

MINUTES

Eugene Toxics Board
Fire Conference Room, 2nd Floor
Eugene Emergency Services Center
1705 W. 2nd Ave.—Eugene, Oregon

November 3, 2010
3:00 p.m.

PRESENT: Stephen Flanagan, Cynthia Kokis, David Doll, members; Glen Potter, Joann Eppli, staff;
Alan Gerard, Mark Walker, Fire/EMS

ABSENT:

I. Introductions/Approval of Agenda/Approval of Minutes

Mr. Potter called the meeting of the City of Eugene Toxics Board to order at 3:03 p.m.

Mr. Doll, seconded by Mr. Flanagan, moved to approve the minutes of the Toxics Board's April 15, 2010 meeting. The motion passed unanimously, 5:0.

Mr. Potter referenced his recent retirement and introduced Jo Eppli. Mr. Potter noted that Ms. Eppli had been appointed as his replacement. He noted that she would also be serving as staff support to the Toxics Board.

Mr. Gerard stated that Ms. Eppli would be the primary Board contact to Eugene Fire/EMS.

Mr. Potter noted that he would circulate information regarding Ms. Eppli's duties, responsibilities and contact information to the Board members.

II. Interviews for Positions 1 and 6 on the Board

Mr. Potter, responding to a question from Mr. Flanagan, noted that one Board applicant, Dave Beede, was unable to attend the meeting. He further noted that both the business applicant, Kristi Bakody, and the right-to-know applicant, Randy Prince, were awaiting their interviews outside the conference room.

Mr. Potter commented that he had previously circulated a list of hypothetical questions to be used by the Board members during the interview process.

Mr. Flanagan confirmed that there was one business position and one right-to-know position currently open on the Toxics Board.

The Board members briefly reviewed and discussed Ms. Bokody's credentials.

Mr. Potter introduced Ms. Bokody.

Mr. Flanagan informed Ms. Bokody that he currently served as a the neutral partner on the Toxics Board while Ms. Kokis served as a right-to-know member and Mr. Doll served as an industry member. He noted that he also served as Chair of the Toxics Board.

Mr. Flanagan stated that he and the other Board members had each reviewed Ms. Bokody's application and asked her why she wished to serve as a member of the Toxics Board. Ms. Bokody replied that she completed the toxics report for her employers, Molecular Probe Technologies, and believed that serving as a Board member would allow her to better understand compliance and reporting issues related to the handling of hazardous materials.

Ms. Bokody, responding to a question from Ms. Kokis, noted that she did not complete the toxics report in her previous position at Baxter.

Ms. Bokody, responding to a question from Mr. Flanagan, stated she was familiar with the basic reporting functions of the Toxics Board.

Ms. Bokody, responding to a question from Mr. Doll, briefly discussed her positions regarding the impact of the Toxics Board's reporting practices on the community.

Ms. Bokody, responding to a question from Mr. Potter, briefly discussed her interest in serving in a public advisory capacity. She hoped that as a member of the Toxics Board she would be able to contribute to the Board's reporting processes in a manner that would be helpful to members of the public.

Mr. Potter noted that the Toxics Board had often counted employees from Ms. Bokody's employer, Molecular Probes, among its members. Ms. Bokody added that it was a tradition at Molecular Probes for that business to offer an employee familiar with environmental health and safety issues to serve on the Toxics Board.

Ms. Bokody, responding to a question from Mr. Flanagan, discussed how she might deal with controversial or contentious issues as a member of the Toxics Board, both within the group discussions and with persons from other agencies. She noted that her current position involved the use of a great deal of her conflict resolution skills. She believed that she could serve as a neutral resource when dealing with conflict issues.

Mr. Potter referred to Ms. Bokody's previous comment and asked if she might err on the side of business interests in conflict resolution situations. Ms. Bokody responded that any conflict resolution actions she might take as business member of the Toxics Board would depend on the circumstances involved in each case.

Ms. Bokody, responding to a question from Ms. Kokis, stated she had not had the opportunity to review the original 1996/1997 Toxic Right to Know materials. Ms. Kokis stated that she had used the right-to-know materials as summary information when she had applied to become a member of the Toxics Board. Mr. Potter added that charter amendment right-to-know materials were available for Ms. Bokody to review online at the Eugene Fire Marshal's homepage.

Ms. Bokody asked the Toxics Board members what the most challenging part of serving as a Board member was. Mr. Doll responded that it was often difficult for the Board members to deal with business representatives that did not comply with the Board's reporting work. Mr. Doll further noted that the Toxics Board had never really enforced fines to business representatives who were non-compliant.

The Board members and staff briefly discussed how fines had been issued to local businesses that were not compliant with respect to their reporting of hazardous materials usage.

Mr. Flanagan reported that Ms. Eppli would assume many of Mr. Potter's duties with respect to determining the compliance of local businesses.

Mr. Potter, responding to a question from Ms. Bokody, commented that while elements of the City's hazardous material reporting program had been contentious in the past, there had not been a great deal of controversial matters for the Toxics Board to consider in recent months.

