

**JOINT CITY/COUNTY MEETING
REGARDING THE PERSIGO 201 BOUNDARY ADJUSTMENTS**

November 13, 2000

Those present were Mayor Gene Kinsey, Councilmembers Cindy Enos-Martinez, Earl Payne and Jim Spehar. Mesa County Commission Chairwoman Doralyn Genova, Commissioner Kathy Hall and Commissioner Jim Baughman were present. Roberta Raley, Clerk of the Board and City Clerk Stephanie Nye were also present.

Mayor Kinsey announced discussion will take place on possible areas for inclusion and exclusions to the adjustments of the 201 Sewer Service Boundary.

Utilities Manager Greg Trainor provided a brief overview of several areas under consideration. This meeting has been established by the Board of County Commissioners for Mesa County and the Grand Junction City Council as a once a year event to consider additions and deletions to the 201 sewer service area.

One area to be considered is a carryover from discussions one year ago. It was discussed further in March, 2000, and the boards hope to resolve that area (a portion of Orchard Mesa in and around the Valle Vista area).

Mr. Trainor described the several areas for consideration and referred to a plat for locations.

1. Central Orchard Mesa in and around Valle Vista
2. 23 Road Park Plaza (a small parcel) and some adjacent properties near 23 Road and Interstate 70
3. Corner of Little Park Road and Rosevale Road
4. Central Orchard Mesa, South of B Road, and north of Highway 6 & 50, east of 30 Road and west of 32 Road

He pointed out the existing 201 boundary to orient the audience.

Last year there was much discussion on whether to include the Appleton area which is east of 23 Road, between H Road and the Interstate. When the Appleton School was remodeled, and because of failing septic systems in the area, sewer was extended to the school district. The question arose about how to keep people from connecting to that sewer line if they should have problems with their systems. Council and the Mesa County Commissioners tried to define the area around the Appleton School as tightly as possible in order to try to limit the development in terms of what could go on sewer and what wouldn't be on sewer. The 23 Road Park Plaza is an area that was subdivided in

Mesa County in 1981. There are dry sewer lines in that area. Sewer is not available to that piece of property, although the decision is whether it should be in or out of the 201 area. It is presently zoned commercial as well as properties to the east. The current sewer is located in the Interstate Commercial Park south of the interstate, but the City's engineers are concerned with the depth of the sewer and physical characteristics of the ground, etc. which would allow it to be extended from 23 Road Park Plaza, under the interstate, and over to the Interstate Park. The sewer would have to be extended to the west on the north side of the interstate, then over to where River Road crosses under the interstate, going beneath the railroad tracks and to the River Road Interceptor. This routing, based on depth of sewer and topography, is approximately 4400 feet, a little less than one mile, and \$75/foot which would be approximately \$300,000 to \$330,000 for property owners in this area to extend sewer. This route is not likely per the City's Utilities Engineer Trent Prall.

Mr. Trainor explained the areas marked on the plat with an "x" are properties that are currently on sewer and on sewer as a result of the sewer line crossing underneath the interstate, going along the freeway, then up to the Appleton School. The drainage basins are somewhat divided. Sewer to the east of 23 Road would require a pump station.

Mr. Trainor said 400 notices were mailed to property owners in this area as well as the Valle Vista area. Staff received a number of phone calls on different issues. Property owners Ramsetter said the 23 Road Park Plaza is just to the west and they were bordered on the south by commercial. If this area was included, it would make sense for the Ramsetters to also be included in the 201 boundary.

Councilmember Payne asked Mr. Trainor if Staff is considering a special district for the 4400-foot extension. Mr. Trainor said the sewer system's policy is with new development, the property owner pays the cost to extend sewer to their property. There is a trunkline extension policy where, under certain conditions, the sewer system has participated in the cost of extending sewer. Those conditions are fairly strict because in those cases a landowner of undeveloped land is asking the sewer system to become a partner in their development. In the past, the boards have examined the payback potential. The sewer fund pays to extend sewer, but it must be determined when the sewer fund will be reimbursed. Under the policy, the developer must provide 15% of the project in cash. It must then be reviewed by Council and the Commissioners, and there must be a strong possibility that the sewer fund will be reimbursed in a reasonable period of time. There have been several inquiries of the sewer fund extending sewer under this policy. Staff has determined that that area is not like South Camp Road. South Camp Road has a tremendous amount of development taking place, and the sewer fund received all of its money back within a five-year period. He felt it would be difficult for the sewer fund to get the funds back in this area if they were to participate. There are 30 lots in the 23 Road Park Plaza and would result in \$8,000 to \$10,000 per lot for the extension. The cost of some of the sewer improvement districts that are being formed are comparable.

