

MINUTES

Eugene Toxics Board
Singer Conference Room—Eugene Public Library
10th Avenue & Olive Street—Eugene, Oregon

June 28, 2005
3 p.m.

PRESENT: David Monk, Chair; Steve Johnson, Marylee Bowman, Clyde Carson, Douglas Brooke, Dave Doll, members; Glen Potter, staff; Terry Connolly, Eugene Chamber of Commerce; Roxie Cuellar, Home Builders Association; John Coble, Duane Coble, Northwest Solvents; Jim Jones, Steve O' Toole, Oregon Petroleum Association; Greg Agee, Tyree Oil Company; Diane Craig-Shepherd, Craig Oil, Inc.; Dustin Caldwell, Old Dominion Carstar; Robert Travelstead, distributor of Coatings and Resins of Collision Industry; Zachary Vishanoff; guests.

ABSENT: Jennifer Gleason, member.

Mr. Monk called the meeting to order.

I. Approval of Agenda/New Items

Mr. Monk suggested that subcommittee reports be given after the discussion with invited guests. There were no objections. The agenda was changed so that Item VI, Further Response to City Council Direction, was moved to Item IV.

Everyone present introduced themselves.

II. Public Comment

Zachary Vishanoff reiterated his concerns regarding nanotechnology and “nanotoxicity.” He felt that the University of Oregon wanted to be a leader in nanotechnology. He asked that the Toxics Board take a stand on this issue. He circulated copies of his newsletter.

Mr. Johnson explained that while he was sympathetic to Mr. Vishanoff’s concerns, the purview of the Toxics Board was limited to federally listed hazardous substances. He recommended that Mr. Vishanoff address his concerns to the City Council. Mr. Monk concurred.

III. Approval of Minutes

Mr. Monk offered the following correction to page 5, paragraph 3:

- “Mr. Johnson observed that Eugene had *few* large pools other than those maintained and operated by the City and the University of Oregon, which could not be required to report.”

Mr. Carson, seconded by Ms. Bowman, moved to approve the minutes from the meeting of the Toxics Board held on May 10, 2005, as amended. The motion passed unanimously, 6:0.

IV. Further Response to City Council Direction

Mr. Johnson said he hoped to hear what levels of use of the listed toxic substances the guests used in their respective businesses. He reiterated that the City Council had charged the Toxics Board with determining whether other industries belonged on the list of companies required to report. He stressed that no one wanted to add an industry unless the amount of a toxic chemical was great enough to require reporting.

Mr. Carson echoed Mr. Johnson’s comments and added that he would like to hear how the substances were being used in the course of business.

Mr. Brooke wished to know if the business representatives were familiar with the current reporting process.

Mr. Monk asked that the business representatives come forward and declare who they represented and indicate whether they used more than the threshold of 2,640 pounds per year of the substances in question.

John Coble, Northwest Solvents, explained that he was a petroleum product marketer that handled gasoline, petroleum distillates, solvents, and dry cleaning supplies. He underscored that his business did not manufacture anything but rather served as a distributor.

In response to a question from Mr. Carson, Mr. Coble said gasoline was distributed by rail and the rest of the products were distributed by truck. He further stated that they owned tanker trucks and repackaged products, employing seven full time workers.

Mr. Potter asked if any product escaped when being handled and repackaged. Mr. Coble replied that he would not be lying if he answered in the negative but that it would be impossible to state that products never escaped.

Mr. Carson asked if there was any technology that served to recapture what escaped. Mr. Coble indicated that dry cleaning products were kept in closed containers.

Mr. Doll asked if there was a tracking mechanism for volume. Mr. Coble replied that the business reported to the State Fire Marshal and to the City.

Mr. Coble affirmed, for Mr. Johnson, that the storage facility was located at 5th Avenue and Chambers Street.

In response to Mr. Monk, Mr. Coble affirmed that he used a closed loop system for transferal from a tanker to a truck.

Mr. Johnson asked how many products the company carried. Mr. Coble estimated that 20 to 30 products were available through his company.

Mr. Brooke asked what volume of the products remained in the community. Mr. Coble responded that approximately 1 percent remained.

Mr. Potter commented that it would inform the Toxics Board to know what volume 1 percent constituted. Mr. Coble indicated that he did not know the number.

In response to Mr. Carson, Mr. Coble reiterated that his business mostly repackaged products from larger vessels to smaller ones for distribution purposes.

Steve O'Toole, executive director of the Oregon Petroleum Association (OPA), stated that the OPA represented a number of different parts of the petroleum industry, all affiliated with either distributing or retailing. He underscored that no one represented by the OPA undertook the manufacture of any petroleum products. He said the members of the OPA reported to the Department of Environmental Quality (DEQ) and the State Fire Marshal's office and were highly regulated. He noted that petroleum retailers paid a state gasoline tax.

Mr. Potter explained that service stations were of key interest to the Toxics Board.

Mr. O'Toole remarked that family-owned gas stations probably did not reach the threshold. Mr. Johnson disagreed. Mr. Potter added that the City Council had instructed the Toxics Board to nominate more businesses for inclusion in the program and that gas stations were on the "top of the list."

