Planning and Mediation, Participation and Posturing:

What's a Deliberative Practitioner to Do?

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Introduction: Participation, Difference, Distrust, and Posturing Over Interests

Like planners and urban designers, the mediators of public disputes work in-between diverse and conflicting, often suspicious and impatient stakeholders—old residents, new residents, developers, environmental groups, industrial interests, agency representatives, and others, for example. Like some planners and designers, too, mediators seek viable, practical 'solutions' that will satisfy these stakeholders' interests and so, perhaps too, provide the basis for sound plans and even public policies.

But these mediators say the strangest things:

They say that parties can find mediated processes so surprising that they sometimes call them "magical." They say, in several different ways, that often intensely passionate parties haven't somehow really thought about their own interests. They say that calling mediation "mediation" might sometimes not even help. They say that faced with intense conflict, they might begin discussions not directly with the concerns at hand, but quite indirectly—even, for example, with the stories of everyone's names.

Now, I hope to show you, this afternoon, that there's a method, or at least a set of strategies, to this madness, and that public dispute mediators can provide us with rich lessons—of practical judgment, practical wisdom, and hope—for planning in the face of conflict—disputes

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over land uses, design, or environmental quality, for example. So I'm interested, then, in how planners can respond to challenging and messy situations—or to be more blunt about it, to politicized, emotional, and painful public conflicts.

I want to begin by listening to the kinds of problems that mediators tell us that they're up against. Then I want to ask what these challenges can teach us about a central ethical and practical problem of negotiation and democratic participation more generally: the problem of responding to negotiators'—citizens'—posturing over their actual cares and concerns, their and our actual interests. If we can expect, in contentious situations, not just random political rhetoric and game playing, but recurring patterns of misrepresentations or exaggerations of what people really care about, then we might in turn consider careful, politically and ethically sensitive, strategies of response. So then I will return to listen to the insights of mediators who've faced these problems—again because planners and urban designers not only face these problems too but also can learn from considering carefully what public dispute mediators have to say.

Listen first, then, to Jon Townsend, a mediator who's worked in several settings outside the U.S. – in Eastern Europe and in Central America as well (Forester and Weiser, 1995). He tells us,

> A mediator needs to think like a negotiator because that's what the parties are. The parties are negotiating, or their negotiation-communications have broken down. But they are negotiators nonetheless.
> I mean, they may be poor negotiators, i.e. poor communicators: they may not know their best interests. They may not know what their interests are—most people don't [because] most people are positionally-based, right?
> Be it in formal negotiations, or, if you go to mediation, you usually take a position if you're a party. You usually don't think about what your interests are.

But what's this mean? Townsend gives us a short lesson about what's called positional bargaining – and the ways it blinds us. He explains,

> It's helpful for me to know what the difference is between an "interest" and an "issue." . . . . In most cases, in my experience, be it negotiation or

mediation, most people come to the table with their issues, but they really have

not thought a lot about what their interests are.

In my experience—he stresses the point—people don't negotiate on their

interests. They hardly know their interests. They haven't thought about their

interests. As a people, generally speaking, we don't think in terms of interests.

He gives us an example of what he means:

Let's say, I'm dealing with an employee. That employee wants a 10%

increase in salary. Well, the proposal that he or she would make would be a 10%

increase. The "issue," the agenda item, the "what," is money. But the interest is

financial security, and there might be a dozen different ways to help someone

meet their financial security, that may never have anything to do with the 10%

increase. In fact, there may not even be any money ever given to that person. . . .

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[Again, he says, "Because] in my own experience people usually don't

come to the table with their interests known, . . . I need to listen for that. [So,] I

make assumptions, I guess, in the vast majority of cases when people say . .

.[that] this is what they're fighting about—they sure are, but that's not the real

reason. There's something else: . . . [and] we can work for issue resolution

through interest satisfaction.

[W]e'll satisfy people's interests in order to get the issues resolved. So

people still have to address those issues, because they're the surface things.

That's what people aren't comfortable with, and that's what they're there for.

But the end result may be—and probably and usually is—about something a

little bit deeper, about their interests. . .

Townsend tells us a great deal here: not only can issues distract attention from and

obscure interests, and not only does he work to resolve issues, to address the concern with money

or salary, for example, by addressing the deeper, underlying interest in financial security, but at

the same time he's warning us: if we're distracted by the rhetoric of issues and positions, and we

don't address underlying interests, we risk solving the wrong problems, jumping to conclusions

about what needs to be done without assessing what parties really hope to satisfy.

