

**AVON LAKE COMMUNITY IMPROVEMENT CORPORATION
MINUTES**

Regular Public Meeting
Avon Lake City Hall Council Chambers
and Virtual
November 17, 2023
9:00 A.M.

I. Attendance

Directors attending the meeting in person were Ron Kovach, Councilman Zach Arnold, and Ron Kovach. Directors attending virtually were Janice Lapina and Nathan Deutsch.

II. Approval of Minutes from October 13 Meeting

Ron Kovach made a motion to approve the minutes. Councilman Arnold second. Motion approved, 5-0.

III. Update on CIC Finances

Ted Esborn reported an account Balance of \$37,242.25.

IV. Status Updates since October Meeting from ALERG

a. Safety

Dan Rogatto began, "I'm the site manager for Charah in Avon Lake. I'll start the report with safety, which is our top priority. We're up to 48,000 hours since our last injury, which was on March 10th. We had another month without any injuries or recordable security issues, no trespassers seen. We've had a few repeated cuts in the fence along Miller Rd. Park. Our safety committee continues to meet biweekly, in fact, on Tuesday, they're planning a Turkey lunch for everyone on site right before the break for Thanksgiving. Demolition areas are circled with a red barrier. As we move further and further into the plant, there's a wider area that needs to be barrier taped because objects could be falling. We're always keeping an eye on that. We also had some refresher training last week on site for a number of our individuals that was conducted by one of the site safety representatives."

b. Environmental

Mr. Rogatto continued, "On the environmental side, there are a couple changes since the last time. Our universal waste collection on site is up to approximately 75% here in another couple months. We should be pretty much be done with that. Off-site flash removal is now 85% complete. The off-site transformer oil removal is now complete. On the removal of hazardous substances, fly ash removal is up to almost 2,700 tons. As far as petroleum removal, they basically have emptied out the two big fuel tanks that were on site."

“On the coal yard restoration, final grading is complete,” said Mr. Rogatto. “Really nice lush grass is growing where the coal pile used to be. There are still some areas that need to be finished up, but 85% of that former coal yard is now covered with grass. Last month we delivered the phase two report to a prospective purchaser for the coal yard and the environmental consultant for the prospective buyer is still performing a phase one assessment and I think that should be completed pretty soon. Further, phase two work on the north side of the property is right now on hold until we get further along in the demolition so they can mobilize the team to do further phase two work.”

Mr. Rogatto said, finally, on the environmental piece, “I think last month I updated that we had a mobile activated carbon stormwater treatment system coming on site. That is on site now and we're waiting on a permit to install from the Ohio EPA to place that service. There was PCB sampling in the former transformer repair building and in the basement of the turbine basement of the plant where we had several transformers. All those results came back meeting or below US EPA and Ohio VAP standards, indicating that no PCB cleanup was going to be required in those areas.”

c. Demolition

“Since we last talked, we’ve done a couple different things on the demo front,” said Mr. Rogatto. “We’ve demoed the stores and maintenance shops. These used to sit adjacent to the east side of the building. We are basically eating away at the east side of the plant now. This is where the older units are.”

Ted Esborn commented, “I remember the maintenance shop being a substantial building. It's gone down in the last couple of months.”

Mr. Rogatto replied, “Yes. Then here is an empty lot where the combustion turbine building used to be. The implosion schedule really hasn't changed. The first implosion is still looking at to be late February next year. It might move up maybe a week or two, but it's still going to probably transpire in February 2024. That will be precipitator for number six and seven units, that's on the backside of the plant. So that implosion will not even probably be able to be viewed.”

“Kelly Brothers is 90% complete with the multi-use trail,” Mr. Rogatto continued. “They really haven't done much work as far as the yard area since our last update, they've been more focusing on these second two items—the reroute of the stormwater from the former coal power stormwater pond and then, of course, Walker Road. That’s complete and the railroad tracks are gone. It's a nice smooth drive. You can even probably a little faster there. And the reroute of the stormwater onto the city stormwater system is just about complete. We're thinking that next week that job should be done. On the catch basins being put in, basically what they had to do, with probably 50% of the piping was already there, is enlarge it to 24 inch. This is to accommodate the extra water. So when the water level gets up there, it will flow into that catch basin and then flow into the city's stormwater system. Once this is all complete and in service, then we'll be able to get the permission from Ohio EPA to demo the treatment building. On Walker Rd., when they finished the final lane, of course they replaced the sidewalks on both sides. And then they put in some topsoil and seeded and put some straw. So hopefully we'll be growing some grass.”

