

MINUTES

Toxics Board
Singer Room—Eugene Public Library

August 26, 2004
2 p.m.

PRESENT: Marylee Bowman, Chair; Brian Allen, Clyde Carson, Jennifer Gleason, Paula Holloway, David Monk, Steve Johnson, members; Glen Potter, staff; Kathryn Brotherton, City Attorney; Sole Mayoral Nominee Kitty Piercy, Scott Whittier and Mark Marzullo (Whittier Wood Products), Doug Brooke (Hynix Semiconductor), Terry Connolly (Eugene Area Chamber of Commerce), guests.

I. APPROVAL OF AGENDA/NEW ITEMS

The Chair allowed Mr. Potter to add an item regarding City pesticide reporting under Staff Report.

II. PUBLIC COMMENT

There were no members of the public wishing to speak.

III. APPROVAL OF MINUTES

The minutes of the previous meeting were approved by general consensus.

IV. STAFF REPORT

2004 invoices

Mr. Potter said the 2004 invoices were all paid excepting Whittier Wood Products. The board proceeded to discuss the letter sent by Whittier, requesting a fee exemption for one of their facilities.

Mr. Carson said the company should get an exemption because the substance was not used in manufacturing.

Scott Whittier of Whittier Wood Products explained that at the location in question there were no chemicals being used in the manufacturing process. He said it was a burden to the plant to pay a fee for a solvent tank that had nothing to do with manufacturing.

Ms. Gleason said there was some question of making a distinction between manufacturing uses and maintenance. She said materials used to maintain process related equipment were not exempt from fees.

Mr. Potter said there was not enough of the chemical solvent to have to report, but noted that a fee had been charged.

Mr. Johnson said if the solvent tank were removed then there was nothing to report and a fee would not be charged.

Mr. Whittier said the function of the facility was to chop and cut wood.

Ms. Gleason said the rules around who paid fees needed to be carefully reviewed. She said the use of the solvent was related to manufacturing so a fee would have to be charged.

Mr. Potter said the solvent tank had already been moved. He noted that the company was asking for an exemption from the invoice already sent.

Mr. Johnson, seconded by Mr. Carson, moved for an exemption for the facility in question since the solvent tank had already been removed from the site and also moved to exempt the site from future fees if there were no reportable chemicals on the site.

Mr. Monk said a process had been established for exemptions from reporting, but not from fees. He said he would support the motion if an affidavit were signed that there were no reportable substances on the site.

The motion passed unanimously.

Late Audit Response

Mr. Potter said the audit process was continuing. He noted that he was still seeing some discrepancies between one year's year-end quantities and the next year's beginning quantities, even though the City's reporting software in recent years has supplied the correct beginning-year numbers based on what had been reported for the previous year. He added that some businesses were reporting in greater detail than necessary.

Mr. Potter said there had recently been a late response to an audit. He said he did not know if any enforcement mechanism was available.

Mr. Johnson said the company had failed to file a correct report. He said a failure to correct the report in time was a violation.

Mr. Potter noted that the audit response was completed soon after the company requested additional time.

Ms. Brotherton suggested that the board consider a policy to address such situations.

Mr. Johnson said this should be a future agenda item. The board agreed by consensus.

Recruitment

Mr. Potter said there were two business places to be filled on the board. He noted that Mr. Allen had resigned, but had agreed to serve until the end of October, so that recruitment of a member to serve out his unexpired term could be included in the City's general process.

City Pesticide Reporting

Mr. Potter said the City reported to the Toxics Program on a voluntary basis. He noted that pesticide reporting was awkward and time-consuming. He noted that the City filed a pesticide report to the State. He also noted that state law pre-empts local governments from requiring pesticide reporting, and the City is the only entity reporting pesticides to the Toxics Program, having volunteered to do so. For these reasons, he asked that the board to release the City from reporting pesticides.

Mr. Potter said the city reported the active ingredients in the pesticides and the quantity used. Mr. Monk asked whether this same information, at the same level of detail, was available publicly elsewhere. If not, then Mr. Monk opined that the reporting should continue on the current basis. Mr. Potter agreed to research the question.

Mr. Potter introduced Kitty Piercy, the sole nominee for Eugene Mayor, to the board members.

IV. RESPONSE TO CITY COUNCIL REQUEST

Ms. Bowman asked for input from the board on the options to address the City Council's request regarding perceived fee inequities.

Mr. Monk said there were other entities using and discharging chemicals other than manufacturers. He said he would like to see these entities included in the program.

Mr. Carson said he preferred Proposal A, a surcharge on City HazMat permit fees, because it would address the concern without adding to the reporting burdens imposed by the original Charter Amendment. He said expanding the program should be by a vote of the people even if that were not legally required. He said manufacturers should not be unfairly singled out as the only polluters.

Ms. Gleason disagreed and said manufacturing was not specifically called out in the law. She said citizens wanted to know about what chemicals were being used in Eugene. She said expanding the program would solve equity issues about reporting as well as funding.

Mr. Johnson said reporting what was going into the environment was a critical difference between the City and State programs. He said voters had not become less concerned about chemical emissions in the time that the Toxics Program had existed.

Mr. Carson raised concern over the possibility of a backlash if the program were expanded. He said business might mount a campaign to abolish the program all together.

Mr. Johnson said he was willing to take that risk. He said reporting in most cases would be fairly simple. He added that the fees would go down as the numbers of businesses reporting increased.

Mr. Potter raised concern over timelines and the ability to educate added companies by January 1.

Mr. Johnson said there were ways to stage the process so companies did not have to actually report until 2007, for 2006.

Ms. Brotherton noted that a work session, public hearing, and action all needed to be scheduled with the City Council.

There was general discussion of fee structure.

Mr. Carson said the two main choices were to pay a fee and report or pay a fee and not report.

In response to a question from Ms. Gleason regarding the average time it took a company to report, Mr. Potter said it varied significantly.

Mr. Carson said the time involved in filing a report was more expensive of paying the fee.

Mr. Johnson said there was an opportunity for the board to increase the knowledge of the community about the use of toxics in the environment.

Ms. Gleason read the direction by the City Council.

Mr. Carson, seconded by Mr. Allen, moved that the Toxics Board make a recommendation to the City Council that would not expand the program's reporting requirements.

Mr. Monk said he would not support the motion.

Ms. Gleason said she would not support the motion.

Mr. Johnson said he would not support the motion because it did nothing to increase the knowledge of the community regarding toxics used.

Mr. Carson said he could not support any expansion of reporting that did not include a public vote about who should report.

Mr. Allen said the issue was to take care of budget matters. He stressed that other options could be taken up at a later date.

The motion failed 4:3 with Mr. Carson, Mr. Allen, and Ms. Holloway voting in favor.

Mr. Johnson, seconded by Ms. Gleason, moved that the board move forward with Proposal B, requiring any hazardous substance user to report and pay a fee, without regard to SIC code or FTE level, exempting reporting of substances that remain in closed containers while at a facility, and phasing in the change so as to require fees in 2005 but not to require tracking until 2006 (with reports for 2006 due in 2007).

Mr. Carson said expanding the toxics program in the manner outlined in the motion would be a huge and regrettable step.

The motion passed 4:3 with Mr. Carson, Mr. Allen and Ms. Holloway in opposition.

VI. NEXT MEETING

Mr. Potter said he would try to analyze Proposal B but noted that it would be difficult to do when it was not clear which companies would be required to report.

The next meeting was scheduled for September 15 at 2 pm at the library.

The meeting adjourned at 4:15 pm.

Recorded by Joe Sams