

# Comox Valley Naturalists Society

June 2017 Newsletter



Laing Conservation group within CVN. MLHS would provide the financial backing.

All those present knew it was necessary for us to be present at the hearing. The AG's Office does not have any familiarity with the details of Comox's 35 years of what we believe to be mismanagement of the Trust, nor would the AG have the evidence MLHS had collected from Freedom of Information Requests to Comox and searches at the BC Archives. This important evidence would not likely be presented by Comox, as it hurts their case, and we need to ensure all the facts of this case are laid before the Judge. Comox will of course oppose our appearance at the hearing, but we needed to be present in the Court so that we could enter evidence. CVN is not taking Comox to Court; we are only seeking standing in the upcoming hearing, so that we may help the AG defend the Laing Trust.

## Background to the Trusts

In 1973, when Laing was 89 years old and living in Shakesides, he negotiated a Land Indenture with Comox, and sold the Town his waterfront property for a dollar, "in trust, in perpetuity, as a public nature park"<sup>1</sup>. In return Mack lived in his house rent and tax-free until his death in February of 1982 at just short of 99 years of age. This document established a Land Trust on the property, which is attached to the Land Title as a Condition.

On Laing's death, he left an estate valued at about \$62,700 in cash with an additional \$10,000 of household goods to be liquidated. After legacies and expenses in the Will, about \$53,000 plus the household goods were left in the residual estate to go to the Town of Comox. This money was left "upon trust, so that the funds so bequeathed will be used for the improvement and development of my house as a natural history museum"<sup>2</sup>. This is the Will Trust.

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## President's Message

The Mack Laing Trust

By *Jim Boulter*

Until February of this year, I knew little of the details involved in the Land Trust that Hamilton Mack Laing left to the Town of Comox. I had read a few articles over the time we had lived here, and I learned a bit of the history from Loys, but otherwise I was in the dark on most things. That changed with a resolution Comox passed in Council on February 1, requesting that the Attorney General of BC permit the destruction of Mack Laing's home known as Shakesides, and the construction of a viewing platform. As President of CVN, I was invited to a strategy meeting to discuss this development, and my in-depth education began.

At this meeting a number of concerned members of CVN and the Mack Laing Heritage Society (MLHS), all familiar with the history of the Laing Trust, were present. We agreed that CVN should take the lead in the defense of Shakesides—we are the older of the two groups, we have a longer history with Mack Laing, and MLHS was created, at the request of Comox, from the

The total residual estate was not passed to Comox, however, as only \$45,000 went directly to Comox. The remaining \$8,000 was retained by the lawyer<sup>3</sup>, and used to pay a number of items not included in Laing's will, as directed by the Town of Comox. These expenses include Richard Mackie's manuscript of Mack Laing's biography and the construction of a memorial cairn at Shakesides. While well-intentioned, these costs are not related to a museum, and should not have been paid for from the residual estate.

### **Treatment of the Will Trust**

Comox has never built the museum, so what has happened to the Will Trust money? The \$45,000 Comox received as a partial residual amount has been invested in different interest bearing accounts since 1982, but until 2000, none of the earned interest was reinvested in the Trust account. Instead, the interest earned was methodically removed from the Trust and added to general revenue under the title of Laing Reserve or various other names. The reserve funds were then used to finance various expenses, some related to Laing Park, but none used for a museum.

From 1983 to 1999 the only money reinvested in the Trust account was \$2,000 in 1985, at a time when the Trust fund was earning upwards of \$5,000 per year.

Recognizing the historical error made, the current Town Treasurer<sup>4</sup> has, from 2000 onward, been reinvesting the interest in the trust fund, so that in December 2016 the Trust sits at \$77,775. This does nothing to restore the 17 years of lost interest and lack of compounding the Trust suffered before 2000. Had the interest been reinvested during this time, the current balance would be in excess of \$250,000.

It is generally accepted that money earned by a Trust stays in the Trust, and this would apply to the rental income Comox received from Shakesides from 1982 to 2014. The total rental received was about \$117,000, and some of this money would have gone to upkeep and the like, but none of it went into the Trust fund. Like the earlier interest, it was spent on other items unrelated to the museum.

