

MINUTES

Eugene Toxics Board
Fire Conference Room, Second Floor
Eugene Emergency Services Center
1705 West Second Avenue, Eugene

May 8, 2013
3:30 PM

PRESENT: Tom Carmicheal, Chair; Stephen Flanagan, Vice Chair; Sheena Gardner, Alison Guzman, Rick Nicol, Christine Zeller-Powell, members; Joann Eppli, Fire and Emergency Services staff; Lisa Arkin, Ken Luse, Andy Poynter, Janelle Halesworth, Kristina Bokody, guests.

ABSENT: Randall Prince, members.

Mr. Carmicheal called the meeting of the Toxics Board to order at 3:32 PM.

I. INTRODUCTIONS/APPROVAL OF AGENDA

Those present introduced themselves.

II. PUBLIC COMMENT

Mr. Luse said it was time for the Toxics Board to shut down the program website and get its information off of the Internet. The Charter Amendment states the hazardous substance information needed to be available to the public in the Eugene Public Library. It did not say it needed to be on the Internet, making it available to any terrorist, worldwide, who wanted to look at it and decide where he wanted to put his bomb in Eugene. The law was passed and promulgated way before 9/11 happened, and no one was thinking about terrorist activities at that time. The information did not need to be available worldwide, but it did need to be available to the citizens of Eugene. He added if all of the associated staff costs, Internet time, and information technology time was taken out of the equation, the City would save money. He had sent an email to City Councilor Mike Clark who acknowledged Mr. Luse comments as interesting information. Mr. Clark agreed to forward the information to the City Manager.

In response to Mr. Poynter, Ms. Eppli said information technology costs were at most approximately \$3,000 annually.

Mr. Carmicheal asked if Toxics Board members wanted to add this item to the next meeting agenda.

Mr. Nicol agreed with Mr. Luse's comments. He added he would shut down the Toxics Board.

Ms. Guzman disagreed with Mr. Luse's comments.

Mr. Nicol moved to place this issue on the next Toxics Board agenda.

There was no second to the motion, and the motion was not voted on.

Janelle Halesworth and Kristina Bokody, representing Life Technologies, introduced themselves.

Lisa Arkin, representing Beyond Toxics, said she would like to report to the Board at a future meeting on the benefits of the Eugene Toxics Right-to-Know Program, and how it had brought funding to Eugene, Springfield and Lane County. Beyond Toxics had used information on the Toxics Right-to-Know Program's website to spur interest in developing brownfields in industrial sites in Lane County, which resulted in the U.S. Environmental Protection Agency (EPA) recently granting the Eugene/Springfield/Lane County consortium over \$340,000 in grants to test brownfields for redevelopment.

III. APPROVAL OF MEETING MINUTES

Ms. Eppli offered the following correction to the January 23, 2013 minutes:

Page 3, paragraph 5, should read:

MOTION: Ms. Gardner moved, seconded by Mr. Nicol, to reduce staff time to 75 percent for fiscal year 2014 and to direct staff to perform those tasks required by law and to contact new businesses that should be included in the program. This would result in a recommended fee of \$66.16 per FTE with a threshold of 31 FTE, and a total program budget of \$101,836 for FY14. The motion ~~carried unanimously, 6:0~~ **passed 4:1:1, with Mr. Carmicheal, Mr. Flanagan, Ms. Gardner and Mr. Nicol, voting in favor of the motion, Ms. Zeller-Powell voting against the motion, and Ms. Guzman abstaining.**

There were no changes to the February 25, 2013 minutes.

There was consensus to approve the January 23, 2013 minutes as amended and approve the minutes of February 25, 2013 as submitted.

Ms. Zeller-Powell arrived at 3:40 PM.

IV. STAFF REPORT

Ms. Eppli offered the staff report. She said Mr. Prince would not be attending today's meeting.

Ms. Eppli said 2012 reporting was complete, with all companies reporting by the deadline and the extended deadline for Oregon Ice Cream. There was no need to discuss extensions or whether to take action on possible fines. The process to identify additional covered entities was in progress. She would send Toxics Board members a summary report when the process was completed. She had been pleased that people had been professional and responsive. She had completed audits of businesses reporting for the three year cycle ending June, 2014. She planned to conduct site visits of reporting businesses.

V. TOXICS BOARD APPLICANT INTERVIEWS

To prepare for two upcoming vacancies on the Toxics Board due to term expirations of June 30, 2013, the Toxics Board interviewed Wendy Cecil from Life Technologies for Position 1, an industry position, and considered Christine Zeller-Powell to serve for a second term in Position 4, an advocacy position.

VI. REPORTING GUIDELINES FOR EXTREMELY HAZARDOUS SUBSTANCES

- CAS #007722-84-1 hydrogen peroxide (conc>52%)
- CAS #007647-01-0 hydrochloric acid/hydrogen chloride

Ms. Bokody stated she and Ms. Halesworth worked for Molecular Probes, a subsidiary of Life Technologies. They had worked on the toxics report for 2012 and had identified areas for clarification by the Toxics Board: hydrogen peroxide purchased at 40 percent and hydrochloric acid in gas and liquid form.

Ms. Garner opined the Toxics Board could not deviate from the federal list for hydrogen peroxide at greater than 52 percent. Thus, Life Technologies would not need to report hydrogen peroxide at a concentration lower than 52 percent.