Mr. O'Toole conveyed the OPA's opposition to the level of tracking the Toxics Board would require of gas stations should they be added to the list of businesses required to report. He stressed that small gasoline stations did not have the personnel to facilitate reporting.

Mr. Johnson said the board was aware that the current forms for reporting might not be entirely appropriate for the new types of businesses now under consideration. He anticipated that the board would work with the covered industries to ensure that reporting was not an unreasonable task. He said gas stations would likely report only two products and would only need to know how many gallons of gas were in the storage tank at the beginning of the year, how many gallons were sold, and how many gallons were in the tank at the end of the year. He felt recording would be simpler than the industry had speculated it would be.

Mr. Carson underscored that the industry representatives on the Toxics Board were not interested in expanding the program. He said the board wanted to concentrate on the releases into the environment and the focus should be the releases into the environment that were over the limit rather than the entire amount of chemicals handled by a particular business.

Mr. Brooke stressed that nothing was set in stone and encouraged the business representatives to participate in the process. He wondered how much out of 100 gallons of gasoline could get into the environment. Mr. O'Toole said there was no available research on such a minute release.

Mr. Johnson said there was some research on how much gasoline was released into the air when it was being pumped. He did not think that finding defined release estimates would be difficult.

Mr. Carson questioned the necessity of determining this information in the face of prior research. He reiterated the industry representatives' belief that the Toxics Board reporting was redundant and advised the business representatives to focus on redundancies in their reporting in their testimony as well as releases into the environment.

Mr. Coble asked why the amount released was important. Mr. Carson replied that some people were concerned about chemicals released into the environment. Mr. Coble agreed and pointed out that once a chemical was provided to the consumer, it would be released regardless.

Jim Jones, also representing the OPA, stressed that gasoline sales were governed by the Clean Air Act. He said releases into the atmosphere were reported.

Mr. Johnson averred that incidental release was still an issue.

Greg Agee, Tyree Oil Company, stated that all delivery trucks were capable of vapor recovery because this was a requirement. He explained that as the tanks at a station were filled, all escaped vapors were routed back into the tank.

Mr. Jones explained that all underground storage tanks had been replaced by tanks with built-in vapor recovery due to a change in law in 1998. Mr. Agee added that all gas stations had leak detectors on the pumps.

In response to a question from Mr. Monk, Mr. Jones explained that any spilled petroleum product was picked up by an "absorb pack" designed specifically for petroleum products which was then placed in a sealed container and shipped off to be disposed of. He reiterated that the petroleum product industry was heavily regulated. He said currently all petroleum businesses were required by federal law to submit a spill containment plan to the local fire department and the Environmental Protection Agency (EPA) by February 2006.

Mr. Brooke surmised that distribution and delivery were controlled, but the transition from pump to car was still difficult to monitor. He wondered what sort of Occupational Safety and Health Administration (OSHA) oversight there was of the employees who pumped the fuel.

Duane Coble, Northwest Solvents, asked if the Toxics Board program duplicated reporting to the State Fire Marshal's office. Mr. Johnson replied that the board required that a company know its inventory and a company would have to be able to estimate how much of a substance would be released into the ground or the water.

Mr. Brooke encouraged Mr. Coble to remain involved. He related that the Toxics Board had been understanding about past errors in reporting and such reporting should not be a cause for worry.

Roxie Cuellar, Home Builders Association (HBA), commented that identification of roofing and painting substances would be problematic. She said the construction board did not keep lists of roofers and painters that contracted as part of the building industry. In addition, she noted that not all small contractors were even listed in the phone book and some of those that were had cell phone numbers, so it would be difficult to determine whether the contractors were located in Eugene. She surmised that most contractors would not have 2,640 pounds of a substance at a stationary facility because they worked on varying sites and brought materials to such a site. She averred that no contractors would likely exceed the threshold for reporting.

In response to a question from Mr. Johnson, Ms. Cuellar stated that most contractors only worked a portion of their jobs within the city limits of Eugene.

Ms. Cuellar related that only the "hot mop" process would be subject to Toxics Board reporting because most roofers were changing to single-ply roofing. She predicted that the "hot mop" process would not be used after another decade or two.

Mr. Johnson asked how much paint it would take to paint a large building. Ms. Cuellar did not know. She pointed out that many painting contractors were small businesses with two or three people working for themselves out of their homes. She guessed that much of the paint was purchased by the consumer as opposed to the painter.

Dustin Caldwell, Old Dominion Carstar, said based on investigation the business had conducted they determined that it would have to triple in size to reach the threshold in liquid products. He remarked that it would be a daunting task to inventory his business given the number of chemicals used. He stated that the business had 20 employees in its Eugene facility and four in its Springfield facility. He felt the business would likely choose to grow in Springfield should it be required to report.

Mr. Potter surmised that based on analysis the auto body business would not be required to report.

Mr. Caldwell averred that his company was being a "green" company to the greatest extent possible. He added that given that it was governed by the insurance industry, an increase in expenses would reduce his company's ability to compete in the market.

In response to Mr. Potter, Mr. Caldwell said he was reasonably sure no body shops would exceed the 2,640 pound threshold.

