

**Middleport Community Input Group
Meeting at Masonic Lodge Hall
Nov. 5, 2007 – 5:30 to 8 p.m.**

In Attendance:

Village Mayor Julie Maedl	Karen Pollworth - Resident
Village Coordinator Dan Dodge	Betty Whitney - Resident
Village Code Enf. Tom Arlington	Bill Arnold - Resident
Village Trustee Frank Sarchia	Nancy Seefeldt - Resident
Village Attorney Dan Seaman	Elizabeth Storch - Resident
MRAG – Dan Watts	Jennifer Bieber - Resident
MRAG – Pat Cousins	Janet Lyndaker - Resident
MRAG – Sue Crafts	Jeff Freeland – Rep. Reynolds Office
CAP – Dick Westcott	Mike Hinton - DEC (Buffalo)
CAP – Dick Owen	Facilitator – Ann Howard, RIT
CAP – Larry Lutz	Meeting Notes – Jim Pasinski
CAP – Lisa Allen	Carr Marketing Communications
Geomatrix – Wai Chin Lachell	
Geomatrix – Glenn Combes	
Geomatrix – Debra Overkamp	
FMC – Brian McGinnis	
FMC – Dana Thompson	

1. Welcome and Introductions

- Mayor J. Maedl welcomed those in attendance and requested that everyone introduce themselves.

2. Review Proposed Agenda

- A. Howard briefly discussed the items on the agenda provided.

3. Debriefing on October Meeting

- A. Howard explained that the turnout for the Oct. 1 meeting at the Middleport Fire Hall was very good. She stated that they would like to hear feedback from some of those who attended that session, in order to ascertain people's thoughts and suggestions. A. Howard asked if the technical presentations were helpful. B. Arnold stated that the presentations by the two doctors (Dr. Teresa Bowers and Dr. Rosalind Schoof) were very informative and he thought they helped people to understand the situation better. B. Arnold continued by stating that he was disappointed in the agencies for not having responses at the meeting to questions that were posed by Sen. Maziarz and was also disappointed that the agencies did not have presentations to make at the meeting. D. Westcott stated that he was not pleased with the explanations members of the agencies provided to technical questions and wondered why the agencies are making this process take so long. E. Storch stated that she

agreed with the comments made by B. Arnold and D. Westcott. B. Arnold stated that he felt Dr. Bowers' presentation really provided a good perspective on arsenic soil background.

- J. Maedl stated that she was copied on a letter that Dr. Bowers provided to a reporter at the Lockport Union-Sun & Journal, which clarified a reference made to 20 ppm in the article. A question was asked if the newspaper had printed a correction. J. Pasinski stated that the letter Dr. Bowers sent did not request a correction. Copies of Dr. Bowers' letter were provided to the MCIG.
- A. Howard noted that copies of the transcript, which is more than 100 pages long, are available on CD at the meeting. A few printed copies are also available and one is available at the local library.
- J. Maedl asked if the agencies have agreed to do a CMS, based on what was said at the Oct. 1 meeting. B. Arnold stated that it seemed like a CMS was a given based on what the agencies said, which hadn't been discussed before.
- B. Arnold stated his displeasure with a comment made at the Oct. 1 meeting by a member of the Roy-Hart School Board regarding arsenic and student test scores. B. Arnold indicated that he has a presentation on the topic and it was determined that the presentation would be given during the open discussion portion of the meeting.

4. Subcommittee to Review Transcript

- A. Howard asked if any members of the CIG would be willing to review the transcript, in hopes that they can comment further at the January CIG meeting. D. Dodge, L. Allen, and B. Arnold and S. Crafts agreed to review. In addition, hard copies and disk copies were made available to those at the meeting who wanted to take a copy. A. Howard said a review would be a good opportunity to determine if the meeting met and accomplished the goals.

5. 2007 Early Actions Update

- W. Lachell began a discussion updating 2007 remedial activities. W. Lachell stated that on the Wooded Property, soil excavation, backfilling, and grading is completed in over 90% of the area. She stated that grouting of the old section of storm sewer is completed, along with construction of the north ditch extension. She stated that work to install a new storm sewer at Culvert 105 from the north ditch extension to existing catch basin CB-S6 is done. Topsoil has been placed over 90% of the Wooded Property. W. Lachell stated that soil excavation, backfilling and grading work remains to be done in the area at the end of Elizabeth Street. She stated that the unexcavated tree root area at the northern boundary of the Wooded Property will be sampled and the work plan will be modified based on the sample's results. She stated that other work to be done includes installation of seeding, erosion control, and fence, landscaping, and another punch list of items. B. McGinnis stated that they have proposed

erecting a six-foot chain link fence along the ditch line. W. Lachell stated that a fence is needed to prevent safety hazard issues. W. Lachell explained that the fence would be on the north side of the ditch, on the Wooded/Coe property and would wrap around the inlet at the west end of the ditch. B. Arnold said he'd be concerned because people do run snowmobiles and ATVs in that area, even though it is illegal. B. McGinnis stated that the drop off to the ditch is pretty significant.

