

DATE: June 27, 2018**FILE:** 0485-20/KFN**TO:** Chair and Directors
Committee of the Whole**FROM:** Russell Dyson
Chief Administrative OfficerSupported by Russell Dyson
Chief Administrative Officer*R. Dyson***RE: CVRD / KFN Intergovernmental Relations****Purpose**

To present information to the directors following the K'ómoks First Nation (KFN) intergovernmental engagement sessions and to recommend that the KFN and Comox Valley local governments protocol agreement be reviewed and reconfirmed by all relevant parties.

Recommendation from the Chief Administrative Officer:

THAT the Protocol Agreement for Communication and Cooperation (Building a K'ómoks First Nation and Comox Valley Local Governments Relationship) be circulated to all relevant parties to consider updating the values, interests and principles contained therein;

AND FURTHER THAT a report be presented to a future Committee of the Whole meeting that describes how the Protocol Agreement and related actions and partnerships can be connected with Comox Valley Regional District service delivery.

Executive Summary

The K'ómoks First Nation conducted a series of intergovernmental engagement sessions with the Comox Valley Regional District (CVRD), City of Courtenay, Town of Comox, Village of Cumberland, Islands Trust, Village of Sayward and Strathcona Regional District from February to June 2018. At the final event, on June 19, those who attended the session including the K'ómoks Chief and Councillors, municipal mayors and councillors, electoral area directors and senior staff members helped to draft a vision for working together:

“The K'ómoks Valley is a place where people respect the land and each other through inclusion, trust and authenticity. Balance and sustainability are our guiding values for the lands, air, waters, cultures and peoples in this land of plenty.”

Each of the participants also provided some comments and reflections on the event, and expressed appreciation to the K'ómoks First Nation for their efforts in co-ordinating and hosting the event. The CVRD subsequently provided its reflections in writing (Appendix A).

The CVRD committed to integrating cultural and historical elements into its new office building and water treatment plant, partnering with KFN on the water treatment plant and water servicing and developing cultural and historical recognition in its regional parks. These activities are ongoing and will be reported to the CVRD elected officials through project updates and when decisions are recommended or required.

The CVRD also identified that the Protocol Agreement for Communication and Co-operation (Building a K’ómoks First Nation and Comox Valley Local Governments Relationship) (Appendix B) should be reviewed and an opportunity exists to revisit and reconfirm the principles, values and interests embedded in that agreement. The recommendation in this report would see a letter sent from the CVRD Chair to the Mayors and K’ómoks Chief, seeking their input to review and update the agreement’s values. It may be that updates to the agreement are required, or simply that broad awareness is drawn to the agreement, thereby assisting with building the KFN and local government’s relationship.

Over the coming months and following the October 20th local government elections, staff will identify ways to work more closely with KFN and understand their interests more deeply through monthly meetings with KFN and the CAO. Regular meetings to keep the stakeholders up to date with progress will be arranged. Such a level of engagement will require time and dedicated effort; and will be lead through the Chief Administrative Officer’s role. As the Board has identified this relationship with KFN as an important strategic initiative, it may be necessary to support the existing resources in the coming months/years. As required and on a continual basis, reports will be presented to Committee and Board meetings to highlight and illustrate opportunities where existing and/or new partnerships between the K’ómoks First Nation and the CVRD can occur.

Prepared by:

J. Warren

James Warren
 General Manager of Corporate
 Services

Stakeholder Distribution (Upon Agenda Publication)

K’ómoks First Nation	✓
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- Attachments – Appendix A – “Reflections on K’ómoks First Nation and Local Governments Intergovernmental Engagement Sessions”
- Appendix B – “Protocol Agreement for Communication and Cooperation”



June 21, 2018

File: 485-20/KFN

**Reflections on K'ómoks First Nation
and Local Governments Intergovernmental Engagement Sessions**

The Comox Valley Regional District (CVRD) was a participant in K'ómoks First Nations (KFN) efforts to engage and build relationships with their local government partners via three Intergovernmental Engagement Sessions.