Mr. Rogatto concluded his comments on demolition: “The project schedule really hasn't changed much. We're still looking at the demo being complete in April of 2025. And then some items that I just put in

the schedule as far as community participation. We've given plant pictures to the Avon Lake Library Historical Society. We will reserve some of those plant bricks. We're looking at giving those to the town or the Historical Society to generate revenues through sale of the bricks. We are also figuring out what kind of artifacts we want to remove from the plant to be able to put in some future site to kind of show the history of the plant. Last month I kind of discussed the Westinghouse science story with Sheila Roth of CRS. We continue the sponsorship of Community Resource Services and we're supporting the Avon Lake Garden Club with some of their quest for trees and plants."

d. Redevelopment

V. Update on Development Agreement / Zoning Attorneys

Dick Shields of Avison Young said, "We've focused the last 30 days working with the city on getting the redevelopment agreed and ordinance and zoning overlay information prepared. We received late last week the City's comments and I believe that Todd is there and he can speak more specifically to where we are in the process."

Todd Davis, Avon Lake's outside counsel for brownfield redevelopment, added, "We've been working with outside zoning counsel as well as Council for ALERG and candidly, we've had a very positive exchange of information. I think we're moving toward an agreement and obviously as we move in that direction, it has to be vetted through City Council and through the administration. But so far all of our indications are positive and consistent."

Mr. Shields continued, "And the additional information that's been requested, we've prepared and Todd is assembling that and ready to transmit that here shortly."

"Agreed," said Mr. Davis "The cooperation on both sides I think has been helpful and instructive."

"As relates to redevelopment activities," said Mr. Shields, "all of the property South of Lake Rd. is under option agreement or in that letter of intent or purchase sale agreement and we're working through those processes north of Lake Rd. Of course, we're hoping to make progress with the city regarding the redevelopment and future rezoning. But we have entered into agreements with parties regarding providing information about the acquisition of the property north of Lake Rd."

Mr. Shields went on, "There's one other comment. As you know, we've had telecommunication facilities on STACK 9, which eventually is coming down. So the parties that had facilities on Stack Nine are evaluating alternate locations, including potentially relocating to Stack 7 or off the site. Those are critical path items with regard to taking the stack down. One of the parties has removed himself from Stack 9 and the other one will by the end of the year. And so we're working through those issues right now."

Ron Kovach asked: "In the local newspaper yesterday, The Chronicle Telegram, it was mentioned that a turbine plant is going in at the power plant site. Can you can share on that?"

Mr. Shields responded: "What's the location of that? That's not on our property. I know nothing about such a plan."

"OK," responded Mr. Kovach. "Thanks. I can send the article from the Chronicle."

VI. Presentation from Environmental Affairs Advisory Board (EAAB)

Rob Shahmir from EAAB began: “The issue that we've had has to do with the vertical agility of the shell layer. ALERG’s assumption is that there is no downward migration. Historical data shows that we have migration of water in the shell. They have assumed that there is no connection. Again, historical data is indicative. ALERG’s position is that historical data doesn't count. I have US Army Corps of Engineers data site photos, and this is ALERG’s cross section. This is merged data that shows the shell layer and the wells that have been installed. Based on what they have done, ALERG and Deigan represent an interconnection between the shell and over. You can't have it both ways.”