Councilmember Spehar said the only practical way is to extend sewer to the west, meaning in order to get a line to this parcel it will be necessary to go through other parcels with the line that are not currently in the 201 boundary. Mr. Trainor said that is correct.

Commissioner Baughman did not understand why the sewer could not be taken underneath the interstate and to the south, if the developer is willing to pay for the extension, since a lift station would likely be required in that situation. Mr. Trainor said if there was a lift station, it certainly could. Flowing gravity to the south would be a problem because of the grade that would have to be maintained for the sewage to flow by gravity and the depth of the sewer in Interstate Park south of the freeway. A lift station requires operation, maintenance and eventual replacement, and it requires the sewer system to operate and maintain a lift station. If the area to the west of 23 Road, along the interstate, was ever developed in commercial and the sewer boundary was ever extended to the area west of 23 Road, there would certainly have to be sewer in that area also. It would make sense to try to meet one objective, that is, not to have a pump station, and to sewer areas north of the interstate. The idea would be for the sewage to flow from 23 Road west underneath the old highway to Fruita, then across the railroad tracks to Persigo Wash. Commissioner Baughman noted there are many lift stations in the Persigo system. Mr. Trainor agreed there are approximately 25 lift stations in the system. In every instance the first objective is to try to find a way where service flows by gravity because lift stations are expensive to operate and maintain. The second objective is the elimination of certain lift stations. They prefer not to have a lift station serving this part.

Commissioner Genova asked what the cost would be for a lift station. Mr. Trainor said a lift station is currently being replaced at the DOE compound at a cost of \$80,000. With replacement and power, etc., the additional cost is approximately \$1,200/year.

Councilmember Payne asked for the approximate cost of drilling underneath the interstate. Mr. Trainor was unable to give an estimate. Councilmember Payne wanted to compare the \$330,000 taking the extension west to River Road, versus \$80,000 for a lift station plus \$150,000 to drill under the highway.

Commissioner Baughman said how this area would be sewered is irrelevant. The decision is whether to include it in the 201 sewer boundary.

Mr. Trainor said inside the 201 sewer service area boundary there are undeveloped properties and Staff spends a lot of time working with the property owners looking at various options. He said the City and County's decision tonight is whether it's appropriate that this area be inside or outside the 201 boundary, and what it means to the surrounding properties and the land use, etc. The method of sewer is up to the property owner.

Councilmember Spehar asked for the current land use status of this parcel. Mr. Trainor said it's zoned commercial. The property directly to the east of this parcel is zoned estate.

Public comment was taken on the following:

23 Road Park Plaza

Jim Dyer, representing Karen Marquette, was trying to get a decision on the utilization of the sewer for her property. A submittal had gone through the City and County Planning Departments. He was requesting a way to connect to the sewer and utilize Ms. Marquett's property. He has put together a team consisting of himself, Karen Marquette, property owner, Gary Vanderwood, architect, and Mike Joyce, consultant. Ms. Marquette acquired the property (approximately 80 acres) in 1989 and has invested approximately \$500,000 worth of improvements on the property. The first filing has the utilities in and the 40 remaining acres to the north is also planned industrial. Mr. Dyer introduced Karen Marquette.

Councilmember Enos-Martinez asked if the second filing is being included in the request. Mike Joyce said Ms. Marquette is not requesting inclusion of the upper portion of the remaining 40 acres in the 201 boundary. It was a planned development to be accomplished in two different filings. Filing 2 was never consummated. Filing 1 was recorded and does have curb and gutter. They are only requesting inclusion of Filing 1 at this time.

Councilmember Enos-Martinez asked Mr. Joyce if he had been retained as a consultant for this project. Mr. Joyce said if this project does go forward, he would be a consultant. Currently, he is not being paid to do anything on this project.

Councilmember Enos-Martinez recused herself from discussion on this portion, left the dais and sat in the audience.

Mr. Joyce said the Growth Plan shows a land use of commercial/industrial for this property and it currently has a planned commercial zoning.

Councilmember Spehar asked if the improvements meet current requirements. Mr. Joyce said the roadway is not installed and the road base would have to be redone. There are fire hydrants, road widths, etc. which meet Mesa County standards and City standards back in 1981 when they were both identical for urban-type subdivisions. The property has dry sewer lines. In fact, the water lines were actually when County Jam was on that site the first few years. They actually charged the system out. Mr. Dyer said the right-of-way platted is 60 feet so either road standard could be built into that right-of-way.

Karen Marquette, 2125 Broadway, has contacted the Planning Department over the years and has been told she can do anything with her property even though it's going to

take a significant amount of money. Over the years she has had various offers from citizens to purchase her property. She has been involved in development in other states and has seen how things are built up. She had a vision for this property when she purchased it. She has never sold the property because she loves the City of Grand Junction. Her project is 90% complete. Her property is a rare piece of property and needs to be developed properly. It is easy access with great visibility. The development has great infrastructure. She requested her property be added to the 201 sewer boundary.

