

UNIVERSITY OF VIRGINIA

Spring 1998 School of Architecture Dept. of Urban & Environmental Planning

PLAN 524: Negotiating Public Policy Issues Fridays, 9:00-11:45 a.m. Instructor: E. Franklin Dukes (924-2041; 978-7508; ed7k) Room 302, Campbell Hall

Making and implementing public policy no longer is, if it ever was, a matter of command and control or "decide, announce, and defend." Contemporary problems require collaboration between and among many actors in the public and private sectors. More fundamentally, democratic governance thrives only with informed, legitimated participation by a public engaged in civic action.

This course examines the processes by which public actions are and ought to be made, focusing on three principle elements: 1) Negotiation and mediation theory and skill development; 2) The nature, sources and expression of contemporary public conflict; 3) Consensus building processes designed to resolve and transform such conflict. Cases examined will include an ongoing (the Bryan Park Interchange, involving transportation-community-VDOT issues) mediation in Richmond, a tobacco grower-public health advocate consensus process, and a mediation involving a trails dispute in the Mt. Rogers National Recreation Area.

PLAN 524 will include a strong mediation skills component. Through readings, role plays, and other exercises, students will develop competency in mediating a variety of issues. Students will also examine the theoretical basis of mediation and develop a capacity to assess strengths and weaknesses of different mediation models. For those who are interested, this course can satisfy the basic training requirement for mediator certification in Virginia.

Course objectives.

- o To develop understanding of the sources and dynamics of interpersonal conflict;
- o To develop awareness of one's own and others personal conflict styles, and when they are and are not appropriate and effective;
- o To develop listening and other communication skills;
- o To understand the role of emotions in conflict and to develop strategies for dealing effectively with intense emotions;
- o To develop problem-solving skills;
- o To develop a capacity for mediating interpersonal disputes;
- o To understand ethical and legal issues involved in mediation;
- o To develop sensitivity to cross-cultural differences and their role in disputes;
- o To develop understanding of the nature of public conflict and procedures used to address such conflict;
- o To develop an ability to strategize consensus building activities over contentious public policy issues.

Texts

E. F. Dukes, *Manual of Transformative Mediation*, 1998; *Resolving Public Conflict: Transforming community and Governance*, St. Martin's Press, 1996.

F. M. Lappe and P. M. DuBois, *The Quickening of America*, Jossey-Bass, 1994.

J. L. Creighton, *Involving Citizens in Community Decision Making*. Program for Community Problem Solving, 1992.

GENERAL:

- Attendance and participation in class is very important. Please show up on time, but if you are late don't let that stop you from participating once you arrive! And please let me know in advance if you will miss a class. Assignments are made on a weekly basis, and you will need to make appropriate arrangements.

The Manual of Transformative Mediation and additional readings will be distributed to the class. A \$10.00 fee is assessed for the manual and other material.

GRADED ASSIGNMENTS:

A weekly, cumulative "diary" combining your analysis of reading assignments with your observations of disputes in your area of interest.

* A final examination. This will be weighted towards class discussions and lectures. While readings and class presentations may be used as a reference, you won't be asked to recall specifics of anything that wasn't discussed, handed out, or otherwise specifically assigned, and you won't be required to reference names with ideas.

GRADING:

An A is offered for outstanding work; a B is given for work which is truly satisfactory; a C is unacceptable for graduate participants.

Grading will be based on:

o The weekly written assignments will be graded as follows:

0 Did not complete assignment, or no apparent effort or thought. 1 Completed assignment. Demonstrates adequate preparation: knows basic facts, but does not show evidence of trying to interpret or analyze them.

2 Satisfactory effort. Demonstrates good preparation: knows case or reading facts well, has thought through implications of them.

Offers interpretations and analysis of case material (more than just facts) to class.

3 Demonstrates excellent preparation: has analyzed material and/or dispute exceptionally well, relating it to other readings or material (e.g., course handouts, discussions, experiences, etc.).

Offers analysis, synthesis, and evaluation of readings and case material, e.g., puts together pieces of the discussion to develop new approaches that take the class further.

