

CITY OF SHELLEY  
SPECIAL MEETING  
MINUTES

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MARCH 18, 2025

PRESENT: Mayor Stacy Pascoe - Zoom

Council Members: Kim Westergard, Jeff Kelley, Don West,  
Sean Kress

Public Works Director: Justin Johnson

Building Inspector: Jordon Johnson

City Clerk/Treasurer: Lisa Ybarra

Rockwell Homes: Curtis & Nate

Kim Westergard opened the meeting at 6:00 p.m.

**Rockwell Homes/Eagle Engineering – Discussion of Copper Meadows Phase #2 and consider issuing a Will to Serve Letter for Municipal Water Services**

Mayor began and gave a background of the situation. The Mayor mentioned that this was started way before his time, about 14 years ago. The property around the school (Riverview), Merlin Dial had agreed to annex into the City and Ball Ventures then owned the property around the school and they put a water line out there and the school was built and then Merlin changed his mind and did not annex into the City. Ball Ventures came to the city and asked if there was anyway deal. The City has said there was an option to go through Spraeberry which was on the opposite side of the jerky plant towards highway 91. The Mayor said he spoke with Don Spraeberry, Mrs. Sonia Spraeberry son, and he had said that he didn't have a problem annexing in. The Mayor mentioned the was now about 10 years ago, before they built the houses. The Mayor said he had gone back to Balls with Jeff. They told Balls that they have a way to annex in as long as if they leave the us room through were Hallmark Estates ended because Balls owned between highway 91 and Hallmark. Rocky Mountain Power said they did not have a problem with us annexing them in because they were a public utility and didn't care. The Mayor said it would be through a strip through Rocky Mountain and straight through to Balls property. The Mayor mentioned that they agreed to let Balls do Phase #1 because we owed Balls to the put the water line to the school. Balls came to the city for four major reasons. One, we had an annexation path that they owned except to one piece of property, two, they ran the water line and we needed to either pay them back for it or come up with a way to work with them and the third was Balls was going to upgrade well 5 and four they were had a permit to drill a well out by the school. They paid a water attorney to do all of the legal work for the well. With this, the city agreed to phase #1. The Mayor said that since that happened, unfortunately, Balls Ventures did not do what they said they would. The Mayor mentioned that Donald Spraeberry was ready to annex in but then was told by Balls that they didn't get the consent to annex at the time they were selling the four homes and because of that, the line to get the property around the school annexed in was gone. They had sold part of the property to Rockwell and a sliver of property behind Nulph trucking and Todd Nulph's property to Todd Nulph which no one could go through there now or through

Strayberrys. The Mayor mentioned that we took their (Balls) word because everyone kept saying they were good to work with but we did not have it in writing but we had the deal that we would have to pay them back for the line if we let them build phase #1 and Balls being annexed in before Phase #2. The Mayor mentioned that in a sense, Balls did not do what they were supposed to but also did not tell Rockwell everything before the sale, unless Balls gave Rockwell water right or the permits to drill a well when they bought the property. Curtis said no and this was all new to him and had not heard about this part. The Mayor said that was what he was worried of and that is why he wanted to have the meeting and now we have the problem that if we let people out side of city limits have water, which we have not allowed people outside of city limits have water because we have to replace it and we had the engineers in 2022 do a study to find out what it would cost to replace the water as we use it and it was about \$9,000.00. The Mayor mentioned that as a City Council, we have not raised the price in years and instead of going up to \$9,000.00 for a connection, we went up to \$5,000.00 because it was a huge jump to go from \$1,300.00 to \$9,000.00 and unfortunately, we still have to replace that water if it goes outside the city and anytime anyone applies for a permit to drill a well, Twin Falls will file a lawsuit against them. The Mayor said we have to be careful with the water going outside of the city unless we can annex into the city and even then, we have to replace it. Curtis mentioned about the time line and that when he came in on June 13, 2023 to ask if he could have access to water, the council said yes. Curtis wants to make sure that it is talked about because he came in before he made the commitments that was told he could have access to the water. The Mayor said he was not in disagreement and does remember him coming in to ask for the water access. The Mayor mentioned that if he remembered correctly, Curtis was going to buy the Christensen property North of the subdivision and the Mayor is not disputing that and it was a small piece of property. The Mayor also said that at the time, we had bought a farm by the river that had a deep water well and that deep water well was supposed get about 800-1,000 homes and we planned to transfer the water into the city to give us at least another 800-1,000 homes. Since then, IDWR has told us that we couldn't split the water rights, about six months ago, which also had surface water rights from the canal and at the time we could split at the time and now they all had to go the same way and we couldn't dry out the farm and lost the ability to use that well. The Mayor said that we have not totally lost it, we are trying to get a permit to recharge from the sewer plant and if it goes into effect than we can pull those water rights from the well. The Mayor asked if this made sense and Curtis said yes. The Mayor said he wasn't disagreeing with Curtis, remembers him coming in and he was buying property from Brian Christensen and the LDS Church. Curtis said they bought the property from Brian Christensen. Kim asked that when he came to the meeting (July 13, 2023) was he asking for water rights just for that parcel or was he in negotiations with Balls. Curtis said he mentioned that they were talking to Balls as well and they were dealing with them on their section but they were buying the Christensen Farm. The Mayor said that he and maybe the City Council were basing this off that we had a well that they could the diversion point from out of the farm into any of our wells. Jeff asked in the that meeting (July 13, 2023) did we talk about annexation. Nate said you were working on it in the background. Jeff mentioned that we were then working with Balls but not Rockwell and if he recalls in that meeting we gave them permission. Kim said we could listen to the meeting but Lisa said she had