So Townsend expects, he says, to hear about issues that bother people, but he knows that

people will mean more than they say—so that he will have to dig, to probe, to listen – to

recognize what's at stake. But now telling us to expect hidden interests is one thing; telling us what to do about such hidden or obscure interests is something else again. To make matters worse, this is the easy part—Townsend hasn't even mentioned that in situations of conflict, parties have reasons to be deliberately obscure about their interests and to posture about those interests.

So in what follows, now, I want to consider this problem in some detail—in three Parts. First, we'll listen closely to mediators who can teach us about the gamesmanship and posturing that planners—and design professionals too—can often expect to face. Second, we'll consider a way to map these problems of learning about parties' interests: is there any recurring political logic, we'll ask, to make sense of how these challenges arise? Third, then, we'll listen once again to the mediators: how do they handle these kinds of problems? All along the way, we'll try to ask, "What lessons can planners learn about these problems from mediators who've worked so regularly in the face of contentious public disputes?

Sources of Posturing and Gamesmanship: What gets in the way?

Racial Conflict Fueling Presumptions

So listen first to a planning consultant who worked with a small California city's Hate Crimes Task Force to refocus its efforts. Trained at M.I.T., Karen Umemoto had done extensive Geographic Information Systems (GIS) analysis of the distribution of race-bias hate crimes in the larger metropolitan region. In the face of gang violence and racially-motivated murders, the City Council—quite unsure itself about how to respond—appointed a Task Force, then re-named the "Human Relations Commission," that turned out to be internally divided as well.

As she assisted the Commission not only with data analysis but with holding a retreat to reformulate its work, Karen faced challenges that community development planners will find familiar. As we'll see, racial tension and the prospects of racial conflict—which surface past pain and stir up present fears as well—don't help to clarify parties' actual interests.

Karen tells us what she was getting into (Forester and Love, 2004):

Anything can happen in these kinds of situations. After I read the results from the surveys [of the Commission members], I realized that there were some deep differences—in terms of whether or not some people even think there's a problem of racial tensions and what the sources of those are. This was a microcosm of the nation in terms of the differences in ideology, in racial attitudes, and in backgrounds.

"Half of [this small city]," she goes on, "is flat, and half of it's on the mountain. You have million dollar homes on the mountain, and you have barrios, poor, very low income, highly dense neighborhoods and apartments down below—in certain neighborhoods below, not all of them. You have some people who just don't think race is a problem, that there isn't racism—even in the face of the murders and everything else—even on the Commission. . . .

[P]eople have such different lived experiences and perceptions of the problem—and whether or not there even is a problem or not—that it's hard to get people into the same room face to face, confronting each other's beliefs and attitudes.

Karen tells us that her work in this city was hardly some exception to the rule. She'd spent years studying community development, and here she says was a "microcosm of the nation," both in "background" and "ideology" and "attitude" and very practically in their differing "perceptions of the problem and whether or not there even was a problem" "even on the Commission"!

But Karen tells us more, too, about the conversation she expected at the retreat, and this wasn't a discussion that she thought was very likely to take the form of a sober, interest-based negotiation. She put it this way,

In a situation where there's so much pain because people have experienced racism or the deaths of friends or family, it's a highly emotionally charged environment. People are so sensitive to the touch.

And you could have the same type of polarized debates—some are saying, "The problem is that we have single mothers that don't watch over their

kids, and that's why we have this problem," and, on the other hand, people will say, "It's poverty that's causing this, not single parent families."

I was anticipating all of this from within the Commission itself--and all that was likely to come together [at the retreat], though divergent views, experiences, attitudes, and points of view--converging in one room around an issue that was so highly sensitive.

So Karen tells us that she expected the Commission members to raise lots of "issues" from their different points of view. Not only that, she expected a certain form of discussion that she would have to work with: what she called, "polarized debates"—not exactly a culture of joint problem solving or collaborative planning.

Why'd she expect that? Our emotions matter, she reminds us, in case we needed the reminder: "In a situation where people have experienced racism or the deaths of friends or family, it's a highly emotionally charged environment. People are so sensitive. . ."

So Karen was walking into a situation that confronts planners and public-serving professionals all over the country: the humiliations of racism haunt some of us just as they seem invisible to others of us, and the pain and polarization, the debates and the "emotionally charged environment" provide challenges not just to planners and many other (including design) professionals but also to those, like Karen and many others of us in this room perhaps, who would like to see that practical community strategies and policy measures actually do address the real needs and interests of our cities' residents, residents of all colors and communities.

