

**DATE:** November 19, 2020

**FILE:** 0540-20/CVED Service Review

**TO:** Chair and Members  
Comox Valley Regional District Board

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

**RE:** **Service Review Initiation – Comox Valley  
Economic Development Service**

*R. Dyson*

### **Purpose**

To provide information concerning the logistics and process for a formal service review of the Comox Valley Economic Development Service following its initiation by the Town of Comox and in the consideration of the COVID-19 impacts on the Comox Valley region, the need to respond to the Economic Recovery Task Force recommendations and support local businesses to offer an alternative structure and process for economic development service reform.

### **Recommendations from the Chief Administrative Officer:**

1. THAT in accordance with section 359 of the *Local Government Act*, a preliminary meeting of the Comox Valley Economic Development Service Review be scheduled for 10:00 am on Tuesday, January 19, 2021 or, if necessary, a suitable alternative date as determined in collaboration with the service review participants and set by the Comox Valley Regional District (CVRD) Board Chair;

AND FURTHER THAT the municipal participants in the service, namely the:

- City of Courtenay
- Town of Comox

be requested to appoint a representative to the Comox Valley Economic Development Service Review;

AND FURTHER THAT the CVRD Board Chair be appointed as the representative of the Comox Valley Regional District Board;

AND FINALLY THAT all service participants be encouraged to consider adopting an alternative structure and process for economic development service reform at the proposed January 2021 preliminary meeting.

2. THAT the Chief Administrative Officer, in consultation with the Chief Administrative Officers of the Town of Comox and City of Courtenay, engage a facilitator to support the statutory review process for the Comox Valley Economic Development Service.

### **Executive Summary**

- Formal notification has been received by the Town of Comox to initiate a service review of the Comox Valley Economic Development Service (Function 550).
- Part 10, Division 6 (Dispute Resolution in Relation to Services) of the *Local Government Act* (LGA)(RSBC, 2015, c.1) provides for the default statutory review process which will be utilized as the service establishing bylaw does not provide an alternative. The statutory service review

entails participant representatives being named, a preliminary meeting to review the terms and conditions of the service and the establishment of a negotiation process for the purpose of reaching agreement on the issues identified.

- The legislation provides that at any time during a review, the minister may appoint facilitators to assist in reaching an agreement. Discussions with the Ministry of Municipal Affairs and Housing’s (Ministry) Planning and Land Use Management Branch has confirmed that a decision respecting an appointment is not forthcoming due to the recent general election and the anticipated briefing and orientation process. As such, Board direction is sought to retain a neutral third-party facilitator or consultant to support the process.
- While timeframes are established for holding the preliminary meeting and commencing negotiations, there is no legislated time period within which negotiations must be completed. In order to meet the statutory deadlines and advance the process it is recommended that the preliminary date be set and requests for participant representatives be issued.
- Therefore, given current economic conditions in the Comox Valley, an abbreviated process for economic development service reform should be encouraged while respecting the concerns that brought forward this process.
- In preparation for the preliminary meeting, staff will prepare a brief report summarizing the terms and conditions of the service and issues raised by the Town of Comox to support the service review process in reaching agreement on the negotiation process and the issues to be addressed in the negotiations.

Prepared by:

Concurrence:

*J. Martens*

*J. Warren*

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 Jake Martens  
 General Manager of Corporate Services

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 James Warren  
 Deputy Chief Administrative Officer

**Government Partners and Stakeholder Distribution (Upon Agenda Publication)**

City of Courtenay Chief Administrative Officer	✓
Town of Comox Chief Administrative Officer	✓

**Background/Current Situation**

The Comox Valley Economic Development Service was established under letters patent issued by the Province on June 30, 1976. This function was subsequently converted in 2016 to a regional district service (Bylaw No. 345) with the expressed purpose of encouraging the responsible expansion of the Comox Valley economic base as well as enhance wealth and employment opportunities through:

- (a) Promoting, marketing and facilitating economic development in the Comox Valley;
- (b) Developing and implementing economic development strategies for the Comox Valley;
- (c) Developing and/or assisting in the development of properties and facilities which create or expand economic, investment or employment activity in the Comox Valley;
- (d) Developing and maintaining timely information on economic activity and economically-relevant statistics in the Comox Valley;
- (e) Partnering with business and other organizations within the Comox Valley;
- (f) Supporting specific sector based economic activities, studies and other economic development activities specifically approved by the CVRD Board.