Commissioner Baughman asked Ms. Marquette if her vision was for commercial use of her property. Ms. Marquette responded yes, it would be the best and highest use for the property.

One written comment from Dave Zollner, 2545 Canaan Way, Grand Junction, 81505, was read into the record: "Please do not allow further extension of the 201 sewer boundary north of I-70 near 23 and 26 Roads. The will of the people has spoken in the County-wide Land Use Plan, and the recent North Central Valley Plan to maintain low densities and rural attributes in that area. The City and County wrestled with the controversial issue of allowing the sewer to extend to the Appleton School, knowing it was a must for the school but also contradicting the Land Use Plans in the process. Please be vigilance to stem the time requested by developers for sewer hookups in the area by declining the extension of the 201 sewer boundary."

Marie Ramsetter, 929 Main Street, was assured by Pete Baier that her property on the east half would be in the 201 sewer boundary, and the west half could not be included. She was unable to attend the meeting when her property was discussed. She talked with City Utilities Engineer Trent Prall and was told she would have to wait until tonight's meeting. She requested the east half of her property be added back into the boundary. Commissioner Genova asked Ms. Ramsetter if she would object to having the west half of her property included in the boundary. Ms. Ramsetter said no.

Sean Norris, owner of property to the north of Ramsetters, said discussion at the last meeting was the dividing line between the 201 which was originally down the middle of those properties. His comment at that time was either take it all out or leave it all in because of the difficulty of getting sewer on one half and septic on another half, and trying to get both the City and County Planning Commissions together to make everything work. He was informed there was an "invert" problem because of the location of the sewer line causing everything to the east to drain to the new sewer line. That was the reason for putting the line in there. Everything to the west was outside the drainage basin. He still has no preference but requested the location of the boundary line be determined.

There were no other public comments. Mayor Kinsey then asked for comments from the Board and City Council.

Commissioner Kathy Hall said the 23 Road Plaza property should be added in as commercial, along with the Ramsetter property.

Greg Trainor said natural drainage would go to the west and down to the River Road area. Sewage can be directed anywhere with a lift station. He did not feel the Board and Council wanted to discuss that tonight.

Commissioner Baughman felt since there is no representation tonight for the parcels to the west, they should not be included at the present time, although he felt the 23 Road Plaza and Ramsetter properties should be included within the 201 boundary. He asked Mr. Trainor if he knew whether those property owners wanted to be included. Greg Trainor had no specific information. He said the property is zoned either industrial or commercial, and is located right next to Lift Industries.

Councilmember Payne wanted to include Ramsetter property and the 23 Road Plaza.

Mayor Kinsey reminded the audience that three properties are being considered and one of the requests is a piece of property that was zoned for industrial and mandated by the County and put in infrastructure, including sewer. He felt because of the sense of history and fairness, it made sense to put that back into the 201 boundary. Installing sewer at the Ramsetter and Norris properties would force a higher density than 2-5 units/acre, thus conflicting with the recommended density by the Growth Plan. He felt only the 23 Road Plaza property should be included since that was the only property noticed.

Councilmember Spehar was reluctant to add parcels piecemeal. He felt the opportunity to install sewer should be created for the parcel already zoned industrial under those 30 lots. He was not sure that would solve the problem of allowing the development because of the financial considerations. He also wanted to limit this to the 23 Road Plaza property.

Commissioner Hall did not think it was specifically stated at the last meeting that the Ramsetter property would be taken out of the boundary. Some adjustments were made at that meeting when requested by Redlands property owners.

Mayor Kinsey felt the Board and Council have a commitment not to expand sewer and development in this area because of the 2-5 units/acre recommended density.

Commissioner Baughman preferred including the Ramsetter property, the western portion of the Lift property and the 23 Road Park Plaza in the 201 boundary, although consensus is to include only the 23 Road Park Plaza. He felt a strong case can be made to include the second portion of the Lift and Ramsetter properties.

Councilmember Spehar suggested asking legal counsel if there is indeed an issue with the notice. Commissioner Genova said she was comfortable with the notice and

moving forward to include the Ramsetter property, the rest of the Lift property and the 23 Road Plaza property. Councilmember Payne agreed.

City Motion

Upon motion by Mayor Kinsey, seconded by Councilmember Spehar and carried with Councilmember **PAYNE** voting **NO**, the 23 Road Plaza property only was to be included in the 201 boundary.

(Per City Attorney Dan Wilson the rule of necessity allows the Council to go forward with only three voting members.)

