

# Preparing for Potential System Statement Hearings

November 19, 2015

Land Use Advisory Committee

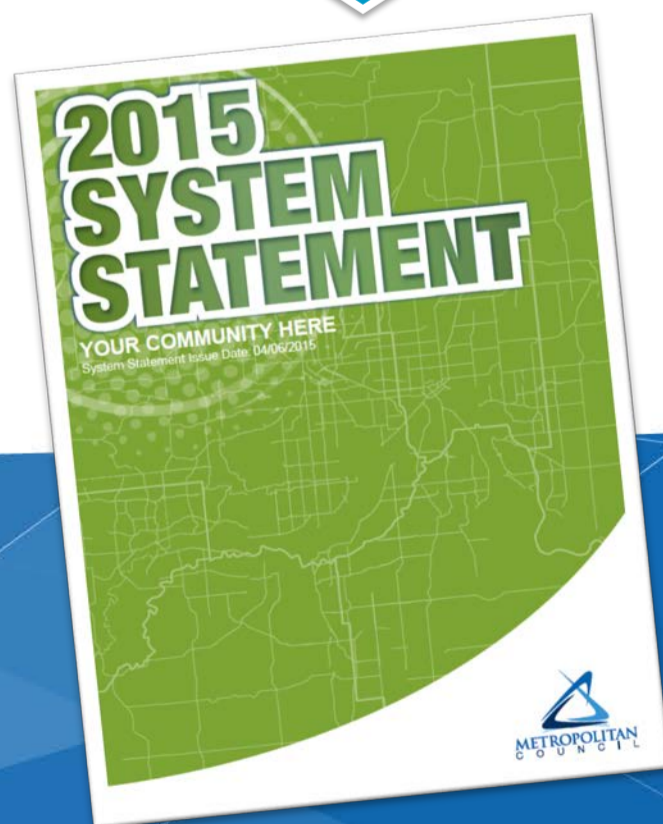


# Introduction

- Why prepare LUAC for potential System Statement hearings?
  - Role for LUAC in state law and LUAC Bylaws
  - Two communities requested a hearing
    - Anticipate receiving two more requests soon
    - May receive more requests
  - Must meet requirements in state law for conducting hearings to resolve disagreements over contents System Statements

