Environmental Economics

Turning challenges into opportunities

Environmental issues are one of a municipal official's biggest responsibilities; these matters can present many challenges, but also many opportunities. As a newly-elected municipal official, a variety of questions involving the quality of your community's air, water and land lay before you.

Why are environmental concerns so challenging? What are some of the more common issues and useful approaches for dealing with them?

Challenges

Environmental issues are challenging for several reasons. First, they are expensive. Environmental regulations likely contain more unfunded mandates than any other area of municipal responsibility. Compliance with state and federal laws and regulations can cost communities and your employers hundreds of thousands or even millions of dollars, while non-compliance also carries significant monetary and health costs.

Secondly, environmental issues draw strong emotions. Citizens may base their concerns on anecdotal or circumstantial evidence rather than science; however, given the many scientific uncertainties in the environmental area, their concerns may be valid. Either way, as a municipal official, you are faced with addressing those concerns.

Also, the environmental arena is extremely technical. One of your biggest challenges will be to digest the technical aspects of your community's environmental concerns, yet speak about them to your constituents in plain English.

Environmental contamination also poses complicated webs of liability, often extending back to former property owners who may not even be easily identified. This can make remediation and redevelopment expensive and difficult from a legal standpoint.

CSO communities must develop long-term control plans, public notification processes for wet weather events and other compliance mechanisms and infrastructure.

Finally, environmental issues can often make or break economic development efforts. Environmental protection and economic development can co-exist, and finding the proper balance between the two can create the kind of community that will make you and your citizens proud.

Common concerns

Following is a description of some of the most common environmental matters facing cities and towns.

Brownfields — Brownfields are underused, inactive or abandoned properties that have some sort of environmental contamination. These properties pose environmental challenges and also present economic problems because they are not contributing to job creation and the tax base. Examples of brownfields include abandoned industrial or manufacturing facilities, gas stations and hazardous waste sites.

Thanks to legislation pursued by IACT last year, the definition of a brownfield was recently expanded to include non-commercial sites such as hospitals, schools, municipal buildings and even hazardous waste-generating methamphetamine labs in residential neighborhoods. State and federal programs and funds are avail-able for remediating these types of properties.

Nonattainment for air quality — Regions in which the concentration of certain pollutants exceeds federal air quality standards are designated as "nonattainment" for particular pollutants. States must develop and implement plans to reduce those emissions. The U.S. Environmental Protection Agency (EPA) recently designated 25 Indiana counties as "nonattainment" for ozone.

While the exact impact of this designation is still unclear, it will mean restrictions on new economic development in those counties. Ozone presents one of the more challenging reduction strategies because the compounds that combine to form ozone come from a variety of sources, including motor vehicles, industrial and manufacturing activities, and

everyday residential activities such as lawn mowing. Next to come from EPA are nonattainment designations for small particulate matter in the air, known as PM 2.5.

CSOs — Indiana has 104 communities with combined storm water and sanitary sewer infrastructures that were constructed in the late 1800s and early 1900s. Federal and state requirements have been imposed on these CSOs (combined sewer overflows), creating one of the most expensive unfunded mandated environmental fixes ever. CSO communities must develop long-term control plans, public notification processes for wet weather events and other compliance mechanisms and infrastructure.

Water quality — EPA and IDEM determine what levels of pollutants may be discharged into our waters and to what level they must be treated by municipal facilities. Many communities will also need to deal with designations of "impaired waters" and the development of limits on the amount of pollutants that can be discharged into those waterways (known as TMDLs).

Wetlands — In recent years, state and federal courts and the Indiana Legislature have stepped in to tell regulators and developers what wetlands are and to what extent they can be regulated. Cities and towns need to be familiar with wetlands regulations in order to determine what development activities should move forward and how to mitigate damage to wetlands.

Solid waste management and recycling — Cities and towns are responsible for the operation of municipal landfills and transfer stations, yard waste collection, recycling, the prevention of illegal dumping and other programs to manage a community's flow of solid waste.

Common approaches for dealing with environmental issues

As with most issues facing municipal government, one size does not fit all. So, each community must determine what will work from an economic and public health perspective.

Land use planning — Many communities find comprehensive land use and zoning plans to be useful in developing the proper balance between environmental quality and the promotion of a vibrant economy. Issues that can be addressed in land use plans include urban sprawl, reuse of brownfields vs. use of green space, use of agricultural land and the development of greenways and other trail systems.

State and federal funding tools — Several sources of funds and funding mechanisms are available for environmental projects. For example, municipal sewage works projects and new construction of sewage works can be financed through sewage works bonds and sewer reimbursement contracts.

Brownfield remediation projects also may be funded in several ways. The use of tax increment financing (TIF) and the County Economic Development Income Tax (EDIT) has become common. The state also operates a revolving loan fund that can be used to identify and acquire brownfields and conduct environmental assessments and remediation.

These loans are provided through the Indiana Development Finance Authority (IDFA). Designation of brownfield revitalization zones or tax abatements can also be useful. Federal funding through EPA and state grants from IDEM can also provide needed pieces of the funding puzzle.

Some communities are engaging in a relatively new cost recovery mechanism involving pursuit of the environmental insurance policies of current and former owners of contaminated properties. This mechanism, while somewhat complicated legally and not fully tested in the courts, shows promise of being a new way for cities and towns to fund brownfield remediations.

Wastewater and drinking water infrastructure presents one of the most expensive challenges. A recent study estimated the cost of wastewater and drinking water infrastructure in Indiana to be $12.4 billion to $13.8 billion over the next 20 years. This includes the costs of addressing

CSOs, septic systems, storm water infrastructure and wastewater and drinking water treatment costs.

IDEM and the State Budget Agency administer the Wastewater Revolving Loan Program. It provides loans, typically with below market-rate interest, for qualified projects including planning, designing, construction, renovation, improvement or expansion of wastewater collection and treatment systems. Similarly, the Drinking Water State Revolving Loan program provides loans for projects to bring drinking water systems into compliance with regulations. Regional sewer and water districts also provide another mechanism for working on a more regional basis to address wastewater and drinking water infrastructure costs.

New laws and ordinances

Many communities adopt ordinances aimed at regulating open burning, waste collection, fees to pay for environmental infrastructure and programs, and nuisance abatement, among other issues. Likewise, the state Legislature is active in sorting out environmental controversies and developing environmental policies that affect cities and towns. When the Legislature is not in session, a study committee called the Environmental Quality Service Council meets to study and debate issues.

You are not alone

IACT has many tools in place to help you deal with these tough issues, including the Environmental Circuit Rider program (see page 24).

IACT's revamped Environmental Task Force provides a forum for municipal members to develop and advocate positions on new environmental regulations and policies.

The Environmental Hotline offers a free consultation with an environmental lawyer from Baker & Daniels. Strategic partnerships with the engineering firm of Christopher B. Burke Engineering, Ltd. and the law firm of Baker & Daniels provide technical and legal expertise and advice to the Association and representation before IDEM rulemaking boards, the executive branch of state government and the Indiana Legislature.

As daunting as environmental issues may seem, they also can present new opportunities for economic growth and a better quality of life in your community.

As you take on your new responsibilities, be sure to take advantage of all of the programs and resources that can help you, your environment and your municipality.

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