

**AVON LAKE COMMUNITY IMPROVEMENT CORPORATION
MINUTES**

Regular Public Meeting
Avon Lake City Hall Council Chambers
and Virtual
January 13, 2023
9:00 A.M.

I. Attendance

CIC Directors attending in person were Ron Kovach, Ted Esborn, and Councilman Zach Arnold. CIC Directors attending virtually were Janice Lapina and Steve Luca. Brownfield Committee member Jeff Brausch attended in person. Also attending in person was Rob Shahmir (Environmental Affairs Advisory Board), Wayne Woodruff (ALERG), Scott Reschly (ALERG), Dan Rogatto (ALERG), Dick Shields (Avison Young), Don Lydon (Avison Young), Councilman Mark Spaetzel, Chris Livingston (Avison Young), Jim Miller (Lorain County Port Authority), and Jim Ziemnik (Lorain County Metroparks) Also attending virtually were Gary Deigan (Deigan & Associates), Dan Bucci (CIC Brownfield Committee)

II. Approval of Minutes from December 13 Meeting

Ted Esborn made a motion to approve the minutes, Zach Arnold second. Motion approved, 4-0.

III. Update on CIC Finances

Ted Esborn reported that having paid the premium for the insurance, the CIC fund balance is \$39,891.55

IV. Review of CIC's Agency Ordinance (22-106) As Guide for 2023

Ted Esborn referenced the ordinance that Avon Lake City Council passed in 2022, naming the Avon Lake Community Improvement Corporation as the City's agent for economic development generally and lakefront redevelopment specifically. Mr. Esborn stated that he wanted to direct people's attention to that piece of legislation as a guide for the CIC heading into 2023.

V. Status Update since December Meeting from ALERG

(This section of minutes should be read along with, and as a companion too, the attached slides from Dan Rogatto's presentation, as what is included here is meant to capture Mr. Rogatto's commentary not on the slides)

- a. Environmental Update on Remediation Progress Since Last Meeting

At the site, ALERG continues to work with boring and monitoring wells. There has been a focus on samples in the drainage ditch. They continue to sample ground water on the north side of Lake Rd.

Mr. Kovach asked how long the monitoring wells will be in operation. Mr. Rogatto replied that these sample results determine the extent and duration of further remediation.

SAFETY

The plant site continues to be accident free. ALERG has begun to do Safety Lunches, which have been well received.

ABATEMENT

Turbine # 9 is completely abated of asbestos. ALERG is filling two dumpsters per day with asbestos, and they are doing different areas of the plant in parallel.

b. Demolition Update on Progress Since Last Meeting

Anybody driving by the plant in a car can see the work done on the precipitator building. There are six scrap dumpsters going out per day. There had been an extremely thorough top to bottom inspection of the precipitator before the demolition began. Next week, focus would shift to the fly ash operation

COAL YARD

Jeff Brausch asked if there had been EPA visits on the coal yard. Mr. Rogatto responded that no, the EPA visits had mostly been on the asbestos abatement. Gary Deigan stated that there was one EPA visit during the demolition. Rob Shahmir asked if the EPA focused on the ground or the soil. Mr. Deigan responded that only recently has the coal gotten down to clean ground.

VI. Development Agreement Proposal Update

- a. December 19 Meeting between A.L. and ALERG Zoning Counsel
- b. Proposed Timeline for Agreement

Todd Davis stated that the dialogue had started on how the City would work with an ultimate developer of the site. From our perspective, he said, it is a good first step. The ball is in ALERG's court for drafting the development agreement.

VII. Comments from Avon Lake Environmental Affairs Advisory Board (EAAB)

Rob Shahmir began by noting that EAAB received a letter from ALERG the day before. A few comments on that. EAAB has been trying to engage Charah since May. We were told that a

development plan would be forthcoming. We haven't heard anything, so we are pursuing this now. Our charter is to advise Council and that's what we're trying to do.