- W. Lachell then provided an update on remedial activities in P-Block. She noted that soil excavation, backfilling and grading on 10 P-Block residential properties had been completed, topsoil and sod had been installed, and sidewalks installed on village property, along with sidewalks and driveways on individual properties. W. Lachell stated that work continues on a list of items, final inspections were being completed with individual property owners, and other restoration work will take place including landscaping, deck installations, shed installations, and pools.
- W. Lachell then provided an update on remedial activities in Margaret Droman Park. She noted that the work completed included the cleaning of the Culvert 105 manholes and sewer north of the Canal, installation of a new buried storm sewer, placement of topsoil, and soil excavation, backfilling and grading. E. Storch asked if the soil levels in the park were better than what was removed. W. Lachell stated that they were and that FMC had aggressive standards for the topsoil organic content. B. McGinnis stated that the yellow shown in pictures (during PowerPoint presentation) was erosion control in the park. E. Storch asked if trees were being planted and W. Lachell indicated that they would be planted.
- W. Lachell then provided an update on remedial activities at Culvert 105. She said that in the area of Mechanic and N. Vernon Sts. soil excavation, and backfilling work has been completed, along with installation of a new buried storm sewer. She indicated that topsoil placement and seeding/sodding work remains, along with installation of erosion controls and landscaping. At Culvert 105 in the Sleeper Street area, W. Lachell stated that surveying and marking work has been completed and a temporary fence has been installed. Work remaining to be completed includes soil excavation, backfilling, and grading, installation of a new storm sewer, topsoil placement and seeding, installation of erosion control, and landscaping.
- W. Lachell stated that the completion schedule for 2007 work had been revised to late November for all of the items that still need to be completed. The late November estimate could change depending on the weather. T. Arlington asked for an update on the easement for the Coe property. W. Lachell stated that an agreement is being worked on, that Mrs. Coe and her attorney will review it, and that Mrs. Coe intends to maintain possession of the property.

6. Review and Discussion of 2008 Activities

- W. Lachell began a discussion of proposed 2008 activities. She stated that the 1991 consent order spells out specifically what FMC has to do. She said that all work that has been done has been an interim corrective measure. She then provided an overview of the RFI/CMS requirements listed in the 1991 Order of Consent. B. Arnold stated that most everything listed in the process does not mention involvement with the individual property owner, which he feels there needs to be. W. Lachell stated that FMC agrees that the property owners and community should be involved throughout the process and the schedule would be built with community relations and community input included. B. McGinnis stated that FMC would build public input steps into the plan and that it would be done upfront. D. Seaman said that there would be a lot of discussion about community input because of how the process with Vernon Street was handled. B. Arnold said he'd like to see the community input process included upfront. D. Seaman said it should be upfront and not at the end when plans have already been formulated. W. Lachell cited the CAMU application process where the community has been involved throughout and said FMC would have community input throughout the CMS process as well. A. Howard asked if it was intended to have the CIG involved in the CMS process. E. Rankin stated that the community needs to stay involved. B. Arnold stated his concern surrounds what happens to his property and that all properties have different criteria for different use. E. Storch asked if parts per million numbers are adapted into the CMS process. W. Lachell cited a Colorado cleanup site where the parts per million numbers varied for each alternative method of work. E. Storch stated that 1991 is old when looking at scientific information. E. Storch asked if it was a matter of "if" or "when" a CMS would be completed. B. McGinnis stated that it was a "when." W. Lachell stated that the RCRA and RFI process is not structured for a residential community. J. Maedl stated that it is usually a process for a facility and that the Middleport issue is treading new water. B. McGinnis cited an FMC cleanup site in Maryland where two ICMs were completed and there was no CMS. B. Arnold asked if there wouldn't be any work done until the CMS process plays out.
- W. Lachell then presented information on proposed 2008 activities. The list of work includes continuing with the CAMU application process, continuing efforts to obtain grant funding to evaluate the unoccupied buildings and demolish unsound buildings on the former Norco parcels, evaluate possible early actions that can be performed between Sleeper St. and Tributary One on Culvert 105 to facilitate the proposed new residential development, draft a plan to the agencies for a phytoremediation pilot study and work with Dr. Gary Harmon of Cornell University, complete the RFI for the historic air deposition area south of the canal and west of the county line and possibly begin and complete a

CMS, complete the RFI for Culvert 105, and possibly begin and complete the RFI for Tributary One.