County Motion

Upon motion by Commissioner Hall, seconded by Commissioner Baughman and carried, the 201 sewer boundary be amended to encompass the 23 Road Park Plaza.

Mayor Kinsey said by joint agreement, 23 Road Park Plaza was included in the 201 sewer boundary.

County Motion

Upon motion by Commissioner Hall, seconded by Commissioner Baughman and carried, to include the entire Ramsetter property back in the 201 sewer boundary.

City Motion

It was moved by Councilmember Payne and seconded by Councilmember Spehar that the entire Ramsetter property be placed back in the 201 sewer boundary. Motion failed 2 to1.

Since Councilmember Enos-Martinez had secluded herself from discussion on the 23 Road Park Plaza, Commissioner Hall requested Councilmember Enos-Martinez return to the meeting to vote on motions that do not include the 23 Road Park Plaza property.

It was moved by Councilmember Payne and seconded by Councilmember Spehar that the Ramsetter property be included in the 201 sewer boundary. The motion resulted in a tie vote 2 to 2. Motion failed.

It was suggested by Commissioner Hall that discussion move on to the next location since only one parcel has been agreed upon jointly.

Little Park Road

Greg Trainor said requests are from property owners on the southwest corner of the intersection of Little Park Road and Rosevale Road (6.2 acres) to be deleted from the 201 boundary.

Commissioner Baughman asked for an explanation of how it relates to Little Park Road. Mr. Trainor referred to the map for clarification. He said the property is a hillside. The small drainage cuts through the middle of it. Sewer presently comes up Rosevale Road to C½ Road, approximately 1200 to 1300 feet away. It could be served by sewer. The sewer that's in Rosevale Road was put in at a depth that would serve much of the drainage basin off of South Rosevale Road. Currently, it stops at the Redlands Canal.

Teresa Manthi, Cole & Company Realty, listed and sold this particular piece of property. The recent purchaser wants to split the property into two parcels. The property goes straight up the side of the hill. There will never be sewer to it. Everything surrounding the property is two-acre sites. No one on Little Park Road is included. All the rest of Little Park Road has been taken out of the boundary. She said the owner wants his 6-acre property deleted.

Councilmember Spehar asked if City regulations require split properties be sewered. Ms. Manthi said there are only two places where a leach field can be located. She said the property begs to not ever have more than two parcels on it. Physically, the topography cannot allow more building on the property.

Assistant City Manager David Varley said this happened recently to a property just north of this area and installation of a dry line was required by the City.

Commissioner Baughman said the dry line requirement would assure it should have sewer at some point, otherwise there wouldn't be a dry line.

Ms. Manthi said even if the property is deleted from the 201 boundary, septic systems still have to be installed. Physically, no more than two houses can be built on the property.

Commissioner Hall asked to be shown where the sewer is laid. Mr. Trainor indicated the sewer comes down Rosevale Road to C½ Road to the bottom of the canal, approximately one-quarter mile away.

Commissioner Baughman asked if anything currently exists on the property. Ms. Manthi said no. Everything on Little Park Road is two-acre minimum parcels. Even if sewer got to this property, it would never be brought up Little Park Road because no one is interested in participating in the cost to bring it in. Mr. Trainor said the County shows this parcel zoned R-2. Pete Baier said whether it's R-2 or R-4, the zoning doesn't fit. The reason it was left was because of the zoning density. It is a matter of zoning to a density that perhaps is not buildable based on what the lot owner is saying, that being,

there will never be more than two homes on the property. He said there is zoning that would support sewer, yet the physical features of the lot are such that it cannot be built out. Therefore, the request is to remove it. Commissioner Baughman felt the zoning needs to be changed as well as the 201 boundary. Ms. Manthi agreed the property cannot support the zoning.

There were no other public comments.

Councilmember Spehar asked if this property were removed from the boundary as unbuildable for more than two sites, is a motion necessary saying so long as there are no more than two dwelling units built on this parcel. City Attorney Dan Wilson recommended the approval be made with the foregoing condition.

County Motion

Upon motion by Commissioner Hall, seconded by Commissioner Baughman and carried, the requested property on Little Park Road is to be deleted when the zoning on the property is changed so no more than two units can be built on it.

City Motion

Upon motion by Councilmember Spehar, seconded by Councilmember Enos-Martinez and carried, the subject property is to be removed from the 201 sewer boundary upon approval of a zoning change to the appropriate density.

Central Orchard Mesa (Valle Vista)

Pete Baier referred to the area on the map, stating B Road south remained in the boundary. Currently, a secured 400 feet on each side of the line running through Valle Vista and the Valle Vista Subdivision itself is inside the boundary. The area in question is the area south of B Road. A Planned Use plan was being prepared in the area, so it was decided to put this off until this point in time when information is available on the Land Use Plan. Planners Michael Warren and Kurt Larson, County Planning engineers, were present to give information on the current adopted Land Use Plan.

