

The Alaska Mental Health Trust Authority Trust Land Office

BEST INTEREST DECISION Fox Lions Club Negotiated Land Sale

MHT 9400513
MH Parcel F20301

In accordance with AS 38.05.801 et seq. and the implementing regulations governing Alaska Mental Health Trust ("Trust") land management (11 AAC 99), Trust land shall be managed consistently with the responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)). This means that management shall be conducted solely in the best interest of the Trust and its beneficiaries.

In determining the best interest of the Trust and its beneficiaries, and in determining consistency between state law and the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)), the Executive Director of the Alaska Mental Health Trust Land Office ("TLO") shall, at a minimum, consider the following interactive Trust management principles in accordance with 11 AAC 99.020:

- Maximization of long-term revenue from Trust land;
- Protection of the corpus;
- Protection and enhancement of the long-term productivity of Trust land;
- Encouragement of a diversity of revenue-producing uses of Trust land; and
- Management of Trust land prudently, efficiently, and with accountability to the Trust and its beneficiaries.

I. Proposed Use of Trust Land. Negotiate a sale of approximately 9.67 acres of Trust land near Fox, Alaska to the Fox Lions Club for a community recreation center.

II. Applicant/File #. Fox Lions Club/MHT 9400513.

III. Subject Property.

A. Legal Description. Township 2 North, Range 1 East, Fairbanks Meridian, Alaska Section 31: Lot 11, containing 9.67 acres more or less. According to the survey plat accepted by the United States Department of the Interior, Bureau of Land Management in Washington, D.C on October 20, 1970.

B. Settlement Parcel Number(s). All of parcel F20301.

C. Site Characteristics/Primary Resource Values. The subject parcel was determined by the United States Corps of Engineers (Corp) to contain approximately thirty percent depressional wetlands. The primary resource value is real estate and recreation.

- D. Historical and Existing Uses of the Property.** The community of Fox was established as a mining camp by 1905. Mining took place as evidenced by historic mining equipment remaining on the subject property. The subject parcel is within the Pedro Dome Historic District.
 - E. Adjacent Land Use Trends.** The Goldstream Public Use Area was designated by the Alaska State Legislature for the purpose of a public use area is to protect, maintain, perpetuate, and enhance year-round general public recreation, public use, and enjoyment of fish and wildlife. The management of the public use area is the responsibility of DNR. Land disposals are prohibited within the public use area, but is open to mineral entry. The Goldstream Creek riparian zone is special value habitat for black bear, most furbearers, small game, and moose. DNR encourages sport hunting and trapping as well as wildlife viewing and trail use.
 - F. Previous State Plans/Classifications.** DNR issued the Tanana Basin Area Plan (TBAP) for State Lands, adopted in 1985 and updated in 1990 and 1999. Under TBAP the subject property was designated as settlement and recreation which is consistent with the applicant's proposal.
 - G. Existing Plans Affecting Area.** The subject property is affected by the Fairbanks North Star Borough (FNSB) Title 18, Zoning Ordinance and it is zoned General Use-1 (GU-1). This proposal is consistent with the zoning ordinances.
 - H. Apparent Highest and Best Use.** Residential or recreation development.
- IV. Proposal Background.** The TLO proposes to enter into a negotiated sale with the Fox Lions Club whom proposes to construct and maintain a year round community park on the subject property. The proposal calls for a baseball/softball/soccer field, half-court basketball court, ice skating rink, pavilion, playground, parking lot and walking trail. Parcel F20301 is adjacent to the existing Fox Lions Club facilities and will be incorporated into their existing infrastructure and facilities.
- V. Terms and Conditions.** The total purchase price for the Property is \$46,320. The standard TLO Purchase and Sale Agreement will be used for the disposal.
- VI. Asset Management Considerations.** The proposed action is consistent the Long Term Asset Management Strategy adopted under 11 AAC 99.090. TLO determined that the disposal would maximize a prudent return with a ready and willing buyer. The applicant worked through their Legislative Representative to facilitate the location of the community park.
- VII. Alternatives.**
- A. Proceed as proposed.** Offer the parcel for sale as proposed.
 - B. Issue a ground lease.** Offer the parcel for a ground lease. A ten-year lease at 8% would generate approximately \$3,088 annual rental, or \$30,880 over the life of the lease. A lease would increase the liability risk to the Trust Authority and increase long-term management costs if the applicant was not able to continue to maintain the facilities.

