

**SUSANVILLE CITY COUNCIL  
Special Meeting Minutes  
November 19, 2013 \* 1:41 p.m.**

**City Council Chambers**

**66 North Lassen Street**

**Susanville CA**

**96130**

Meeting was called to order at 1:30 p.m. by Mayor De Boer.

Roll Call of City Councilmembers: Nicholas McBride, Lino P. Callegari, and Rod E. De Boer, Mayor. Absent: Cheryl Wilson and Brian Wilson

Staff present: Jared G. Hancock, City Administrator; Peter M. Talia, City Attorney; and Gwenna MacDonald, City Clerk.

Also present: Kristianne Seargeant, Kronick Moskowitz and Jennifer Boyles.

**1      APPROVAL OF THE AGENDA:** Motion by Councilmember Callegari, second by Councilmember McBride to approve the agenda as posted; motion carried.

**2      PUBLIC COMMENT:** There were no comments.

At 1:45 p.m. Councilmember McDonald arrived and took her seat on the dais.

Mayor De Boer reviewed the item for discussion and waived the meeting in closed session.

**3      CLOSED SESSION:**

A      PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE – pursuant to Government Code §54957

**4      SCHEDULED MATTERS:**

**4A      Consider appeal of Jennifer Boyles regarding Public Employee Dismissal/Release as established by Employee Disciplinary Procedures (Resolution No. 04-3848)** Ms. Seargeant explained that the City of Susanville has a resolution in place for employees that have been terminated to be able to appeal the action to the City Council. The employee in question, Ms. Boyles, has requested the appeal and asked that it be considered in open session. The appeal allows her the opportunity to confront any information that will be provided by the City, and either sway the City Council to overturn or modify the discipline. The City bears the burden of responsibility to prove that the discipline imposed was appropriate to the situation. She reviewed the hearing process and procedures, and reviewed the information that was provided to the City Council, identifying it as the basis for the discipline that was imposed.

Ms. Seargeant reviewed the hearing process, stating that she would begin with a brief opening statement, and that Ms. Boyles was also allowed to make an opening statement if she chose. She would be calling the City Administrator as a witness to establish the chain of events that led up to the termination, and it was her understanding that Ms. Boyles did not intend to call any witnesses. She added that the hearing is not in a formal court of law, however if the discussion begins to go too far of the matter at hand or involves confidential information regarding other employees, that she will object, or if Ms. Boyles wishes to object then she can also. She has reviewed that process with Ms.

Boyles, and made it clear that everyone's rights to confidentiality were to be respected. She concluded that the City Council will have an opportunity to meet and deliberate in closed session at the regular meeting conducted the following evening.

Ms. Seargeant asked Ms. Boyles if she had any opening statements and Ms. Boyles indicated that she did not.

Ms. Seargeant presented her opening statement, indicated that Ms. Boyles was terminated in August 2013 for abusing her position as a Plan Administrator when she admittedly changed her benefit amount while she was on a leave of absence without making the corresponding payroll change for a pre-tax deferred medical benefit. When the amount of the benefit is increased, there has to be a corresponding amount taken from your paycheck, or else the City is paying for a benefit that the employee should pay for. That is what happened when Ms. Boyles made that change to her benefit and she made the change without notifying anybody at the City even though she was on medical leave, and not doing any work. From home, she used her security clearance and third party administrator code to log into a portal to change the amount of money that she said she was entitled to without making the corresponding payroll change. Luckily that change was discovered within approximately two weeks of the change being made, resulting in approximately \$200 being taken, but it could have resulted in approximately \$1,000 of the City's money being taken by Ms. Boyles.

Ms. Seargeant continued by stating that the amount of money is really irrelevant. Public monies were taken by someone to whom they weren't entitled, by a City program administrator and as a City there has to be a significant amount of discipline that corresponds to the theft of public funds. That is what happened and it is unfortunate and nobody likes it when someone loses their job but unfortunately what we have is someone that has a significant amount of authorizing in a high level job with access to a lot of information, including payroll information, and she demonstrated extremely bad judgment and that bad judgment continues to today. There has not been a true acknowledgement of responsibility, recognition of making a bad decision, apology, or admission of guilt. There is no way the City can trust Ms. Boyles to continue in a position with that high level of access to confidential information and financial information for the City when she has demonstrated the bad judgment and apparently hasn't even learned from the bad judgment.

Ms. Seargeant concluded with her opening statement and called Mr. Hancock to testify.

Ms. Seargeant asked Mr. Hancock to provide an explanation of duties as City Administrator. Mr. Hancock responded that under the direction of City Council, he was responsible for overseeing the day to day operations of the City, coordinate with the other department heads and serve as the administrative services department head. In the absence of a finance manager, he served as Ms. Boyles' supervisor during her time when this incident occurred.

