

Proposed by: Administration
Vote: 6 Aye 0 Nay 0 Absent

MUNICIPALITY OF SKAGWAY, ALASKA
RESOLUTION NO. 10-16R

A RESOLUTION OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING RESOLUTION NO. 10-02R BY NAMING AN INCORPORATED NONPROFIT ENTITY TO RECEIVE THE FY11 COMMUNITY REVENUE SHARING PROGRAM FOR DYEA.

WHEREAS, AS 29.60.865 and 3 AAC 180.070 require the assembly of a borough or unified municipality to adopt a resolution identifying those unincorporated communities located within their municipal boundaries that the assembly determines meet the Community Revenue Sharing Program eligibility criteria established under AS 29.60.865, AS 29.60.879, and 3 AAC 180.110; and

WHEREAS, the Municipality of Skagway failed to name the nonprofit entity which will receive the FY11 Community Revenue Sharing funds in Resolution No. 10-02R;

NOW THEREFORE BE IT RESOLVED THAT: the Assembly by this resolution amends Resolution No. 10-02R and names the following nonprofit entity to receive the FY11 Community Revenue Sharing funds:

Unincorporated Community: Dyea


Native Village Council or Nonprofit Entity: Skagway Traditional Council

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 17th day of June, 2010.



Thomas D. Cochran, Mayor

ATTEST:



Marjorie D. Harris, CMC
Municipal Clerk

(SEAL)





Municipality of Skagway

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Memorandum

To: Mayor Cochran & Borough Assembly
From: Marjorie D. Harris, Borough Clerk
Cc: Tom Smith, Borough Manager
Date: June 15, 2010
Subject: FY11 Community Revenue Sharing Program

Bill Rolfzen from the State Community & Economic Development department sent out the packets for the FY11 Community Revenue Sharing Program. The Assembly adopted Resolution No. 10-02R on February 18, 2010.

Mr. Rolfzen contacted our office recently and indicated that we would need to designate a nonprofit entity for the funding to go to before he could release the funds which I believe he indicated comes to a little over \$11,000.00, this issue needs to be addressed before July 1st

AS 29.60.865(b) "The department may make a community revenue sharing payment on behalf of a community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or native village council that has been approved by the Assembly and meets the requirements of (a) of this section. The department shall have written evidence of the Assembly approval. If there is more than one qualified entity in a community in a borough or unified municipality, one of the entities may receive the entire payment, or the payment may be shared between two or more of the qualified entities, as determined by the Assembly."

Please amend the agenda to add Resolution No. 10-16R, an amendment will have to be made at the table to insert the Assembly's choice of nonprofit entity that the funds will go to which must be used on Dyea. Listed below are 2 entities the Assembly may wish to consider inserting in the resolution and developing an MOU for spending those funds in Dyea.

1. Skagway Traditional Council
2. Taiya Inlet Watershed Council

The other option is to not adopt the resolution and the Municipality will contact Mr. Rolfzen and inform him there are no nonprofit entities available to accept these funds.

(b) The per capita amount distributed to each community in the unorganized borough may not, when added to the basic community revenue sharing payment for that community, exceed the basic amount calculated under AS 29.60.855(b)(3). If the per capita distribution for a community exceeds the basic amount calculated under AS 29.60.855(b)(3), the excess amount shall be distributed on a per capita basis to other communities in the unorganized borough.

(c) For purposes of this section, the population of a municipality, reserve, or community shall be determined by using the numbers of permanent fund dividend recipients or other population data that the department determines is reliable. For purposes of determining the population of a borough, the population of each city in the borough shall be deducted from the total borough population. (§ 6 ch 12 SLA 2008)

Sec. 29.60.865. Eligibility requirements for reserves and communities.

(a) The department, with advice from the Department of Law, shall determine whether there is in each community or reserve an incorporated nonprofit entity or a Native village council that will agree to receive and spend the community revenue sharing payment. If there is more than one qualified entity in a reserve or community in the unorganized borough, the department shall pay the money to the entity that the department finds most qualified to receive and spend the money on behalf of the reserve or community. The department may not make a community revenue sharing payment to a Native village council unless the council waives immunity from suit for claims arising out of activities of the council related to the payment. A waiver of immunity from suit under this section must be on a form provided by the Department of Law. **If there is no qualified incorporated nonprofit entity or Native village council in a reserve or community that is willing to receive the community revenue sharing payment and use the payment on behalf of that reserve or community, the payment for that reserve or community may not be paid.** Neither this section nor any action taken under it enlarges or diminishes the governmental authority or jurisdiction of a Native village council.

