

MINUTES

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

December 1, 2011
3:30 p.m.

PRESENT: Randall Prince, Chair; Tom Carmichael, Stephen Flanagan, Sheena Gardner, Alison Guzman, Christine Zeller-Powell, members; Joann Eppli, Fire and Emergency Services staff; Mark Walker, Deputy Chief, Fire and Emergency Services.

Mr. Prince called the meeting of the Toxics Board to order.

I. INTRODUCTIONS/APPROVAL OF AGENDA

Those present introduced themselves. Mr. Prince reviewed the agenda and declared it approved.

II. PUBLIC COMMENT

There was no one who wished to offer public comment.

III. APPROVAL OF MEETING MINUTES—October 19, 2011

Mr. Prince asked that the word “declared” instead of “deemed” be used to indicate approval of the agenda and meeting minutes. There being no objections, he declared the minutes approved as corrected.

IV. STAFF REPORT

Ms. Eppli announced that board member Diana Bollenbaugh had resigned. She said that recruitment for the vacancy had generated three applications, which were circulated via email. She noted that one applicant was not eligible because of his employment at a business in Springfield and she would thank him for his interest. She expressed appreciation for Ms. Bollenbaugh’s service on the board.

Ms. Eppli distributed an updated board roster and noted that Tom Carmichael would move into the position of vice chair. She said the Toxics Board would interview prospective applicants at its next meeting and develop a recommendation to the City Council for filling the vacancy.

Ms. Zeller-Powell arrived at 3:45 p.m.

Ms. Eppli reviewed the materials she had distributed to the board since the last meeting, noting that the hazardous substance tracking instructions had been updated to reflect the new data entry program. She highlighted a memorandum dated October 26 regarding blogs and the need to be

cautious about conducting the business of the Toxics Board in an open and public manner and in conformance with public meeting laws.

Mr. Prince requested that if future electronic communications to the board included lengthy attachments, those attachments be provided in hard copy at the meeting to save board members the expense of printing them at home.

V. TOXICS PROGRAM BUDGET – FISCAL YEAR 2013

Ms. Eppli invited questions from the board on the preliminary program budget for fiscal year 2013 (FY13).

Mr. Carmichael noted that 2012 budget was \$92,409, with a full-time equivalent employee (FTE) fee of \$53.34 per FTE for participating employers, while the revenue need for FY13 was projected at \$109,516 but the recommended per FTE fee was \$26.00. He questioned how the increased revenue need would be met. Ms. Eppli explained that the formula had become more complex when the State mandated a \$2,000 fee-cap per facility in 2004. She said the fee calculation spreadsheet includes all businesses in the program – reporting and non-reporting – and their total FTE for the year. Total FTE is then divided into the amount of revenue required to operate the program, taking into account the \$2,000 fee cap, to determine the per FTE cost. She said for FY13, under the \$26.00/FTE scenario the FTE threshold is 14 and any company with 14 or less FTE would pay the per FTE cost; any company with 15 FTE or more would pay the \$2,000 amount. She said a majority of businesses would pay the fee-cap amount of \$2,000 in FY13. She also said the fee-cap resulted from State legislation (HB 2431), and prior to that some businesses in the program paid almost \$15,000 per year to participate.

Continuing, Ms. Eppli said that two budgets were presented: the \$95,088 budget reflected a 75 percent staffing level, which is the staffing level paid in previous years to manage the program; the \$109,516 reflected a 90 percent staffing level, which is closer to the actual time she spends on managing the program. She felt that the program required 90 percent staffing and cited the range of activities she engaged in to support the program, including research, building relationships and improving program efficiency.

Mr. Flanagan summarized that the board's decision was whether the proposed budget covered a realistic amount of Ms. Eppli's time in support of the program. He asked if the need for additional personnel time could be attributed to Ms. Eppli's recent hiring as program staff and the effort involved in learning a new job. Ms. Eppli said some additional time could be attributed to her becoming familiar with the program, but she also foresaw a need for greater program outreach which the board regularly discusses, as well as ongoing program improvements and continued relationship building with representatives from businesses in the program and the public.