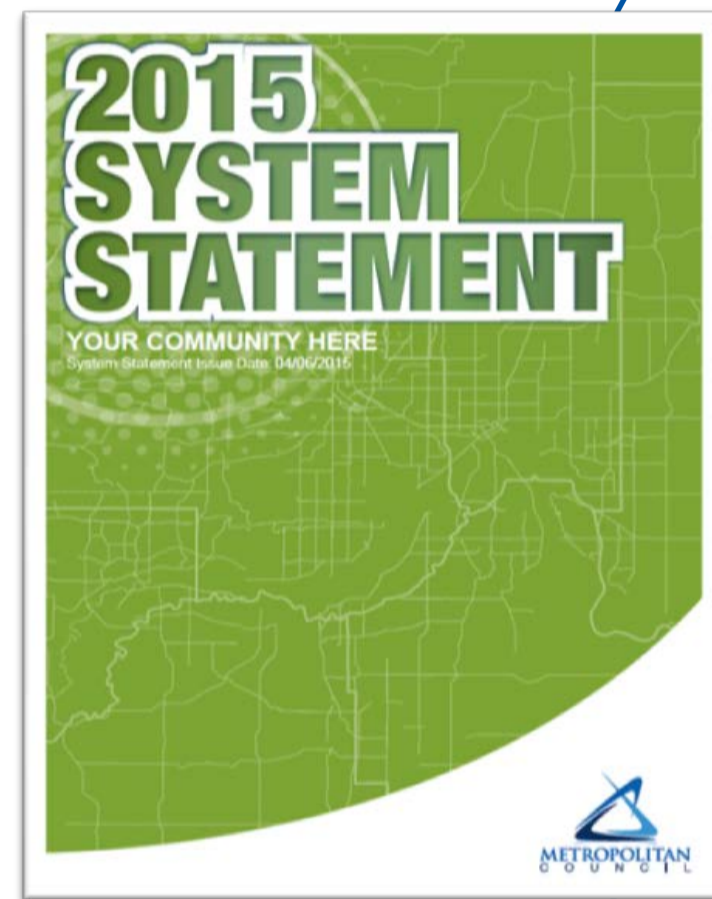
# Review of System Statements

# System Statement Purpose

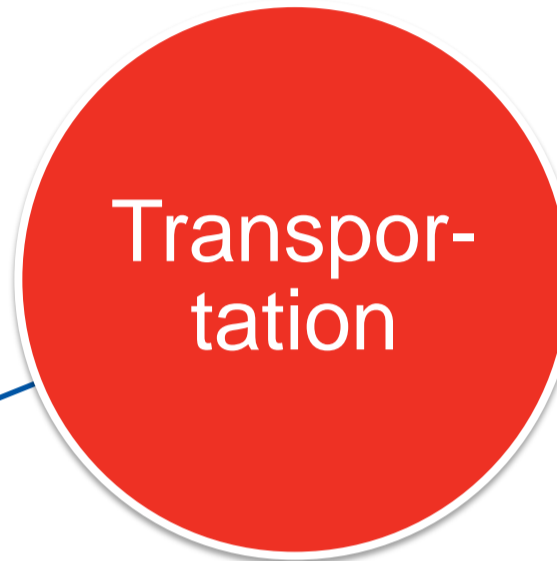


- ✓ Individualized for the local unit of government
- ✓ Explains the implications of system plans and capital budgets *in that community*
- ✓ Includes forecasted growth and general development expectations

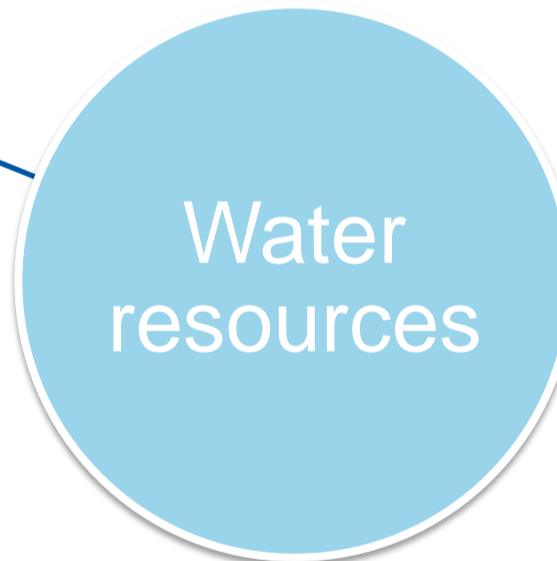
# System Statement Content



- Community designation
- Forecasted growth
- Housing policy



- Metropolitan highway system
- Transit system
- Aviation system
- Other considerations

