

MINUTES

Toxics Board
Singer Room—Eugene Public Library

April 29, 2004
2 p.m.

PRESENT: Marylee Bowman, Chair; Clyde Carson, Brian Allen, Paula Holloway, Steve Johnson, Jennifer Gleason, members; Glen Potter, Fire and Emergency Medical Services; Kathryn Brotherton, City Attorney's Office; Terry Connolly, guest.

ABSENT: David Monk, Vice Chair

I. APPROVAL OF AGENDA/NEW ITEMS

There were no changes to the agenda.

II. PUBLIC COMMENT

There were no members of the public wishing to speak.

III. APPROVAL OF MINUTES

Mr. Carson offered a correction to page 3. At the end of the next-to-last full paragraph on the page, he requested that the words "have a separate program" be changed to "change the charter."

At the end of the ninth full paragraph on page 5, Mr. Carson asked that the words "due to the lack of time" be added.

The minutes were accepted as amended by general consensus.

IV. STAFF REPORT

Mr. Potter said the 2003 reports had all been received, without any violations of deadlines – though a typical number of extensions had been granted – and the data would be posted on the Internet soon.

Regarding 2004 invoices, Mr. Potter apologized for not having current information, but assumed that the majority of invoices had been paid at this point.

V. RESPONSE TO CITY COUNCIL REQUEST

Ms. Brotherton recommended making a decision at this meeting regarding whether or not to develop a charter change recommendation.

Mr. Carson said going with an ordinance would set up a separate program. He said his main focus was to address the equity issue. He said the charter would not address the fee issue. He said the board could try to change the charter or try to reduce the budget. He said there was no support, on the part of industry, to expand the program.

Mr. Potter expressed doubt that the program budget could be reduced to the extent necessary to adequately address the fee equity issue without eroding the quality of the data available to the public, which is the program's overall intent. He added that, should the time come for a new person to manage the program, that person might be paid at a lower rate, but due to inexperience could require more time to perform all of the necessary tasks.

In response to Mr. Potter's comments, Mr. Johnson said there might be things that could be done to reduce the duties of the job. In response to Mr. Carson's comments, Mr. Johnson suggested that the time was right to consider expansion of the program. He suggested including dry cleaners, gas stations, and the University of Oregon as possible new reporting entities. He opined that some of this reporting probably would not be difficult.

Ms. Gleason said the fee problems might be addressed by disregarding SIC codes for purposes of fees. She pointed out that the charter definition of "hazardous substance user" did not mention SIC codes. Ms. Brotherton noted that the current ordinance language regarding fees does mention them.

Ms. Gleason suggested that the board examine a list of businesses currently required to obtain hazardous materials permits from the City as a step toward identifying types of businesses to consider adding to the Toxics Program.

There was discussion regarding the programs operated by the state and local fire marshals.

Ms. Brotherton said there was no legal concern with expanding the overall program through ordinance. There might be a greater concern if the board wished to expand only the list of fee-paying entities.

In response to a question from Mr. Carson regarding the charter language about being self-supporting through fees, Ms. Brotherton said expanding only the list of fee-paying entities would necessitate at least a review of the charter language.

Mr. Carson said increasing the overall program should only happen by a vote of the people. He stressed that manufacturing was the heart of the program. He raised concern over including other businesses such as dry cleaners.

Mr. Potter said the SIC codes could be deleted from the ordinance and all toxics users could be billed.

Mr. Carson said the scope of the charter would not allow that.

Mr. Johnson said expanding the program to others would make others eligible for representation on the board. He said there were many reasons to investigate the possibility of expanding the overall program. He said he would prefer to see the program expand in the City of Eugene to others not in manufacturing. He said he was not opposed to going to voters, but he expected that any proposal presented to voters would be less agreeable to business than an ordinance recommendation that might emerge from the board.

Ms. Gleason said the City Council would have a public hearing on the recommendation from the toxics board.

In response to a question from Ms. Bowman regarding lowering the FTE threshold to eight employees, Mr. Potter said a small number of additional businesses would be included, but not enough to affect the fee problem significantly.

Mr. Carson opined that the public were hazardous substance users as well as industry. He said there was a relationship between demand for products and supplying them. He said, using Mr. Johnson's logic, the general public should be included in the fee structure. He said it would not be fair to expand the program to businesses that were not mentioned in the charter.

Mr. Carson said he saw no reason to include gas stations since it was private cars that did the polluting. He also said dry cleaners should not be included. He said the council asked the board to address the equity issue and expanding the program was not the way to address the issue.

Mr. Potter said there had been a legal opinion that the program could not be supported by the General Fund.

Mr. Johnson said a further research question to consider would be the possibility of disregarding the FTE threshold entirely, and requiring anyone using more than a metric ton of toxic material,

regardless of number of employees, to report and pay a fee. He remarked that there might not be such a direct correlation between positions and amounts of toxics.

Mr. Carson said he could see the point of the idea but remarked that it would not net much gain to the program.

Ms. Gleason requested copies of substantive ordinances affecting the Toxics Program that had been adopted by the City Council to date.

In response to a request from Mr. Johnson, Ms. Brotherton agreed to provide a brief legal opinion on expanding the overall program.

Mr. Potter observed that there did not appear to be four board votes in favor of pursuing a charter amendment, and so he surmised that that option was to be abandoned. The board agreed by consensus that this was the case.

VI. NEXT MEETING

The next meeting was scheduled for May 20, 2 p.m., at Fire & EMS headquarters, 2nd & Chambers.

The meeting adjourned at 3:15 pm.

Recorded by Joe Sams