Mr. Shahmir continued, “The hydrogeology that is represented by ALERG and Deigan shows that there is direct communication between the shell layer—that is supposed to be impervious—and overburden. This is geology 101 hydrogeology. 101. This is contrary to what has been said based on historical data and their own data. So when you look at this, there is communication across the bedrock and the overburden now. The question comes up of who is evaluating this. My question here is for Verdantas—what is their assessment of the geology and the hydrogeology as represented here? Because this is data that has been represented by ALERG and Deigan. Verdantas is supposed to review and comment, according to Todd Davis. This is as per the September meeting where Mr. Davis said that they are reviewing the data and they're actively in participation now. The thing to remember is that EAAB, based on on Chapter 274 and Codified Ordinances, are responsible to look at and inform the community and the Council of issues relating to environment and potential impacts on the Community. So this is what we do and what we've done to date. It is specifically to ensure that the Community is safeguarded, we want to have communication. That’s what we've asked for since day one. Let's sit down and talk through the issues. Let's understand if you have geologic information that represents something different. Let's look at it. But geology does not change in 100 years, geology changes and hundreds of millions of years. And this is where we are. We don't have many issues. We want success for everybody, but success means that the site is cleaned up. We've asked three questions. This was an August and we still don't have the answers to them. Very simple questions. I am showing you the data and nothing less, nothing more. So they've represented that. There is no communication between the overburden and the bedrock. I'm showing you that they're based on their data, not historical photos. Worth 1000 words.”

Todd Davis said, “I would disagree with Rob’s characterization to some extent with respect to what Verdantas’s role is at this stage. Verdantas was retained to be the consultant and advisor on behalf of the City of Avon Lake. When information is complete and fully vetted and presented in connection with the Ohio Voluntary Action program activities, associated with the entire property, there’s a limited amount of information that's currently available and candidly, in deference to Mr. Deigan and ALERG, until we have a full picture of the site, it’s challenging and I think premature for Verdantas to step in and start second guessing partial data and partial information based on discussions. I'll certainly let Steve Gross speak for himself. But as I've said from day one, we need to give ALERG and Deigan an appropriate time to present all of the data in connection with the site, consistent with the requirements of the Ohio Voluntary Action Program. Until they're in a position to share all of that information, it's just premature to make conclusions that you're kind of stating as fact. And ultimately, based on the discussions that we've had. And the commitments that ALERG has made, they intend to share this information pursuant to the Ohio VAP, with Ohio EPA pursuing an NFA, and ultimately a covenant not to sue on the property. Yours are valid questions. They're valid concerns. We intend to have Verdantas review the information,

certainly before the city would make any potential acquisition of a park area or any process. And interface with Ohio EPA and EAAB as appropriate to resolve any of these questions or concerns.”

Steve Gross, Avon Lake’s environmental consultant, said, “Todd, that's very well stated. As far as the position of where we are, certainly we would look at this information. We need to look at it as a whole. We need to look at and understand the site’s conceptual model to understand the potential migration pathways? Rob, what you’ve stated is not wrong, but there's more to it than that and all of it goes together. And for Verdantas, and for me as a Certified Professional, I need to review all of that data so that it all fits together. And Mr. Deigan, you know, when they prepare these reports, we'll take all of that into consideration as well. But until we get to that point, I really cannot make a detailed review. In fact, some of this information I don't have. So until we have those full packages or even enough information and data that we can sit down and talk about—the site conceptual model, the geology, the communication, the hydrogeology—we're just not at that point.”

Gary Deigan of Deigan & Associates added, “Todd and Steve both said it very well. We have always said that we are listening to the concerns of EAAB as well as the Council, CIC, and we're taking all that information and we're putting it into our plans for work and future work. And the example we reported today was that we are not just going to rely on soil borings and groundwater monitor wells next to or in close proximity to the transformer yards and the transformer interior banks, we're actually going to go into those transformer banks and do concrete sampling. I think our story has been very consistent over every one of these meetings from the beginning and we're listening. We're hearing what you're saying and we will address these issues as we go forward and I appreciate everyone's patience, but that's the way a three-year project has to work.”