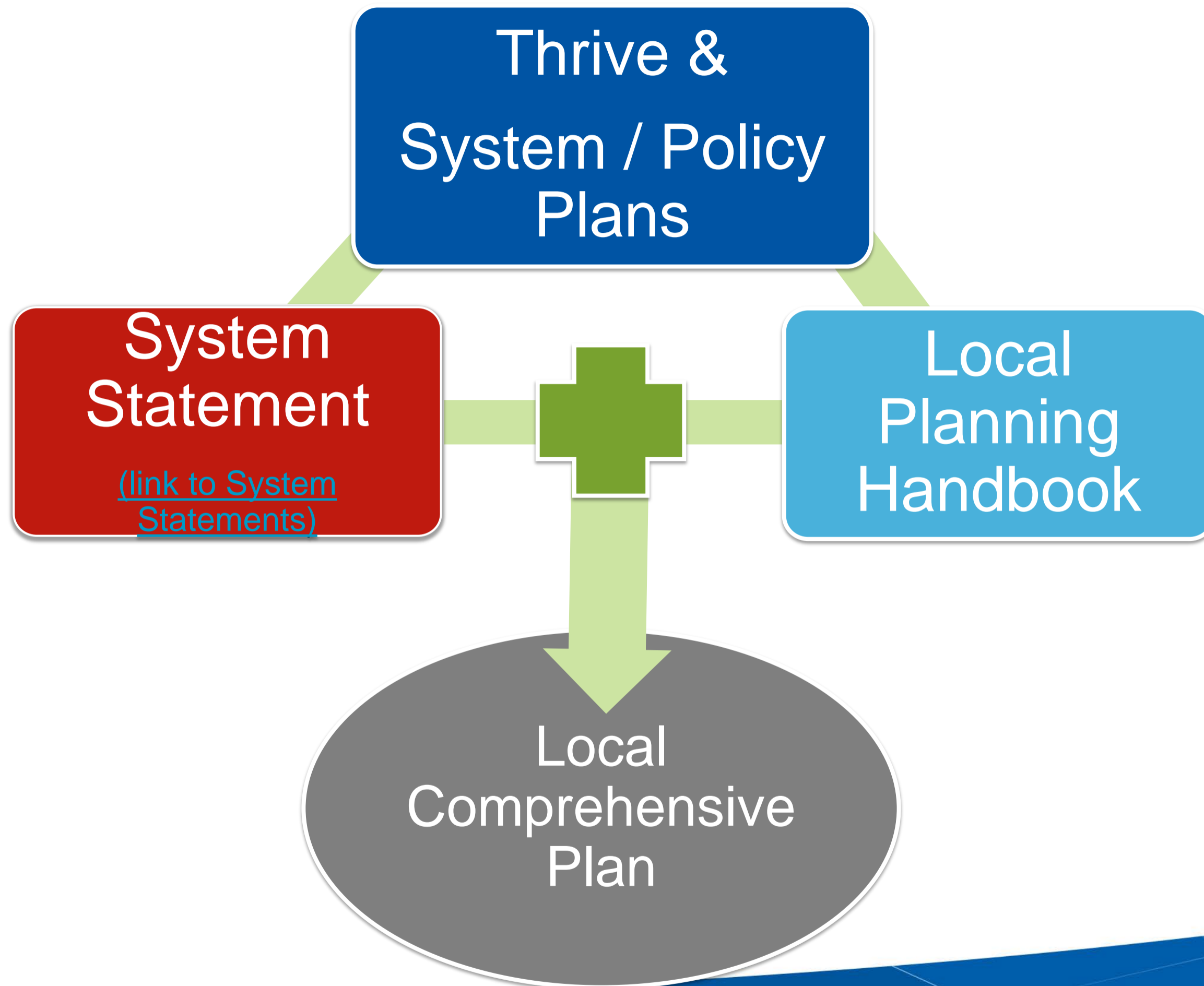


- Metropolitan sewer service
- SSTS
- Surface water
- Other considerations



- Regional parks
- Regional trails

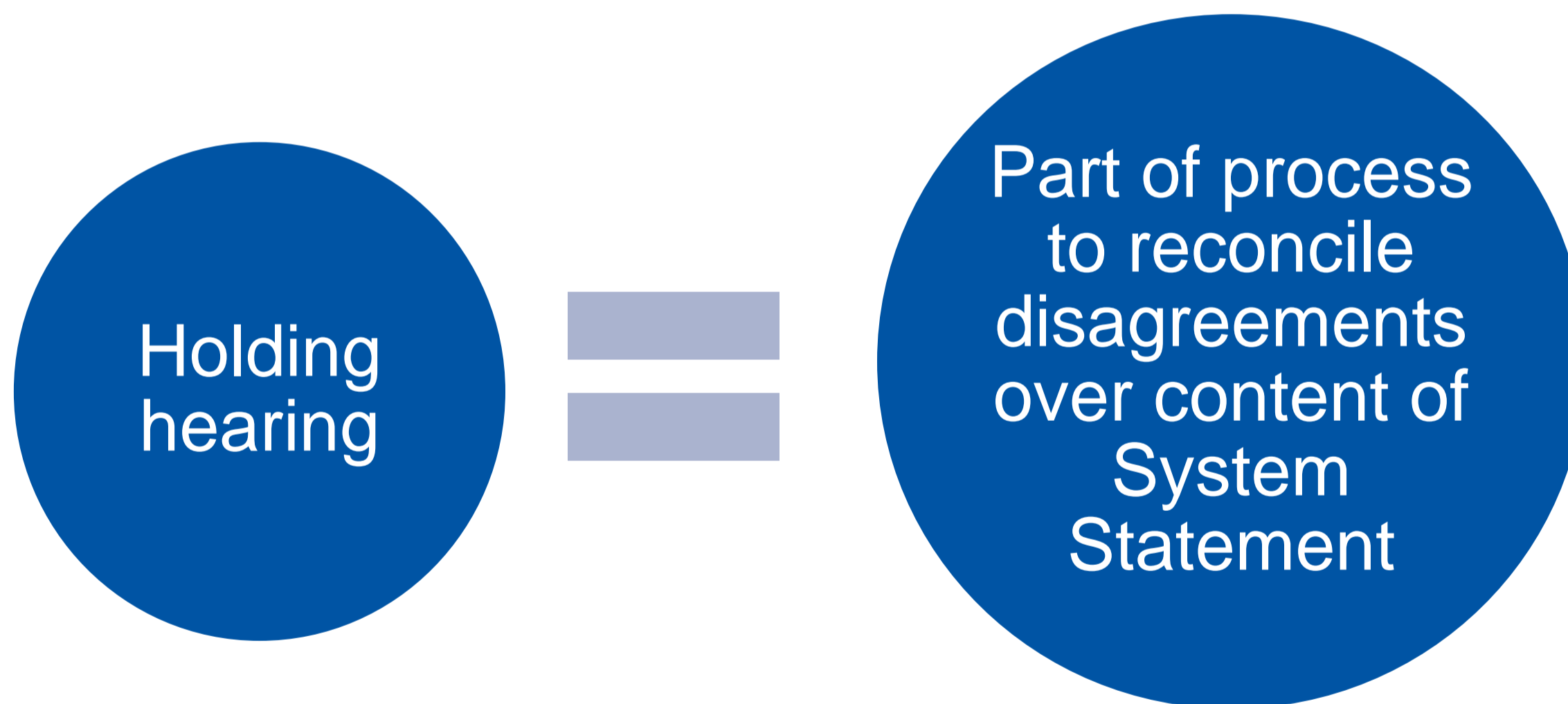
# Planning Document Relationship



# Purpose of hearing

# Purpose of hearing

- Conduct hearing to consider amendments to System Statement



[Minn. Stat. § 473.857, subd. 1](#)



# Hearing request requirements

- Local government:
  - Provides resolution to request hearing
  - Makes request for hearing within 60 days of receipt of its System Statement
  - Describes disagreement
  - Includes specific proposed amendments to its System Statement

# What not to consider at hearing

- “The hearing shall not consider the need for or reasonableness of the metropolitan system plans or parts thereof.”
  - Key to structuring hearing
  - Can’t overstate importance of this limitation

[Minn. Stat. § 473.857, subd. 2](#)

# Who will hold hearing?

# Hearing request

- Local government may request a hearing conducted by Land Use Advisory Committee or Office of Administrative Hearings

[Minn. Stat. § 473.857, subd. 1](#)

- Council staff will advise local government of options

# Hearing before LUAC

- Land Use Advisory Committee will hold hearing if local government requests hearing before Land Use Advisory Committee

# Administrative hearing

- Office of Administrative Hearings will hold hearing if local government requests hearing before Office of Administrative Hearings

# LUAC role & qualifications

# LUAC role

## LUAC Bylaws, Amended 2004 Article I – Organization and Duties

Assists the Council with regional land use planning by giving advice and assistance on:

