

**CITY OF GRAND JUNCTION CITY COUNCIL
and
BOARD OF COUNTY COMMISSIONERS FOR MESA COUNTY**

**ANNUAL JOINT PERSIGO MEETING
JULY 10, 2003**

Call to Order

The Grand Junction City Council and the Mesa County Commissioners met at 6:22 p.m. on July 10, 2003 in the City Auditorium, 250 N. 5th Street, for the Annual Joint Persigo meeting.

County Commissioner Chair Jim Baughman called the meeting to order at 6:22 p.m. and introduced his fellow Commissioners Doralyn Genova and Tilman Bishop.

President of the Council Jim Spehar introduced his fellow Councilmembers: Cindy Enos-Martinez, Bruce Hill, Dennis Kirtland, Bill McCurry and Gregg Palmer. Councilmember Harry Butler was present but not at the dais until after the meeting had started.

Also, present were City staffers City Manager Kelly Arnold, Assistant City Attorney John Shaver, Public Works and Utilities Director Mark Relph, Community Development Director Bob Blanchard, Utilities Manager Greg Trainor, Persigo Manager Mike Robertson, Management Intern Seth Hoffman, and City Clerk Stephanie Tuin. County staffers present were County Administrator Bob Jasper, County Attorney Lyle Dechant, Planning and Development Director Kurt Larsen, Public Works Director Pete Baier, and Clerk to the Board Bert Raley. Also present was Frank Hyde, Clifton Sanitation District #2, Rich Livingston, attorney, and Larry Beckner, attorney for several Special Districts.

1. Approval of Criteria for Sewer Variance

City Public Works & Utilities Director Mark Relph introduced this item. There has been discussion of the County participating in the decision on sewer variances, and if that is to be the case, then the proposed resolution will need to be modified. Utilities Manager Greg Trainor advised that the wastewater regulations are a part of the City Code of Ordinances. They are amended from time to time upon recommendation from the manager or the governing bodies. Mr. Trainor read the purpose of the regulations. He noted that there are areas within the 201 boundary that are already developed and already on septic. That situation has, in some cases, been the reason for the Septic System Elimination Program (SSEP), which has been very successful. Instead of being a true variance, the wording in the regulations should really reflect a temporary extension of time allowing the use of septic. Forcing a sewer connection to an existing

house that has a functioning septic is difficult. This discussion has been ongoing for a year. At the last meeting in April 2003, staff was directed to bring back a resolution with criteria for when a variance might make sense, that is, it is impractical to hook onto sewer at the time it is developed. If the property is farther than 400 feet from an existing sewer line and the septic fails, the owner is allowed to fix the septic under County Health regulations. If they are within 400 feet of the sewer line, the Utility Department can look at the situation on a case-by-case basis. If the property owner has evidence that a connection would be impractical and/or if repair is possible, the owner can repair the system with the condition that if an improvement district is formed, they pay their apportioned share of the cost. Any non-residential development or expansion is required to hook up to sewer unless otherwise determined to be impractical by the Utility Department. In July 2002, a residential property was subdivided and a variance was allowed. The then existing regulations did not address the situation. The criteria as presented were developed to address residential situations. The regulations are proposed to be amended to include residential uses. The resolution contains examples of situations where the determination would be that it is "impractical" to require connection to the sewer system.

Councilmember Kirtland asked if the property being granted the variance is looked at for possible future sewer installation. Utilities Manager Trainor said almost every basin has feasibility studies so, in general, the City can determine feasibility for any property and in fact lay the alignment out for the property owner.

Commission Chair Baughman asked if there are any limits as to the extent the property owner would be able to use septic as to the number of lots. Allowing a subdivision to be on septic would be defeating the purpose of the SSEP. Mr. Trainor said if that were the case, the developer would have to pay up front the cost of hooking up to sewer through an improvement district as well as the cost of septic installation so in essence the developer would be paying for the installation of two systems.

Bob Jasper, County Administrator, said that any decisions should come to both bodies for a decision. Failed septics are not the issue, subdivisions of property where septic systems are allowed is the problem. The City granted such a request which goes against the Persigo Agreement. He would recommend that both bodies review such requests.

Chairman Baughman asked for public comments at 6:51 p.m.

