Questions for Today

- Do you think the approach that cities use to resolve siting, regulatory and policy disputes should be tailored to the details of each situation (and decided by the parties), or, do you think that cities ought to have fairly standard approaches to how they resolve public disputes (the way they have for zoning and land use controversies) ?

- What do you think of Fair, Efficient, Stable and Wise as the four criteria for judging the outcome of a public dispute resolution effort? Should there be other criteria instead?
Readings for Today


Key Points

1. Persuasion and hard bargaining do not produce results that are as fair, as efficient, as stable, or as wise as the public often desires when public policy choices must be made. Consensus building or the mutual gains approach to negotiation (as a supplement, not a replacement for) direct democracy offers some hope of doing better.
2. Dialogue can improve understanding if that is the goal, but dialogue alone won’t produce agreements, especially when values and not just interests are at stake.
3. Hard bargaining will continue to be used in a great many public policy-making situations, in many parts of the world, but the use of this approach ultimately makes it harder to implement agreements (because less powerful parties will feel that they have been unfairly overpowered and seek revenge), undermines trust in government, and often generates sub-optimal (i.e. wasteful) agreements.
Key Points

4. Consensus building puts a premium on mutual gains negotiation and creates an important role for an emerging player – the professional neutral (who knows how to use facilitation and mediation techniques) to generate agreements that meet the interests of all stakeholders involved.
5. The obstacles to institutionalizing consensus building techniques in the public policy-making arena are substantial. It is difficult to overcome the resistance of public officials who mistakenly believe that ad hoc consensus building efforts are a substitute for the legitimate exercise of government or that professional neutrals are a threat to their authority.
6. More participatory and more collaborative approaches to public policy-making, built around the mutual gains model of negotiation, can enhance the legitimacy of government and reduce the long-term costs of collective action.
**MUTUAL GAINS APPROACH TO NEGOTIATION**

**PREPARE**
- Clarify your mandate and define your team
- Estimate Best Alternative to Negotiated Agreements (BATNA)—yours and theirs
- Know your own interests and think about their interests
- Improve your BATNA (if possible)
- Prepare to suggest mutually beneficial options

**CREATE VALUE**
- Suspend criticism
- Invent without committing
- Generate options that exploit differences
- Bundle options into multiple packages

**DISTRIBUTE VALUE**
- Behave in ways that build trust
- Identify standards/criteria for dividing value that all sides can support
- Keep at least two packages in play
- Use neutrals to suggest possible distributions

**FOLLOW THROUGH**
- Design nearly self-enforcing agreements
- Specify mechanisms to deal with “predictable surprises”
- Agree on monitoring arrangements, including metrics
- Keep working to improve relationships
Negotiation Pre-Test

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