

Town of West Yellowstone

Town Council Work Session

Tuesday, March 11, 2014

West Yellowstone Town Hall, 440 Yellowstone Avenue

West Yellowstone, Montana

12:00 Noon

Agenda

Public Comment Period

Potential US Forest Service Land Acquisition

Bob Dennee, Gallatin/Custer National Forest Lands Staff will be in attendance

Discussion

The Public is invited to attend.



Land parcels subject to Section 333 of the Rider
to the
Interior and Related Agencies 2004 Appropriations Act



Elizabeth Roos

From: Becky Guay <rguay@townofwestyellowstone.com>
Sent: Wednesday, February 19, 2014 11:27 AM
To: Elizabeth Roos; 'Brad Schmier'; Cole Parker; Greg Forsyth; Greg Forsythe; jjohnson@townofwestyellowstone.com; John Costello; 'Gordon Berger'; 'James Patterson'; 'John Dittmann'; 'Lanie Gospodarek'
Subject: FW: Answers to Questions (Town Council Meeting) February 19, 2014

FYI

From: Stiles, Todd -FS [<mailto:tstiles01@fs.fed.us>]
Sent: Wednesday, February 19, 2014 9:57 AM
To: rguay@townofwestyellowstone.com
Cc: Fitzsimmons, Cavan -FS
Subject: Answers to Questions (Town Council Meeting) February 19, 2014

Becky, Cavan and I talked with Mary Erickson and Bob Dennee this morning to brief them on our meeting last night and to pose the questions the Council had for us that we did not answer.

First Question: If Town were to have the appraisal completed, how long would the shelf life of the appraisal be?

Answer: **The shelf life of the appraisal would be 1 year.** Bob reiterated that the timeline would be to have a completed contract appraisal done by September 2014, and the binding agreement signed by end of 2014. Once again, Town would have two years from signature of the binding agreement to fully purchase all 80 acres. As outlined previously, the 80 acres could be purchased in 20 acre parcels within that two year time frame.

Question: If the 80 acres were sold to a private entity through competitive bid process, could the FS place deed restrictions on the property to allow for Town of West Yellowstone infrastructure such as the sewer lift station/lines, water line, etc. to be left as is and require the private purchaser to continue to allow use of the infrastructure in place by Town of West Yellowstone.

Answer: Yes, deed restrictions may be put in place but any deed restriction will reduce the value of the property and make it less desirable to a private entity. This reduces the amount the FS would receive for the property thus reducing our ability to purchase high priority conservation lands in the Region as sale funds are intended to do. This is not desirable from a FS standpoint.

Also, Mary and Bob both emphasized that the intent of the legislation, and the priority for the Forest Service to work on this project, is directly related to Town's request for land to allow for its needed infrastructure expansion, affordable housing, schools, etc.

Selling directly to a private entity, while technically possible as the legislation is written, will not be a priority for the Forest Service as it is not in the overall interest of the average citizen and would not be the priority versus other projects within the lands zone. What we heard pretty clearly from Mary is that we are doing this if it is for Town, but it will be much more difficult to execute if it becomes a competitive sale to a private entity. While it is possible to move it out further as Cavan suggested to an out year timeframe, Mary and Bob said the longer town waits the more stale the legislation becomes and the less likely the Forest Service will remain interested in this project. As every few years pass, different players come to be involved, and educating new Lands Staff, FS personnel, and Town officials makes the project less and less likely.

Bob would like to participate in a Town working session if you have one in March. He felt it would be very worth his time to participate, and said he would be happy to do it. We are fine with you responding by April 1st via letter as to your intentions to proceed or not with the appraisal as you requested instead of a March 15th deadline.

Thanks Becky, Don't hesitate to give us a call if you have any questions at all.

Todd Stiles
Natural Resource Specialist
Recreation, Lands, Wilderness, Special Uses
Hebgen Lake Ranger District
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QUESTIONS AND ANSWERS

Proposed Direct Sale of 80 Acres of NFS Land To the Town of West Yellowstone Gallatin National Forest

Revised Draft – Feb 25, 2014

First, we will summarize some important background information. Also, attached is a one-page “Briefing Paper” (March 2010), two maps, an Agreement of Intent, and other enclosures.