Assistance to the Council may include:

Implementation of Metropolitan Land Planning Act

Guidelines for metropolitan system plans

Local Planning Assistance Fund

Conducting hearings to resolve disagreements over the content of System Statements



# LUAC qualifications: work plans



- ✓ Gave input on the Local Planning Handbook
- ✓ Made recommendation on geographic planning areas to the Council
- ✓ Provided feedback on *Thrive MSP 2040*
- ✓ Gave advice on land use policy in *2040 Transportation Policy Plan*

# LUAC and OAH

## LUAC

- Local government to be heard by peers
  - Locally elected officials make up majority of LUAC members
  - Committee members reflect perspectives of local governments

## Office of Administrative Hearings (OAH)

- Local government to be heard by Administrative Law Judge

# LUAC and OAH

## LUAC

- Specialized knowledge of local planning and regional planning
- Experience working with land use issues

## Office of Administrative Hearings (OAH)

- Administrative Law Judge hears cases on rulemaking, state licensing, utility regulation, data practices, operation of government programs, and other subjects

# Costs of hearing held by LUAC

- If LUAC holds a hearing, probably won't take much time for LUAC to get up to speed
  - Would help hold down costs
- Hearings held by LUAC 2005-06
  - Cost of hearing split between local government and the Council

# Issues and hearings in 2005-06

# Issues raised in 2005

- Issues raised by 47 local governments after 2005 System Statements released
- Main issues
  - Forecasts (majority of issues)
  - Geographic planning area designation
  - Wastewater service and relationship to potential annexation areas

