

DRAFT (Not Approved by CAG)

**Community Advisory Group (CAG)
for the
Omaha Lead Site**

Minutes for Meeting Held
Wednesday, June 11, 2008, 9:30 a.m.
Omaha Healthy Kids Alliance
115 S. 49th Ave
Omaha, NE 68132

OLS CAG Members Present:

Sue Casteel - *Agency for Toxic Substances and Disease Registry*
Brenda Council - *OLS CAG Facilitator*
Kara Eastman - *Omaha Healthy Kids Alliance*
Bob Feild - *Environmental Protection Agency*
Vicki Quaites-Ferris - *City of Omaha Mayor's Office*
Crystal Rhoades - *Neighborhood Center of Greater Omaha*
Chris Rodgers - *Douglas County Board of Commissioners*
Marian Todd - *Omaha City Planning Department*

Others Present:

John Askew - *Environmental Protection Agency*
Rebecca Barrientos-Patlan - *Burlington road Neighborhood Association*
Mary Castaneda - *EPA Information Offices*
Lelia Coyne - *Citizen*
Todd Davis - *Omaha City Planning Department*
Laura Hardesty - *Citizen*
Debbie Kring - *Environmental Protection Agency*
Shavonna Lausterer - *Douglas County Health Department*
Matt Manderfeld - *MFG, Inc.*
Stacy Meacham - *MFG, Inc.*
Steve Sanders - *Environmental Protection Agency*
Reid Steinkraus - *Douglas County Health Department*
Ché Thompson - *Omaha Healthy Kids Alliance*

1. Discussion on Minutes from the May 14, 2008 Meeting

Ms. Meacham asked for corrections or additions to the CAG minutes from the May 14, 2008 meeting.

Mr. Feild stated that: “Mr. Feild stated that the grant recipients are not required to provide EPA with the report” should say, “Mr. Feild stated that EPA does not have the authority since the grant is closed.”

The minutes were unanimously approved (8-0).

DRAFT (Not Approved by CAG)

2. EPA Update

Mr. Feild introduced Mr. John Askew, EPA Regional Administrator. Mr. Askew stated that he was at the meeting to listen and help in any way possible and noted on the importance of EPA and the City of Omaha moving towards a final ROD.

Contracting

Mr. Feild stated that EPA exercised its first contracting options for 2008 with Prudent and Coastal for continued soil removals. Mr. Feild stated that Prudent has not yet started soil removals but that Coastal began two weeks ago and has removed and backfilled soil at six properties and will be sodding this week.

Access Progress

Mr. Feild stated that to date, EPA has 5,668 residential properties, out of a total of approximately 40,000 properties, remaining to be sampled. Mr. Feild broke down the properties remaining to be sampled as follows: (1) property owners have refused to grant access at 2,142 properties; (2) three attempts to reach property owners have been unsuccessful at 1,888 properties; and (3) 1,638 properties are new properties added to the list due to the expanded focus area.

Mr. Feild stated that EPA has hired local contractors to gain access to these properties. Mr. Feild stated that out of those that previously refused access, owners of 692 properties have granted access and owners of 709 properties have refused for a second time. Mr. Feild stated that out of those that could initially not be reached, owners of 714 properties have granted access and owners of 145 properties have refused. Mr. Feild stated that out of the new properties added to the sampling list in the expanded focus area, owners of 124 properties have granted access and owners of 16 properties have refused.

Administrative Orders

Mr. Feild stated that EPA has the authority to sample all the remaining properties and is looking at their options. Mr. Feild stated that EPA can issue administrative orders to force compliance and explained that if the owners still refuse, a warrant from a federal judge would be issued to allow EPA access to the property. Mr. Feild noted that significant penalties could be imposed for noncompliance with the order but he stated that it is not EPA's intent to issue fines; EPA just wants to attain access to complete the sampling. Mr. Feild stated that EPA may consider the use of administrative orders for landlords of rental properties but that they were considering other options for owner occupied properties.

Ms. Quaites-Ferris asked if EPA has finished a letter outlining its intentions regarding administrative orders. Mr. Feild stated that EPA is not planning on doing anything with orders before July. Mr. Feild stated that EPA will notify the Mayor's Office and the City prior to sending anything out.