The economic development service supports three distinct initiatives:

- 1) Regional economic development
- 2) Tourist and visitor information services
- 3) Financial support to the Municipal and Regional District Tax (MRDT) program

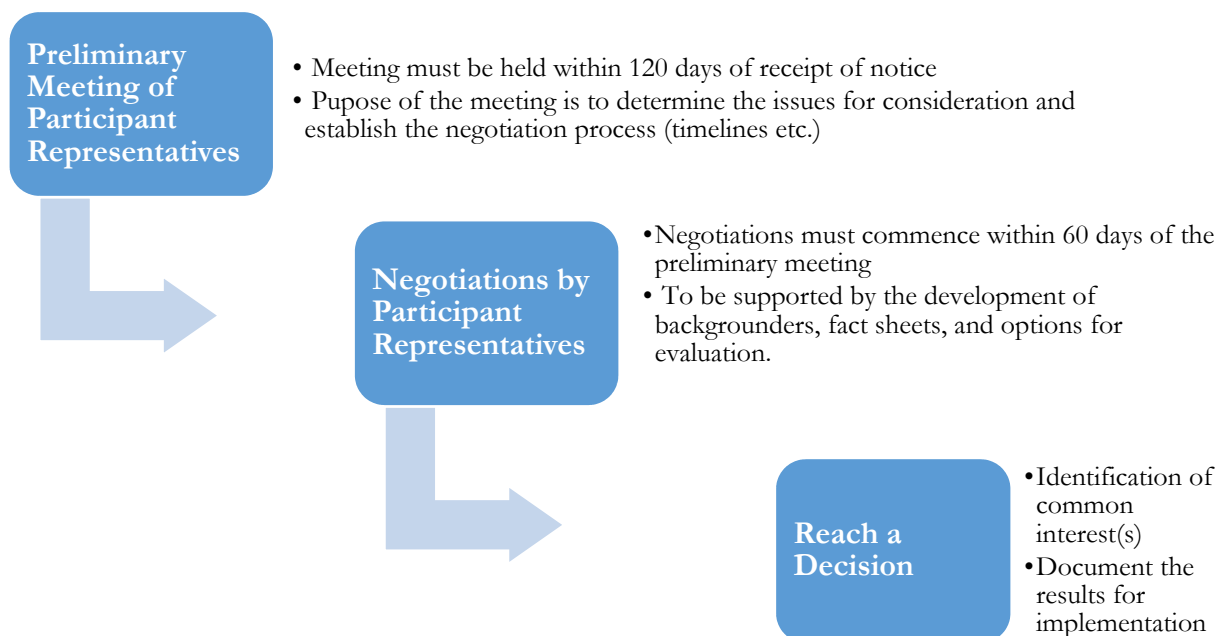
All three initiatives are delivered by the Comox Valley Economic Development Society under contract.

In the Town of Comox’s letter dated October 30, 2020 (Appendix A) in which a formal service review was requested, they have generally expressed dissatisfaction with the governance model and the resulting challenges to service delivery. In accordance with section 357 of the *Local Government Act*, the CVRD must arrange a preliminary meeting of all party representatives within 120 days (February 28, 2021) after receiving such notice. The purpose of the preliminary meeting is to review the terms and conditions of the service and establish a negotiation process for addressing the issues raised in the notice, and any other issues raised by a party during the meeting.