Commissioner Bishop asked if the homeowner has to pay for the extension. He was answered affirmatively. Commissioner Bishop asked if the Health Department is part of the decision as to whether repair is allowed. Mr. Trainor replied that the Health Dept. is the lead agency. Commissioner Bishop wanted assurance that the homeowner is worked with and not dealt with heavy-handedly. Mr. Trainor replied that philosophy is evident in the City's policy that even if they are within 400 feet and have a functioning septic they do not have to hook up.

Commissioner Bishop asked if old septic systems within the 201 have been identified. Mr. Trainor answered yes. Commissioner Bishop asked that wording be "included but not limited to" in the amendment of the regulations and Mr. Trainor agreed that there will be other situations where exceptions may apply.

There were no public comments.

Commission Chair Baughman closed the hearing at 7:00 p.m.

Councilmember Palmer asked if hooking up to the sewer triggers annexation. He was told no, only development triggers annexation. Commissioner Genova agreed with the additional wording suggested by Commissioner Bishop however, she also wanted both bodies to approve any variances. Chairman Baughman suggested that the Commissioners be included in the review only if the variance includes redevelopment. Ms. Genova agreed, as did Council President Spehar, voicing concern over adding another step to the process, particularly in light of the difficulty in getting the two boards together schedule-wise. Chairman Baughman suggested narrowing down situations in which the Commissioners would become involved. Ms. Genova noted the governing bodies could approve exceptions at separate meetings. City Manager Arnold said it was the City's assumption that approval would happen at separate meetings unless there was disagreement. Council President Spehar questioned why the policy-makers have to get involved when the cases where it has been determined sewer hook-up would be impractical. County Administrator Jasper objected to City staff having the authority to make the determination. He preferred the establishment of criteria and to allow the staff to handle it, unless it does not meet the criteria. Councilmember Kirtland suggested a County review period of 15 days for response.

Chairman Baughman suggested the amendments either be tabled or adopted with the change to the case of subdivisions.

City Manager Arnold noted changes to the sewer regulations require a 30-day notification so the resolution, if approved, will need to be reaffirmed after 30 days. It was suggested that the two managers work on a new draft with the addition of the inclusion of the County's consideration for subdivisions, and add the words "and not limited to".

Chairman Baughman advised that the applicant should know up front that there is a requirement that both bodies must review in advance of the subdivision process.

Commissioner Bishop agreed that this should be tabled and a new resolution drafted.

Mr. Harry Smith, 798 21 ½ Road, addressed the two governing bodies. He said he was annexed and then de-annexed; no one can produce the minutes of the meeting where he was zoned commercial and had to go to Planning Commission and get it changed to R-2. Then without his knowledge, it was changed back to industrial. At the time, he was told the sewer was never going to be hooked up so he put in a septic system.

Chairman Baughman asked him to come back to the microphone and speak under item #3,

Valerie Robinson, Assistant County Attorney, asked for clarification on the amendment to the sewer regulations to ensure the County must actually approve or disapprove; it is not just an objection period. Mr. Arnold assured her the draft would include affirmative action.

In conclusion, Chairman Baughman said the City and County staff will work on a new Joint Resolution of the City Council and the County of Mesa Amending the Wastewater Regulations, Section 4, System Expansion; (b) Types of system expansion; (2) Developed Areas for consideration in August.

City Manager Arnold asked that the boards move to item #3, as the advertising for the public hearing was published for 7:00 p.m.

2. Public Hearing on the Consideration of Expanding the 201 Sewer Service Area to include the Area around H Road and 21 ½ Road

The public hearing was opened at 7:31 p.m.

Kurt Larson, Mesa County Planning Director, reviewed this item and the history of the review. There are a couple of areas at 21 ½ Road and 22 Road at H Road that are already developed and County Staff feels that they need to be brought into the 201 boundary. There was a neighborhood meeting and letters were sent out asking about zoning to ensure the County was aware of any differences between zoning on the books and zoning on property deeds. No letters were received back to indicate there are any other differences in zoning than what the County maps indicate.