Ms. Seargeant asked what Ms. Boyles' position was with the City. Mr. Hancock answered that early in 2012 prior to his promotion to the position of City Administrator, Ms. Boyles had been promoted to the position of Office Manager of the Finance division and her responsibilities included training and mentoring staff, overseeing the daily operations of the department to make sure internal controls were being followed, and she had a lot of high level functions including payroll, and plan administrator for

the City's benefit plan.

Ms. Seargeant asked how he would describe her experience with the payroll duties, including her function as plan administrator. Mr. Hancock replied that there were only three people with access to the information to the benefit program site and as plan administrator, Ms. Boyles was the most familiar. She was instrumental in the enrollment process when employees signed up for the program, making sure the corresponding payroll deductions were made, and she requested and attended training through Wage Works for the program. Ms. Seargeant asked who the other two employees were, and Mr. Hancock responded that it was himself and his administrative assistant.

Ms. Seargeant asked how Mr. Hancock would describe Ms. Boyles as an employee overall, and in general within the last year.

Mr. Hancock responded that Ms. Boyles had been with City for many years, beginning at an entry level position in the finance department. Over the years she has worked her way up in the department, being generally pleasant to work with, and high intelligent. On occasion there had been situations where she had created unnecessary conflict so there were a few issues in the past.

Ms. Seargeant asked if she had received any specific discipline related to those issues, and Mr. Hancock responded that a few months prior to this incident she had received discipline. Ms. Seargeant asked what the nature of that had been.

Ms. Boyles objected the question, stating that she was told the discussion today was supposed to be contained to the matter at hand, and the issue Mr. Hancock referred to had nothing do with this specific incident.

Ms. Seargeant rebutted the objection, stating that what Ms. Boyles' is appealing is the severity of the discipline related to the incident, and whether or not termination was the appropriate discipline versus another lesser reprimand. The recent work experience is completely relevant to the City Council in determining if some other lesser discipline was appropriate.

She continued by repeating her question to Mr. Hancock as to the nature of the discipline that Ms. Boyles had received prior to the incident that resulted in her termination.

Mr. Hancock stated that he did not have her file in front of him, but the discipline was related to actions Ms. Boyles took in her supervisory role. In several prior mentoring discussions she had expressed struggles in that position and her approach to dealing with personnel issues in the department. As a result the supervisor responsibilities were taken away but she still maintained the other functions of office manager. Ms. Seargeant clarified that without getting too far into specifics, what process was discipline imposed, asking if it included a demotion or suspension.

Mr. Hancock clarified that it was not a demotion or suspension, but it was a written reprimand, and a program improvement plan setting both short and long term goals was established. The supervisory duties were taken away in order to eliminate the conflict that existed between Ms. Boyles and other members of the department.

Ms. Seargeant stated that a short time later Ms. Boyles went out on a medical leave of absence. Mr. Hancock responded that it was correct, and Ms. Seargeant asked approximately when that occurred.

Mr. Hancock answered that there had been ongoing absences related to Ms. Boyles' pregnancy, and that she had been meeting with her doctor and he believed it was in mid-April, on or around the 19<sup>th</sup> that she presented the City with a doctor's note putting her on leave to help with her stress related to her pregnancy. That recommendation by her doctor put her off for the duration of her pregnancy and at that time the City was very supportive of her going on leave and taking that time to care for herself and her child.

Ms. Seargeant asked if when Ms. Boyles went out on leave if the City gave her direction with respect with her work and what she was supposed to do or not do with respect to her duties while she was on leave.

Ms. Hancock responded that in the exit interview conducted prior to her going on leave the City expressed that we were supportive of her decision, and felt like it was right thing to do. She was obviously experiencing stress, and the City wanted her to be able to manage that so we directed her to go home and focus on herself and it was made very clear she did not have any work responsibilities. She turned in payroll slips and I requested her keys. She turned in a few keys and so the remainder of her keys were turned over. She collected a number of her personal items and then left.

Ms. Seargeant stated that at some point while Ms. Boyles was on leave it was discovered that there had been a change made to her medical expense account. She asked if Mr. Hancock recalled that discovery, and he responded that he did. Ms. Seargeant asked when that discovery was made.

Mr. Hancock replied that it was on or around May 25<sup>th</sup>, and in the City's system, as the payroll deductions are made there is a proof report generated which shows the expenses that have been taken and the corresponding limit. It was brought to his attention that the limit had been exceeded on Ms. Boyles' account. Ms. Seargeant asked who brought that to his attention, and he responded that it was his administrative assistant.

