

Best Practices for Dealing with Common Land Use Dispute Dilemmas

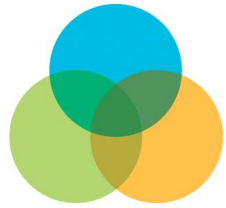
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March 8, 2007



Consensus Building Institute

Agenda



2:45 Common Land Use Dilemmas

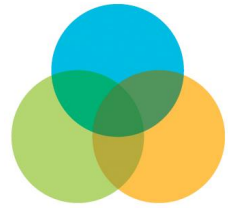
3:00 Exercise: Sweetwater

Participants identify common negotiation challenges and solutions

3:45 Key Insights and Ideas

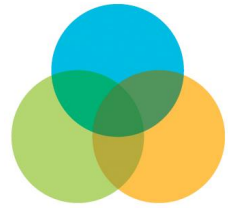
4:00 Adjourn

Brainstorm....



- *What are some common problems encountered when managing public land use planning processes?*
- *Participants' experiences?*

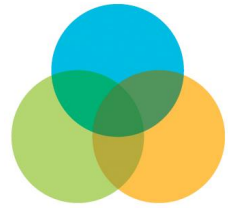
Three big ideas



- Planning dilemmas often have their origins in process design
- Many process problems are predictable (I.e. “predictable surprises”)
- There are no cookie cutter answers (because context matters)

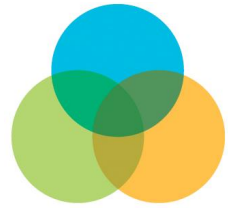
*But there are proven principles,
tactics, and strategies.*

Some common dilemmas...



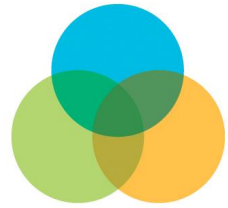
- ❑ Unclear roles among Public Officials
- ❑ Coordinating across multiple jurisdictions (with conflicting mandates!)
- ❑ Managing complex scientific and technical Information
- ❑ Dealing with “difficult people”
- ❑ Reaching closure (I.e. knowing when and how to pull-out)
- ❑ Engaging the broader community and unaffiliated citizens

Sweetwater Exercise

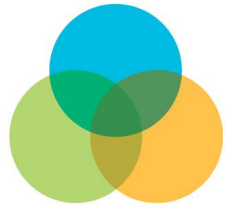


- Small group analysis of common problems in an inter-mountain west land use planning process
- Read scenarios and discuss as group:
 - What's the challenge or problem presented?
 - How can it be addressed?
 - What are some best practice insights?

Best practice insights / lessons

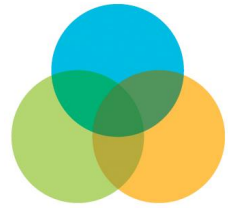


- [for real time development with group]

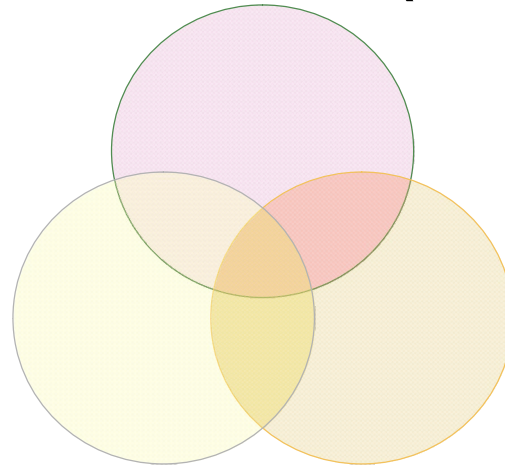


Best practice Handout follows

The Multiple Roles of Public Officials at the Table



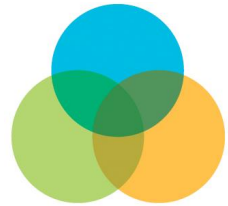
Decision-maker (Convener)



Technical Expert

Stakeholder

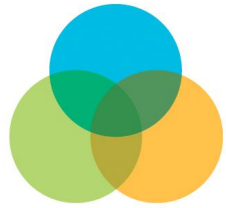
Public Official as Convener



Best practice

- Initiate the forum
- Provide an opportunity for meaningful dialogue
- Provide logistical support
- Set a respectful, optimistic tone
- Help frame the issues for discussion
- Provide legitimacy and authority

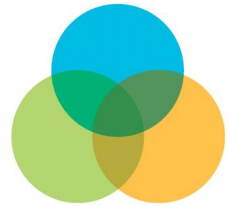
Public Official as Technical Expert



Best Practice

- Demonstrate a willingness to work together
- Be open-minded, willing to listen, to teach and to learn
- Contribute scientific and technical information
- Contribute other resources

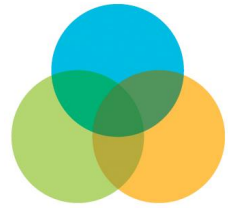
Public Official as Stakeholder



Best Practice

- Articulate your interests and priorities, including those of the broader public interest
- Articulate the sideboards or constraints you are faced with -- time, money, legal mandates, information, etc.
- Ensure that any agreement is consistent with the laws and regulations
- Ensure that any decisions can be defended and implemented within the agency.

