

ALAMEDA COUNTY
LEAD POISONING PREVENTION PROGRAM

Serving the Cities of Alameda, Berkeley, Emeryville, and Oakland

2000 Embarcadero, Suite #300 • Oakland, CA 94606 • (510) 567-8282

WWW.ACLPPP.ORG

Date: March 21, 2008

TO: Directors and Alternates
Alameda County Lead Poisoning Prevention Program

FROM: Mark Allen, Secretary
Joint Powers Authority

SUBJECT: **Meeting of the Board of Directors**

The next regular meeting of the Alameda County Lead Poisoning Prevention Program Joint Powers Authority Board of Directors is scheduled for **Thursday, March 27, 2008. The meeting will begin at 9:45a.m. in Room 220E, 1221 Oak Street, Oakland.** Attached is the agenda packet for the meeting.

Please confirm your attendance with Mable Smith at (510) 567-8239.

Thank you.

Attachments

Hon. Henry Chang, Jr., City of Oakland • Chairperson, Hon. Ken Bukowski, City of Emeryville
Hon. Alice Lai-Bitker, Alameda County • Gwen Hardy, Community Representative • Hon. Beverly Johnson, City of Alameda
Hon. Betty Olds, City of Berkeley

ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM
JOINT POWERS AUTHORITY

A G E N D A
March 27, 2008
9:45 a.m.

1221 Oak Street, Room 220E
Oakland, California

NOTICE: All meetings of the Alameda County Lead Abatement Program Joint Powers Authority Board of Directors are open to the public. Those wishing to address the Board of Directors on items not on the agenda may do so during the open forum section of the meeting.

- 1) **Open Forum** (Discussion)
Directors, alternates, staff, or members of the public may address the Board of Directors regarding items not on the agenda. The Board will listen to matters presented but may not take action on these items.
- 2) **Director's Report**
- 3) **MOU with Alameda County** (Action)
Discussion and approval by JPA Board of Directors on a course of action for completing this process.
- 4) **Approval of Minutes (February 28, 2008)** (Action) p.1
- 5) **Program Operations Committee**
 - a) **Minutes (March 13, 2008)** (Information) p.4
 - b) **Health and Housing Services Report** (Discussion) p.5
Monthly presentation of the program's housing, primary prevention, blood lead screening, case management, outreach and education activities.
- 6) **Administration and Finance Committee**
 - a) **Minutes (March 13, 2008)** (Information) p.
- 7) **Announcements by Board Members** (Information)

Agendas are available on the Program's website at www.acldppp.org

ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM

**JOINT POWERS AUTHORITY
MEETING MINUTES**

February 28, 2008

Attendance:

Voting Directors: Henry Chang, Jr., Beverly Johnson, Betty Olds

Non-Voting Directors: Alice Lai-Bitker, Gwen Hardy

Alternates: Nancy Templeton

Staff: Mark Allen, Paul da Silva

Others:

Absent: Ken, Bukowski

The meeting was called to order at 9:45 a.m.

1) **Open Forum**

No public comment.

2) **Director's Report**

Mr. Allen circulated to the JPA Board of Directors the following:

- “Achieving the Goals of the Newark Children’s Bill of Rights” - Recommendations to Mayor Cory A. Booker and Director Maria Vizcarrondo, Newark Department of Child & Family Wellbeing, January 2008, Princeton University Woodrow Wilson School of Public & International Affairs. He referred the Board to page 27 wherein the authors mentioned the Program favorably.
- County to County newsletter, featuring the *Get the Lead Out* Coalition. The Coalition is comprised of 11 Bay Area Counties, of which the Program is a part.
- Audit Report for Fiscal Year ended June 30, 207. He indicated that Patel & Associates, CPA, reported no findings. Financial statements were produced and audited in conformance with GASB 34 requirements. Ms. Gwen Hardy requested that Mr. Allen contact Patel & Associates to correct future audit publications to list PUEBLO instead of “community groups,” as reported on page 19. Mr. Allen said Ms. Hardy was correct and he would so information auditing agency.