Michael Warren, County Long Range Planning Division, said the planning process was a Land Use process and was not intended to discuss sewer. The intent was to clarify future land use for the Valle Vista area. What came up through citizen participation forums and recommended future land use was that the area largely remains rural and that it reverts back to the AFT zone (recommended density 5 to 35 acres) and the overlay district extends south to Highway 50. Those densities would not require sewer.

Mr. Baier referred to the proposed Land Use Map that has been accepted by both the City and County Planning Commissions.

Commissioner Baughman said the map indicates Valle Vista and the adjacent properties is in conflict with the map that shows only Valle Vista and the 400 feet on either side of the sewer service line extension. Mr. Baier said the reason for the 400 feet is a State law that requires a property owner who has a failed sewer line to tie in to an existing sewer line within that distance. There is some conflict in the zoning of Valle Vista area immediately adjacent to it, that is, existing versus future land use.

Mr. Baier reviewed the Persigo Agreement and read a portion: “For properties south of the Colorado River and east of the Gunnison within the 201 (“Orchard Mesa”), there shall be no development nor uses approved in the area east of 30 Road, west of Highway 141, which are connected to the system, except for the already fully developed subdivision Valle Vista. Structures lawfully existing as of the date hereof which are within 400 feet of the existing sewer service line which connects to the Valle Vista, may be connected to the Valle Vista sewer line. Development of any property, any portion of which is west of 30 Road on Orchard Mesa, which meets the criteria of annexable development shall only occur within the City and contemporaneous with the annexation and City review and approval. The parties shall commit to a successful resolution with Orchard Mesa Sanitation District “

Commissioner Baughman said the Council and Commissioners have already made an exception. In addition to the 400 feet along the line, as well as Valle Vista, there is a trailer park on the south side of Highway 50 that was added to the boundary. It is east of 30 Road and over 400 feet from the existing sewer line. Pete Baier confirmed that area was added into the boundary.

Councilmember Spehar said the spirit of the Persigo Agreement says not to allow for development at a higher density.

Gretchen Sigafos, 131 31 Road, has lived in the neighborhood for over 21 years. She appreciates the rural nature of the area. When Valle Vista property came up, the County thought she was in the City, and the City thought she was out, which caused confusion. They would like to be out of the 201 sewer boundary.

Ken Wymer, 325½ B½ Road, was concerned with a statement that if his area was accepted into the Persigo Sewer System, there is a potential for annexing into the City of Grand Junction. Mayor Kinsey said any area that has sewer, it is understood that in order for it to be financially practical, that it must be developed at a fairly high density. Areas that are developed at high density belong in cities. If sewer is installed in there and neighborhoods are built, then it should be in the City. If it is to be left rural and not put a sewer in there, then it should remain outside of the City.

Mr. Wymer said the Central Orchard Mesa Fire Protection District goes to A½ Road, then one-quarter mile east of 30 Road, then to A½ Road, east to 31 Road and angles off and takes in Valle Vista. If the area were annexed into the City, the district would lose a large portion of property and part of their revenue. Chairwoman Genova said the only thing that would make this area a candidate for annexation would be development.

Councilmember Spehar explained that if the provision of sewer led to requests for development at a high density, then it would be a candidate for annexation. If sewer went in and there were no such requests, the property would not be a candidate. If the boundary is not expanded to include this area, it would not be a candidate.

Commissioner Baughman explained the Persigo Agreement actually exempted existing development from annexation. The provision of sewer was no longer the trigger for annexation; development became the trigger.

Councilmember Payne explained that if Mr. Wymer's neighbors want to develop their own parcels and hook up to sewer, their parcels will come into the City. Mr. Wymer's property will be left in the County. Mr. Wymer thought the entire area would be included in annexation. Councilmember Payne said no.

Paul Cavanaugh, owner of property at the corner of 30 Road and B½ Road, said the sewer line comes up B½ road and crosses the intersection of 30 and B½ Road. He referred to the 400-foot rule. Because he will probably dispose of this 7-acre parcel, there's an added incentive in selling the property if it could be connected to the sewer. He was taken out of the 201 boundary. He asked if a single sewer hookup would be possible. Councilmember Spehar said the portion of Mr. Wymer's property that is located within 400 feet of the line is included in the 201 and would be eligible for sewer. Pete Baier said it's a rule of a failed septic within 400 feet that requires the tie in, but the raw land is not eligible.