But let me turn now, from these difficulties to still other problems that confront planners who hope to encourage collaborative community planning, effective and responsive public "participation."

<u>Getting Stuck in "Problem Wars"</u>

Listen to planner-mediator Carl Moore who has assisted cities and non-profits alike with work ranging from dispute resolution to visioning and strategic planning.

Carl warns us of "problem wars" that stakeholders can fall into. He suggests a strategy of response, too, to which we'll return—but first, consider the challenges that he adds to Karen's. He tells us of his early work with a mid-western municipality:

> One of the things I learned . . . was [that] to be grounded in people's problems was really risky when you're seeking change, because people like their problems more than they'll fess up to, and they'll stay connected to those problems. If you really want to get people to open up about how to change, you're far better off enlarging the shadow of the future than you are being traditionally analytic—in the Western civilization sense of that word—saying, "What's your problem? What are the causes? What are possible solutions?" So that was the start in my path [of] learning how to shift the focus to the future and enlarge that shadow.

I asked him, "What do you mean, "People 'like' their problems"?" and he smiled and replied,

> Well, they do. They stay attached to their problems and, moreover, [often] they're going to go on and on about their problems. They know how to talk about their problems so they get some kind of acceptance, some kind of social reward, because they've talked about their problems.
>
> Moving them off the problem, then, [he goes on] is really hard because there's the felt belief [by parties] . . . that "IF I let your version of the problem be the basis for continuing the conversation, it's going to go in the direction you need for it to go, rather than the direction I need for it to go,"—so people really can get into problem wars: "My problem is worse than your problem," or "My problem is the one we need to spend time on," or "My problem is the <u>real</u> reason we're here."

"What's the risk here?" I asked. He explained,

> The risk [here] is [that] you don't move off the problem. You don't get to some sense of what people can collectively do. [Now,] If you had limitless time,

it's okay to go there. But if you don't have limitless time and your goal is to

make progress with the group, beginning with the problem can really stall you."

Carl doesn't refer to situations as emotionally charged as Karen's, but he tells us, too, that

when he meets with diverse stakeholders, he doesn't expect initially to find a peaceful kingdom of

collaborators, a trusting and cooperative culture of citizens eager to have a heart to heart dialogue.

Instead he tells us, when time is short and resources are limited, that vulnerability and "need" will

pull in different directions.

Stakeholders may well worry, he suggests, "If I let your version of the problem be the

basis for continuing the conversation, it's going to go in the direction you need for it to go rather

than the direction I need for it to go."

Here we see a politics of problem-framing, a competition for the scarce good of attention,

a competition for power in the form of agenda-setting: the ways we set the "basis for continuing

the conversation" and the "direction" it needs to go.

Carl tells us much more here too: if we jump prematurely to a rational-analytic problem-

solving approach, we may simply go too fast, forgetting that before problem solution comes

problem-framing! This after all is Planning Theory 1 (and for engineering or science students,

"Problem Set I"): before we can solve a problem, we first have to figure out what the problem

really is: What do we have here to work with? What's hidden—perhaps for strategic reasons?

What's important enough to pay attention to? [This is a huge ethical problem—we can call it

"learning about value" (not about values, but about what matters, what's at stake)—even though

calling it "the problem of moral salience," as moral theorists do, doesn't make it any easier really.]

Carl adds politics to the complexity of the situation: problem statements, the rhetoric of

problem-stating, he warns us, will be partial, contested, and, too often, backward-looking rather

than future-oriented. Like Karen, he says that emotions matter too: people often "stay attached to"

(and may "go on and on about") their problems, even if—in a participatory setting—this might

not help the group make real plans to act in new ways, to change. So Carl makes no argument

against problem-solving, but he's asking us to worry more about problem-framing, about diagnosis—if we're interested in planning for change, if we really do want to resolve problems!

Drive-By, Hit and Run Solution Seeking

Listen now to a third dispute resolution practitioner, Peter Adler, involved with land-use planning issues and conflicting rights to land. Having worked in the U.S. and a good deal in Southeast Asia, Peter tells us that in contested settings, patience can be in short supply. As he tells us just a bit of what he hopes to accomplish, Peter warns us of political "instincts" that he (and we too) can be up against. He puts it this way,

> I'm hoping . . . that people will move through a process in which they're acquiring new understandings and information about each other, [about] their views and their positions—that they will be able to stay pretty tolerant, for a while—as opposed to [acting on] the instincts which are to do drive-by solution seeking: Hit and run.
>
> [It's] drive-by: hit-and-run—"We're all busy people." "We've got to get it done." "There's a big political issue." "What's your solution? Ah, this is never going to work" . . .

