

# MINUTES

Toxics Board  
Saul Room--Atrium Building

January 7, 1998  
11:30 a.m.

PRESENT: Mary O'Brien, Chair; Sam Frear, Vice Chair; Tim Foelker, Steve Johnson, Steve Morgan, Don Upson, Cathy Verret, members; Mike Thrapp, Glen Potter, Judi Ivy, Fire Marshal's Office staff; and members of the public.

Ms. O'Brien called the meeting to order.

## I. APPROVAL OF AGENDA

Mr. Upson requested that *Specifications for Electronic Reporting* be added as agenda item "E" under *Staff Report*.

Mr. Morgan requested that *Handbook Issues* be added as agenda item "F" under *Staff Report*.

Ms. O'Brien determined there was consensus to approve the agenda, as amended.

## II. PUBLIC COMMENT

**Andy Poynter** requested that the board address eight questions/issues e-mailed to members by him and Ken Luse.

Noting the significant number of scheduled agenda items, Mr. Upson suggested that the board address the first of the four questions as part of item "D" under *Staff Report*. Ms. O'Brien suggested adding to the January 20 Toxics Board meeting agenda a detailed discussion of the remaining three questions. Mr. Upson suggested that the board begin to record both the questions raised by and answers provided to businesses throughout this year as one basis for revising the reporting instructions next year. Members expressed support for the above suggestions.

## III. APPROVAL OF MINUTES

Ms. O'Brien determined there was consensus to approve the minutes of the December 8, 1997, meeting of the Toxics Board as submitted.

Referring to materials included in the meeting agenda packet, Mr. Upson said he objected to the inclusion of an excerpt from a newsletter published by a political organization.

#### **IV. STAFF REPORT**

Members introduced themselves to Mike Thrapp, City of Eugene Fire Marshal as of January 1. Mr. Thrapp presented a brief overview of his professional background, noting that he has had 11 years of experience in the fire prevention field.

##### **A. Update on Recruitment**

Mr. Potter reported that to date, the Fire Marshal's Office has received three Toxics Board membership applications from prospective industry/business representatives and six from prospective public "right-to-know" representatives. Mr. Potter said the City Council is scheduled to appoint new members to the Toxics Board on January 21.

##### **B. Information on Fire Marshal's Office Plans for Reviewing Trade Secrecy Claims**

Mr. Thrapp indicated that he would return to the board with information concerning this item after he has had an opportunity to review applicable regulations.

Mr. Potter reported that the Fire Marshal's Office had received two inquiries regarding trade secrecy claims. He said both Pepsi-Cola Bottling Co. of Eugene and Cascade Candle Company informed the Fire Marshal's Office of their inability to meet the trade secrecy claim deadline and former Fire Marshal Phil Prince consequently extended the deadline for both companies to January 7, 1998.

Mr. Upson noted that a business is required to submit a trade secrecy claim only if information about the chemical is readily available to it (e.g., on the MSDS), and a manufacturer's trade secret may be unavailable to a business. He suggested that in order to assist businesses to comply with the requirement, the Toxics Board extend the deadline for submitting trade secret claims to March 5, 1998. He suggested that the extension apply to this year's claims only. Mr. Johnson expressed support for Mr. Upson's suggestion, noting that notification of the original deadline occurred fairly recently and so the deadline may have been unrealistic. Ms. O'Brien echoed Mr. Johnson's support for the proposed extension.

The board and members of the public engaged in an extensive discussion concerning the proposed deadline extension.

Mr. Johnson moved, seconded by Mr. Morgan, to extend the trade secrecy claim filing date to March 16, 1998. The motion passed, 5:0; with Mr. Upson and Mr. Foelker abstaining.

(Mr. Thrapp left the meeting at 12:08 p.m.)

The Toxics Board agreed to inform Cascade Candle Company that it must submit a claim only if it is aware of the characteristics of a compound included on the MSDS. The board agreed to request that Pepsi-Cola submit a claim or, failing this, an explanatory letter from Pepsi-Cola's legal counsel. Mr. Potter agreed to contact Pepsi-Cola Bottling Co. of Eugene in writing with this request.

