

MINUTES

Eugene Toxics Board
Singer Room – Second Floor
Eugene Public Library

June 1, 2006
3 p.m.

PRESENT: Doug Brooke, Chair; John Jordan-Cascade, David Doll, Steve Johnson, Marylee Bowman, Jennifer Gleason, members; Glen Potter, Fire & EMS staff; Terry Connolly, Eugene Chamber of Commerce; Ken Luse, Andy Poynter, Paul Winters, guests.

ABSENT: Rue Ann Thomas, member.

I. Introductions

Mr. Brooke called the meeting to order. Those present introduced themselves.

II. Approval of Agenda/New Items

Ms. Bowman, seconded by Mr. Doll, moved to approve the agenda. The motion passed unanimously, 4:0. (Mr. Cascade and Mr. Johnson had not yet arrived.)

III. Public Comment

Andy Poynter expressed some dismay regarding a discussion that had been held at the previous meeting. He had prepared and submitted revised reporting data on behalf of A & K Development prior to the audit that had been discussed, and did not feel that this data had been acknowledged by staff. He planned to meet with staff later regarding this matter.

IV. Approval of Minutes

Ms. Gleason, seconded by Mr. Brooke, moved to approve the Toxic Board minutes of May 4, 2006, as submitted. The motion passed unanimously, 4:0.

V. Staff Report

a. Audit Procedures/Letters/Enforcement

Mr. Potter noted that the suggestion had been made at the previous meeting that an audit letter should be more official, sent by registered mail, and should clearly delineate the penalties of non-compliance or missed deadlines.

Mr. Jordan-Cascade arrived at the meeting.

Mr. Potter explained that when an audit occurred he provided 30 days' notice to a business to respond, as required by the Charter Amendment. He said the letter asked clarifying questions regarding the business's report. He related that usually he received the needed response and corrected the database accordingly.

In response to a question from Mr. Brooke, Mr. Potter stated that the letter said to contact the Toxics Program office if there were any questions or concerns.

Mr. Jordan-Cascade said it would be simple to create a distribution email list and to send a reminder about the deadline. Mr. Brooke could not recall receiving such a notice from any of the other regulatory agencies that he had to deal with in his business.

In response to a question from Mr. Jordan-Cascade, Mr. Potter said no one else had requested that the letter be sent by certified mail.

Mr. Johnson arrived at the meeting.

Mr. Brooke asked if there was anything in the handbook that addressed audits. Mr. Potter replied that the handbook did not go into the audit procedure.

Mr. Brooke asked if this should be put into the agenda for the next meeting. He wanted to review a typical audit letter.

Ms. Gleason recommended that the Toxics Board direct Mr. Potter to come back with language to add to the handbook regarding the process as well as a copy of an audit letter.

b. 2005 Fees

Mr. Potter reported that five or six companies had yet to pay their fees. He said, in response to a question from Mr. Doll, that fees were due on May 1.

VI. Newood Products – 2005 Annual Report

Mr. Potter reported that the information had been provided at the previous meeting. He reiterated that Newood Products had sent its report late and this was its third violation.

Ms. Gleason stated that the Board had discussed this at the last meeting but had not voted on it because the industry representatives were not present other than Mr. Doll.

Mr. Johnson, seconded by Ms. Gleason, moved to fine Newood Products \$250.

In response to a question from Ms. Bowman, Mr. Doll stated that he had only been responsible for the lateness of the report in the present year. He attributed his delay to a lack of computer expertise. He had the report but he had experienced difficulty opening the file.

Ms. Bowman thought, given that the 1st of April occurred over the weekend, some leniency was in order.

Ms. Gleason disagreed. She conveyed her sympathy to Mr. Doll for the situation he found himself in but wished to maintain the filing schedule as it stood. She noted that the filing schedule had gone to a hearing and had been discussed and approved as with all of the elements of the program and its enforcement. She said failure to report was fined on a per-day-late basis. She felt the Board would look bad if it let a Board member's company off.