Section 333:

The "Department of the Interior and Related Agencies Appropriations Act of 2004" (P.L. 108-108), included a rider - **Section 333 - "Implementation of Gallatin Land Consolidation Act"**. This legislation gave the Forest Service authority to sell 80 acres of National Forest System (NFS) land adjacent to the Town of West Yellowstone. These 80 acres of NFS land were included in Section 333 to address the Town’s expressed need for community expansion and development.

Town of West Yellowstone - Growth Policy:

In the past decade, the Town developed a “**Growth Policy**” (under State law, MCA 76-1-601) that identifies the future needs of the Town. In the Growth Policy, the Town stated a desire to expand community boundaries by purchasing certain NFS lands on the Gallatin National Forest, taking advantage of the Section 333 legislation.

Resolution #469:

In **Resolution #469**, adopted in November 2007, the Town Council affirmed its interest in acquiring the 80 acres of NFS land specifically identified in Section 333.

Agreement of Intent: In 2008, the Forest Service (Mary Erickson, Forest Supervisor, Gallatin National Forest) and the Town of West Yellowstone (Jamie Greene, former Town Manager) entered into an “**Agreement of Intent**” that sets the stage for working together to complete the direct sale of the 80 acres of land. See the attachment.

Questions from Greg Forsythe, Town Council - Feb 2, 2014

**My question would be about the land purchase proposed.
Can we pick and choose from the 20 acre plots?**

To meet Federal appraisal standards, the 80 acres of NFS land will need to be appraised as one property (“larger parcel”). The Town and FS will need to enter into a binding agreement to purchase the entire property @ approved appraised value. The binding agreement will “lock in” the overall appraised value and purchase price, eliminating need for costly re-appraisal(s).

Within that overall binding agreement, the Town will likely be able to purchase the land in one or more phases over a defined period of time.

Each individual sale transaction, of course, will involve more time and expense for the FS and the Town. The minimum size parcel that the FS would sell to Town in any one phased transaction will likely be 20 acres. The entire purchase of 80 acres should be completed within 2 years after the Parties enter into a binding agreement, and hopefully in less time.

Are there any options in locations different from those proposed?

Not without new legislation. A few years ago, Town representatives put time and effort into seeking potential new or amended Congressional legislation.

Basically, the MT Congressional delegation showed no interest in sponsoring new legislation. The message we heard from Congressional staff is that the Town and FS should focus on completing the sale of the 80 acres as identified in the 2003 legislation, rather than seek new legislation. The FS tends to agree. The FS does not advocate for new legislation.

How long do we (Town) have to commit to the purchase?

The FS intends is to add the sale of the 80 acres of NFS land to our 2014 Program of Work.

The Town and FS will then need to obtain a contract appraisal that meets federal standards, hopefully before the end of 2014.

Once that appraisal is done and approved by the FS Regional Review Appraiser (John Hickey), the Town and FS will need to enter into a binding agreement for the sale of the entire property (80 acres.) The FS would like to see that agreement signed and in place by end of 2014. The FS will, of course, provide a draft agreement to the Town for review.

Within the binding agreement, the Town will likely be able to purchase the 80 acres in one or more phases over a defined period of time. The entire purchase should be completed within 2 years after the Parties enter into a binding agreement, hopefully in less time.

Could we pay for one or two parcels and reserve the others? And for how long?

These questions are addressed in the responses above. However, not certain if we fully understand what is meant by “reserve”? If ‘reserve’ means that the Town would be able to purchase land in phases, the answer is likely yes, for a defined period of time.

The entire purchase of 80 acres should be completed within 2 years after the Parties enter into a binding agreement, hopefully in less time.

**Questions from Becky Guay, Operations Manager, Town of West Yellowstone
Feb 3, 2014**

Which 80 acres are we talking about? I know we've seen a map, but could you provide it again or provide a new one if there have been any changes.

Please see two FS maps depicting the 80 acres of NFS land as identified in legislation (Section 333). Also, see the Land Description (LDV) prepared by Janet Kempff, former FS Land Surveyor.

Would it still be possible to make changes to the parcels selected by the Forest Service that would be available to the Town?

Not without new legislation. A few years ago, Town representatives put time and effort into seeking potential new or amended Congressional legislation.

Basically, the MT Congressional delegation showed no interest in sponsoring new legislation. The message we heard from Congressional staff is that the Town and FS should focus on completing the sale of the 80 acres as identified in the 2003 legislation, rather than seek new legislation. We tend to agree. The FS does not advocate for new legislation.