Peter then explained this problem another way:

> Everyone comes in with their own predilections about what's the issue, what's the question, and what the answer's going to be . . . . they all come in with answers. My assumption is that they come to a public issue like this [land use case] with a lot of answers—but we don't know the questions all the time.
>
> We don't know what question your answer is trying to answer exactly. It's a litle bit like Jeopardy.
>
> So: you've got your answer. [But] what's the question that that's designed to answer?

He gives us an example. He's describing a case that involved conflicts over defining Native people's access rights to private lands—rights they sought so they might continue to practice their traditional customs. He tells us,

> [T]he banker says [to me in our initial interviews], "I'm trying to figure out how to create stability in the mortgage documents that lenders give out . . . I

want to figure out how to clear title from land and transfer titles, and I can't do it

if there are these [access] rights encumberments and so on." So he comes in [to

the meetings] with his answer to that.

But, if I'm a native [here], I [might not] even know what [the banker's]

question is—all I hear is his answer.

[And similarly,] all the banker's hearing is, "I want to come onto your

property. I want to come onto any private property, any time I want."

So if Carl has warned us about "problem-wars," Peter is warning us about solution-wars.

"We're all busy people," he hears, "We've got to get it done."

Here too we see limited time, limited framing of "the problems" at hand, and a temptation

to do 'drive-by,' 'hit and run' solution-seeking. "They all come in with answers," he tells us, "with

a lot of answers, but we don't know the questions all the time."

So as he faces parties' "predilections" about the issues, the questions, and the answers,

Peter suggests, he can lose just those "new understandings and information about each other,

about their views and their positions" that he's trying to encourage—so that the parties might

together work to craft planning and policy measures that actually satisfy their interests.

Obstacles of Training and Meeting Design

So far, we've listened to practicing mediators and planners talk about "the parties"—whose

emotions, political struggles over agenda-setting, and hit and run solution promoting seem to

threaten participatory processes! But what about the ways that planners and design professionals

make a mess of things too—from the ways they talk to the ways they (we) have traditionally

structured public meetings?

Listen first to a community-development planning consultant, Wendy Sarkissian, who's

quite critical of her profession, then once more to Carl, who extends her point. Wendy (Forester,

March 2004) says,

I think manipulation and humiliation and embarrassment are the stock

and trade of many of my [planning] colleagues . . . Planning processes often get

into [those problems.] They're elite and formal, and people speak in a secret language.

The suits are on the stage. It's a cold drafty hall. The people are sitting in rows on the floor. You can't hear properly. There's no roving mike.

You feel like you're being toyed with, [even] when the planners are trying to get information to, or sell something to, people in a so-called "participatory process."

So the planners can get in their own way. Sometimes, it's just plain ineptitude. I don't even think it's bad intentions [often].

So much for ordinary "participation," Wendy suggests! Even with good intentions, she finds planners structuring processes in ways that lead to "manipulation, humiliation and embarrassment," to "elite and formal processes" with professionals who may appear to "speak in a secret language."

Carl adds to her observations. He says,

Citizens . . . have been "civically dulled." There's a way in which representative democracy has invented ways for citizen participation that are antithetical to [that] participation. They turn people off, they make it so "peanuts" for people to engage in civic life that most people won't do it because they think it's going to be a meeting like those meetings [that] they once participated in and hated.

[You can] go to public hearings, or go participate in some kind of referendum that the city council is sponsoring, in order to see where an issue is. [You'll see], you get people who come out only because they feel like they've got something to lose on that issue, and they feel strongly about it, and they're not polite to each other, and it's usually just not a very good experience for anyone.

So consequently most people don't want to engage, so they don't or won't.

Here Wendy and Carl tell us that participation means much more than having access, and much more too than having "voice," if "voice" simply means the ability to get up for three minutes in a public hearing and say what's on your mind—before the next person, to whom you

won't be able to respond—takes his or her turn. They both point to political irony, if not tragedy: here are processes presumably designed to promote democratic participation and they seem, all too often, in the form of public hearings, to do the opposite—creating settings in which citizens feel they have little, "peanuts," to gain, in which they can wonder if they need to know another language, in which they wonder if they'll be "polite to each other," treated with respect, or be attacked.