Mr. Johnson said that even if the computer file had worked, the report would have been a day late. He stated that, in hindsight, if Mr. Doll had asked for an extension on Friday, he would have avoided the fine.

Mr. Brooke said he also felt sympathetic but he agreed that a report that was due on the weekend should be in by the Friday before. He averred that everyone needed to be treated the same.

The motion passed, 4:1:1; Ms. Bowman voting in opposition and Mr. Doll abstaining.

Mr. Doll also agreed it would have looked bad for a Board member's company not to be fined for a violation.

Mr. Luse commented that he seemed to recall some precedent for reports being accepted on the following Monday when April 1 fell on a weekend. Ms. Gleason stated that if any information came to light that indicated that this had been the case in the past, she would reconsider her vote on this matter.

Mr. Potter said he would hold the fine in abeyance until the next Board meeting.

VII. Reporting of Petroleum Distillates

Mr. Potter said he had submitted a written report but the Board had been cool to the idea of “lumping together” different chemical products. He noted that only two companies used petroleum distillates in large amounts; he had asked them about the possibility of combining some chemicals and neither company had expressed any strong opinion.

Mr. Luse stated that there were several names and CAS numbers for petroleum distillates that were essentially the same. He asserted that it would be easier to combine some of these into one entity for reporting purposes, both from the side of the company making the report and from the side of someone retrieving information on the petroleum distillates.

Mr. Poynter said some petroleum distillates that had been reported did not actually exist. Mr. Brooke asked if chemicals could be added to the list at random. Mr. Poynter said there was no double-checking to confirm that a chemical existed and merited listing.

Mr. Potter stated that a CAS number was necessary to add something to the list. He indicated that he did not double check the list but he was willing to.

Mr. Brooke expressed concern that if a company had a chemical that was under the *de minimus* quantity and it was aggregated with other chemicals, then the aggregate amount could reach reportable levels.

Mr. Potter thought it could create confusion in minds of people looking up chemicals on the Toxics website should a new class appear.

Mr. Johnson felt it was key that the larger users of petroleum distillates did not care. He did not perceive a clear advantage to aggregating them. He said Mr. Poynter’s concern that some chemicals could be nonexistent merited looking into.

Mr. Poynter said he would provide Mr. Potter with a list of the chemicals that he believed were bogus.

Ms. Gleason stated that if the two largest users were not interested in changing how petroleum distillates were reported, then she was not interested either.

VIII. Voluntary Subcategories for Output Categories 3 and 8

Mr. Brooke thought the report was very clear. He asked if it would be agreeable to have Mr. Potter redistribute the memorandum and take action at the next meeting.

Mr. Johnson said he was ready to take action. The Board was amenable to taking action on this item at the next meeting.

IX. Possible Revision of Tracking Instructions

Mr. Potter asked if the Board wished to revise the tracking instructions.

Mr. Brooke thought that the Board had discussed things earlier in the agenda that should go into the book, such as how the audits were addressed.

Mr. Potter said, in response to a question, that the revision would have to be completed by the end of the year.

Ms. Gleason said language needed to be put in regarding what happened if the due date for reporting was on a weekend and that the year be taken out of the instructions.

Mr. Potter listed the different topics that had been suggested for revision: audit procedures, the April 1 policy, subcategories, and the validity of new chemicals and CAS numbers.

Mr. Poynter related that the website www.chemfinder.com would provide information regarding a given chemical. Ms. Gleason thought this should be included in the instructions.

X. Next Meeting/Agenda Items

The Toxics Board agreed to tentatively schedule its next meeting for 3 p.m. on August 31, 2006. The meeting will convene in the Fire Conference Room on the 2nd floor of the Eugene Emergency Services Center.

The meeting adjourned at 3:55 p.m.

(Recorded by Ruth Atcherson)

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