

# MINUTES

Toxics Board  
Saul Room--Atrium Building

July 23, 1997  
11 a.m.

PRESENT: Sam Frear, Vice Chair; Steve Johnson, Steve Morgan, Don Upson, Cathy Verret, members; Dave Petersen, Linda Grenz, Megan Kruse, Fire Marshall's Office staff; Jerry Lidz, City Attorney; Glen Potter, City of Eugene staff; Brian Patterson for Gerritt Rosenthal, EMCON (consultant to the Toxics Board).

ABSENT: Mary O'Brien, Chair; Jeff Smith, member.

Mr. Frear called the meeting to order.

## I. APPROVAL OF AGENDA & MINUTES

Ms. Verret distributed a document entitled *Ideas for Distributing Handbook to Businesses*. Mr. Petersen distributed 1) a July 17 letter from Gerritt Rosenthal, EMCON (consultant to the Toxics Board), regarding measurement of radioactive materials and 2) the minutes of the June 24 meeting of the Toxics Board.

The Board agreed to consider approval of the June 24 meeting minutes at its next meeting.

## II. PUBLIC COMMENT

There was no public comment.

## III. CITY ATTORNEY (JERRY LIDZ)

### A. Review of Statement by Jerry Lidz as reported in the April 24 Toxics Board Minutes

Clarifying a statement made by him during the April 24 meeting of the Toxics Board that "the Charter Amendment constitutes the prior voter approval required to utilize collected fees to replace start-up funds," Mr. Lidz said collected fees will not be utilized to reimburse the City of Eugene for start-up funds.

In response to a question from Mr. Upson, Mr. Lidz said the Charter Amendment provides no direction regarding when the shift from utilizing General Funds to utilizing user fees shall occur.

He said the Toxics Board must recommend an appropriate time for the change to the City Council. In other words, it is up to the council and not the board to decide.

#### **B. Review of Legality of Fees Options**

With regard to the fees options proposed by Mr. Johnson and Mr. Smith, Mr. Lidz said a quantity- based fee is inadvisable.

Mr. Upson inquired as to the legality of a fee based on number of employees or number of reportable chemical compounds. Mr. Lidz said a fee based on such factors would be legal.

#### **C. Review of Legality of Handbook Text**

Referring to a document entitled *Preliminary Draft--For Discussion Only*, Mr. Lidz reviewed a number of factors and principles he recommended the board consider in deciding whether or not to impose a penalty for a violation, and in determining the amount of that penalty. Additionally, Mr. Lidz led the board in a page-by-page review of his recommendations with regard to the draft handbook text, stressing the importance of including a written rationale for all areas that may not be completely explicit under the Charter Amendment.

### **IV. DECISION ON CHEMICAL LIST PURCHASE**

Mr. Petersen reported that the Fire Marshal's Office has negotiated with Molecular Probes regarding its purchase of a chemicals list and predicted a contract will be signed within two weeks. Additionally, Mr. Petersen reported that over 350 notices to businesses were mailed the previous week and the Fire Marshal's Office had received only 23 related phone calls to date. He said the deadline for returning the questionnaire included in the notice is July 31 and the Toxics Board will likely receive a summary of the collected data at its August 6 meeting.

Mr. Petersen announced that Glen Potter was offered and has accepted the position of Toxics Board Management Analyst.

### **V. BOARD REVIEW OF FIRE MARSHAL BUDGET AND EMCON BUDGET**

Referring to materials included in the agenda packet of the previous Toxics Board meeting, Mr. Petersen solicited comments and questions regarding the Fire Marshal and EMCON budget.

Mr. Upson suggested including in the budget the Toxics Board's expectations of its Consultant and Management Analyst in terms of both their contributions to the execution of the Charter Amendment and their potential impact on the level of fees collected from businesses.

Mr. Morgan suggested postponing the contract with an independent auditor until it is determined whether businesses will claim trade secrets. Mr. Johnson clarified that although the Toxics Board is responsible for assessing the independent auditor's qualifications, the company claiming trade secrets is responsible for hiring the individual.

Mr. Upson recommended the acquisition of a computer system that is compatible with the needs of the program and requires minimal data entry. He stressed that a program to compile the data received by the Toxics Board must be in place by January 1, 1998. Mr. Petersen responded that Mr. Rosenthal was looking into the matter.

## **VI. RESPONDING TO MISREPRESENTATIONS**

Mr. Frear recommended that individuals misrepresented by the media directly contact the person responsible.

Mr. Upson suggested that following the completion of the Toxics Board's primary tasks, the board write an article for publication in *The Register-Guard*. He said this would both prevent the board's statements from being taken out of context and provide additional media coverage.

The next meeting of the Toxics Board is scheduled for August 6 from 11 a.m. to 1 p.m. in the Saul Room of the Atrium Building.

The meeting adjourned at 12:40 p.m.

(Recorded by Kim Kunkel)  
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