

MUSICIANS OF VICTORIA & THE ISLANDS



Julie & Carli Kennedy
Nothing Short of Awesome
Conference of Locals
Local 247 Wins Arbitration Case



**GENERAL
MEETING**
Monday, October 15, 7pm
Capital City Centre Hotel
1961 Douglas Street

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MUSICIANS

OF VICTORIA & THE ISLANDS

SEPTEMBER 2012

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THE MUSICIANS' ASSOCIATION OF
VICTORIA AND THE ISLANDS
LOCAL 247
CANADIAN FEDERATION OF MUSICIANS

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LOCAL 247 EXECUTIVE BOARD

(terms of office in parenthesis)

President: Paul Wainwright (2012-13)

Vice-President: Fergus Heywood (2012-13)

Secretary-Treasurer: Mark Reed (2011-12)

Victoria Symphony Representative:

Marcus Hissen (2012-2013)

EXECUTIVE BOARD MEMBERS-AT-LARGE

Anita Bonkowski (2012-2013)

Gary Preston (2011-12)

Roberta Rowbottom (2012-2013)

Larry Skaggs (2012)

Oliver Swain (2012)

Thomas Vickery (2012-13)

COMMITTEES:

MPF

Thomas Vickery (Chair),

Roberta Rowbottom, Mark Reed

Freelance Musician

Gary Preston (Chair), Cynthia Davis,

Mark Reed, Roberta Rowbottom,

Paul Wainwright

TRUSTEES

Brad Howland

Dave Paulson

Larry Skaggs

OFFICE MANAGER

Roberta Rowbottom

FROM THE PRESIDENT

PRESIDENT'S MESSAGE

The big news is the successful outcome of an arbitration which began with a grievance filed in 2009. (More details are in the article that follows.) For most members this is something they rarely if ever encounter.

It was an interesting study in Provincial Labour Law. The process is outlined in this newsletter.

I was especially impressed with the level of cooperation and support at local and national levels. National Symphonic Representative Mark Tetrault provided guidance and insight from start to finish. We also had the support and encouragement of Vice President for Canada Allan Willaert.

In particular Secretary Treasurer Mark Reed was most valuable in his dedication and attention to detail over a three year period. Legal counsel Kevin Galichon kept us informed and advised throughout the entire process and did exemplary work.

The member concerned endured a difficult and trying time. Our best wishes are with him in future endeavours.

While we were pleased to achieve a win, the toll on the member, our staff and executive was great. It is most regrettable to have such an action take place with the Victoria Symphony or any organization or individual. For this reason, I encourage all members to speak with a Local 247 representative before a situation becomes unworkable. We have access to experts in conflict resolution. Please know that we honour and respect your need for privacy. Our strength is in our solidarity and this is never more evident than when we rely on each other in times of need.

Paul Wainwright



photo: Stephanie Rae-Hull

FINANCIAL REPORTS FOR 2011

The Financial Report for 2011 will be available for viewing in the members-only area of our Local's website in early October. We will notify our members as soon as it is ready for viewing.

THE ARBITRATION The Local v Symphony (on behalf of a member) grievance/arbitration was a predominant focus of the Board and especially of the President, Vice-President, and myself, over the past year. The case demanded a huge amount of resources, in both time and money. We did undertake all of our other obligations (though not always as timely as we'd like, e.g., the 2011 financial report) and we ran our programs, e.g., the City Summer Series successfully and smoothly.

As much as the case was difficult and onerous, it was a good learning experience. We now have a better understanding of BC labour law as it

applies to the unionized environment. As well, the AFM officials at both the national and international levels now know (because we brought it to their attention) how disproportionately difficult and expensive it is for small and medium size Locals to undertake arbitrations involving employers than it is for large Locals. The problem was raised at the Canadian Conference of Locals, this past August, and solutions are being considered.

LOCAL MEMBERSHIP AT ALL TIME HIGH

On June 30, the Local had 461 active members. That is more members than we've had in this Local since at least as far back as the year 2000

when we had just over 400 members. Further, we are on track to have more than 480 members by the end of the 3rd quarter of this year. (We will know that figure in 2-3 weeks.) Probable explanations for this increase are the ever-increasing quantity, quality, and relevance of services that the AFM/CFM offers to musicians, the seeming increase in demand for P2 (work) permits to the USA which are markedly less expensive to obtain through the CFM than by other means (e.g., lawyers), and the overall population increase, especially that of the boomer generation, in our Local.