Electoral Area Directors and senior staff attended the following sessions:

- February 23, 2018
 - KFN presented information on their history and experience on the lands
 - CVRD presented an overview of regional governance and services provided
- March 28, 2018
 - CVRD presented Comox Lake Water Licensing issues and the CV Water Treatment Project
 - CVRD led a discussion on initiatives that the two parties can undertake to recognize the history, culture and vision of KFN
- June 18 and 19, 2018
 - KFN explored common values and methods for working together, culminating in a vision statement

The CVRD is grateful to the KFN Elders, Chief and Councillors, staff and advisors for taking the initiative in hosting these sessions. The insight to better understand the treaty process and opportunities to share cultural knowledge was valuable for all participants.

We appreciate the support of KFN in delivering regional services and look forward to working together post-treaty.

The opportunity to discuss and engage with KFN on CVRD projects provides for enormous potential for both parties to work together on water supply and sewer treatment.

Three actions coming through these sessions:

- Integrating cultural/historical elements into new office building and water treatment plant
- The foundation for an agreement on the water treatment plant
- A commitment to develop cultural and historical recognition in our regional parks.

Further, a report will be presented to the July 10, 2018 Committee of the Whole meeting that will include a more detailed summary of the engagement sessions and make some recommendations for consideration of the Board of Directors.

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**PROTOCOL AGREEMENT FOR
COMMUNICATION AND COOPERATION
Building a K'ómoks First Nation and
Comox Valley Local Governments Relationship**

This **PROTOCOL AGREEMENT** dated for reference the 14th day of June 2010.

BETWEEN: K'ÓMOKS FIRST NATION

3320 Comox Road, Courtenay, BC, V9N 3P8
(referred to as K'ómoks)

AND: COMOX VALLEY REGIONAL DISTRICT

600 Comox Road, Courtenay, BC, V9N 3P6
CITY OF COURTENAY
830 Cliffe Avenue, Courtenay, BC, V9N 2J7
TOWN OF COMOX
1809 Beaufort Avenue, Comox, BC, V9M 1R9
VILLAGE OF CUMBERLAND
Box 340, Cumberland, BC, V0R 1S0
(referred to as the Comox Valley local governments)

(collectively referred to as the Parties)

WHEREAS:

- A. K'ómoks translates to 'Land of Plenty'. The K'ómoks First Nation's lands, air, waters and resources extends from Sayward south to Englishman River encompassing some off-shore islands (as identified on schedule 'A').
- B. To this day the K'ómoks First Nation have not ceded, surrendered or extinguished their aboriginal rights and title to their lands and waters as acknowledged under section 25 and 35 of the Canadian *Constitution Act, 1982*.
- C. The Comox Valley local governments' area (as identified on schedule 'B') fall within the K'ómoks First Nation territory.
- D. K'ómoks and the Comox Valley local governments have distinct governance authorities and responsibilities towards their residents and members, and acknowledge that the interests of all persons living in the Comox Valley are best served by working together in the spirit of communication and cooperation.
- E. The Parties recognize that building a K'ómoks First Nation and Comox Valley local governments relationship now will create an increased level of certainty for each other and our neighboring communities and is a first step in a dialogue towards a consultative relationship.

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NOW THEREFORE the Parties enter into this Protocol Agreement with the intention and desire to improve the lives of all people in the Comox Valley by providing fair and equitable opportunities through a cooperative K'ómoks First Nation and Comox Valley local governments relationship that shares information, communicates openly and proactively, addresses specific interests and raises awareness and understanding of K'ómoks aboriginal rights and title and the responsibilities of the Comox Valley local governments under the *Local Government Act*, *Community Charter* and other provincial and federal legislation.

PURPOSE

1. The purpose of this Protocol Agreement is to:
 - (a) Enter into a formal arrangement between K'ómoks and the Comox Valley local governments with respect to establishing and maintaining a long-term cooperative relationship through effective and adequate communications; and
 - (b) Provide a venue to encourage discussion related to common areas of interest and responsibility.

PRINCIPLES OF COOPERATION

2. The Parties agree that K'ómoks and the Comox Valley local governments will:
 - (a) Meet regularly to promote and encourage open and constructive dialogue based on mutual trust, honesty and respect;
 - (b) Work cooperatively to ensure that the Parties have a full understanding of each others' governing structures, culture, and roles and responsibilities; and
 - (c) Respect the views and authority of each of the Parties.

