

MINUTES

Toxics Board
Public Works Conference Room--858 Pearl Street

December 10, 1998
3 p.m.

PRESENT: Don Upson, Chair; Mary O'Brien, Steve Morgan, Steve Johnson, Cathy Verret, Mike Friese, Madronna Holden, members; Glen Potter, Fire Marshal's Office staff; Scott Herron, Eugene Public Library; guests.

Mr. Upson called the meeting to order.

I. APPROVAL OF AGENDA

There were no changes made to the agenda.

II. PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA

There were no public comments.

Mr. Potter introduced City Library liaison Scott Herron to the board.

III. APPROVAL OF MINUTES

Ms. O'Brien requested changes to the minutes, as follows:

- on page 2, change sentence 2 in paragraph 1 to read (italicized text added, struck text deleted): "She *would* asked if the City Council could add to the list by ordinance."

Mr. Upson suggested that expanding the list of SIC codes would require at least an ordinance if not a charter amendment. Ms. O'Brien concurred, noting that the board had not raised the issue with City Attorney Jerome Lidz at the last meeting because it had not yet discussed it.

- on page 3, the statement in paragraph 7 should be attributed to Ms. Verret rather than Ms. O'Brien.

- on page 4, change the reference to “chemical” in sentence 2 of paragraph 3 to “list.”

The board accepted the minutes of November 19, 1998, as amended.

IV. STAFF REPORT

A. Status of Fee Question Request

Mr. Potter distributed copies of a letter drafted by City Attorney Jerome Lidz for Senator Susan Castillo’s signature. The letter was drafted by Mr. Lidz as a result of the board’s discussion of a response provided by the Legislative Counsel’s Office to an inquiry from Ms. Castillo regarding the impact of State law on the City’s right-to-know law. Mr. Lidz had restated the question in his letter. Mr. Potter reported that Mr. Lidz was not optimistic about a rescission of the earlier opinion or a positive response to the new request, and had recommended the board consider pursuing a legislative remedy if it wished to implement a quantity-based fee structure.

Ms. O’Brien expressed concern that the opinion produced by the Legislative Counsel’s Office was in existence and could be used by opponents of Eugene’s program to support pre-emption of the law at the State level. She suggested the letter sent to the counsel’s office state clearly that the counsel’s office did not answer the question asked of it, and also explain why Eugene disagreed with the analysis. Ms. Holden expressed concern that calling out the issue would highlight the counsel’s response and give it credibility. Ms. O’Brien disagreed. She said that to ignore it would be to accept the response. Mr. Johnson concurred. He added that it was unlikely the board would receive a retraction to the letter from the Legislative Counsel, but the response should emphasize the board’s concern about the interpretation made by the counsel.

Ms. O’Brien reiterated that the response should state clearly that the counsel’s office addressed a question other than the one asked by Senator Castillo. She stressed the importance of sending a letter before the legislative session commenced in January.

Mr. Johnson suggested the board focus the letter before it on the fact it believed the analysis was wrong to make sure it was on record. Mr. Upson agreed. He suggested that the first sentence in paragraph 3 be retained and the remainder of the paragraph deleted, and that paragraph 4 be deleted. Board members agreed. Mr. Potter indicated he would make the requested changes and provide the letter to Mr. Upson for his signature. The board agreed to ask Mr. Lidz to draft a second letter under his own signature stating why he believed the response from the Legislative Counsel’s Office incorrectly interpreted the laws cited in relationship to Eugene’s law. The board directed Mr. Potter to circulate the second letter drafted by Mr. Lidz among board members for final review.

City Manager Jim Johnson arrived at the meeting and the board moved to item V on the agenda.

V. MEETING WITH JIM JOHNSON, CITY MANAGER

The board welcomed City Manager Jim Johnson. The manager thanked the board for its service to the community. He discussed the board's proposed budget for fiscal year 2000 and noted its previously expressed concerns about the budget allocation to the library for facilitating public access to reported data. The manager indicated his belief that such access was a basic library service. He indicated the library would track usage for the present, and suggested the board could be comfortable with the allocation at this point. Mr. Upson said that his concerns were over the size of the allocation and the use of the funds. He said the board could alternatively place the funds in a contingency account. Ms. O'Brien endorsed the manager's approach, saying the hours spent by the library providing access could be tracked and the board could reconsider the allocation next year.

Responding to a question from Ken Luse, a member of the audience, Mr. Johnson indicated the transfer of Glenwood from Eugene to Springfield was scheduled for consideration by the Lane County Boundary Commission but that several steps remained to be taken in that process. He said it was not known whether the transfer would become effective prior to April 1, 1999. Mr. Potter noted that Glenwood was the location of the program's only company claiming trade secret protection.

Mr. Johnson said that he had heard no comments from the public complaining about the board or the program. He said that the City Council had expressed no concerns and was pleased by how well the board worked together.