the recording but she didn't have a way to take it from the office into the Council chambers. Curtis said there was no condition to annex. Nate said that the only slight condition came from Leif Watson, the conversation away from everything and the only issue with water was a booster station and if we wanted to learn a little more, why booster station, where a booster station to get water to the property, attend the planning meeting so they took that with the commitment as well that the city work with them. Kim asked that in the development agreement with Balls was there anything written about water for phase #2. Jordon said that minutes and notes he went over on the discussion for division one when it first started, nothing was talked about for division two that he found. The Mayor said that when we were willing and dealing because we didn't want to have to pay them back for the water line, there was no discussion on phase #2 all was for phase #1. Sean asked if there was still a path for the annexation. Kim said there was not a clear one. Kim said in summary that they came in and we said yes because we were told things would happen and then they didn't follow through and it was bad on us because we did not have it on contract but we gave our word to Rockwell and she assumes they have millions already invested. Curtis said they are already in about \$7 million in and 300 acres. Kim mentioned said that we have always said that there was a pressure thing and we all banked that we would have the annexation and also brought up that it was said Merlin Dial had agreed to annexation but she has never talked to Merlin Dial and she has been on the board for twelve years. Jeff said he had and had agreed to it years ago. Kim said that we were banking on that and didn't have anything in writing. Jeff said we knew we weren't going to go through Merlin because we were going to go through Spraeberry and he approached Christen and he said he didn't see anywhere were these homes and the consent to annex. Kim asked if that was from Balls, Jeff said yes, and Kim mentioned then Balls did us a disservice. Kim asked if anyone had talked to Mr. Nulph, since this happened in the last month and ask if he would allow 50 ft strip and it sounds like we need to have meetings with different people. Jeff said we couldn't do a 50 ft strip it has to be a track of land. Jordon said that it would be their property if they consent to annex in their parcel. Don asked if the city had to own the property and Kim said no. Nate said that they just have to agree to annex in. Sean mentioned that the owner may have to subdivide the property to annex in. Kim asked if the easiest route would be going through Merlin's instead of the Highway 91. Jordon mentioned that there would be more owners to deal with on the side of the Highway. The Mayor mentioned that there may be a way but does not know which would be going through Simplot. Kim stated that we have always said we were working on annexation. Justin mentioned the he didn't remember any conversation where we had asked the developer to work on annexation and thinks that it has always been said that the city is working on annexation. Justin also mentioned that it he doesn't think it is fair to put back on the developer that they cannot have water because of annexation because we didn't ask them to follow through on that. Curtis said that in the recording was that they were told to figure out the pressure situation. Jordon said that in that meeting, we told them to talk to Balls and see what it would take to upsize a booster station because they were already going to put in the booter for Copper Meadows division two to get water further North of division one. Curtis said that it was said that there was water they just has to figure out the pressure and booster. Curtis also said there have been