Ms. Seargeant asked what Mr. Hancock's next actions were.

Mr. Hancock explained that he asked his assistant to call the plan administrator at Wage Works to gather information determining who had access, how it could have occurred, and request any corresponding documentation. Ms. Seargeant asked what was said by Wage Works.

Mr. Hancock answered that the City received correspondence from Wage Works around June 3<sup>rd</sup> indicating that they do track when changes are made. They informed the City that the change in benefit amount had not been a change generated by them, they had no supporting documentation for the increase and that someone with administrative access logged in to the City's portal and manually increased the limit from \$1,500 to \$2,500 and that there was no record of authorization.

Ms. Seargeant asked Mr. Hancock what he did next.

He responded that at that point the City had to determine who had administrative access and conducted an investigation to make sure there was no breach in the system and they reviewed the other employee plans to make sure that there was no compromise of security and personal information.

Ms. Seargeant asked Mr. Hancock if part of the investigation included contacting Ms. Boyles, even though she was on leave to discuss the changes with her.

He responded that he did contact Ms. Boyles, because there had only been one change made, and it had only affected one employee by increasing their limit. Because Ms. Boyles was only one affected he felt it was prudent to notify her that a change had been made and that the City had performed an investigation. He added that he received correspondence from Ms. Boyles informing the City that she attempted to make a payment with her card and that it had not been approved. She asked that the situation be corrected immediately.

Ms. Seargeant asked if after that correspondence from Ms. Boyles if the City received any correspondence from her indicating whether or not she was the one who made the change to her account.

Mr. Hancock responded that yes, after her email related to the fact that she was not able to use her card, he informed her that the change had been made to her account, that it had not been an approved change and that the City was conducting an investigation. He told her that it did not appear that any personal information had been compromised, and at that time she confirmed that she had logged in to the City's portal, made the adjustment, and he stated that at that point, the investigation did not proceed any further.

Ms. Seargeant asked if at some point, was the decision made that discipline would be appropriate.

Mr. Hancock explained that the City did a thorough investigation including contacting Wage Works because the City wanted to determine if it was an error or miscommunication of some sort or if there was an intent to steal. During the course of that investigation and by working with Wage Works, it was determined that Ms. Boyles made a telephone call in March inquiring as to how to make the benefit change due to a change of status. According to their note, they advised her as to the process, including requiring a change in status form, and two months later the change was made without following that process.

Ms. Seargeant asked when the City discovered that there had been a conversation with Wage Works regarding the change in status and how to go about making those changes, did you reach a conclusion that discipline would be necessary.

Mr. Hancock replied that yes, once he knew that Ms. Boyles made the change while on leave, and made a change that resulted in theft of public funds, he knew there would be a disciplinary action and he consulted with an attorney. He added that when the City has an employee with a very high level of ethical responsibility and they take an action that results in a lack of trust, then the discipline must be significant.

Ms. Seargeant stated that according to the City's disciplinary policy, Ms. Boyles was provided with a notice of intent to terminate. Mr. Hancock responded that was correct. Ms. Seargeant asked if the notice included an opportunity to come in and discuss the situation. Mr. Hancock confirmed that it did. Ms. Seargeant asked if Ms. Boyles requested a meeting to come in and discuss the issue personally, and Mr. Hancock responded that she did not.

Ms. Seargeant asked if there was ultimately a decision made to terminate Ms. Boyles.

Mr. Hancock stated that he did make the decision to terminate and while he did receive correspondence from Ms. Boyles it was received after the notification period.

Ms. Seargeant asked if following the decision to terminate, Ms. Boyles requested a delay. Mr. Hancock responded that yes he did. Ms. Seargeant asked if that request was granted. Mr. Hancock stated that in the request for an appeal, Ms. Boyles claimed to have evidence that she believed would prove she did not do this, and she requested more time so an amended Notice of Intent to Terminate was prepared in order to give her additional time.

Ms. Seargeant asked if the City ever received the additional evidence.

Mr. Hancock responded that he received more correspondence but would not categorize it as evidence. He stated that as they worked through this process, what he was hoping for and anticipating was for some sort of acknowledgement from Ms. Boyles that she really messed up or didn't realize what she had done; an apology or some sort of willingness to do whatever it took to correct what had happened. Instead, in reviewing the emails her tone seemed to be very combative, that she had every right as a plan participant to access her account, that as an authorized official she didn't need a form. Because there was not that acknowledgement or responsibility for making a mistake it was very difficult to swallow. If someone makes a genuine mistake or error and is willing to accept responsibility that is one thing, but taking the approach that it was fine and no issue to steal money it makes it very difficult. He stated that he was looking for any evidence that she could provide and she could not come up with anything.

