

MINUTES

Toxics Board
Saul Room--Atrium Building

February 25, 1998
11:30 a.m.

PRESENT: Don Upson, Chair; Michael Friese, Madronna Holden, Steve Johnson, Steve Morgan, Mary O'Brien, Cathy Verret, members; Glen Potter, Reggie Augsburg, Fire Marshal's Office staff; and various members of the public.

Mr. Upson called the meeting to order.

I. APPROVAL OF AGENDA

Mr. Upson determined there was consensus to approve the agenda.

II. PUBLIC COMMENT

Ken Luse stated that he had provided Mr. Upson with two material safety data sheets for the board's consideration. He said each sheet assigns a different CAS number to the same product, thus illustrating the fact that a single product may be associated with multiple CAS numbers. In addition, Mr. Luse requested that the board research and address during a subsequent meeting the following question: Is welding rod a reportable material? If so, under what circumstances?

III. APPROVAL OF MINUTES

Members reviewed the minutes of February 12, 1998.

Mr. Johnson moved, seconded by Mr. Friese, to approve the minutes of the February 12, 1998, meeting of the Toxics Board, as submitted. The motion passed unanimously.

V. STAFF REPORT

A. Pepsi Update

Mr. Potter reported that he had mailed a second letter to Pepsi-Cola of Eugene advising the company of the March 16, 1998, trade secret reporting deadline, but expressing the board's willingness to be flexible with respect to actual disclosure of trade secret formulas.

B. Flow Chart to Respond to Questions Regarding Trade Secrets

Mr. Upson suggested deferring consideration of this matter until after the March 16 trade secret reporting deadline.

C. Update on Number of Employees

Mr. Potter distributed a current list of the number of full-time employees associated with reporting businesses.

Recognizing the issues of seasonal fluctuation with regard to Agripac and continued growth with regard to Hyundai, the board discussed at length whether and how it might fairly assess fees to those businesses that experience significant seasonal fluctuations in employment levels, or that expect to employ a significantly greater or smaller number of employees in 1998 than were employed in 1997. It was decided to use the end-of-1997 figure for the current billing cycle, but allow businesses to calculate a year-long average if it would provide a more realistic figure.

D. Update on Programming Contractor

Mr. Potter reported that one of the three contractors from whom bids were requested had responded. He said February 27 is the response deadline.

E. Reminder of Upcoming Council Meeting Dates

Mr. Potter said that, tentatively and subject to change, City Council work sessions on the ordinance adopting the reporting instructions, and on the board-recommended fee structure, are scheduled for March 2. Public hearings on both items will be held March 9, with action on the ordinance scheduled for March 11 (subsequently rescheduled to April 6) and action on fees scheduled for April 6 (subsequently rescheduled to March 16).

F. Corrected Roster

Referring to the revised Toxics Board roster included in the meeting agenda packet, Mr. Potter said the document will be revised further to reflect Ms. Holden's new e-mail address: robtb@efn.org.

Mr. Potter reported that the Fire Marshal's Office is developing a Web page for the Toxics Program. He invited suggestions from board members for information to be included on the Web page.

V. TOXICS BOARD PROCESSES

Referring to memorandums prepared by Ms. O'Brien and Mr. Upson that were distributed during a previous meeting of the board, Mr. Upson requested feedback.

Referring to Item 2 in Mr. Upson's memorandum, Ms. O'Brien inquired as to whether Mr. Upson would consider exceptions to his suggestion of requiring all new board items, for which discussion exceeds 15 minutes, to be deferred to a subcommittee. Mr. Upson said he would be amenable to allowing some exceptions. He explained that the intention of his suggestion was to utilize meeting time for discussion of new and often cumbersome matters only after the issue has been clarified by a subcommittee.

With regard to Mr. Upson's suggestion that the Toxics Board is inefficient and excessive in its use of the City Attorney during meetings, Ms. O'Brien argued that clarifying issues with the City Attorney during meetings, rather than through written correspondence, has saved both time and money in the long term.

Mr. Potter suggested that the Toxics Board consider creating a Toxics Board Ground Rules document for the benefit of new members.

Following board discussion, Mr. Upson agreed to amend his original suggestion by deleting the first two sentences and simply stating, "We should frame our issues carefully in writing in advance for our own use and then invite the City Attorney in and ask these questions."

VI. FEES

Mr. Upson requested feedback regarding whether the board was prepared to recommend a base fee and range ratio for 1998.

Mr. Friese said he would like the board to consider utilizing a factor other than the full-time equivalent (FTE) of businesses as the basis upon which fees are established.

Mr. Johnson suggested that in subsequent years the board might consider assessing fees based on the total number of chemicals reported by a business.

Ms. O'Brien said the Toxics Board should not consider as a precedent for future years the means by which it determines fees this year. She suggested that this be made clear to businesses.