6-8 meetings in the last 18 months of to get the booster station, where to put and it was not that they went away for 18 months but they have been in the meeting discussing the pressure and booster. Justin mentioned that these meetings have been in Council meetings and Wednesday meeting and it has always been about the pressure and booster and not that they were not going to get water. Jordon also mentioned that in those meeting, not once was it discussed about annexation and not providing water because they were not annexed in, it was always the city is working on finding a path to get them annexed in. Jordon also mentioned that we were not holding them accountable for the annexation. Nate mentioned that he feels that they have gone too far to just say and wait for annexation. Kim said that she has been at the meetings because she was over Public Works and she wanted to be educated and she doesn't remember anything ever being even with Dave that it would depend on the annexation, it has always been the booster and pressure. Sean said that the purpose of the meeting was to come decision to help and determine where we need to go and what we need to do and we called for a Special Meeting so we could take a vote. There were certain communication, certain promises and said he is new and is going off of notes and recordings that have been provided and has his opinion and think its time to vote. Jeff asked if there were no surface water rights. Curtis said they should have them because they are watering it and farming it, Gary Dial is farming one piece of it and Searles is doing the other. Curtis also mentioned that he had confidence in the water because just before he asked for the access to water Dave gave a water study presentation and he stated that there was water and those were not based on assumptions but facts and he is now confused as to why the city is saying we have no water. Jeff said we have water but not for outside the city and we risk if giving water outside the city. Justin clarified that the water study did include seven subdivisions and Cooper Meadows was included in the study. Justin also mentioned that the study does show we have adequate water for the next 20 years as long as meters are implemented. Nate wanted to clarify to Jeff's comment of miscommunication was that any of the conversations of annexation were with Balls and they (Rockwell) did not get any of the back ground conversations, all of the conversations with Balls about annexation they did not know what they know is the commitment that was made and from all that they have talked about with Justin and Jordon. Sean mentioned that from a Council, it was not said that Rockwell or Ball to annex, it was in the background. It wasn't said to not go buy the property until the annex was figured out. The annexation has never been the responsibility of the developer. Sean personally feels like there have been commitments and have been made by the Council. The Mayor mentioned to Sean that when there is annexation, it has to be the property owners that annex in and normally the developer will make a deal with the property owner or buys the property and then they annex. The Mayor stated that we want Rockwell to come and we are work with them, we are trying to figure out how we can work with you to make sure that we come out alright and you come out alright. The Mayor also mentioned that the water study also included the well that is on the farm and IDWR is saying we can't use as of right not and that affects quite a few homes. We have to now figure out how to get around IDWR or get a reuse permit from DEQ to use water from the sewer to water the farm. Jordon mentioned that there was an EIRSD meeting today and they are going to meet this week with DEQ and IDWR to apply for that permit and then they will be able to expand that permit to other properties. Jeff said that we

need to annex them in. Jordon asked if there was a reason why we wouldn't supply them with water or how all of our intentions have gone while the city works on a path for annexation. Jordon asked why we were holding that against them and why wouldn't we keep working towards an annexation path as it has been talked about the last several years and let them have water so they can start on the subdivision. Justin also mentioned to the Mayor that the water study has the municipality wells but not the irrigation well on the farm land. The Mayor stated to Curtis that for him and the Council, we want to work with them and we want them here but we have got to get them annexed before there are another 130 homes, we as a city and them as developers need to help us because they own 2/3 of the property that we need to annex and also knows that it is our problem to figure out how to get around that and we are willing to do that. Curtis said that he would agree if that was discussed the first time he came to ask for water but it was not. Nate mentioned there were no contingencies. Curtis said no one on the Council said they had to annex and if it wasn't said how was he to assume what was in his (Jeff) mind and that is not fair. Jordon mentioned that we never gave a commitment to Balls to serve but they were designing a booster station also and at some point Balls was under the impression that Copper Meadows Division two, we were supplying water. Curtis said they have Balls preliminary plat, their design for the booster station when they bought it. Jordon said we recommended to Rockwell to talk to Balls to upgrade the booster station so they have water further North. He also mentioned that even though we didn't specify a Will Serve letter it was implied that division two was getting water because they were designing a booster station and annexation was never a contingency. Jordon said that he had not heard of this annexation until a month ago when we told you no, Jordon said he never heard that annexation was a deal breaker and we have never brought that out in transparency for anybody that he has been involved in. Don asked for clarification because he was not here for those conversation, was when Curtis talked to the City was it for a different acreage. Kim and Jeff said it was further North. Don stated that if that was the case, it is a different development and it is a different location. Justin stated that at that meeting it was further North but that three years the conversation was on the South side. Justin also stated that six weeks ago we were willing to take one million dollars from them for a booster station to be put up on the hill to boost everyone pressure and we had Brian Seargent, Fox Crossing and Rockwell that were there and why didn't we tell them then that they didn't have water. Jeff mentioned that they have to find away to get them annexed in. Justin went back to what Jordon mentioned earlier that we have given other developers in town concessions when haven't finished a subdivision and have allowed them to get building permits and homes to go up and we give them a six-month window. Justin asked if it was an option that we move forward with these guys and say we are going to work on this, we need so many months but as of right now you keep moving forward and you're going to get water and we go back six months to a year to work on a path for annexation. Don asked what the timeframe was to annex in if people agree. The Mayor said about three months. Sean asked how many property owners would need to consent. Kim said it depends, if they go through Merlin Dial, just the one. If through the highway there would be more. Sean had to excuse himself from the meeting for another commitment but said he would jump on the zoom to give his opinion. The Mayor stated that he would be back in about two weeks and has meetings set up with everyone that we

