

# **MINUTES**

Eugene Toxics Board  
Pete & Jerry Room  
Downtown Fire Station  
13th Avenue and Willamette Street

May 6, 2009  
3:00 p.m.

**PRESENT:** David Doll, Chair; Steve Johnson, Stephen Flanagan, Cynthia Kokis, Elizabeth Weaver, members; Glen Potter, Fire and Emergency Services staff; Rick Murphy, Shaun Londahl, King Retail Solutions

**ABSENT:** Jennifer Olson-Morzenti, Diana Bollenbaugh, members.

Mr. Doll called the meeting of the Toxics Board to order. Those present introduced themselves.

## **I. APPROVAL OF AGENDA/NEW ITEMS**

After requesting comment, Mr. Doll deemed the agenda approved as presented.

## **II. PUBLIC COMMENT**

There was no one who wished to offer public comment.

## **III. APPROVAL OF MINUTES—February 7, 2009**

The Board approved the minutes as submitted.

## **IV. 2008 REPORTING/2009 BILLING**

Mr. Potter stated all of the 2008 reports had been received and posted on the internet. A paper copy would be printed for the library this week as required by Charter. Payments for invoices sent in late March were due May 1. Several companies had not yet paid the fee, which was not uncommon. He would continue to follow up on the outstanding invoices.

Mr. Potter reviewed the status of three companies that were late in submitting their reports: Pierce Corporation, Quality Metal Finishing (QMF), and King Retail Solutions (KRS). Pierce Corporation requested and was granted a reporting extension, and ultimately determined that it was not required to submit a report. QMF submitted its report one day late without benefit of an extension, but was a first-time violator; state law requires that fines for first-time violators be suspended, and so the only immediate consequence for QMF would be publication of its name in the local newspaper as required by Charter.

Mr. Potter reported that KRS was not a first-time violator, having filed its 2005 report on April 12, 2006, without benefit of an extension. The Charter provided for fines of \$250 to \$1,000 per day in such cases. The 2008 report was filed on April 28, 2009.

In response to a question from Mr. Doll, Mr. Londahl said he first became aware of the requirement to file a Toxics Board report when Mr. Potter called him on April 27, 2009. Mr. Londahl said failure to file the report was not a systems failure. The company had experienced over 100 layoffs, retirements, and changes in responsibilities in the last year. The person responsible for preparing the report had been given adequate notice on filing the report and had failed to follow through until being given further instructions on April 27.

Mr. Johnson stated the Board had always assessed a fine for firms that filed late for which there had not been an extreme mitigating circumstance, adding no second-time violator had ever had fines suspended.

Responding to a question from Mr. Johnson, Mr. Doll stated that according to the Charter language, 26 individual violations, one violation for each day the report was delayed, were called for.

Mr. Johnson said he would support the minimum fine of \$250 for 26 individual violations for a total of \$6,500.

Although Mr. Doll did not think such a substantial fine would accomplish much, he saw no way around it based on the Charter language. He lobbied for part of the fine to be suspended.

Mr. Potter said there was precedent by a past board to fine for one or some of the days of violation rather than all.

Mr. Johnson noted this was the worst failure the Board had seen and expressed concern that the company had failed to respond to repeated contacts for such a long period of time.

Ms. Kokis opined it was significant that there were new personnel involved at KRS

which would mitigate some of her feelings about the company's actions.

Mr. Johnson concurred with Ms. Kokis, which was why he supported a daily fine of \$250 rather than a higher amount.

Mr. Flanagan asserted companies needed to bear the responsibility of their people making mistakes.

Mr. Johnson moved, seconded by Mr. Flanagan, to fine King Retail Solutions \$250 for each of 26 days for a total of \$6,500. The motion passed unanimously, 5:0.

Mr. Flanagan said KRS could appeal the Board's decision to Lane County Circuit Court.

Mr. Potter said QMF had been a first-time violator and the Board could impose a fine between \$250 and \$1,000 per day. By State law, the fine must be suspended.

Mr. Johnson moved, seconded by Mr. Doll, to fine Quality Metal Finishing \$250 and suspend the fine. The motion passed unanimously, 5:0.

## **V. SIGNATURE ON CERTIFICATION FORMS**

Mr. Potter stated Ken Luse was a consultant who completed Toxics Right-to-Know reports for a number of local companies. Mr. Luse had been signing the reports in lieu of company representatives, and had asserted that company officer signatures were not required. Mr. Potter stated that he and Mr. Luse had been in contact via e-mail regarding this issue.

Following a brief discussion, Mr. Doll noted consensus to require the signature of company officers in the future.

## **VI. MAILING VS. E-MAILING OF BOARD PACKETS**

There was consensus to continue to e-mail agenda packets to Board members.

## **VII. SCHEDULE NEXT MEETING/AGENDA ITEMS**

Mr. Potter reviewed Board member terms, noting Mr. Johnson's second term ended October 31, 2009. Ms. Olson-Morzenti's first term was ending and she was eligible for reappointment to another term. He reviewed the appointment process by the City Council and encouraged Board members to assist with recruiting new members.

The next meeting was tentatively scheduled for a date in September 2009. Mr. Potter was directed to coordinate the specific date with Board members.

The meeting adjourned at 3:40 p.m.

*(Recorded by Linda Henry)*