Parties to the service review process include the initiating participant, any other participant in the service, and the regional district board. The representatives for the parties are the following:

Municipal Participating Area	Electoral Participating Area	Regional District Board
The council member appointed by the council, or if no appointment is made, the mayor	The director of the electoral area	A director appointed by the Board, or if no appointment is made, the Chair

The statutory review process with additional suggested supporting steps is summarized in the process chart below:



If the parties fail to reach a decision (agreement) on key changes to the service arrangement, any one party may initiate withdrawal from the service in accordance with the provisions in the *Local Government Act*.

The LGA also provides that at any time during a review, the minister may appoint facilitators to assist the parties in reaching an agreement. Staff have contacted the Ministry's Planning and Land Use Management Branch and confirmed that a decision respecting an appointment is not expected in the short term due to the recent general election and the anticipated briefing and orientation process. As such, this report recommends that the Board empower staff to retain a neutral third-party facilitator or consultant to support the process.

### **Policy Analysis**

The statutory review process provided in the *Local Government Act* incorporates a dispute resolution process that includes elements of interest-based negotiation, facilitation, mediation and arbitration. The framework provides for discussions between the interested service partners to find an agreement with the support of a neutral facilitator to help manage the discussions and negotiations to ensure clear and on-going communication.

Only if the partners fail to resolve the issues in dispute to everyone's satisfaction may a service withdrawal be initiated. In such instance, the service partners must try to agree on fair terms and withdrawal conditions. This can be sought through negotiation and facilitation/mediation whereby a third-party person neutral to the issues manages the discussions to help achieve agreement. In the event that an agreement cannot be reached or is unlikely to be reached an arbitrator may be engaged to make a decision for the parties in the dispute.

### **Options**

At the service review preliminary meeting, the party representatives will determine the specific process details and determine how negotiations will unfold. The following two options can be considered by the representatives, or an alternative approach could be defined.

1. Proceed with the formal statutory service review process.  
The statutory service review process provides a framework for service partners to address changing service needs, renegotiate the terms and conditions of a service arrangement, and resolve differences. The process allows a service participant to seek resolution to issues or, if unsuccessful, withdraw from the service if they cannot agree on changes to the terms and conditions for the service.
2. Seek an expedited process to alter the service participants, purpose or service delivery method.  
With the agreement of the CVRD Board and the participants, simple amendments to the service establishment bylaw could be made to bring about desired changes to the service purpose and/or participants. This process could significantly expedite the process and minimize the length of time required for the service review. Such an approach is recommended only if the desired changes can be readily identified and consensus is probable. In addition or as an alternative, the service participants could also consider providing direction respecting the approach to service delivery or to not fund or reduce funds for the service for a period of time to address a particular issue or budgetary concerns. Pausing the service and reducing the budget could allow for the parties to consider their own desired service delivery options without concurrent CVRD service or budgetary pressures.

### **Financial Factors**

The allocation and recovery of the costs of the service review are generally prescribed in the *Local Government Act*. The service review process costs, including the production of reports or studies to inform the review process, administrative expenses associated with co-ordinating the process, and any consultancy or expert fees that are incurred, will be financed by the Economic Development

Service (Function 550). In general, the only exception to this are the fees of a facilitator if appointed by the minister.

It is also noted that a municipality or an electoral area is responsible for its own costs of participating in the service review. This would include expenses incurred by the participant, such as travel or staff time and reports undertaken independently.

### **Legal Factors**

Part 10, Division 6 (Dispute Resolution in Relation to Services) of the *Local Government Act* (RSBC, 2015, c.1) provides for the statutory service review process. There are two additional review processes available to local governments, a bylaw-based review and a non-legislative review. The Town of Comox has initiated a formal service review which will be followed to seek resolution to the service arrangement issues.

### **Regional Growth Strategy Implications**

Local economic development is noted as Goal 3 of the Comox Valley Regional Growth Strategy with the aim of achieving a sustainable, resilient and dynamic local economy that supports Comox Valley businesses and the region's entrepreneurial spirit.

