

M I N U T E S

KEIZER CITY COUNCIL

Tuesday, May 28, 1991

11:30 p.m.

Robert L. Simon Council Chambers  
Keizer City Hall

CALL TO ORDER

Mayor Orcutt called the <sup>special</sup> regular session to order. Roll call was taken as follows:

Present

Andrew J. Orcutt, Mayor  
Mike Hart, Councilor  
Dennis Koho, Councilor  
Jerry McGee, Councilor  
Al Miller, Councilor  
Bob Newton, Councilor  
Joe Van Meter, Councilor

Staff

Donald H. Otterman, City Manager  
John Lien, City Attorney  
Mark Loomis, City Attorney

DISCIPLINARY  
ACTION

Councilor Bob Newton made the following Motion:

"In the matter of potential disciplinary action for the City Recorder, Sue Darby, and based upon the findings and deliberations of the Council, I move to issue a written reprimand to the City Recorder for her actions regarding specifications (2) and (4); to admonish her to be more sensitive to the public perception, more deliberately deal with personnel matters; and, to clearly and concisely apply advice and counsel of the City Manager and the City Attorney. A work plan will be developed by the City Manager to measure her progress to be reviewed at the end of 90 days, again at six months, and a second six months resulting in the adoption of a revised expected performance standard, and then annually thereafter. The Council will

take appropriate action to delegate the City Recorder to the immediate day to day supervision of the City Manager.

The Motion was seconded by Councilor

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Councilor Al Miller requested the following statement be duly noted on the record:

"I disagree with the written reprimand and, therefore, will vote against it. I further believe the evidence supports the finding that the five allegations as specified in the Mayor's letter dated May 10, 1991 are true. Of particular concern to me was the removal of particular records from a personnel file after Sue Darby, the City Recorder, was served with a subpoena. Sue Darby disobeyed a directive from the City Manager, Don Otterman, when he told her to check with the City Attorney before having the file purged. She disobeyed instructions from the City Attorney, John Lien, to let him know when she got the subpoena. She went ahead and had the files purged anyway and then informed him, after the fact, that it was done. The other City Attorney, Akin Blitz, explained to her before the file was purged, that her role was to appear at the appointed time and place as designated in the subpoena and to appear with the entire record. He also has indicated that at the end of their discussion, that she clearly understood that attorneys who subpoena a file are entitled to expect that the entire file will be produced and that there were significant legal considerations which should prevent her from purging the file even in accordance with City Policy once she received notice that the file was under subpoena. He further informed her that she would subject herself to substantial criticism if she proceeded with purging of the file. The fact is, that after receiving all of these directives and legal advice, she ordered that the materials be removed from the personnel file of a City employee, with whom she was romantically involved,

having never disclosed her involvement with that employee, and, thereby, disobeying explicit instructions from the City Manager and two City Attorneys. Her actions constitute a gross violation of the public trust and have brought great discredit and embarrassment to the City of Keizer. I believe her conduct warrants immediate dismissal. It is the right thing to do and I believe a majority of the people in Keizer would support such an action."

Councilor Koho stated that he respected Councilor Miller's perceptions but commented that other people listening to the same evidence may come to different conclusions.

Councilor Van Meter made the following statement:

"I found this process to be destructive to the City Council, the City Staff, and, most importantly, to the Citizen's trust in its government. Those responsible have lost credibility. I wish I could see the world black or white, guilty or not guilty, but have found all of life's experiences to be shades of gray. Perceptions of the same situation are different as we have seen, and as we will see on this Council. I found the rebuttal to the letter by Sue Darby to be conducive with the way she presented herself to me in the past. This is an eight year employee with positive work evaluations. I can only support the motion before the Council and do not believe, after reviewing the same information as has Councilor Miller, that there are grounds for dismissal."

Councilor McGee made the following statement:

"I believe there is grounds for dismissal. I believe in point (1) that she was neglectful of her duty. I believe in point (2) that there is no question that she misused City property on just not one occasion, but on several occasions. On point (3), I believe that

she was not attending to her job, but I don't see that as a dismissable issue. On point (4), she went way beyond exercising poor judgement, she went against direct orders, both by her immediate supervisor and by legal counsel. On point (5), she was in deed, evasive, having personally seen the tapes of her actions in a court of law, she was evasive under oath. I believe her performance reflects great discredit upon the City and that she has clearly sacrificed her right for continued employment in this agency. To continue her employment sends a strange message to all the other employees that have remained loyal and faithful for eight years and as long as Sue Darby has. The message to them is very complicated now. I believe Sue Darby should be dismissed and I will vote against the motion."

The motion passed by the following vote:

AYES: Orcutt, Koho, Newton,  
Van Meter, Hart

NAYS: Miller, McGee

#### OTHER BUSINESS

Councilor Koho presented a handout to the council members setting forth three issues: (1) Delegation of the day to day supervision of the City Recorder; (2) Amendment to the personnel policies regarding use of equipment; (3) Amending personnel policies regarding City/Public relations and department employees.

The issues were to be discussed at the next regular council meeting.

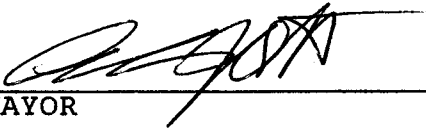
ADJOURNMENT

The City Council meeting adjourned.

Respectfully submitted,

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APPROVED:

  
MAYOR