

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

Minutes for Meeting Held  
Wednesday, November 9, 2005, 9:30 a.m.  
OneWorld Community Health Centers  
4920 S. 30<sup>th</sup> Street  
Omaha, NE 68107

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## **OLS CAG Members Present:**

Janet Bohm—*Citizen at Large*  
Brenda Council—*Facilitator*  
Todd Davis—*Nebraska Department of Environmental Quality*  
Jonah Deppe—*League of Women Voters*  
Jim Dowding (proxy for Councilmen Gernandt and Brown)—*City of Omaha*  
Bob Feild—*Environmental Protection Agency*  
Violet Iluebbey—*International Family Center*  
Jeff McDermott—*Union Pacific Railroad*  
Edna Brooks Pittman (Designee for Tommie Wilson)—*NAACP*  
Dr. Adi Pour—*Douglas County Health Department*  
Marian Todd—*City of Omaha Planning Department*  
Vernon Waldren—*Douglas/Sarpy County Extension Office*  
Cammy Watkins—*Sierra Club*  
Cheryl Weston—*Lead Safe Omaha Coalition*

## **Others Present:**

Rebecca Barrientos-Patlan—*Burlington Road Neighborhood Association*  
Joe Bateman—*Union Pacific Railroad*  
Marcy Bauer—*Public Health Solutions*  
Mary Castaneda—*EPA Information Centers*  
Todd Crawford—*Senator Hagel's Office*  
Karen Davis—*Congressman Terry's Office*  
Felisa Dillon—*ASW*  
Nancy Gaarder—*Omaha-World Herald*  
Jennifer Gates—*MFG, Inc.*  
Gary Gotsdiner—*McGill, Gotsdiner, Workman, and Lepp*  
Ayesha Graves—*City of Omaha*  
Denise Jordan-Izaguirre—*Agency for Toxic Substances and Disease Registry*  
Andri Jova—*Environmental Protection Agency*  
Debbie Kring—*Environmental Protection Agency*  
Kathy Leinenkugel—*Douglas County Health Department*  
Stacy Meacham—*MFG, Inc.*  
Althea Moses—*Environmental Protection Agency*  
Jennifer Rawley—*MFG, Inc.*  
Steve Sanders—*Environmental Protection Agency*

Ms. Council thanked OneWorld Community Health Centers for hosting the meeting.

**1. Discussion on Minutes from the October 19, 2005 Meeting**

Ms. Council asked for any additions or corrections to the minutes from the October 19, 2005 CAG meeting. Ms. Weston stated that in the second paragraph on page 3, “excavation” should read, “excavated.” Ms. Deppe motioned to approve the minutes with the above correction. Ms. Weston seconded the motion. The motion was unanimously approved (11-0).

**2. EPA Update**

Mr. Feild provided an update on EPA activities. Mr. Feild stated that 905 yards have been excavated so far this year and EPA would continue excavating until the weather breaks. Mr. Feild stated that contractors currently doing work are ECC (continuing under the U.S. Army Corps of Engineers contract), ER (working under a performance-based contract with EPA), EMR (an 8(a) contractor from Kansas), and HGL (working for EPA conducting construction quality assurance over ER).

Mr. Feild stated that EPA’s information centers will be opening soon and that open houses will be held in the next week or two. Mr. Feild stated that Ms. Dillon would work at the North Omaha office (within the Urban League Family Resource Center at 30<sup>th</sup> and Lake) and Ms. Castaneda at the South Omaha office (4909 S. 25<sup>th</sup> St). Ms. Leinenkugel asked if calls to EPA’s regional 800-number would be forwarded to the local offices. Mr. Feild stated that the operator can route calls to the local offices or may route calls directly to him.