In response to Ms. Guzman, Ms. Halesworth said the hydrogen peroxide was used for sterilizing and in small amounts in some products. It was shipped from the facility as waste or product.

Ms. Eppli said characteristic substances not already listed should be emailed to the Toxics Board for review and approval.

Mr. Poynter stated if substances were used in research and development activities rather than in the manufacturing process, they were exempt from reporting requirements.

In response to Ms. Garner, Ms. Halesworth said the company received hydrochloric acid in both gas and liquid form, in various concentrations.

Ms. Eppli confirmed that hazardous substances used for research and development are not required to be reported, and that if Life Technologies believed that CAS #007722-84-1 hydrogen peroxide (conc>52%) and CAS #007647-01-0 hydrochloric acid/hydrogen chloride met the definition of a characteristic substance as defined in 40 CFR 261, they should submit the required information to the Toxics Board for consideration of addition to the List of Reportable Chemicals.

VII. CHARACTERISTIC CHEMICALS REVIEW

Ms. Eppli directed Toxics Board members to the April 4, 2013 staff memorandum in the agenda packet, subject Characteristic Chemicals for Addition to the List of Reportable Chemicals. She noted Toxics Board members had received a packet of Material Safety Data Sheets for (MSDS) for the chemicals the Toxics Board was considering for listing.

Toxics Board members discussed the characteristics of the chemicals and whether or not they should be included in the Toxics Program's List of Reportable Chemicals.

Mr. Flanagan, seconded by Ms. Gardner, moved to list the chemicals included in the staff memorandum and supporting documents, as they met the requirements to be added to the Toxics Board Program's List of Reportable Chemicals. The motion passed unanimously, 6:0.

There was consensus to defer making a final decision on the characteristic chemicals identified at the October 24, 2012 Toxics Board meeting, and those chemicals that were previously mistakenly deleted, after the Toxics Board received Life Technologies revised list before submitting. After a Toxics Board decision, the list would be submitted to the City Manager for approval.

VIII. CURRENT SOURCE LIST FOR HAE (CAS #34375-28-5) REVIEW

Ms. Eppli directed Toxics Board members to the email dated April 3, 2013 from Ms. Eppli, subject CAS #34375-28-5 HAE Follow-Up. She confirmed CAS #34375-28-5 HAE was on the original List of Reportable Chemicals as being regulated by SARA 313, and was still on the current List of Reportable Chemicals as being regulated by SARA 313. She had also confirmed that the chemical was no longer regulated under SARA 313, or any of the other Federal regulatory program lists the Eugene Toxics Program encompassed. The chemical was currently only federally regulated under FIFRA, which was no longer allowed under the Eugene Toxics Program due to the 1999 Oregon Court of Appeals ruling. This meant that the Toxics Board needed to make a recommendation to the City Council, and the Toxics Board would need to go through another Ordinance process to have the substance removed from the Toxics Program's List of Reportable Chemicals.

Ms. Gardner, seconded by Mr. Carmicheal, moved that the Toxics Board recommend to the City Council that CAS #34375-28-5 HAE be removed from Toxics Program's List of Reportable Chemicals. The motion passed unanimously, 6:0.

There was consensus by the Toxics Board that Ms. Eppli could delay taking the request to the City Council until she had other items to take to the City Council for approval.

V. TOXICS BOARD APPLICANT INTERVIEWS (CONTINUED)

Ms. Eppli asked the Toxics Board for a recommendation to the City Council on appointments to the Toxics Board.

Ms. Gardner, seconded by Mr. Nicol, moved that the Toxics Board recommend to the City Council that Wendy Cecil be appointed to Position 1, an industry position on the Toxics Board. The motion passed unanimously, 6:0.

Ms. Guzman, seconded by Mr. Flanagan, moved that the Toxics Board recommend to the City Council that Christine Zeller-Powell be reappointed to serve a second term in Position 4, an advocacy position on the Toxics Board. The motion passed 5:0:1, with Mr. Carmicheal, Mr. Flanagan, Ms. Gardner, Ms. Guzman, and Mr. Nicol

voting for the motion and Ms. Zeller-Powell abstaining.

Ms. Eppli said she would forward the Toxics Board's recommendations City Council.

IX. MISCELLANEOUS INFORMATION

Ms. Guzman stated she was moving from the area and this would be her last meeting as a Toxics Board member.

Ms. Eppli said she had requested a special recruitment from the City Manager's Office to fill the vacancy.

Mr. Carmicheal stated his term was ending on June 30, 2013, and this would be his last meeting as a Toxics Board member.

Ms. Eppli noted Mr. Flanagan would serve as Toxics Board Chair and Ms. Gardner would serve as Toxics Board Vice Chair beginning July 1, 2013.

Ms. Eppli expressed her appreciation to Ms. Guzman and Mr. Carmicheal for serving on the Toxics Board.

X. SCHEDULE NEXT MEETING/FUTURE AGENDA ITEMS

- Toxics Program Recommendations for City Council
- Lane County Local Emergency Planning Committee (LEPC) Presentation
- Possible Presentation from Beyond Toxics

Ms. Eppli stated the next Toxics Board meeting was scheduled for July 17, 2013.

The meeting adjourned at 4:35 PM.

(Recorded by Linda Henry)