NEWS LOCAL & ABROAD

GENERAL MEMBERSHIP MEETING

This will be a Nominations Meeting taking place Monday, October 15, 7pm at the Capital City Center Hotel (formerly Traveller's Inn City Centre) 1961 Douglas St. (at Discovery Street, just south of the Local 247 office).



Three board members and the Secretary Treasurer's position are up for re-election. For more information, please see page 10.

VICTORIA HIGH SCHOOL

RECORDING STUDIO A proposal has been put forward to create a professional recording studio at Victoria High School. VHS Alumni member Don Kissinger has worked with music director and principal to develop interest in the community. The project

has been underway for several years with David Foster being the first to make a substantial financial commitment. Music educators and professionals from UVIC, Camosun College, Victoria Conserva-

tory and the Musicians' Association of Victoria & the Islands came together in June to discuss various aspects and provide input.

Thanks go out to Mr Kissinger for his work on this worthy project. Notes from the General Meeting available here.

LABOUR COUNCIL MIXER Members of the executive attended a municipal mixer with local politicians at the Heron Rock Bistro June 26. This was most graciously put on by the Victoria Labour Council. President Paul



L to R: Labour Council President Mike Eso, Paul Wainwright, Fergus Heywood, Mark Reed

POSITIONED FOR SUCCESS

Carli and Julie have been making music together for as long as they can remember. They started piano lessons at five years old, and three years later discovered the guitar and violin. Needless to say, there was always plenty of music in the Kennedy household. Carli and Julie spent many years honing their skills in a family band, playing country music and fiddle tunes at community events. Taking their musical aspirations to the next level, the sisters entered the School of Music at the University of Victoria and both graduated with their Bachelor's degrees in music performance in 2008.

Their classical chops took them far – Julie was named Concertmaster of the 2007 National Youth Orchestra of Canada and Carli's guitar playing achieved third prize at the Canadian Nationals – but they both felt their true country folk roots calling. They released their first EP of four original songs produced by Adrian Dolan (*The Bills*) in 2008. In 2011, the sisters recorded their second EP, "Small Town Stories", with the 2011 BCCMA Producer of the Year, Paul Shatto (*The Higgins*), in Vancouver BC and continue to receive airplay on CBC Radio.



Carli and Julie recently completed their "Country Life Tour" of BC, sponsored by Tom Lee Music. Shows included Sunfest, Filberg Festival, Vancouver Island Exhibition, and a headline performance at the Big Pig Festival. Audiences and presenters responded with standing ovations and rave reviews. The Kennedys have over 15 Nashville performances to their credit and had the privilege of representing Canada's Society of Composers, Authors and Music Publishers as the SOCAN Artist of the Month on the Billy Block Show – second only to the Grand Ole Opry and Midnight Jamboree as Nashville's longest running live radio show and concert series – in February 2012.



The Kennedys were nominated for the 2012 Vancouver Island Music Award for Best Live Act. Reviewers, colleagues, and audiences alike describe Carli and Julie as "true pioneers in the folk, jazz and Celtic genres. Carli is bouncy and effortless on her acoustic while Julie works the fiddle like Jimmy Hendrix on an electric guitar" (*Lithium Magazine*, 2012.) This dynamic duo is winning over a wide range of audiences with maturity beyond their years as instrumentalists, vocalists, and songwriters. cjkennedy.com

LOCAL 247 WINS ARBITRATION CASE

NEWS LOCAL & ABROAD
cont'd from p 4

In 2009 Local 247 launched a grievance against the Victoria Symphony Society for wrongful dismissal. A 25 year symphony member received notice of termination while on leave recovering from a work related injury. Worksafe BC was administering the case at the time of dismissal. Months of exhaustive attempts to resolve the case involved consultations with mediators, legal professionals, CFM national symphonic and legal experts as well as Local officers.

The grievance went to arbitration in April 2012, a three day hearing in which both sides presented evidence, heard from witnesses and made cross examinations.

Our grievance was successful. The Arbitration Panel ruled that the Symphony unfairly dismissed the member musician. The Panel subsequently instructed the Symphony to compensate the member with a cash award.

This case received national attention as it was the subject of discussion at the recent Conference of Locals underlying what appears to be a trend in symphony dismissals across Canada and the US. Local delegates were able to make a strong case for national support in these matters.