### **C. Ordinance Adopting Reporting Instructions**

Referring to a draft ordinance adopting reporting instructions that was included in the meeting agenda packet, Ms. O'Brien expressed concern that the ordinance language authorizes the Eugene City Manager to amend the reporting instructions. She said that according to Article X of the charter amendment, the City Council must adopt reasonable ordinances recommended by the Toxics Board; nowhere in the charter amendment is the City Manager authorized to amend language adopted by the board. Mr. Upson noted that while page 1 of the draft states that the City Manager may amend the Charter Amendment with the concurrence of the Toxics Board, page 2 does not imply that any such concurrence is required. He said the language of the ordinance should be consistent.

Mr. Upson suggested requesting that City Attorney Jerry Lidz draft an ordinance that is consistent with Article X for inclusion in the next meeting agenda packet. Mr. Potter explained that Mr. Lidz drafted the current version of the ordinance in response to a request to that effect. Ms. O'Brien suggested inviting Mr. Lidz to attend the next meeting of the Toxics Board to discuss the matter.

Mr. Frear moved, seconded by Ms. Verret, to invite Mr. Lidz to attend the next meeting of the Toxics Board. The motion passed, 4:3; with Mr. Foelker, Mr. Upson, and Mr. Morgan opposed.

The board asked that Mr. Lidz be invited to join the January 20 meeting at 1 p.m.

### **D. Other**

Mr. Potter distributed copies of the trade secret reporting packet. He also noted that revised program budget projections were included in the agenda packet.

**Ken Luse** inquired as to whether the fact that most manufacturers provide MSDSs but do not provide percentages exempts certain products (e.g., plywood products manufactured with formaldehyde-based adhesives) from being reportable by secondary manufacturers (e.g., cabinet shops). Mr. Johnson responded that secondary manufacturers are not required to report unknown percentages. He suggested that the Toxics Board advise businesses that unknown percentages are not reportable for 1998 and consider at a future meeting the possibility of implementing minimum reporting requirements for future years based on information that can be derived from the MSDS.

**Daryl Price** inquired as to whether the Toxics Board would require a business that fabricates products from raw steel to weigh the steel it uses or simply the grindings in order to calculate reportable hazardous substance use. Mr. Upson responded that a business would be required to weigh only the grindings.

Responding to questions relayed by Mr. Potter, the board agreed that components of finished products are not reportable as inputs; that lubricants and cleansers used on machinery involved in manufacturing and otherwise reportable are reportable; and that substances used for

maintenance only, and not necessary to the manufacturing process (e.g., paint applied to machinery) are not reportable.

Following discussion, Mr. Morgan and Mr. Upson agreed to draft, for consideration by the Toxics Board, responses to the questions raised by businesses, and to make the draft responses available for board discussion at the next meeting.

#### **E. Electronic Reporting Specifications**

Ms. O'Brien distributed and reviewed a memorandum from her to the Toxics Board listing suggested specifications for the system of electronic reporting.

Mr. Upson expressed opposition to the suggestion that "a citizen visiting the library should be able to download and print any or all information that is in the computer, or analyses they have compiled." Extensive board discussion followed. Mr. Upson raised the following issues and questions: 1) as part of the start-up of the Toxics Right-to-Know Program, the cost of setting up the electronic reporting system should properly be borne by the General Fund; 2) does the library's fee structure take into consideration factors such as depreciation?; and 3) the system should seek to minimize costs to business, both for reporting and for providing access to the information.

Mr. Foelker, Ms. Verret, Ms. O'Brien, and Mr. Johnson agreed to work as a subcommittee on issues related to electronic reporting. (NOTE: On January 8, the membership of this committee was changed by the chair to include Mr. Frear, Mr. Foelker, and Ms. Verret.)

#### **F. Handbook Issues**

Mr. Morgan noted that the reference to Xylene on page 65 of the chemical list included in the reporting instructions is duplicative and should be deleted.

#### **V. AGENDA FOR NEXT MEETING/UPCOMING TASKS/FEBRUARY MEETING DATE**

The Toxics Board agreed to include on the agenda of its next meeting the following items: 1) Fire Marshal's Report; 2) Discussion with City Attorney concerning Draft Ordinance; 3) Fees; 4) 1998 Work Plan; and 5) Reporting Specifications.

The meeting adjourned at 1:30 p.m.

(Recorded by Kim Kunkel)  
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