Ms. Seargeant asked Mr. Hancock that after six months, in looking back was there anything that caused him to question the decision that he made to terminate Ms. Boyles.

Mr. Hancock answered that no, the decision was not one that anyone likes to make. It affects employees, and families, and it is the worst part of being City Administrator. However once he came to the conclusion that money was stolen and there was intent, there was no other decision to make.

Ms. Seargeant asked that as a procedural matter, was the documentation provided to City Council the same documents related to the investigation that resulted in Ms. Boyles' termination.

Mr. Hancock stated that yes it was, and that Ms. Boyles was provided with the same materials in the letter of termination. The situation came down to a few basic facts: on around May 16<sup>th</sup>, Ms. Boyles logged in to the system using the program administrator log in, made the change which resulted in

an increase in her benefit amount, did not complete the required change in status paperwork, and did not notify the City so that a corresponding amount could be deducted from her paychecks. In fact, the City determined through the course of the investigation that even if she had completed the paperwork, the change in status that she requested was not one that she would have been eligible for.

Ms. Seargeant thanked Mr. Hancock for his testimony and stated that she had nothing further.

Ms. Boyles distributed some materials to the City Council and apologized for not being prepared, adding that this is something that a person can ever prepare for. She agreed that some of the comments made by Mr. Hancock she could agree with, but that some of the things which were stated had been twisted. She stated that Mr. Hancock has made severe allegations including dishonesty, theft, inexcusable neglect of duty, falsification of records, and violation of City policy. She stated that she has never denied making changes and referred to the information that had been provided which included the emails that she had exchanged with Mr. Hancock. She explained to him that when she called Wage Works on May 16<sup>th</sup> that because she is a participant as well as plan administrator that there must have been some confusion as to the capacity of her telephone call. She did not claim to make the phone call on behalf of the City.

Ms. Boyles said that the difficult thing for her was that she has been employed by the City of Susanville for 13 years and has worked in all capacities in the finance department. She has worked with and had access to a high level of confidential information, access to large amounts of money, and never had her integrity questioned. She does not understand why Mr. Hancock would believe that she would compromise her job for \$920. With all of the money that she had routine access to, why would she risk her career, take food from her children's mouths ..... She admitted that she made the changes, but there was never any intent to defraud the City or take anything and she attempted to get information to make the change in the proper way. She conceded to being guilty of being impatient, of not thinking things through, and of not trusting coworkers, but she insisted that she was not guilty of being a thief.

Ms. Boyles stated that Mr. Hancock contacted her and asked to meet on November 12<sup>th</sup> and she believe it was meant to intimidate her into not proceeding with the appeal process. She stated that she met with Mr. Hancock and Ms. MacDonald and she brought her friend Ms. Markhert who wrote a letter testifying to what had been discussed at the meeting. She said that the settlement meeting was an attempt to help her out of the situation, and that he stated that the City Council would not be overturning his decision.

Mr. Hancock objected to her statement and requested clarification of the process to dispute statements that Ms. Boyles makes which are factually incorrect.

Ms. Seargeant clarified that those remarks would be addressed after Ms. Boyles' testimony.

Ms. Boyles explained that on March 22<sup>nd</sup>, she called Wage Works as the plan administrator asking for information regarding how to make a status change due to a life changing event, as she had never dealt with that situation and she needed to understand the proper procedure. She was told that the status change form should be completed, she was walked through the process of downloading it from the internet, and she asked if any documentation such as a divorce decree needed to be submitted. At

no time was she informed that her event was not an eligible life-changing event. She added that she relied on information provided to her by Wage Works, and she had no reason to believe that the information they provided was not correct or complete.

Ms. Boyles stated that the reason she did not make the change at that time was that she knew she would be going out on a disability leave and did not know what her income would be so she chose to not make the benefit change at that time.

Ms. Boyles addressed the matter of the discipline she received in February and she stated that she believed the discipline was directly related to the medical issues she was having at the time. On February 21<sup>st</sup>, she left the office due to a severe anxiety attack. She was 14 weeks pregnant at the time, and left work to go to Urgent Care. She contacted Mr. Hancock that afternoon and dropped off a doctor's note. She emailed Mr. Hancock from home and told him she needed to talk with him when she returned and when returning on February 26<sup>th</sup> there was an email on her work email that he needed to meet with me. When she met with Mr. Hancock he handed her a reprimand dated one day prior to the panic attack that she experienced.