No wonder, Wendy and Carl both imply, many affected citizens "don't or won't" want to engage in participatory planning processes. How could these kinds of discouraging processes, after all, help them to learn really about anyone else's interests or actually help anyone else to learn about their interests? If "participation," too often, means noise, aggression, and humiliation, any of us who cares a whit for democratic politics has a lot of work to do.

Now, I don't want to give the wrong impression. So far, we've considered several problems of participatory processes as reflected in the accounts of practicing mediators and planners. These are the practical challenges that these mediators and planners work to overcome, and each of these practitioners brings a repertoire of approaches and strategies, of skills and insights, to anticipate and respond to these difficulties, and I will turn in a few minutes to give you a sense of how they do that.

But we should recognize that these are both practical and theoretical challenges too. For if we judge planning and policy proposals in terms of how they satisfy affected citizens' interests (rather than waste limited public resources), then we need to worry about the obstacles we face to learning about what interests are actually at stake. If mutual posturing in a public negotiation results in agreements that satisfy the rhetorical games the parties have played but leave opportunities to meet real, but hidden, interests 'on the table,' we have lose-lose agreements, lousy compromises, and only a greater burden on public resources. If our theories of ethics or politics don't help us out of these traps that posturing can create in participatory processes, we need better theories as well as better practice!

12

Now this is just the dilemma that mediators work to address, and because planners and designers face versions of interest-hiding posturing and gamesmanship all the time, those planners and designers might learn a good deal from probing accounts of mediators' real work. So in the time that remains, let's consider both a more general, "theoretical" accounting of these problems and then turn to these practitioners' more specific strategies of practical response.

The Logic of Misrepresenting Stakeholders' Interests

I'd like to build upon the difficulties we've heard about and array the challenges of learning about parties' interests in a two-by-two table, Tables One. Consider the problems you face as a negotiator listening to other parties. You have your interests and worries, and your have a sense of your priorities. You may not know the other parties terribly well, and even if you do, you may have reasons to wonder about how forthright they'll be in your negotiations. They're often worried about losing any more than they need to lose, and so are you.

This creates a familiar but perverse "negotiator's dilemma" (Lax and Sebenius 1987). If you posture, and they posture for just the same reasons, you can both do far more poorly than you otherwise might. But if you don't posture, you worry, you might be exploited. But they have the same worry. So you both posture, and you both do more poorly than you could have done. Such "Lose-Lose" outcomes seems all too easy to reach. This dilemma, of course, provides one compelling rationale for planners to take mediating roles seriously—and this is more generally what I work on—but here let's focus on our problems of (political and ethical) learning about others' actual interests.

As a negotiator, you realize that the other party might have interests not just in the substance of what you're negotiating, but also in your on-going relationship—and they can be more or less forthright about each of those kinds of interests. For example, the other might exaggerate an interest in price or quantity or time in hopes of giving up less of some other "substantive" interest they care about. Or they might strike a pose of confidence or assurance in

hopes of not appearing as vulnerable to you as they feel—and so they don't seem very interested in really working this out with you. So you can wonder what to believe about their valuing of either their relationship with you or the substance of what you're after, or both.

These examples of exaggeration might remind us, too, of strategic bluffing, strategic actions designed to seek gains. We don't know what the other's interests are, in part, because the other acts deliberately and strategically to misrepresent those interests, because they're afraid that if they tell us the truth, we'll exploit them. (And as I've suggested, of course, we might have exactly the same fear about them.)

But, our practitioners suggest, we might also face still other obstacles to learning about their interests. We might find it difficult to explore possible cooperative arrangements not because they wouldn't be interested, but because they've presumed (from the tough way we've acted in past meetings, for example) that we'd never even consider it—so of course their public demands haven't ever mentioned it! Or, we might find it difficult to learn about their interest in a piece of property—because the technology to assure its safety has not (yet) been available. In these kinds of cases, we have trouble learning about interests, not because of strategically calculated mis-representation, but because of stakeholders' presumptions—contingent, even tentative presumptions—about what's possible.

Table One portrays these possibilities. Table Two, in contrast, portrays the same types of difficulties of learning as a list of obstacles, similarly strategic or presumptive, in four categories that correspond to Table One's four quadrants.