Ms. Guzman asked for an explanation of budgeted items related to contractual and professional services. Ms. Eppli said contractual services related to computer programming and related support for the Toxics Program database; professional services related to videotaping. She said videotaping was not an additional cost to the program as funds were transferred from the amount budgeted for attorney fees.

Deputy Chief Walker commented that the number of questions coming to the program that required research had increased considerably and Ms. Eppli was very thorough in her responses to inquiries. She was also working closely with information technology staff to streamline and simplify reporting procedures for participating businesses. He felt that the results of Ms. Eppli's

efforts justified increasing the program's staffing level to 90 percent.

In response to questions from Mr. Prince, Ms. Eppli said that under the larger budget with a smaller FTE fee, businesses that paid the FTE fee would see a lower invoice amount. There were four businesses that were significantly affected and their program participation costs would double.

Mr. Prince questioned whether businesses would perceive the increased costs as justified by a more efficient data entry and reporting system.

Ms. Gardner stated that her company was likely to see an increased cost to participate, but she felt that the company would perceive the cost difference as insignificant because of its commitment to being a good neighbor and investing in the community.

Mr. Prince questioned if the improved reporting process would provide a savings to companies to offset the increased fees.

Ms. Gardner estimated that her company's cost savings if less staff time was required to meet reporting requirements would equal or exceed the increased fees.

Ms. Guzman asked who handled advertising efforts and how many hours were reflected in the amount budgeted for contractual services. Ms. Eppli said she was responsible for advertising and she the number of hours contractual services varied.

Ms. Guzman said areas of program improvement that the board and staff had discussed at previous meetings were improved public outreach and more efficient reporting. She hoped some of the increased revenue could be allocated to those items.

Mr. Prince said he could support the budget with staffing increased to 90 percent if the next proposed budget included estimates for staffing at both the 90 percent and 75 percent levels to remind the board that it had increased the budget in the previous year and provide an opportunity to consider whether staffing could return to the 75 percent level. He was concerned with the imposition of new costs related to videotaping of meetings because of a mandate from the city manager. He felt videotaping should not be paid for from program user fees, but rather considered a pilot program that could be supported by Telecom Fund monies. He said staff should apply for those grant funds that were intended to improve the accessibility of City meetings.

Ms. Eppli said she had conveyed the board's concern about the new videotaping requirement to the City Manager's Office and was informed that in the interests of making the City's business more transparent of all boards that were advisory to the City Council would videotape their meetings and publicize the tapes' availability. That requirement was non-negotiable.

Mr. Prince reiterated his desire to have staff apply for grant funds to pay for videotaping.

Mr. Carmichael commented that it was foolish to add program costs that were of no value, such as videotaping meetings. He preferred to invest those funds in ways that would assist businesses participating in the program.

Mr. Carmichael moved that the Toxics Board did not support paying for videotaping of meetings from program user fees.

Ms. Guzman expressed concern with the additional work required of staff to apply for grant funds and to prepare two proposed budgets next year with different staffing levels. She said the decision to increase fees should be made by the businesses who would be paying those fees.

Ms. Guzman seconded the motion.

Ms. Zeller-Powell remarked that the board seemed in agreement that videotaping the meetings would not increase transparency and accessibility as it was unlikely that people would watch the videotapes. She suggested the board could recommend other ways to improve transparency and communication with the public.

Mr. Prince said he supported the motion because it was not appropriate to charge businesses for videotaping when the City had other funds that could be used for that purpose.

Ms. Guzman left the meeting at 4:30 p.m.

Ms. Gardner said she had reservations about the motion because the board did not have enough information about the availability and timing of funds from other sources. She asked what impact the motion would have if passed.

Ms. Eppli said if the motion was passed she would need to explore whether Telecom Funds would be available for videotaping, and re-stated that there was no option to decline to videotape meetings.

Mr. Flanagan pointed out that the motion would simply make a formal statement that the board was opposed to using program fees for videotaping. He called for the question.

The motion passed unanimously, 5:0.

Ms. Eppli pointed out that the board needed to recommend a program budget to the City Council.

Mr. Flanagan felt the board had not sufficiently discussed whether the program budget should be based on a 90 or 75 percent staffing level. He appreciated the amount of time Ms. Eppli had invested in learning the program and researching responses to inquiries, but the Toxics Board's mandate was specific and narrow in terms of collecting data and presenting it to the public. He was not certain if he could support raising the user fees because of a staffing transition and suggested that it was reasonable to support the board's mandate with 75 percent staffing.

