

December 2, 2002

VIA FAX and MAIL

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RE: In the Matter of the City of Lake Elmo Comprehensive Plan;
OAH Docket No. 1-7600-15193-3

Dear Counsel:

This letter will summarize the matters decided at our prehearing conference of November 27, 2002. Please regard this letter as a Scheduling Order.

1. The hearing is continued to 9:00 a.m. on Thursday, January 2, 2003. It will continue on January 3, January 4 (Saturday), and January 6, 2003. No testimony will be taken after January 6, 2003, in order to comply with the statutory deadline.
2. The Metropolitan Council will explore the availability of suitable hearing locations on those dates and advise the City and the Administrative Law Judge.
3. A court reporter and transcript have been ordered and the parties have agreed to split the appearance time of the court reporter and the transcript preparation cost evenly.
4. The issue in this case is whether the City's Comprehensive Plan has a substantial impact on or contains a substantial departure from metropolitan system plans as alleged in the "List of Required Modifications To Lake Elmo Comprehensive Plan."
5. The Metropolitan Counsel expects to call five to eight witnesses and the City approximately 12 witnesses. Direct expert testimony will be prefiled.
6. The Metropolitan Council has the burden of proof in this proceeding.
7. Each party may file prehearing briefs explaining its theory of the case and the source of the evidence to support its theory.
8. The parties will confer to narrow the issues in this case and will advise the Administrative Law Judge at the hearing of the outcome.

9. The Metropolitan Council will answer the City's interrogatories on or before December 9, 2002. Any other discovery must be completed by December 24, 2002.
10. On or before 4:30 p.m. on December 26, 2002, the parties will exchange and file their final witness lists, their written exhibits, their prefiled testimony and their prehearing briefs.
11. The parties will file post-hearing briefs on a schedule to be determined at the conclusion of the hearing. There will be no final oral argument at the hearing.
12. The Administrative Law Judge will strictly enforce the legislative directive contained in Minn. Stat. § 473.866 that "The subject of the hearing shall not extend to questions concerning the need for or reasonableness of the metropolitan system plans or any part thereof."
13. The parties will convene a telephone conference with the Administrative Law Judge to resolve any prehearing disagreements that counsel are unable to resolve.

The Motion for a Continuance was granted because the City demonstrated a need for reasonable discovery that could not be completed prior to the December 17-18, 2002 hearing date. The hearing was set within the 60 day statutory deadline as required by Minn. Stat. § 473.866 and Minn. Rule Part 1400.7500.

Thank you for your cooperation in preparing for this hearing.

Sincerely,

/s/ George A. Beck

GEORGE A. BECK
Administrative Law Judge
Telephone: 612/341-7601

GAB:nh

cc: Docket Coordinator
Transcript Coordinator