Table One
Obstacles To Learning About Other Parties' Interests

Parties Can Have Interests

	In	
	<u>Relationships</u> (Between the Parties)	<u>Substance</u> (Negotiated by Parties)
		but

Parties Deliberately&
Strategically
Misrepresent
Interests
	public hearings
	   encourage posturing
	humiliation silences
	   weaker parties
	
	("secret language")
	[Wendy, Carl]:
		exaggerating to extract gain
		   hiding to avoid loss
		Problem-wars to control
		   agendas
		
		("my problem is worse")
		[Carl]

Interests **Can Be** **Undisclosed** **Because**:	[Quadrant IV] --------------------------- [Quadrant III]	-'[Quadrant I] -------------------------- [Quadrant II]

Parties
Define
Interests
Presumptively,
Contingently
	past fears frame hopes
	parties presume identities
	racism colors problem
	   framing
	
	("hard to get people into the
	   same room face to face . . ")
	[Karen]
		predilections" re solutions
		presuming Answers
		(ignoring joint inquiry)
		
		("drive-by solution seeking")
		[Peter]

Table 2: What gets in the way of revealing interests?

1. Strategic Misrepresentation of Substantive Interests (Presumptive) [Quadrant I]
      1. We posture, misrepresent and exaggerate some interests, minimize others (the "problem wars" of "My problem is worse than yours")

      2. We hide and suppress interests for fear of appearing weak, mistaken ("If I let your version of the problem be the basis for continuing the conversation," I'll suffer);

      3. Our fears define our interests

      4. We try to win yesterday's war; a blame-game defines our focus;

2. Presumptions of "Substance" Involving Complexity (Non-strategic) [Quadrant II]
      5. We focus on positions and obscure interests ("predilections" about solutions).

      6. We lump interests and don't tease them apart (answers presuming questions).

      7. We follow conventions, let others speak/imagine for us (principal-agent)

      8. We are unclear about our own priorities (perhaps due to fluid context)

3. Presumptions of Relationships Involving Uncertainties/Contingencies (non-strategic) [Quadrant III]
      9. Process safety changes what's safe for us to consider (fear)

      10. Past relationships foreclose options; evolving relationships allow new considerations (putting the lie to "they'll never talk to us")

      11. Evolving Self: will our interests change? (aging, maturing, losing others);

      12. Changing technology allows new possibilities, e.g. better health

4. Strategic Misrepresentation of Relationship Interests [Quadrant IV].
      13. In adversarial processes, as we interact defensively we fail to invent options to satisfy broader interests (zero-sum traps; public hearings)

      14. In a moderated not mediated process, we can easily not probe ambiguity and so fail to specify interests. (formal procedures, secret languages...)

      15. In an argumentative process (without joint fact finding), we have few procedures/rituals to enable us to explore interests.

      16. We can play to the audience, get locked in (having taken a position, e.g.)

Here, then, we have a mapping of regular, systematic obstacles that we can expect to arise in participatory settings. If we can expect these obstacles, we should be able to do something about them—both at the levels of day-to-day practice and institutional design.

Lines of Mediators' Responses: Practical Wisdom, Practical Judgment, and Hope

So let us turn now—having considered these diverse problems of democratic dissembling, posturing, exaggerating, presuming, assuming, scheming, and worse—to provide at least an initial sense of how practicing mediators may face these problems. Again, because planners and designers can face similar problems of parties obscurely representing their interests (either strategically or presumptively, or both), these planners and designers might learn from mediators' reflections about their own practical approaches to these difficulties.

Responding to the Strategic Structuring of Relationships [Quadrant IV]

I'd like to give these practitioners the last word (or most of it). Let's begin with Peter to see how he can work with parties when he knows that the framing and strategic structuring of the process—the practical institutional design of procedures and structuring of relationships—can produce "those meetings that people have hated."

In the case he was discussing, working on access rights to private lands, he'd decided to frame the process not as "a mediation," but as "a study group." He says,

> I suggested. . . that we not call it anything to do with "mediation"— we do not call it anything about "facilitation"; that we not call it a "round table," which are [all] words I've used in many other settings. . . I said, "Let's have a study group" . . . .
>
> [He goes on,] If I called it "mediation," it sounds like there are deals to be made, and my sense after [my initial] interviews was, "We don't want to talk about deals. We want to try to think this thing through, and better understand the needs, the interests, the drivers, if you will, and the politics of this particular issue."

So what happened? Peter explained:

> One of the things that happens—as the conversation develops—is that a group like this gets on a learning curve together. It's "a study group."
>
> So, they're asking questions, and they're trying to frame questions together, which is nice because it means that we may get to some common answers downstream.
>
> It also gets them actively engaged in the information or data gathering . . . . it helps them circle around a problem as a group.