In that reprimand, Mr. Hancock claimed that he had counseled me on prior occasions and I determined that any time I was in his office for discussion that he considered it counseling, although there was nothing in my file which states that. Ms. MacDonald was present at that meeting and I told him that I thought his reprimand was directly related to the medical issues that I was because he thought I was a potential medical liability or workers compensation case. She claimed that she had gone to Mr. Hancock for direction or advice because of her lack of inexperience and problems that resulted from her 2012 promotion and did not receive any direction. Ms. Boyles stated that she found it interesting that as soon as she had a panic attack, she received a reprimand for all of these things, and the supervisory duties were taken away. Ms. Boyles alleged that as soon as the meeting was over, she was asked if there was anything that she wished to discuss and that she stated that she wanted to meet with Mr. Hancock to find a way to relieve her work stress and he stated that he had just done that.

Ms. Boyles claimed that she did not see the reprimand coming, and over the next few months she continued to see her doctor frequently, and was advised that she needed to leave work. In April she met with a second doctor who also advised her to take a leave of absence from work. She stated that she met with Mr. Hancock for approximately two hours, explaining the stress that she was experiencing, the lack of ability to focus and concentrate, and she said that Mr. Hancock was very supportive and encouraging of her decision to take care of her health. She said that he told her he cared about her as a person, and that he wanted what was best for her and her unborn child. Prior to leaving for a doctor appointment the next day she was given a performance evaluation which was less than favorable. Ms. Boyles stated that she believed she was given the unfavorable review because she was planning on leaving, and stated that in 13 years she had never had any problems whatsoever with her performance, because she was leaving had suddenly become a problem.

Ms. Boyles stated that when she had her exit interview with Mr. Hancock and he requested she return her office keys, that at no time was there a discussion of protocol as far as what should and shouldn't be done while on leave. She gave examples of other employees who have been off work that have gone in to the office, taken calls at home, and she claimed that there is no consistency. As an active

employee she stated that is part of what has made the situation so difficult. She clarified that on the Wage Works site there is a number for employees to call and a number for the plan administrator. She stated that in May when she logged in, she went through the verification process as any employee would by providing her social security number and zip code, and was then transferred to someone else and acknowledged that when she was asked for the city identification as plan administrator that she should have realized what she was doing.

Ms. Boyles apologized for her choice and stated that she was sorry, and had no problem admitting that she did something wrong, or saying no she should not have done it, but believes it is a matter of intent and that she never deliberately set out to steal. She believes that based on her history with the City or what the Council knows about her that they should know that. She was also told that once the changes were made, an email would be sent to the City to notify that the payroll deduction would be increased. She acknowledged that the change in status form was filled out late, but that it was turned in for the very next payroll. She stated that she brought the form to the City, and dropped it off with a member of the administration department that was working in Finance, Heidi Whitlock, and noted the date on the form. She included it with time sheets and an SDI reimbursement check. She claimed that Mr. Hancock told her during the settlement meeting the week before that he did receive the form.

Ms. Boyles continued by explaining that on June 10<sup>th</sup> she dropped off the information, and that she tried to use the debit card and had been notified that her account was frozen. She stated that she made the first contact with Mr. Hancock regarding her account. He did not respond to that email and then she received notification regarding unauthorized access and a request for information and then she realized that there had been confusion regarding the change made on May 16<sup>th</sup>. Ms. Boyles stated that she believed there was a misunderstanding regarding the change, and asked to resolve the matter with her account being frozen because she anticipated some additional medical bills, but she kept the conversation short and simple, adding that she just did not want to deal with Mr. Hancock. She told him to contact her if he had any questions, and never received any phone calls from the attorney, and the next contact she received was on July 16<sup>th</sup> when she received the notice of intent to terminate.

Ms. Boyles pointed out with a discrepancy between the dates she was notified and the response time given, and her overall frustration with having to deal with the issue while she on leave. She didn't think that it was an unreasonable request. Ms. Boyles reviewed the dates of her notice of intent to terminate, the amended notice of intent to terminate, and her subsequent written responses and requests for a postponement in the termination process. She spoke at length about the notification dates, the timeline she was given to respond, and her request to delay the appeal hearing.

Ms. Boyle pointed out that she assumed if someone is accused of a stealing public funds, then shouldn't there be some sort of police report or criminal charge. She claimed that Mr. Hancock knows she never set out to do this, and that she did provide the paperwork. Ms. Boyles concluded by saying that she was taken aback with many of the things that had been said, claiming that they were inaccurate. She assured the Council that she had never been in this position or had been accused of these things. She stated that her integrity has never been questioned and with the amount of money and benefits that she made, to think she would jeopardize that is ridiculous. She asked that the Council consider that, and acknowledged that she was impatient, did not trust, but she insisted that she was

not a thief and that there was never any intent.