Ms. Weston stated that she feels it is a conflict of interest for individuals working for ASW (a contractor working for ECC under USACE’s contract with EPA for removal actions) to work at the information offices. Ms. Weston requested a written response to her concern. Mr. Feild stated that when ASW was identified to staff the information offices, EPA was aware of the potential perception of conflict of interest. Ms. Weston stated that EPA had previously stated that there should not even be a perceived conflict. Ms. Weston stated that residents or property owners may call the information office with concerns or complaints and asked if the information office staff would take such calls. Mr. Feild replied that the staff would take such calls. Mr. Feild stated that all calls would be logged and complaints would be forwarded on to the EPA regional office. Ms. Weston reiterated that she feels there is a conflict of interest.

Ms. Barrientos-Patlan asked if EPA has tested schoolyards. Mr. Feild replied that all OPS schoolyards and playgrounds were tested.

Ms. Leinenkugel asked if EPA's information offices would have voicemail during hours when the offices are not staffed. Mr. Feild replied that calls would generally be forwarded to the staff workers' cellular phones, although an answering machine may also be available. Ms. Weston asked if the office hours have changed, now that one individual is staffing the north office and another individual is staffing the south office. Mr. Feild stated that the offices would be staffed a combined 60 hours per week. Mr. Feild stated that the hours would be announced after finalization. Mr. Feild stated that, although there may be some overlap, generally, the two offices would not be open at the same time.

Mr. Feild stated that confusion was generated by television reports about arsenic in soil in Omaha. Mr. Feild explained that when EPA analyzes soil samples for lead, EPA also analyzes for other metals, including arsenic. Mr. Feild stated that EPA's Remedial Investigation for the Omaha Lead Site refers to arsenic levels in soil. Mr. Feild stated that EPA maintains that arsenic levels are unrelated to industrial emissions, based on the distribution of arsenic contamination, which appears to be more random than the distribution of lead. Mr. Feild stated that speciation work has also shown that arsenic is most likely related to pesticides. Mr. Feild stated that EPA could not respond to the arsenic levels because EPA cannot take action to deal with consumer product issues. Mr. Feild stated that EPA was not involved with ATSDR's assessment and that EPA may comment on the report.

Ms. Leinenkugel asked if letters were sent to residents and homeowners with the arsenic test results. Ms. Jordan-Izaguirre stated that letters were sent to addresses where the average arsenic level for the yard exceeded 70 ppm. Ms. Leinenkugel expressed concern that those residents with levels below 70 ppm were not notified of the arsenic level for their yards. Ms. Leinenkugel asked if the dripzone was sampled. Ms. Jordan-Izaguirre stated that ATSDR looked at average levels for the entire yard. Ms. Leinenkugel asked if the yard average included the dripzone. Ms. Jordan-Izaguirre replied that she did not know.

Ms. Barrientos-Patlan stated that few residents have received letters regarding arsenic levels, though many citizens are concerned and would like to know what will be done. Ms. Barrientos-Patlan stated that nurseries and daycares are afraid that they may lose their businesses and are unsure if they are required to disclose arsenic levels to the families they serve. Ms. Barrientos-Patlan asked whom residents could call with questions and concerns. Ms. Jordan-Izaguirre stated that she could be called at 913-551-1310 or residents could call ATSDR's Dr. David Mellard or Ms. Sue Casteel at 888-422-8737.

Ms. Council asked if EPA has the authority to address arsenic outside of Superfund. Mr. Feild replied that he did not know. Mr. Feild added that arsenic levels in Omaha are typical of levels across the country and that EPA does not have a program to respond to such a widespread problem.

Ms. Council asked what the purpose of releasing the arsenic report was. Ms. Jordan-Izaguirre stated that arsenic poses a potential health threat and is advising limiting

exposure. Ms. Brooks Pittman asked how individuals could find out what level of arsenic is in their yard if they did not receive a letter. Ms. Jordan-Izaguirre stated that EPA has the arsenic data. Mr. Feild stated that he could not pull up the results at this time because the database is only set up to retrieve lead levels. Ms. Jordan-Izaguirre stated that she would try to make the information available next week at the public meetings ATSDR has planned.