Commercial

DRAFT (Not Approved by CAG)

Mr. Feild stated that EPA hopes to have the 30-second commercial regarding the importance of soil sampling available by Friday, June 13, 2008. Mr. Feild stated that EPA will share the commercial with the CAG after it is finished and reviewed. Mr. Feild stated that EPA hopes to begin airing the commercial by mid June. Ms. Kring added that the commercial will also be available in Spanish.

Recontamination Study

Mr. Feild stated that copies of the Recontamination Study work plan are available at the meeting. Mr. Feild stated that the work plan is intended to help develop criteria for paint stabilization eligibility and that EPA plans to move forward with the sampling this summer. Mr. Feild invited the CAG to submit comments to EPA on the work plan by Friday, June 20, 2008.

Omaha Zoo

Mr. Feild referred the CAG to Ms. Quaites-Ferris for an update on the zoo. Ms. Quaites-Ferris stated that the City is waiting to hear back from its attorneys. Mr. Feild stated that EPA views the zoo as a commercial property; therefore, it is technically not part of the Omaha Lead Site. Mr. Feild stated that EPA is; however, willing to help.

Phosphate Study

Mr. Feild stated that EPA is waiting for the final bench scale report. Mr. Feild stated that the Treatability Study is part of the Remedial Investigation/Feasibility Study process and will support the final Record of Decision (ROD). Mr. Feild stated that EPA will provide the CAG with the report prior to release and that it will be available for public comment with the risk assessment and proposed plan. Mr. Feild stated that EPA hopes to get the bench scale report to the CAG within the next month.

Mr. Feild stated that EPA is working towards establishing a final OLS boundary and that it is making progress. Mr. Feild stated that properties where more than 5% of the surrounding properties within 500 meters contain average mid-yard soil lead concentrations of 400 ppm and up will be included within the final boundary. Mr. Feild stated that although impacts outside the boundary line are diminishing with distance, this does not change EPA's belief that Asarco impacted these properties. Mr. Feild stated that speciation sampling has found pyrometallurgic impact at these properties but that it is lessening.

Mr. Feild stated that extending the boundary to include the 95% line adds an additional 2,511 properties to the existing approximate 40,000 properties initially planned for sampling. Mr. Feild stated that 438 of the additional properties are north of the previous boundary and 2,073 of the additional properties are west of the previous boundary (1,917 properties in the Dundee/Memorial Park area and 156 properties to the southwest).

Ms. Barrientos-Patlan asked if EPA was concerned with the water table under the former Asarco site and potential impact to the river. Mr. Feild stated that water beneath the facility is slowly entering the Missouri River but that it is at a slow rate. Mr. Feild stated

DRAFT (Not Approved by CAG)

that samples of water and sediment from the area have found no measurable impact to water quality due to dilution.

Paint Stabilization

Mr. Feild stated that there are two new lead-based paint contracts, a small business contract and a HubZone contract. Mr. Feild stated that EPA opened bids last Friday for both contracts in a public process. Mr. Feild stated that out of six bidders, Prudent Technologies had the lowest bid for the small business contract with a \$2.87 million bid. Mr. Feild stated that out of five bidders, Professional Environmental Engineers (PEE), had the lowest bid for the HubZone contract with a \$3.44 million bid. Mr. Feild stated that PEE is a subcontractor for Black and Veatch, which has conducted the majority of the lead-based paint assessments completed to date. Mr. Feild stated that the bids area based on a total of 800 properties each – 200 initial properties with six options for 100 additional properties.

Mr. Feild stated that EPA needs to review the bids for responsiveness (whether the proposal addresses all items in the solicitation) and responsibility (whether the bidder has demonstrated an ability to perform the work). Mr. Feild noted that neither contract has been awarded yet but they should be awarded by the next CAG meeting.

Mr. Feild stated that contractors were required to demonstrate their abilities to perform the work and provide subcontractor work plans. Mr. Feild stated that he did not have the contractors' subcontractor work plans. Ms. Thompson stated that both contractors were removal contractors, not painting contractors, and that the work will then be done by subcontractors. Mr. Feild stated that only one painting company from Omaha submitted a bid. Mr. Feild stated that the bid was not selected because it was for \$5.4 million.

