

Local Dispute Settlement Centers: Helping Planners to Build Consensus

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Disputes over land use and other planning issues can be costly to a community. Local dispute settlement centers have helped planners deal with actual and possible disputes throughout North Carolina. This article discusses how local centers are working with planners to enhance their skills in conflict management and to assist in resolving local land use disputes.

con·sen·sus (kon-sen-sus) n. (pl. -sus·es)
general agreement in opinion.

The four-word definition of *consensus* conveys a simple concept. Sometimes, though, the absence of the simplest thing, like a postage stamp or a match, can block the achievement of important objectives.

For instance, the absence of consensus can prevent land use plans from being implemented and needed local projects from being developed.¹ Important community problems can go unsolved while disputants engage in one lengthy adversarial process after another. Relationships within a community are often jeopardized by the contentiousness which characterizes many planning issues. We pay a high cost for this conflict in our communities.

Planners need at least two kinds of consensus-building skills if the costs of contention are to be avoided. *First*, like the best physicians, planners need to be skillful in preventive measures. Before disputes arise, consensus-building approaches can be used to identify, engage, and integrate all community interests affected by potentially controversial planning and permitting decisions. *Second*, like well-equipped firefighters, planners need to be able to intervene in appropriate ways after conflagrations arise.

Developing an effective consensus-building capacity in a planning department is challenging. For one thing, planners have a multiplicity of roles to choose from when faced with a development dispute.² Sometimes planners function as technical resource people, providing critical information to elected officials, project applicants, and the public. Sometimes they are translators, communicating to each side the other side's concerns in an actual or potential dispute. Planners may act as "shuttle diplomats," persuading groups separately to reach an accommodation with one another. Planners also negotiate for their own and their

departments' interests. Finally, planners in some instances mediate by remaining neutral, exercising careful listening and questioning skills, and aiding parties in coming up with solutions on their own.

An additional challenge to planners who desire to build consensus is overcoming customary approaches to conflict. Traditional land use decision making can be fiercely competitive: developers vs. preservationists; neighborhood associations vs. business associations vs. town hall; old timers vs. newcomers. Decision makers--the planning boards and other advisory commissions, boards of adjustment, town councils and county commissioners, and judges--are typically asked to produce win/lose decisions, even in handling complex problems. "Losers" are apt to pursue their interests by carrying an unsettled dispute into other arenas. Most parties with interests in a land use dispute do not expect the formal system to generate a consensus; they prepare for competition.

Consensus Building in North Carolina

How might planners in North Carolina acquire an effective consensus-building capacity, given these challenges? First, planning schools need to offer courses in dispute resolution theory and methods, as advocated by David R. Godschalk, professor in the Department of City and Regional Planning at the University of North Carolina.³ Godschalk also suggests that practicing planners participate in workshops and short courses. The author would add

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that local planners need resource people with whom they can easily consult and, if the situation warrants it, invite to assist in managing a dispute.

While planning school curricula are beyond the scope of this article, planners in North Carolina should know that they have local opportunities to participate in conflict management workshops and to consult with conflict management resource people. With the help of community-based dispute settlement centers and the North Carolina Mediation Network, planners are becoming more effective consensus-builders.

The N.C. Mediation Network is a nonprofit organization established in 1985 to foster the growth and development of community-based dispute settlement centers. These centers use trained, local mediators to help individuals and groups negotiate agreements for a variety of disputes.⁴ Mediation Network's Public Disputes Program, established in December 1988 with a grant from the Z. Smith Reynolds Foundation, assists communities in building their capacities to resolve local "public" (as opposed to private-party) disputes, such as disputes over land use planning.

The involvement of North Carolina's not-for-profit community-based dispute settlement centers in planning matters may be surprising to some. The centers are most often thought of as resources for feuding family members, bickering neighbors, and combative customer-merchant relationships. Indeed, the nineteen dispute settlement centers now operating across North Carolina were established initially to mediate relatively simple cases between two private individuals.

Yet over the past eleven years local dispute settlement centers in North Carolina have been asked to assist in an increasingly diverse and complicated set of cases. Community-based centers have established local reputations as effective neutrals, confidential sources of conflict management assistance, and excellent providers of training and information on consensus-building. Planning departments and individual planners are receiving assistance in designing and managing public meetings, conducting negotiations, and improving staff and commission members' conflict resolution skills.

Communities are turning to local dispute settlement centers for help in a wide variety of circumstances.⁵ For example, the community-based centers in Buncombe, Chatham, Durham, Guilford, and Orange counties have been called upon to assist with land use planning disputes or other kinds of local, community-wide, "public" disputes. In July 1987 the Orange County Dispute Settlement Center established a full-time Public Disputes Program under a grant from the Mary Reynolds Babcock Foundation. The Guilford County center hired a Public Disputes Coordinator in 1989.

