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The Green Revolution at the Local Level

EACs and Public Participation in Environmental Matters

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The average American is becoming “greener” in his or her outlook on the environment. Compact fluorescent lights are on the shelves of every hardware store and can be found in use in more and more homes; maybe not in every light fixture of a home, but here and there so we can feel better about our own personal role in reducing greenhouse gas (GHG) emissions. High-efficiency and alternative fuel cars are becoming commonplace. Recycling is up and backyard composting is increasingly popular.

In a shift that would have been unheard of even a few years ago, lawn care services now offer “organic” fertilizers and other services for the environmentally conscious homeowner. Energy Star energy-efficient appliances are becoming the norm instead of the exception. A large U.S. retailer now advertises on the inside front cover of its catalogue that the wood for its furniture is “certified sustainable” and harvested with “long-term conservation” in mind; much of its foam for cushions and its fabrics are now soy and corn-based instead of petroleum-based.

Organic foods that were once the province only of the health-conscious are now popular for the added environmental benefits of reduced pesticides and fertilizers. Natural cleansers seem to be available everywhere, and the explosion of “green” products, including building materials, are hard to keep up with.

There is a green revolution taking place all around us, and chances are that each of

us, in some way, is part of that change.

People want to have a positive impact on the environment; they’re doing it at home and they’re trying to do it in their local community. From where I sit, as the chairperson of my township’s environmental advisory council (EAC), I have seen an explosion of interest in local environmental initiatives. Just five years ago it was rare for residents to attend and present environmental proposals at our EAC meetings. Today, there is a seemingly endless stream of residents with environmental concerns and proposals for the EAC to consider. This huge increase in interest led my EAC to develop an environmental action plan for our township.

AT THE TOWNSHIP LEVEL

This grass-roots environmental activism directed at local government has yielded numerous, disparate environmental initiatives at the township level. Local residents are finding that their local elected officials are very receptive to new environmentally beneficial programs since, after all, township commissioners and supervisors want to do their part for the environment like most everyone else. While many bemoan a decline in civic involvement, public participation in environmental matters is on the rise at the local level with some amazing results.

Townships have begun undertaking their own municipal GHG inventories against which to measure future GHG reductions; state funds are even available. They are installing solar panels on municipal buildings, purchasing electricity



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from renewable sources and committing to reduce their carbon footprints by specified quantifiable amounts within specified time frames.

Townships are implementing integrated past management (IPM) programs to reduce or eliminate the amount of insecticides and herbicides they use in their parks. Townships are changing their codes to require greater energy efficiency in new buildings or to encourage green building practices. They are adopting woodland preservation ordinances and tree-planting programs and even conducting tree inventories on public lands and right-of-ways. Wetlands restoration, stormwater management, open space preservation and bio retention are increasingly the vernacular of local governing bodies as they take on more and more environmental issues with the encouragement of their constituents.

In my own township, I would like to think that the EAC (with the support of truly exceptional township staff) has helped to identify, prioritize and focus attention on environmental issues within

the township for the governing body of the township; that's why we developed an environmental action plan for the township with the encouragement and support of the township's board of commissioners.

An EAC can be an invaluable resource to a municipality's governing body. In my own township, in the last few years, the EAC transformed from being a body with no clearly defined line of communication to the elected board of commissioners, into a body that now has an ad hoc oversight committee consisting of four members of the board of commissioners (nearly one-third of the elected board) that meets regularly, attends EAC meetings and acts as the EAC's conduit for proposals and suggestions to the full board of commissioners.

WHAT IS AN EAC?

In this day and age, every municipality should have an EAC, but many do not. But what exactly is an Environmental Advisory Council?