We put together some questions based on available data, and when we did not get any response, we put together a model based on existing information. The letter that I received yesterday said there was no concern about several things we mentioned.

I have several questions that I would like to raise to Mr. Deigan. The first questions were about monitoring wells, LNAPLs and DNAPLs. We would be more than happy to sit with you to understand what you're doing.

We have asked why there was only one environmental company invited to bid on the Ohio Brownfield Remediation Program grant work. We were told that Charah would only allow Deigan & Associates onto the site. Single source awards are always questionable, so why was it a single source award?

Ted Esborn said that there was an oversight on his part. Charah gave Ted and the Mayor answers to EAAB questions, but he failed to forward the answers to EAAB.

Todd Davis said that having ALERG come to these meetings is beneficial. It is important to remind everybody that ALERG will have to dot every I and cross every T to sell the property. They will be moving through the Voluntary Action Program. It's important to remind everybody that ALERG wants to redevelop this piece of property. A sophisticated purchaser is going to be involved in buying this piece of property. With respect to the bidding, we agreed to seek funds to facilitate the redevelopment. We knew when we sought the \$300,000 from Ohio that there would need to be an access agreement. It is not accurate to say that no other party could bid. Rather, it is accurate that we would have to enter into an access agreement to enter the property. As we did the public bid, we only had one respondent: Deigan & Associates. Others could bid. Only Deigan responded. If we are making allegations about cooperation, we should understand all the facts.

Rob Shahmir responded that the letter had been sitting for several weeks. He said: "We have discussed on numerous occasions that we are where we are because we haven't gotten responses. These are fundamental issues that need resolution. The answers are the same boilerplate that was given to us before. We would like to sit down and have a conversation about the redevelopment. Building a relation with that community is the central focus of any development I've been involved with. It is not that we sit here today because there has been engagement. There has not been any engagement. We welcome engagement. To develop the program requires engagement with the community, because at the end of the day there are people that live in this community and if things go wrong they are the ones that will suffer. And I am here because I'm concerned. My concern is very fundamental. Will this property be remediated on a risk-based approach? Will things be dealt with in importance to best practices?"

Mr. Davis said, I think that the Community would benefit from clarity with respect to who has been charged with the redevelopment of the lakefront parcel, the reason that I thought it was important to put in the agenda and to deliver to the community again, a copy of the ordinance from City Council to empower the CIC to be primary with respect to the redevelopment of the power plant site from a from an economic development, and I view that also from an environmental perspective, at least with regard to overview. That's why this ordinance was passed. We're glad that you come to this meeting and we appreciate the fact that you're putting your own private time as a stakeholder in the community. You know, no one's trying to ignore your perspective. I think, however we have to recognize the reality that again, this is a private piece of property. It's being from everything that I've read so far from everything that I've heard in every meeting--It's being investigated the way that I would expect it to be investigated. They've shared the information which they're comfortable sharing on an iterative basis. They've expressed nothing but continuing to cooperate from that perspective. Moving forward, there's an appropriate time and I think the difference here is what's the appropriate time for a third party, be it the city or someone else, to go in and double check the work that the private developer and their private consultants has done. There are many opportunities to do that. Once they submit, if they choose to submit this piece of property for no further action letter and seek a covenant not to sue from Ohio, EPA, state regulators will have to review all of the data and and information that has been developed in connection with this piece of property. Having redeveloped these sites, having been involved in innumerable sites redevelopment projects, They have no interest in hiding anything or to not address definitively any issues on the site because they'll never be able to sell it or finance it. And if they don't get EPA approval that--now they don't have to get EPA approval, this is a voluntary process. So the intersection between timing. Scope processed. These are all connected things. Again, I think it's important to communicate what their progress is in the Community, but I don't take it negatively that they're deciding when to release that information and to get a full picture of the of the issues before they share information on a premature basis.

Mr. Esborn said, So I'd like to go around the room and zoom sort of have anybody who's got, you know, comments or answers sort of sort of go with those now and then we can go to Rob for kind of the last word after that. So anybody with. Anybody with comments or answers?

