

# MINUTES

Eugene Toxics Board  
Fire Conference Room, 2<sup>nd</sup> Floor – Eugene Emergency Services Center  
1705 West 2<sup>nd</sup> Avenue, Eugene, Oregon

November 17, 2004  
3 p.m.

PRESENT: Marylee Bowman, Chair; Jennifer Gleason, David Monk, Steve Johnson, Clyde Carson, Douglas Brooke, Dave Doll, members; Glen Potter, staff; Kathryn Brotherton, City Attorney's Office; Brian Allen, Terry Connolly, guests.

## I. Approval of Agenda/New Items

Ms. Bowman called the meeting of the Eugene Toxics Board to order at 3:05 p.m. She determined there was no objection to the order of the agenda, and members had no new items they wished to add.

## II. Public Comment

There was no one who wished to comment.

## III. Approval of Minutes of October 14, 2004

Ms. Brotherton offered the following correction to the minutes:

- Page 3, paragraph 1: "Ms. Brotherton said *they should discuss* the ordinance *provision* that businesses needed to be incorporated for consideration."

Ms. Bowman deemed the minutes from the meeting of the Toxics Board held on October 14, 2004, without objection, approved as amended.

Mr. Carson arrived at the meeting.

## IV. Staff Report

Mr. Potter stated that the agenda packet included a draft roster with updated information. He added the following changes:

- Email address for Marylee Bowman: [Vortex3@comcast.net](mailto:Vortex3@comcast.net)
- Daytime phone number for David Doll: 232-5219

Ms. Gleason added that utilizing extension 15 when calling her would expedite contact.

Mr. Potter announced that it was time to issue the Toxics Board's annual report. He explained the report was required by the charter and that he would include a draft of the report for the board's review in its January meeting packet.

Mr. Potter suggested it was also time to consider reissuing the Tracking Instruction handbook for 2005. He did not think there were any significant changes from the handbook for 2004 and recommended that a memo be sent to businesses indicating that the 2004 handbook would apply to 2005. The board concurred with the recommendation.

## **V. Response to City Council Request**

Mr. Potter provided a brief overview of the draft ordinance, entitled *An Ordinance Concerning Hazardous Substances User Fees; Amending Sections 3.692 and 3.694 of the Eugene Code, 1971; and Adding Section 3.695 to that Code.*

Ms. Brotherton reported that new fee revenues, such as those that might be generated by the ordinance -- or by the commercial solid waste hauling fee surcharge that was also being considered -- could not be used to fund program activities mandated by the City Charter. In response to a question, Mr. Potter explained that the Charter did not break down requirements such as production of a handbook, but it did require staff to support the Toxics Board. He said the question of which program activities are Charter-mandated is not easily answered.

Mr. Carson said when a separate system was set up, given the way the Charter was written, it was difficult to understand how the proposed surcharge was not subsidizing the existing program in some sense. He felt it would defray costs for additional activities and not reduce fees for anyone.

Ms. Gleason responded that it would be possible to separate out expenses. She underscored that the board had been asked by the City Council to respond to the draft and, given that, it was possible to recommend alternatives should members not think that the ordinance would work in its current form.

Mr. Carson opined that a surcharge assessed to solid waste hauling fees was tantamount to subsidization of the program. He thought it possible to make the fee schedule work without separating activities, but if different businesses were not separated out, the board would likely be accused of using these businesses to subsidize the original program.

Mr. Monk arrived at the meeting.

Mr. Johnson commented that it was not necessary to use the strictest interpretation of the Charter. He was open to the possibility of some delineation of activities in the schedule of surcharges and fees.

Ms. Brotherton projected that a surcharge of \$1 per month would net the Toxics Program \$50,000 annually, or about 60 percent of the current budget. She said the board should be prepared to answer questions from the council on why 60 percent of its budget should be used for non-Charter-mandated activities.

Mr. Potter suggested that a 50 cent surcharge would subsidize a smaller portion of the budget. He added that he felt the time he spent assisting businesses with compliance was not required by the Charter, but was integral to the success of the program.

Mr. Johnson felt it possible to determine the program's financial needs and then set the surcharge to the appropriate amount.

Mr. Potter thought it possible that the City Council would instruct staff to stop engaging in non-Charter-mandated activities.

In response to a question from Ms. Bowman, Mr. Potter clarified that the program was not short of funding, but rather was seeking to offset the State ruling that capped fees so that most participating businesses were now charged \$31.65 per full time equivalent (FTE) employee to pay for the program.

Mr. Johnson said that in the strictest interpretation, the City Charter did not require that anyone be given assistance in understanding and complying with the program's requirements. He stated that an enormous amount of time was spent providing information to people, so regardless of the language in the Charter, this dissemination of information was integral to the program.

Mr. Carson remarked that it benefited those in the program to be educated about it.

Ms. Gleason recommended determining exactly what was required by Charter and what was not. As examples, Mr. Potter responded that neither the City Attorney nor the minutes recorder was required by Charter.

Ms. Brotherton suggested Mr. Potter break down his salary and benefits and determine how much of it was spent on activities that were mandated by Charter and how much was spent on activities not covered by the Charter.

In response to a question from Ms. Bowman, Mr. Potter said it would take work and time to implement a solid waste a surcharge. He noted there would likely be multiple contacts from people who were not happy with the surcharge or who did not understand and it would also take time to develop and implement a billing schedule.

Mr. Johnson acknowledged there would be start-up costs in the first year of implementation but asserted that once the first year had passed, these costs would subside. Mr. Potter added that new fees would support the program beginning in fiscal year 2006. He said he was prepared to do the work it would take to set up the surcharge, should the ordinance be approved.

In response to a question from Mr. Brooke, Mr. Potter clarified that the City Council had requested the Toxics Board to come up with a proposal to address the perceived fee inequity caused by the \$2,000 cap on fees imposed by the Oregon Legislature.

Mr. Johnson remarked that the general intent of the Charter was to allow the community access to information on the toxic substances used and discharged into the environment. He felt the surcharge on solid waste hauling did not fall under the general intent of the Charter, though he understood its financial necessity.

Mr. Potter recapped the board's instructions, from the previous meeting, to forward its response to the City Council, including both the ordinance adding certain types of businesses and the solid waste hauling surcharge, and indicates that the right-to-know members of the board would prefer a remedy that required additional reporting (the ordinance), while the business representatives would prefer a remedy that did not require additional reporting (the surcharge).

Mr. Johnson moved to forward both proposals to the City Council with the aforementioned sentiments of the Board. Ms. Gleason provided the second. The motion passed unanimously, 7:0.

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

The board agreed to meet at 3 p.m. on January 13, 2005, at the Eugene Public Library.

Ms. Bowman thanked Mr. Allen for his service on the Toxics Board and everyone enjoyed cookies and refreshments.

The meeting adjourned at 3:52 p.m.

(Recorded by Ruth Atcherson)