VII. Public Comment Period (3 minutes per speaker)

Rob Shahmir said, “Mr. Davis made a comment about Charah’s willingness and openness to share information. I just want to ask the question, have you with the City seen the contract that was supposed to be reviewed by the City between Genon and Charah? It's now been over 18 months since it was promised. And also, when it comes to Verdantas, they were to advise and educate the City and the City Council. So, Mr. Davis, I know I am the one that pushed for Verdantas to be here. They are not here as your puppet or anyone else’s. The other thing is when it comes to the rezoning agreement, what is the schedule? When is it supposed to come up and is it going to be before December or after January at the rezoning is going to be shoved through the system?”

Mr. Davis said, “I'm happy to respond to the questions directed to me. I can tell you that with respect to the first question, I certainly have not seen any of the agreements between ALERG and Genon. They have not been provided to the best of my ability. Question #2, I think that the City has retained Verdantas for a specific scope and purpose. They were retained primarily to answer questions. And to advise the City in terms of the VAP process and then subsequently to evaluate the Phase 1, the Phase 2, the risk assessment all the way through the NFA process, once that information is completely available. I advised City Council at the time that Verdantas was brought on board that I thought it was premature because there wasn't much for them to do other than to answer questions that Rob specifically himself had been consistently raising. Which we have acknowledged are valid questions and valid concerns, and I would anticipate would be addressed once all of the information is available to be reviewed by

Verdantas. We can go through this every CIC meeting, but the answers aren't going to change until the information is complete, available and ready to be addressed.”

Malachi Witt introduced himself as a concerned Citizen. “You’re saying that we have to wait for this environmental, and you're talking about a three-year project. As I'm thinking about this, all of us can easily do some Googling and find out that our plant is not a unique scenario, that there have been lots of other plant decommissions around the country and they all involve decades, multiple year clean up scenarios. So my first question is what makes this power plant situation unique where you don't see that as being part of this project, since this is a three-year plan, it seems like you're not anticipating any kind of major cleanup. So why? What leads you to that conclusion? And if we have to wait to do these evaluations when these evaluations do happen and when the results come back again, isn't that going to extend the project much longer? And how is that going to affect all of these plans that we're making on all these deadlines? Isn't that going to screw everything up? And I'm wondering why we have to wait to do sampling and start collecting the data as we go. I mean, like, what is the vision of the group as far as when it's appropriate to do this kind of evaluation? Like, is this after zoning is approved or before zoning's approved? I'm just trying to get an understanding of what the anticipated timeline is.”

Mr. Deigan responded, “I think perhaps Mr. Witt may not have participated in some of the early CIC meetings and if that's the case, maybe some of the communication from the early meetings didn't make it to him at this point and that's what prompted his questions. But let me reiterate just briefly that we started sampling with many borings across the site from side to side, top to bottom, in accessible areas where buildings were not present. And so as we start to move our way in from the perimeter and into areas accessible, we have data for groundwater. We have data for soil and we're starting to develop the conceptual model as to the contamination if it were released during the 100 years of power plant operation, where would it go and why would it go that direction? So we have a network of wells and borings at various depths into shale on top of shale wherever the pathway might lead that contaminant to migrate to, we are investigating that and we're investigating it thoroughly. Now when I say we have to wait, what I mean by that is what's different about this power plant than, say, one in the middle of Texas somewhere this power plant has a very intense land use, meaning the buildings are all over that land and in a very dense position. As we work toward the middle of the power plant and the turbine hall and the some of the boilers that Dan's referring to, we really have to let the demolition progress and get those buildings and those structures out of our way. There's an area that's on top of Powdermaker, Creek Tunnel, we're planning in the next 20 to 30 days to go back to the site because we now have safe access to that area where the maintenance building was and some other areas that have been demolished. So that's what's unique about this. It is requiring some patience to be able to present comprehensive sets of data that define these pathways of migration and the absence or the presence of contamination and what is the risk of that absence or presence of contamination.”

Scott Reschly, Charah Vice President, said, “I appreciate Gary's response. Every environmental and industrial property remediation is going to be different based on the site conditions and what was there before. Some projects take a lot longer because they have, you know, a lot of ash ponds and landfills and other things that need to be remediated. Fortunately here at Avon Lake, we do not have those. A lot of different circumstances go into every project that makes every project unique from a timing perspective. I want to make sure we point that positive note out from at least from the Avon Lake perspective compared to other projects.”