- K. Pollworth asked if there was any update on gaining access to the Norco property. B. McGinnis stated that the property is in bankruptcy and there are numerous legal issues. He stated that FMC would like to work out a way to get into the property so work can begin.
- W. Lachell stated that they have been talking to Dr. Harman at Cornell regarding phytoremediation and he has experience with the issue and may have some options for Middleport. E. Storch stated that phytoremediation would be much better than excavation. W. Lachell stated that any phytoremediation study would also be performed in the air deposition area.
- W. Lachell then presented information about the next steps for 2008 activities. She discussed the directives laid out in the agencies letter from Sept. 24, 2007, which included justifying the delineation of FMC-related arsenic in the air deposition area by comparing data to 20 ppm and other considerations, justifying the delineation of FMC-related arsenic in Culvert 105 and Tributary One south of Pearson Road by comparing data to 20 ppm and other considerations, preparing and submitting the RFI report volumes on background, air deposition study area, Culvert 105, and Tributary One south of Pearson/Stone Roads, and submitting a work plan for additional soil sampling north of the canal and areas east of the county line. W. Lachell indicated that FMC, per the Order of Consent, has requested a meeting to discuss these agency directives. That meeting will be held sometime in December. W. Lachell indicated that the objectives for the December meeting would be to go over all of the issues including those in which they can proceed and others in which they disagree. B. Arnold asked if there has ever been any argument over the boundaries that make up the air deposition area. He does not think it should extend as far as it does. B. Arnold said that the history of the immediate area with orchards and spraying should be taken into account.
- W. Lachell continued with the 2008 next steps, which also include the agencies review of FMC's revised June 2007 background study report, FMC's evaluation of the need for any other pilot study work plan by Dec. 5, 2007, submission of the phytoremediation pilot study work plan by Dec. 5, 2007, and the evaluation of possible early actions along Culvert 105 north of Sleeper Street. W. Lachell also indicated that there might be a need for further evaluation of the creek and the floodplain. B. Arnold asked what would be included in the phytoremediation draft plan. W. Lachell stated that it would be a generic plan including one residential property and one other larger property (B. Arnold's property). She stated that the plan would identify plants, pre and post sampling methods, and how to evaluate. E. Storch offered her property as a site for the pilot study.
- W. Lachell then explained remediation activities on the list for 2008. These include the phase 2 ICM on the North Railroad Property, possible remediation of two remaining properties in P-Block and an unexcavated

tree root area on the wooded parcel, the phytoremediation study, other possible pilot studies, and possible remedial action along Culvert 105 north of Sleeper Street.

- E. Storch stated that she'd rather spend a few years testing phytoremediation than having to lose her 35 year-old maple tree. She stated that she is tired of this process and is anxious to test phytoremediation to see if it would work.
- D. Owen asked J. Maedl if the property owner has any say about the possible removal of a tree that is in front of their home, but on the other side of the sidewalk and therefore on village property. J. Maedl said they she did not know what would happen because the issue has not come up yet. D. Owen asked if there were trees on Park where there were residents who didn't agree to remediation. D. Seaman stated that the village will work with property owners on such issues and said that the village will not run over residents property and they want to save trees if they can. J. Maedl said that since property between the sidewalk and street cannot be built on you have to wonder what the exposure risk even is.

7. CAMU Update

- W. Lachell provided an update on the proposed CAMU. She recapped the walking tours held on Oct. 3 and Oct. 13 and stated that the draft CAMU application will be submitted to the agencies in mid-November 2007. D. Seaman requested that the application also be submitted to the village at that time. W. Lachell stated that between Dec. 2007 and January 2008 the agencies would review the draft CAMU application. She stated that FMC would present and discuss the draft with the MCIG, Town of Royalton and Village of Middleport officials, and adjacent neighbors.
- W. Lachell indicated that tours would be offered again in the spring.
- B. Arnold mentioned that he had seen the newspaper article regarding the CAMU tours. Copies of D. Thompson's letter to the editor at Lockport Union-Sun & Journal in reference to characterizing the CAMU as a dump were handed out. E. Storch asked if FMC would be responsible for maintaining the CAMU in perpetuity since the newspaper article mentioned 30 years. D. Thompson indicated that her comment about 30 years was only given as an example and was not a specific fact that she supplied to the reporter.
- The podcast with Brian McGinnis was shown.
- J. Maedl asked what the response was from those who attended the CAMU tours. E. Storch stated that she said to herself, "that's it?" B. Arnold said it was very anti-climactic. E. Storch stated that she was happy FMC is going to be taking care of the CAMU long-term. D. Owen stated that the trees planted inside the FMC property line along route 31 looked nice.