Mr. Zuber said, I think the city has determined that this is going to be the forum. And while we appreciate you and all the things you do, I think that this is going to be the form the city works through to deal with any issues with this. So I think that we're grateful you're here and you've brought these things, but this is the form to bring them to. And this is where we need to work those things out, and the EEAB can recommend those things to this group. But I think this is the group that is going to be dealing with all those issues involved and I have no problem with bringing those issues that you bring to us and then we can go and deal with them. But I think this is a forum that we're going to be sitting down dealing with Charah and ALERG and all those different things. So I think it's positive that you're here and I think that this is the place where we need to work through those.

Scott Reschly said ALERG appreciate your concern. Obviously being a stakeholder and a citizen. Davis, appreciate your comments as well and you know our our commitment after engaging with the CIC and also receiving other feedback from the from the Council, middle of last year, right before our public meeting, I think we have been engaged and are offering that engagement through these meetings and these updates. I Think it's going to be a very Long project. So we've got to continue to do our phase two step by step. Monthly we can get those updates. Know we're committed to share that because, as you said, Mr. Davis, I mean, there's going to b--ultimately we want to be part of the process as driving development for this site, for this community and we understand it's going to be sophisticated buyers looking at it, they're going to be doing their own due diligence. So we know it's got to be done the right way. If we want to be successful in repurposing this property for higher use.

Mr. Shahmir said, EAAB will be more than glad to be here be here. We want to engage. At least this person, as a resident of this community is not going away. So I will be here. I will be here every meeting and I can tell you that as EEAB, we will present to the Council. That is where we're supposed to report to, because we will inform the Council of our beliefs and views based on data, not conjecture, and we'll be more than happy to engage at any point in time.

Mr. Deigan said, There were some comments made about myself and our firm, and it left this CIC group, perhaps with an impression, that we came in the back door of Chara and we're not pre-qualified and we were not properly vetted. I gotta tell you folks, this has been the most comprehensive pre-qualification process that I've been through with Charah. They use an outside firm called Evetta. You guys are welcome to look that up, but it is a screening firm that puts you through a rigorous pre-qualification on safety insurance coverages professional certifications. So there was a selection process that was followed by Charah, regardless of the fact that this is a private sector. The other thing I'll say is I've been doing this for 40 years. My credentials are not going to be questioned here by anyone, but I will say I feel insulted that someone is going to present to this CIC group that we're selecting well locations so that we can hide things or get the data skewed in our benefit. That's absolutely not our approach and I would not have been in business this long if I did that. It is far too early to be presenting information while we're still collecting data. There will be a time and a place and we will have a very productive discussion with everyone who is interested about what the environmental conditions are out there and it will be a good story

Mr. Arnold said, I just wanted to respond to Mr. Shamir. We appreciate you being here. We really do. If you know me, I want to question a few things myself, being on Council, so I appreciate that. But just to let everybody know that the focus of the CIC is being the agent of the city. The Mayor is part of the CIC. We have Ted, we have myself. Don't go away. Keep coming back if you have more questions.

Mr. Shahmir said, Don't worry, I will.

Mr. Arnold said, I know you will, and that's great. Todd Davis is here because no one on Council, no one on CIC, has the expertise to kind of charter these waters, and I appreciate Charah being here. I mean, look at all the people that came today. We appreciate them. Coming to these monthly meetings now and I just have a lot of confidence in in Mr. Davis to kind of walk us through this. And you know, he's the environmental development attorney that we that we hired and I think we're in good. Hands with them. So that that's where my confidence is and but I appreciate coming and I appreciate asking those questions and I appreciate the response that, that, that Charah had. So I just want to say that it's we're trying to keep it just one stream of communication and I think that we're there now. So I appreciate everyone involved. Thank you.

VIII. Adjournment

Ron Kovach made a motion to adjourn, Ted Esborn second. 5-0, meeting adjourned.