Mr. Cavanaugh said if he sold the property and decided to plug the septic system he could get on the sewer. Councilmember Spehar said no, there must be an existing structure with a failed septic system.

Mr. Cavanaugh asked if a structure was located more than 400 feet from the sewer line, although the property is bounded within the 400 feet, could they tie in to sewer. Mr. Trainor explained, under the Persigo Agreement, the existing structure on a property must be within 400 feet of the sewer line.

Jim Rooks, 155 31 Road, owner of approximately 200 acres, said he would like to be left in the 201 boundary area. His residence is located 403 feet from the sewer line; consequently, he cannot hook onto the sewer line.

Carrie Cook, 3097 A½ Road, would like to retain the rural atmosphere and stay out of the 201 boundary.

Darrel Martin, 128 30¾ Road, lives in a rural atmosphere and would like to stay out of the 201 boundary.

There were no other public comments.

Commissioner Baughman said there is high groundwater and septic problems in this area. An option could be that the sewer could be allowed to hook to existing residences and not available for future development. Councilmember Spehar felt that would be a modification of the Persigo Agreement and not a boundary issue.

City Attorney Dan Wilson said the Agreement says existing units as of October of 1998. If those fail later, those within the 201 boundary meet the Persigo Agreement.

Chairwoman Genova felt the City Council and the County Commissioners should be looking at things they will be facing in the next few years with the Clean Water Act and other things. She felt it needs to be done now or it will have to be done later.

Chairwoman Genova felt that if Mr. Rooks' residence is 401 feet from the existing sewer, he should be able to hook on to it. Any new development over the 400-foot limit would not be allowed hook up. The idea is to use the line that is presently in the ground to serve that drainage basin.

Councilmember Spehar asked Greg Trainor how that would work. As a practical matter, is it going to help someone 600 to 1200 feet away, are they going to be able to pay for that extension. Mr. Trainor said the minimum size service line is 4 inches. Practically speaking, an 8" line would probably be used because the biggest expense is digging the hole to cover the line. He would use an 8" line thinking that in the future the requirements could change. It would be quite expensive, but the line would be there. Someone right next to that builds a house and puts a septic system in, and it fails 5 or 10 years down the line, there's a sewer line. He felt this was one of the reasons for the discussion on the 201 Persigo Agreement, being that all the existing structures within 400 feet of the Valle Vista line would be allowed to hook on. Once the sewer line is extended, it's almost impossible to prevent someone from hooking on to it because of the necessity.

City Attorney Wilson said this entire situation was driven by the existence of Valle Vista. There are problems, and the State Health Department is saying the lagoons are bad. There were over 100 residents in Valle Vista so it was a huge investment. So the solution was the City and County must agree to serve Valle Vista to protect those investments. Although, once you put a line in, development will naturally follow. The solution agreed upon was the existing structures as of October 1998. Extending 1200 feet ten years from now, over the long term, adds more. That's the policy dilemma. Regarding the 400-foot rule, State law mandated that there be a rule, but that rule came out of the City/County agreement in 1979, a resolution when the entities were getting ready to bond, for the first go around of the construction of the Persigo system. That rule is not magic. The two bodies (City and County) could, with approval of past bond counsel, make changes to the rules. When the bonds are written off, the bodies can change that distance requirement.

Mr. Wilson advised that when making a land use decision, it extends the consideration beyond the 400 feet. If a land use decision is being made, he recommended relooking

at the entire development east of 30 Road. The time will come when there will be development pressure in that corridor.

Mayor Kinsey said another significant factor in the discussion is the Orchard Mesa Neighborhood Plan that included a considerable amount of work and effort. If the boards are going to develop land use plans and neighborhood plans, they should follow them.

Chairwoman Genova said she could see no change in the overlay plan by allowing people the opportunity to utilize the sewer line. There is no law against having a sewer line in agriculture ground.

Mayor Kinsey said people are allowed to utilize that line. However, the line has to be drawn somewhere. He said no one is in distress right now. If someone were to come to the next meeting with a situation, then that situation could be addressed.

Chairwoman Genova said the number can't be changed without changing the bond. She felt it would be easier to take that as a whole drainage basin which is why it was put in and that's why the line is drawn where it is. It's a natural basin.

Councilmember Spehar felt such a change would open up the area for higher density which is contrary to the recently updated Plan, and he could not agree to expanding the boundaries of the 201. Councilmember Payne concurred.

Councilmember Enos-Martinez said they were waiting on the Orchard Mesa Plan and felt this decision should be put on hold for the update of the Plan.

Commissioner Baughman asked Councilmember Enos-Martinez if she would object to existing development prior to October 13, 1998, that if there were a septic system failure, allowing an owner to tie onto that line at their own expense, even if they were further than 400 feet. Councilmember Enos-Martinez didn't feel that could be considered at tonight's meeting but rather would have to be considered at that time.