I do give weight to organization, writing style, and mechanics, as well as demonstrated understanding and presentation of issues.

Note: A point is deducted for every day an assignment is late.

A maximum of 2 points are offered for attendance and participation in each class. Active participation in class discussions, assignments, and exercises is expected from each student.

Participation is rated on a scale from 0 (lowest) through 2 (highest), using the criteria below. While your participation is important for any class you take, this class by its experiential nature requires considerable involvement, including interaction with your classmates.

We each learn from what you offer to the class. I encourage you to strive for a "2" for your own and others' benefit.

Participation Grade Basis:

0 Absent or without contribution.

1/2 Present, not disruptive.

Tries to respond when called on but does not offer much.

Demonstrates very infrequent involvement.

1 Offers straightforward information (e.g., straight from the case or reading), without elaboration or very infrequently (perhaps once a class).

Does not offer to contribute to discussion, but contributes to a moderate degree when called on.

Demonstrates sporadic involvement.

1 1/2 Contributes well to discussion in an ongoing way: responds to other students' points, thinks through own points, questions others in a constructive way, offers and supports suggestions that may be counter to the majority opinion.

Demonstrates consistent ongoing involvement.

2 Contributes in a very significant way to ongoing discussion: keeps analysis focused, responds very thoughtfully to other students' comments, contributes to the cooperative argument-building, suggests alternative ways of approaching material and helps class analyze which approaches are appropriate, etc.

Demonstrates ongoing and very active involvement.

For your final examination you will be presented a choice of realistic situations involving certain types of disputes and a request for advice as to how you might address the dispute. You will also be offered some choice of perspectives--for instance, an independent mediator, a planner, or a participant in the dispute--from which to offer your recommendations as to what ought to be done. Among the questions you might consider in making your recommendations are the following:

- What institutional constraints are prescribed by your role?
- What additional information do you need, and how might you get it?
- Is there a range of options might you consider suggesting?
- What might be your concerns about the suitability of these various options?
- What are the elements which would characterize a "good" process?
- What criteria would you use for evaluating the outcome of the process and the quality of any agreement?

While the class discussions and outside readings certainly may be used as a reference, you are not asked to recall details of anything that wasn't discussed, handed out, or otherwise specifically assigned. You are not asked to associate names (references) with ideas. You are expected to be thorough, to justify your conclusions, and to demonstrate some independence of thought.

COURSE OUTLINE:

In effect, this course will have three related tracks.

Skills One track will involve the theory and practice of skills such as negotiation, mediation, and facilitation. This track includes:

- Personal and organizational attitudes towards conflict - Principled negotiation - Mediation

The Context: the Public Domain A second track concerns the arena in which these skills might be applied: the public domain of community and nation, and the corresponding governance. We will examine the larger forces driving public conflict in our society, the institutional arenas for enacting such conflict, and the responsive call for peace and justice embodied in the conflict resolution movement. This track includes:

- The Domain of Conflict

- _ * Societal changes

- * Themes of governance

- * Sources of conflict

- The Conflict Resolution Response

- * Consensus building processes

- * The institutional response

- Consideration of the Response

- * What has been accomplished?

* What should be done?

Cases The third track is the actualization of these two domains in public disputes and the efforts used to deal with them. This track includes:

- Attributes of public disputes - Looking at a dispute (case analysis) - Designing multi-party public policy negotiations and public participation 132 -

The primary learning tools will be readings, class lectures and discussions, exercises (e.g., simulations), and interaction with classmates, parties to disputes and negotiations, and other invited guests. Your primary requirements to take advantage of these opportunities are attention, initiative, risk and hard work!

Instructor Biography:

Frank Dukes is Associate Director of the Institute for Environmental Negotiation and a lecturer in the Department of Urban and Environmental Planning at the University of Virginia. His duties include designing dispute resolution and public participation processes, mediation and facilitation, and teaching and training. He has worked at local, state, and federal levels, on projects involving environmental, land use, health, and educational issues.

