

MINUTES

Toxics Board
Saul Room--Atrium Building

April 29, 1998
3 p.m.

PRESENT: Don Upson, Chair; Michael Friese, Madronna Holden, Steve Johnson, Steve Morgan, Cathy Verret, members; Glen Potter, Judi Ivy, Fire Marshal's Office staff; Jan Wostmann, Janice John, Information Services Division staff; various members of the public.

ABSENT: Mary O'Brien, member.

Mr. Upson called the meeting to order.

I. APPROVAL OF AGENDA

Mr. Upson determined there was consensus to approve the agenda, as written.

II. PUBLIC COMMENT ON ITEMS NOT LISTED ON THE AGENDA

Audience member Ken Luse requested that the Toxics Board authorize the Fire Marshal's Office to provide him with a minimum of 25 additional handbooks that he will in turn supply to businesses that may be required to report under the Toxics Right-to-Know Law. He stated that businesses are reluctant to request the books from the City because they believe they will then be placed on a list. Mr. Luse requested that the Toxics Board authorize the printing of at least 50 additional handbooks.

Mr. Potter suggested that because the books will need to be reprinted prior to the end of the calendar year anyway, the Toxics Board authorize the printing of at least 100 additional handbooks.

Mr. Friese moved, seconded by Mr. Johnson, to authorize the printing of 100 additional handbooks. The motion passed, 5:1; with Ms. Verret opposed.

The board verified Mr. Potter's understanding that handbooks are to be provided to anyone, in any quantity, without charge. Members expressed support for making the first year of reporting as easy as possible.

III. APPROVAL OF MINUTES

Members reviewed the minutes of the April 1, 1998, meeting of the Toxics Board.

Referring to sentence 1 of the final paragraph on page 1 of the minutes, Ms. Verret requested that "questions" be replaced with "question." Referring to paragraph 2 on page 7 of the minutes, Ms. Verret requested sentence 2 be amended to read "Ms. Holden, Ms. O'Brien, and Mr. Upson volunteered for the work group."

Referring to sentence 2 in paragraph 3 on page 1 of the minutes, Mr. Friese noted that Mr. Morgan's name was misspelled.

Referring to paragraph 6 on page 4 of the minutes, Mr. Morgan requested that it be noted for the record that Mr. Lidz's comment that ". . .if the ordinance were interpreted otherwise, it would create a loophole," was confusing.

Mr. Upson determined there was consensus to approve the minutes of the April 1, 1998, meeting of the Toxics Board, as amended.

IV. STAFF REPORT

A. City Council Action on Ordinance

Mr. Potter reported that on April 6, the City Council unanimously approved, as a City ordinance, the 1998 Reporting Instruction handbook in its entirety. Mr. Potter noted that although the ordinance contained an emergency clause making it effective immediately, only five councilors were present to vote and six affirmative votes are required to enact an emergency clause. Because of this, he said the handbook will go into effect as an ordinance on May 6.

B. Update on Trade Secret Filings

Mr. Potter reported that no new trade secret claims had been filed. He distributed a memorandum from the Fire Marshal regarding the positive determination on the Pepsi-Cola filing.

C. Update on Computer Programming for Report Filing

Mr. Potter noted that this item was scheduled on the agenda as item 5.

D. Review Revised Fire Marshal Trade Secret Decision Letters

The board made additional minor revisions and approved the letters and appeal form.

E. Other

Mr. Potter reported that to date, the Fire Marshal's Office has received 18 of the 42 checks expected.

V. COMPUTER PROGRAMMING

Jan Wostmann and Janice John, Information Services Division, presented a demonstration of the proposed software program that will be utilized by businesses for the purpose of reporting under the Toxics Right-to-Know Law. During the course of the demonstration, the Toxics Board requested that a number of changes be made to the program. These proposed changes were recorded by Mr. Wostmann and Ms. John.

(Mr. Wostmann and Ms. John left the meeting at 4:45 p.m.)

VI. BREAK

(The Toxics Board adjourned for a short break)

Mr. Upson reconvened the meeting and solicited feedback regarding whether to include the source lists in the database. He noted that Mr. Morgan has discovered some erroneous source list information in the chemical list.

Mr. Morgan suggested that a paper copy of the source lists be made available to the public, via the Fire Marshal's Office, for purposes of verification. The Toxics Board expressed support for this suggestion and agreed to delete the source lists field from the database.

(Mr. Friese left the meeting at 5 p.m.)

VII. FEE PENALTY ACCRUAL

Referring to the draft fee penalty structure proposed by the Fees/Penalties Work Group, copies of which were included in the meeting agenda packet, Mr. Upson solicited feedback. Mr. Potter recorded a number of suggested revisions that were made by the board.

Agreeing that the amount of the proposed penalty was excessive, the board discussed a number of alternative fee penalty structures, including 1) proposing that City Council enact an implementing ordinance wherein no penalty would be charged to non-reporting businesses prior to the reporting deadline; 2) charging a certain percentage of the total annual penalty per delinquent month; 3) charging a penalty of an amount that exceeds that which was saved by the company by not making timely payment.

Following brief discussion, the board agreed to propose a pro-rated annual penalty of 12 percent (≥ 15 FTEs and 4,001 to 10,000 pounds); 24 percent (≥ 15 FTEs and 10,001 to 25,000 pounds); 36 percent (≥ 15 FTEs and 25,001 to 100,000 pounds); and 48 percent (≥ 15 FTEs and >100,000 pounds). In addition, the board agreed to recommend that interest not begin to accrue until July 1 for those businesses that have received a bill but have not yet issued payment. Mr. Potter said he would work with Mr. Lidz to draft a proposal for review by the City Council.

Following discussion, the board agreed that after 1999, there will be no "borderline companies" in the program; fees due each May will be based on reports received as of April 1 of the same year.

VIII. DECIDE THE TIME FRAME FEES COVER

The Toxics Board agreed that, in future years, fees received as of May 1 would be based on reports of hazardous substance use over the preceding calendar year, and would be used to support the program in the upcoming fiscal year.

IX. ADJOURN

The board agreed to defer the remaining agenda items to the next meeting.

The board tentatively agreed to meet on the following dates:

- May 20 (3-6 p.m.)
- June 16 (3-6 p.m.)

The meeting adjourned at 6 p.m.

(Recorded by Kim Kunkel)
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