



Faculty Lunches with the Dean (No. 30) (Dave Owens)

Author : Mike Smith

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The most recent Faculty Lunches with the Dean was a couple of weeks ago, and I've been slow in posting this first summary. These lunches are one of several helpful innovations that emerged from our strategic foresight process a couple of years ago. The lunch group included Dave Owens, Kim Nelson, Jamie Markham, and Kara Millonzi. I know it sounds like a broken record, but I continue to find these sessions interesting and worthwhile. I learned something about each person's work from the discussion, even though I already knew generally about the projects they



described. This post focuses on the work shared by Dave Owens.

As someone who has worked in the area of land use law for many years, Dave understands the ways in which existing statutes may need to be clarified and updated. It happens in many areas of the law. A set of laws is passed, and then amendments are added over the years—often in different places, professional practices change, language becomes outdated, and some parts of the statute are no longer used at all. There is no regular, ongoing process for looking at a set of laws and modernizing them without trying to make major substantive changes. Study commissions and other mechanisms used to exist, but those have fallen out of favor. Legislators often are not as interested in updates as they are in passing new laws.

Dave described a process for modernizing existing statutory law in his field that might also offer a model for other areas at the School. In 2014 the NC State Bar Association initiated an effort to modernize the framework of the state's enabling statutes for planning and development regulation. The committee initially proposed looking at the process for quasi-judicial decisions, and Dave suggested expanding the committee's work to include consolidating separate city and county laws in the land use field that had grown up over the last 100 years.



The Bar Association committee developed proposed legislation in an open process—with Dave filling a classic School role by doing most of the professional staff work. He did research and prepared drafts of proposals that were shared and discussed at length with city and county attorneys, attorneys who represented development interests, zoning officials, planning officials, legislative staff, and various organizations interested in the topic—League of Municipalities, Association of County Commissioners, the Home Builders Association, and others. Over 4000 people saw the draft changes and had the opportunity to comment on the annotated version of the bill that contained 677 footnotes!

After asking for the School's involvement in research and drafting, the Bar Association took the lead in finding legislative sponsors and doing the legislative legwork. It is the Bar Association's initiative and we are not advocating for the legal changes—we are continuing to provide neutral staff support. The first proposal was introduced in the 2015 session (it passed in one chamber) and a revised version was introduced in the 2017 session. It was unanimously approved by the Senate and it is eligible for consideration by the House in 2018.



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One lesson from this process is that even simply trying to consolidate and modernize existing legislation can be hard, and it isn't necessarily fast. The interests of many different constituencies need to be considered and incorporated into the bill—and that takes a lot of time. They want to be sure that the changes don't have unintended consequences. The School's reputation for neutrality allows us to work effectively as a trusted partner with all of the parties. Dave's credibility even allowed the bill to go beyond modernization and reorganization and also incorporate several dozen consensus substantive reforms that have the broad support of local governments and the development community. He has spent many hours on the project over the course of several years, and it still isn't completed—though it is in the home stretch.



This is a kind of “good government” project that is important and too often neglected. There are not a lot of other organizations interested in pursuing it, or who have the credibility to bring all of the necessary stakeholders together. There also typically is no funding to support the work. I’m grateful that Dave has been willing to take this on as a major part of his work, and it will be interesting to see if the Bar Association might serve as a vehicle for similar projects in other areas of the School’s work.