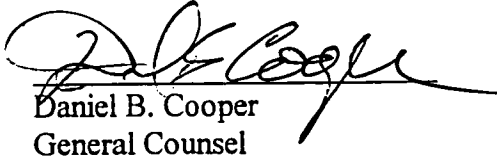


Chair



Secretary-Treasurer

Approved As To Form:



Daniel B. Cooper
General Counsel

MERC Staff Report

AGENDA ITEM/ISSUE: Approving the change in the user fees and rates of PCPA non-profit Principal Tenants from \$.50 per ticket to the following:

FY 02/03	\$.50 (no increase)
FY 03/04	\$1.00 (increase of .50)
FY 04/05	\$1.50 (increase of .50)
FY 05/06	Hold at \$1.50
FY 06/07	Hold at \$1.50

Directing staff to study the possibility of approving a special rate of \$.75 (increase of .25) for Oregon Children's Theater, Tears of Joy Puppet Theater, Portland Youth Philharmonic and the Oregon Symphony Orchestra's Family Sunday Concerts effective in FY03/04 and holding through FY06/07.

Increase rental rates by CPI every year beginning July 1, 2002, for all users of PCPA facilities.

RESOLUTION NO. 02-20

DATE: June 19, 2002

PRESENTED BY: Robyn Williams

BACKGROUND: Over the past ten years, PCPA has repeatedly encountered serious financial challenges, followed by short-term financial remedies. Slash and burn tactics were often initiated to keep the doors open. Entire departments have been eliminated, salary and hiring freezes have been implemented, training has been non-existent and a backlog of deferred maintenance has arisen.

PCPA remains financially vulnerable because it relies heavily on earned revenue (65% of total revenue) affected by changing market trends. Subsidies-which account for 27% of PCPA revenues-are variable and not permanently guaranteed.

MERC undertook a benchmark study of comparable facilities to see how PCPA compared and to determine what opportunities there might be to increase revenues and hold/cut costs. The AMS benchmark study showed that PCPA was operating at a very lean level compared to comparable facilities and that there were no major areas of potential cost reduction in the expense budget. In fact, figures indicated that PCPA might in fact be understaffed due to the large number of events being produced.

A Strategic Plan process was begun shortly thereafter for a period of approximately nine months. A series of public meetings and stakeholder interviews were undertaken. During that process, the need to provide financial stability to PCPA was identified as critical to PCPA being able to meet its mission. PCPA does not have adequate reserves to keep the doors open, building staffed, safe, secure and well maintained and still provide subsidized rates for its resident companies and non-profit users.

It was determined that a six-month operating reserve would be necessary to carry PCPA through economic or market downturns. No opposition was voiced regarding the need to attain and maintain long-term financial stability through the establishment of a six-month reserve fund.

PCPA has worked proactively to reduce operational costs and raise revenues and continues to do so on an on-going basis. The rates and fees of all users were analyzed. Commercial rates were discovered to be at market or high. Non-profit rates are too small a percentage of business to be significant. The only way to affect PCPA revenues in any significant way is through the resident companies who account for more than 80% of the booked dates at PCPA and who enjoy deeply discounted rates and user fees.

A number of funding options were considered:

Governmental Subsidy

The \$300,000 provided by the City of Portland no longer “buys down” the user fee of the resident companies. In fiscal year 01, \$709,175 would have been required to buy down the 6% user fee that would have been assessed commercial users. Numerous conversations with the City indicate that additional dollars for PCPA are not available in the near or foreseeable future. In addition, it is becoming more of a city policy to fund capital and not operating expenditures. Based on the AMS benchmark study, PCPA ranked number two-out of six-in unearned (Governmental/tax) income. Since then PCPA has received additional dollars-as much as \$500,000 annually-as part of the Visitor Development Initiative (VDI).

Scheduling/Booking Changes

The theaters are currently booked to capacity. There are few opportunities to bring in commercial business without displacing resident companies. Changes would have to be drastic in order to free up enough dates to generate the needed dollars. Performance dates and non-performance dates would have to be compressed, on-stage rehearsals would have to be reduced and outside presentations at resident company rates and fees would have to be eliminated. The resident companies have been allowed over the years, to grow their respective organizations based on their current usage of PCPA.

Due to the negative impact on the health of the resident companies as well as being contrary to PCPA's mission to foster the performing arts, this option was deemed undesirable.

Rental Increases

Rental rates would have to be tripled immediately in order to generate adequate funds to build a reserve. For the users of the Winningstad Theater, this could be a considerable hardship due to the limited seating and lessened ability to spread the costs over a larger number of seats. This could also create hardships for those organizations who focus on child performances where price sensitivity runs high. This option might also be less palatable to those resident companies who depend on longer runs to help build attendances or need a higher number of rehearsal or load-in days due to the technical nature or complexity required to mount their shows.

