

MINUTES

Eugene Toxics Board
East Wing Conference Room—City Hall—777 Pearl Street

June 9, 1999
8 a.m.

PRESENT: Cathy Verret, Chair; Mary O'Brien, Steve Morgan, Don Upson, Madrona Holden, Mike Friese, Steve Johnson, members; Glen Potter, Fire Department; Jerome Lidz, City Attorney's Office; guests.

I. APPROVAL OF THE AGENDA

Ms. Verret reviewed the agenda. There were no changes proposed to the agenda.

II. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

There was no public comment.

III. APPROVAL OF MINUTES OF MAY 12, 1999

The minutes of May 12, 1999, were approved as submitted.

IV. STAFF REPORT

A. Fees Received

Mr. Potter reported that almost all the fees had been received; he estimated that two or three companies were withholding fees pending the outcome of the Circuit Court's decision. The City was not attempting to collect the fees at this time.

B. 1999 State Legislature

Mr. Potter reported that House Bill 2431, having passed the House, had been referred to the Senate Public Affairs Committee, but no hearing had yet been scheduled. He said that although several changes had been made to the bill, Governor John Kitzhaber still was not supportive of it. He added that the May 5 Court of Appeals decision may have taken some momentum away from the bill.

C. Other

Mr. Potter announced that he sent out his first notification of audit. Responding to a question from Mr. Upson, he said he anticipated the audits would be timed so as to allow him to complete a full cycle in the required three-year time frame.

V. IDENTIFICATION OF ADDITIONAL HAZARDOUS SUBSTANCE USERS

Mr. Potter reviewed the board's previous discussion regarding companies that had not yet declared themselves subject to the program. He noted that the board had discussed the fact that those companies were in danger of being fined for failure to report, and had also discussed the possibility that some companies had not understood the nature of the requirements concerning characteristic substances. The board had raised the possibility of amnesty and further mailings in order to identify such companies via a non-punitive approach.

Regarding further mailings, Mr. Potter said that a direct mail service company had indicated to him that for about \$150 it could provide the approximately 170 addresses of Eugene-area businesses in SIC codes 2000-3999 that have 10 or more employees; for about \$400, it could provide a list of the approximately 7,300 businesses in the Eugene zip codes. He said that the Toxics Program's existing mailing list, culled from records of the City Fire Marshal and State Fire Marshal, included about 350 business addresses.

The board discussed the potential of an amnesty program. Ms. O'Brien was supportive of amnesty for companies that failed to report characteristic substances. Companies would have to demonstrate that they did not have more than the threshold of listed chemicals. Mr. Upson stressed the need to get companies into the program without creating animosity toward it. He said that the fine would be quite substantial at this point. Mr. Upson said that if the board decided to offer an amnesty program, it should be offered to all companies, with a limit on the penalty for not previously reporting. Ms. O'Brien pointed out that the board had the option of waiving the fine and could do so on a case-by-case basis. Mr. Johnson and Ms. Verret favored some type of amnesty program because of the importance of getting companies into the program.

The board discussed the potential elements of an amnesty program.

Mr. Upson moved, seconded by Mr. Johnson, to establish an amnesty program to allow those companies that came forward to receive a maximum two-day penalty; if the company had not reported because of confusion regarding characteristic substances, the penalty would be zero; if the company's situation was similar to Western Structures, the penalty would be one day; in more egregious situations, the fine would be a maximum two-day penalty. The companies would be given six weeks, beginning three days

after notice was mailed. Failure to report after that time would be penalized following the parameters of the charter amendment.

Mr. Upson said that the mailing to companies should point out the company's level of current liability, and the potential of a reduced fine.

The board briefly discussed how new companies would be included in the program, and agreed that periodic additional mailings regarding the program should occur.

The motion passed, 7:0.

Responding to a request for direction from Mr. Potter, the board agreed that he should use the SIC code mailing list. The board also accepted a suggestion from Ms. O'Brien that a news release regarding the amnesty program would be issued, and the board would review the news release before it was given to the media.

VI. MEMORANDUM TO CITY COUNCIL

Mr. Potter reminded the board it had been unable to reach consensus on the text of a memorandum to the City Council regarding its reversal of the board's recommendation concerning the amount of the 1999 base fee. Mr. Upson suggested that the memorandum be brief and state that the board was requesting an opportunity to reconsider any recommendations made by the board to the council and subsequently rejected or questioned by the council. There was general support for Mr. Upson's suggestion. Mr. Potter agreed to e-mail a draft to members.

VII. REPORTING OF SUBSTANCES IN MATERIALS AND COMPOUNDS

The board discussed the subject of reporting of characteristic substances. The board agreed that the handbook did not clearly communicate its intent to the public, and further agreed that Mr. Potter would review the board's past minutes regarding its past discussions on the topic of characteristic substances. Ms. O'Brien and Mr. Morgan agreed to serve as a subcommittee regarding the topic.

The board took a brief break at 9:20 a.m. and reconvened at 9:25 a.m.

VIII. DEVELOPMENT OF OPTIONS TO RESPOND TO APPEALS COURT DECISION

Mr. Lidz identified the board's goal as being the development of a fee structure that was not based on quantity as determined by the Circuit Court. He said that the board must first determine who would be required to pay, and then within that structure how much each company would be required to pay, and on what basis. He recommended that the board stay close to the intent of the charter while keeping fairness in mind.

Board members offered ideas for the fee basis, and agreed to consider the following options for further discussion: 1) all companies within SIC codes 2000-3999 pay a fee based on number of employees; only those with 2,640 or more pounds of inputs would be required to file reports; 2) fund the program with General Fund resources; 3) a combination of options 1 and 2; 4) a local surcharge on vehicle registration fees; and 5) add certain SIC codes to the list of businesses covered by the Charter Amendment, then pursue option 1 or 3.

Mr. Lidz agreed to coordinate legal research concerning option 4, and Mr. Potter agreed to analyze the implications of the other options based on information currently available.

IX. NEXT MEETING DATE

The board tentatively set June 21 as the next meeting date, and July 1 as a follow-up meeting date.

The meeting adjourned at 11:01 a.m.

(Recorded by Kimberly Young)

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