Ms. Todd asked if ATSDR has educational materials concerning arsenic that could be released to the public. Ms. Jordan-Izaguirre stated that packets of information were sent to homes with over 70 ppm arsenic. Ms. Todd asked if information could be provided that specifically relates to consumer products. Ms. Jordan-Izaguirre stated that, based on results of the speciation, the list would be too long and could include hundreds of products. Ms. Barrientos-Patlan stated that it would be beneficial to send information to relieve fear that exists in the community, and that if EPA believes the media is exaggerating the issue, a statement to that fact should be made.

Ms. Barrientos-Patlan stated that citizens are also concerned about an EPA contractor staging area located near Nebraska Beef. She expressed concern with the possibility of rain washing contamination to the Nebraska Beef site and contaminating food. Ms. Council stated that NDEQ and the City were involved with permitting staging areas and suggested following-up with the City. Mr. Feild stated that approval of staging areas is a City matter and is not a permitting process. Mr. Davis stated that approval of a staging site does not require issuance of a permit. Ms. Council asked if a City representative could present the approval process to the CAG at the next meeting. Mr. Dowding stated that someone from the City would be present at the next meeting to discuss the process.

Ms. Deppe asked Ms. Gaarder to help clarify arsenic issues for the community in the Omaha World-Herald.

Ms. Brooks Pittman asked if information could be sent to every home where arsenic was tested. Ms. Brooks Pittman also requested that notices of the public meeting be sent to all residents where arsenic was tested. Ms. Jordan-Izaguirre stated that meeting times and locations were only provided to residences with average arsenic levels over 70 ppm. Ms. Brooks Pittman stated that everyone should have the opportunity to attend the meetings and ask questions. Ms. Jordan-Izaguirre stated that it would be difficult to get notices out to everyone before the meetings. Ms. Deppe asked if additional meeting could be scheduled. Ms. Jordan-Izaguirre replied that additional meetings could be held and that staff could also attend neighborhood group meetings, if there was interest.

Mr. Feild stated that EPA does not believe that ATSDR's report exaggerates risk. Mr. Feild stated that because the Health Consultation is not an EPA study, EPA could not make a formal statement. Mr. Feild stated that ATSDR should take the lead on public announcements. Ms. Jordan-Izaguirre stated that ATSDR would make any announcements.

Ms. Council stated that she would ask Mr. Clifton Jones of HUD to attend the next CAG meeting to discuss any potential disclosure requirements for homeowners that have received notices of high arsenic levels. Ms. Council requested that EPA legal counsel also look into disclosure questions and the possibility that homeowners could be responsible for excavating their own yards.

Ms. Weston asked if the Douglas County Health Department has received many arsenic-related questions. Dr. Pour stated that the Douglas County Health Department is receiving many questions. Dr. Pour stated that daycare providers want to know if they should be informing parents about arsenic levels. Ms. Council asked that EPA look into what requirements day care center providers may have in informing parents of arsenic levels and also of any financial obligations they may be facing in dealing with the issue.

Dr. Pour, referring specifically to page 11 of the ATSDR Health Consultation, stated that children with average soil intake are not at risk of harmful effects from arsenic, even at the most contaminated properties. Dr. Pour stated that only a very small population of children exhibits pica, which would put the children at risk. Dr. Pour stated that a child would need to ingest a teaspoon of soil everyday for at least three days in a row for there to be a risk, and even then, a tenfold safety factor is used when calculating the risk. Dr. Pour stated that, by calculations presented by ATSDR in the Health Consultation, between 8 and 40 children in the entire area may have this behavior. Ms. Deppe asked if the Douglas County Health Department could release this information in a statement. Dr. Pour replied that it is an ATSDR report and that ATSDR should be providing any information or statements. Ms. Jordan-Izaguirre stated that ATSDR might do another press release.

Dr. Pour stated that everyone should communicate that eating soil is unsafe in the United States. Ms. Leinenkugel stated that ingesting soil can be a cultural practice, but is unsafe in an industrialized nation.

### **3. NDEQ Update**

NDEQ did not have anything to report.

### **4. Douglas County Health Department Update**

Dr. Pour provided an update on the Douglas County Health Department. Dr. Pour stated that Douglas County Health Department staff attended the UNMC/ConAgra health fair and that the CAG had a display at the Minority Health Conference. Dr. Pour reported that, as a result of attending the events, the Douglas County Health Department received calls from doctors' offices interested in additional information.