City Utilities Manager Greg Trainor then discussed the proposed sewer extension into the area. Mr. Trainor stated that there is sufficient capacity in the Persigo plant to accept these properties, the sewer extension would only occur if the property owners desire and initiate action. A requirement would only be triggered with development and expansion. The cost to extend the sewer would be expensive per lot, approximately \$17,000 to \$46,000 per lot and would be borne by the property owners.

Chairman Baughman asked about the possible use of SSEP funds. Mr. Trainor responded that would be a policy decision, currently the policy is to use it in residential areas within the existing 201 boundary.

Commissioner Bishop asked if the SSEP policy allows for a 30% subsidy. Mr. Trainor said yes but even with the subsidy, the sewer extension will be expensive. Councilmember Enos-Martinez noted that the criteria for use of those funds would have to be amended. Councilmember Hill further noted that it would be a shift from just residential assistance to commercial assistance. Mr. Trainor concurred.

Chairman Baughman recalled that there are still areas in the 201 on septic. Mr. Trainor agreed and advised that when the funds were allocated, specific areas for the program were established. Council President Spehar said there are no criteria that excludes commercial, it just happened to work out that way.

County Planning Director Larson stated the area in question is significantly developed in industrial use and it is important to recognize that, under the Persigo Agreement, it would be better to have this area served by sewer if there is any expansion or further development. County staff recommends that it be included in the 201 boundary and they believe City staff concurs.

Council President Spehar noted that this request was initiated by the County.

Chairman Baughman said the County's concern was when the Job Site project went through there was no way to hook onto the sewer system since it is outside the service boundary.

Councilmember Enos-Martinez noted if the properties were within the 201 boundary then when development occurs, hookup would be required at the expense of the owners. Mr. Larson said Staff could then look at other options.

Chairman Baughman asked for public comments.

Carol Jane Denton, 802 21 ½ Road, opposed the proposal saying a sewer hook-up would cost more than what they paid for their home. She said she has a petition against the procedure that she has just started circulating. When asked if she attended the neighborhood meeting, she said yes and the cost of sewer installation to her home was estimated at \$9,500 to \$11,400. Council President Spehar advised she would not have to hook up to which Ms. Denton replied that she would if her system fails. Ms. Denton submitted the petition to the City Clerk.

Harry Smith, 798 21 ½ Road, again said he was annexed without notification and his taxes went up. He noted the sewer line is on the other side of the road and he cannot run it across the road.

Mike Dawson, 2150 H Road, advised that his septic system is in great condition and he is against the sewer system being installed in his area. On behalf of Mr. Harry Smith, he stated that Mr. Smith was not notified until 21 days after he was annexed. Mr. Dawson said he was against the development of Job Site, and feels that a sewer extension will cause more development. The cost to install is prohibitive, about \$17,000 just to bring it to his property.

Councilmember Enos-Martinez reminded the audience that the City did not initiate this.

Mr. Dawson advised that the property owners were stunned at the neighborhood meeting and no one was in favor.

Council President Spehar explained that inclusion into the 201 boundary does not trigger annexation; development does and if the septic lasts another ten years, connection to the sewer will not be required until then. Mr. Dawson countered that even if he does not hook-up, an improvement district can be formed which forces him to pay his apportioned cost.

Chairman Baughman explained how the situation came to be; 20 years ago, the industrial and commercial development was allowed by the County and it is outside the 201 boundary. It should have never been allowed. Mr. Dawson noted that most of the properties have been developed in the last six years. Mr. Baughman said it was the zoning that allowed that development and agreed it should not have been approved.

Rich Livingston, an attorney representing Earl and Charlene Kip, who own a vacant piece of ground in the area, said his clients are an elderly couple. The Kips have said that if the rest of the people want the sewer they would not object and they understand it is common sense that sewer is better health-wise than a septic system. However, their concern is that by including this area in the 201 boundary and if a majority elects not to form a district, then the Kips will have to pay the entire cost if they ever want to develop. Council President Spehar replied that they won't have to hook up under the new variance criteria, if they are not within 400 feet.

Randy Kelly, 849 21 ½ Road, would like to see it brought to a vote with the property owners.

Dennis Lucas, 848 21 ½ Road, advised that Mr. Kip already has an option with Job Site for development.

Charlie Raley, 806 21 ½ Road, owns Raley Warehouse, and is considering redeveloping but would have to table that because of the costs if this is adopted.