# Requests in 2005 for hearing

- Five requests for hearing
  - **Carver** (forecasts, sewer flow projections and geographic planning area designation)
  - **Hassan Twp.** (Service area and capacity assumptions for extension of Elm Creek interceptor)
  - **Hugo** (forecasts and sewer flows)
  - **Lake Elmo** (whether Park-and-ride lot in System Statement part of Transportation Policy Plan and geographic planning area designation)
  - **Shorewood** (forecasts, geographic planning area designation and sewer flows)

# Outcomes 2005-06

- Land Use Advisory Committee held hearing for **Lake Elmo**
  - ➔ No amendments to System Statement
    - Park-and-ride part of Transportation Policy Plan
    - Usually make changes to geographic planning areas through process of updating or amending comprehensive plans
- Land Use Advisory Committee held hearing for **Carver** at community's request after stipulation of settlement
  - Stipulation is written agreement to resolve differences over contents of System Statement
  - ➔ Stipulation of settlement



# Outcomes 2005-06

- Requests for hearing withdrawn because of stipulations
  - Hassan Twp.
  - Hugo
  - Shorewood
- Carver
  - Denied request for Carver to hold hearing to consider amendments to System Statement for Dahlgren Twp.

# Issues & hearing requests 2015

# Issues in 2015

- Issues raised by 33 local governments after 2015 System Statements
  - Most often mentioned issue
    - Forecasts
  - Issues mentioned by several local governments
    - Affordable housing allocation
    - Community designation
    - Transportation
  - Less-frequently mentioned issues
    - Sewer flow or service area
    - Staging and phasing & annexation areas
    - General process for updating comprehensive plan

# Issues in 2015

- Issues resolved for 18 local governments
  - Sector Representative answered questions and helped resolve issues
    - Example: Advise local government that the Council typically makes changes to a community designation as part of the process of updating or amending a comprehensive plan
- Issues in discussion or under review for 13 local governments
  - Mainly involve forecasts
    - Example: Council staff are working with local governments on forecasts and will bring any proposed changes in forecasts to the Council for adoption

# Hearing requests 2015

- Oak Grove requested hearing before Office of Administrative Hearings
  - Community designation
  - Description of sewer service and guiding
- East Bethel requested hearing
  - Community designation

# Timing and process

# Main steps for hearing process



No resolution?

Local government may request hearing within 60 days after receipt of System Statement



Hearing held within 60 days after request  
Report sent to the Council within 30 days



Council makes final determination within 30 days of receiving report



# Timing

- System statements mailed on Sept. 17
- Conduct hearing within 60 days after request
  - May combine hearings for related requests
- More flexibility in time period for holding hearing compared to 2005-06
  - Law changed in 2007 so may extend or suspend 60-day period for holding a hearing if the Council and local government mutually agree
- At any point, the Council and local government may resolve their disagreement by stipulation



# Approach to LUAC hearings

- Give local government opportunity for LUAC to hear disagreements and hear proposed amendments to System Statement

# Advice on what to consider

- At LUAC hearing, Council staff advise considering disagreements over contents of System Statement identified in state law:
  - Forecasts
  - Timing, character, function, location, projected capacity, and conditions on use for existing and planned metropolitan public facilities in metropolitan system plans

[Minn. Stat. § 473.856](#)

# Roles in LUAC hearing process

- Local government
- LUAC conducts hearing and drafts report to Council
- Council staff
- Metropolitan Council