Does the Town have the "first right of refusal for purchasing all or part of these 80 acres?"

To meet Federal appraisal standards, the 80 acres of NFS land will need to be appraised as one property ("larger parcel"). The Town and FS will need to enter into a binding agreement to purchase the entire property @ approved appraised value. The binding agreement will "lock in" the overall appraised value and purchase price, eliminating need for costly re-appraisal(s).

Within that overall binding agreement, the Town will likely be allowed to purchase the 80 acres of land in one or more phases over a defined period of time.

Does the Town have to purchase ALL of the 80 acres? If we don't have to purchase it in its entirety, what is the minimum number of acres the FS would sell to the Town? Does the purchase need to be contiguous acres, or could they be spaced apart?

Based on the Town's adopted Growth Policy, Town Council Resolution #469, and the 'Agreement of Intent' entered into by the FS and Town, every indication is that the Town definitely wants and intends to purchase all 80 acres. Both parties will enter into a binding agreement to purchase the entire 80 acres @ appraised value. The agreement will "lock in" the overall purchase price. The Town will likely be able to purchase the 80 acres in phases over a defined period of time. The minimum size parcel in any one transaction will likely be 20 acres. The entire purchase of 80 acres should be completed within 2 years.

If this understanding is not accurate, the Town should inform the FS as soon as possible.

If the Town chooses not to purchase all or a portion of the property, will the FS then make the land available for sale to the public?

Again, based on the Town's Growth Policy, Resolution #469, and the 'Agreement of Intent', every indication is that the Town of WY wants and intends to purchase all 80 acres.

The FS would have legal authority under Section 333 to make the land available to the public through a competitive bid process, as was done for the WY Administrative Site. However, in offering the 80 acres directly to the Town at appraised value, the FS goal is to address the Town's needs for expansion, growth, infrastructure, schools, and other community needs.

How long will the process to complete the sale take? What timeframe do you anticipate that the Town would either need the cash or have arranged for some type of financing to purchase the land?

FS estimates that it will take close to a full year for the parties to obtain an appraisal to federal standards and then enter into a binding sale agreement. The entire purchase of 80 acres should be completed within 2 years of the date the parties enter into the sale agreement.

Becky - - - I feel there is one additional clarification that needs to be addressed by the USFS decision makers - - -

As I understand the process as a whole but in a very concise form: We buy the appraisal, they review and approve the appraisal, we then sign a "binding agreement" that sets the "two year" time period clock running.

John Costello's concise summary of the sale process appears to be accurate.

To reiterate, below is the FS summary of the anticipated process and timeline.

1. The FS will add the sale of the 80 acres of NFS land to our 2014 Program of Work.
2. The Town will need to obtain a contract appraisal that meets federal standards.
3. Once the appraisal is approved by FS Review Appraiser, the Town and FS will need to enter into a binding agreement. FS would like that agreement signed by end of 2014.
4. The Town will likely be able to purchase the 80 acres in one or more phases. The entire purchase should be completed within 2 years after the Town/FS enter into a binding agreement.

It was mentioned at the meeting that, if at the time of the approved appraisal number, the Town feels that performing according to the "two year" period might be not able to be accomplished by the Town, we, the Town, could ask that this sale be put on the back burner until, as mentioned by Cavan, let's say, 2018, is this move by the Town acceptable to the USFS with our understanding the drop dead date of the appraisal, etc.? Wouldn't it be nice if this clarification could be affirmed by Bob and Mary?

Does this make sense? - - - Your thoughts? - - - Thanks - - - John

Based on the Town's Growth Policy, Town Council Resolution #469 in 2007, and the 'Agreement of Intent' entered into by the FS and Town in 2008, the FS has the understanding that:

- (1) The Town does want and intend to purchase the 80 acres at the approved appraised value (perhaps in phases), and
- (2) The Town has, or will be able to obtain, sufficient funding to complete the purchase in the next two years (perhaps in phases).

The FS does not see an advantage to placing this project on the "back burner". Rather, the FS sees substantial risk in deferring this project. Here are our reasons.