Mr. Monk asked how much lacquer thinner was used. Mr. Caldwell indicated that his company

was working to recycle the thinner.

Mr. Johnson remarked that 230 gallons was nearly reportable.

Ms. Cuellar noted that one painter who had a paint booth used five gallons of paint per week.

Terry Connolly, representative of the Eugene Area Chamber of Commerce, asked staff to explain the next steps. Mr. Monk replied that the Toxics Board would bring its findings to the City Council, but that he was uncertain of the timeline. He hoped to return before the council in the early fall, 2005.

Mr. Potter agreed to photocopy the Toxics Board Charter for Mr. Agee. He stated that the Toxics Board would study the information presented to it and would provide recommendations. He explained that the process from there, should changes to the list be advisable, would begin with draft ordinance language from the City Attorney which would then be subject to a public hearing and ultimately fall under the jurisdiction of the City Council.

Mr. Carson remarked that, based upon what he had heard, he did not think anything involved with petroleum products would be included in new ordinance language.

Mr. Johnson presented a short report on swimming pools, and distributed a document entitled *Chlorine Use By Swimming Pools*. Based upon what he found, he did not believe that any privately owned swimming pools used a reportable amount of chlorine.

Mr. Johnson said aquatic facilities were moving away from chlorine usage and some were using ozone and ultra-violet light as purifiers. He was convinced that this type of water treatment would become more prevalent with time.

Mr. Carson asked if Mr. Johnson had had an opportunity to check the other chemicals that the pools used. Mr. Johnson replied that the labels did not indicate that chemicals were for anything but water purification. Mr. Carson recommended he refer to the EPA number on the label and determine if the chemicals were classified as biocides.

Mr. Coble expressed concern regarding the reporting process. He was worried it would prove to be cumbersome while not adequately measuring chemical usage in the City of Eugene.

Mr. Johnson commented that it would be possible, with an idea of how much gasoline was sold in the City of Eugene, to estimate how much pollution was generated.

Mr. Doll tried to assuage Mr. Coble's concerns. He underscored that reporting requirements were not stringent. He said Mr. Potter would work with businesses to facilitate reporting. He assured Mr. Coble that he (Mr. Doll) was able to conduct the assessments necessary for reporting in his business without a great deal of effort.

Mr. Brooke suggested that someone from the Lane Regional Air Pollution Authority (LRAPA)

speak to the Toxics Board regarding gas stations. Mr. Monk noted that a study of gas stations had been recently completed.

Mr. Brooke also recommended that someone from Oregon OSHA come to discuss concerns regarding gas stations.

Mr. Carson thought there could be some information on the health of gas station pump operators recorded by OSHA.

Mr. Carson said the DEQ was likely the regulating agency for petroleum holding tanks.

V. Recycling as an Output Category

And

VI. De Minimus Amounts

Mr. Johnson reported on the meeting of the subcommittee, which included Mr. Doll, Mr. Brooke, and himself, as outlined in the handout entitled ***Toxics Board Subcommittee on Recycling and De Minimus Amounts; May 17th***. He said the subcommittee concluded that there was not an adequate way of reporting reuse, recycling, and waste. He related that the subcommittee had agreed that it would be good to provide subcategories for output categories 3 and 8. He thought this would provide ways to understand better what was happening to a reportable material.

Mr. Potter asked if this would constitute the program's first reporting of something that did not happen at a particular facility. Mr. Johnson thought that at the start it could be a voluntary reporting. He added that whatever was not reported in one of the subcategories would be assumed to be disposed of as waste.

Mr. Brooke commented that one thing to consider was material that was collected and resold.

Mr. Carson thought this would let people report their waste in a more detailed way.

Ms. Bowman asked if a manufacturer would gain anything from additional reporting. Mr. Potter replied that a manufacturer would look better to users of the data.

Mr. Carson said it would be easy to add categories that would create more accuracy in reporting and it would not require a change in the charter.

Regarding *de minimus* amounts, Mr. Johnson reported that the committee extrapolated from its examination of the issue that there were elements of false precision in such amounts. He thought there was no easy answer without requiring measurement. He said the subcommittee had not arrived at a "nuts and bolts" suggestion on how to address this.

Mr. Potter said the *de minimus* amount could be changed by changing the charter.

Mr. Johnson related that the subcommittee concluded it did not have a recommendation to make

on *de minimus* amounts.

Mr. Carson remarked that should the board be willing to look at this as a housekeeping charter amendment at some point in the future, the wording of the charter could be rephrased to better align it with the intent of the charter and to remove the accuracy level of 0.022 pounds for extremely hazardous substances.

Mr. Potter said he would place outputs 3 and 8 on a future agenda for further discussion.

VII. Schedule Next Meeting/Agenda Items

Mr. Potter related that he had asked gas station owners to come and speak on their behalf but no one had come. He stated that the discussion on the council directive would continue at the next meeting.

The Toxics Board agreed to meet again on August 9 at 3 p.m. in the Fire Conference Room at the Eugene Emergency Services Center located at the corner of 2nd Avenue and Chambers Street.

The meeting adjourned at 5:02 p.m.

(Recorded by Ruth Atcherson)

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