Dr. Pour reported that the Douglas County Health Department is sending letters to health clinics reporting how many lead tests were performed over the last year.

Dr. Pour stated that the Douglas County Health Department is working on ascertaining information on refugees via a paper assessment that includes recommending lead tests. Ms. Brooks Pittman suggested creating a checklist for physicians that would identify when a lead test is needed. Dr. Pour stated that physicians already use a one-page assessment. Ms. Brooks Pittman suggested making the one-page assessment available to parents, so that parents may bring the assessment with them to the physician's office to request a test. Ms. Leinenkugel stated that the Douglas County Health Department's message is that all one, two, and three year old children need to be tested regardless of other factors. Ms. Council suggested that the CAG Education Subcommittee look into mechanisms to encourage physicians to screen for lead.

Mr. Flattery stated that OneWorld Health Centers tests for lead during routine visits. Ms. Weston stated that the problem exists with private physicians. Ms. Leinenkugel stated that the Douglas County Health Department is trying to encourage physicians to ask if a child has been tested for lead in the last 12 months, each time the child is seen by the physician.

Ms. Bohm suggested that lead tests be administered during required pre-kindergarten physicals. Dr. Pour agreed that lead tests should be done during a well-child check. Ms. Council asked if lead tests could be linked with required immunizations. Ms. Deppe stated that lead tests were required for children entering school in Illinois, and that this created problems because children that had not had their lead test were kept out of school. Ms. Leinenkugel stated that lead tests are required for children entering HeadStart, but that children cannot be kept out of HeadStart if the test is not done, placing the burden on HeadStart to ensure that children are tested.

## **5. LSOC Update**

Ms. Weston provided an update on Lead Safe Omaha Coalition activities. Ms. Weston presented educational displays created by school children and a video.

Ms. Weston thanked the CAG for assisting in ensuring that contractors receive fair wages at the Omaha Lead Site.

## **6. Comprehensive Plan Subcommittee Update/ 7. OHKA Update [combined agenda items]**

Ms. Deppe provided an update on the Comprehensive Plan Subcommittee. Ms. Deppe stated that the Subcommittee had met to discuss the Omaha Healthy Kids Alliance (OHKA) and how the OHKA will work with the CAG and the community to obtain community input. Ms. Deppe provided a flowchart created by the Subcommittee depicting a suggested structure for communication between OHKA and the CAG. Ms. Deppe asked if the proposed structure would be acceptable.

Mr. Gotsdiner stated that the proposed operating system would allow direct community input into OHKA through the committees of OHKA. Mr. Gotsdiner stated that a member

of the governing board would chair each committee. Mr. Gotsdiner stated that creating a process for public input is an important piece of OHKA.

Mr. Gotsdiner explained the legal steps that would be taken to get OHKA up and running. Mr. Gotsdiner explained that Nebraska requires that the board of directors begin with at least three directors. Mr. Gotsdiner stated that it is being envisioned that 17 members would be on the board of directors: eight members would be appointed and the eight appointed members would select nine additional members. Ms. Deppe asked if additional community representation had been added to the board of directors. Mr. Gotsdiner stated that there would be a North Omaha representative, and South Omaha representative, and a parent residing in the Omaha Lead Site. Ms. Watkins asked what each of the 17 members would represent.

Mr. Gotsdiner described the current proposed board of directors as being the following:

- Representative appointed by the Mayor
- Representatives appointed by each senator
- Representative appointed by the 2<sup>nd</sup> district congressman
- Representative appointed by a significant contributor
- Representative appointed by the Douglas County Health Department
- Representative appointed by the Omaha Community Foundation
- Representative appointed by the Governor
- Representative with experience in education or healthcare
- Representative with experience in business
- Representative with experience in philanthropic endeavors
- Representative of a North Omaha community-based organization
- Representative of a South Omaha community-based organization
- Resident of the Omaha Lead Site
- Parent of a small child residing in the Omaha Lead Site
- Two additional representatives appointed by the Mayor

Ms. Bohm stated that the additional individuals appointed by the Mayor should reside in the Omaha Lead Site. Ms. Council stated that the Mayor wants to utilize the additional appointments to ensure that the community is appropriately represented. Mr. Bateman stated that the Mayor wants to use the additional appointments to balance the board of directors. Ms. Council stated that the Mayor emphasized addressing central Omaha and community representation.

