

**HOUSE & SENATE JOINT  
JOURNAL SUPPLEMENT**

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**January 26, 1995**

**Thursday**

**No. 5**

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**RECOMMENDATIONS BY THE  
ALASKA LOCAL BOUNDARY COMMISSION**

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**Received  
January 25, 1995**



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Darroll Hargraves, Chairperson  
Myrtle Johnson, Vice-Chairperson, Second Judicial District  
Frances Hallgren, Member, First Judicial District  
H. Toni Salmeier, Member, Third Judicial District  
Dr. Hugh B. Fate, Member, Fourth Judicial District

**Recommendation Number One  
To The First Session Of The Nineteenth Alaska Legislature**

**A recommendation for the dissolution of the inactive City of Atmautluak**

The Local Boundary Commission hereby formally recommends dissolution of the City of Atmautluak, contingent and effective upon satisfaction of the following conditions within two years of tacit legislative approval of this recommendation pursuant to AS 29.06.450(b).

1. Approval of dissolution of the city by voters of the City of Atmautluak at an advisory election to be administered by the Division of Elections. Except, however, that the requirement for the election will be waived if the U.S. Department of Justice interposes an objection to the election under the terms of the federal Voting Rights Act.
2. Satisfaction of all debts of the inactive city through the DCRA Trusteeship or other means.
3. Establishment of an Atmautluak IRA Council to be designated as the successor to the inactive City, or alternatively, designation by the Commission of another qualified successor. Another entity might qualify as a suitable successor if, for example, State law were amended to permit the Atmautluak Traditional Council to succeed to the inactive City. Provided that Governor Knowles' administration supports such a change, DCRA is encouraged to promote the enactment of a law which would allow traditional councils, such as the Atmautluak Traditional Council, to become the successor to the dissolved city.
4. Assurance that the State will not be held liable for any failure on the part of the community to comply with State and federal water quality laws.
5. Execution of appropriate agreements between DCRA, the local village successor, the AVCP regional housing authority and other applicable organizations and agencies assuring that the State of Alaska, as the immediate successor to the dissolved city, will not be obligated by known contractual agreements involving the city. In the matter of the dissolution of the City of Atmautluak, these would include the "Cooperation Agreement" and "Memorandum of Agreement" between the City of Atmautluak and the Association of Village Council Presidents Regional Housing Authority.

6. Execution of an agreement between DCRA and a qualified local successor conveying assets and liabilities of the inactive City of Atmaultuak (through the State) to the qualified successor. The agreement shall be prepared by the Department of Law and shall contain the following provisions:
  - A. The properties to be conveyed may be used only for public purposes and will be available to the public without restriction as to race, color, national origin or sex.
  - B. Ownership of the properties shall be transferred, without consideration, to a city or organized borough, upon request by the city or organized borough within five years of the date that the property was first included within the corporate boundaries of the city or organized borough.
  - C. The State reserves the right of prior approval of any conveyance, lease, easement, or other obligation concerning the property.
  - D. If the land is located within the boundaries of a municipal government that exercises authority for planning, platting or land use regulation, the property is subject to the planning, platting and/or land use regulations and ordinances of that municipality.
  - E. In the event that the village successor fails to comply with any of the stipulations governing the property, ownership of the property shall be transferred, without consideration, to the State of Alaska upon request by the State.
  - F. The deeds conveying the property are subject to other reservations, exceptions, restrictions, and easements of record.
  - G. An express waiver of sovereign immunity, including consent to suit in a convenient state forum, must be granted by the village successor to ensure the enforceability of the stipulations of the conveyance.
  - H. That the agreement must recognize that it does not constitute recognition of tribal status or of "Indian Country."
  - I. That the terms and conditions of the agreement shall be enforceable by the parties. A failure to enforce or a waiver of enforcement rights as to any one section or provision shall not be a waiver or bar to the enforcement of any other section or provision.

Local Boundary Commission  
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Dr. Hugh B. Fate, Member, Fourth Judicial District

**Recommendation Number Two  
To The First Session Of The Nineteenth Alaska Legislature**

**A recommendation for the dissolution of the inactive City of Kasigluk.**

The Local Boundary Commission hereby formally recommends dissolution of the City of Kasigluk, contingent and effective upon satisfaction of the following conditions within two years of tacit legislative approval of this recommendation pursuant to AS 29.06.450(b).

