

# MINUTES

Eugene Toxics Board  
Fire Conference Room—Eugene Emergency Services Center  
2<sup>nd</sup> & Chambers—Eugene, Oregon

May 10, 2005  
3 p.m.

PRESENT: David Monk, Chair; Jennifer Gleason, Steve Johnson, Marylee Bowman, Clyde Carson, Doug Brooke, Dave Doll, members; Glen Potter, staff; Terry Connolly, Eugene Chamber of Commerce; Dustin Caldwell, Old Dominion Carstar.

Mr. Monk called the meeting to order.

## I. Approval of Agenda/New Items

Mr. Carson requested a discussion on the quality of the minutes as an item on the agenda.

Mr. Potter added a staff report to the agenda.

## II. Public Comment

Dustin Caldwell, representing Old Dominion Carstar, reported that after studying his company's material safety data sheets, he determined that three chemicals -- toluene, xylene, and benzene -- comprised anywhere from one to fifteen percent by volume of the products used in his business, depending on the project in question. Using high-end calculations, he believed his company would have to triple in size to meet the minimum reporting requirement of 2,640 pounds of hazardous substance inputs in a calendar year. Currently, the company used about 30 gallons of paint per month, he said.

Ms. Bowman arrived at the meeting.

Responding to a question from Mr. Carson, Mr. Caldwell indicated that his company purchased pigments in small quantities. The inventory maintained was between 30 and 40 gallons.

Mr. Johnson arrived at the meeting.

Responding to a question from Mr. Brooke, Mr. Caldwell indicated his company purchased one 55-gallon drum of lacquer thinner every quarter. Mr. Carson noted that that material was probably 100 percent reportable. Mr. Caldwell said that his company was moving to a different system and would be reducing the use of that material.

Mr. Potter suggested that Old Dominion Carstar might be a borderline case in regard to reporting. He determined from Mr. Caldwell that his company was the second-largest body shop in Eugene.

Members asked further questions clarifying the details of the company's operations and determined from Mr. Caldwell that the company did not report to the Lane Regional Air Pollution Authority.

### III. Approval of Minutes

Mr. Carson referred to page 2 of the April 12, 2005, minutes, and asked that the following change be made to paragraph 3 (struck text deleted; added text italicized):

Mr. Carson said *that* the biggest complaint heard by the board was about *the low* reporting threshold quantities. He thought it needed to be reexamined ~~on behalf of both sides of the issue.~~ He stated that the most time-consuming aspect of the toxics reporting was ~~the counting~~ *tracking small quantities that may or may not need to be reported.* He ~~recommended~~ supported the idea of forming a subcommittee to review the "de minimus" amounts.

Mr. Carson also asked that paragraph 8 on page 2 be revised as follows:

Mr. Carson asked if the subcommittee could also look into the issue of ~~whether~~ *how* to provide for reporting of recycling *and expanding optional reporting categories.*

Mr. Carson modified paragraph 13 on page 5 of the minutes as follows:

Mr. Carson suggested that the board should analyze hazardous waste and fire marshal reports to find out the maximum substances that went into a business and the maximum that went out. He thought LRAPA permits would be a good resource for finding ~~out about hazardous waste~~ *air emission outputs.*

Mr. Carson asked that paragraph 7 on page 6 of the minutes be revised as follows:

Mr. Carson indicated he was willing to follow through with Councilor Kelly's request *if the budgetary questions were properly answered, and the Toxics Program could be reimbursed for its expenses.* He did not want to spend a lot of time on retail outputs.

Mr. Monk determined there was consensus to accept the minutes as amended, with the exception of Mr. Doll, who was not present at the meeting of April 12.

Mr. Carson raised the quality of the minutes as an issue, saying that he did not believe they reflected what the board said, as evidenced by his corrections. Members briefly discussed his concern, which was not generally shared. Mr. Potter noted that the board generally made few corrections to the minutes and reminded board members that the meetings were tape recorded. The minutes recorder present noted that at the council's direction, minutes recording staff had

been directed to produce more summary minutes for bodies other than itself, the Planning Commission, the Human Rights Commission, the Budget Committee, and the Police Commission. Mr. Johnson emphasized the minutes were a summary rather than a verbatim narrative and members could make corrections as they felt necessary. The minutes recorder invited members to contact her office (682-5232) if they wished to obtain a copy of a meeting tape.

#### **IV. Staff Report**

Mr. Potter reported that the 2004 reports, with a few exceptions, were posted on the City's web site. He had received a fairly typical list of problems from Steve Chipman of Information Services and would soon have these resolved and all the reports posted. He had no report at this time on how many companies had paid the fee and noted the revised deadline of May 20.

#### **V. Late 2004 Report**

The board discussed the circumstances surrounding a late 2004 report filed by A.M. Todd. Mr. Potter reviewed the usual process that occurred when he was notified that a report might be late, and noted that he typically grants five or six requests for extensions each year, normally for a two-week period. However, extensions must be requested prior to the reporting deadline. Mr. Potter also noted that A.M. Todd had filed a late report in 2003.

Dean Bautz, Quality Control Manager for A.M. Todd, explained the circumstances leading to the late filing, which involved a change in staffing, internal miscommunications between the Eugene and Kalamazoo offices of the firm, layoffs that added to his work load, and a mistaken concept on his part of the deadline. He did not know he could request an extension.

Board members acknowledged the circumstances involved in the late report and the fact the violation was not willful and did not benefit the company in any way. Board members also acknowledged the likelihood of recurring violations was not high. However, because the violation was the company's second violation and because its report was not submitted in electronic format, the board agreed to levy a fine against the company.