Ms. Watkins asked if homes outside of the Omaha Lead Site would be addressed by OHKA. Mr. Gotsdiner stated the boundaries of the program have not been determined and that this would be a decision the board of directors would have to make.

Ms. Watkins asked if term limits would be set for members of the board of directors. Mr. Gotsdiner stated that a 3-year term limit is being contemplated. Mr. Gotsdiner stated that terms could be renewed. Mr. Gotsdiner added that terms might be different for appointees of politicians as politicians change.

Ms. Watkins stated that she is concerned that none of the first eight members of the board are community representatives. Mr. Gotsdiner stated that there are not two separate boards and that all 17 members would have equal rights, privileges, and responsibilities.

Ms. Weston asked why the Mayor is appointing two additional members to the board of directors. Mr. Bateman stated that the Mayor is the best person to determine how to appropriately balance the board of directors. Ms. Weston asked if the board of directors is the Mayor's board. Mr. Bateman stated that it is not the Mayor's board. Mr. Bateman stated that the Mayor seems to be the most logical choice for taking the responsibility of balancing the board.

Ms. Weston asked if board meeting would be open to the public. Mr. Gotsdiner stated that the board would determine the policy of meetings. Mr. Gotsdiner stated that there has never been a 501(c)(3) organization that has had every meeting open to the public, and he assumed that OHKA would be no different. Mr. Gotsdiner stated that he anticipates that certain board meetings would be open and that committee meetings would be open. Mr. Gotsdiner stated that the committees would adopt their own procedures.

Ms. Graves introduced herself as representing the Mayor's office. Ms. Graves stated that she was present to listen to all community concerns and would be reporting back to the Mayor all recommendations from the CAG. Ms. Barrientos-Patlan requested that Ms. Graves ensure that South Omaha is represented on the board of directors.

Ms. Watkins stated that refugees are not represented on the board of directors. Ms. Leinenkugel stated that everyone could not be represented on the board of directors, but would be providing input via the committees. Ms. Weston stated that there has been a misconception about the board of director's function. Ms. Weston stated that the purpose of OHKA is to distribute funding to community organizations and other entities and to coordinate efforts. Ms. Council added that it is expected that the committees would be setting the policy of the organization. Ms. Council stated that it has always be the intent that interested individuals would participate on the committees, as individuals have with the CAG.

Ms. Brooks Pittman stated that the board of directors would only be approving committee initiatives and that the committees would be doing the work. Mr. Gotsdiner stated that Ms. Brooks Pittman was correct. Mr. Gotsdiner stated once the board of directors approved an initiative, it would be the responsibility of the executive director or staff to implement and have accountability to carry out the plan. Mr. Gotsdiner stated that after the city reviews the legal documents for OHKA, he would like the CAG to review the documents.

Ms. Council suggested providing Mr. Gotsdiner with recommendations. Ms. Weston suggested emailing proposed recommendations to CAG members to vote on.

Ms. Barrientos-Patlan stated that she was concerned that the Mayor may have a heavy weighted vote on the board of directors. Ms. Council stated that the Mayor is only appointing three of 17 positions. Ms. Council stated that it is expected that appointees would be from the CAG for consistency purposes. Ms. Barrientos-Patlan stated that she appreciates the Mayor and Union Pacific for starting up OHKA.

Ms. Council stated that nominations for the board of directors could still be submitted to Mr. Joe Gudenrath at the Mayor's office.

Ms. Weston motioned to recommend the proposed board composition and appointment mechanism with 17 identified positions and the structure for OHKA as depicted in the Comprehensive Plan Subcommittee's flowchart. Ms. Deppe seconded the motion. The motion was unanimously approved (12-0).