Also in 1989, the N.C. Mediation Network organized a public disputes training program for local dispute set-

Dispute Settlement Centers in North Carolina

There are nineteen disputesettlement centers now operating in North Carolina. Information for each center is listed below.

ALAMANCE COUNTY

Alamance County Dispute Settlement Center, P.O. Box 982
Graham 27253, (919) 584-9517.

BUNCOMBE COUNTY

The Mediation Center, 189 College St.
Asheville 28801, (704) 251-6089.

CATAWBA COUNTY

Catawba County Justice Center, P.O. Box 818
Newton 28658, (704) 464-6744.

CHATHAM COUNTY

Chatham County Dispute Settlement Center, P.O. Box 1151
Pittsboro 27312, (919) 542-4072.

CUMBERLAND COUNTY

Cumberland County Dispute Settlement Center, 310 Green St., #206
Fayetteville 28301, (919) 486-9465.

DURHAM COUNTY

Dispute Settlement Center of Durham, P.O. Box 232
Durham 27702, (919) 490-6777.

FORSYTH COUNTY

Neighborhood Justice Center, P.O. Box 436
Winston-Salem 27102, (919) 724-2870.

HENDERSON COUNTY

Henderson County Dispute Settlement Center, 140 Fourth Ave. West
Hendersonville 28739, (704) 697-7055.

IREDELL COUNTY

Piedmont Mediation Center, P.O. Box 604
Statesville 28677, (704) 873-7624.

GASTON COUNTY

Mediation Center of Gaston County, 309 N. Highland St.
Gastonia 28052, (704) 868-9576.

GUILFORD COUNTY

Mediation Services of Guilford County, 1109 E. Wendover Ave.
Greensboro 27405, (919) 273-5667.

MECKLENBURG COUNTY

Community Relations Council / Dispute Settlement Center
817 E. Trade St., Charlotte 28202, (704) 336-2424.

ORANGE COUNTY

Orange County Dispute Settlement Center, 302 Weaver St.
Carrboro 27510, (919) 929-8800.

PITT COUNTY

Mediation Center of Pitt County, P.O. Box 4428
Greenville 27836, (919) 758-0268.

POLK COUNTY

Polk County Dispute Settlement Center, P.O. Box 865
Columbus 28722, (704) 863-2973.

ROBESON COUNTY

Robeson County Dispute Resolution Center, 207 E. 14th St.
Lumberton 28358, (919) 738-7349.

TRANSYLVANIA COUNTY

Transylvania Dispute Settlement Center, P.O. Box 1205
Brevard 28712, (704) 877-3815.

WAKE COUNTY

Mediation Services of Wake, Inc., P.O. Box 1462
Raleigh 27602, (919) 821-1296.

WAYNE COUNTY

Goldsboro-Wayne Dispute Settlement Center, 1309 E. Walnut St.
Goldsboro 27530, (919) 735-6121.

tlement centers. Two dozen experienced, community mediators from ten centers across the state participated in the training, which was funded by the Z. Smith Reynolds Foundation. Susan Carpenter of the Center for Community Problem Solving in Washington, D.C., developed and conducted the training. Mediators in Buncombe, Chatham, Durham, Forsyth, Guilford, Henderson, Iredell, Mecklenberg, Orange, and Wake counties completed the eighteen-hour course. Afterwards, they were teamed with experienced mediators from around the country for an apprenticeship period. Some are still working through their apprenticeships, but all are available for consultations with local planners.



Andy Sachs facilitates a meeting of the Orange County Teen Alternatives task force.

workshop participants in developing recommendations to municipal and county managers in the region on opportunities for collaboration among land use planners and infrastructure departments. The dispute settlement center also provides instruction in collaborative problem solving during the workshop.

• Planning boards often face hostile speakers and audiences at public meetings. A regional council of governments organizes a workshop for area planning board chairs and planning department directors. The workshop

includes a speaker from a local dispute settlement center who describes effective ways to manage public participation at planning board meetings.

- A county task force on AIDS calls a public meeting to initiate a dialogue between residents of a neighborhood and advocates of AIDS patients who might rent a home in the neighborhood. While no public permits are required, the proposal nevertheless becomes a public controversy. Prior to the meeting, members of the task force seek advice on managing the meeting from a representative of the local dispute settlement center. The representative also attends the meeting as an observer and provides insights on the meeting's process to the task force chair.
- A planning department provides staff support to a task force charged with making recommendations on a local tree protection ordinance. The task force, chaired by a town council member, is comprised of environmentalists, home-builders, and representatives of other interest groups. The local dispute settlement center gives a presentation on collaborative problem solving at the task force's orientation meeting.
- A town manager, planning director, and planning staff ask their local dispute settlement center to design a "mini-retreat" to help improve communication and conflict management skills. They find that the skills are as useful for working with each other in the office as for working with the public.
- Neighborhood residents petition the town council to take measures to discourage through-traffic on a neigh-

What Have Community-Based Dispute Settlement Centers Done for Planners?