(b) The department may make a community revenue sharing payment on behalf of a community in a borough or unified municipality only to the municipality for payment by the municipality to an incorporated nonprofit entity or Native village council that has been approved by the assembly and meets the requirements of (a) of this section. The department shall have written evidence of the assembly approval. If there is more than one qualified entity in a community in a borough or unified municipality, one of the entities may receive the entire payment, or the payment may be shared between two or more of the qualified entities, as determined by the assembly.

(c) A community in a borough or unified municipality is eligible for a community revenue sharing payment only if at least three of the following services are generally available to all residents of the community and each of the three services, in any combination, are provided by one or more qualifying incorporated nonprofit entities or a Native village council or are substantially paid for by the residents of the community through taxes, charges, or assessments levied or authorized by the borough or unified municipality:

- (1) fire protection;
- (2) emergency medical;
- (3) water and sewer;
- (4) solid waste management;
- (5) public road or ice road maintenance;
- (6) public health;
- (7) search and rescue. (§ 6 ch 12 SLA 2008)

Sec. 29.60.879. Definitions. In AS 29.60.850 — 29.60.879,

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(1) "community" means a place in the unorganized borough, in a borough, or in a unified municipality that is not incorporated as a municipality, that is not a reserve, and in which 25 or more individuals reside as a social unit;

(2) "reserve" means a place that is organized under federal law as an Indian reserve that existed before enactment of 43 U.S.C. 1618(a) and is continued in existence under that subsection. (§ 6 ch 12 SLA 2008)

Chapter 63. Special Assessments and Service Areas.

[Repealed, § 88 ch 74 SLA 1985.]

Chapter 65. General Grant Land.

Section

- 10. Determination of entitlement of boroughs and unified municipalities
- 20. Determination of entitlement for cities
- 30. Determination of entitlement for newly incorporated municipalities
- 40. Status of entitlements
- 50. Fulfillment of land entitlements
- 60. School and mental health land

Section

- 70. Selection and conveyance procedure
- 90. Authorization for land exchanges
- 100. Public purpose and expansion needs
- 120. Regulations
- 122. Prohibited acquisitions
- 129. Policy
- 130. Definitions
- 140. Application

Opinions of attorney general. — Since general grant land entitlements are considered vested property rights, the practical effect of AS 29.06.150 is that merger or consolidation does not create the right to an additional entitlement. The merger or consolidation itself does not create any additional entitlement or trigger AS 29.65.030(a). September 16, 1993 Op. Att'y Gen.

The policy expressed by a full reading of Title 29 is

that municipal alterations through such devices as mergers, consolidations, and dissolutions should not be used to arbitrarily enlarge the rights granted in AS 29.65. To permit a municipal alteration to trigger a new entitlement without regard to prior conveyances under AS 29.65 or 38.05.810 would result in certain municipal lands being counted twice in the determination of a municipal entitlement. December 14, 1993 Op. Att'y Gen.

Sec. 29.65.010. Determination of entitlement of boroughs and unified municipalities. (a) The general grant land entitlement of each of the municipalities in this subsection is the amount set out opposite each:

- (1) Municipality of Anchorage — 44,893 acres;
- (2) City and Borough of Juneau — 19,584 acres;
- (3) City and Borough of Sitka — 10,500 acres;
- (4) Bristol Bay Borough — 2,898 acres;
- (5) Fairbanks North Star Borough — 112,000 acres;
- (6) Haines Borough — 2,800 acres;
- (7) Kenai Peninsula Borough — 155,780 acres;
- (8) Ketchikan Gateway Borough — 11,593 acres;
- (9) Kodiak Island Borough — 56,500 acres;
- (10) Lake and Peninsula Borough — 125,000 acres;
- (11) Matanuska-Susitna Borough — 355,210 acres;
- (12) North Slope Borough — 89,850 acres;
- (13) City and Borough of Yakutat — 21,500 acres.

(b) [Repealed, § 12 ch 34 SLA 1987.] (§ 17 ch 74 SLA 1985; am § 12 ch 34 SLA 1987; am § 1 ch 108 SLA 1994; am § 1 ch 112 SLA 1998)

Sec. 29.65.020. Determination of entitlement for cities. (a) The general grant land entitlement of a city formerly eligible to receive general grant land under the provisions of former AS 29.18.190 and 29.18.200 is 10 percent of the maximum total