He has written and edited a number of books and articles about conflict resolution. A particular interest is how public negotiation and conflict resolution can assist in vitalizing democracy, by engaging citizens in civic and community affairs, by aiding public agencies in developing a governance responsive to individual and community needs, and by enhancing society's capacity to resolve difficult public problems in ways that are just and productive.

Dr. Dukes received a B.A. from the University of Virginia and an M.S. and a Ph.D. in Conflict Analysis and Resolution from George Mason University. He was previously owner of a private business for over 10 years in Albemarle County. He was a founding member of the Board of Directors of the Community Mediation Center of Charlottesville-Albemarle, where he continues to serve on the Advisory Board and as a volunteer. He is also a member of the Society of Professionals in Dispute Resolution, the Virginia Mediation Network, and the Consortium on Peace Research and Education.

Office Hours:

My office is at the Institute for Environmental Negotiation in Peyton House, 164 Rugby Rd. Because of the nature of my work regular hours are not possible; however, students are invited and urged to 'drop in' for discussion (you may wish to call ahead to make sure I am there), or you may set an appointment.

Mediation Training Agenda

Icebreaker: "People Scavenger Hunt Agenda (handout) Instructor and Student Expectations of the Course.

. Homework: Manual: "Personal Basis for Mediation" Introduction to Conflict Resolution and Mediation Mediation History and Social and Political Context Story: "The Maligned Wolf" Mediation Overview Understanding the Sources and Dynamics of Conflict Individual Conflict Styles * Exercise: Where I Stand in Relation to Conflict Exercise: Messages of Conflict . Homework: Manual: "Conflict Styles

Inventory (Ron Kraybill)" Defining Conflict Sources of Conflict Introduction to Principled Negotiation
The Problems With Hard and Soft Bargaining * Exercise: Arm-wrestling Introduction to Principled
Negotiation Exercise: The Race to Soleil Effective Communication Communication Skills Exercise: Not
listening/Effective listening Exercise: Paraphrasing * Exercise: Speaking for Self Dealing With Strong
Emotions Exercise: Reflective listening

The Mediation Process: a Transformative Approach Overview: Stages of Mediation Ethical and Legal
Context Mediation Goals Introduction Stage * Exercise: Dyadic Introductions Explanation and
Understanding Stage * Exercise: role play Problem Identification and Solving Stage * Exercise: role play
Resolution Stage * Exercise: role play Putting It All Together * Final exercise: two role plays 13S

Syllabus and Assignments

NOTE: There will be occasional extra readings (primarily dealing with ongoing cases), exercises, and
other assignments outside of class.

Class 1: Jan. 16,1998 Introduction Agenda and Objectives Introduction of participants Introduction to
Conflict Resolution and Mediation Mediation History and Social and Political Context Case Study:
Warrenton Land Use Task Force Visions of Conflict and its Resolution: Management vs. Transformation

Assignments for Jan. 23 ,1998:

o Manual: Personal Basis for Mediation

o Manual: Conflict Styles Inventory

o Manual: Student Information

Dukes, Preface and Ch. 1

Bush and Folger, Preface and Ch. 1 - What do they offer as the primary goals of mediation?

- What is the philosophical basis for those goals?

- What are the 4 "stories" of mediation and how do they differ?

. Lappe and DuBois, Ch. 1 Complete the exercises they suggest and answer the following questions: -
What 4 tools do the authors offer for transforming their lives and communities? - How do effective
citizens view government and the market? - What do the authors identify as the crisis facing Americans?
- What do they argue is missing from American democracy? - Do you share their optimism? Why or why
not?

Class 2: Jan. 23,1998 What is Mediation For? The Mediation Process

Bush: Preface, Ch. 1

"Personal Basis for Mediation" 136

o Dukes, Preface and Ch. 1

Public Life and Living Democracy . Lappe and Moore, Ch. 1 Personal Conflict Styles Exercise: Where I Stand in Relation to Conflict

o "Conflict Styles Inventory (Ron Kraybill)"

Assignments for Jan. 30, 1998:

o Dukes, "Mt. Rogers Trail Mediation"

o Creighton, Ch. 2

Read Ch. 2, Lappe and DuBois, and complete their exercises. Consider the following questions:

How do you differentiate between public and private issues?