Ms. Seargeant asked Ms. Boyles to confirm that the change in status form presented with other documentation to City Council had a date of June 16<sup>th</sup> highlighted in the corner, with a note that it had been given to Heidi Whitlock, but that the form did not have an authorizing signature.

Ms. Boyles explained that it was her understanding that as the plan administrator she did not have to have it signed.

Ms. Seargeant stated that there would be no checks or balances because as plan administrator, Ms. Boyles could make a change as well as sign her own form.

Ms. Boyles admitted that she should have thought of it but did not think criminally.

Ms. Seargeant asked if part of her responsibilities as office manager include processing the change in status forms for payroll deductions.

Ms. Boyles answered that this was the first time the change in status issue had come up.

Ms. Seargeant asked when an employee enrolled in the program, which form did Ms. Boyles process. Ms. Boyles responded that the original enrollment forms are processed by Andy Beck, the Wage Works representative. Ms. Seargeant asked if Ms. Boyles was the only employee tasked with managing the benefit program, and Ms. Boyles responded that if she were unavailable, than Debi Savage would be responsible.

Ms. Seargeant asked if the documents that were processed by Ms. Boyles went to Ms. Savage as well. Ms. Boyles explained that she was given sole responsibility for dealing with payroll forms and processing and that information was not shared between her and Ms. Savage.

Ms. Seargeant stated that even though you didn't believe you needed to sign the form as City representative, and delivered it to the City on June 6<sup>th</sup> to Heidi Whitlock, and there was some email traffic between you and Mr. Hancock, in none of these emails do you reference the change in status form or direct him to talk to Heidi regarding the form, and you just didn't think to do that.

Ms. Boyles responded that she did not want to deal with Mr. Hancock and did not feel as if she should have to on that issue and did not want to go into a lot of details with him on that issue.

Ms. Seargeant asked that even though the emails that were exchanged with Mr. Hancock occurred after that, and on July 21<sup>st</sup> when you wrote your response to the Notice of Intent to Terminate, you did not identify that you dropped that form off.

Ms. Boyles answered that in her letter she stated that in general she had documentation and evidence but did not specify what that was.

Ms. Seargeant questioned why Ms. Boyles would not believe that information would be at all relevant

to the investigation to include the documentation that did not ultimately show up until August 9<sup>th</sup>.

Ms. Boyles stated that it wasn't her intent to respond to Mr. Hancock's allegation, and she didn't want to get into it, to give information and then engage in the back and forth discussion. She wanted to put him off and not have to deal with it at that time.

Ms. Seargeant confirms that the initial termination date was given as July 31<sup>st</sup> and then the Notice of Intent to Terminate was revised to extend the termination date to August 14<sup>th</sup>.

Ms. Boyles replied that she made a formal response to the allegation on August 9<sup>th</sup> and at that time submitted all of the documentation.

Ms. Seargeant confirmed the dates that the notices were sent to Ms. Boyles, including the original Notice of Intent to Terminate, the amended Notice of Intent to Terminate, the Termination notice, with a termination date of August 14<sup>th</sup> and the written responses from Ms. Boyles to the City, including her request to appeal the termination before the City Council. Ms. Boyles requested that the appeal hearing be extended, and the City extended it until October 1<sup>st</sup>. The City contacted you to determine if you would attend the hearing and you indicated that you had hired an attorney and requested an additional postponement of the hearing, and the City complied with that request. Ms. Seargeant stated that allowances had been given with respect to the timing of the hearings.

Ms. Seargeant requested a ten minute recess to confer with Mr. Hancock for rebuttal information.

At 2:52 p.m. Mayor De Boer requested a ten minute recess.

At 3:00 p.m. Mayor De Boer reconvened the hearing and turned the floor over to Ms. Seargeant.

Ms. Seargeant called Gwenna MacDonald to the stand.

Ms. Seargeant asked what Ms. MacDonald's position is with the City of Susanville and, and she responded that she was the City Clerk. Ms. Seargeant asked how long Ms. MacDonald had worked for the City, and she responded that she has worked for the City of Susanville for 13 years. Ms. Seargeant asked if Ms. MacDonald was aware of the situation with Ms. Boyles, and Ms. MacDonald responded that she was.

Ms. Seargeant referred to a disciplinary meeting that was held in February meeting that Ms. Boyles mentioned was also attended by the City Clerk, and asked if Ms. MacDonald was in fact at that meeting. Ms. MacDonald confirmed that she was present.