The strategy provides a number of objectives and supporting policies with specific reference to the Comox Valley Economic Development Society, including Objective 3-A: Support local business retention, development and investment, and its supporting policy 3A-4: work with the CVEDS to focus investment and business development in town centres.

### **Intergovernmental Factors**

The service review is to include one representative of each of the service participants and the CVRD Board. It is expected that the representatives are to keep their governing body briefed respecting the negotiations and the service review process. Subject to inclusion in the approved negotiation process, it is envisioned that a staff representative from the participating jurisdictions may attend meetings to remain current on discussions, provide information as requested, review options and assist in briefing their governing body.

### **Interdepartmental Involvement**

The service review process will be jointly coordinated between the Corporate Services Branch and the Planning and Development Services Branch which oversees the Comox Valley Economic Development Service (Function 550).

### **Citizen/Public Relations**

Public engagement is not planned or proposed as part of the formal service review process, however, general input from the public and stakeholders may be provided through delegations or written correspondence to the CVRD Board or the individual participating municipal governments. When finalized, the service review outcome will be communicated to the public.

Attachments: Appendix A – Correspondence dated October 30, 2020 from the Town of Comox  
re: service review initiation

Appendix B – Bylaw No. 345 being “Comox Valley Economic Development Service  
Conversion Bylaw No. 345, 2016”



# TOWN OF COMOX

## OFFICE OF THE MAYOR

October 30, 2020

File No: 0114

To the Comox Valley Regional District Board, the participants of the Comox Valley Regional District Economic Development Service, and the Minister of Municipal Affairs and Housing Selina Robinson:

The Town of Comox wishes to officially request, under section 357(2) of the Local Government Act, a service review of the Comox Valley Regional District Economic Development Service.

Economic development has become an increasingly divisive topic within the Comox Valley Regional District (CVRD), and has led to a fraying of relationships as different members desire to pursue different development paths. The service delivery vehicle, the Comox Valley Economic Development Society (CVEDS), has been the subject of repeated criticism and questioning of their ability to undertake economic development as well as operate in a transparent and effective manner. These discussions have come at the expense of economic development work in the Comox Valley, resulting in slow progress and building confusion on the de jure and de facto governance model.

Representatives within the service have, in good faith, participated in a number of exercises to reach agreement between service members including participating in contract negotiations with CVEDS, forming a liaison committee, and participating in the recent two day strategic planning session. These steps have not created a more harmonious situation and instead has, in part, led to numerous CVEDS board resignations.

Comox wishes to initiate this service review to examine the current governance model, as well as provide options for repair of the service, Comox's withdrawal, or the dissolution of the regional service, given the differing views.

Through this process it is important to remember that our region works collaboratively and constructively in many services. These services are discussed and delivered in a positive manner, where conversation and disagreement are understood and welcomed. Continued participation in a regional economic development model seems destined to pull us apart rather than unite us. It is time to discuss formally whether we would all be bettered served with a different structure of this regional function.

Sincerely,

Russ Arnott,  
Mayor  
Town of Comox

cc: Minister Selina Robinson, Minister of Municipal Affairs and Housing  
Bob Wells, Mayor, City of Courtenay  
Edwin Grieve, Director, Area C, Comox Valley Regional District  
Daniel Arbour, Director, Area A, Comox Valley Regional District  
Arzeena Hamir, Director, Area B, Comox Valley Regional District  
Russell Dyson, Chief Administrative Officer, Comox Valley Regional District  
Trevor Kushner, Chief Administrative Officer, City of Courtenay  
Jordan Wall, Chief Administrative Officer, Town of Comox



Economic Development  
Service Conversion  
Bylaw

The following is a consolidated copy of the Comox Valley Economic Development Service Conversion Bylaw and includes the following bylaws:

Bylaw No.	Bylaw Name	Adopted	Purpose
345	Comox Valley Economic Development Service Conversion Bylaw	October 25, 2016	To convert and establish the Comox Valley economic development service for the purpose of providing for the economic development commission to encourage the responsible expansion of the Comox Valley economic base as well as enhance wealth and employment opportunities