So here, he says, the framing and design of the process changes the character of the conversation—let's not talk about "deals," "Let's better understand the needs, the interests . . . the politics of this particular issue." Let's frame the questions together "so we may get to some common answers downstream."

Responding to Presumptions about Substance [Quadrant II]

Now, remember, Peter had warned us too of the parties' presumptions about the problems at hand: "Everyone comes in with their own predilections about what's the issue, what's the question, and what the answer is going to be."

He then continued,

> What I'm trying to do is defer that answer for a while and see if there are joint questions to which they can seek a joint answer, and set the stage for that over a period of time, over a period of meetings.

So here Peter suggests that over-confidence in what he'd called "drive-by" solution-seeking can give way to shared doubt, to shared questions, and then to joint inquiry to inform recommendations, or as he says, "joint answers." In the same interview he kept returning to a central question he'd put repeatedly to the group, "What information do we need to collect to address our issues?" What do we need to find out more about—what do we still need to know?

Responding to Presumptions about Relationships [Quadrant III]

But how can these mediators and planners work with—and then overcome—parties' strong initial presumptions of one another? Karen and Peter both point here to the power of

personal narratives—stories—to disrupt stereotypes and expectations. Listen first to Karen as she describes the results of a powerful exercise she used to elicit personal stories from members of the renamed Hate Crimes Task Force. She tells us,

> There was an African-American young man who was working for a church. . .and doing a lot of youth outreach, and some people had suspected that he was part of the problem, that he was fanning the animosities. He told a very moving story that showed that he was concerned in a very deep way about this issue and had something to offer in terms of solutions.
>
> Another person, who people thought was a bigot, who didn't care, shared their history which was apparently very different from what people thought that person's history was . . .
>
> One of the Latino women said, "I'm here because I don't believe in color and my boyfriend is black, and we go around everywhere in the city scared that something is going to happen to him or something is going to happen to me…"
>
> . . . . So people shared things about their history—Karen goes on—that helped them connect across the color lines. . . . .People were talking to each other. There was so much buzz after the exercise ended that people were shaking each other's hand and walking across the room to approach each other and thanking them for sharing their stories. People were feeling like they were included in this process.
>
> People who were formerly asked to sit in the chairs in the back were feeling that they were part of the process now, and others were feeling like, "Yeah, we should include these people in this process." [So I was] trusting that my decision to include them [had been] the right decision.

Peter echoes Karen's approach and puts the point more generally, but practically too. He says:

> In addition to getting them to loosen up, to slow down from the 'drive-by' syndrome, I want them to have both a set of intellectual understandings and emotional understandings.
>
> Actually, it starts with the emotional side and then goes to the intellectual side—because that's part of having people talk about how this issue touches them personally, and kind of staying patient with that.

Someone says, "You know my family goes up into the mountains and we gather . . . leaves for this particular [customary] ceremony."

Or someone else says, "I'm a lawyer here, but you know what, I grew up in this community and it pains me that Native [people] hate me because I'm not a [native]."

So—Peter goes on—stories start where people are personally, but I also don't want it to turn into personal [therapy]— I don't want to stay there, so really that's a jumping off place. . . . I'm hoping that people will understand that this is not a just a theoretical problem, that it's a problem that touches them, touches people personally. [T]he only way that you can get at that is by asking the question as innocently as you can and letting them talk . . . about how this issue comes into their life.

Even as he's warned us about turning story-telling into personal therapy, he says,

I can say I found you can't go wrong by asking that. I mean, I've asked that all the time ['how's this issue come into your life?'], and I can't remember a time when somebody's run away from that, done something wrong or bad. . . I just haven't had that experience. Usually it becomes revealing of things and humanizes discussion.

Here from Karen and Peter we have crucial suggestions about moving past presumed stereotypes to recognizing one another's concerns and fears, to building inclusion and respect within working groups, to learning in and "humanizing" discussion.

Responding to Posturing over Substance [Quadrant I]

But what now about the parties' inclinations to stay attached to their problems, to get stuck in "problem-wars"? Carl had mentioned working to "enlarge the shadow of the future" as parties listened to one another, to move in part from a discussion of the past "to shift the focus to the future," as he put it.