Ms. Seargeant stated that according to Ms. Boyles, in that meeting she said that she told Mr. Hancock and Ms. MacDonald that her actions were "directly related to medical issues" and asked if Ms. MacDonald remembered her making that statement.

Ms. MacDonald stated that a lot of information was discussed at the meeting including her difficulty with work stress.

Ms. Seargeant asked if Ms. MacDonald remembered Ms. Boyles claiming that it was directly related to a medical issue, and Ms. MacDonald responded that she did not. Ms. Seargeant asked if that was something that Ms. MacDonald would have remembered and she stated that it was.

Ms. Seargeant stated that apparently there was a meeting the prior week with Mr. Hancock, and asked if Ms. MacDonald was in attendance at that meeting. Ms. MacDonald responded that she had been present.

Ms. Seargeant stated that in that meeting, according to Ms. Boyles, Mr. Hancock told her that the City Council would be upholding his decision to terminate; and asked if Ms. MacDonald recalled Mr. Hancock making that statement. Ms. MacDonald answered that that there was a discussion regarding options for settlement prior to the hearing process, but Mr. Hancock did not make that statement.

Ms. Seargeant asked Mr. Hancock to return for additional questions.

Ms. Seargeant stated that she wanted to review the process by which employees who participate in the benefit program initially complete their deductions and wanted Mr. Hancock to review the process that is currently in place.

Mr. Hancock explained that the City used to use Aflac as provider for the benefit and recently the provider was changed to Wage Works, and the process has been fairly well established. There is someone who is primarily responsible during signups and they work the local representative, Andy Beck, who sends the completed form to Wage Works to input into the system. A copy of the form is placed in the benefit file, and included in the checks and balances process is a report that is generated which tracks the amount that the employee has used, their plan benefit limit, and the corresponding deductions from their paycheck.

Ms. Seargeant asked who has been responsible for reviewing that report. Mr. Hancock responded that since he has been the City Administrator, Ms. Boyles would make the system entries, and then Ms. Savage would cross-check the information from the report. Ms. Seargeant asked if it was Ms. Savage who found the error, and Mr. Hancock responded that it was, on or around May 25<sup>th</sup>.

Ms. Seargeant stated that Ms. Boyles testified making a phone call in May to Wage Works, and being asked to provide an employer identification number, and at that point should have realized that she was in the program administrator portal. She asked Mr. Hancock if the investigation into the situation reveal any contact that she made with Wage Works as it related to her change in status.

M. Hancock explained that it did not, that Wage Works kept two separate logs that the City obtained; one to track electronic changes to the account and one telephone log. The call was placed in March and the access to the account in May appeared on the electronic access log and there was no phone entry in their records on that day.

Ms. Boyles objected and Ms. Seargeant indicated that she would be given the opportunity to ask Mr. Hancock questions.

Mr. Hancock added that he was not aware of the telephone discussion that Ms. Boyles claimed to have with Wage Works in May. Ms. Seargeant clarified that it had not been included in the information that was provided to the City as part of the investigation and Mr. Hancock responded that it had not.

Ms. Seargeant stated that at some point in August, Mr. Hancock received a copy of the change in status form from Ms. Boyles, and Mr. Hancock responded that he had. Ms. Seargeant stated that according to Ms. Boyles that form had been dropped off at the City in June, to Ms. Whitlock, and asked Mr. Hancock if he followed up with that employee.

Mr. Hancock replied that he did, and that he believed this to be quite significant, stating that the first time he had seen the form was when a copy had been provided in August. He immediately followed up and one of his main concerns was that he had a conversation with Ms. Boyles that a change in status form would have been required to authorize a benefit change to her account, and that an authorizing signature from the City would be required, and she indicated that there was no form, and now there is a form. There was a note at the top of the form stating that she delivered it on June 6<sup>th</sup>, and at that time, Ms. Whitlock was the project manager and working upstairs. It was only a coincidence that she happened to be in finance on that day, and she remembered Ms. Boyles bringing time sheets in and asking her to bring them upstairs. She agreed to deliver the forms and has stated that she does not remember this form being attached, nor does she remember seeing Ms. Boyles writing a note on the form that it was delivered to her on that day. Ms. Boyles had no way to know that it would be Ms. Whitlock who would be accepting the form from her, and in fact she is not the proper person to deliver it to. Mr. Hancock has followed up with anyone who might have seen the form, and nobody can remember seeing it. It's not in the City's possession, in the file, and he added that it was of great concern that it has been produced so long after the fact.

Ms. Seargeant stated that she had no further questions for Mr. Hancock.