Commissioner Hall disagreed, citing that is the issue tonight. Changing the distance boundaries is not the issue tonight. The issue tonight is leaving the area in the 201, with the understanding that only existing can connect to the sewer. That basically is the issue tonight.

Councilmember Enos-Martinez said if leaving it in the 201 even existing, but not within the 400 feet, makes no difference.

Commissioners Hall and Genova felt leaving the properties in would do the property owners some good.

City Attorney Wilson displayed a copy of the Statute regarding the 400-foot rule.

Councilmember Spehar asked for clarification on whether this area is to be added to or deleted from the 201 boundary. The County said it was in and the City said it wasn't.

Commissioner Baughman referred to paragraph a, section 23 of the Persigo Agreement, regarding development. He read: "For properties south of the Colorado River and east of the Gunnison within the 201 "Orchard Mesa" there shall be no development nor uses approved in the area east of 30 Road, west of Highway 141 "32 Road" which are connected to the system, except the already fully developed subdivision Valle Vista. Structures lawfully existing as of the date hereof, which are within 400 feet of the existing sewer service line which connects to the Valle Vista, may be connected to that Valle Vista sewer line.

Councilmember Enos-Martinez said the last line of that paragraph "structures that are lawfully existing as of this date, which are within 400 feet" answers the question.

Commissioner Baughman said the first sentence says "nor uses" which would require amending the Persigo Agreement to include this area in the 201.

Chairwoman Genova said the Persigo Agreement should have been amended to include what was done with the trailer park that was included in March of this year. That action was not legal according to the definition in this paragraph. Commissioner Baughman agreed.

Councilmember Enos-Martinez did not recall a lot of input from the residents in the area saying they wanted this area to be in the 201 boundary.

Chairwoman Genova said, because this is a natural drainage down there, she thought it was a wise decision to include the Valle Vista trailer park because of the existing problems.

City Attorney Dan Wilson said that was an existing distressed area already developed. It was not something that was coming on line afterwards. That is the distinction and the concern was this one wouldn't be extended any further because it was right next to 30 Road.

Chairwoman Genova said it's the same point; it depends on how you spin it. She was talking about properties that are on the ground right now. Valle Vista is a development that is already on the ground right now. That's why that sewer line was put in to begin with. The trailer park is another example of it.

City Motion

It was moved Mayor Kinsey and seconded by Councilmember Spehar and carried that the area in question, Orchard Mesa, south of Valle Vista (both purple areas on the map), be deleted from the 201.

County Motion

It was moved by Commissioner Baughman and seconded by Commissioner Hall that this area remain in the Persigo 201 boundary, but with the understanding that only residents that existed prior to October 13, 1998 be allowed to hook onto that sewer line.

Mayor Kinsey said he understood the County Commissioners want to fix the potential problem of failing septic systems, but one of his concerns with leaving it in the 201 boundary, at some level, every property in that area is being promised that they are eligible for sewer service. Then to take it back saying under some conditions, he felt the City and County are setting both entities up for a lawsuit or challenge on it. He would rather take the area out, then go back and fix the few problems, rather than leave it all in and set it up for future development. Councilmember Payne agreed. Mayor Kinsey felt Council is agreeable with doing whatever modification necessary, whether it be the Persigo Agreement, the length of distance or the area. The whole goal of the Persigo Agreement was to target failing septic systems so it will not be ignored.

Commissioner Baughman didn't know how to take care of those if they're outside the 201 area. He recalled a similar situation on the Redlands which is in the 201, yet the City and County agreed the existing development on the Redlands would not be annexed, yet they were going to try to figure how to get sewer to those homes because they had failing septic systems.

Mayor Kinsey, said, given the Orchard Mesa Neighborhood Plan and the general comments this evening, he felt the boundary should be modified tonight, leaving Valle Vista area in the boundary, with the commitment that they will continue to deal with septic problems and make adjustments in boundaries as necessary.

Commissioner Baughman agreed they need to honor the Orchard Mesa Neighborhood Plan that was adopted and recently modified. Chairwoman Genova said she didn't see where the Orchard Mesa Plan and sewer go together. They are two separate things.

Mayor Kinsey hoped the City and County Public Works Departments could take a look at some of the houses in the area and make a recommendation for future solutions.

County Motion

It was moved by Commissioner Baughman, seconded by Commissioner Hall that this area be deleted from the 201 boundary but because of the high groundwater situation be revisited in 2001. Motion failed.

Commissioner Hall noted the two entities are in the same place as four years ago because the County majority said "leave it in" and the City's majority said "take it out."

Commissioner Genova said the property stays “as is.”