He goes on now, beginning with what he calls "the very definition" of his job, and then suggesting what he tries to do. Carl says,

[When I work with a group,] I want it to be a real productive experience for them. . . I have to decide how to frame the meeting[s]—so that they feel safe enough to say what's on their mind—[that's my primary goal—I mean it's the

very definition of what my job is. So that usually means that I'll give a lot of thought to how people get into groups that are small enough for them to participate.

So, what does this mean practically? He has a lot to say:

> That means [I might] count them off into the groups so that they're not in the same group as their [husband or] wife, who's sitting next to them [and] causes them to behave in a formal, rather than spontaneous, way.

> It means having enough facilitators. It might mean having trained local people to be the facilitators, so that it's neighbors helping them participate.

> It means giving them time to think before asking them to speak, which is a cardinal tenet of most of the tools that I use. It means collecting ideas in some kind of serial [turn-taking] fashion usually, rather than letting those people who are clever about how to participate in groups [just] be clever.

> It means focusing, usually, on making sure you're clear about their ideas—rather than encouraging their argument over those ideas.

Notice that he's said, "Focusing, usually, on making sure you're clear about their ideas—rather than encouraging their argument over those ideas," and that bears repeating—for it begins to show us the difference between moderating a debate, encouraging adversarial argument (even if impartially), and mediating a dispute, clarifying interests so that parties can then craft proposals—"shift the focus to the future"—actually to satisfy those interests. Carl puts it this way:

> [So, if] I'm working with a group, and an idea comes up and I say to the group, "So what do you think of that idea?" I'm going to appeal to a very natural instinct that most of us have which is to be very quick to assess, but if I can hold off [that quick] assessment, I'm much more likely to get out ideas that would not have come out—because the assessment would have turned off some people from contributing their ideas. . . . [So,] . . . I'll ask them, [not "what do you think of that idea, but] "What does the idea mean?"

Conclusion

Now, we have here four line of approach: framing a process to produce joint inquiry rather than "deals," getting stories to break down initial presumptions, raising doubt to clarify questions to move beyond initial "hit and run" answers, assuring "time to think" and enlarging the shadow of the future rather than fueling debate—and these provide, not recipes and easy answers, but practical judgments and guidelines for action in the face of what we might call democratic messiness—if not the democratic pathologies of misrepresenting stakeholders' real interests.
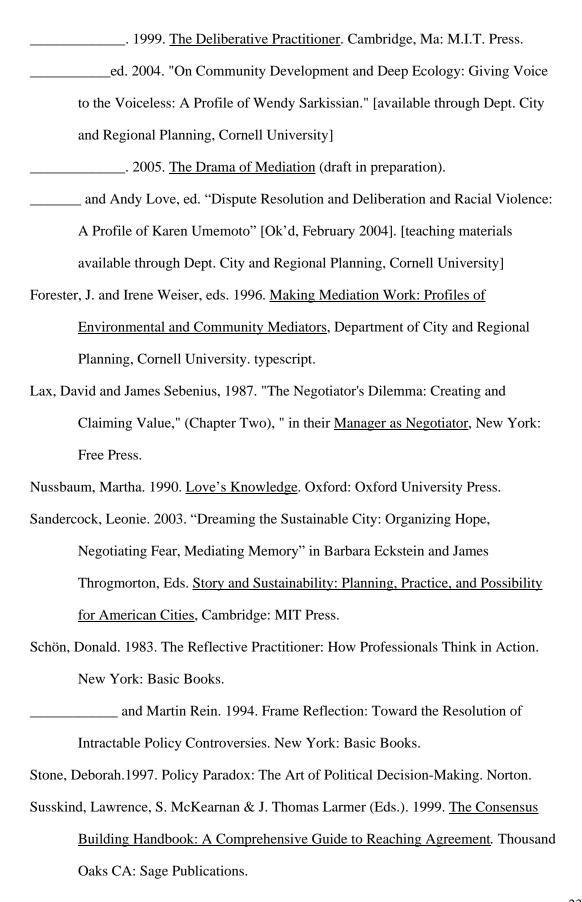
In participatory planning settings, suspicion and fear, passionate presumptions and strategic posturing set the stage. But experienced mediators of public disputes face these problems all the time, and if we probe and listen closely to their accounts—of these problems and of their possible practical responses too—we might learn how they have wrestled with these challenges, learning about interests beyond problem-wars, beyond drive-by solution-seeking, beyond public hearing gamesmanship, learning about interests even beyond racial stereotyping and fear—and so we might then come away with a glimpse of their practical wisdom, their practical judgments, and so our own real possibilities too.

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