Bond Jacobs, 888 21 Road, said he owns Job Site and can clear up the Kip's question. He would not exercise his option on the Kip property if he would have to pay for sewer. He has spoken with the sewer plant people to find out if he could pay to put sewer up there himself because he needed a pumping station. If this had happened two years ago, all the businesses that have gone in would have paid their fair share. Mr. Jacobs said he stood in front of the County Commissioners and asked if sewer was going to go in there. He wanted to build it the right way back then.

Vernon Pace, 844 21 ½ Road, built an industrial building in February of this year, and is opposed to the sewer. At the neighborhood meeting on June 18, it was said the depth of the sewer would be six foot, but his building sits below the road surface, and the sewer line would have to be below that. He would not get gravity flow and would need an individual pumping station for his building.

Glen Larson, 836 21 ½ Road, stated he put in a septic system. He would have installed sewer connections before and spread the costs out to the various developments, which would have been different. At this point, he prefers no sewer.

There being no further public comments, Chairman Baughman closed hearing at 8:32 p.m.

Chairman Baughman expressed that an extension of the 201 to this area makes sense, and idealistically it should be done, but since the property owners do not want it, he is not in favor of pursuing it. He admonished the former Commissioners for their negligence in allowing this development outside the 201 boundary and creating this problem. Commissioner Bishop agreed, if it is not supported he cannot support it but noted it will happen at some point in time and will not cost any less. He shared the Chair's concerns, but worried they may be forced if the situation gets worse. He agreed not to support it at this time.

Commissioner Genova said the area should probably be within the 201 boundary, and when land use decisions come forward, she did not want the friction, but if there is not support for it, she can't support it even though she believe it needs to be done and thought eventually it would have to be done. She clarified that inclusion in the 201 boundary will not trigger annexation or require existing residents to hook-up to the sewer.

Councilmember Enos-Martinez added that any expansion could trigger either one. Ms. Genova countered that there will be a variance process in place for those situations.

Councilmember Kirtland noted that these two bodies discussing planning issues are unprecedented and he applauded staff for bringing this issue forward.

Council President Spehar stated the real issue is the appropriateness of industrial development in rural areas, not about forcing businesses into the City. There may need to be discussions if there is any further request for development in that area.

Commissioner Bishop moved that consideration of expansion of the 201 Sewer Service Area to include the area around H Road and 21 ½ Road does not go any further at this time. Commissioner Genova seconded. Motion carried.

Councilmember Kirtland moved same motion. Councilmember Enos-Martinez seconded. Motion carried unanimously.

The Chairman called a recess at 8:47 p.m.

The meeting reconvened at 9:00 p.m. Councilmember McCurry was no longer at the meeting.

3. Budget and Policy Issues

a. Update on the Clifton Sanitation #2 Proposal

City Manager Kelly Arnold advised that he received a letter from Clifton Sanitation District #2 regarding their desire to have the District hook into the Persigo system if it meets their criteria. They have provided their financial analysis of the proposal and staff is asking permission to provide to the Sanitation District the Persigo financial analysis. The plan is to give them the best proposal given current policies. Then if the Sanitation District still wants to pursue the possibility, staff will begin negotiations.

Councilmember Hill said he is in favor of giving the Sanitation District the information. Councilmember Kirtland asked about the timeframe. City Manager Arnold answered that the District is on a short timeline; they have been waiting and will want to respond quickly.

Council President Spehar asked for assurance that capacity in the Persigo plant is available. Mr. Arnold confirmed that there is capacity. Commission Chair Baughman questioned the capacity. Mr. Arnold stated that there are capacity improvements planned, and the feasibility study will include the impact.

Larry Beckner, attorney representing the District, introduced the board member, the assistant manager and manager that were present. He explained the reason for the request and the time situation. He noted the numbers are easy; it is the political issue that needs discussion. If they cannot come to an agreement, the numbers won't matter. He requested that a County Commissioner and a City Councilmember sit down with the Clifton Sanitation District Board to discuss the matter.

Commissioner Genova agreed to let staff put numbers together but thought the District Board needs to go to its citizens. Mr. Beckner said the Sanitation District Board needs to know what position the Persigo Board will take before they try to sell the proposal to the citizens. However, any further delay will drive the decision.