Local dispute settlement centers do much more than mediate. This list illustrates the variety of ways that planning departments, citizens concerned about planning issues, and elected officials are working with community-based centers:

- A town manager, planning director, and planning department staff see that downtown merchants and developers are disgruntled, but they are uncertain about the reasons for the dissatisfaction. Rather than let the situation fester, they decide to organize a meeting between themselves and the business community to learn more about the business community's specific concerns. They confer with the local dispute settlement center, and ask for a neutral facilitator to help develop a meeting agenda and keep the meeting on track. The facilitator takes responsibility for conducting the meeting, thus freeing the planning staff and town manager to participate fully in the dialogue.
- A regional planning agency sees the need for better coordination among local departments of planning, public works, transportation, and engineering. An agency staff member contacts a local dispute settlement center for help in organizing a land use and infrastructure workshop. Staff from the dispute settlement center assists

Additional Resources in Public Dispute Mediation

Planners interested in building their conflict management skills or acquiring assistance in resolving land use disputes can contact their closest community-based dispute settlement center (see list on page 36) or Andy Sachs, Coordinator, Public Disputes Program, 302 Weaver Street, Carrboro, NC 27510, (919) 929-8800.

A bibliography on conflict management for planners appeared in *Carolina Planning* (1986) Vol. 12, No. 1. Since that time, the following materials on conflict management have become available:

Carpenter, Susan L., and W.J.D. Kennedy. *Managing Public Disputes*. San Francisco: Jossey-Bass, 1988.

Dotson, Bruce A., David Godschalk, and Jerome Kaufman. *The Planner as Dispute Resolver: Concepts and Materials*. Washington, D.C.: The National Institute for Dispute Resolution, 1989.

Elliot, Michael L. Poirier. "Conflict Resolution" pp. 159-183 (Chapter 8) in *Urban Planning*, 2nd edition, Anthony Catanese and James Snyder, editors. (New York: McGraw-Hill, 1988).

Forester, John. *Planning in the Face of Power*. Berkeley: University of California Press, 1989.

Susskind, Lawrence and Jeffrey Cruikshank. *Breaking the Impasse*. New York: Basic Books, 1987.

borhood street. The petition is opposed by residents on neighboring streets. A citizen from the first group contacts the local dispute settlement center for advice on ways to encourage the two neighborhood groups and the town staff to collaborate. A dispute settlement center staff person meets with and helps the citizen develop suitable approaches to the problem.

- A greenways advisory commission, staffed by a planning department, is responsible for initiating negotiations between local government and landowners. The planning staff asks a local dispute settlement center to conduct training in negotiation. Simulation exercises help commission members gain practice in the newly learned techniques.
- The chair of a human services agency contacts a local dispute settlement center for help in reestablishing a dialogue with neighborhood residents. The residents oppose a proposal to rezone property owned by the agency from Residential to Special Use/Office and Institutional. They also oppose the agency's request for a Special Use Permit. The dispute settlement center contacts the neighbors, convenes a meeting of the two sides, and helps clear the air between them. The two sides ultimately settle their differences without help from mediators, coming to an agreement that satisfies their respective needs and the local development ordinance.

These examples illustrate the assistance provided in planning conflicts by community-based dispute settlement centers. This assistance can be arranged into four categories: training, consultation, facilitation, and mediation.

Training

Through the training provided by local centers, planners are introduced to new ways of looking at land use conflicts.

They improve their understanding of conflict management, and develop skills for preventing and intervening in land use disputes.

Consultation

Planners consult with local dispute settlement centers, getting advice on ways to move past real or anticipated snags in consensus-building. By conferring with local dispute settlement centers in short meetings or phone calls, planners have generated new ideas and insights on how to approach conflicts.

In some cases a planning department may request more extensive assistance, such as the development of a *conflict assessment* for a real or potential dispute. In a conflict assessment, the dispute settlement center reviews relevant documents and interviews people in the community who are affected by or knowledgeable about the dispute. The purposes of the assessment are to determine whether there is sufficient motivation among the affected individuals and interest groups for a collaborative problem-solving process to be successful, and to gather information needed to plan a consensus-building process.

Another form of consultation is *process design*, in which community-based dispute settlement centers work with local agencies to design collaborative public participation and problem-solving processes. Skilled planning staff can manage such processes themselves; in other cases, staff members from local centers serve as facilitators or mediators.