- A. The project is being added to our 2014 Program of Work, meaning the FS will now (finally) be able to devote the resources to work on this sale as a priority. If put on the back burner for 3 to 4 years, the project will LIKELY be removed from our Program of Work. That scenario would create considerable risk and uncertainty. Would it be brought back onto the Program of Work on 3 to 4 years? There is no way to predict the future, in terms of agency priorities, staff and budget.
- B. The current Forest Supervisor (Mary), Lands Staff (Bob), District Ranger (Cavan) and Regional staff (Missoula) want to see this project completed. If the project is put on the back burner for 3 to 4 years, likely most of these people will no longer be working here.
- C. The authorizing legislation dates back to 2004. The Agreement of Intent between the FS and the Town dates back to 2008, which is almost six years ago. In our judgment, if we do not move forward soon, that opportunity may be lost forever.

---End of questions to date---



August 15, 2007

Jamie Greene
City of West Yellowstone Operations Manager
Po Box 1570
West Yellowstone, MT 59758

RE: Forest Service Parcels

Dear Mr. Greene,

Pursuant to your request, I have made a preliminary analysis as to the probable market value of the real property interest associated with specified Forest Service lands located adjacent to the town of West Yellowstone. As you have indicated in your initial correspondence, the city is interested in pursuing a possible purchase on two 20 acre parcels which are located on the southwestern corner of the existing city limits. These are designated on the attached plat which you provided.

As we have discussed, the purpose of this letter is to address a preliminary estimate of value relative to these properties so that the city can assess the viability of the project and prepare strategic planning if necessary. This letter is not intended to represent an appraisal as outlined by federal guidelines, and is a limited scope assignment prepared specifically for the towns use. The value set forth herein, as well as this letter, can not be used for negotiating with the Forest Service and this document should not be released to third parties.

The scope of this appraisal, as identified, is to establish a probable range of value applicable to these properties, in consideration of the fact that a federal appraisal may be required. That appraisal would be subject to Yellowbook standards and would have to be a detailed report which would set forth the market value of the properties as of the estimated date of valuation. As we have discussed, it would be premature to prepare this document at this time.

As you are aware, there are a limited amount of larger parcel sales in and around the town of West Yellowstone, and after studying the appraisal problem, I have concluded that the probable value of these lands would most likely be established through a subdivision

Real Estate Appraisals

Brokerage

Consulting

Management

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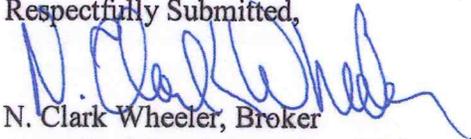
analysis. This analysis would be based on the assumption that if the lands were acquired by the city of West Yellowstone, they would then be incorporated into the city limits and thus would be eligible for city services. This assumption allows for the valuation of these lands as probable commercial or residential lands. If these lands are to be restricted by the US Government or the city, my analysis would have to be amended.

In analyzing values associated with lot sales in West Yellowstone, and through a Discounted Cash Flow Analysis, I would estimate that at the current time, the probable value of these lands would fall at between \$18,000 and \$22,000 per deeded acre, based on my assumption. Based on 40 acres, this indicates an overall range of value applicable to these lands running from \$720,000 to \$880,000. This is the value which I estimate could be established in a complete federal appraisal if so authorized.

Under current federal procedure, an appraisal of the property would require pre-work meetings with the Forest Service and their appraisal and valuation experts would establish the scope of work to be accomplished through the appraisal. This process would result in the issuance of appraisal specifications to be followed by the parties involved, and would also identify the responsibilities of the various parties relative to documenting information related to the property. Within the context of a federal appraisal, the Appraiser is directed to appraise the larger parcel. I am assuming, based on my experience with the Forest Service, that the larger parcel to be appraised would be the 40 acres identified for exchange or purchase. Despite the fact that the federal government owns substantial lands in and around the town, the proper value of these lands would be based on their individual highest and best use as a 40 acre tract.

I hope that this information assists you and the city in analyzing the overall project, and should you have any specific questions relative to my value analysis, please feel free to call. I appreciate your consideration and would welcome the opportunity to work with the city and the government in the complete appraisal process should the project continue to move forward. The market at the current time appears to be relatively stable, thus the values set forth herein would most likely be applicable for planning purposes over the next six to twelve months. Should market conditions relative to residential lots and other factors worsen over this time period, the values set forth herein could be subject to a discount, but as addressed, since this letter is for preliminary planning purposes, these numbers reflect just that.

Respectfully Submitted,


N. Clark Wheeler, Broker
Accredited Rural Appraiser #673
Montana Licensed General Appraiser #95
Wyoming Licensed General Appraiser #222

CC: Elizabeth Roos