As the name suggests, it's an advisory body with no actual decision-making authority. The statutory authority for municipalities to create EACs dates back to Act 148 of 1973, which provides that "The governing body of any city, borough, township, or incorporated town, or group of two or more such political subdivisions, may by ordinance establish an Environmental Advisory Council to advise other local governmental agencies"

On the one hand, an EAC's subject matter jurisdiction is extremely broad under the statute and extends to matters dealing with the "protection, conservation, management, promotion and use of natural resources including air, land and water resources" I can't think of any corner of the environment, or any issue facing the environment, that is not arguably encompassed by this broad language. On the other hand, this jurisdiction is limited to such natural resources "located within [the municipality's] territorial limits."

Back in 1973, this language probably just meant that one municipality couldn't stick its nose into the business of another municipality. But today, with so much of our focus on global warming and many local initiatives being directed to the reduction of GHG emissions to stave off global warming, is it fair to say that an EAC recommendation that electricity be purchased from a far-off wind farm so that an

out-of-state coal-fired power plant can reduce its emissions in the hopes of reducing GHG emissions affecting the global climate deals with natural resources located within the territorial limits of the municipality?

A couple of years ago, this would have made for an interesting philosophical debate, but not after the U.S. Supreme Court's decision in *Massachusetts v. EPA*. First, obviously the decision to purchase electricity from a particular provider takes place within the territorial limits of the municipality. Second, the impacts of global warming are felt within and affect the natural resources of the municipality. In *Massachusetts v. EPA*, the Supreme Court held that Massachusetts had standing to sue the U.S. Environmental Protection Agency (EPA) because actions by the EPA could contribute to global warming which would have a detrimental impact on Massachusetts. On a much smaller scale, the same scientific rationale recognized by the Supreme Court would apply to recommendations regarding global warming made by an EAC to protect a municipality's local environment.

Pennsylvania's enabling statute for EACs also identifies the following powers and duties of an EAC:

- Identify environmental problems;
- Recommend plans and programs for the promotion and conservation of natural resources;
- Make recommendations for the protection and improvement of the quality of the environment;
- Make recommendations for the use of open land areas;
- Promote a community environmental program;
- Keep an index of all open spaces, publicly or privately owned;
- Keep an index of flood-prone areas, wetlands and other unique natural areas;
- Make recommendations regarding the "proper use" of such open space or natural areas; and
- Advise the municipality regarding the acquisition of property.

One important limitation on EACs is that they "shall not exercise any powers or perform any duties which by law are conferred or imposed upon a State agency."

FORM AN EAC

If you live in a municipality that does

not have an EAC and you think it should, the Pennsylvania Environmental Council, a nonprofit environmental advocacy organization, founded the EAC Network more than a decade ago to, among other things, promote the establishment of EACs throughout Pennsylvania. The EAC Network Web site contains useful information about EACs and how to set them up (www.eac-network.org). Basically, to create an EAC in Pennsylvania your local governing board needs to adopt an ordinance tracking the language of the statute.

The growth of the green movement has not been lost on the business community and, in many ways, has been embraced by it, but recognizing that much of the greening of America is taking place at the local level is another matter. Developers are slowly coming to realize that the "green" or "sustainable" project, or a project that simply incorporates some green elements, is the project that is more readily embraced by municipalities. It's also important for businesses to keep their local municipalities and EACs (if they have them) apprised of any environmental initiatives undertaken by the business.

Local EACs are often eager to recognize businesses for doing the right thing and to help them publicize their environmental accomplishments. This becomes a win-win situation for both the municipality that wants to encourage others to act in an environmentally responsible way and for the business, which gets help publicizing its environmental initiatives to the people in the community — the same people who, if given a choice, would prefer to spend their money at the environmentally responsible business than the one that is not.

Every municipality should have an EAC to help keep it abreast of and responsive to the ground swell of interest in environmental issues. Businesses should take every opportunity to tout the environmental aspects of their proposed projects and their environmental accomplishments at the local level to improve their stature in the community and strengthen their relationship with a local government eager to respond to the public's desire for environmental action at the local level. Municipal environmental advisory councils are effective vehicles for embracing the green revolution taking place in our communities. •