### **Comox Resolution and the Hearing**

The Comox resolution in February requires a variation of the existing Trust, and this requires a hearing with the Attorney General defending the Trust. The last line of the resolution carries the meat:

That, if the variation of the Trust for the purpose of constructing the proposed viewing platform is not accepted by the Court, that the Town propose to be released of the

obligations under the Trust upon the Town's transfer of the money subject to Trust to the Attorney General of British Columbia.<sup>5</sup>

Comox's proposed options to the issue is that either they get to tear down Shakesides, and use the gutted trust money to build a viewing platform, in what the Town sees as meeting the intent of the Will, or Comox will write a cheque for the gutted value, and give the money to the Attorney General's office, and "be released" from the duties and responsibilities of the trust. And then Comox would likely tear down Shakesides.

Comox does not mention the Land Trust, and it is possible that, if Comox wins this case, the judge hearing the case would inadvertently release Comox from the Land Trust as well. If this happens, the nature park condition on the Land Title could be removed, allowing Comox to enjoy beneficial ownership of the property. In plain language, Comox would own the property without restriction, and could then do anything with it, sell it, develop it, even build a sewer plant on the grounds.

Although these are unlikely scenarios, the Town has repeatedly said they own the land outright. The fact that there is nothing in Comox's resolution asking for a variance in the Land Indenture is worrisome, as the demolition permit from July 31, 2015 that removed Mack Laing's first home, Baybrook, also includes Shakesides, indicating that Comox felt at that time that they could do whatever the Town wanted with the house.

CVN, along with MLHS and many other supporting organizations, would like to see Comox live up to the duties and obligations they negotiated in the case of the Land Indenture, and accepted along with the Trust money in the case of the Will. Shakesides should be made into a nature museum, as explored by the town of Comox in 1982.<sup>6</sup> If the Town of Comox is unwilling to undertake this obligation, then we would like to see a full audit of how Comox has treated the Trust money, with a view to finding a suitable third party that would accept the trust property and the Trust money, and create the natural history museum envisioned by Mack Laing.

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1. Land Indenture 1973 09 19

2. Laing's Will, dated 1981, May 6, Probated 1982, Feb 24.

3. Letter from C.H.L. Morris, Solicitor to the Mayor and Council, Town of Comox, Sept 7, 1983.

4. Internal memo from D. Jacquest, Treasurer to Mayor and Councillors, Feb 5, 2003.

5. Richard Kanigan to Mayor and Council, Jan 26, 2017.

6. Councillor Alice Bullen to CSNHS March 30, 1982.

## Conservation Activities

### Courtenay Airpark Restoration Project

By Frank Hovenden

If there is a theme to this year's work parties, it is one of cooperation with other groups sharing our vision. We have worked together with the Broombusters, Project Watershed, Courtenay Airpark Association and the City of Courtenay. These are quite diverse groups which have come together to help us restore the Courtenay River Airpark. The small but persistent group of dedicated volunteers from Comox Valley Nature has now been working on this site for over 20 years. Our progress has been slow but steady, and we always welcome extra hands and backs to assist with the chores. Our oldest Garry oaks are now over 12 m in height.

The culmination of our efforts so far this year was on Earth Day when about 100 native plants were planted on the west side of the lagoon adjacent to the runway. These included Garry oak, Oregon grape, Pacific dogwood and ocean spray.



Excavation work at Courtenay Airpark.

Photo: Frank Hovenden

Helping with the plantings was a small group of students from Mark R. Isfeld School. The site had been prepared in the previous week with a mini-excavator donated by the Airpark Association. This machine was very effective in digging up the old-growth blackberry which dominated the site, and making it rough and loose as Dave Polster recommends for restoration work. We have returned to the site once since Earth Day to remove the blackberry that had re-sprouted.

The City of Courtenay has also gotten on board and removed the blackberry and tansy at the end of the runway at our request. This has been helpful as this area was not attended to last year due to a shortage of labour. With a new full-time Parks Manager, Mike Kearns, we hope to get even more support from the City.

In summary, we have had seven work parties so far this year. We have cleaned up around our older plantings and spread mulch donated by the City of Courtenay. We have also removed Himalayan blackberry and planted native plants.

Our work parties usually last a couple of hours and end with a group coffee session at the Airpark Cafe. It is common to be thanked by members of the public walking by who appreciate the work we have done and the difference it has made to this special site. If you would like to participate and you have basic gardening abilities, please contact me or Murray Little, our project leader. Extra hands make light work.



