



**City of Harrisonburg Environmental Performance
Standards Advisory Committee
Meeting Minutes
June 22, 2017 5:00 – 7:00 p.m.**

Members in attendance: Mikaela Schmitt-Harsh, Benjamin Meredith, Johann Zimmerman, Daniel Downey, Doug Hendren, Raymond Sellers, Dierdre Smeltzer, Tom Benevento, Ritchie Vaughan, Richard Baugh (Council Representative), Deb Fitzgerald (School Board Representative)

Staff/Others in attendance: Tom Hartman, Thanh Dang, Rebecca Stimson, City Attorney Chris Brown

Introductions

Thanh Dang opened the Environmental Performance Standards Advisory Committee (EPSAC) meeting. Introductions of each staff member and EPSAC member were made to Deb Fitzgerald, School Board Representative.

Selection of Chair and Vice Chair

Thanh asked for any nominations of Chair or Vice-Chair. Duties for these positions include co-presentations to City Council with city staff. Ritchie volunteered for position of Chair and the committee unanimously agreed to appoint her as Chair. Benjamin nominated Doug for position of Vice-Chair, and Doug accepted the nomination. The committee unanimously agreed to appoint Doug as Vice-Chair.

Presentation by City Attorney's Office on Dillon's Rule

Chris Brown, the City Attorney, presented an overview of Dillon's Rule. Chris Brown stated that there are two ways local government power is defined in the United States. Some states are home rule states, which means that local government can pass laws unless expressly forbidden by state government. Other states, including Virginia, are Dillon's Rule states. This means that local governments in Virginia have only those powers: given to them by the Virginia General Assembly, necessarily or fairly implied from a specific grant of authority, and/or essential to the purposes of government.

Chris Brown explained that this is why Harrisonburg does not have a personal income tax in the City, because the state has only granted local governments the power to collect certain types of taxes. It is also why the City can regulate zoning, water, and sewer services, because the power to regulate these activities was expressly granted. Chris Brown explained that usually the state regulates to some extent, and then localities "fill in the blank," for example, vicious dog ordinances, where the state has said localities can regulate so long as regulations do not contradict state law. Dillon's Rule is also the reason why collective bargaining and binding arbitration contracts are not allowed. Sometimes Dillon's Rule will prohibit something that localities are trying to do, but then the State law will change to allow that activity.

Chris Brown explained that the first test to any proposal for a new regulation or ordinance in the City is to see if Dillon's Rule permits it by searching the Virginia State Code for authority granted to the locality for the specific proposal. If a new regulation is not permitted, with City Council's support, the regulation can potentially be sent to the Virginia Municipal League (VML) and legislators to be lobbied. If it is not clear that a regulation is permitted or not permitted, then the decision will come down to whether or not the regulation will hold up in court. Ritchie asked if, like in the vicious dog ordinance example, extra regulation on top of existing standards is also allowed for things like environmental regulations. Chris Brown explained that generally, a locality is limited to existing state standards, especially where there is a comprehensive set of standards – like the Department of Environmental Quality has for many environmental issues. Johann asked about the difference between suggestions and regulations. Chris Brown clarified that regulations have to have been granted authority by the state, voluntary suggestions do not. However, suggestions cannot have financial incentives attached to them without authority from the state. Additionally, localities can create policy that go above existing standards for government owned facilities or properties.

Chris Brown explained that Dillon's Rule is strictly construed by courts – the evidence has to be clear that the State allows localities to pass specific regulations. Often, if another locality has passed a specific regulation, our City Attorney's office can speak with the other locality about the regulation and it could give our City Attorney's office comfort to support the new regulation.

Ritchie asked if Chris Brown could run through the EPSAC's list of project ideas and look at them through the lens of Dillon's Rule (Attachment A). Many of the project ideas would be allowable under Dillon's Rule; however, regulations would have to pertain only to public property or projects, and non-financial incentives or suggestions could need to be created for private property or projects. Chris Brown advised the group that the City Attorney's office is available for consultation on specific proposals developed by EPSAC in the future.

Dan suggested the addition of Dry River to the EPSAC's project list.

The EPSAC committee thanked Chris Brown for his presentation on Dillon's rule.

Review and Select Priority Projects

Thanh introduced the next agenda item: review the potential list of projects. Ritchie asked if any projects were "low-hanging fruit" that the committee could begin with. Tom H. said that stormwater related projects, while not low-hanging fruit, would be welcome ideas because of the Stormwater Improvement Plan that is currently being developed. Likewise, Thanh mentioned that the zoning ordinance will be re-written after the comprehensive plan review is complete, so zoning amendments could also be suggested.

Tom B. asked if an integrated plan might be appropriate before any projects are developed by the committee. Johann said that while he believes an integrated plan would be a good idea, there are some things the committee could begin working on immediately. Deb expanded on Johann's statement,

saying that once Bluestone Elementary construction is finished, the building will be solar ready, meaning it can accept solar – and that the School Board would like to investigate solar options.