Mr. Carmichael noted that previous staff was charged to the program at 75 percent and asked if Ms. Eppli would be able to support the program in the future at a 75 percent level. Ms. Eppli replied that the program was complex and politically sensitive, and said she had spent considerable time becoming familiar with its various components. She said she could scale back her program support if necessary, but if new elements were added, such as expanded outreach or program expansion, the demand on her time would not decrease in the future. She explained the benefits of public outreach and making contact with all of the participating businesses to improve understanding and awareness of the program.

Ms. Zeller-Powell concurred with the importance of advocating for the public's right to know and the need to improve outreach efforts.

Mr. Prince said that analyses of the benefits any program expansions or improvements should be included in future budgets, along with historical data on previous budgets.

Mr. Walker acknowledged that the board determined how much of Ms. Eppli's salary was covered in the program budget and that dictated how much time she could spend in support of projects for the board. He said allotting less staff time would mean the number of new projects the board could pursue would be limited. He said staff's primary mission was to fulfill the charter requirements for data collection and reporting and support for the board could be reduced. He supported the budget at a 90 percent staffing level, given the quality and quantity of Ms. Eppli's work to date.

Mr. Flanagan said his concerns were based on increasing costs to the business community without a thorough discussion and he did not question the quality of Ms. Eppli's efforts and work products. He asked if there was an obligation to inform businesses of the increased fees. Ms. Eppli said businesses would be notified that their fees were increasing if the budget was accepted.

Mr. Prince said his concerns could be addressed by indicating, when the budget was presented to the City Council, that the board was willing to recommend it because it planned to invest in efficiencies that would result cost savings to business that offset the increased fees and make substantial improvements to the program. He asked if the new reporting system had been implemented. Ms. Eppli said that programming upgrades had been completed and final testing would occur next week. She said some final adjustments might be necessary, but the core work was done.

Mr. Flanagan, seconded by Mr. Carmichael, moved to accept the \$109,516 proposed budget at 90 percent staffing level with the caveat that the board would review the increase during the next budget cycle.

Ms. Eppli said the next steps are to submit the Toxics Board's fee recommendation to City Council, and for the City Council to conduct a public hearing, which is scheduled for January 17, 2012.

Ms. Eppli stated that she would prepare and submit the appropriate documents with the Toxics Board's fee recommendation to the City Council. She also said she will distribute electronic copies of these documents to the board.

Mr. Carmichael asked staff to provide the board with the formula used to calculate the per FTE fee. Mr. Flanagan also requested the board receive copies the spreadsheets demonstrating how businesses were affected by the fee increases.

The motion passed unanimously, 5:0.

VI. TOXICS PROGRAM REPORTING TO THE PUBLIC

- Evaluate website
- Discuss current website survey
- Evaluate dissemination of information

Mr. Prince referred to the six suggestions for changes to the Toxics Program website outlined in the November 16, 2011, memorandum from Ms. Eppli. He polled members to determine support or concerns regarding each suggestion:

1. *In the list of hazardous substances, for Extremely Hazardous Substances, change the font color to red or highlight in some way.*

All board members indicated support.

2. *In the introduction paragraph, create a hyperlink to the Program Overview Document.*

All board members indicated support.

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) Program. Click here.

All board members indicated support.

4. *Consider whether to change asking visitors to complete the survey before they actually get to view the data or information on the website.*

All board members indicated support for moving the survey.

5. *Revisit the question of the purpose of the survey and whether we should improve it or not.*

Discussion of this item was tabled to a future meeting.

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 requirements were modified by the courts after the adoption of the Charter Amendment.*

Discussion of this item was tabled to a future meeting.

VII. SCHEDULE NEXT MEETING/FUTURE FOCUS DISCUSSIONS

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

- Discuss current website survey
- Evaluate dissemination of information
- Discussion of website change suggestions #5 and #6
- Interviews of Toxics Board applicants
- Review of draft annual program report

The next meeting was scheduled for January 11, 2011, at 3:30 p.m.

The meeting adjourned at 5:10 p.m.

(Recorded by Lynn Taylor)