Volunteers at Courtenay Airpark. Photo: Frank Hovenden

### Wetlands Restoration Project

By Murray Little

#### Invasive Control Contract

We have had good responses from our funding proposals, and have a total of \$15,500 for 2017.

We received \$10,500 from the CVRD, which is the last year of our current 3-year contract. We hope that we will be able to negotiate another similar one. We have \$2,000 from BC Nature under their Naturalists Foundation, and we have \$3,000 from Courtenay. These funds will enable us to continue the level of operations at the 2016 level.

We have again a contract with Sellentin Habitat Restoration & Invasive Species Consulting Ltd for the major part of our funds. Their crew started work in April at the Estuary, and after work elsewhere will get back to yellow flag iris and loosestrife in June.

### Little River

In addition to Frank's work at the Airpark [see report above], a small crew has been at work pulling young broom, red dead-nettle and Dalmation toadflax on the banks of the Little River. There is not much work here, but we need to keep an eye on it. It looks as though the toadflax started out on the "development" side of the fence, and has worked in for a short distance in 2 spots.

### North-Courtenay Connector Rescue

Last summer I saw a few trilliums on the west side of the river, and hoped to rescue them this spring. However, in April when we went in, we could find only half a dozen trilliums, but we did find a small and concentrated area of *Erythronium*. Over several days (some of them wet and muddy), we rescued 300 "pots". They were so concentrated that often there were 2 or 3 in one pot! By the end of April we had a race on our hands. The trees on site had to be taken down before the end of April, and the Trilliums had just started to show themselves above ground level. We managed to rescue 47 trilliums to add to the pot forest on our driveway.

In addition, due to the short time period, we invited others to help. The Town of Comox rescued over 100 plants, including ferns and meadowrue; and Richard from Streamside Nursery also rescued about the same number of *Erythronium* plants.

Plants were distributed to the new MARS site; and to the Filberg Lodge, and to Cumberland Community Forest Society who had a very suitable area by Perseverance Creek in the area they have recently purchased.

We had a bonus because the lilies were close to a creek, and the contractor had a fence erected between the stream and their worksite. This meant that the area was protected until June 15th, and they allowed us in to salvage - but only after 6.00pm, and on weekends! However, it did allow rescue of a further 50 lilies, 18 meadowrue, a dozen Hooker's fairybells, and 18 ferns. The ferns were immediately delivered to Glacier View Lodge.

Comox Valley Conservation Partners  
By Murray Little

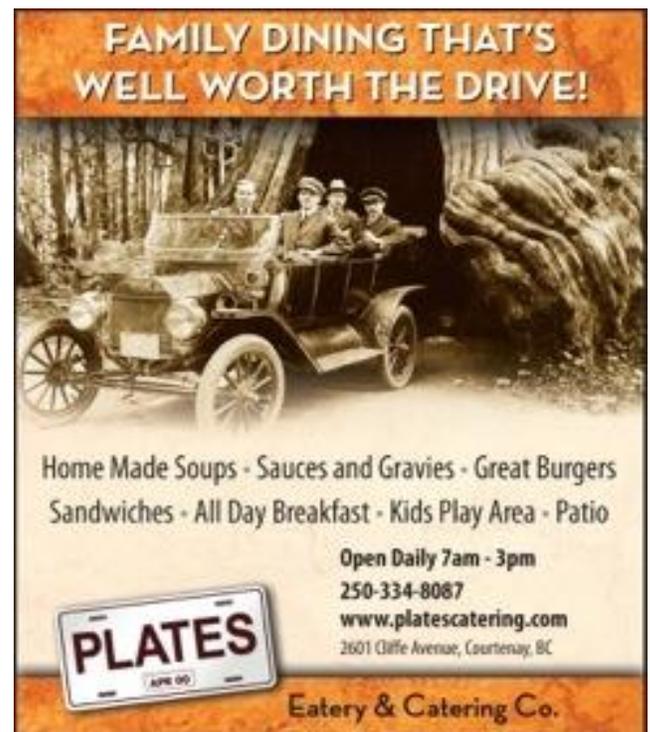
[Editor's Note: In the March newsletter, Murray reported on a disagreement between the CVCP and developers

regarding the provisions in the proposed City of Courtenay Tree Bylaw for how to decide the number of trees to be left standing in larger "greenfield" developments.]