8. Grant Funding Update/Other Funding Opportunities

- D. Dodge stated that it was likely the village would not hear any updates on grants until late December. D. Dodge stated how important it was to have Sue Tauro leading the grant efforts. W. Lachell stated that Sue Tauro has been looking at other grant applications. E. Rankin stated that one program being examined is administered by the University at Buffalo. J. Maedl stated that she wished more residents of Middleport knew that FMC was helping to fund a grant writer because the village could not afford to do it. E. Rankin stated that they are continuing to look at many options.

9. Communications Update: Media, Web site Updates, CIG Survey

- A. Howard asked if anyone in attendance had heard anything in the local media regarding FMC and Middleport that they were concerned about or had any questions about. No one had any questions.
- A. Howard mentioned that we were going to discuss the two newspaper articles from the Lockport Union-Sun & Journal, but they had already been covered earlier in the meeting.
- A. Howard asked if anyone had any questions or recommendations regarding the CIG Web site. B. Arnold stated that he had been in contact with people in the state of Montana who were involved in the Anaconda site cleanup. He stated that one individual asked him for information on bioavailability and he had to send them to multiple Middleport sites to get all of the information he was seeking. B. Arnold suggested that there be one Web site with all documents on it. B. Arnold stated that he was not sure what was going to happen with the information he provided to the individual.
- E. Storch indicated that she directed Prof. Harman from Cornell to the Middleport Web sites so he could get an idea of what is happening here. She felt that the issues here and phytoremediation would be a good Ph.D. study.
- A. Howard noted that all documents available at the meeting this evening are posted to the CIG Web site.
- A. Howard explained that they would like to conduct another survey of the CIG in January to gather input on what members feel is or is not working at the meetings, new items for the agenda, etc. A. Howard suggested that the survey could be done electronically. J. Maedl asked for the survey to be sent to members through postal mail and that the surveys could be handed in at the January CIG meeting.

10. Price Protection Program Update

- D. Overkamp recapped the open house held on 10/27/07 for the Property Price Protection program. She stated that more than 300 people attended and 15 homes were open for viewing. She stated that the reaction indicated that people were impressed with the upgrades that FMC has made to homes prior to putting them back on the market.

She stated that recent figures indicate that average list price of a home in Middleport is \$84,000 and the average rental rate is \$493 a month.

- D. Owen asked when the PPP program would expire. D. Overkamp explained that it is scheduled to expire in June 2009 and FMC will announce a decision on that in June of 2008.
- B. McGinnis stated that more homes are selling in the last six-month marketing period than they have in years past.

11. 2008 Meeting Schedule

- A. Howard stated that a good date for a December meeting could not be found, therefore the next meeting will be Monday, Jan. 7, 2008. She explained that some scheduled agenda items for that meeting are a review of the CAMU application, examples of RFI/CMS from other sites, a work plan for the phytoremediation pilot study, and an update on 2008 activities.
- A. Howard stated that it appears meetings of the CIG will continue throughout 2008.

12. Open Discussion/Community Concerns

- K. Pollworth asked if FMC would continue to monitor the sod that was placed at her property. W. Lachell indicated that it would be monitored and noted that the sod does not need to be watered daily. She stated one to two inches of water a week would be adequate.
- D. Dodge cited the table in the room with the nameplates of those not in attendance at the meeting. A. Howard stated that some members may not have understood that they were invited to be involved long term. D. Dodge stated that it appeared the same group of people was at every meeting. E. Rankin suggested that a notice about the January meeting be sent with the CIG survey to members.
- B. Arnold stated that he was told a “red flag” would not be placed on homes and that it would be up to the owner, buyer or agent to get a report on testing of properties. He stated that he was also told if the property is part of an estate or foreclosure it was not required. D. Owen said that may be of some comfort to people who inherit property. A. Howard stated that she believes the law states that if an estate sells the property that the form is required. She stated that there is a question on the form that begins with “do you know of any testing...” and in New York State that form is required. D. Owen stated that different realtors have given different answers on the topic. A. Howard suggested that each property owner should check with their attorney. S. Crafts stated that she was asked directly if she was in a remediation area when she sought a property appraisal. E. Storch stated that she would like some kind of clarification and considers it to be arm-twisting on the part of the agencies.