THE ARBITRATION PROCESS

Briefly, this is how the process works: A member who has reason to believe they've been affected by a by-law violation can bring about a grievance. A Grievance can only be filed under the terms of a Collective Bargaining Agreement (CBA) or an Engagement

Contract. The provisions for handling Grievances and Arbitration are included in those contracts and are the exclusive means of handling disputes arising under those agreements. The executive board reviews the facts to determine the validity of the case with respect to local and national bylaws, or in this case a CBA.

The grievance is then filed by the Local on behalf of the individual notifying both parties. Before proceeding to arbitration, the association does everything it can to resolve the situation. This can involve meetings with affected parties and mediation. It usually means getting expertise from the national office and can involve receiving counsel from a labour advisor. In most cases the issue is resolved and the parties reach a satisfactory resolution.

In some cases this doesn't work and the grievance leads to arbitration. This is a specific area of provincial labour law. Both parties choose an arbitrator, and these two select a lead arbitrator. These three form the arbitration panel which hears the case and renders a decision. The case is heard and the outcome carries the same weight as a provincial supreme court case.

These cases are usually resolved in a shorter time frame, but extenuating circumstances caused an 18 month delay during the proceedings.

Wainwright, Secretary-Treasurer Mark Reed and Vice President Fergus Heywood took the opportunity to talk to labour leaders and councillors about the value of live music in our communities. This is something that is well known to politicians and evidenced by the fact that concerts and festivals are a staple of virtually every municipality. It is essential that we engage on this level to make it known



Above: Jeremy Walsh and Friends at Summer in the Square (L to R: Dan Weisenberg, Yvonne Hernandez Jeremy & Oliver Swain; Metapop at Stage in the Park (L to R: Christopher Taber, Misako Sotozaki, Kenji Fuse and Alasdair Money)

that musicians are well represented by a solid and well established professional organization.

JUNO BID by Mike Devlin And Rob Shaw, reprinted from the Times Colonist
Province commits \$1.5 million if 2014 event is awarded here. The B.C. govern-

Local 247 was represented by Vice President Fergus Heywood and Office Manager/Board Member Roberta Rowbottom. Here are their reports:

Vice President Fergus Heywood

This year the Canadian Conference and the Organization of Canadian Symphony Musicians (OCSM) Conference were jointly organized and shared many of the sessions. It is intended that this will become a regular practice.

Some highlights from CFM Staff were:

A review of AFMentertainment.org, which is a professional booking agency for freelance AFM/CFM members. Not to be confused with GoPro which is a referral site (also operated by AFM).

Alan Willaert, Vice President from Canada is now, also, a Vice President of the Canadian Labour Congress. On that front, he reported that the CLC is quite aware that unions, have a public perception problem and this is being addressed. Alan also reported on some of the frustration of not having bilateral agreements to get a fair share of royalties collected by other jurisdictions (particularly EU).

Our Director of Symphonic Services, Mark Tetreault, gave an impassioned and articulate presentation on the need for a national fund, or mechanism to assist smaller Locals who, from time to time, face extraordinary legal expenses when defending members' rights.

Four topics were discussed in a "Round Table" session. They were: Pay scales for Symphony CBAs as compared to Locals' published Tariffs; Relations between Local Boards and Orchestra Committees; How Locals are using Social Media, Websites etc.;

Recordings that replace Musicians in Live Performances. Some highlights:

- CBAs, generally have higher rates of pay than published Tariffs; however, there are some locals where the reverse is true. The size of differences between scale and CBA pay rates varies widely (5%-40%).

- Boards and Orchestra Committees have become more collaborative than past years. It's not universal. A "seat" on the Board for an Orchestra Committee member is desirable.

- Websites are useful especially if they promote local members. Members, as a rule, are not very good at updating their information. Facebook should and could be used more.

- Using recordings to replace musicians is prohibited by the AFM. This can include tracks or full orchestras and producers may obtain recordings within Canada or may go farther afield. Although a permit/fee or other controls are desirable, occurrences are difficult to track in a timely fashion.

Board Member Roberta Rowbottom

Every year the AFM has a national conference to which each local of the CFM sends delegates. These delegates are Local officers or Board members. This year Fergus Heywood and I went to the conference, which was in Toronto. The conference overlapped with the OCSM conference (Organization of Canadian Symphony Musicians).

This provided a great opportunity for delegates to attend each other's meetings and information session.