**This bylaw may not be complete due to pending updates or revisions and therefore is provided for reference purposes only. Titles and whereas clauses may be different than in original bylaws to make this consolidated version more clear and identify historical changes and conditions. THIS BYLAW SHOULD NOT BE USED FOR ANY LEGAL PURPOSES. Please contact the corporate legislative officer at the Comox Valley Regional District to view the complete bylaw when required.**

**COMOX VALLEY REGIONAL DISTRICT****BYLAW NO. 345**

**A bylaw to convert and establish the Comox Valley economic development service to encourage and provide for the responsible expansion of the Comox Valley economic base as well as enhance wealth and employment opportunities**

**WHEREAS** the board of the Comox Valley Regional District (CVRD) may, by bylaw, under section 341(3) of the *Local Government Act* (RSBC, 2015, c.1) convert a service provided by the regional district in accordance with section 341(5) of the *Local Government Act* (RSBC, 2015, c.1) and by the same bylaw amend the power to the extent that it could if the power were in fact exercised under the authority of an establishing bylaw under the *Local Government Act* (RSBC, 2015, c.1) provided that the bylaw meets the requirements of section 339 and is adopted in accordance with section 349 of the *Local Government Act* (RSBC, 2015, c.1);

**AND WHEREAS** the board wishes to convert the Comox Valley economic development service established under letters patent dated June 30, 1976 to a regional district service;

**AND WHEREAS** the board wishes to integrate elements of the service review conducted in 2013 and 2014 to address the service purpose, clarity and roles;

**AND WHEREAS** the board wishes to implement the outcome of the service withdrawal dated March 2016 where the Village of Cumberland has withdrawn from the service and the Village of Cumberland is to pay to the service \$40,000 each year in 2016, 2017, 2018 and 2019 for a total of \$160,000;

**AND WHEREAS** pursuant to section 342 of the *Local Government Act* (RSBC, 2015, c.1), the approval of the Inspector of Municipalities has been obtained;

**AND WHEREAS** pursuant to section 346 of the *Local Government Act* (RSBC, 2015, c.1), the councils of the City of Courtenay, the Town of Comox and the Village of Cumberland have given consent on behalf of the electors within the municipal participating areas to adoption of this bylaw;

**AND WHEREAS** pursuant to section 347 of the *Local Government Act* (RSBC, 2015, c.1), the directors of Electoral Areas A, B and C have given consent in writing on behalf of the electors within the electoral participating areas to adoption of this bylaw;

**NOW THEREFORE** the board of the Comox Valley Regional District in open meeting assembled enacts as follows:

**Service**

1. (1) The service converted and established by this bylaw is the Comox Valley economic development service.
- (2) The service shall be known as the Comox Valley economic development service (the ‘service’).



**Definition of economic development**

2. A short definition provided by the International Economic Development Council suggests that “the main goal of economic development is improving the economic wellbeing of a community through efforts that entail job creation, job retention, tax base enhancements and quality of life.”

**Purpose**

3. The service is to encourage the responsible expansion of the Comox Valley economic base as well as enhance wealth and employment opportunities through:
  - (a) Promoting, marketing and facilitating economic development in the Comox Valley;
  - (b) Developing and implementing economic development strategies for the Comox Valley;
  - (c) Developing and/or assisting in the development of properties and facilities which create or expand economic, investment or employment activity in the Comox Valley;
  - (d) Developing and maintaining timely information on economic activity and economically-relevant statistics in the Comox Valley;
  - (e) Partnering with business and other organizations within the Comox Valley;
  - (f) Supporting specific sector based economic activities, studies and other economic development activities specifically approved by the CVRD board.

**Boundaries**

4. The boundaries of this service shall be the boundaries of Baynes Sound (Electoral Area A (excluding Denman and Hornby Islands)), Lazo North (Electoral Area B), Puntledge/Black Creek (Electoral Area C) and inclusive of the City of Courtenay and the Town of Comox.