Best news of all - the city finally approved the new Tree Bylaw. The last word will be held by staff, not by developers. We look forward to an Urban Forest Management Plan to follow.

Jim has already asked for photos for the 2018 Conservation Calendar, which will be in a revised format, and may include an on-line version.

In the recent provincial election campaign, the All Candidates Forum sponsored by Fresh Water Alliance and CVCP was well attended and well run. Thanks to members who attended.



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## Member Profile

An occasional series in which we recognize the contributions of prominent CVNS members.

Frances Johnson

[Editor's Note: A previous newsletter briefly reported Fran's death. We follow up by reprinting, with permission, the following obituary from the Comox Valley Record.]



A fine Croteau Beach lady, Fran took her last breath getting out of her warm bath on October 13, 2016. Born 1924 in Kansas, Fran lived through the Dirty 30's, attending school and excelling. Musically inclined, she played a variety of instruments. She attended university in Illinois with a major in music, aspiring to be a classical pianist. Life took her in another turn.

Fran met Jim Johnson, a musician of black heritage. She was embraced by his family and became active in the Civil Rights movement in the USA. After marriage, they moved to Canada to escape endless discrimination. Both were delighted with their new home. In 1956 they adopted Bernie and Jeff, with Joel several years later. A strong, independent woman, her ambition to return to university in library sciences led her to UBC with her 3 children in tow. Jim remained in Prince George, remaining in his teaching job.

With her Library Science degree in hand she lived and worked in North Van, Nanaimo, Gabriola Island, Comox Valley. In 1968 she moved her family to the Comox Valley. In 1969 she discovered Croteau Beach and bought the Brooks House. But her eye was on 3 acres across the road which she bought in 1979. She was to live the rest of her life in her woods, protecting her property with fierce determination and covenants.

She had wisdom, strength, clarity and a fire deep within her for the environment, social justice, flora and fauna, politics and always her gardens, books, family, community. She always held steady to her beliefs.

A founder of Macdonald Wood Park Society, she fought to preserve this property. She stood in front of the

chainsaws. She served on the board, in all capacities, for 20 years. Her involvement was crucial to saving Macdonald Woods.

Fran was immersed in many groups: Naturalists, Seed Savers, Friends of the Library, ABBRA, Croteau Beach Community Plan, Land Trust and more. Fran was North Island VIRL Regional Supervisor.

Fran is survived by her devoted son Jeff, grandchildren Nicole and Yvette, 2 great grandchildren. Thank you to all who helped care for Fran in the last years. She achieved her goal of staying in her small house in her woods. Fran requested no service. Donations to Macdonald Wood Park Society, 9-1501 Balmoral Avenue, Comox, BC V9M 2R8 gratefully accepted in Fran's name.



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## Short Notes

### Charles Brandt Receives BC Community Achievement Award

At age 94, Father Charles Brandt, well-known in the Comox Valley, was a recipient of the BC Community Achievement Award in April from the British Columbia Achievement Foundation. The awards are described as “Recognizing and celebrating the spirit, imagination, dedication and contribution of British Columbians to their communities.” His citation reads:

Father Charles Brandt believes that it is humanity’s great work to transform our disruptive influence on the earth to a benign presence. As a leading member of the Tsolum River Restoration Society, in partnership with other groups, he spearheaded a campaign to get the old copper mine site capped at a cost of \$4.5 million, which enabled the immediate return of salmon to the river. Father Brandt has also volunteered with the Oyster River Enhancement Society contributing to the return of salmon and trout stocks to the once decimated river.

Although he was unable to attend the awards ceremony, the award was subsequently presented to him by CVRD Director Edwin Grieve.

You can find out more about Charles and see a gallery of his photographs (which frequently grace these pages also) on the Tide Change website: <https://tidechange.ca/2017/04/05/fr-charles-brandt-recipient-bc-community-achievement-award/>.



Greater yellowlegs at Saratoga Beach. Photo: Charles Brandt

## Volunteer Positions Open

By Jim Boulter

### Vice President

Your Society has an opening for a Vice President, which we will need to fill over the summer. Jarrett has to step down due to the high level of business tasks he has incurred in the expansion of the Hand in Hand Early Years Nature Education programs.

The main task of the VP is to contact our guest speakers, to arrange for their accommodation, and to write press releases to advertise them. You will not have to discover the speakers yourself, as CVNS members usually suggest them, and the President has a list of prospective people, as well as past speakers who may want to provide us with updates. You will be working with the President, Treasurer, Secretary, BC Nature Director, and the other volunteers who help to keep CVNS vibrant and active.

