

MINUTES

Eugene Toxics Board
Saul Room, 3rd Floor, Atrium Building, 99 W. 10th Avenue

April 21, 1999
3 p.m.

PRESENT: Cathy Verrét, Chair; Mike Friese, Madronna Holden, Steve Johnson, Steve Morgan, Mary O'Brien, Don Upson, members; Glen Potter, staff; various members of the public.

Ms. Verrét called the meeting of the Eugene Toxics Board to order.

I. APPROVAL OF THE AGENDA

Ms. Verrét asked if members had any further items to add to the agenda.

Ms. O'Brien requested discussion of possible improvements in the programming of the website. This item was added to the agenda following the Library Report.

Mr. Upson requested discussion of the City Council's action of reversing the board's vote on the 1999 base fee. Mr. Potter recommended that the topic be discussed under Approval of Minutes since it would come up at that time anyway.

II. PUBLIC COMMENT

Ms. Verrét provided procedure for public comment. Seeing no show of hands for public comment, she proceeded to the next agenda item.

III. APPROVAL OF MINUTES

Mr. Friese requested recognition in the March 17 minutes of his compliments to Councilor Pat Farr, who had voted to uphold the board's recommendation.

Mr. Upson stated that he was concerned about the reversal of a Toxics Board decision by the City Council without the courtesy of consulting the board members. He recognized the fact that the Toxics Board is a recommender and that the City Council is an approver but went on to state that if the City Council had any respect for the Board, they would have asked it to reconsider its recommendation.

Ms. O'Brien said that she thought it might be helpful to send a memo to the City Council stating that, in the future, if it was voting against a decision of the board, the board would appreciate the City Council notifying the board beforehand if time permits, and possibly requesting that the board reconsider its recommendation. She stated that the Toxics Board would not make any friends on the City Council by telling them they did something insulting, especially as it was their duty to make the final decision.

Ms. Holden noted, on page 2 of the March 17 minutes, that she did not say that she was personally affronted. Rather, her comments were an effort to characterize the sentiments of the board generally.

Ms. O'Brien said that if the goal was to get the City Council to consult with the board, then she thought they should put a request in the form of a positive proposal.

Mr. Potter suggested that he draft a memo from the board to the City Council, expressing (if possible) the feelings of the entire board in this matter, and circulate it to the board via e-mail for review. Members agreed.

Mr. Morgan noted that in the first paragraph on page 2, the minutes stated that businesses reporting more than 10 chemicals needed to file electronically. He wondered if that was what the board had really decided. Mr. Upson suggested that the number be changed from 10 to 5. There was general consensus in favor of this change.

The minutes were accepted as amended.

IV. CONSIDERATION OF PENALTIES

Lake Company

Mr. Potter stated that he received a letter from the Lake Company dated June 26, 1998, stating that they were not required to report. The company later indicated, in March 1999, that it would need to report.

Dave Heist, General Manager of Lake Company, submitted and read a letter to the members requesting a waiver of penalty. He stated that his company made a good-faith effort to comply with the law.

Mr. Upson suggested that the penalties to Lake Company be waived for this first year that reporting was required. He noted that Mr. Heist and others in the room would now be educated on how to understand an extraordinarily complex law. He stated that he wanted to give companies coming forward the benefit of the doubt in this first year. He recognized that Lake Company had made a good-faith effort to comply with the law.

Ms. O'Brien, seconded by Mr. Johnson, moved to waive the penalty assigned to the Lake Company. There was no discussion. The motion passed unanimously.

Griffith Rubber Company

Mr. Potter read a statement, for the record, from Jennifer Laney, the General Manager of Griffith Rubber, regarding the reasons why the company did not declare itself as a hazardous substance user until this year. He submitted a printed copy to members.

Mr. Upson stated that this was a different situation because Griffith Rubber knew that their Chem-Lok product was reportable. He said that a penalty may be necessary, but only a token penalty with a message directing the company to learn the program and stating that a similar failure to declare would be penalized.

Mr. Friese, seconded by Mr. Upson, moved to penalize Griffith Rubber \$20.00.

A member of the audience, Tim Foelker, suggested that, at most, the board should send Griffith Rubber a strong letter.

Mr. Morgan did not know why Griffith Rubber was going to be penalized when Lake Company's penalty was waived. He preferred no penalty.

The motion failed 6:1: with Mr. Friese in favor.

Mr. Upson, seconded by Mr. Johnson, moved to have no penalty on Griffith Rubber but to send them a strong letter stating that they need to learn the program. There was no discussion. The motion passed 6:1:0 with Mr. Friese voting "no."

Western Structures

Dennis Wolford of Western Structures stated that the company was never notified that they needed to report. He stated that they came forward on their own to report.

Mr. Upson noted that current state law does not require companies to declare themselves under the state's right-to-know law administered by the office of State Fire Marshal. He asked about the employee level of Western Structures and their SIC number. He also asked how the company found out that they were required to report under this program. Mr. Wolford stated that he had read articles in the newspaper regarding chemical reporting and decided to check into any possible reporting requirements. Mr. Friese thanked Mr. Wolford for stepping forward.

Mr. Friese, seconded by Mr. Upson, moved to waive the penalty assigned to Western Structures. The motion passed unanimously.