KEY INTERESTS

3. (1) The Parties agree to work together to explore and, as required establish cooperative action plans, addressing the following key interests:
 - Culture and heritage protection
 - Environmental protection
 - Intergovernmental coordination: improving communications with a focus on roles, responsibilities and aspirations
 - Joint economic development
 - Land-use planning and management: including but not limited to regional growth strategies, official community plans, treaty land issues, resource management plans, provincial planning processes, park management, and other land use plans and regulations
 - Property taxation issues

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- Shared / reciprocal services
 - K'ómoks / local government governance relations
 - Emergency preparedness
 - Consultation and accommodation
 - Other key interests as agreed to by the Parties
- (2) The Parties agree to establish and prioritize key interests on an annual basis to ensure progress on the interests is made.

COMMUNICATIONS

4. The Parties recognize the success of a K'ómoks First Nation and Comox Valley local governments relationship will hinge upon open and transparent communications based on trust, respect and mutual understanding. The Parties agree to share information on matters that affect each other to as great an extent as possible while respecting each other's interests.

CONSULTATION

5. (1) It is the intention of the Parties to ensure consultation practices are exercised to increase the opportunities for collaborative decision-making on common areas of interest and responsibility.
- (2) The Parties recognize there are legal obligations for consultation in particular instances and will work towards defining roles and responsibilities to meet such requirements.
- (3) This protocol agreement does not constitute consultation.

WITHOUT PREJUDICE

6. (1) This protocol agreement is without prejudice to and shall not abrogate or derogate from the Aboriginal rights and title and other rights of the K'ómoks First Nation.
- (2) This protocol agreement is without prejudice to the legal obligations and commitments that may or may not be incumbent upon the Comox Valley local governments

DISPUTE RESOLUTION

7. (1) Where a dispute arises between the Parties, the Parties agree that the chief of K'ómoks, the chair of the Comox Valley Regional District and the mayors of the City of Courtenay, the Town of Comox and the Village of Cumberland, as required, will engage in informal communications in an attempt to resolve specific issues. The chief, chair and mayors can appoint alternate representatives to attend on their behalf.

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- (2) Where a dispute between the Parties has not been resolved by informal communications, any Party may, upon reasonable notice, call a special meeting of the Parties to discuss the dispute. Where the Parties are unable to resolve a dispute by special meeting, any Party may request a dispute resolution session.
- (3) The Parties shall mutually agree upon the procedure for carrying out a dispute resolution session.
- (4) The applicable Parties will share dispute resolution costs equitably.

IMPLEMENTATION

8.
 - (1) The Parties will establish a K'ómoks /Comox Valley local governments working committee to assist with implementing this protocol agreement.
 - (2) The working committee will develop terms of reference for approval by the Parties and will report to the Parties as required in implementing and administering the protocol agreement.

TERMS OF THE AGREEMENT

9.
 - (1) The Parties agree this Protocol Agreement shall take effect upon the adoption by resolution by each respective council and board.
 - (2) The Parties agree this Protocol Agreement is a living document and may be subject to revision from time to time by mutual consent. The revisions must be agreed to in writing and adoption by resolution of each respective council and board.
 - (3) This Protocol Agreement will remain in effect unless terminated by K'ómoks by providing sixty (60) days notice in writing, to be delivered to the Parties by hand, facsimile or registered mail.
 - (4) Any of the Comox Valley local governments may provide sixty (60) days notice to withdraw from the Protocol Agreement in writing, delivered to the Parties by hand, facsimile or registered mail. The Protocol Agreement remains in effect for all remaining Parties.

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IN WITNESS OF the Parties have hereunto affixed their signatures as of the day and year first written above.

K'ómoks First Nations

E. Hardy
Chief Hardy

Comox Valley Regional District

E. Grieve
Vice-chair Grieve

City of Courtenay

G. T. Phelps
Mayor Phelps

Town of Comox

P. Ives
Mayor Ives

Village of Cumberland

F. Bates
Mayor Bates



