

# MINUTES

Eugene Toxics Board  
Fire Conference Room – 1705 West 2<sup>nd</sup> Avenue

February 21, 2003  
2 p.m.

PRESENT: Clyde Carson, Chair; Brian Allen, Marylee Bowman, Jennifer Gleason, Madronna Holden, David Monk, Paula Holloway, members; Glen Potter, Fire & Emergency Medical Services; Terry Connolly, guest.

Mr. Carson called the meeting of the Toxics Board to order.

## I. 2003 FEE RECOMMENDATION

Mr. Potter reported that the City Attorney's Office had advised him that the Toxics Board should convene and recommend a fee to the City Council.

Ms. Holden arrived at the meeting.

Mr. Carson asked the board to consider the following questions: 1) What can the board legally recommend based on the charter? and 2) Is the State-imposed \$2,000 fee cap now in effect?

The board discussed the questions posed by Mr. Carson. Mr. Allen objected to the current rate structure as he perceived that anything above zero was a quantity, and State law precluded the City from charging the fee on the basis of quantity. Ms. Gleason disagreed that the City's fee was based on quantity, pointing out it was based on full-time equivalent employees.

Mr. Potter reviewed the City Attorney's position on the State-imposed cap, reporting that the City Attorney did not believe that the cap affected the current year's fees because it took effect on July 1, 2003.

Mr. Carson wanted to impose the cap on the current fee. He said that the City was not precluded from taking that action. Mr. Allen agreed. Ms. Gleason said that was allowable as long as the program costs were recovered.

Mr. Allen, seconded by Mr. Carson, moved to cap fees at \$2,000 for this year.

Ms. Gleason indicated opposition because program costs would not be recovered and because the cap would have a negative impact on small businesses. Mr. Monk and Ms. Holden concurred. Mr. Monk advocated for giving the small businesses affected by the fee time to adjust to and budget for the increase.

Mr. Allen and Mr. Carson disagreed with the City Attorney's interpretation regarding the State cap. Mr. Carson argued that the cap applied to the full calendar year retroactively. He believed that the City would be in violation of the State law if it did not cap the fees. Even if the City Attorney was correct, he argued, it was not fair that some companies paid thousands of dollars to support the program. If the fee structure negatively impacted small businesses, it was the fault of the program structure. He believed that the cost of compliance to the companies was heavy.

Ms. Gleason reiterated that the cap applied on July 1, 2003, and she did not agree that it applied to fees that were due in May 2003. Mr. Monk pointed out that the legislature was aware of the City's fee date when it set the effective date for the cap.

Mr. Carson did not think that the legislative intent behind the bill was being given consideration. He said that he spoke to one of the drafters of the bill, who indicated to him the intent of the bill was to specifically to "gut" Eugene's voter-approved right-to-know law while making it "politically palatable" to a Democratic governor. He believed the drafters had overlooked the fee deadline. Ms. Gleason did not think that one could not base one's understanding of legislative intent on the statements of a single person.

Ms. Gleason called the question. Mr. Carson deemed there was no second.

Mr. Carson reiterated that the City was free to cap its fees. He maintained that the cap should be in effect because the fiscal year 2004 budget was affected.

Ms. Bowman shared the concerns expressed by other members about the impact of the cap on small businesses.

The motion to impose a cap on 2003 fees failed by a 4:3 vote; Ms. Holloway, Mr. Allen, and Mr. Carson voting yes.

Ms. Gleason, seconded by Mr. Monk, moved to assess companies paying the fee a fee of \$16.95 per FTE.

Mr. Carson said he believed the proposal violated State law because it was based on a quantity of more than zero.

Ms. Gleason disagreed, saying again the fee was based on employee number rather than quantity.

The motion passed by a 4:3 vote; Ms. Holloway, Mr. Allen, and Mr. Carson voting no.

Mr. Potter previewed the agenda for the next meeting. Members agreed to meet on April 14, 2003, at 3 p.m.

The meeting adjourned at 2:45 p.m.

(Recorded by Elise Self)  
*C:\User\TOXICS\minutes\mi022103.wpd*