

RESIGN: Council cites due process violations for severance

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one year's worth of health insurance coverage for him and his family as part of a separation agreement. Health insurance will end if Eppley finds new employment. *Keizertimes* has asked for an estimate of what it will pay out to Eppley but did not receive an answer by press time. The payment may top six figures.

Mayor Cathy Clark was given authority to sign the final documents

independent of council approval. Clark was moved to emotion reading a statement accepting Eppley's resignation.

Clark's statement implied that Eppley's "due process rights might have been violated" when a portion of his incident report was published.

Eppley's resignation comes in the wake of discharging a firearm in his office in early March.

brainfood

In Style

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CREATORS NEWS SERVICE

By Charles Preston

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DISCHARGED

Reverbs of shot at city hall

How due process applies to public employees

By ERIC A. HOWALD
Of the *Keizertimes*

As the Keizer City Council announced accepting former city manager Chris Eppley's resignation, it also announced a severance package was being offered because Eppley's "due process rights may have been violated."

The council did not give a specific reason for believing Eppley's rights had been violated, but it begs the question, "What are a public employee's due process rights?"

The answer is derived from the Fifth and Fourteenth amendments to the U.S. Constitution.

No person "shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation," states the Fifth Amendment.

The Fourteenth Amendment guarantees, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

In 1985, the U.S. Supreme Court determined that the property protections extended to public employees in ruling that an Ohio statue clearly granted

"civil servants property rights to their employment."

The case is known as *Cleveland Board of Education v. Loudermill*, and the due process rights relating to public employees are now known as Loudermill rights. Later, those rights developed into what is commonly called a Loudermill hearing.

According to the Oregon Supreme Court, Loudermill hearings require that public employers provide employees faced with termination and other consequences be provided with:

- A written notice of the charges.
- A notice of the kinds of sanctions being considered.
- An informal opportunity for the employee to refute the charges orally or in writing.

A document produced by the League of Oregon Cities, outlines some of the specific impact on Oregon's public employers.

"According to the courts, whether a public employee has a property interest in their employment depends on whether that employee has a legitimate expectation of continued employment," a FAQ on the organization's website states. "Oregon courts agree that due process does not require a full evidentiary hearing."

It is possible for an employee to relinquish Loudermill rights and release the city from liability as part of a settlement regarding the termination of employment.

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