**Participating local governments ‘Members’**

5. The participants of this service are Baynes Sound (Electoral Area A, excluding Denman and Hornby Islands), Lazo North (Electoral Area B), Puntledge/Black Creek (Electoral Area C), the City of Courtenay and the Town of Comox.

**Cost recovery**

6. As provided in section 378 of the *Local Government Act* (RSBC, 2015, c.1), the annual cost for this service shall be recovered by one or more of the following:
  - (a) property value taxes;
  - (b) fees and charges imposed under section 397 of the *Local Government Act* (RSBC, 2015, c.1);
  - (c) revenues raised by other means authorized by the *Local Government Act* (RSBC, 2015, c.1) or another Act; and
  - (d) revenues received by way of agreement, enterprises, gift, grant or otherwise.

**Village of Cumberland withdrawal payments**

7. (1) As a condition of withdrawing from the Comox Valley economic development service in March 2016, the Village of Cumberland agrees to pay to the service \$40,000 each year in 2016, 2017, 2018 and 2019 for a total payment of \$160,000.

- (2) This section 7 (Village of Cumberland withdrawal payments) is removed from this bylaw on January 1, 2020 and the following subsections are renumbered accordingly.

**Maximum requisition**

8. In accordance with section 339(1)(e) of the *Local Government Act* (RSBC, 2015, c.1), the maximum amount that may be requisitioned annually for the cost of the service is \$0.278 per \$1,000 applied to the net taxable value of land and improvements for regional hospital district purposes.

**Borrowing**

9. No debt, other than temporary current borrowing shall be incurred for the purposes of the service.

**Service delivery**

10. (1) The service may be provided by an agency or agencies under contract to the CVRD pursuant to section 263 of the *Local Government Act* (RSBC, 2015, c.1).  
(2) If at any time the CVRD must reconsider its service delivery model and define a commission or other body to deliver economic development services, that commission or other body shall adopt a terms of reference that is not dissimilar to the terms of reference in schedule ‘A’ of this bylaw.

**Service review**

11. All aspects of the Comox Valley economic development service function shall be reviewed at least every four years, with the first review occurring in 2020.

**Citation**

This Bylaw No. 345 may be cited as “Comox Valley Economic Development Service Conversion Bylaw No. 345, 2016”.

**Schedule ‘A’**  
**Terms of Reference – Comox Valley Economic Development Governance Structure**

**Directors:**

## VOTING:

- Four (4) as appointed by City of Courtenay council
- Two (2) as appointed by Town of Comox council
- One (1) as appointed by Area A director
- One (1) as appointed by Area B director
- One (1) as appointed by Area C director
- One (1) as appointed by the K’omoks First Nation
- One (1) as appointed by Comox Valley Chamber of Commerce
- One (1) as appointed by another local organization

A quorum would consist of a majority of the voting directors plus one, or seven directors.

## NON-VOTING:

- Commission immediate past-president

**Members:**

- City of Courtenay
- Town of Comox
- Comox Valley Regional District representing electoral areas:
  - Baynes Sound (Area A excluding Denman and Hornby Island)
  - Lazo North (Area B)
  - Puntledge/Black Creek (Area C)

**Member’s roles and responsibilities:** the participating local governments are named as members in the constitution bylaw with the responsibility of appointing directors to the board and the sole discretion to amend/change constitution/bylaws.

Appointments to consider knowledge, skills and experience include: demonstrated interest in society; governance; leadership; strategic planning; finance and accounting; legal; political processes; business management; community knowledge and stakeholder relations; connections with senior government stakeholders; communication and public relations/media; economic development; and logistics and transportation.

A commission formed pursuant to the BC *Society Act* (RSBC, 1996, c. 433) is a separate legal entity. A commission formed to provide the Comox Valley Regional District members with economic development services shall include in the bylaws language to protect the interests of the members and shall require the members’ approval to amend the governance model.