Facilitation

Local centers provide experienced facilitators to manage meetings where planning issues are being considered. This can occur if an issue is contentious or as a preventive meas-

ure. In either event, the facilitators first work with the meeting organizers to ensure that the meeting's objectives, agenda, structure, and invitee list are realistic and in parallel with one another. During the meeting, facilitators contribute nothing to the content of the group's discussions. Instead, facilitators ensure that the agenda is acceptable to the group and is followed; that the ground rules for discussion and decision making are clear, acceptable to all, and enforced fairly; that discussions are balanced and free from personal attacks; and that the group uses problem-solving tools that are appropriate for their tasks. With a neutral facilitator taking care of these considerations, planning staff and other participants are able to concentrate fully on the content of the meeting.

Mediation

Community-based dispute settlement centers in North Carolina provide trained mediators for local planning disputes. Mediators help initiate and maintain negotiations on behalf of all sides in a dispute. The parties retain whatever decision making authority they had when they entered the process. They also retain their right to pursue courses of action outside of mediation (political, legal, self-help, etc.). Participation is voluntary and motivated by the parties' mutual interests in terminating the dispute. An informal agreement developed by the parties in a mediation can form the basis of a formal recommendation or proposal to decision makers.

Before accepting a complex case, a mediator conducts a conflict assessment. The mediator speaks separately with the parties, and, if needed, with others in the community, to gather different views of the conflict and to learn about the interests of the affected parties and their ability and willingness to negotiate on the issues of concern. If a case is accepted, mediators work with the parties to tailor the process to the specifics of the situation.

The scope of mediation in a land use dispute is determined through discussions between the mediator and the parties. For example, in the special-use rezoning and permitting dispute referred to earlier, the first tasks of the local dispute settlement center were to determine whether any kind of intervention could help the parties, and if so, to identify representatives from the neighborhood and the agency who would be willing to meet together. The mediator spent over 30 hours interviewing neighborhood residents, staff and board members of the human services agency, members of the local planning board, and local planning staff. These interviews helped the mediator become familiar with the parties and their concerns, and helped the parties understand the mediator's role and the mediation process. The dispute settlement center then designed a meeting based on what was

learned in the interviews. The meeting was held to provide a safe setting in which a small group of people from both sides of the dispute could explain their concerns and listen to the concerns of the others.

Conclusion

Planners may need various types of assistance in building consensus on local land use issues. Community-based dispute settlement centers and the N.C. Mediation Network are easily accessible, local sources of assistance in conflict management training, consulting, facilitation, and mediation. Planners and others who tend to be involved in land use issues are already availing themselves of these services. Citizen groups, business organizations, elected officials, advisory commissions and planning staff could all benefit further by learning about and applying consensus-building skills in real or potential planning disputes.

Planners and dispute settlement centers should continue working together to reduce the costs of contentiousness in their communities. Their expertise is mutually complementary. The forte of the centers is in conducting collaborative processes and in training people in conflict management. Planners, in addition to their technical knowledge, are positioned to identify land use issues that might become rancorous if not managed skillfully. They are also on the front lines when wrangling over land use permitting and planning gets under way. Staff of local dispute settlement centers and local planning agencies are identifying ways to merge their expertise for the good of their communities.

Notes

1. The costs of unresolved public disputes (including land use disputes) are described in greater detail in Susan L. Carpenter and W.J.D. Kennedy, *Managing Public Disputes*, San Francisco: Jossey-Bass, 1988; and in Lawrence Susskind and Jeffrey Cruikshank, *Breaking the Impasse*, New York: Basic Books, 1987.
2. John Forester, *Planning in the Face of Power*, Berkeley: University of California Press, 1989.
3. David R. Godschalk, "Commentary: Some Thoughts on Planners and the New Dispute Resolution" in *Carolina Planning* 12, 1:41-42 (1986).
4. For a description of the work of community dispute settlement centers in North Carolina, see issues of *The N.C. Mediator*, the newsletter of the N.C. Mediation Network. Also see Rob Gelblum's article, "Justice in the Community: Strategies for Dispute Resolution" in *Carolina Planning* 11, 1:36-41 (1985).
5. The intervention by community-based mediators into public disputes is discussed in Lawrence Susskind and Jeffrey Cruikshank, *Breaking the Impasse*, New York: Basic Books, 1987, p. 227; Andy Sachs, *Building the Capacity to Mediate Public Disputes: A Manual for Community-based Dispute Settlement Centers in North Carolina*, Carrboro, North Carolina: Dispute Settlement Center of Orange County (1988); Linda Stamato, "Land Use and Siting Conflicts: New Roles for Community Organizations" in *National Civic Review* 77, 4:315-322 (1988); and Andy Sachs, "When Neighborhood-Based Dispute Settlement Programs Mediate Local Public Disputes," *Conflict Resolution Notes*, Conflict Resolution Center International (Pittsburgh, PA), Volume 6, Number 3. January 1989.