

## MINUTES

Eugene Toxics Board  
Fire Conference Room, Second Floor  
Eugene Emergency Services Center  
1705 West Second Avenue, Eugene

February 8, 2012  
3:30 p.m.

**PRESENT:** Randall Prince, Chair; Tom Carmichael, Stephen Flanagan, Alison Guzman, Christine Zeller-Powell, members; Joann Eppli, Fire and Emergency Services staff.

**ABSENT:** Sheena Gardner, member.

Mr. Prince called the meeting of the Toxics Board to order at 3:35 p.m.

### **I. INTRODUCTIONS/APPROVAL OF AGENDA**

Those present introduced themselves. Mr. Prince reviewed the agenda and noted consensus to accept the agenda as written.

### **II. PUBLIC COMMENT**

There was no one who wished to offer public comment.

### **III. APPROVAL OF MEETING MINUTES—January 11, 2012**

Mr. Flanagan, seconded by Mr. Carmichael, moved to approve the January 11, 2012 as written. The motion passed unanimously, 5:0.

### **IV. STAFF REPORT**

Ms. Eppli provided the staff report. She said the City of Eugene would host a community leader information session on the budget next week. The Toxics Board Chair and Vice Chair would receive invitations and all members were welcome to attend. Businesses participating in the Toxics program had been notified and had started reporting through the new data entry program. Reports were due by midnight on April 1, 2012. The Board's recommendation to appoint Rick Nicol would be reviewed by the City Council February 13, 2012, after which he would be invited by the Toxics Board to a "meet and greet" event and to regularly attend Board meetings. She noted Mr. Prince's appointment and the currently vacant position's appointment were expiring on June 30, 2012. She distributed and reviewed a handout entitled *TOXICS BOARD CHAIR ROTATION NOTES*. Mr. Carmichael would become the Chair and Mr. Flanagan would become the Vice Chair on July 1, 2012. The City Council was creating an interview opportunity with the

media for people who served on boards and commissions. Ms. Eppli reported she had done no site visits since the January meeting, and she continued to audit businesses in the program. Western Structures had not reported on time which required follow up work with the business. She had also assisted King Retail Solutions with their audit response. The audits were public records and the reports were posted on the internet.

## **V. REVIEW RECOMMENDED FEES FOR FISCAL YEAR 2012-2013**

Ms. Eppli directed Board members to the staff memorandum, subject *FY13 RECOMMENDED HAZARDOUS SUBSTANCE USER FEES* included in the agenda packet. She said the City Council would conduct a public hearing on February 21 and Council action was scheduled for February 27, 2012. The Board discussed the ordinance and reviewed the fee calculation process.

Ms. Zeller-Powell, seconded by Mr. Flanagan, moved to approve the revised memorandum of January 25, 2012 recommending a fee structure to cover program costs of \$107,747. The motion passed 4:0:1, with Mr. Carmichael, Mr. Flanagan and Ms. Guzman voting in favor of the motion and Mr. Prince abstaining.

## **VI. TOXICS PROGRAM REPORTING TO THE PUBLIC**

Mr. Prince directed Board members to the staff memorandum, subject *UPDATED LIST OF SUGGESTED CHANGES TO THE TOXICS PROGRAM WEBSITE*. The following suggested changes to the Toxics Program website were listed in the memorandum:

1. In the list of hazardous substances, for Extremely Hazardous Substances, change the font color to red or highlight in some way.
2. In the introduction paragraph, create a hyperlink to the Program Overview document.
3. Move the following paragraph to the end of the introduction paragraph:  
Information beyond the legal purview of the Eugene Toxics Right-to-Know Program (e.g., pesticide information) may be available through the Federal Toxic Release Inventory (TRI). [Click here.](#)
4. Consider whether to change asking visitors to complete the survey before they actually get to view the data or information on the website.
5. Revisit the question of the purpose of the survey and whether we should improve it or not.
6. Provide links to other agency reports, with a short explanation, for businesses that either submit reports to the City of Eugene or pay a fee for the program, where reporting amendments were modified by the courts after the adoption of the Charter Amendment.