- C. Other resource development. Possible alternatives include offering the area for placer mining or material sale. The subject property was previously mined, and no other mining interests have materialized over the last five decades.
- D. No action. The no action alternative would deny the request for a negotiated sale of the Trust parcel and retain the parcel for later sale or development. The anticipated land value though is not anticipated to be significantly higher than the return on the investment of the sale revenues in other investments.

VIII. Risk Management Considerations.

- A. **Performance Risks.** Performance risks will be minimized through a purchase and sales agreement and a quitclaim deed.
- B. **Environmental Risks.** On July 23, 2013, the Corps conducted a jurisdictional determination on the parcel and determined that the property contained water of the United States, including 2.9 acres of wetlands, which are under the Corps jurisdiction. For the project to proceed, the Corps may require up to a 1.5:1 ratio to mitigate for impacts to the 2.9 acre disturbed wetlands through a mitigation bank.
- C. **Public Concerns.** Subject to comments resulting from the public notice, no unusual public concerns are anticipated with this sale.
- D. **Access Concerns. Access to the subject property is difficult.** The subject parcel is surrounded on three sides by private parcels with no preexisting road easements. The southwestern edge of the property abuts the Elliot Highway. However, the merge lane from the Department of Transportation and Public Facilities (DOT&PF) weigh station is located along this property boundary. Access from the Elliot would require a DOT&PF driveway permit, which may interfere with trucks merging onto the Elliot and potentially creating traffic hazards.
- E. **Other Concerns.** The Elliott Highway bisects the subject parcel, creating a sliver of land that is isolated from the rest of the parcel.
- F. **Title.** Sale of the parcel may be conditioned on the results on the final title review.

IX. Due Diligence.

- A. **Site Inspections.** A site inspection was conducted on May 23, 2013 with the applicant.
- B. **Valuation.** The total purchase price for the Property is \$46,320. The purchase price was determined by the appraisal completed by David Pruhs, Pruhs Real Estate Group, on September 19, 2013. As stipulated under the 11 AAC 99.090(c), an additional 20% increase over the appraised value was added. The cost of the appraisal was borne by the applicant.
- C. **Terms and Conditions Review.** Staff determined that additional legal review of the standard documents used in this transaction was not necessary because the documents have been used frequently by the TLO for similar transactions. TLO will issue a quitclaim deed for the parcel, reserving the mineral estate to the Trust.

X. Authorities.

- A. **Applicable Authority.** Alaska Statutes 37.14.009(a) and 38.05.801, and 11 AAC 99 (key statutes and regulations applicable to Trust Land management and disposal).