# Council makes determination

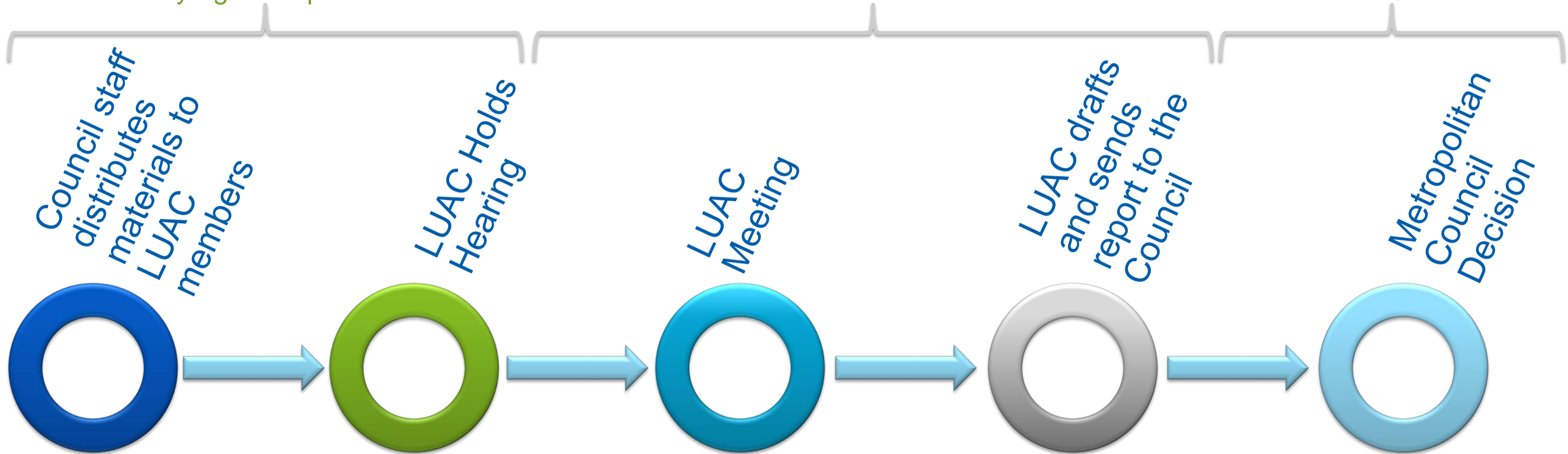
- Council makes final determination of whether to amend System Statement as part of hearing process

# What happens after a hearing is requested before LUAC?

Within **60 days** after request or other mutually agreed upon date

Within **30 days** after hearing

Within **30 days** of receiving report



- Local government & Council staff each submit pre-hearing memorandum
- Post notice of hearing

- Both parties present their testimony and exhibits
- LUAC asks questions

- Review proposed findings and conclusions from both parties
- Make recommended findings and conclusions

- Include findings, conclusions & recommendations in report
- Recommend cost allocation in report

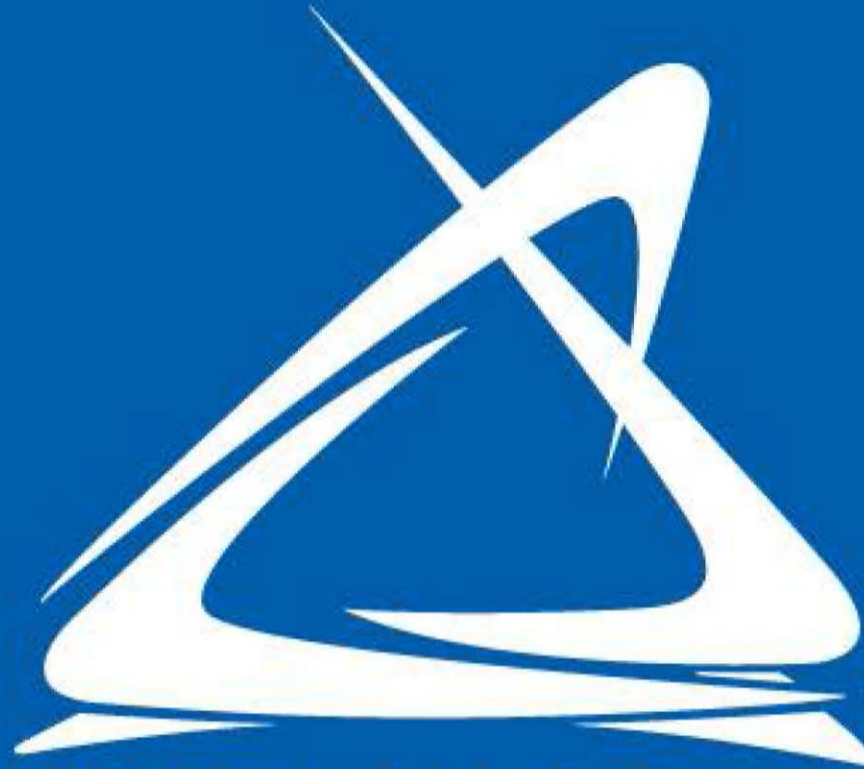
- Make determination on the proposed amendments to the system statement

# Resources

- System Statements; Reconciliation Process
  - Handout and link to [Minn. Stat. § 473.857](#)
- Fact Sheet on System Statement Dispute Steps
  - Handout and link to Fact Sheet in [Local Planning Handbook](#)
- Timeline and process - What happens after a hearing is requested before LUAC?
  - Handout

# Questions?

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