1. Approval of dissolution of the city by voters of the City of Kasigluk at an advisory election to be administered by the Division of Elections. Except, however, that the requirement for the election will be waived if the U.S. Department of Justice interposes an objection to the election under the terms of the federal Voting Rights Act.
2. Satisfaction of all debts, if any, of the inactive city through the DCRA Trusteeship or other means.
3. Establishment of a Kasigluk IRA Council to be designated as the successor to the inactive City, or alternatively, designation by the Commission of another qualified successor. Another entity might qualify as a suitable successor if, for example, State law were amended to permit the Kasigluk Traditional Council to succeed to the inactive City. Provided that Governor Knowles' administration supports such a change, DCRA is encouraged to promote the enactment of a law which would allow traditional councils, such as the Kasigluk Traditional Council, to become the successor to the dissolved city.
4. Execution of appropriate agreements between DCRA, the local village successor, the AVCP regional housing authority, the Alaska Village Electrical Cooperative (AVEC) and other applicable organizations and agencies assuring that the State of Alaska, as the immediate successor to the dissolved city, will not be obligated by known contractual agreements involving the city. In the matter of the dissolution of the City of Kasigluk, these would include the "Cooperation Agreement" and "Memorandum of Agreement" between the City of Kasigluk and the Association of Village Council Presidents Regional Housing Authority. They may also include the operating and labor agreements with AVEC.<sup>1</sup>

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<sup>1</sup> During the Commission's hearing, residents disputed AVEC's claim that the agreements in question were binding upon the City of Kasigluk. They noted, for example, that the operating agreement was not signed by an AVEC official. They also contended that the agreement is between the City of Nunapitchuk and AVEC, not the City of Kasigluk and AVEC.

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5. Assurance that the State will not be held liable for the failure, if any, on the part of the community to comply with State and federal water quality laws.
  
6. Execution of an agreement between DCRA and the Kasigluk IRA Council or other qualified local successor conveying assets and liabilities of the inactive City of Kasigluk (through the State) to the qualified successor. The agreement shall be prepared by the Department of Law and shall contain the following provisions:
  - A. The properties to be conveyed may be used only for public purposes and will be available to the public without restriction as to race, color, national origin or sex.
  - B. Ownership of the properties shall be transferred, without consideration, to a city or organized borough, upon request by the city or organized borough within five years of the date that the property was first included within the corporate boundaries of the city or organized borough.
  - C. The State reserves the right of prior approval of any conveyance, lease, easement, or other obligation concerning the property.
  - D. If the land is located within the boundaries of a municipal government that exercises authority for planning, platting or land use regulation, the property is subject to the planning, platting and/or land use regulations and ordinances of that municipality.
  - E. In the event that the village successor fails to comply with any of the stipulations governing the property, ownership of the property shall be transferred, without consideration, to the State of Alaska upon request by the State.
  - F. The deeds conveying the property are subject to other reservations, exceptions, restrictions, and easements of record.
  - G. An express waiver of sovereign immunity, including consent to suit in a convenient state forum, must be granted by the village successor to ensure the enforceability of the stipulations of the conveyance.
  - H. That the agreement must recognize that it does not constitute recognition of tribal status or of "Indian Country."
  - I. That the terms and conditions of the agreement shall be enforceable by the parties. A failure to enforce or a waiver of enforcement rights as to any one section or provision shall not be a waiver or bar to the enforcement of any other section or provision.

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Dr. Hugh B. Fate, Member, Fourth Judicial District

**Recommendation Number Three  
To The First Session Of The Nineteenth Alaska Legislature**

**A recommendation for the dissolution of the inactive City of Newtok**

The Local Boundary Commission hereby formally recommends dissolution of the City of Newtok, contingent and effective upon satisfaction of the following conditions within two years of tacit legislative approval of this recommendation pursuant to AS 29.06.450(b).