- B. Inconsistency Determination.** As the proposed sale is specifically authorized under 11 AAC 99, any relevant provision of law applicable to other state lands is inapplicable to this action if it is inconsistent with Trust responsibilities accepted by the state under the Alaska Mental Health Enabling Act (P.L. 84-830, 70 Stat. 709 (1956)) as clarified by AS 38.05.801 and Alaska Mental Health Trust land regulations (11 AAC 99). 11 AAC 99 includes determinations that certain state statutes applicable to other state land do not apply to trust land unless determined by the executive director, on a case-by-case basis, to be consistent with 11 AAC 99.020. The state statutes deemed inconsistent with trust management principles and inapplicable to trust land by these regulations have not been applied to this decision or this action, including, but not limited to, AS 38.04 (Policy for Use and Classification of State Land Surface), AS 38.05.035 (Powers and duties of the director), AS 38.05.300 (Classification of land), AS 38.05.945 (Notice), AS 38.05.946 (Hearings), and 11 AAC 02 (Appeals).
- XI. Trust Authority Consultation.** The Trust Authority consultation for disposal transaction of less than \$100,000 has been delegated by the Alaska Mental Health Trust Authority Bylaws, revised November 15, 2012 to the Trust Authority Chief Executive Officer, who has approved this decision as of the date listed in Section XVI of this Best Interest Decision.
- XII. Best Interest Decision.** Given the information above and the information contained in the complete record, the Executive Director finds that the proposed transaction is in the best interest of the Trust, subject to the terms and conditions addressed in this decision. The decision is based upon the consideration of the five Trust management principles set out in 11 AAC 99.020 and is in full compliance with 11 AAC 99. This decision does not preclude the TLO from determining that an alternative proposal will serve the best interest of the Trust. A future determination of that nature will require a best interest decision specific to the proposal.
- XIII. Opportunity for Comment.** Notice of this best interest decision will take place as provided under 11 AAC 99.050. Persons who believe that the decision should be altered because it is not in the best interest of the Trust or its beneficiaries, or because the decision is inconsistent with Trust management principles set out in 11 AAC 99.020 or any other provision of 11 AAC 99, must provide written comments to the TLO during the notice period. Following the comment deadline, the Executive Director will consider timely written comments that question the decision on the basis of the best interest of the Alaska Mental Health Trust and its beneficiaries or inconsistency with 11 AAC 99. The Executive Director will then, in his or her discretion, modify the decision in whole or in part in response to such comments or other pertinent information, or affirm the best interest decision without changes. The best interest decision as modified or affirmed will become the final agency action, subject to reconsideration procedures under 11 AAC 99.060. Additional notice will be provided for a substantially modified decision. If no comments are received by the end of the notice period, this best interest decision will be affirmed and the proposed action taken. (See public notice for specific dates.)

XIV. Reconsideration. To be eligible to file for reconsideration of this best interest decision, or to file a subsequent appeal to the Superior Court, a person must submit written comments during the notice period.

Persons who submit timely written comments will be provided with a copy of the final written decision, and will be eligible to request reconsideration within 20 calendar days after publication of the notice or receipt of the decision, whichever is earlier under 11 AAC 99.060(b). The Executive Director shall order or deny reconsideration within 20 calendar days after receiving the request for reconsideration. If the Executive Director takes no action during the 20-day period following the request, the request is considered denied. Denial of a request for reconsideration is the final administrative decision for purposes of appeal to the superior court under AS 44.62.560.

XV. Available Documents. Background documents and information cited herein is on file and available for review at the Trust Land Office, located at 2600 Cordova Street, Suite 100, Anchorage, Alaska 99503. Phone (907) 269-8658. Email: mhtlo@alaska.gov.

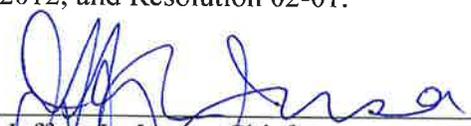
The disposal action proposed by this decision will occur no less than 30 days after the first publication date of this decision, and after the conclusion of the Trust Land Office administrative process. For specific dates or further information about the disposal, interested parties should contact the Trust Land Office at the above address, or visit the TLO website at: www.mhtrustland.org.

XVI. APPROVED:

By:  _____ Date 11.4.13

Marcie Menefee
Executive Director

In accordance with 11 AAC 99.030(d) and the policies of the Alaska Mental Health Trust Authority, the Trust Land Office has consulted with me, and received concurrence to proceed with the above transaction pursuant to the Alaska Mental Health Trust Authority Bylaws, revised November 15, 2012, and Resolution 02-01.

 _____ Date 11/8/13

Jeffrey L. Jessee, Chief Executive Officer
Alaska Mental Health Trust Authority