Ms. Quaites-Ferris asked if the companies will be given incentives for hiring local painters. Mr. Feild stated that the contractors will be given an additional 10% of the contracted amount if they spend at least 80% of the contracted amount in the local community, which includes local hires.

Ms. Council stated that the CAG was informed that approximately 70% of Prudent employees were local hires. Mr. Feild stated that Prudent and PEE are both out of state companies; however, they have each set up local offices in North Omaha.

Mr. Feild stated that lead-based paint assessments are in progress, and that 236 assessments have been performed this year. Ms. Council asked if specific criteria have been set for the paint stabilization. Mr. Feild stated that criteria have yet to be officially defined; however EPA is performing stabilization at the homes where paint is in the worst condition. Mr. Feild stated that based on their current assessment criteria, approximately 40% of the homes eligible for soil removals are also eligible for paint stabilization. Mr. Feild noted that approximately one in every eight homes sampled is eligible for soil removal thus, 40% of these homes, or approximately one in twenty homes, is also eligible for paint stabilization. Mr. Feild stated that EPA assessors measure the lead loading in houses and determine the extent of potential soil

DRAFT (Not Approved by CAG)

contamination if all of the lead-based paint on the houses fell into the soil. Based on this calculation, EPA ranks the severity of the lead hazards. Mr. Feild stated that the City is stabilizing paint at the 224 worst houses identified during the assessments and that EPA is stabilizing the next 400 worst houses with its recently-awarded contracts. Mr. Feild stated that EPA has provided information to the City for an additional 120 properties in need of stabilization. Mr. Feild stated that EPA prioritizes homes containing children. Mr. Feild stated that the current criteria are not set in stone and that they could go higher or lower. He further stated that the criteria are used as a guide to find the worst homes.

3. Douglas County Health Department Update

Mr. Steinkraus stated that the Douglas County Health Department and the City of Omaha have worked together to draft two proposed city ordinance amendments. Mr. Steinkraus stated that one amendment will classify lead-based paint as a nuisance. Mr. Steinkraus stated that under the amendment, code inspectors that receive complaints related to peeling lead-based paint on a particular property will alert the Health Department, which will then assess the home.

Mr. Steinkraus stated that the second proposed amendment will require owners of rental properties built before 1978 to arrange for lead-based paint risk assessments for their properties and provide a report detailing potential lead hazards to their tenants. Mr. Steinkraus stated that the risk assessments must be performed according to HUD guidelines related to lead paint and dust.

Mr. Steinkraus stated that the City of Omaha will present the proposed ordinances to the city council for approval.

Ms. Rhoades asked who will be performing the assessments. Mr. Steinkraus stated that the landlords will be required to arrange for certified assessors to perform the assessments and provide reports of their findings every three years. Mr. Steinkraus stated that the reports will be kept on file for five years. Mr. Steinkraus stated that the ordinance will be phased in as follows: (1) year one, properties with ten or more units; (2) year two, properties with three to nine units; (3) year three, all other structures. Mr. Steinkraus stated that the cost for an assessment will range from approximately \$350-500 per home, adding that it is a relatively minor cost to the landlord when spread out over three years.

Mr. Feild asked if there is a proposed penalty for noncompliance. Mr. Steinkraus stated that failure to comply will be considered a Class I Misdemeanor that carries a penalty of up to \$500 and possible jail time. Mr. Steinkraus noted that the ordinance gives the authority for enforcement but that he did not anticipate the need to go to court as they have not had to do so when working with owners of properties with children with elevated blood lead levels. Ms. Rhoades asked who would be responsible for enforcement. Mr. Steinkraus stated that the City would be responsible for enforcing the assessment requirements under Section 48 of Omaha Municipal Code and that the Health

DRAFT (Not Approved by CAG)

Department would be responsible for following up on the lead-based paint nuisance complaints under Section 18 of the code.

4. OHKA Update

Ms. Eastman stated that OHKA may have been awarded two different grants they've applied for and hopes to have final word on the awards in the near future.

Ms. Eastman stated that OHKA will be supporting New Community Development's efforts in applying for the HUD LEAP grant.

Ms. Eastman stated that OHKA will assist the UNL Extension Office in reapplying for its current HUD grant.

Ms. Eastman stated that OHKA will be applying for a grant from the Women's Fund that could provide funding for outreach related to lead-safe cleaning practices education.