- B. Arnold began a presentation that he had put together for the meeting regarding student achievement, in response to a statement made by a school board member at the Oct. 1 meeting equating arsenic exposure to student achievement. B. Arnold stated that he asked Dr. David Mellard, a toxicologist with the Agency for Toxic Substances and Disease Registry (ATSDR), a part of the U.S. Department of Health and Human Services, if arsenic causes developmental problems in children. Dr. Mellard's response was as follows: "10 ppm arsenic in soil is not a health hazard to anyone. Maybe she was talking about another medium? As for arsenic's ability to contribute to learning disabilities, we have insufficient information to draw that conclusion. I can see why someone might reach that conclusion because arsenic is a neurotoxin but we would need more epi studies to tease out whether arsenic (like lead) is affecting children's learning."
- B. Arnold then presented a statement from the Web site of the Centers for Disease Control. In the FAQs about arsenic section the question is asked: "Can arsenic cause developmental effects?" B. Arnold showed that answer as being: "Several studies have linked exposure to inorganic arsenic with a higher risk for birth defects, low birth weight, or spontaneous abortion. However, in all these studies, the people were exposed to other chemicals and had other risks that might have caused these problems."
- B. Arnold showed studies from PubMed and Environmental Health Perspectives.
- B. Arnold showed a study from Bangladesh. He stated that he is still trying to find studies related to arsenic in soil, not water. B. McGinnis noted that the Bangladesh study was with water. E. Rankin noted that the levels for water used to be 50 ppm, now it is 10 ppm. B. Arnold stated that a study in Utah included soil, but had no facts, only a general statement.
- B. Arnold showed a study from sciencedirect.com.
- B. Arnold then showed a comparison of test scores in middle school and high school students from the following districts: Barker, Lyndonville, Medina, Newfane, and Roy-Hart. B. Arnold stated that the score comparison shows Roy-Hart to be on par, in some cases slightly above, and in some cases slightly below the other districts in English language proficiency and mathematics. The data was collected from the Bill & Melinda Gates Foundation Web site.
- B. Arnold then showed a comparison chart of data from Roy-Hart in comparison to other, random school districts in New York State. These Districts included Afton, Allegany-Limestone, Attica, Cincinnatus, and Roy-Hart. The chart showed data in English language arts proficiency, math proficiency, enrollment, graduation rate index, student per teacher ratio, students with special needs index, and community adults with at least a bachelor's degree. He stated that the data shows Roy-Hart is on par, in some cases slightly above, and in

some cases slightly below the other districts. The data was collected from the Bill & Melinda Gates Foundation Web site.

- B. Arnold then provided a conclusion to his research that stated some preliminary studies have shown arsenic, in certain circumstances, may cause developmental effects in children. He stated that these circumstances may not apply to Middleport because the studies indicated the source of contamination was water, more quantities of arsenic is consumed in water because of the volume of drinking water ingested over soil, arsenic in drinking water is more readily available to be absorbed by the body than arsenic in soil because of its state, and Middleport residents get their water from a municipal system with water supplied from outside the area. He stated that where given, urinary arsenic levels were above 50 ug/l for children with developmental problems. Urinary arsenic levels in Middleport residents who were tested by Exponent had speciated levels below 20 ug/l with a mean of 4.7. B. Arnold stated that arsenic might have to be combined with manganese to cause developmental problems, socioeconomic status may play a part, and that Roy-Hart School District test scores do not appear to be out of line from other schools within the area and across the state.
- E. Storch thanked B. Arnold for the presentation. She stated that she would like to see the agencies respond to this information because it is a strong statement that arsenic in soil is not affecting students. D. Dodge stated that Sue Hughes (from the school board) did not have her facts straight when she spoke at the Oct. 1 meeting. D. Dodge stated that the school district Web site has test scores posted. He also asked why the school board member would blame FMC when such a small number of students in the Roy-Hart district actually live in Middleport. D. Watts asked how to get that kind of information to the agencies for their consideration. He said it is a challenge for the community to determine how best to make these points during the CMS process, and stated that it is important to get perspectives from the community into the CMS process. A. Howard stated that it is something to think about as we work toward the CMS. E. Rankin stated that agencies are considering guidance on real-time issues like these that are happening across the country. M. Hinton stated that with arsenic there is no specific answer, there is no consensus, which is why consideration falls to background levels. J. Maedl stated that that is the frustrating part. M. Hinton stated that they have to look for the lowest common denominator and that the appropriate cleanup is the dilemma.

13. Adjourn

- A. Howard wished everyone in attendance a happy holiday season and reminded that the next meeting is January 7, 2008. The meeting ended at 7:59 p.m.