On behalf of the Board and members of CVN, I would like to take this opportunity to express a deep appreciation for Jarrett’s assistance during his years of service on our behalf. His cheerfulness and positive outlook were always a pleasure to have around.

### Coffee Committee

CVN also has an opening for two members in our Coffee Committee. Shirley and Gerry Krotz have been providing tea and coffee and sweets during our breaks at the monthly meeting and the summer potlucks, along with Alison. CVN has the cups, coffee makers, and tea pots etc. which are stored at the volunteer’s house. The members will also have to pick up supplies as required.

Shirley and Gerry are going to New Zealand for the winter to visit their daughter and family, and will not be available after November 2017. The Board and members of CVN would like to thank Shirley and Gerry for their dedication and support in this important role. For many of us, a meeting cannot exist without coffee.

### Island Representative for the BC Nature Conservation Committee

BC Nature is looking for a volunteer to sit on its Conservation Committee. If you are interested in this position, or would like further details, please contact John Neville at [songbird@saltspring.com](mailto:songbird@saltspring.com).

The 2017 Conservation report was published in the Annual Report for the AGM in Lillooet, and is on page 2

at the following website:

<http://www.bcnature.ca/wp-content/uploads/2013/11/2016-Annual-report-AGM-version-Final-web.pdf>

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## Upcoming CVNS Activities

### General Instructions for Field Trips

- All walks are club events and reserved for members only, unless otherwise stated. Typically, one walk each month is open to the public.
- Usually, meet at the Old Church Theatre, 755 Harmston Avenue in Courtenay and consider car-pooling, or meet leaders at the trail head, unless otherwise announced. Arrive at the meeting area 10 minutes prior to the appointed time.
- Wear clothing and footwear suitable for the conditions.
- Bring water and a snack.
- No dogs please.

### Schedule

**This information reflects planning as of our publishing date and is subject to change. Watch for the latest information and additional details in the President's weekly announcements and on the website.**

**Sunday, June 18:** Summer Potluck Dinner. Postponed due to weather. Watch the weekly announcements for rescheduling.

**Sunday, July 2:** (Combined Strathcona Wilderness Institute and CVN event) Paradise Meadows early flowers. Meet at SWI's Wilderness Centre (near the Nordic ski lodge) at 1:00 pm. Leader: Alison Maingon.

**Saturday, July 8:** Headquarters Townsite Park walk. Meet at the Country Market for car pooling at 9:30 am, or at the trailhead on Farnham Road at the bridge over the Tsolum River at 9:45 am. There are no facilities at the park.

**Sunday, July 9:** (Combined Strathcona Wilderness Institute and CVN event) Paradise Meadows trees. Meet at the pullout at the bottom of Strathcona Parkway for car pooling at 9:30 am, or at SWI's Wilderness Centre (near the Nordic ski lodge) at 10:00 am. Leader: Fred Newhouse.

**Saturday, July 15:** (Public walk) Oyster Bay Regional Park. Leader: Loys Maingon.

**Saturday, July 29:** (Public walk) Little River Regional Park. Leader: Loys Maingon.

**Sunday, July 30:** (Combined Strathcona Wilderness Institute and CVN event) All-day hike (9:00 am to 4:30 pm) to Hairtrigger Lake for subalpine pond ecology.

**Saturday, August 5:** (Public walk) Melda's Marsh, Seal Bay Regional Park.

**Sunday, August 20:** (Combined Strathcona Wilderness Institute and CVN event) Hike to McKenzie Meadows. Leader: Loys Maingon.

**Saturday, August 26:** (Public walk) Rosewall Creek Provincial Park. Leader: Loys Maingon.

**Saturday, September 2:** (Public walk) Oyster River Regional Park. Possibly "pub-to-pub" walk depending on access. Leaders: Loys and Alison Maingon.

**Saturday, September 9:** Trent River trail.

**Saturday, September 16:** Elk Falls Regional Park. Potential salmon return.

### Reminder for Field Trip Leaders

All field trip participants who are not members must sign our Informed Consent and Assumption of Risk Agreement.