1. Approval of dissolution of the city by voters of the City of Newtok at an advisory election to be administered by the Division of Elections. Except, however, that the requirement for the election will be waived if the U.S. Department of Justice interposes an objection to the election under the terms of the federal Voting Rights Act.
2. Satisfaction of all debts of the inactive city through the DCRA Trusteeship or other means.
3. Establishment of a Newtok IRA Council to be designated as the successor to the inactive City, or alternatively, designation by the Commission of another qualified successor. Another entity might qualify as a suitable successor if, for example, State law were amended to permit the Newtok Traditional Council to succeed to the inactive City. Provided that Governor Knowles' administration supports such a change, DCRA is encouraged to promote the enactment of a law which would allow traditional councils, such as the Newtok Traditional Council, to become the successor to the dissolved city.
4. Assurance that the State will not be held liable for any failure on the part of the community to comply with State and federal water quality laws.
5. Execution of appropriate agreements between DCRA, the local village successor, the AVCP regional housing authority and other applicable organizations and agencies assuring that the State of Alaska, as the immediate successor to the dissolved city, will not be obligated by known contractual agreements involving the city. In the matter of the dissolution of the City of Newtok, these would include the "Cooperation Agreement" and "Memorandum of Agreement" between the City of Newtok and the Association of Village Council Presidents Regional Housing Authority.
6. Execution of an agreement between DCRA and an IRA Council or other qualified local successor conveying assets and liabilities of the inactive City of Newtok (through the State) to the qualified successor. The agreement shall be prepared by the Department of Law and shall contain the following provisions:

- A. The properties to be conveyed may be used only for public purposes and will be available to the public without restriction as to race, color, national origin or sex.
- B. Ownership of the properties shall be transferred, without consideration, to a city or organized borough, upon request by the city or organized borough within five years of the date that the property was first included within the corporate boundaries of the city or organized borough.
- C. The State reserves the right of prior approval of any conveyance, lease, easement, or other obligation concerning the property.
- D. If the land is located within the boundaries of a municipal government that exercises authority for planning, platting or land use regulation, the property is subject to the planning, platting and/or land use regulations and ordinances of that municipality.
- E. In the event that the village successor fails to comply with any of the stipulations governing the property, ownership of the property shall be transferred, without consideration, to the State of Alaska upon request by the State.
- F. The deeds conveying the property are subject to other reservations, exceptions, restrictions, and easements of record.
- G. An express waiver of sovereign immunity, including consent to suit in a convenient state forum, must be granted by the village successor to ensure the enforceability of the stipulations of the conveyance.
- H. That the agreement must recognize that it does not constitute recognition of tribal status or of "Indian Country."
- I. That the terms and conditions of the agreement shall be enforceable by the parties. A failure to enforce or a waiver of enforcement rights as to any one section or provision shall not be a waiver or bar to the enforcement of any other section or provision.

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Dr. Hugh B. Fate, Member, Fourth Judicial District

**Recommendation Number Four  
To The First Session Of The Nineteenth Alaska Legislature**

**A recommendation for the dissolution of the inactive City of Tuluksak**

The Local Boundary Commission hereby formally recommends dissolution of the City of Tuluksak, contingent and effective upon satisfaction of the following conditions within two years of tacit legislative approval of this recommendation pursuant to AS 29.06.450(b).

1. Approval of dissolution of the city by voters of the City of Tuluksak at an advisory election to be administered by the Division of Elections. Except, however, that the requirement for the election will be waived if the U.S. Department of Justice interposes an objection to the election under the terms of the federal Voting Rights Act.
2. Satisfaction of all debts of the inactive city through the DCRA Trusteeship or other means.
3. Designation of the Tuluksak IRA Council as the successor to the inactive City or alternatively, designation by the Commission of another qualified successor.
4. Assurance that the State will not be held liable for the failure, if any, on the part of the community to comply with State and federal water quality laws.
5. Execution of appropriate agreements between DCRA, the local village successor, the AVCP regional housing authority and other applicable organizations and agencies assuring that the State of Alaska, as the immediate successor to the dissolved city, will not be obligated by known contractual agreements involving the city. In the matter of the dissolution of the City of Tuluksak, these would include the "Cooperation Agreement" and "Memorandum of Agreement" between the City of Tuluksak and the Association of Village Council Presidents Regional Housing Authority.
6. Execution of an agreement between DCRA and the qualified local successor conveying assets and liabilities of the inactive City of Tuluksak (through the State) to the qualified successor. The agreement shall be prepared by the Department of Law and shall contain the following provisions:
  - A. The properties to be conveyed may be used only for public purposes and will be available to the public without restriction as to race, color, national origin or sex.