Ms. Eastman stated that OHKA has applied for an Americorps grant.

Ms. Eastman stated that KETV and the World Herald ran stories about the poster contest with Blackburn School. Ms. Council thanked Ms. Thompson for her work with the students.

Education Committee Update

Ms. Eastman provided an update on Education Committee activities.

Ms. Eastman stated that Ms. Thompson is working to create a Jeopardy game related to lead safety. Ms. Eastman stated that OHKA is purchasing six games at \$500 each. Ms. Thompson stated that the games include tool kits for the teachers, including software to guide them through the process. Ms. Thompson stated that the games include student activities, educational materials, and information to take home. Ms. Barientos-Patlan asked if OHKA has chosen which schools will get the games. Ms. Thompson stated that they have not decided; however, they know that three will go to North Omaha schools and three will go to South Omaha schools. Ms. Thompson stated that the games will be ready in time for National Lead Week in October.

Ms. Eastman stated that there will be another lead-safe work practices training seminar, and that OHKA will target EPA contractors. Ms. Todd stated that the class is quickly filling up. Ms. Eastman stated that more information on the seminar is available on the flyers in the back. Mr. Feild asked if it was possible for EPA painting contractors to coordinate directly with the City for training opportunities. Ms. Todd stated that the City will not conduct seminars specifically for the companies; however, the seminars are open to anyone. Mr. Feild asked if they would schedule another seminar to accommodate all of the EPA contractors. Ms. Todd stated that the city has conducted several seminars and that it can conduct more if needed. Ms. Todd stated that a list of contractors that have completed the training is listed on the OHKA website. Ms. Castaneda asked if Prudent

DRAFT (Not Approved by CAG)

and PEE could get a copy of the list. Ms. Eastman referred Ms. Castaneda to the OHKA website.

Ms. Thompson asked if the City training results in State certification. Ms. Todd stated that it does not. Ms. Todd stated that the City is looking to utilize high-level instructors. Ms. Todd asked if EPA painting contracts required state certification, adding that if they do not, there is no official training requirement. Mr. Feild stated that the painting contracts require city-level training. Ms. Council stated that the requirement disqualifies contractors that received training through the META and UNL Extension programs before the city offered them. Mr. Feild stated that he did not know they would be disqualified and that he would look into the matter. Mr. Feild added that it was not his decision. Ms. Council stated that it could be a problem. Mr. Feild stated that the EPA will look into the matter and may adjust the contract if people are unfairly excluded.

Ms. Eastman stated that the Health Department has been working to inform people of the dangers associated with Mexican candy, and that Ms. Acero was recently on a Spanish radio station to discuss the issue.

Ms. Eastman stated that Ms. Muhammed was leaving Omaha and OHKA thanked her for her involvement.

Housing Committee Update

Ms. Todd provided an update from a recent Housing Committee meeting.

Ms. Todd stated that committee discussed the proposed ordinances presented by Mr. Steinkraus. Ms. Todd stated that the ordinances will be presented to the city council and the process will include: (1) an introduction of the ordinances at an upcoming city council meeting; (2) a public hearing with time for proponents and opponents to speak and a proponent rebuttal; and (3) the city council vote.

Ms. Quaites-Ferris stated that the City will be meeting with landlord associations prior to introducing the proposed ordinances. Ms. Thomson asked if the city has a timetable for the meeting and asked how long the city will wait to move forward if the associations refuse or delay meetings. Ms. Quaites-Ferris stated that the city hopes to meet with the landlords within the next two weeks. Ms. Council asked if Mr. Steinkraus has set a deadline. Ms. Eastman stated that he did; however she was not sure what it is. Ms. Rhoades stated that the landlords will be upset.

Ms. Kring asked if the City has a backup plan in case the ordinance fails to pass. Ms. Quaites-Ferris stated that it did not, adding that if it fails, the City at least hopes to find out why it did not pass and move forward from there.

Ms. Council stated that the public will have the opportunity to contribute to the debate and that the city council meetings are televised.

DRAFT (Not Approved by CAG)

Ms. Quaites-Ferris stated that the City will be mailing letters to each of the city council members. Ms. Council stated that the pre-council meetings are also important, and that city councilmen are not always familiar with the full scope of issues.