What public roles do you play now?

What are your responsibilities to public life (your civic responsibilities)?

Pick a dispute of a public nature, preferably one which is just emerging into public view, and follow its course. Identify the sources of the disagreements, how the dispute was triggered, and any points of escalation and de-escalation Who are the parties to the dispute, and what do they have at stake? What are the forums available to contest the dispute? How do these forums affect the configuration of the dispute? What are the available sources of power for the parties to the dispute, and has power been enacted?

Class 3: Jan. 30,1998 Public Life

o Ch. 2, Lappe and DuBois

Understanding the Sources and Dynamics of Conflict Defining Conflict * What is Conflict? - "Childhood Messages" - "Conflict Outcomes" Sources of Conflict 137

! I The Nature of Public Disputes

Dukes, "Mt. Rogers Trail Mediation"

I Cases Escalation and De-Escalation Assignments for Feb. 6, 1998 Dukes, Ch. 2 Madison, "Federalist #10" L .r Kemmis, Community and the Politics of Place, pp. 9-15 . Mansbridge, "Unitary & Adversary: The Two Forms of Democracy" L . Kelman, "Adversary and Cooperationist Institutions for Conflict Resolution in Public Policymaking". Optional: . Rubenstein, "Group Violence in America" o Clements, "Directors Column" re violence and governance Discussion questions: What factors peculiar to our culture and our political institutions tend to foster conflict? What factors peculiar to our culture and our political institutions tend to mitigate conflict? How and why did these factors develop and gain importance? 1 Class 4: Feb. 6,1998 The Foundation of Governance in the United States . Madison, "Federalist #10" L . Kemmis, "Community "

Kelman, 'Adversary and Cooperationist Institutions for Conflict Resolution in Public Policymaking". . Mansbridge, "Unitary & Adversary: The Two Forms of Democracy"

Changes in Governance: Why Mediation?

Communication Skills - Exercise: "Public Meeting: Housing or Park" 1 138

Assignments for Feb. 13, 1998:

. F. Lappe and P. Dubois, Chapters 3 -13. Lappe and P. Dubois offer assessments of several arenas of public life, including schools, business, the news media, and governance. In each of these arenas they identify problems with the status quo, or "business as usual," and they provide examples of how people and organizations have successfully challenged that status quo. Identify the common themes that run through both the problems and the changes they detail. Be prepared to discuss these themes in class, using example that the authors offer. Be prepared to support or oppose their arguments with y own examples as well. Note: Chs. 10 and 11 are particularly relevant for the communication, negotiation and mediation skills you will be developing during the rest of the course.

. Creighton, Chapter 19

Review and complete exercises from:

Manual: "Keys to Effective Communication"

Manual: "Speaking for Yourself"

Manual: "Responding to Intense Emotions" . Manual: "Paraphrasing: Reflecting Facts and Feelings"
Class 5: Feb. 13,1998 Public Problems, Public Solutions

. Lappe and P. Dubois, Chapters 3 -13.

Communication Skills (continued)

o Creighton, Ch. 19.

Assignments for Feb. 20, 1998:

Manual: "Principled Negotiation"

Manual: "Building Sustainable Relationships: Four Methods for Dealing Differences"

Bush and Folger: "Transformative Mediation and Third Party Intervention Hallmarks of A Transformative Approach to Practice"

Discussion Questions:

Find the "hallmarks" of Transformative mediation that you find the m least attractive. Explain the basis for your level of attraction.

o Class 6: Feb. 20,1998

The Mediation Process: a Transformative Approach . Bush and Folger, "Transformative Mediation..." . ~
Introduction to Principled Negotiation The Problems With Hard and Soft Bargaining Handout: soft vs. hard vs. principled bargaining Introduction to Principled Negotiation

o Manual: Principled Negotiation Exercise: Brainstorming * Exercise: The Race to Soleil

o Manual: "Building Sustainable Relationships: Four Methods for Dealing With Differences"