Members briefly discussed the amount of the fine, offering suggestions for amounts ranging from \$250 to \$500. Ms. Bowman advocated for the lower fine on the basis that the violation was not willful and the fine amount would cover the staff time involved and the cost of advertising the violation as required by the City Charter.

Mr. Johnson, seconded by Ms. Bowman, moved to fine A.M. Todd \$250 for missing the reporting deadline.

Responding to a question from Mr. Brooke, Mr. Potter indicated he did not know if A.M. Todd's report balanced because he had not audited the report.

The motion passed unanimously, 7:0.

## **VI. Recycling as an Output Category**

Mr. Brooke reported that the subcommittee formed to look into the topic had yet to meet. Mr. Potter briefly overviewed the Public Meeting Law rules that governed advisory committee meetings, reminding members of the need for notice and a brief written record of the meeting.

## **VII. De Minimus Amounts**

The subcommittee assigned to the topic, which consisted of Mr. Johnson, Mr. Brooke, and Mr. Doll, agreed to meet on May 17 at 1 p.m. at Priya's restaurant, 65 Division Ave.

## **VI. Further Response to City Council Direction**

Mr. Potter distributed and summarized a memorandum to the board entitled *Possible Reporting Facilities—Suggestions from Other Regulatory Agencies*. He noted suggestions for facilities offered by the State Fire Marshal's Office, City Fire Marshal's Office, the Lane Regional Air Pollution Agency, and the Oregon Department of Environmental Quality. Generally, they mentioned gas stations and suggested that anyone who used 2,640 pounds of solvent or adhesives was likely to be a manufacturer.

Mr. Potter called the board's attention to an attachment to the memorandum, which was an excerpt of testimony from the council's public hearing of February 14, 2005.

Ms. Bowman mentioned Great Western Chemical as a possible reporting entity.

Mr. Caldwell mentioned large paint distributors as another possible reporting entity.

Ms. Gleason suggested hospitals could also be a reporting entity.

Mr. Potter summarized the council's direction to the board, which was to study and send back to the council a refined list of business categories for addition to the Toxics Right-to-Know Program, provide an estimate of impact on income and expenses of the program due to the refined list, and to explore opportunities to coordinate the reporting of the current program and any expansion with other toxics reporting required by State and federal agencies.

Mr. Brooke determined from Mr. Potter that the city had about 20 gasoline stations and about 40 body shops.

Mr. Johnson suggested the board was limited in the number of businesses it could add to the program. There appeared to be a handful of businesses that met the threshold, such as gas

stations, some of the larger body shops, and perhaps paint and gasoline distributors, who produced a high degree of emissions that went to the air.

Mr. Potter offered to prepare a list of companies that met the council's criteria for possible addition to the RTK program. Mr. Johnson suggested that more research was needed in regard to distribution and transfer facilities and auto body shops.

Ms. Bowman recalled that the board at one time discussed swimming pools. Mr. Johnson recalled that it was claimed that pools were below the reporting threshold. He thought more research was needed. Mr. Carson thought the involved chemical was considered a pesticide or biocide and it would be exempt and not reportable, depending on how it was labeled. Mr. Johnson observed that Eugene had large few pools other than those maintained and operated by the City and the University of Oregon, which could not be required to report. Mr. Potter suggested that smaller pools could use sufficient chlorine to meet the reporting threshold.

Mr. Brooke recommended that before the board considered adding additional categories, it hear from the affected businesses

Mr. Monk and Mr. Johnson agreed with Mr. Brooke about the need to hear from affected businesses, and suggested that representatives from gasoline stations and auto body shops be invited to the next meeting.

Mr. Potter summarized the board's direction, which was to focus on auto body shops, gasoline stations, distribution and transfer facilities, and to do more research about pools. Mr. Johnson suggested that Mr. Potter consult with City Aquatics staff regarding the nature of chlorine as used in the pools.

Mr. Monk raised the potential of adding small manufacturers with emissions, such as boat manufacturers. He suggested the board include small companies with less than 10 FTE that would meet the reporting threshold.

Mr. Brooke emphasized the importance of collecting meaningful information. For example, in the case of pools, was the chlorine being used at hazardous or toxic levels?

Mr. Monk proposed that the board identify the potential universe of categories and discern the possible hazard. He agreed with Mr. Brooke that it was important to articulate the value of the information gathered from businesses.

Mr. Carson questioned whether the City Council had directed the board to consider the addition of small companies with less than 10 FTE. Mr. Potter quoted from the council's direction, which was for the board to provide the council with "a list of businesses, at least some of whom might have to report." Mr. Carson recalled that the City Charter amendment had set the FTE threshold at 10 out of concern for small businesses. Mr. Johnson said he was aware of some such companies who would have to report if the FTE threshold changed.

Mr. Monk agreed to follow up on whether the hospital incinerator was still in operation.

Mr. Carson believed there was a point in determining the relative potential impact on the environment from emission releases from a public health point of view. He noted that under State law, any new community right-to-know program must provide some justification for why the company must report, not just the philosophical premise that it would be nice to have that information. Mr. Monk believed the program provided business with valuable information in being more precise about accounting for their use of toxic materials, which could put their employees at less risk and thus minimize liability insurance and workers' compensation needs. Mr. Carson did not think businesses needed a right-to-know program to help with those issues. Ms. Gleason said that what some saw as a philosophical issue was not philosophical to everyone.

#### **IX. Schedule Next Meeting/Agenda Items**

The Toxics Board agreed to meet again on June 28 at 3 p.m. in the Singer Room at the Eugene Public Library. Members agreed they would discuss the board's summer meeting schedule at the June meeting.

The meeting adjourned at 4:30 p.m.

(Recorded by Kimberly Young)