User Fee Increase

Resident companies presently pay a .50 user fee-or 4% fee on tickets under \$6. All other users-both commercial and non-profit-pay a 6% fee. Assessing a user or facility fee on top of a ticket price is not an uncommon practice. A recent survey of comparable facilities-facilities with considerably higher rental rates than PCPA it should be noted-showed fees ranging from \$1 to \$3, with the average falling in the \$1.50-2.00 range. PCPA's user fee has not increased since 1996 when the City bought it down. (It was at \$1.50 at the time.)

If attendances ran high enough, it could conceivably generate additional funding for capital once the reserve is in place. In approximately three years, PCPA will likely spend down the capital reserves raised to date. With limited naming opportunities, PCPA could-yet again-be without needed capital in a very short time.

A fee based on attendance allows for all parties to share in the success-or lack thereof-of an event. It is a fee paid by the user. In a survey of 12 performing arts facilities, ALL stated that no loss of ticket sales could be determined to be the result of implementing or raising such a fee.

The Process

A meeting was held on April 4th with representatives from the Ballet, Opera, Portland Center Stage, Symphony, their CFOs, two board representatives some other interested parties. At that meeting it was agreed that 90 days would allow ample time for all parties to study alternative options and formulate a proposal. The draft document previously presented to PCPA Advisory members was put on the table as an "initial proposal" for the purpose of beginning discussion

On April 9th the BODS CFOs stated they would begin the initial discussions and set a meeting for April 16th. PCPA was represented by Robyn Williams, PCPA Director and Bryant Enge, MERC CFO.

To allow maximum flexibility in scheduling MERC/PCPA said they would make themselves available on any dates the BODS reps would choose. Meetings were held at their request on April 16th and April 30th. A calendar was distributed prior to the first meeting reflecting important dates such as Advisory committee and MERC commission deadlines.

A counter proposal was delivered to the MERC offices on May 30th.

The Proposal consisted of the following:

- “For fiscal 2002/2003, hold resident user fees on subscriptions and single ticket sales to the current level. Increase rent by an appropriate CPI.
- For fiscal 2003/2004, increase major resident company, BODS, user fees by \$.25, with commensurate prorated increases for all non-profit users.
- For fiscal 2003/2004 and beyond, the BODS will work with PCPA and MERC to identify programmatic opportunities to increase rental and user fee income through currently unidentified commercial opportunities.”

After careful review and consideration of the BODS recommendation, staff does not feel this proposal will allow PCPA to meet the goal of financial stability through establishment of a six (6) month operating reserve as outlined in the Strategic Plan.

Increasing the user fee appears to be the best option to bring PCPA to financial stability with the least impact on the resident companies, as it is a pass-through fee to the users of the facilities. However, in an attempt to be sensitive to some of the issues raised by the BODS, staff recommends the following:

User fee

FY 02/03	\$.50 (no increase)
FY 03/04	\$1.00 (increase of .50)
FY 04/05	\$1.50 (increase of .50)
FY 05/06	Hold at \$1.50
FY 06/07	Hold at \$1.50

The resolution also directs staff to study the possibility of a special rate of \$.75 (increase of .25) or 4% on tickets \$5 or less for Oregon Children’s Theater, Tears of Joy Puppet Theater, Portland Youth Philharmonic and the Oregon Symphony Orchestra’s Family Sunday Concerts effective in FY03/04 and holding through FY06/07. This is at the request of the PCPA Advisory Committee.

Increase rental rates by CPI every year beginning July 1, 2002, for all users of PCPA facilities. Any increases beyond CPI would require additional MERC Commission approval in a public meeting.

Additionally, staff recommends that the user fee be remitted within 30 days of invoicing at the conclusion of a production. Large delinquent payments have created serious cash flow problems for PCPA. Moreover, Metro's internal and external auditors have criticized these large receivables and issued audit findings concerning this practice. As the user fee grows and becomes a more significant source of revenue, timely remittance will become critical to PCPA's stability, as well as for complying with audit recommendations.

In the event that these measures generate any funds beyond the required reserve fund balance, all additional monies generated by user fees should flow to PCPA's capital fund. This will help insure adequate funding is available to fund the capital needs of the facilities and its resident companies. In the event that these measures do not generate sufficient funds to reach the reserve balance, staff is directed to monitor the situation and propose corrective action.

FISCAL IMPACT: CPI on rent will generate only a slight increase. User fees are anticipated to generate the following additional funds:

FY03	No change; no new money
FY04	\$184,000
FY05-FY08	\$368,000 annually
Total by FY 08:	\$1,660,000
Anticipated fund balance:	<u>\$1,566,522</u>
Total:	\$ 3,226,522

Reserve achieved by FY08.

This assumes all revenue projections over the 5 years are met, that costs remain at budget levels and that contingency funds are not expended.