On Thursday and Friday we attended the OCSM conference where we heard reports from delegates of each orchestra. It was interesting to get a snapshot view of how each orchestra is faring,



Local 247 Board Member & Office Manager Roberta Rowbottom (2nd fr L) and Vice President Fergus Heywood (4th fr R) meet with staff from TMA.

and to hear about the good and not so good things that orchestras are dealing with. In general the Canadian Orchestras are in much better shape than many in the US.

It was made known that on the AFM website in the Symphonic Services Department there is a resource centre with a variety of educational and informative webinars available such as: Introduction to Arbitration, Collective Bargaining, Understanding Symphony Financial Statements as well as many others.

At the Canadian Conference on Friday evening, there were reports from CanCon Treasurer Marg Conway, HUB Insurance Rep. Bob Burns,

CANADIAN CONFERENCE OF LOCALS *cont'd from p 7*

CFM Executive Director Liana White, Director SSD Canada Mark Tetrault and Director Freelance Services Paul Sharpe. On Saturday the speeches were simulcast by the AFM and are available here. These include speeches by AFM President Ray Hair, AFM Secretary-Treasurer Sam Folio, AFM Vice-President from Canada Alan Willaert and the Musicians' Pension Fund of Canada Executive Director Ellen Versteeg-Lytwyn.

Paul Sharpe talked about the new

online in-house booking and referral service through GoPro called AFM Entertainment. This targets wedding and corporate gigs. He asked us to encourage the members of our locals to register and advertise here. More information can be found here [HYPER-LINK "http://www.afmentertainment.org/"](http://www.afmentertainment.org/) <http://www.afmentertainment.org/>.

On Sunday there were four topics for round-table discussions and delegates from both conferences participated. Two topics were submitted by each group.

After the CanCon there was a meeting of MROC (Musicians Rights Organization of Canada). This group works to get neighbouring rights payments to all musicians who have made recordings.

This year's conferences were well attended and very informative. It was a great opportunity to share ideas and learn from each other. It was impressive to realize that the CFM/AFM is run mainly by people volunteering their time and energy because they care enough about improving the quality of conditions for musicians.

NEWS LOCAL & ABROAD *cont'd from p 6*

ment has committed \$1.5 million in an effort to bring the Juno Awards to Greater Victoria in 2014. Ida Chong, B.C. minister of community, sport and cultural development, made the commitment earlier this year - a critical part of the bid process. The government money would pay for about half the cost of the music awards show if it is staged in the capital city.

"The province is fully supporting the bid to host the Junos in 2014 here in Victoria," Chong said.

A \$50,000 grant from the province will support Greater Victoria's bid to host the 2014 Juno Awards. Ida Chong, Minister of Community, Sport and Cultural Development and Oak Bay-Gordon Head MLA, made the announcement after the Capital Region Music Awards Society completed its rounds asking municipal councils for financial support.

Five separate councils, including the City of Victoria and Saanich, approved funding in support of the bid to host

the awards gala at the Save-On Foods Memorial Centre and related events at other venues around the region. capitalregionmusicawards.com

CONTRACT PROTECTION & EMERGENCY TRAVEL ASSISTANCE

Freelance players and those travelling

easily enforced should the situation arise. The CFM will provide emergency funding in the event of a defaulted contract. And we have legal counsel at our disposal which could be difficult for an individual or group to pay for. Find out more in the Freelance & Membership Development area.



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outside the region are encouraged to keep up on available resources. Contract protection is one of the strongest benefits we offer. While a verbal or email contract is technically binding, a contract on a CFM form is much more

2012 FILM FUND DISTRIBUTION

The Film Musicians Secondary Markets Fund annually distributes money to over 20,000 musicians and beneficiaries. The participants include musi-

cians who recorded or provided music prep for film and TV scores, musicians who performed on sound recordings licensed into film and TV, and musicians who sidelined, appearing “on camera”.

For more information on who participates in the Fund, and how the Fund works, please see the online brochure at [here](#) and the Administrator’s letter for specific details about this year’s distribution [here](#).

SOUND RECORDING SPECIAL PAYMENTS FUND The Sound Recording Special Payments Fund (SRSPF) made its annual distribution on August 1, 2012.

The Recording Musicians Association joins Robert DiPaola, the Fund’s Administrator, in encouraging all participants to become registered users at the Fund’s website, which was updated last year and is very user-friendly. Using the website significantly helps to reduce the Fund’s administrative costs, which ultimately benefits all of us. At the website you can arrange for direct deposit, update contact and beneficiary information, view your prior wage and tax statements and get the latest news regarding Fund activities.