Ms. Eppli noted the Board had agreed upon 1, 2 and 3 at the December 1, 2011 Board meeting, and had agreed to combine 4 and 5. She stated the City of Eugene was getting a new website application base and any major changes would be done after the new website was launched.

- Discuss Current Website Survey

Mr. Flanagan, seconded by Mr. Carmichael, moved that the survey be dropped and a comment or feedback option be added. The motion passed

unanimously, 5:0.

Mr. Prince was concerned that the City of Eugene Toxics Program website was difficult to find and access. Board members offered suggestions for easily accessing the information.

In response to a question from Mr. Prince, Ms. Eppli said the City of Eugene Information Services Department (ISD) was able to run reports on the number of people who visited the website.

Mr. Flanagan said it would be helpful to have a one page synopsis report presented to the board on a regular basis that included the number of hits on the website and the domains from which the hits came.

Ms. Zeller-Powell suggested including the information on website hits in the annual report.

- Evaluate Dissemination of Information

Mr. Prince, focusing on suggested change 6., said he was concerned that not all releases of toxics were being covered by the Right-to-Know report because of a court case interpretation that prohibited including pesticides in the report.

Mr. Flanagan asserted that the original statute rather than the court case, specifically excluded pesticides because there were state and federal regulations for pesticides. If the toxics law would have incorporated pesticides, it would have been duplicating those regulations.

Mr. Prince said the issue was related to the interpretation that preparing pesticide treated wood products was equivalent to making pesticides.

Mr. Flanagan reiterated pesticide users were covered under state and federal pesticide regulatory laws. He noted the State of Oregon, unlike the State of California, did not have a pesticide reporting law.

Ms. Eppli said the Toxics Board had spent significant time between February 2010 and April 2010 discussing J.H. Baxter and whether the company could be asked to report on their use of pesticides for wood treatment as part of the Toxics Right-to-Know program. The discussion ended with a City Attorney opinion that clearly states the company could not be asked to report on their use of pesticides for wood treatment as part of the Toxics Right-to-Know Program.

Mr. Prince said the Toxics Board should provide a link to reporting systems for anything the writers of the ordinance and voters wanted to be reported on that was later reversed by court decision on the grounds a reporting system already existed.

Ms. Zeller-Powell inquired about what type of audit system was in place to monitor whether there were companies in Eugene that used chemicals that should be but were not being reported.

Ms. Eppli said there was currently no system to monitor whether companies were using chemicals and not reporting them, and no system to identify companies that are not part of the Toxics Right-to-Know program, but should be.

Mr. Flanagan opined there was value in having comparative lists of compounds that would show

up under the City's reporting scheme and those that would not show up under the City's program but would show up in the Lane Regional Air Pollution Authority (LRAPA) or the TRI databases.

Ms. Zeller-Powell said it appeared the Board was concerned about the prominence of information on the website and how easy it was for people to access it, as well as being concerned that there was no information about some chemicals that were not covered under the Toxics Right-to-Know program but had been included in the original version of the charter amendment. She suggested this should be addressed after the new website was launched.

Mr. Flanagan said the issue should be addressed from a statement of scope which would describe the entities covered in laymen's terms, and include links and information to other sources that would answer the public's questions about what compounds were in use in Eugene.

## **VII. SCHEDULE NEXT MEETING/FUTURE FOCUS DISCUSSIONS**

The board considered various topics for the next meeting and determined the following as tentative topics:

- Review City Council action for fees for fiscal year 2012-2013.
- Review 2011 reporting from businesses:
  - Discuss extensions (if applicable).
  - Take action on possible fines (if applicable).
- Welcome meeting for Rick Nicol.
- Lane County Local Emergency Planning Committee (LEPC).

The next meeting was scheduled for 3:30 p.m. on April 3, 2012.

The meeting adjourned at 5:15 p.m.

*(Recorded by Linda Henry)*