Mr. Allen said that he has been in contact with Rubén Briones regarding Assemblywoman Wilma Chan’s lead in plumbing bill (AB 1953). He said that there has been another attempt by the faucet companies to forestall implementation of AB 1953 in the form of Senate Bill 1334, authored by Senator Calderon, Senate District 30 (Southeast Los Angeles).

Ms. Johnson announced that the Alameda County Mayors’ Conference would be held in Alameda on June 11, 2008. She proposed that Program staff provide a presentation to this body on lead poisoning. The rest of the Board concurred that this was an excellent idea. She suggested that Program staff contact her aide for the particulars. Mr. Allen said that he would do so upon returning to the Program office.

The JPA Board of Directors suggested that Program staff draft proclamations for this year's Childhood Lead Poisoning Prevention Week to be held on October 19-25, 2008. Supervisor Lai-Bitker suggested it would be an appropriate way to pay tribute to the role of PUEBLO. Mr. Allen said Program staff would be happy to draft language for Lead Poisoning Prevention Week proclamations for the CSA jurisdictions.

3) **2008 JPA Board Meeting Schedule**

Mr. Allen presented the JPA Board meeting schedule for calendar year 2008. He asked the Board to review and approve the dates listed. The JPA Board of Directors moved to pass the schedule. Mr. Allen said that an electronic copy would be sent to each Director's office.

Approval of 2008 JPA Board Meeting Schedule

Action: The Board approved the JPA Board meeting schedule for 2008.

Moved: Ms. Olds **Seconded:** Ms. Johnson **Ayes** 4

4) **Approval of Minutes (January 24, 2008)**

Action: The Board approved the minutes for January 24, 2008.

Moved: Ms. Olds **Seconded:** Ms. Johnson **Ayes** 3

5) **MOU with Alameda County**

Mr. Allen suggested to the JPA Board of Directors that he mail a draft of the staff report and the proposed MOU between the JPA and the County to each Director for their review. He said that he would place this item on the next General meeting agenda, March 27, 2008, for a vote on the manner in which it would be forwarded to the City Attorney of each CSA city. The JPA Board of Directors agreed. Mr. Chang suggested Mr. Allen contact Mr. Ken Bukowski, requesting he present his concerns about the MOU in writing to other Board members. Mr. Allen said he would.

6) **Program Operations Committee**

a) **Minutes (February 14, 2008)**

b) **Health and Housing Services Report**

Mr. Allen reviewed the Health and Housing Services Report. There were no questions regarding this report. Ms. Lai-Bitker asked staff to provide a breakdown of lead poisoned children by city. Mr. Allen said staff will provide this information.

c) **Second Quarter Report FY 2007-08**

Mr. Allen reviewed the Second Quarter Report for Fiscal Year 2007-08. He told the JPA Board of Directors the Program had exceeded all of its half way benchmarks, except HEPA vacuum cleaner lending program. He said staff is developing a strategy to improve performance in this area.

7) **Administration and Finance Committee**

a) **Minutes (February 14, 2008)**

8) **Announcements by Board Members**

Meeting adjourned at 10:30 a.m.

PROGRAM OPERATIONS COMMITTEE

MEETING MINUTES

March 13, 2008

Attendance:

Voting Directors: Ken Bukowski, Henry Chang, Jr., Beverly Johnson, Betty Olds

Non-Voting Directors: Gwen Hardy

Alternates:

Staff: Mark Allen, Paul da Silva

Others: None

Absent: Alice Lai-Bitker

1) **Open Forum**

No public comment.