## About the Society

### Website

[comoxvalleynaturalist.bc.ca](http://comoxvalleynaturalist.bc.ca)

### General E-mail Address

[coordinator@comoxvalleynaturalist.bc.ca](mailto:coordinator@comoxvalleynaturalist.bc.ca)

## Mailing Address

Comox Valley Naturalists Society  
Box 3222  
Courtenay BC  
V9N 5N4

## Board of Directors

President: Jim Boulter  
([coordinator@comoxvalleynaturalist.bc.ca](mailto:coordinator@comoxvalleynaturalist.bc.ca))  
Past President: Loys Maingon  
Vice-President: vacant  
Secretary: Gabriel Baubaiges  
Treasurer: Isabella Erni ([treasurerCVNS@gmail.com](mailto:treasurerCVNS@gmail.com))  
FBCN Director: Sharon Niscak

## Group Leaders and Other Volunteers

Membership Secretary: Maris Ratel  
Birding: Dave Robinson  
([birders@comoxvalleynaturalist.bc.ca](mailto:birders@comoxvalleynaturalist.bc.ca))  
Botany: Karin Franzen, Alison Maingon, Joel Kositsky  
([botany@comoxvalleynaturalist.bc.ca](mailto:botany@comoxvalleynaturalist.bc.ca))  
Nature Kids: Jocie Brooks, Haley Dato  
Photography: Terry Thormin  
Conservation: Loys Maingon  
Wetland Restoration: Murray Little  
Garry Oak Restoration: Loys Maingon  
Environmental Heritage and Culture: Gordon Olsen  
([coordinator@comoxvalleynaturalist.bc.ca](mailto:coordinator@comoxvalleynaturalist.bc.ca))  
Swan Count: Ernie Stefanik, Krista Kaptein  
Comox Valley Conservation Partners liaison: Murray Little  
Trip Planning: Loys Maingon  
Bursary: J. Harrison, M. Stewart, K. Wilkinson  
Website: Jim Boulter, Isabella Erni, Krista Kaptein  
Facebook: Jillian Jones  
Newsletter Advertising: Kathie Woodley  
Newsletter Editors: Sharon Niscak, David Orford

## Constitution

Available in PDF form on this web page:  
<http://comoxvalleynaturalist.bc.ca/about-us/>

## Membership

One adult: \$30; Family: \$40;  
Junior (12-17): \$10; Student (18-22): \$15

Pay on the website using PayPal, or mail a cheque payable to Comox Valley Nature to:  
CVNS Membership Secretary  
314 Aitken Street  
Comox BC, V9M 1N4

Receipts are provided at meetings, or include a self-addressed stamped envelope.

Membership fee is due January 1. If not paid by March 30, names are removed from the CVNS and BC Nature lists. New memberships started after September include the following full calendar year.

Change of address, phone number or e-mail: Please advise the Membership Secretary.

## Meetings

**Monthly general meetings** are held on the 3rd Sunday of the month at 7:00 p.m. in the Florence Filberg Centre, 411 Anderton Avenue, Courtenay.

**June meeting:** Potluck at a member's house.

**No general meeting in July, August, or December.**

**Bird meetings:** First Thursday of the month, 7:00 p.m. at the Filberg Soroptimist Lounge, Courtenay. For information, send e-mail to [birders@comoxvalleynaturalist.bc.ca](mailto:birders@comoxvalleynaturalist.bc.ca).

**Botany meetings:** Second Monday of the month at a member's home, 12:00 p.m. An e-mail is sent prior to the meeting to confirm location and topic.

Botany walks (weather permitting) follow the meeting and are also scheduled at other times. To be included on the botany list, send e-mail to [botany@comoxvalleynaturalist.bc.ca](mailto:botany@comoxvalleynaturalist.bc.ca).

## Newsletter

The newsletter is published 3 times per year (March, June, and November). The full-colour version is e-mailed to all members on the e-mail list, and a limited number of printed copies (black and white) is available at the general meetings. If you wish to receive printed copies by Canada Post (within Canada), the fee is \$5.00 per year.

**The newsletter depends on your contributions. Please consider contributing an article or note on any topic of general interest to other members—for example: natural history, conservation activities, trips, or unusual sightings. You can send your contribution by e-mail to [newsletter@comoxvalleynaturalist.bc.ca](mailto:newsletter@comoxvalleynaturalist.bc.ca).**

**We would appreciate receiving articles by the first day of the publication month.**

**All articles are subject to editing.**