Council President Spehar advised that it would be based on the policy in place, that is, the Persigo agreement.

Mr. Beckner explained that at the June 30th workshop he thought he understood that there were three options, 1 – expand the 201 boundary, 2 – consider servicing Clifton as an out of district customer, or 3 – go by the Persigo agreement. If indeed the position will be to go by the Persigo agreement, that's fine. They will go forward with that.

Commission Chair Baughman agreed noting that any other direction would precipitate a change to the Persigo agreement. He reminded Mr. Beckner that Clifton Sanitation asked to be taken out of the 201 boundary.

Commissioner Genova said she has no problem giving the financials to Clifton Sanitation. The rest of the County Commissioners concurred, as did the City Council.

b. Update on the Special Sanitation District Proposal

City Manager Kelly Arnold referred to the packet and summarized that the staffs and the representatives are no closer to the cost-sharing for capital improvements question than they have been for two years for a variety of reasons. He said if the governing bodies are wanting the group to find a way to meet everyone's needs, it might take a facilitator. Costs of a facilitator were discussed with Mr. Arnold suggesting a 1/3 cost sharing formula between the three entities.

County Administrator Bob Jasper said the group has made considerable progress but he agrees with Mr. Arnold's recommendation, mediation will help with the details.

Mr. Beckner had a different perspective; he was disappointed at the lack of progress. Again, he mentioned the new proposed intergovernmental agreement that he drafted which gets rid of all the old outdated agreements. He admonished the governing boards for using the cost share as "carrot" for dissolution, noting that dissolution would take a vote. He said if a third party is needed, he would suggest Bill Ela, a former judge, to act as a mediator.

Chairman Baughman agreed that dissolution was not a part of the original cost-share discussion.

Commissioner Bishop said it is time to get something going and recommended the parties put together a proposal for a mediator and associated costs.

Mr. Beckner asked if it could be submitted to each entity separately for a decision rather than waiting for another joint meeting. The governing bodies agreed.

Council President Spehar agreed and although he thinks a lot of Bill Ela he feels the facilitator needs to be someone with a fresh perspective, and not local. Commissioner Bishop agreed.

Commission Chair Baughman concluded the discussion by directing staff to draft a process and suggest consultants.

c. Report on the Septic System Elimination Program

Utilities Manager Greg Trainor referred to the summary provided. He noted that the Septic System Elimination Project has been a huge success and so far they have constructed 15 miles of sewer line and eliminated a number of septic systems. Councilmember Hill commended the staff and applauded the report. Councilmember Kirtland concurred and noted that the program has exceeded expectations.

Commissioner Bishop asked about another loan to fund the program. Mr. Trainor answered that the long-term plan is to eliminate 1800 septic systems. The program has been so popular they want to borrow more to speed it up and do it quicker. The loans can then be repaid by revenues from the new customers. Mr. Arnold said if the interest rates with the Authority are not lower than commercial sources, there is always that option.

d. Update on Staff Efforts with the Grease and Biosolids Issues

Pete Baier, County Public Works Director, advised that with the environmental concern on the production of methane at the landfill, there is a deadline to find an alternative situation. He and the committee, which includes area residents, are moving forward and they will have their second meeting on July 21st. At that time, they will look at what others are doing and discuss using the site at the landfill.

Mr. Baier then addressed grease disposal. He reminded the governing bodies that they have talked about privatization of this service. The landfill cannot take grease and using a hazardous waste facility is cost prohibitive. He will continue to work on this.

Commission Chair Baughman suggested that they raise the rates for grease disposal at Persigo, which will make privatization more feasible. Council President Spehar agreed. City Public Works & Utilities Director Mark Relph believes they need to address this issue soon. The plant's discharge permit will be at issue if they don't act soon. Commissioner Genova agreed they should raise rates to give the private sector an incentive to get into the business. Mr. Relph agreed that could be considered but raising the rates would have to be discussed with affected customers. Councilmember Kirtland suggested that no new customers be accepted. Mr. Trainor advised that the City is looking at installing a grease treatment facility at the sewer plant and charging around 12 to 13 cents per gallon. City Manager Arnold said the issue will be addressed in the next year or two.