Noting that the Toxics Board has primarily focused on "base fee" and "FTE" fee structures, Mr. Upson solicited suggestions for alternative fee structures. Mr. Potter clarified that the Toxics Board may recommend to City Council that it: 1) provide to the Toxics Program one more year of General Fund support; or 2) authorize the Toxics Board to operate on a deficit reimbursement basis, in which case the program would be obligated to reimburse the General Fund each year.

Mr. Potter shared estimates of fees that would need to be assessed if the board chose to establish ranges of FTEs rather than use businesses' individual numbers of employees. Board members expressed concern regarding the dollar amount that one extra employee can result in, when a business is at or near the dividing line between ranges.

Mr. Morgan suggested that the board consider assessing a fee based on the total taxable value of a business's property.

Ms. O'Brien suggested assessing a flat per-employee fee in the amount that is determined necessary to generate the budget. Mr. Potter said the current FY99 program budget, subject to modification by the City Council, is \$174,726. Mr. Upson said a flat per-employee fee would result in an enormous assessment for large businesses. Ms. O'Brien suggested that the board recommend a fee cap to address the issue raised by Mr. Upson.

Mr. Upson briefly reviewed the advantages and disadvantages of a base fee. Following discussion by the board, Mr. Upson determined there was consensus to recommend to City Council a base-fee-plus-per-employee-fee structure. He solicited feedback regarding the amount of the base fee.

Ms. O'Brien suggested establishing a \$15,000 cap.

Referring to a document presenting several fee structures that was previously distributed to the board, Mr. Upson inquired as to whether the board would support recommending Option B, a \$1,000 base fee. Mr. Potter estimated that Option B would require an assessment of \$20-25 per FTE to generate the current FY99 budget.

Mr. Friese said he would support Option B with the understanding that in future years the Toxics Board will avoid recommending FTE as the sole basis for establishing fees. The board concurred.

Mr. Johnson moved, seconded by Mr. Morgan, to recommend Option B, a \$1,000 base fee plus an FTE charge as necessary to generate the FY99 budget.

The board discussed issues of equity with regard to the proposed fee structure and agreed that the public hearing would provide businesses the opportunity to express concerns and grievances.

The motion passed, 6:0; with Mr. Friese abstaining.

Mr. Upson suggested it may be premature to request that Mr. Potter draft a letter to businesses explaining the fee structure approved by the board, given that the board's decision may be overturned by City Council. Noting that businesses are eager to know the status of this matter, Mr. Potter suggested sending the letter regardless of the possibility that City Council will overturn the board's decision. Mr. Upson suggested including in the letter notification of the public hearing.

Ms. O'Brien suggested drafting the document such that it may be transmitted as an open letter to the public via such media as e-mail. Mr. Potter agreed to draft and forward the both the letter and City Council agenda item summary to Toxics Board members via e-mail for suggested revisions. He requested that Mr. Upson sign the letter. Mr. Upson agreed.

The board authorized Mr. Potter and Mr. Upson to make final decisions regarding the aforementioned documents in the event there are discrepancies between members' suggested revisions.

VII. COSTS

Referring to a list of cost concerns raised by representatives of business that was distributed previously, Mr. Upson solicited additional cost-related concerns and requested that the board deliberate toward agreement on the costs that will be analyzed and reported during the March meeting of the Toxics Board.

The board engaged in an extensive discussion regarding the necessity of a full-time Deputy Fire Marshal to conduct audits and the amount of money that could be saved by reducing this position which includes a vehicle and vehicle maintenance costs.

Ms. O'Brien said an additional cost-related concern is the amount of money spent defending the Toxics Right-to-Know Law. In addition, she suggested adding to the list of concerns public access expenses. She suggested researching the public access expenses of other City groups and assessing how those expenses are reflected in their budgets.

VIII. 1998 WORK PLAN

Mr. Upson distributed copies of the draft 1998 Toxics Board Work Plan, and suggested that the board discuss the draft at the next meeting.

Items IX and X on the agenda, Answers to Questions from Businesses and 1997 Report to City Council, were deferred to the next meeting.

XI. FUTURE MEETINGS

Future meetings of the Toxics Board were scheduled for March 11 and April 1 from 3-5 p.m.

The Toxics Board agreed to include the following items on its March 11 meeting agenda: 1) Approval of agenda; 2) Public comment on items not listed on agenda; 3) Approval of Minutes; 4) Staff report; 5) 1998 Work Plan; 6) Review draft answers to questions submitted at 2/21/98 meeting; 7) Draft 1997 report to City Council; and 8) Finalize dates for March, April, and May Meetings.

The meeting adjourned at 1:35 p.m.

(Recorded by Kim Kunkel)
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