

MINUTES

Eugene Toxics Board
Singer Room - Eugene Public Library

September 30, 2003
3 p.m.

PRESENT: Clyde Carson, Chair; Brian Allen, Marylee Bowman, Jennifer Gleason, Madronna Holden, (after 3:30) Paula Holloway, David Monk, members; Glen Potter, staff.

1. APPROVAL OF AGENDA/NEW ITEMS

Mr. Carson called the meeting to order.

Mr. Potter said he had three extra items to add to the staff report.

II. PUBLIC COMMENT

There were no members of the public wishing to speak.

III. APPROVAL OF JULY 15, 2003 MINUTES

The minutes of July 15, 2003 were approved, as submitted, by general consensus.

IV. STAFF REPORT

A. Procedure for Exemptions B ORS 453.370(8)

Mr. Potter noted that the board had voted 5:2 at its July 15 meeting to approve a procedure for exemptions as required by ORS 453.370(8). He said the City Attorney had recommended submitting the procedure to the City Council for approval. He said the City Attorney that the program issue a complete new tracking instructions handbook, including the exemption procedure and the recommendations of the subcommittee on reporting methodologies, for Council reapproval. He stated that he had scheduled time on the Council's December 3 agenda for this item.

Mr. Potter said, except for implementation of the \$2,000 fee cap, the City was now fully compliant with HB 2431 from 1999.

Mr. Potter noted that all of the fees had been collected for the current fiscal year. He noted that two companies had paid late and one had gone out of business.

Mr. Potter said he had been visited by a Japanese professor working as a consultant for the City of Tokyo, which was preparing to implement a Toxics Right-to-Know law adopted in Japan.

Mr. Potter reported that the Gheen Irrigation Company had come up for audit. He said a question had been asked during the audit about the definition of ignitable compressed gas. In 40 CFR 261.21(a)(3), which defines characteristic substances for purposes of Eugene's program, there is a reference to 49 CFR 173.300 for a definition of ignitable compressed gas. In the past, the Toxics Board had discovered that 49 CFR 173.300 provides no such definition, and had added a notation referring to 49 CFR 173.115, which does provide such a definition. The question was whether this was proper.

Mr. Carson said the board should continue to use and refer reporting entities to the U. S. Department of Transportation definition of ignitable compressed gas which was under another heading in CFR.

Ms. Gleason said finding and using the best available information was reasonable under the intent of the law.

There was general consensus to keep the definition from 49 CFR 179.115 referred to in the handbook.

V. REPORTING METHODOLOGIES SUBCOMMITTEE REPORT

Mr. Potter said the subcommittee had come up with a list of recommendations for making reporting of toxic substances easier. He said the subcommittee had held five meetings and heard from several companies. He noted that, unexpectedly, none of the companies had said that the report for the City of Eugene helped them with completing their federal TRI report.

Mr. Potter said the recommendation of the subcommittee was that the recommendations be included in the 2004 handbook to make it easier for companies to report.

There was general consensus to include the recommendations in the 2004 handbook.

VI. 2004 TRACKING INSTRUCTIONS

Ms. Holloway suggested doing a complete new handbook as long as it was done in a way that assumed that changes in the next few years could be added by amendment rather than producing complete new handbooks on an annual basis.

There was general consensus to complete a new handbook under the condition suggested by Ms. Holloway.

VII. 2004 FEES/FY05 PROGRAM BUDGET

Mr. Potter said the estimate he had from Fire & EMS financial staff was that the program would require slightly less than \$100,000 for fiscal year 2005, assuming continued staff support at .75 FTE and adding to the Legal Services line item, which had been overexpended in FY03. Exact budget requirements have not yet been calculated.

Mr. Potter said the state-imposed \$2,000 fee cap would result in a fee reduction for larger companies and a significantly increased burden for smaller companies. If the board wished to continue, to the extent possible given the cap, to base fees on ability to pay (company size), then he recommended a fee structure that would incorporate a cutoff point at a certain FTE level, above which a company would pay \$2,000 and below which it would pay an amount per FTE as necessary to generate the required fee revenue. He recommended that the cutoff point be established so as to provide for the smallest possible jump from the fee paid by the company just below the cutoff point to the \$2,000 paid by the company just above. He expected that the cutoff point would be somewhere around 60 to 70 FTE, and that the per-FTE fee below that point would rise to the neighborhood of \$30. Thus every participating company would pay between \$300 and \$2,000.

Mr. Carson suggested doing some public outreach to the companies explaining the effects of the fee cap.

Mr. Potter said he would send a letter to all the reporting companies explaining the law passed by the state legislature and how the fees would now be calculated. There was general consensus in favor of this.

Mr. Carson suggested the board approve and recommend to the City Council the fee level and structure recommended by staff. Without any audible dissent, there was consensus in support of this.

Mr. Potter said he would report by e-mail when actual figures were available.

VIII. RECRUITMENT OF NEW MEMBERS

Mr. Potter reported there were two vacancies for the board. He noted that Mr. Allen had reapplied for his position and Steve Johnson had applied for Ms. Holden=s position. He said those were the only two applicants and added that the City Council would act on the applications in October.

IX. SCHEDULE NEXT MEETING

Members agreed to meet on October 23, 2003 at 4 p.m. in the Fire Conference Room at 2nd & Chambers. Agenda items include the fee explanation to businesses, new elements of the tracking instructions booklet, and remarks from Ms. Holden, who will be attending her last meeting as a Toxics Board member.

The meeting adjourned at 4 pm.

(Recorded by Joe Sams)