Ms. Weston motioned to recommend the two final OHKA board of directors positions appointed by the Mayor be selected through a process with a means of providing input to the Mayor to ensure balanced community representation on the board of directors. The motion failed (8 for-0 against-2 abstentions).

Ms. Todd asked why Ms. Deppe and Ms. Watkins had abstained from voting. Ms. Deppe stated that she felt the membership on the board of directors should reflect the people living in the impacted area. Ms. Watkins stated that she does not fully understand how the board of directors is to be assembled. Ms. Council clarified that the impacted area does not coincide with the currently defined EPA boundary. Ms. Todd motioned to recommend that the two final OHKA board of directors positions appointed by the Mayor be individuals residing within the impacted area. Ms. Weston seconded the motion. The motion was approved (10 for-0 against-1 abstention).

## **8. Environmental Justice Presentation**

Ms. Moses presented on environmental justice. Ms. Moses suggested that the CAG maintain urgency and set high goals. Ms. Moses stressed that communities know themselves best.

Ms. Moses stated that EPA is preparing an environmental justice assessment of the Omaha Lead Site and will share the report with the CAG following peer review. Ms. Moses stated that the CAG is welcome to comment on the document.

Ms. Council asked if 501(c)(3) status would allow OHKA to collaborate with EPA's environmental justice program and possibly receive funding. Ms. Moses stated that funding opportunities might be available.

## **9. Education Subcommittee Update**

Mr. Waldren provided an update on the Education Subcommittee. Mr. Waldren stated that during National Lead Poisoning Prevention Week, the Subcommittee successfully

arranged for a mayoral proclamation, news release, KFAB report, a booth at the Minority Health Conference, and attendance at the UNMC/ConAgra health fair. Mr. Waldren stated that the Subcommittee has decided to hold the next lead week from April 2 – 8, 2006. Mr. Waldren then presented a contact information sheet created by the Subcommittee for EPA's contractors to distribute to residents. Mr. Waldren stated that the contact sheets would be updated with phone numbers and addresses of EPA's information offices.

## **10. Grants Subcommittee Update**

Ms. Council asked for any grant updates. There were none. Ms. Weston asked if there was a chair for the grants subcommittee. Ms. Council stated that there was not and asked for anyone interested in volunteering to let her know.

## **11. Questions/Answers**

Ms. Barrientos-Patlan raised a concern with the city dumping excess paint from paint trucks on unpaved residential roads. She asked if the paint could contain lead and be contaminating the residential properties along the road. Mr. Feild indicated that he would look into the matter.

Ms. Council stated that the next CAG meeting will be held on December 14, 2005 at 9:30 a.m. The location is to be announced.

### Handouts Provided for the Meeting (November 9, 2005):

*Draft Minutes from 10/19/05 (Provided by MFG, Inc.)*

*Approved Minutes from 09/14/05 and 09/28/05 (Provided by MFG, Inc.)*

*Comprehensive Plan Subcommittee Notes from 10/06/05 (Provided by MFG, Inc.)*

*Education Subcommittee Notes from 10/11/05 (Provided by MFG, Inc.)*

*Letter Regarding Hurricane Recovery Effort (Provided by MFG, Inc.)*

*Lead Poisoning Prevention Week News Releases (Provided by Vernon Waldren)*

*Letter to EPA Requesting EJ Presentation*

*Letter to the City Clarifying Requested Changes to the City Property Maintenance Code*

*Letter from the U.S. Dept. of Labor to Senator Hagel Dated 10/20/05 (Provided by Senator Hagel's Office)*

*Ruling Raises Locals' Pay for Lead Cleanup Work (Provided by MFG, Inc.)*

*One Lead-Paint Defendant Settles (Provided by MFG, Inc.)*

*Kmart Covers Up Lead Warning Labels on Halloween Masks (Provided by MFG, Inc.)*

*City of Omaha Appropriation Request (Provided by Marian Todd)*

Attachments to Minutes:

*Sign-In Sheet (hardcopy to be delivered)*