Ms. Bokody asked Mr. Potter for an example of a contentious item the Toxics Board had reviewed. Mr. Potter responded that the Board had held discussions to review de minimis standards with respect to the City's hazardous material reporting program. Mr. Potter maintained that the hazardous material reporting program itself had been somewhat controversial at the time of its implementation.

Mr. Flanagan stated that representatives from the Oregon Toxics Alliance had visited the Toxics Board to request them to consider different emissions that had not necessarily been within the purview of the Toxics Board. He noted that the City Attorney's Office had helped resolve the issues involved in those discussions.

The Board members briefly discussed a variety of instances where the Toxics Board discussion topics had been considered contentious and controversial.

Mr. Flanagan suggested that Ms. Bokody's work experience might be helpful in Board discussions regarding various hazardous materials.

Mr. Flanagan confirmed there were no additional questions or comments regarding Ms. Bokody's application.

Mr. Potter informed Ms. Bokody that the Toxics Board would make a recommendation to the Eugene City Council regarding her application. He anticipated that the recommendation, selection and appointment process would take approximately two months.

Ms. Bokody thanked the Board members for their time and excused herself from the meeting at 3:20 p.m.

Mr. Flanagan stated he did not know the reason for Mr. Beede's absence.

Mr. Potter introduced Randy Prince as the right-to-know applicant for the vacant Toxics Board position.

Mr. Flanagan noted that as Chair of the Toxics Board he served as neither an industry nor a right-to-know representative to the group.

Mr. Flanagan asked Mr. Prince to explain his interest in serving as a member of the Toxics Board. Mr. Prince expressed that the Toxics Board position represented to him a good opportunity to bring his technical expertise to bear on a number of public interest concerns relating to the City's hazardous materials reporting program.

Mr. Flanagan asked Mr. Prince to relay his understanding of the discussions and work processes of the Toxics Board. Mr. Prince responded that he was familiar with the City ordinance regarding hazardous materials reporting program. He further understood that many of the Toxics Board discussions concerned the credibility of the member agencies that reported to the Board.

Mr. Doll asked if Mr. Prince had attended any previous meetings of the Toxics Board. Mr. Prince responded that he had not attended any previous meetings but that he had reviewed the Board's online materials and information.

Mr. Prince, responding to a question from Ms. Kokis, stated that he would be able to attend the Toxics Board meetings without difficulty.

Mr. Prince asked if the Toxics Board discussed fee issues related to the member agencies of the City's hazardous materials reporting program. Mr. Potter expressed that both the member agencies and the Board itself had a vested interest in keeping reporting fees under the program relatively low. He noted that the fees had remained relatively stable in recent years and that the Board had had no substantive discussions regarding the fees since their implementation.

Mr. Potter noted that the Toxics Board maintained the authority to make recommendations to the Eugene City Council regarding the structure of the fees for member agencies.

Mr. Potter, responding to a question from Mr. Prince, noted that the Toxics Board had recommended fines be issued on approximately eight separate occasions during his time as staff support to the Board. He noted that fines were commonly issued when a business failed to submit hazardous materials reports in a timely fashion and without sufficient notice. He further noted that fines were usually set at the minimum levels to encourage compliance and were not considered a means of generating revenue.

Mr. Potter noted that the compliance rate for businesses under the City's hazardous materials reporting program was at or near one hundred percent.

Mr. Potter, responding to a question from Mr. Prince, noted that the Toxics Board was tasked with auditing the reports submitted under the City's hazardous materials reporting program. He noted that while certain corrections were needed to various reports there appeared to be no indications of any malfeasance on the part of the reporting entities.

Mr. Potter described how reporting entities failing to correct any errors in their reporting process would be recorded and that they would not be granted any first-offender status with any subsequent violations.

Mr. Prince noted his interest in various emergency preparedness issues and asked if the items normally listed on State Fire Marshal reports might be considered in conjunction with the other areas covered by the Toxics Board. Mr. Doll responded that State Fire Marshal reports generally covered larger volumes of different kinds of hazardous materials and might not correspond to those materials typically reviewed by the Toxics Board.

Mr. Gerard and Mr. Prince briefly discussed how hazardous materials information available through the State Fire Marshal's Office might be utilized by the Toxics Board.

Mr. Gerard, responding to a question from Mr. Prince, stated that the list of hazardous materials reviewed by the Toxics Board was much narrower than that used by the State Fire Marshal's Office. Mr. Gerard noted that the chemicals in the Toxics Board's right-to-know program were also listed in the State program.

Ms. Kokis mentioned that many items reviewed by the Toxics Board had been brought up because it had been some time since the hazardous materials reporting program ordinance had been drafted. She noted that the March and April Toxics Board meetings had responded to complaints from Fairfield Elementary School regarding certain hazardous materials.

Mr. Flanagan, responding to a question from Mr. Prince, stated that compounds classified as pesticides did not normally fall under the right-to-know jurisdiction of the Toxics Board.

Mr. Flanagan stated that the Oregon Toxics Alliance had approached the Toxics Board regarding the hazardous materials issues surrounding the J.H. Baxter Company. He noted that the City Attorney had in that instance provided direction on the Toxics Board's authority as laid out in the City Charter.

