

MINUTES

Toxics Board
Saul Room–The Atrium Building–99 West 10th Avenue–Eugene

November 8, 2001
3 p.m.

PRESENT: Steve Morgan, Chair; Cathy Verrét, Vice Chair; Steve Johnson, Clyde Carson, Madronna Holden, members; Glen Potter, Fire & Emergency Medical Services; Ken Luse, Marylee Bowman, Jennifer Gleason, Terry Connelly, Bob Cassidy, Jon Belcher, guests.

ABSENT: Brian Allen, Mary O'Brien, members.

1.Approval of Agenda/New Items

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

Mr. Potter advised the board to consider the election of officers for 2002 if time permitted. There was general concurrence.

2.Public Comment

There was no one present wishing to offer public comment.

3.Approval of Minutes

The board considered the minutes of September 12, September 27, and October 4, 2001. Ms. Verrét pointed out that the word "he" was misspelled in sentence two of paragraph 5 on page 3 of the October 4 minutes.

The minutes were accepted as amended. Board members complimented the quality of the minutes.

4.Staff Report

Mr. Potter referred the board to a copy of the notice of appellate judgment from the Oregon Court of Appeals included in the meeting packet. He reported that the court ruled that the fee provisions in the charter amendment were severable from the

remainder of the charter amendment and the program itself could stand, in spite of the fault found by the courts in May 1999 regarding the City's fee system.

The judgment further indicated the Circuit Court went too far in ruling that if a chemical was a listed pesticide but it was listed elsewhere and it was not being used as a pesticide, it must be reported. That meant the issue was a policy matter for the board.

Mr. Potter noted that no appeal to the court decision had been filed, and the deadline for appeal had passed. He concluded by stating that there was, at this time, no litigation pending related to the Toxics Program, for the first time since 1997.

Mr. Potter noted the appointments of Jennifer Gleason, Paula Holloway, and Marylee Bowman to the board. Ms. Bowman's term will commence on March 4, 2002, and the others terms on January 23, 2002.

Mr. Potter reported that revisions to the Web site requested by the board had been completed. The revisions included the addition of explanations of chemical designators other than CAS numbers.

Mr. Potter announced that his office had moved to the Emergency Services Center at 2nd Avenue and Chambers Street. He indicated he would ask the new board its preference for meeting locations, noting that there were conference rooms and free parking available at the 2nd & Chambers site.

5. Charter Review Discussion

Jon Belcher of the Citizen Charter Review Committee joined the board for the item. Mr. Belcher reviewed a document that he had prepared entitled *Section 54--Amendment IV , Toxics Right-to-Know*. He explained that the document summarized issues identified by the committee. Some members felt that the amendment was inappropriate for the charter and should be removed; others felt that, given the voters' support, the amendment could not be removed but perhaps could be reformatted to resemble the remainder of the charter. He personally did not feel the amendment was appropriate for the charter.

Mr. Carson asked what criteria the committee was using to determine what should be modified. Mr. Belcher said the committee was using its best judgment in making its recommendations, adding that all charter changes must be approved by the voters. The committee's recommendations would be forward to the council, which would determine what to forward to the voters. The committee was also examining scrivener's errors and inconsistencies in terminology.

Responding to a question from Mr. Johnson as to how the changes would be presented to the voters, Mr. Belcher anticipated an omnibus approach might be taken to the less

controversial measures while others might be considered separately because they were more controversial; amendments might be grouped by themes.

Mr. Johnson said that, as a chief petitioner for the right-to-know amendment, he would work to prevent any proposed removal of the amendment from the charter and he believed he would prevail. He said that the amendment was proposed because previous City Councils had overturned ordinances passed by the voters. He agreed that the amendment was not appropriate for the charter, but suggested that issue could be addressed by an ordinance that precluded the council from overturning voter-passed ordinances for a time certain. Mr. Belcher indicated the committee was considering that issue.

Mr. Carson indicated his concurrence with Mr. Johnson's suggestion for an ordinance that precluded the council from overturning the will of the voters. He agreed the toxics amendment was not appropriate for the charter, but suggested that if the amendment remained in the charter it might make it easier for its opponents to eliminate it.

Mr. Johnson pointed out that the board had "worked the kinks" out of the charter amendment, no one was litigating about the program at this time, the program was a fact of life in the community, and he did not think it was a big issue, even if the amendment looked out of place in the charter.

The board considered the remainder of the summary prepared by Mr. Belcher, which included Mr. Potter's recommendations for minor changes. The board accepted the correction to Article IIIA identified by Mr. Potter (this would correct a scrivener's error), agreed that the reference to SIC codes should be retained, acknowledged the dual definition of hazardous substance user in the charter but declined to recommend a change, agreed that the word "consumed" in Section 3(l)(1) should be changed to the phrase "chemically altered," concurred that Section 6(1) did not preclude members' terms from commencing November 1, agreed that Section 8(2)(a) should be amended to reflect the State-established maximum fine (using this wording and not a number as the number could change), and agreed to retain sections rendered null by the courts (including wording in sections 3(E)(1)(d)&(e), 3(e)(5), and 3(A)) as a record of the original intent of the voters.

Mr. Belcher thanked the board for its input and left the meeting.

6.2001 Annual Report

The board reviewed the annual report directed staff to make certain revisions.

7.2002 Tracking Instructions

The board reviewed the revised 2002 tracking instructions and agreed on certain minor revisions. Mr. Potter indicated the instructions would be mailed to reporting companies in December.

8.Election of Officers for 2002

Board members discussed the process of selecting a new chair and vice chair and the process that had been previously used to ensure that leadership was evenly divided between right-to-know advocates and industry representatives, with the seventh member also having opportunities to serve. Board members agreed that Ms. Holden would serve as 2002 chair, and Mr. Carson would be the 2002 vice chair. There was further agreement that Mr. Carson would serve as the 2003 chair and Ms. Bowman as the 2003 vice chair.

9.Schedule Next Meeting/Agenda Items

The next meeting was scheduled for January 17, 2002, at 3 p.m. Agenda items will include reporting software enhancements and 2002 fees.

Mr. Morgan adjourned the meeting at 4:52 p.m.

(Recorded by Kimberly Young)
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