Assignments for Feb 27, 1998: Manual: Transformative Mediation: an Overview . Mediator Role . Standards of Ethics and Professional Responsibility . Potential Benefits of Mediation . Mediation Concerns . Mediation Process . Introduction . Explanation and Understanding Role Plays . Davis, "The Logic Behind the Magic of Mediation" Class 7: Feb. 27,1998 Demonstration Role Play Manual: . Transformative Mediation: an Overview . Mediator Role . Standards of Ethics and Professional Responsibility . Potential Benefits of Mediation . Mediation Concerns . Mediation Process

Introduction

Explanation and Understanding . Role Plays Introduction Stage ~ Exercise: dyadic introductions
Explanation and Understanding Stage

Assignments for March 6, 1998:

Dukes: Chapters 4, 5

Manual: Problem Identification and Solving

Manual: Resolution

Manual: Caucusing

Kraybill: "From Head to Heart: The Cycle of Reconciliation" . Mid-Term Class and Individual Assessment Class 8: March 6,1998

The Role of Mediation

Dukes: Chapters 4, 5

Kraybill: "From Head to Heart: The Cycle of Reconciliation"

Carrie Menkel-Meadow: "Book Review: The Many Ways of Mediation: The Transformation of Traditions, Ideologies, Paradigms, and Practices" Problem Identification and Solving Stage

* Exercise: Role Play

Mid-Term Class and Individual Self-Assessment

Assignments for March 20, 1998:

Avery: "Responding to Prejudicial Remarks"

West: Race Matters, selected readings

Brown and Mazza: "Peer Training Strategies for Welcoming Diversity"

o Carol Watson, "Gender versus Power as a Predictor of Negotiation Behavior:

Outcomes"

Discussion Question:

What roles do race and ethnicity play in your life - in how you view yourself, your peers, your family?

Class 9: March 20,1998 Cross-Cultural Understanding Guest Speaker

Assignments for March 27, 1998

Dukes: Chapters 8, 9,10,11

Various critiques of mediation Discussion Questions:

How do you see the ideology of management enacted in public life?

What other classes of problems might need more attention than community, governance and conflict resolution/problem solving?

In what ways can a sense of "relatedness" be developed in public disputes among conflicting parties?

Do we need more confrontation and advocacy or more peacemaking? How are they incompatible or compatible?

Class 10: March 27,1998 A Transformative Vision

Dukes: Chapters 8, 9,10,11 . Various critiques of mediation A Report from Australia: Dispute Resolution and Public Involvement Resolution Stage * Exercise Role Play Assignments for April 3, 1998: . Society of Professionals in Dispute Resolution: "Competencies for Mediators of Complex Public Disputes" . Levi and Spears, "Public Policy Consensus Building"

o Creighton, Chapter 10

Class 11: April 3,1998 Designing and Implementing a Multi-Party Public Negotiation -

Society of Professionals in Dispute Resolution: "Competencies for Mediator Complex Public Disputes"

. Levi and Spears, "Public Policy Consensus Building" Case Study: Bryan Park Interchange Advisory Committee Assignments for April 10: Creighton, Review remaining chapters. Study chapters 1, 12, 18, 20 Handout: "Designing a Negotiation" Handout: "Framing the Negotiations" Class 12: April 10,1998 Designing and Implementing a Multi-Party Public Negotiation (continued)

* Exercise: Multi-Party Role Play

Assignments for April 17, 1998: Kelman, "Contributions of an Unofficial Conflict Resolution Effort to the Is, Palestinian Breakthrough"

o Saunders and Slim, "Role of Dialogue in Changing Conflictual Relationship

. Dukes, Chapter 12 Class 13: April 17,1998 What is Conflict Resolution For? Kelman, "Contributions of an Unofficial Conflict Resolution Effort to the Palestinian Breakthrough"

o Saunders and Slim, "Role of Dialogue in Changing Conflictual Relationship]

. Dukes, Chapter 12 Group Facilitation Class 13: April 24,1998 Putting It All Together Class Evaluation
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