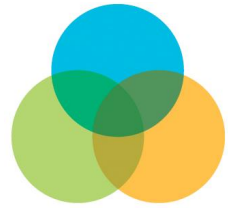
Best Practice for Managing Scientific and Technical Information



1) Clarify the Source of the Dispute

- Lack of data?
- Disagreement over the nature of the problem?
- Different approaches to collecting and analyzing data?
- Competing interpretations of what the data mean?

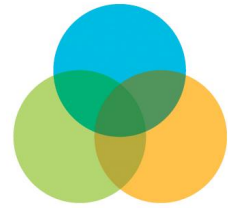
Best Practice for Managing Scientific and Technical Information



2) Remember the Principles:

- Scientific and technical information is a “necessary” but “insufficient” ingredient.
- Experts and expertise are important, but the stakeholders must understand scientific and technical issues to ensure implementation.
- The “scientific method” is only one way of knowing.

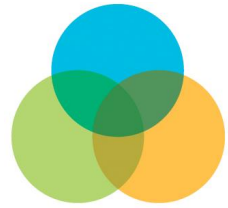
Best Practice for Managing Scientific and Technical Information



3) Define Strategies to Manage

- Agree on what you know, don't know, want or need to know.
- Clarify the nature of the dispute - identify areas of agreement and disagreement
- Agree on what level of uncertainty is acceptable.
- Invite outside technical experts
 - Multi-disciplinary panels
 - Independent fact finder
 - Peer review

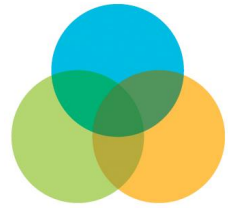
Best Practice for Managing Scientific and Technical Information



(Strategies cont'd)

- Conduct joint fact-finding
 - Create a subcommittee with technical expertise
 - Agree on what questions should be asked
 - Jointly review draft studies
 - Ask more questions
 - Articulate the worst case scenario
- Seek out precedents
- Adopt a learning, adaptive attitude
 - Use contingent agreements

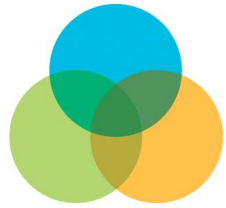
Dealing with Difficult People



Best Practice

- Validate their viewpoint
- Clarify the interests motivating the behavior
- Enforce the ground rules
 - Establish a culture of integrity early and often
- Conduct a round-robin discussion to focus on accomplishments
- Call a time-out; meet privately with the person

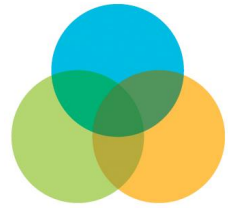
Strategies for Reaching Closure



Best Practice

- Call a break. Let people cool off
- Acknowledge the person's frustration and clarify the nature of the concern
- Remind them of their "rights" and "responsibilities" for participation
- Is it possible to create "contingent agreements?"

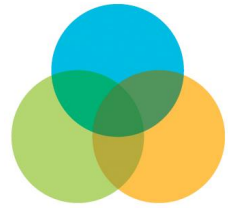
Reaching Closure (cont.)



Best Practice

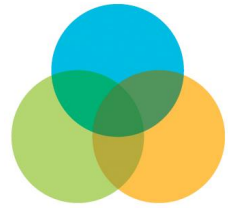
- Clarify areas of agreement and disagreement; how to resolve disagreements?
- Consider majority and minority reports.
- Discuss the consequences of partial agreement.
- Include a provision in ground rules on how to deal with this type of situation

Possible Reasons to Pull Out of a Dialogue Process



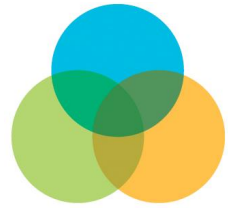
- Progress is too slow / too many disagreements
- Ground rules not being followed or enforced
- The objectives changed and no longer address your interests Views are not being heard or incorporated
- Not having much influence
- Better options away from the table
- Unwise use of time given your interests
- Consequences of staying are worse than leaving
- Right people are not at the table
- Some people are not participating in “good faith”
- Sense preconceived outcome

Strategies for Pulling Out?



- Acknowledge accomplishments
- Clarify your concerns (process, substance, behavior)
- Offer solutions or conditions under which you would be willing to continue participating
- Validate concerns and explore options with the facilitator
- Give other participants a chance to respond
- Carefully consider the consequences of withdrawing
 - Opportunity to learn
 - Relationships
 - Long-term influence on framing a problem or solution
- Inform other participants, in writing, of your reasons for withdrawing
- Anticipate and address the public perception of your withdrawal
- Leave strategically, not angrily

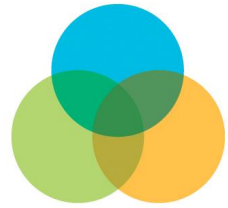
Strategies for Engaging Unaffiliated Citizens



Best Practice

- Use multiple means
 - Newsletters
 - Editorials
 - Open Houses
 - Public Hearings
 - Citizen Panels/Juries
 - Web-based technologies
- Move from informing and educating to engaging in dialogue

The Consensus Building Institute



- Consensus Building Institute (CBI) is a 501(c)3, not-for-profit organization dedicated to helping organizations of all kinds reach better agreements
- CBI has extensive experience in the public and private sectors and CBI staff are actively involved in mediating some of the world's most complex business and political disputes
- CBI advocates use of the “Mutual Gains Approach” to negotiation developed at the Program on Negotiation at Harvard Law School
- CBI has a global network of full time staff and affiliates

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