Mr. Feild asked if both ordinances had to pass in order for the Health Department to maintain funding. Ms. Casteel stated that she believed that there were other factors involved and that the two were not tied together. Ms. Thompson stated that they would be unable to meet the requirement of the grant if one or the other of the ordinances did not pass. Ms. Casteel stated that she will look into the matter, adding that someone with CDC told her otherwise. Ms. Muhammed stated that the Health Department is under the impression that the ordinances must pass. Ms. Todd stated that she was reasonably sure that both ordinances did not have to pass to meet the requirements.

5. City Update

Ms. Todd stated that the City currently has 157 properties out for paint stabilization bidding. Ms. Todd stated that to date, contracts for 99 properties have been awarded, of which seven have been completed. Ms. Todd stated that the bidding for the remaining 58 properties opens today.

6. NDEQ Update

No update.

7. LSOC Update

No update.

8. Other

Ms. Barrientos-Patlan asked if Ms. Eastman was able to discuss a toy recall with the Amazing Pizza Machine. Ms. Eastman stated that in past discussions, the business did not feel as though it is necessary. Ms. Barrientos-Patlan stated that this was before they had the lab analysis but now they do and the results of lead tests conducted on their toys confirm the presence of lead. Ms. Eastman suggested that Ms. Barrientos-Patlan call the Amazing Pizza Machine or the Consumer Product Safety Commission (CPSC).

Ms. Barrientos-Patlan stated that the Burlington Road Neighborhood association will be hosting the BRNA Family Day on June 28, 2008 at 41st and H Streets and invited everyone to attend.

Ms. Council announced that the next meeting will be held July 9, 2008 in South Omaha.

DRAFT (Not Approved by CAG)

Handouts:

Draft CAG Meeting Minutes from 05/14/08

Final CAG Meeting Minutes from 04/09/08

Omaha Lead Site Lead-Based Paint Contract Pre-Bid Meeting Transcript (Provided by EPA)

Childhood Lead Poisoning Prevention: 2007 Program Data (Provided by Douglas County Health Department)

Public Hearings for National Ambient Air Quality Standards for Lead (Provided by MFG, Inc.)

Fact Sheet: Proposed Revisions to the National Ambient Air Quality Standards for Lead (Provided by MFG, Inc.)

Lead and Crime (Provided by MFG, Inc.)

Justices Focus on Scope of Lead Paint case (Provided by MFG, Inc.)

Candies' Potential Hazards Emphasized (Provided by MFG, Inc.)

Health Board to Study Kids' Lead Levels (Provided by MFG, Inc.)

Lead poisoning: It's Time to Act on Bill to Eliminate Dangerous Substance (Provided by MFG, Inc.)

Field Reopens with New Turf after Lead Found in Surface (Provided by MFG, Inc.)

Discovery of Lead in Turf Raises Concerns (Provided by MFG, Inc.)

Dentists Say Lead Dental Work Not Being Used Here (Provided by MFG, Inc.)

Picher Buyout the Focus of FOX Program (Provided by MFG, Inc.)

EPA Checking Lead Levels in Picher after Tornado (Provided by MFG, Inc.)

Buyout Panel to Continue Making Offers in Picher (Provided by MFG, Inc.)

Camden Steps Up Effort to Curb Lead in Homes (Provided by MFG, Inc.)

Camden Plans Action on Lead (Provided by MFG, Inc.)

High court: Lead Lawsuit Can Proceed (Provided by MFG, Inc.)

Get the Lead Out (Provided by MFG, Inc.)

Parents Visit Congress to 'Get the Lead Out' of Toys (Provided by MFG, Inc.)

Studies Link Lead to Adult Crime, Brain Damage (Provided by MFG, Inc.)

Study Links High Lead Levels, Crime (Provided by MFG, Inc.)

Maine's Message to Toymakers is Clear: Get the Lead Out (Provided by MFG, Inc.)

Retailers Move on Toy Safety (Provided by MFG, Inc.)

Sleeping Bags, Toys Recalled (Provided by MFG, Inc.)

DRAFT (Not Approved by CAG)

Record Number of Toys Being Recalled in '08 (Provided by MFG, Inc.)

Batting Helmets Recalled by Rawlings (Provided by MFG, Inc.)

HUD/EPA Lead Safety For Remodeling, Repair & Painting flyer (Provided by Ms. Todd)