Ms. Boyles asked Mr. Hancock about his comment that Ms. Whitlock wasn't the appropriate person to have delivered the form too, stating that it was common practice for people to drop off paperwork to Finance, or the Community Development Department, and that staff does not necessarily ask the Confidential Secretary to come down and accept the paperwork.

Mr. Hancock responded that Ms. Boyles had stated that Ms. Whitlock was working in Finance that day, and she was not, and confirmed that in certain circumstances, it was acceptable to drop off items to be delivered to the appropriate parties, but if it is something of such significance that it would be more important to not only deliver the document to the proper person, but to make the note on the document, and then ask that person to make a copy of it for your own records.

Ms. Boyles asked if Ms. Whitlock shared that she was asked to make copies of the forms and that Ms. Boyles stood there while she made the copies. Mr. Hancock responded that he would certainly be able to ask Ms. Whitlock that question but he did not know the answer.

Ms. Boyles asked if Mr. Hancock was aware that if she was not working in finance that day that she did in fact accept money on that day.

Mr. Hancock answered no, and asked if Ms. Boyles had asked Ms. Whitlock to take money that day, and she responded that she had. Mr. Hancock asked what the money was for. Ms. Boyles responded that in addition to dropping off time sheets and the status form that she dropped off her SDI reimbursement check.

Mr. Hancock clarified that the City had all of the other items that were dropped off but not the change in status form, and Ms. Boyles confirmed that was correct. Mr. Hancock characterized that situation as peculiar.

Ms. Boyles agreed that it was peculiar, and asked if Mr. Hancock was aware that Wage Works has two separate contact numbers and two different phone call logs; one for participants and one for employers.

Mr. Hancock responded that it made sense however he had not had that discussion with Wage Works, but that if there were two different portals and two different numbers that there would also be two different logs.

Ms. Boyles speculated that it might be possible that the reason Mr. Hancock was not aware of her phone call in May isn't because the call didn't happen but because there were two phone logs.

Mr. Hancock reiterated that the City conducted a very thorough investigation and asked Wage Works to provide any records related to the incident. He acknowledged that while he was not familiar with their system, he was actually surprised at the detail of the records that they do maintain. When he explained the situation to them, they requested any and all records related to this incident and it was his understanding that they had provided those records. There was no record of any phone call in May.

Ms. Boyles asked Mr. Hancock to explain his understanding of how the enrollment process is completed. Mr. Hancock replied that from what Ms. Boyles had previously explained, that it was her responsibility to assist with preparing the enrollment paperwork, and that the forms were sent to Wage Works and then they input the information into the system. Mr. Hancock stated that he was unaware that it was even possible to log in and manually adjust the benefit limit until Ms. Boyles actually did it.

Ms. Boyles stated that Mr. Hancock also indicated that the information was always cross checked by Debi Savage, and asked if he was aware that that was not being done.

Mr. Hancock clarified that Ms. Savage responsibility was to cross check payroll after it had been completed by Ms. Boyles, and she was in fact reviewing the disbursements for the benefit program and in fact had she not been diligent in doing that, we might not have discovered the issue and even more money might have been spent.

Ms. Boyles asked about the email notification that was supposed to be sent to the plan administrator to notify that a payroll change would be needed when the benefit limit was increased. She asked if Mr. Hancock could explain why she should not have assumed that someone would have known about the change because of the confirmation email.

Mr. Hancock asked her to repeat the question.

Ms. Boyles stated that when she contacted Wage Works they told her a confidential email would be sent to the City and they were not specific about whose email it would be sent to. She stated that she assumed because she was out on leave, she assumed that a copy of that email would be sent and that the City would be notified that the change in benefit had been implemented.

Mr. Hancock asked if the emails coming to the City from Wage Works go to Ms. Boyles and Ms. Savage. Ms. Boyles replied that yes they were, and asked if Mr. Hancock was aware of that. He responded that he would assume they were, but he did not check Ms. Boyles' or Ms. Savage's emails.

Ms. Boyles stated that she had no further questions.

Ms. Seargeant asked one rebuttal question of Mr. Hancock regarding email from Wage Works. She asked if he had received an email corresponding to the time frame that Ms. Boyles went into the system as plan administrator and made the change to increase the benefit amount in her account. Mr. Hancock responded that he had absolutely not received that email.

Ms. Seargeant thanked the City Council and indicated that she had no further questions.

Mayor De Boer indicated that the City Council would be discussing the information in closed session at the meeting of November 19, 2013.

**5      ADJOURNMENT:**

There being no further business, the meeting adjourned at 3:19 p.m.

Respectfully submitted by

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Rod E. De Boer, Mayor

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Gwenna MacDonald, City Clerk

*Approved on:*