Responding to a question from Steve Johnson regarding the possibility of legislative attempts to pre-empt Eugene's program, Mr. Johnson said that the City Council's policy was to support the charter amendment and resist legislative attempts to pre-empt the program.

The board thanked Mr. Johnson for his visit, and returned to the original agenda.

IV. STAFF REPORT (Continued)

B. Finalize Fiscal Year 00 Budget

The board reviewed information provided by Mr. Potter regarding the costs of minutes recording and agreed to retain the recommended amount for that service.

Mr. Potter introduced Scott Herron of the Eugene Public Library. Mr. Herron referred the board to a document he had prepared entitled *Eugene Public Library: Public Access to Annual Reports from Users of Hazardous Substances, FY00 Budget*. Mr. Herron said that the library staff had

considered the issues raised by the board at its last meeting regarding the allocation to the library. He assured the board that staff would track hours used to assist the public in

accessing program data, adding that he did not anticipate that the burden to the library would approach the previously proposed \$5,000 allocation. Mr. Herron said that the library preferred to absorb the staff costs because of management's belief that service to the public was part of its job.

Mr. Herron distributed a breakdown of anticipated expenses and described the facilities and assistance available to the public. He noted that most of the expenses he anticipated were attributable to printing documents from the Internet.

Mr. Morgan suggested that, given Mr. Herron's remarks, the board reduce the library allocation by half. The board agreed that \$2,500 was an acceptable allocation.

Responding to a question from Ms. O'Brien, Mr. Herron said library staff would be trained on how to access the program data and make it available to the public.

The board approved the proposed FY2000 program budget as modified.

C. City Council Action on Reappointment Recommendations

Mr. Potter reported that the City Council had accepted the board's recommendations for reappointments, and had reappointed Mr. Morgan, Mr. Johnson, and Ms. Verret to new three-year terms.

D. Final Version of 1999 Tracking Instructions

Mr. Potter distributed the final version of the tracking instructions to the board and reported that copies had been mailed to reporting businesses. Mr. Potter reported that he and Mr. Morgan had audited portions of the chemical list to determine the general accuracy of the source citations; they had discovered and corrected a small number of errors, but had agreed that the source list was generally reliable enough for publication. Mr. Potter indicated that he would continue to audit the entire list as time permitted.

E. Ordinance Adopting 1999 Tracking Instructions

Mr. Potter reported that the City Council adopted the ordinance on December 7, 1998.

F. Business Reporting Software and User Instructions

Mr. Potter indicated that the software and instructions were mailed out to businesses with the 1999 handbooks.

G. Updated 1999 Work Plan

The board reviewed the draft 1999 Work Plan, included in the meeting packet. Mr. Morgan suggested that items 1 and 2 of the proposed August agenda, *Finalize 2000 Tracking Instructions* and *Finalize Software Improvements*, be moved to September. The board agreed.

Responding to a question from Ms. O'Brien regarding the process for developing the public access handbook, Mr. Upton anticipated that Mr. Potter would draft the handbook for the board's review. Mr. Potter indicated he would talk to Steve Chipman of Information Services regarding the documentation for the public access software. He agreed he could draft the handbook. Ms. O'Brien volunteered to work with Mr. Potter on content.

Ms. O'Brien asked if reports from companies would be available as they were received. Mr. Potter said that once received, the reports were public documents and could be made available immediately.

H. Second Draft of 1998 Annual Report

The board made minor revisions to the report and approved it as revised.

VI. SET MEETING DATES FOR 1999

The board established the following meeting dates for the first quarter of 1999: January 28, February 18, March 17, and April 21.

VII. NOMINATE, DISCUSS, AND VOTE ON CHAIR/VICE CHAIR FOR 1999

The board discussed the positions of chair and vice chair and agreed to a suggestion from Mr. Upton that the chair and vice chair should revolve among the three representative elements of the board, with the vice chair serving the following year as chair.

The board unanimously selected Ms. Verret as chair and Mr. Johnson as vice chair for 1999.

VIII. PUBLIC ACCESS SOFTWARE DEMONSTRATION

Steve Chipman, Information Services Division, provided a demonstration of the public access Internet site and responded to board comments and suggestions. He showed the board how the tools available on the home page could be used to run summary reports, to display lists of companies in the program by name and zip code and chemicals in use by name and CAS number, and to download data files.

Mr. Chipman also demonstrated the site's capability to sort reported data by output type, including particular groupings of outputs that would enable users to see information regarding outputs directly to the environment.

The board commended the work done by staff on the public access site, and offered various suggestions intended to make the Internet site and its information more usable to the public.

Mr. Chipman indicated he would revise the site in response to the board's suggestions.

IX. ADJOURN

The meeting adjourned at 5:30 p.m.

(Recorded by Kimberly Young)
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