Mikaela asked about a website presence for EPSAC. Thanh gave the committee an overview of the environmental pages on the city website, <https://www.harrisonburgva.gov/environmental-initiatives> and <https://www.harrisonburgva.gov/green-tips>. It was decided that records should be kept of EPSAC work being done but to hold off on major updates of the webpages until the committee is further along.

Ritchie suggested dividing the EPSAC into smaller groups based on interests. The committee divided into three groups:

1. Organize and host informational meeting (with guests from Roanoke City and/or Blacksburg), develop integrated environmental plan and standards

Mikaela, Tom B., Richard, and Deirdre; Thanh as staff contact

2. School and City Facilities energy audit and improvements

Benjamin, Johann, Deb, and Doug; Tom H. as staff contact

3. Water Quality focused on the Dry River Watershed

Dan and Ritchie; Tom H. and Rebecca as staff contact

(Note: Scott Sellers was not present at this meeting and later volunteered to the Dry River Watershed group.)

Tom clarified that the staff contact should be at every sub-committee meeting, although minutes do not need to be taken for these. An agenda item will be placed on the EPSAC regular meeting to provide an opportunity for sub-committees to share the work done since the last group meeting.

Ritchie asked about informational meetings with department heads. Thanh and Tom H. suggested if EPSAC members wanted to meet individually with department heads that the EPSAC should let Thanh and Tom H. know which departments they want to speak to and to develop a list of questions they want to ask each department. The questions could be provided to department heads in advance of a meeting, allowing departments time to gather information necessary. Thanh and Tom H. would coordinate setting up the meetings with department heads. Benjamin asked how EPSAC members could request documentation to review. Tom H. said that members should send their staff contact (Thanh, Tom H. or Rebecca) an email requesting information, which the staff contact can then request from the necessary City departments.

The committee discussed presentations from other municipalities. Tom B. would like Roanoke and Blacksburg staff members to present about their programs. Thanh suggested that before a formal presentation occurs, the sub-committee decide on a meeting agenda and coordinate with Blacksburg/Roanoke through email, phone, or Skype, in order to make the most of the in-person and larger presentation.

The EPSAC broke out into groups to discuss their sub-committee plans for the rest of the meeting time (about 20 minutes).

Next Steps

The EPSAC sub-committees will work to begin their projects before the next meeting.

The next ESPAC meeting will be held on September 27, 2017 at 5pm.

Attachment A

EPSAC PROJECT IDEAS

These list of project ideas were generated by EPSAC members and were discussed at the June 22, 2017 EPSAC meeting. If pursued, project proposals (once developed) would be presented to City Council to request support, resources, and funding to implement.

1. Perform energy use/intensity audits of city buildings
2. Climate control review in city buildings
3. Policy for total cost evaluation for construction of new buildings, purchase of new vehicles, etc.
4. More bioretention
5. Noise pollution
6. Change criteria of private property development/sales to encourage sustainable/high performance buildings
7. Evaluate zoning ordinance
8. Enforce 0.5-ft candles requirements after construction
9. Community education
10. Work cooperatively with Rockingham Co
11. Work with local Realtor Association (HRAR) to add green information to the home sales records available to appraisers (good news: "solar panels" has finally been added to the info documentation within our database!)
12. Develop light pollution/dark skies regulations
13. Road diets with the addition of bike/walk facilities to encourage alternative transportation
14. Potential grants for Blacks Run water quality projects
15. Have our Committee either travel to Blacksburg, Va and Roanoke VA to meet with their sustainability and environmental coordinators, or have them come to Harrisonburg and meet with us and give a presentation. The sustainability coordinator of Roanoke (Nell Boyle) has already offered to come and give a presentation. I would be willing to set up the logistics for this. Tom Benevento
16. Meet more regularly in the initial 6-12 months of our Committee so that we can build the necessary ground work and momentum.
17. Consider creating an integrated plan and set of standards similar to the work of Blacksburg, Roanoke and now Richmond Virginia that includes six sectors; 1. Residential, 2. Transportation, 3. Commercial and industry, 4. Food, waste, and recycling, 5. Land use, 6. Clean energy.
18. Use ICLEI's Local Government for Sustainable Cities free online tool called "Clear Path" to complete a Greenhouse Gas Inventory and Action Plan. JMU and EMU have both expressed interest in doing this with the city.
19. 2017 Green Government Challenge
20. Engage with various city departments to see if/how they would like us to help them. For example, are there upcoming renovations to existing buildings, and the director of that

department would like us to help ensure that renovations yield lower utilities? Are there departments already pursuing green initiatives that we can help with? Basically making ourselves useful to city departments and taking direction from them to be most effective.

21. Establish Energy Use Intensity (EUI) standards for all new buildings and additions and retrofits of existing buildings, dependent on building type.
22. Establish the incorporation of solar photovoltaic arrays on municipal and school buildings, given that they meet minimum payback periods.
23. Dry River