

# MINUTES

Toxics Board  
Saul Room--Atrium Building

January 20, 1998  
11:30 a.m.

PRESENT: Mary O'Brien, Chair; Tim Foelker, Steve Johnson, Steve Morgan, Don Upson, Cathy Verret, members; Glen Potter, Fire Marshal's Office staff; Jerry Lidz, City Attorney; Jan Wostmann, Information Services Division; and various members of the public.

Ms. O'Brien called the meeting to order.

## I. APPROVAL OF AGENDA

Members agreed to address agenda item 5 prior to agenda item 3.

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

## II. PUBLIC COMMENT

There was no public comment.

## III. ELECTRONIC REPORTING SYSTEM SPECIFICATIONS

Referring to a memorandum included in the meeting agenda packet, Mr. Potter summarized the recommendation issued by the Toxics Board Electronic Reporting Subcommittee, as follows: *By June 1, 1998, the Toxics Board supply to known reporting businesses a board-approved data file format and software capable of producing a file in the required format on a Windows 95 operating platform; and further, that the Toxics Board give businesses the option of using any software, City-supplied or other, that can produce the file in the required format.*

Referring to a draft *Eugene Toxics Reporting Data Model* distributed to members, Jan Wostmann of the City of Eugene Information Services Division reviewed the proposed field specifications for 1) facilities information; 2) materials information; and 3) chemicals list. In addition, Mr. Wostmann reviewed recommended data and file specifications. He said the reporting data model has built-in flexibility that will enable the Toxics Board to determine the manner in which data is extracted.

In response to a question from Mr. Upson regarding whether the data can be downloaded to a floppy disk, Mr. Wostmann said the City will likely provide the public with diskettes containing the data at cost.

In response to a question from Mr. Morgan regarding whether the Toxics Board can defer the public delivery portion of the project until FY99 and stay within its budget, Mr. Wostmann said that because the display portion of the project is more complex, the Toxics Board would likely exceed its FY99 budget.

In response to a question from Mr. Upson concerning the total software cost, Mr. Wostmann said the software development would likely require a week of contracted work at an average rate of \$55 to \$60 per hour (approximately \$2,500).

Mr. Upson requested that Mr. Wostmann provide the board with a list of advantages and disadvantages of alternative public access formats, and rank the costs.

Mr. Foelker suggested that the Toxics Board provide to reporting businesses a software package that they would install and run, thereby allowing businesses to output data on a floppy disk and send it to the Fire Marshal's Office.

Ms. O'Brien stressed the importance of ensuring a balance in the amount spent on public access versus reporting amenities for businesses.

The board requested that Mr. Wostmann submit a time line to meet the June 1, 1998, deadline for providing software and instructions to reporting businesses, and the April 1, 1999, deadline for having the public access portion of the system in place.

Mr. Foelker moved, seconded by Mr. Upson, to limit deliverables to the Windows 95 program, and to make the Atrium Building computer available to reporting businesses as needed. The motion passed unanimously.

The board suggested changes to the draft field, data, and file specifications, and authorized Mr. Wostmann to make additional non-substantive changes as necessary.

(Mr. Wostmann left the meeting at 12:30 p.m.)

#### IV. APPROVAL OF MINUTES

Members reviewed the minutes of January 7, 1998.

Referring to page 4, Mr. Morgan requested that paragraph 5 be amended to read, "Mr. Morgan noted that the reference to Xylene on page 65, ID# TB(3), of the chemical list included in the reporting instructions is duplicative and should be deleted. The board concurred."

Referring to page 1, Mr. Upson requested that the first paragraph under *Public Comment* be amended to read, "**Andy Poynter** requested that the board address 4 questions/issues e-mailed to members by him and Ken Luse."

Referring to page 4, Mr. Upson requested that the following sentence be added at the conclusion of paragraph 2: "Ms. O'Brien reminded the board of an e-mail sent by Mr. Upson which also included suggested specifications."

Referring to the final paragraph on page 3, Mr. Morgan requested that the following sentence be added: "The board did not agree that lubricants used on machinery were reportable."

Mr. Foelker moved, seconded by Mr. Upson, to exclude lubricants and cleansers as reportable.

Ms. O'Brien suggested addressing this issue as a future agenda item, noting that the definition of "maintenance" seems to differ among members.

Mr. Morgan suggested that because the Toxics Board was lacking full attendance, it defer voting on this matter.

No action was taken on the motion.