- B. Ownership of the properties shall be transferred, without consideration, to a city or organized borough, upon request by the city or organized borough within five years of the date that the property was first included within the corporate boundaries of the city or organized borough.
- C. The State reserves the right of prior approval of any conveyance, lease, easement, or other obligation concerning the property.
- D. If the land is located within the boundaries of a municipal government that exercises authority for planning, platting or land use regulation, the property is subject to the planning, platting and/or land use regulations and ordinances of that municipality.
- E. In the event that the village successor fails to comply with any of the stipulations governing the property, ownership of the property shall be transferred, without consideration, to the State of Alaska upon request by the State.
- F. The deeds conveying the property are subject to other reservations, exceptions, restrictions, and easements of record.
- G. An express waiver of sovereign immunity, including consent to suit in a convenient state forum, must be granted by the village successor to ensure the enforceability of the stipulations of the conveyance.
- H. That the agreement must recognize that it does not constitute recognition of tribal status or of "Indian Country."
- I. That the terms and conditions of the agreement shall be enforceable by the parties. A failure to enforce or a waiver of enforcement rights as to any one section or provision shall not be a waiver or bar to the enforcement of any other section or provision.

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**Recommendation Number Five  
To The First Session Of The Nineteenth Alaska Legislature**

**A recommendation for the dissolution of the inactive City of Tununak.**

The Local Boundary Commission hereby formally recommends dissolution of the City of Tununak, contingent and effective upon satisfaction of the following conditions within two years of tacit legislative approval of this recommendation pursuant to AS 29.06.450(b).

1. Approval of dissolution of the city by voters of the City of Tununak at an advisory election to be administered by the Division of Elections. Except, however, that the requirement for the election will be waived if the U.S. Department of Justice interposes an objection to the election under the terms of the federal Voting Rights Act.
2. Satisfaction of all debts of the inactive city through the DCRA Trusteeship or other means.
3. Designation of the Tununak IRA Council as the successor to the inactive City, or alternatively, designation of another qualified successor by the Commission. Another entity might qualify as a suitable successor if, for example, State law were amended to permit the Tununak Traditional Tribal Elders Council to succeed to the inactive city. Provided that Governor Knowles' administration supports such a change, DCRA is encouraged promote the enactment of a law which would allow traditional councils, such as the Tununak Traditional Tribal Elders Council, to become the successors to the dissolved city.
4. Assurance that the State will not be held liable for the failure on the part of the community to comply with State and federal water quality laws.
5. Execution of appropriate agreements between DCRA, the local village successor, the AVCP regional housing authority, the Alaska Village Electric Cooperative (AVEC) and other organizations and agencies assuring that the State of Alaska, as successor to the dissolved city, will not be obligated by known contractual agreements involving the city. In the matter of the dissolution of the City of Tununak, this would include the previously referenced "Cooperation Agreement" and "Memorandum of Agreement" with the Association of Village Council Presidents Regional Housing Authority; as well as the Alaska Village Electric Cooperative "Operating and Labor Agreements."
6. Execution of an agreement between DCRA and the qualified local successor conveying assets and liabilities of the inactive City of Tununak (through the State) to the qualified successor. The agreement shall be prepared by the Department of Law and shall contain the following provisions:

- A. The properties to be conveyed may be used only for public purposes and will be available to the public without restriction as to race, color, national origin or sex.
- B. Ownership of the properties shall be transferred, without consideration, to a city or organized borough, upon request by the city or organized borough within five years of the date that the property was first included within the corporate boundaries of the city or organized borough.
- C. The State reserves the right of prior approval of any conveyance, lease, easement, or other obligation concerning the property.
- D. If the land is located within the boundaries of a municipal government that exercises authority for planning, platting or land use regulation, the property is subject to the planning, platting and/or land use regulations and ordinances of that municipality.
- E. In the event that the village successor fails to comply with any of the stipulations governing the property, ownership of the property shall be transferred, without consideration, to the State of Alaska upon request by the State.
- F. The deeds conveying the property are subject to other reservations, exceptions, restrictions, and easements of record.
- G. An express waiver of sovereign immunity, including consent to suit in a convenient state forum, must be granted by the village successor to ensure the enforceability of the stipulations of the conveyance.
- H. That the agreement must recognize that it does not constitute recognition of tribal status or of "Indian Country."
- I. That the terms and conditions of the agreement shall be enforceable by the parties. A failure to enforce or a waiver of enforcement rights as to any one section or provision shall not be a waiver or bar to the enforcement of any other section or provision.