

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE OFFICE OF STRATEGIC AND LONG RANGE PLANNING

In re the Petition for Municipal Boundary  
Adjustments:

**ORDER CONCERNING THE  
SCOPE AND LOCATION OF  
THE HEARING ON REMAND**

St. Paul Park/Grey Cloud Island  
Township (A-6185);

Cottage Grove/Grey Cloud Island  
Township (A-6186).

St. Paul Park/Grey Cloud Island  
Township (OA-718/718-1)

This matter has been remanded to the Administrative Law Judge pursuant to an order issued by Hon. Gary R. Schurrer dated February 8, 2002 (Tenth Judicial District, #CO-01-509). A prehearing conference was held and the parties submitted briefs concerning the scope of the matter on remand. Sarah J. Sonsalla, Kelly & Fawcett, P.A., 2350 US Bancorp Piper Jeffrey Plaza, 444 Cedar Street, St. Paul, MN 55101 appeared on behalf of Grey Cloud Island Township and St. Paul Park. Laurie J. Miller, Frederikson & Byron, P.A., 1100 International Centre, 900 Second Avenue South, Minneapolis, MN 55402, appeared on behalf of R. Gordon Nesvig. Cottage Grove has not taken a position on the scope of the hearing.

**IT IS HEREBY ORDERED:**

1. The parties shall prefile testimony that addresses Minn. Stat. § 414.031, sub d. 4(j) by August 13, 2002 and shall identify a witness or witnesses who will stand for cross-examination on the material submitted.

2. In the event that any party believes that there have been significant developments that would materially affect the Findings of Fact included in the original decision, that party may bring a motion in limine by August 13, 2002, attaching the data or proposed testimony with citation to the initial findings of fact that would likely be affected by the new material. Each party shall file any objection to the proposed additional evidence within 10 days of receipt of the motion.

3. The hearing will be held in St. Paul Park, commencing at **9:30 a.m. on September 11, 2002** at the City Hall. Notice of the hearing shall be published for two successive weeks in a legal newspaper of general circulation in the affected area.<sup>[1]</sup> The Petitioner shall arrange for and bear the cost of publication.<sup>[2]</sup>

4. At the close of the evidentiary hearing, the parties will have the opportunity to argue which findings, if any, should be modified, based on the evidence presented.

Dated this 19<sup>th</sup> day of June, 2002.

S/ Beverly Jones Heydinger  
BEVERLY JONES HEYDINGER  
Administrative Law Judge

### MEMORANDUM

This matter is before the Administrative Law Judge on remand from the district court. Specifically, the court found that there was a lack of evidence about the fiscal impact.<sup>[3]</sup> Accordingly, additional evidence concerning that factor shall be considered.

Ordinarily, where the scope of remand is narrow, additional evidence should be strictly limited. However, this case involves a matter of public policy. By its nature, the decision rests on facts and planning that are continually evolving. The final decision can potentially affect the subject property for decades. Under such circumstances, it is appropriate to consider whether there has been a significant change that could materially affect the outcome of this proceeding. A hearing on remand is not an opportunity to supplement the record with material that could have been offered at the initial hearing. Instead, if there are new government data, planning documents or policies or a significant change in circumstance that could materially affect the outcome of this proceeding, it is reasonable to allow some limited supplementation of the record to assure that the final decision is based on current data.

To that end, any party who believes such evidence should be considered must bring a motion in limine so that the admissibility of the evidence can be considered prior to the hearing.

The hearing will be held in St. Paul Park. The only directive in statute or rule is that the hearing be held in the county where the subject property is located.<sup>[4]</sup> No party has raised any substantive objection to continuing the hearing in St. Paul Park City Hall. The precise location of the hearing is irrelevant to the determination to be made.

**B.J.H.**

<sup>[1]</sup> Minn. Stat. § 414.09, subd. 1.

<sup>[2]</sup> Minn. R. 6000.1200.

<sup>[3]</sup> Minn. Stat. § 414.031, subd. 4(j).

<sup>[4]</sup> Minn. Stat. § 414.09, subd. 1.