The Register-Guard

Mr. Friese asked how many employees were in the company. Mr. Potter replied that there were 382.

John Schaufler of The Register-Guard read a prepared statement regarding qualifications for reporting to the Toxics Right-to-Know program. He stated that he had only recently become aware of the flash-point issue on Stoddard Solvent, and that, once he was aware, he had notified Mr. Potter immediately. He said that The Register-Guard did its best to comply with the law and asked that the penalty be waived.

Ms. O'Brien stated that, in her opinion, the company was attempting to comply from the very beginning.

Mr. Morgan said that The Register-Guard's State Fire Marshal report clearly indicated that they needed to report under the City's law. He went on to state his concerns about statements from Mr. Schaufler regarding the difficulty of complying with the law that were contradictory to editorials printed in The Register-Guard regarding other companies' compliance. He also stated that The Register-Guard's toxics report was one of the worst that he had seen. He recommended the maximum penalty.

Ms. O'Brien suggested that Mr. Morgan's comments and recommendation were politically motivated. She went on to say that most of his comments were irrelevant to the efforts of The Register-Guard to comply with the program.

Mr. Morgan stated that he thought that The Register-Guard was thumbing its nose at the Toxics Board.

Mr. Schaufler stated that he was not a reporter and not in charge of what was printed in The Register-Guard. He said that he resented some of the board's comments.

Mr. Johnson stated that whatever The Register-Guard said about the Toxics Right-to-Know Program was irrelevant to the question now before the board. He said that the questions that should be asked were if the company stayed in contact with the City and made a good-faith effort to comply. He said that the error on the part of The Register-Guard was possible to make. He said that the board should accept The Register-Guard's explanation at face value.

Ms. O'Brien warned the board that it could incur legal troubles if it began to consider extraneous information when assessing penalties.

Mr. Friese stated that The Register-Guard was a large company that should have paid its fee on time and worried about its requirement to report later.

Ms. O'Brien, seconded by Mr. Upson, moved to waive the penalty assigned to The Register-Guard. The motion passed 5:2 with Mr. Friese and Mr. Morgan dissenting.

Newood Products

Mr. Potter provided background on the Newood Products late filing issue. He read a letter from Newood Products and submitted a printed copy to the board. He stated that he had suggested to the company that they apply for an extension. They were granted an extension until April 5. They turned in their report shortly after 8 a.m. on April 6.

Ms. O'Brien stated that the company really had no valid excuse even for the extension. She went on to note that they waited until after the last day of the extension to make their report. Saying that there was no attempt to follow the rules, she spoke in support of a fine.

Mr. Johnson, seconded by Ms. O'Brien, moved to assign Newood Products a fine of \$250.00. The motion passed 4:3 with Mr. Friese, Mr. Upson, and Mr. Morgan dissenting.

V. LIBRARY REPORT

Scott Herron, Library staff, announced that the Toxics Right-to-Know information would be listed in the Library's electronic card catalog by May 1st. He said that the reference desk had received 24 queries on the Toxics Initiative.

V-A. ADDITIONAL PROGRAMMING SUGGESTIONS

Ms. O'Brien stated that there were no column totals on the Toxics Database. She suggested adding column totals to the program. She also wanted chemical names added to the raw data download base so that they could be used in conjunction with the quantities reported.

Mr. Johnson was in favor of adding the features to the database but did not want to write a blank check to get it done. He suggested looking at the cost before making the changes.

Mr. Friese stated that he had heard some complaints from businesses about the way the Environmental Releases feature of the website was set up. He suggested eliminating that particular feature.

The board directed that the two changes suggested by Ms. O'Brien be made if this could be done for \$500 or less. The concern expressed by Mr. Friese, and other general concerns about the website, would be taken up when the board discussed website modifications for next year.

VI. STAFF REPORT

Mr. Potter reported that 46 materials balance reports had been filed with the City, and two more were anticipated. The companies that had yet to report had been granted extensions.

Mr. Johnson asked what effect the addition of new companies to the program had had on this year's fees. Mr. Potter explained the effect, which was essentially a reduction of fees for all companies that had declared in 1998. Mr. Potter agreed to e-mail actual figures to the board.

Mr. Potter reported that an amended version of Oregon House Bill 2431 had been passed by the House Water and Environment Committee and was now pending on the House floor. He stated that the bill would reduce maximum fines to \$1,000 dollars per day for local right-to-know programs. Other than that, Eugene's program would remain the same until 2003 when it would have to poll the proposed covered entities and determine what chemicals they were using and what their processes were, then get a judgment from the governing body on the dangers to the public of each chemical, and then secure the approval of the State Fire Marshal for the program. These requirements would apply to other local programs in Oregon immediately. Mr. Potter noted that he would keep the board informed of further legislative actions.

VII. POLICY ON TESTIMONY

This item was held over to the next meeting.

VIII. MAY MEETING DATE

Mr. Friese stated that he would like to have the next meeting scheduled before May 15.

The Board agreed to meet on May 12th.

Ms. O'Brien suggested a discussion of auditing for the May agenda.

Mr. Upson suggested consideration of an amnesty program for businesses that had not yet declared hazardous substance user status.

Ms. Verrét adjourned the meeting at 6 p.m.

Recorded by Joe Sams

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