WIPO AV PERFORMANCES TREATY CONCLUDED IN BEIJING (New York, NY) — American Federation of Musicians of the United States and Canada (AFM) International President Ray Hair is pleased to announce that the Diplomatic Conference convened by the United Nation’s World Intellectual Property Organization (WIPO) came to a successful conclusion Tuesday, June 26, 2012, when the negotiators from WIPO’s Member States signed

the BEIJING Treaty on Audiovisual Performances.

In his closing statement, Hair congratulated WIPO and its Member States on the historic treaty negotiation. “The fruits of this agreement will surely improve the lives of performing artists throughout the world,” he said. “We are honored and delighted to have been present to witness this triumph of collaboration.”

Representatives of the AFM attended the negotiations under Observer status as a WIPO Nongovernmental Organization (NGO). The AFM delegation consisted of AFM Vice President from Canada Alan Willaert, Secretary-Treasurer Sam Folio, and International Officers Vince Trombetta (president of AFM Local 47, Los Angeles), Tino Gagliardi (president of AFM Local 802, New York City), Dave Pomeroy (president of Local 257, Nashville), and President Hair.

“The AFM is here to join with others in affirming this commitment, and resolves to support the mandates and principles embodied in the new instrument adopted by the conference,” Hair concludes. “We urge the expeditious ratification of this treaty by all member states in order to transform its historic words into appropriate action.”

The Diplomatic Conference was attended by 156 Member States, six intergovernmental organizations, and 45 nongovernmental organizations—the highest participation ever at a WIPO Diplomatic Conference. A total of 131 delegations signed the treaty, 41 with full powers of approval, including the United States of America.

The treaty now needs to be ratified by

the respective governments.

MUSIC BC MIXER President Paul Wainwright and Secretary-Treasurer Mark Reed attended Music BC’s Sch-Music BC Networking Party Friday, June 15th at the Temple Bar. It was an opportunity to meet members of the Association and interact while letting people know how we support our industry. Members Carli and Julie Kennedy were busy networking.

IMMIGRATION/VISA INFO Please review the information through the link below for important information on the new IRS requirements for foreign entertainers performing in the United States. Please note these requirements will change again in 2013 and a further update will be sent at that time. More info [here](#).

LABOUR DAY PICNIC The Victoria Labour Council hosted it’s annual Labour Day Picnic on the long weekend. Labour Day is the statutory holiday on which we honour the sacrifices of labour activists. We have the labour movement much to be thankful for including weekends, the end of child labour and a better way of life in every aspect of our work world.

This year’s event was very well attended as the sun was shining and the mood festive and bright. Music by Daniel Lapp and the BC Fiddle Orchestra was very well received by an attentive crowd. President Paul Wainwright talked to numerous labour reps and politicians to let them know musicians are a united group represented by an active and well established international organization.

NOMINATIONS MEETING

AGENDA

1. motion to adopt Minutes of previous (April 2) meeting
2. business arising from Minutes of previous meeting
3. nominations
4. President's, Secretary-Treasurer, and Committee reports
5. motion to adjourn

POSITIONS OPEN FOR NOMINATION (all are 2-year terms)

- Secretary-Treasurer (incumbent: Mark Reed)
- 3 Executive Board Members-at-Large (incumbents with terms ending Dec. 31, 2012: Gary Preston, Larry Skaggs, and Oliver Swain)

AFM 247 Bylaw Article 5.03 D: "To be eligible for nomination a Member must have been a full Member of the Local in continuous Good Standing for at least one year preceding the nomination meeting. In addition, for the positions of President, vice President, and Secretary-Treasurer, the candidates must have served for at least one term on an AFM/CFM executive board. If a qualified candidate cannot be found, the Board may, at its discretion, allow an individual to be nominated or appointed from the general membership, subject to the provisions of Local 247 Bylaws."

AFM 247 Bylaw Article 5.03 E: "Any Member in Good Standing present at the nominating meeting shall be entitled to nominate any eligible candidate of their choice. The nominee shall be present at the meeting, or their nominator must present to the Secretary-Treasurer a written, signed statement of acceptance of nomination from such nominee, prior to the call to order of the nomination meeting."

Also, members present at the Nominations meeting may nominate themselves.

Members who are considering running for a Board position are asked to review AFM 247 Bylaw Article 2. See: Bylaws Tariff Jan 31 2011.pdf

ADVERTISING

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