Mr. Davis said, "I have one additional thing to add. There has been a question about the timing of the rezoning or the potential rezoning and how does that track regarding the environmental investigation. From our perspective, the rezoning or potential rezoning issue is going to move through the administration and City Council process kind of in tandem, but independent from the environmental conclusions and investigation. Also, I think with respect to how those the rezoning or potential rezoning connects to the environmental studies, ALERG is—in order to redevelop the property, sell or finance the property—is going to have to demonstrate, in order to get the NFA and covenant not to sue, that the intended use for each area of the property meets that zoning or intended end use for the property. So that's how those two issues connect in my mind and in every development I've done for the last 30 plus years, so I just wanted to make sure we were addressing those two questions."

Councilman KC Zuber commented: "If Verdantas could put together some type of report on these questions and get it to City Council, as well as some of the questions that were brought up by Mr. Shamir. Also, I just wanted to reiterate what Todd said. We're not going to shove through any type of rezoning overlay. We've been quite upfront on the purpose and the process with this and we're going to do our due diligence and take our time because we know what the issue is. So don't ever think that we're going to shove anything through City Council."

Dino Polizzi said, "As a concerned citizen, I'm mostly concerned about rolling blackouts. The destruction or the weakening of our grid has been going on for quite a few decades. As I take an account, our nuclear plants are getting old, getting toward their end of their life cycle. The propaganda we received from the mainstream media about climate change is basically done by Non-government organizations like World Economic Forum. They're the people in power to really control the world. The climate change is actually being caused by weather warfare. This book is probably the one of the better ones. It's by Stan Dale, who was a hired by DARPA."

Janice Lapina had two questions. "They were talking about the implosion, is there any type of communication plan that goes out to the Community? Also, they mentioned about the telecommunications companies that are on the current stack. Is that a loss in revenue? Do we know that?"

Dick Shields answered, "Right now, ALERG pays property tax for the property and the valuation of the tax assessment on improvements probably doesn't pick up the telecommunication items. Whether you have a telecommunication use tax and you charge them independently, I'm not aware of that. From the standpoint of the site, if they locate off site it would be a potential loss of revenue to ALERG. And if they're all located still on site, it would be a large plan that we will package that asset and sell it and let someone else own it and take that revenue."

"And that that process goes through the normal permitting within the city for them to do any construction on the stack 7 etc.?" asked Mrs. Lapina?

"Right," said Mr. Shields. "And then about any type of communication plan around the implosions? Gary can address this. An extensive pre-planning and coordination with the public officials has been done with the city and the county relating the planning, and the identification of protections that are undertaken because of FirstEnergy coordination with them. But also, the plan for the demolition is likely having the buildings and the south wall of the Turbine Hall remaining in place for all of the demolitions

and implosions. So it will create a barrier as well to Lake Rd. But yes, there is an extensive planning effort and coordination effort. We'd be glad to share that with the city and the CIC as it moves forward.

Mr. Davis added: "If you didn't happen to see the announcement, the next round of Ohio Brownfield grant funding applications has been released. They're accepting applications, and there's a seminar on Monday morning at 10am that describes changes in process. You have to sign up for it on the Ohio DoD website. If you haven't seen that, I'm just alerting you guys to the process."

Ryan McDavid said, "Last meeting we talked about Brownfield, about how you guys were trying were going for the NOAA grant, I believe. What is the update?"

Ted Esborn answered, "We actually got results from Noah that our letters of intent are not turning into applications. That's how that works. but they gave us feedback on the letters of intent. So those grant applications are not moving forward."

VIII. Meeting Schedule

- On the Calendar
 - Thursday, December 7 at 7pm
Discussion on canceling for short interval, lack of updates
 - **December 7 meeting was canceled**

- Proposed Schedule for Beginning of 2024
 - Thursday, January 11, at 7pm
 - Friday, February 9, at 9am
 - Friday, March 15, at 9am

IX. Adjournment

Ted Esborn made a motion to adjourn the meeting. Councilman Arnold second. Motion approved, 5-0. Meeting adjourned.