would need to annex in except for Rockwell. The Mayor hopes that within the next few weeks he will know where we are at. Kim clarified if it was along highway 91 and the Mayor said it was. Jordon asked if it needed to be a work meeting and have everybody come here. Kim said that she thinks it should be held as a work meeting instead of going by himself. The Mayor said he did not disagree and he asked for letter from everyone of them that they could be annexed in. Kim said she feels there should be more people involved and knows that if there are more than two Council it has to be posted. Justin said it would need to post it and have it as an open meeting. Jordon asked if we could bring everyone in one meeting. The Mayor stated that he couldn't guarantee it. The Mayor asked everyone for a letter in the next two weeks when he gets back but doesn't know if everyone will give them. He also does not want to tell Rockwell, no they do not have water because we need to have people to live. Jeff said that at this point they need to tell Rockwell that we will allow them to have water and they can pursue development in perpetuity for developing the whole land but we have to get you annexed. Justin asked Jeff is he was saying he would give them a Will Serve letter so they have a binding contract that they know they can move forward. Curtis asked if Jeff is saying they have to be annexed in by the last CO of the last division. Kim asked if we were doing just Copper Meadows #2. Jeff said we needed to fulfill our obligation and Kim asked if it was for Copper Meadows #2 and Jeff said yes. Kim asked if Curtis said he wasn't going to develop the North unless he had everything. Curtis said he has confidence especially if the Council is saying they want them there and feels like the Council will fight for annexation and feels like there will be annexation but does not know if it will be six months from now or six years. Curtis also mentioned that if they wanted to call the whole preliminary plat, division 2 with 112 homes that is fine but he is doing it phases. Curtis says that he thinks there are four phases with 25-30 homes per phase and it will take him 4-5 years to get to the last phase. Curtis also mentioned that when they went to the County it sounded like the County was going to give funds to the City to maintain the subdivision. Justin mentioned that was a conversation years ago and thinks that if it's a County subdivision then they should maintain it. Jordon said that if the County cannot maintain it, they should reach out to the city to put a contract together. Justin stated that he is not being negative but goes back to eight years when phase one was put in, why did we accept that for phase one and he knows that the whole thing was that we were going to annex Merlin Dial's property in within the next two year and now here we are 8-10 years later and that hasn't happened. Nate says that is what makes them nervous, what happens if it takes another 8-10 years because someone isn't willing to annex in a portion of ground and they are stuck. Justin stated that for phase one, we do not get anything from the County. There was a conversation for when Copper Meadows two goes in that we would get around \$10,000 to go out and maintain the water and sewer system, streets, snow removal etc. because the County said they can't do it but they go out to Hallmark Estates and do it. Justin said it's a discussion we can have but doesn't think we should maintain a County Subdivision on Citizens tax dollars. Don mentioned that he doesn't think the County is going to come to the City. Justin mentioned than it would be when the people start calling the County and asking why they are not plowing the roads. Don agreed. Don asked who normally takes on the maintaining a subdivision. Justin said if it is in the City, we just take that on. Don then said if it's a County subdivision then they would take care of it. Justin said yes, just like we do for the

city. Justin asked the Mayor if the annexation through highway 91 route is because that is where he wants the utilities ran also or if that has anything to do with the utilities as far as water and sewer. The Mayor said it had nothing to do with utilities and it was the only option he could find that he could work with everyone. Jeff mentioned it was just finding the easiest path. Justin wanted to make sure it had nothing to do with infrastructure. Kim asked if they were ready to make a motion and asked if Sean could hear if a motion was made. Sean said yes. Jeff motioned, Sean seconded to grant a Will Serve Letter to Copper Meadows Phase Two. Approve Unanimously, four in favor.

Sean apologized he had to leave the in-person meeting and it was nice meeting Curtis and Nate.

The Mayor thanked Rockwell for coming in and let them know that we do want to work with them.

Curtis appreciated everyone and all of the information because a lot of it was news to them.

Adjourned: 7:02 p.m.

APPROVE:  ATTEST: 