Ms. Kokis noted that the Toxics Board had also discussed hazardous materials businesses who were outside the boundaries of the City of Eugene but whose emissions might move inside the City limits.

Mr. Flanagan stated that the Toxics Board's authority pertained only to those areas inside the City's limits and not the non-city areas within the urban growth boundary.

Mr. Potter noted that the Toxics Board was not empowered to enforce limits on hazardous materials outputs.

Mr. Doll, responding to a question from Mr. Prince, briefly discussed how the Lane Regional Air Protection Authority (LRAPA) was empowered to respond to releases of hazardous materials. Mr. Flanagan added that LRAPA specific responses to hazardous materials release were governed by the types of businesses that were involved.

Mr. Doll, responding to a question from Mr. Prince, stated that LRAPA did not address instances of any non-air release hazardous materials that were listed in the City's hazardous materials reporting program.

Mr. Flanagan stated that one intent of the ordinance that had created the hazardous materials reporting program had been to help make public information regarding releases of hazardous materials.

Mr. Flanagan expressed that his time as Chair of the Toxics Board had been fairly quiet and uneventful.

Mr. Prince noted that he had worked in the printing industry and that he had a particular interest in how hazardous materials were handled in the community.

Mr. Potter stated for Mr. Prince that they would be making a recommendation to the Eugene City Council regarding his application.

Mr. Prince thanked the Toxics Board members for their questions and excused himself from the meeting at 3:43 p.m.

III. Public Comment

Mr. Flanagan confirmed there were no members of the public who wished to offer comment or testimony.

IV. Discussion/Recommendation to City Council

Mr. Doll asked how the Toxics Board members wished to proceed with Mr. Beede's application and interview. Mr. Flanagan hoped that Mr. Beede would still be given an opportunity to be interviewed before the Board since he had gone through the effort of submitting an application.

Ms. Kokis was disheartened that Ms. Bokody appeared to be unfamiliar with the hazardous materials reporting ordinance and the Toxics Board's online resources.

Mr. Doll believed that Ms. Bokody might have been drafted by her employers to serve on the Toxics Board.

Mr. Doll expressed that Ms. Bokody, given her education and work experience, had a substantial background in hazardous materials.

Mr. Potter agreed that the Toxics Board should attempt to reschedule Mr. Beede's interview and suggested that Ms. Eppli might schedule the interview.

Mr. Potter, responding to a question from Ms. Kokis, stated it would be important to learn more information regarding Mr. Beede's availability for the Toxics Board meetings.

Mr. Flanagan agreed it would be appropriate to attempt to reschedule Mr. Beede's interview before the Board and asked the Board members to consider dates when they would be available.

Mr. Potter, responding to a question from Ms. Kokis, stated that City staff would be available to support the Toxics Board's interview process at any time.

Ms. Kokis suggested that Mr. Beede's interview might be scheduled outside of normal business hours. Mr. Flanagan and Mr. Doll responded that they preferred that the interview be conducted during normal business hours.

The Toxics Board members briefly discussed their respective availability for Mr. Beede's interview.

Mr. Kokis expressed it would be important to coordinate Mr. Beede's interview with the Board members who were not present.

The Toxics Board members tentatively scheduled Mr. Beede's interview for November 15, 2010 at 3:00 p.m.

Mr. Flanagan suggested that Eugene Fire Station No. 1 would be a better location for the interview.

Mr. Doll responded it would be unlikely that Station No. 1 would be available to use for Mr. Beede's interview on November 15. The Toxics Board members agreed to conduct Mr. Beede's interview in the 2nd floor conference room of the Eugene Emergency Services Center.

Ms. Eppli confirmed that she would tentatively schedule Mr. Beede's interview for November 15 and confirm the availability of the remaining members.

Mr. Potter advised the Board members that the Eugene City Council had been asked if they wished to interview the Toxics Board candidates but that they had not yet responded.

Mr. Potter, responding to a question from Mr. Flanagan, noted that the City Council had chosen to directly interview applicants for the Toxics Board in the past.

Ms. Kokis suggested that a recommendation to appoint Mr. Prince as the right-to-know representative to the Toxics Board be forwarded to the City Council immediately.

Ms. Kokis, seconded by Mr. Doll, moved to recommend to the Eugene City Council that Randy Prince be appointed as the right-to-know representative to the Toxics Board. The motion passed unanimously, 5:0.

Ms. Kokis asked Ms. Eppli to notify Mr. Prince of his pending recommendation to the Eugene City Council.

Mr. Doll hoped that additional industry representatives would be available to attend Mr. Beede's interview.

Ms. Kokis suggested that it might represent a liability that the remaining Toxics Board members had not had the opportunity to meet Ms. Bokody and Mr. Prince.

Mr. Flanagan responded to Ms. Kokis' previous comment and stated it would be necessary for the absent Toxics Board members to defer to the discussions that had already been held with the applicants.

Mr. Doll, seconded by Ms. Kokis, moved to adjourn the November 3, 2010, meeting of the Eugene Toxics Board. The motion passed unanimously, 5:0.

Mr. Flanagan adjourned the meeting at 3:58 p.m.

(Recorded by Wade Hicks)