2) **Director's Report**

Mr. Allen informed the JPA Board of Directors that:

- A letter was drafted in response to Senator Ron Calderon's bill, SB 1334. He asked the JPA Board Chair to sign the letter, expressing opposition to his bill. Mr. Chang moved for an emergency action item to be placed on the agenda; Ms. Olds seconded the motion. Mr. Bukowski, JPA Chair, signed the letter. Ms. Johnson suggested that a copy of the letter be provided to the other Mayors during the Alameda County Mayors Conference.
- Program staff attended the State of California Strategic Planning meeting on lead issues, in which he participates in the housing subcommittee. He said that during the meeting he had formally made a request to the Public Health Director to contact the California Consumer Affairs Agency in order to assist in adding lead poisoning for the California Contractor Licensing Board's curriculum. Mr. Bukowski suggested sending a letter to the legislator overseeing this Board, requesting that lead be included as part of the requirements for contractor licensing. Ms. Johnson added that a similar letter be sent to the State Attorney General with the same request.
- James "Buzz" Sorensen, Community Development Agency Director, would be retiring as of April 1, 2008. The Board of Supervisors has asked Mr. Sorensen to continue under contract as a consultant until a replacement is found.

Mr. Allen asked the JPA Board if they had received the draft Memorandum of Understanding with the County of Alameda. He said that discussion and passage on the manner to forward the MOU to the CSA city attorneys is scheduled for March 24, 2008, during the JPA General Board meeting. The JPA Board members said that they did indeed receive their packets.

3) **Health and Housing Services Report**

Mr. Allen and the JPA Board Members reviewed the Health and Housing Services Report. There were no questions regarding these reports.

Meeting adjourned at 10:12 a.m.

ADMINISTRATION AND FINANCE COMMITTEE

MEETING MINUTES

March 13, 2008

Attendance:

Voting Directors: Ken Bukowski, Henry Chang, Jr., Beverly Johnson, Betty Olds

Non-Voting Directors: Gwen Hardy

Alternates:

Staff: Mark Allen, Paul da Silva

Others: None

Absent: Alice Lai-Bitker

1) **Open Forum**

No public comment.

2) **Director's Report**

Mr. Allen advised the JPA Board of Directors that he was informed by the Fair Political Practices Commission (FPPC) that it is necessary that the JPA establish their own separate Conflict of Interest code that had to be approved by the Alameda County Board of Supervisors in order to be compliant with FPPC's regulations. He said that, during the March 24th's General JPA meeting, he would bring a draft for the Board to review, and potentially vote to adopt. The JPA Board agreed.

Meeting adjourned at 10:23 a.m.

ALAMEDA COUNTY LEAD POISONING PREVENTION PROGRAM
Revised Staff Report
March 27, 2008
Draft Memorandum of Understanding
Between the Alameda County Lead Abatement District Joint Powers Authority
And
The County of Alameda

Task

The Joint Powers Authority (JPA) Board of Directors of the Alameda County Lead Abatement District has tasked staff with the development of a draft Memorandum of Understanding between the JPA and the County of Alameda. Said draft is to be reviewed by the County Counsel of the County of Alameda, the JPA Board of Directors, the City Attorneys of all participating County Service Area cities, and the respective City Councils.

The final draft, incorporating recommendations from the CSA Cities, will be presented to the JPA Board and, upon its approval, to County Counsel and the Alameda County Board of Supervisors.

Background

The County Service Area Law was established to provide County boards of supervisors “alternative organizations and methods to finance and provide” services primarily to the unincorporated areas. According to California Government Code §25210, “In enacting the County Service Area Law by this chapter, it is the intent of the Legislature to continue a broad statutory authority for county boards of supervisors to use county service areas as a method to finance and provide needed public facilities and services.” As such, the county board of supervisors acts “as the governing authority of a county service area.”

On December 10, 1991, the Alameda County Board of Supervisors approved the formation of a County Service Area to provide funding for the County Lead Abatement Program, later to be known as the Alameda County Lead Poisoning Prevention Program.

On January 14, 1992, the Board of Supervisors approved the Program’s Implementation Plan. The Implementation Plan, among other things, called for the formation of a Joint Powers Authority (JPA), which would allocate the funds generated by the County Service Area and oversee the execution of the Implementation Plan, which “will initially be achieved through a contract between the JPA and the County.”

