

CITY OF GRAND JUNCTION, COLORADO

MEMORANDUM

Reply Requested

Yes No

Date

Jan. 4, 1984

To: (From:) Jim Patterson / Gerald Ashby From: (To:) Steve Johnson SJ

RE: SEWER CHARGES

In connection with the development of payment schedules for Tiara Rado and Monument Meadows, the question arose as to our power to charge interest on delinquent accounts (including extended payment accounts).

In. C.R.S. 1973 Section 31-35-402 (2)(f), a municipality is accorded the right to impose "reasonable penalties" for non-payment of sewer tap fees and service charges, not to exceed 1% per month or 12% per annum.

The question then arises as to whether our City Code authorizes any interest on delinquent PIF charges. Unfortunately, the code authority for charging the PIF itself is unclear on this situation.

Section 25-47 of Article IX, Sewer Service Charges, of Chapter 25 of the City Code provides that "provisions of the Code relative to the payment of delinquent water bills shall also apply for delinquent sewer bills in all aspects". The PIF provisions in Article XI are located separately from the service charge provisions of Article IX, but they do not contain any explicit interest, payment, or collection provisions.

Section 25-44 (d) of Article IX does declare that "connection costs" shall be as provided in Section 18-19. However, Section 18-19 of Chapter 18, Local Improvements, in turn provides that connection to the City's sewerage system "other than in a district" shall be as stated in Chapter 25. (The "district" refers to in-City sanitary sewer districts, thereby excluding Tiara Rado, Monument Meadows, and all out-of-City or non-district areas from Chapter 18 coverage.)

Since the service charge provisions of Section 25-44 of Article IX cannot be said to apply to tap fees or connection costs (despite the circular reference in Section 25-44 (d) back to Section 28-19), authority for imposition of connection costs in the Tiara Rado or Monument Meadows situation might be found in the alternative under Section 25-25. That section states that "All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owners". The PIF could be construed to be such a cost incidental to connection and interest or service charges could be justified as an expense of lost income or administrative time.

As for collection of the bills, Section 25-47 provides for the billing and collection of "all sewer charges", whatever their source. The monthly services charges are denominated as such; the PIF is not and is separately invoiced. In my opinion, however, the PIF can come under the intent of this section.

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City Code Section 15-71 requires payment of the PIF prior to connection, however, Tiara Rado will be connected before any PIF's are paid or invoiced. Also, no authority exists to impose service charges or to allow extended PIF payment schedules as an administrative matter. Harry Mavrakis has also threatened litigation over the Tiara Rado sewer service transfer. I therefore recommend that the Council be asked to legislatively authorize by resolution the PIF deferral and the extra charges. I also recommend that the service charges should be called what they are - - interest or penalty charges. In the absence of Council action, all extended accounts should be deemed delinquent.

¶ Amy Newton wondered whether the City would have to make "disclosures" and send interest statements to customers if interest designated as such were charged. Under the federal Truth-In-Lending Act, governments are excluded from the definition of "lender" and hence are not subject to the Act for this purpose. I don't believe that the parallel state law imposes any additional lender disclosure responsibility.