Mr. Upson moved, seconded by Mr. Foelker, that the board defer a decision concerning this matter to a future agenda following a recommendation by a subcommittee. The motion passed, 5:1; with Mr. Foelker opposed.

Referring to the final paragraph on page 3, the board agreed to delete the following clause: "that lubricants and cleansers used on machinery involved in manufacturing and otherwise reportable are reportable."

Referring to the second paragraph under *Public Comment* on page 1 of the minutes, Ms. O'Brien requested that sentence 3 be amended to read, "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, or for preparing a document of most commonly asked questions."

Referring to page 3, Ms. O'Brien requested that the final sentence of paragraph 3 under *Other* be amended to read, "Mr. Upson responded that a business would only be required to estimate the grindings."

Ms. O'Brien determined there was consensus to approve the minutes of the January 7, 1998, meeting of the Toxics Board, as amended.

## **V. STAFF REPORT**

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

Mr. Potter reported that City Council was scheduled to appoint new Toxics Board members during its regular meeting the following day.

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

This item was deferred due to the absence of the Fire Marshal.

### **C. Other**

Referring to a January 12 letter from Mr. Potter to Al Fiedler of the Pepsi-Cola Bottling Company of Eugene that was included in the meeting agenda packet, Mr. Upson expressed the opinion that the letter need not have mentioned the possibility of penalties; that it was important to establish and maintain positive working relationships with reporting businesses. Ms. O'Brien said the letter appeared to be faithful to the board's discussion concerning Pepsi-Cola.

Mr. Potter said the letter had followed a series of cordial telephone conversations with Mr. Fiedler, and simply formalized the conversations.

The board requested that members be given 48 hours to review letters to be sent on the board's behalf and express any concerns they may have.

(Mr. Lidz joined the meeting at 1 p.m.)

### **VI. ORDINANCE ADOPTING REPORTING INSTRUCTIONS**

Referring to the draft ordinance included in the previous meeting agenda packet, City Attorney Jerry Lidz explained that the draft ordinance was crafted such that it would allow the Toxics Board to object, through the City Council, to changes proposed by the City Manager. He said that if the City Council concurred with the objection stated by the Toxics Board, it could place a hold on the revision for 30 days.

In response to a question from Mr. Upson, Mr. Lidz explained that "seeking concurrence" of the Toxics Board does not amount to "gaining concurrence." He said the Toxics Board has no rule-making authority and that giving the Toxics Board a flat veto arguably exceeds the authority set forth in the Charter.

In response to a question from Ms. O'Brien, Mr. Lidz said the Toxics Board cannot state in the ordinance that all changes must be approved by the board. He said, however, that the board can modify how the City Manager portion of the ordinance is written or simply bypass the Administrative Rule process and request that City Council adopt the Reporting Instructions.

Ms. O'Brien expressed her opinion that the Toxics Board does not need the flexibility provided by an Administrative Rule. Mr. Lidz cautioned that without an Administrative Rule, the Toxics Board will have to plan well and appear before the City Council each year.

The board decided to ask the City Council to adopt the reporting instructions each year, and instructed Mr. Lidz to prepare a new ordinance bypassing the Administrative Rule process.  
(Mr. Lidz left the meeting at 1:25 p.m.)

### **D. Costs**

Mr. Morgan said he was concerned about costs increasing beyond control and welcomed board discussion concerning the matter.

Mr. Upson said he wanted to ensure that the Toxics Board understands, approves, and controls costs. The board authorized the business representatives on the board to generate and distribute to the Toxics Board prior to its next meeting a list of cost-related issues they would like addressed.

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

The board established the agenda for its next meeting, as follows: 1) Approval of agenda; 2) Public comment; 3) Fire Marshal's plans for reviewing trade secrecy claims; 4) Answers to questions submitted by businesses; 5) Fees; 6) Determine regular meeting time; and 7) Set agenda for next meeting.

Mr. Upson, Mr. Morgan, and Ms. O'Brien agreed to meet as a subcommittee concerning the Toxics Board's answers to questions submitted by businesses and the issue of lubricants and cleansers used for maintenance.

The next meetings of the Toxics Board are February 12 at 3 p.m. and February 25 (tentatively) at 11:30 a.m.

Noting that it was Mr. Foelker's last meeting as a member of the Toxics Board, the board expressed appreciation for his dedication and diligence.

Mr. Foelker recommended that the Toxics Board consider hiring a facilitator in order to expedite board meetings and assist the board in reaching consensus.

The meeting adjourned at 1:35 p.m.

(Recorded by Kim Kunkel)  
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