On May 19, 1992, a Joint Powers Agreement, “to establish an entity which will supervise and fund the operations of the Alameda County Lead Abatement Program,” was established between the City of Alameda, the City of Berkeley, the City of Oakland, and the County of Alameda. In 1993, the City of Emeryville became a signatory to the Agreement.

On August 5, 1993, the Alameda County Board of Supervisors approved a resolution authorizing “the President of the Board of Supervisors to Execute a Memorandum of Understanding with the Alameda County Lead Abatement Program Governing the Provision of Services in County Service Area LA-1991-1. The resolution reads in part, “In order for the County to properly deliver services funded by the CSA, it is appropriate that a Memorandum of Understanding be executed to govern the

County's relationship to the JPA.”

On August 23, 1993, the proposed Memorandum of Understanding (MOU) was presented to the JPA Board of Directors for review, comment, and approval. To date, the JPA Board of Directors has never taken a vote on the proposed MOU.

However, during the budget discussions for fiscal year 2005-2006, confusion surfaced over the relative roles and responsibilities of the Board of Supervisors and the JPA Board of Directors in personnel, budgeting, and contracting matters. The JPA Board requested guidance from staff and the Office of the County Counsel.

On October 26, 2006, Assistant County Counsel Brian Washington told the JPA Board that according to the California Government Code, the Joint Powers Authority has to designate which agency or entity will execute the agreement. He noted that the agency designated to administer the agreement may be one or more of the parties to the agreement, which may provide all or a portion of the services. Mr. Washington said the County of Alameda was so designated when the JPA was formed, and has provided all services since the Program's inception.

He urged the JPA Board to resume negotiations with the County on an MOU, which, he said is the appropriate mechanism to address the confusion surrounding roles and responsibilities. The JPA Board agreed, and directed staff to work with County Counsel to develop an updated draft MOU.

Discussion

The attached draft MOU is based on the California Joint Powers Act (§6505.1); Board Letters and other documents leading to the establishment of the CSA; the Lead Abatement Program Implementation Plan, the Joint Powers Agreement of 1992, written opinions of County Counsel, the draft MOU endorsed by the Board of Supervisors in 1993, and the discussions of the JPA Board of Directors.

The proposed MOU recognizes the JPA Board's authority to provide overall policy and program direction to the County, and to determine the annual budgets, subject only to the Board of Supervisors' exclusive authority, established under the Government Code, to set assessment rates for County Services Areas.

The proposed MOU also incorporates County Counsel's characterization of the role of Alameda County as analogous "to a consultant or independent contractor to the JPA". The County's scope of work is that outlined in the annual goals, objectives, and budget approved by the JPA Board.

In implementing its tasks, the County is expected to follow its normal procedures in the areas of personnel, purchasing, and accounting, for example. And, while the JPA Board has no direct supervision of County staff assigned to the Lead Program, the draft MOU outlines a mechanism for the JPA Board to express its concern or displeasure with the work of Alameda County staff, and to seek redress.

Program staff recommended changes to the 1993 MOU, which were reviewed, edited, incorporated, and approved by County Counsel. The draft MOU awaits review by the JPA Board and the City Attorneys of the respective CSA cities.

Recommendation

Staff recommends the Joint Powers Authority Board of Directors take one of the following two actions:

1. Approve draft MOU for review by City Attorneys of the CSA cities.

Under this scenario, City Attorneys would provide their comments on the draft via their JPA representative to the JPA Board for discussion and possible inclusion. A revised version, reviewed by County Counsel and approved by the JPA Board would then be forwarded to the City Councils for approval.

2. Approve draft MOU for review to the City Councils of the four CSA cities.

Under this scenario, the JPA Board would forward the draft MOU to the City Councils of each CSA city, which would then refer the draft MOU to their respective City Attorneys for comments on the draft. The City Attorneys would report back to the City Council, who would then communicate any concerns via their JPA representative to the JPA Board for discussion and possible inclusion.