City Attorney Dan Wilson said nothing has changed. The issue is try to comply with the Orchard Mesa Neighborhood Plan, try to be consistent with the Persigo concerns, yet make sure no one is left high and dry with a septic failure. He suggested the City and County agree to remove it from the 201. If Staff is directed to draft an amendment to the Persigo Agreement, there are a couple of ways to do this.

Chairwoman Genova wanted to direct Staff and the attorneys, noting the discussion that has taken place tonight, noting the concerns that were brought forth by both the City Council and County Commissioners, to look at a way to resolve the problems, with the understanding that there are some problem areas out there, and figure out how this can be addressed, either with an amendment in the distance requirement in the Persigo Agreement (paragraph 23a), or a waiver through the management agency.

Mayor Kinsey asked if Ms. Genova wanted to take the area out of the 201 boundary tonight with the idea that they will be able to deal with existing homes. Commissioner Hall said that is what she would recommend. She would like to go ahead and make a motion to direct staff to recommend to them on how they will deal with failing septic systems in that area, whether it's an amendment to the Persigo Agreement or a waiver through the management agency. She was saying taking it out for now until there is Staff recommendation on solving the problem areas of failing septic systems of existing residences prior to October 18, 1998, either a waiver system of the management agency, or have an amendment to the Persigo Agreement.

Mayor Kinsey said hypothetically speaking, if a piece of property is inside the 201, then they are eligible for service. They can demand it if they can pay for it. If they're outside the 201, but they can't demand service. He asked if that is a correct statement. City Attorney said he thought Mayor Kinsey needed to be more particular. Mayor Kinsey said he was speaking in general because Ms. Genova said if taking them out, no service is available. However, service would still be available.

City Attorney Wilson suggested taking them out tonight, and Staff will be directed to come back and address this issue at which point both entities will try to do an amendment to the 201 agreement that allows for certain inclusions under certain conditions for existing structures pre-1998, and with high groundwater, and then come back.

Commissioner Genova said the 201 boundaries are continually amended to address those problems. City Attorney Wilson noted with a 400-foot rule, south of this road could still be modified.

Commissioner Genova thought it would be just as good to leave them in until the Staff recommendations come back. City Attorney Wilson though there will be people with expectations. Commissioner Genova's opinion was that there would be no more expectations than they've had for the past two years.

Commissioner Hall wanted it to be clear that if there are problem areas, they can work on them, whether they're outside the Persigo, or not, that they could be serviced if they have an amendment to the Persigo Agreement.

Commissioner Genova felt by leaving it as it is right now (a deadlock) will force both entities to move forward, getting their Staff to work on addressing the problems.

Commissioner Baughman recalled in the original Persigo Agreement, it was illegal to accept sewage outside the 201 boundary. That's why he was concerned about taking this out before it is resolved.

City Attorney Wilson said if taken out tonight, existing residences as of October, 1998 can be served that are within 400 feet of the sewer line. That's already in the Persigo Agreement. The real debate is the expansion of the 400-foot limit south. Commissioner Genova said staying as is and coming back with some points to address this problem later on, doesn't lose or gain anything. City Attorney Wilson countered there may still be confusion.

Councilmember Payne said it gets down to a very simple issue. Leave it the way it is because there is disagreement between the two bodies. He didn't think anything should be changed until Staff can provide information in a solution. Commissioner Genova agreed.

Mayor Kinsey said this dilemma has left the property owners in limbo for a long time. He felt it was an unfair situation. The Persigo Agreement is clear that it should come out. There is an unreasonable expectation given to people that there are development possibilities if it's inside the 201. When the Orchard Mesa Plan says this is a rural area of 5 to 35 acres, but it's inside a sewer district that's going to require development of 4 units/acre, is a definite conflict. He did not see how the two go together. The only disagreement is how some future failure will be served. It's future failure that is the concern. Right now it's clear the neighborhood wants it out, the people in the audience want it out, and the Persigo Agreement says it should be out.

Commissioner Hall said the County Commissioners had a struggle with that also. She said this has gone on for quite some time and didn't feel another six months would hurt. It's the same situation as what took place on the Redlands area. There was a serious issue with high groundwater. They don't want development there which is what the Orchard Mesa Plan says. There is definitely a groundwater problem in the area.

Councilmember Enos-Martinez warned against waiting six months when a new Council will be elected (April, 2001) that will not be familiar with the situation and will want to prolong a decision.

Commissioner Baughman suggested making a decision in February, 2001.

City Attorney Wilson said Staff will need a week to gather the information to give Council and the Board a couple of options.

ADJOURNMENT

The meeting adjourned at 9:30 p.m.

Stephanie Nye, CMC
City Clerk