

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

In the Matter of the Proposed Boundary
Adjustment Dockets for Hassan Township
and the City of Rogers

FIRST PREHEARING
ORDER

A status conference in these matters was held on Thursday, March 27, 2003, in Minneapolis, before Allan W. Klein, Administrative Law Judge.

Participating in the conference were the following:

Representing Hassan Township was Jeffrey A. Carson, of the firm of Carson, Clelland & Schreder, 6300 Shingle Creek Parkway, Suite 305, Minneapolis, MN 55430-2190.

Representing the City of Rogers was Robert J. Miller, of the Miller Law Firm, 4900 Highway 169 North, New Hope, MN 55428.

Representing landowners Mitsch and Weber was William Griffith, Jr., of the firm of Larkin, Hoffman, Daly & Lindgren, 1500 Wells Fargo Plaza, 7900 Xerxes Avenue South, Bloomington, MN 55431.

Representing landowner Egan was Jerry B. Perron, of the firm of Leonard, Street and Deinard, 150 S. 5th Street, Suite 2300, Minneapolis, MN 55402.

Representing the City of Hanover was Andrew MacArthur, of the firm of Couri & MacArthur, 705 Central Avenue East, P.O. Box 369, St. Michael, MN 55376-0369.

Representing the City of Dayton was Shirley Slater, City Administrator, Dayton City Hall, 12260 South Diamond Lake Road, Dayton, MN 55327-9655.

Christine M. Scotillo, Executive Director, Municipal Boundary Adjustments, 300 Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, also participated in the conference.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

ORDER

1. That after giving all parties present an opportunity to be heard on the request of the City of Rogers that a 1.23 acre parcel of land described more fully in

Exhibit B to the Petition for Acceptance of Annexation and Exclusion from Incorporation filed by the City with the Office of Strategic and Long Range Planning on December 3, 2002, it is ordered that the Petition be returned to the Office of Strategic and Long Range Planning for processing. The land is owned by the City of Rogers, and no party voiced any objection to granting the City's Petition.

2. That pursuant to the agreement of the parties expressed at the status conference, the Administrative Law Judge has filed a request for mediation services with the Chief Administrative Law Judge. The Chief Administrative Law Judge has appointed Administrative Law Judge Beverly Jones Heydinger, whose telephone number is 612-341-7606 as the mediator in these matters, and directed her to initiate mediation proceedings no later than April 7, 2003. Judge Heydinger will be in contact with the parties and determine how best to proceed with the mediation.

3. That at any time following 30 days from the date of this Order, landowners Mitsch & Weber and Egan may file a motion with the undersigned Administrative Law Judge requesting that they be allowed to withdraw from the mediation and that the petitions relating to their properties be ruled upon. Their motion shall also contain a statement of what good faith efforts they made to participate in the mediation process, to the extent they were requested to do so by the mediator.

Dated this 31st day of March 2003.

/s/ Allan W. Klein

ALLAN W. KLEIN

Administrative Law Judge

MEMORANDUM

It became evident during the course of the status conference that the township and the city have been discussing a variety of possible combination and cooperation arrangements for some years, but that they have been unable to reach any definitive agreements. To paraphrase one participant, "Judge, we have been talking for years, but haven't gotten anywhere, and that's why we're here." The Administrative Law Judge urged the parties to make one final attempt to mediate this matter, and they agreed to one last try with the understanding that it would not go on indefinitely. The Judge is loath to set any absolute deadlines, believing that that is better left to the mediator, but he wishes to communicate to the mediator that the parties envision a relatively short mediation process, in the range of 30 to 45 days. The parties agreed to the mediation with the idea that it would quickly become evident whether or not it would be possible to resolve the matter through mediation, and that if it became evident that they were not going to be able to reach common ground through the mediation, they wanted to proceed with litigation.

Both of the landowners who appeared at the prehearing conference wanted to have their petitions acted on promptly. One of them will not be able to go ahead with development plans this construction season unless he can get a quick decision. The Administrative Law Judge agreed to reconsider their petitions after 30 days. Citing Minn. Stat. § 414.033, subd. 6, the Administrative Law Judge refused to indicate how he might rule on those requests should they be reactivated at the end of 30 days.

A.W.K.