11.255
Negotiation and Dispute Resolution in the Public Sector
Spring 2021
Class #16
Scenario #5 Mediation

A global corporation proposed to build a trash-to-energy plant in the city of Rimsdale, and there are a lot of good arguments for and against the plant.

There are at least 15 obvious players who need to be involved, from various city agencies to different community associations and advocacy groups.

Everybody wants to know from you (1) how long will it take to mediate this dispute; (2) what will you do to make sure that everyone is treated fairly (including those without the money to hire lawyers and technical consultants to represent them); and (3) how will you guarantee that whatever is worked out informally will get implemented.
Breakouts

[student names redacted]
Scenario #5 Mediation

- Group facilitators - how did you respond to the questions posed by stakeholders:
  - How long will the mediation process take?
  - What will you do to make sure that everyone is treated fairly (including those without the resources to hire lawyers and technical consultants)?
  - How will you guarantee that whatever is worked out gets formally implemented?

- Others - what are your thoughts? Putting yourselves in the shoes of the various parties, would you hire a mediator on the basis of these answers?
The accountability problem

- To whom and how should environmental mediators be held accountable?

- What makes public sector (e.g. environmental) disputes so different from more traditional conflicts (e.g. labor issues)?

- What criteria can we use for evaluating these mediation efforts?

- Who represents diffuse and inarticulate interests?

- What has changed in public sector mediation in the last 30 years?
  - Professional association
  - Legal framework
  - Agency buy-in and public awareness
Criteria of principled negotiation

- Results must appear fair to the community
- Results are Pareto optimal
- Results are consistent with principles reflecting pre-existing practice
- Agreement sets a good precedent
- Agreement reached quickly and at low cost
- Improves rather than exacerbates relationships between parties
- Parties readily accept the outcomes
Activist mediation

- What does it mean to take an activist mediation approach?
- What might be some of the problems associated with taking an activist approach?
- How might these challenges be overcome?
- How do we decide when the power imbalance necessitates an activist approach, and when not?
- What does it mean to be neutral when taking an activist mediation approach?
- Can planners act as effective mediators? Why or why not?
- What other professionals might act as activist mediators and how?