4. Issues Raised from the Mayor's Letter of 2002

The Commissioners presented the City Council with a written response to the letter from former Mayor Cindy Enos-Martinez. One copy was submitted (attached).

Commissioner Genova advised that the Job Site development is a prime example of the issues addressed in the letter. There are areas in the County's jurisdiction that are outside the 201 boundary but have higher intensity zoning. Council President Spehar said they thought the County was attempting to quantify areas where this might be the case. Commissioner Genova agreed that needs to be done because the County respects zoning that is on the ground. Council President Spehar inquired if any progress has been made on mapping those areas. Advanced knowledge of these problem areas will benefit a solution. County Administrator Bob Jasper said one way to proceed, which will take the City's help, is to go through maps and see if there are areas of concern and do title searches. The staff can bring the problem areas back to the governing boards. Chairman

Baughman noted that many of the problems occurred during the time when there was a joint City-County planning department.

County Planning Director Larson identified several different issues that have caused these problems. He suggested that the resolution could either be to make the change administratively if reaffirming or hold a public hearing and resolve the issue.

Council President Spehar said he does not know the solution until the information is provided and can be reviewed. He asked staff to expedite the process.

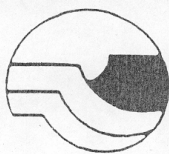
Other Business

There was none.

Adjournment

The meeting was adjourned at 10:15 p.m.

Stephanie Tuin, MMC
City Clerk



Mesa County, Colorado
BOARD OF COUNTY COMMISSIONERS

District 1 - James (Jim) R. Baughman (970) 244-1605
District 2 - Tilman "Tillie" Bishop (970) 244-1604
District 3 - Doralyn B. Genova (970) 244-1606

Copy to: Dan W.
John S.
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July 10, 2003

Mr. Jim Spehar, Mayor
Ms. Cindy Enos-Martinez, Past Mayor
City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501-2668

RE: Letter of November 8, 2002

Dear Mayor and Ms. Enos-Martinez:

Thank you for your letter of November 8, 2002. Please accept our apologies for the delay in responding in writing. Your letter asked a variety of questions. This letter attempts to answer the questions in the form asked. Our responses are as follows:

What does the County believe the City's role should be when there are development applications in the Joint Urban Planning Area that are inconsistent with the Growth Plan or that request a change in zone?

It is expected that at a minimum, the City would comment on the particular project. Depending on whether the project is inside or outside the boundaries of the 201 area, the City may be the primary processor of the application. For those rare projects where the project is outside the 201 Boundary, but inside the Joint Urban Planning Area, it is expected that the City will comment and if a continuing disagreement occurs, follow the steps outlined in the Persigo Agreement for an objection.

Will the County support new commercial development in the Joint Urban Planning Area on parcels that were not commercially zoned prior to the Persigo Agreement being adopted?

The County will support the development provided for in the Mesa County Land Development Code. Please be assured that there will be no rezoning that is not in conformance with the Master Plan.

Mr. Jim Spehar, Mayor
Ms. Cindy Enos-Martinez, Past Mayor
July 10, 2003
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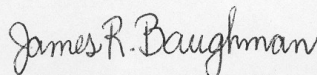
What is the appropriate method of resolution when the City and County disagree on interpretation of any portion of the Persigo agreement and how should that method of resolution be triggered?

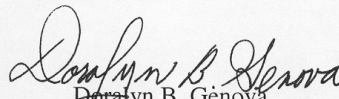
On those rare occasions where there is a disagreement between the City and the County, we would hope, first, that staff would attempt to work out the disagreement. If staff fails, it is anticipated that the respective administrators would attempt to work out the problem. If the administrators also fail, then the Board and Council may meet to discuss the issue. If this also fails, the Persigo Agreement provides for a specific procedure for resolving disagreements.

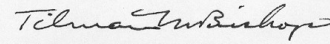
We hope this answers your questions. If there are further questions, or you would like an expansion on the answers provided, perhaps we can have a further discussion at that time.

As always, it is a pleasure working with you.

Sincerely,


James R. Baughman, Chair
Board of Commissioners


Doralyn B. Genova
Commissioner


Tilman M. Bishop
Commissioner