

# ENGAGING YOUR COMMUNITY

*The Discussion Leader's Guide to Public Issue Dispute Resolution and Participatory Decision-Making*

## Volume 4 Process Design - Understanding Issues and Forums

**D**esigning a process strategy is one of the most important steps in the *pre-deliberation stage* (see Volume 4) of a collaborative process. If the process is flawed, the process - and not the substantive issue - becomes the focus of debate. Experience with collaborative processes suggests there is a great deal of latitude to tailor the process to each situation.

One of your roles as a convenor is to gather information from stakeholders that will help you sort out the issues, identify who should be at the table, and determine whether the issue at hand is amenable to a collaborative process. Use the information in Volumes 5 and 6 to as a foundation from which to interview people involved in the issue to gather this information.

An important aspect of process design strategy is that decisions concerning the design must be part of the collaborative process. Stakeholder representatives should be consulted during the pre-deliberation stage as the strategy is developed. All parties should have the opportunity to examine, alter, and ratify the design strategy at the first meeting. This procedure helps overcome distrust that often exists among participants.

Since collaborative processes are new to many, a collaborative approach to process design can help you articulate how this process differs from conventional ways of making group decisions. Clearly describing the process and creating realistic expectations is one of the foundations of success.

## Understanding the Issues

### Basic Questions for Issue Analysis

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An assessment of the issues and other dynamics is essential to developing an effective strategy and for making wise choices in conflict situations. This section poses a series of questions to help you identify useful information regarding an issue.

Questions are specifically focused on the analysis of data that can affect the “building of a forum” and the “getting-to-the-table” stage of disputes. Issue assessment is also useful for developing and clarifying parties’ interests in preparation for negotiations. Broad participation in an analysis and assessment process by all the parties will help build a shared perspective on the problem as well as the steps necessary to move forward. A joint analysis is often a key step in bringing parties to the table.

#### What are the issues?

- How does each party describe its own central issues?
- Do the issues differ for those who have the authority for the decision and those who seek to influence the decision?
- Can all the issues be addressed in a joint decision-making process?
- Is resolution of the issues likely to be precedent-setting?
- Are there secondary issues that may have an impact on the process or the outcome?
- Are the issues local or do they involve people, organizations and institutions at a larger geographical scale (regional, statewide, national, international)?
- Is the issue framed in such a way that it addresses the concerns of all the parties?

Once the issues are clear, a determination can be made about how they can be approached. Some issues may be addressed only through one approach. Others may be addressed through a range of approaches. Putting some issues on the table or taking others off may be a pre-requisite for some parties agreeing to come to the table.

### **What are the conditions for controversy?**

In an ideal world, public participation would be rationally developed and participants would become involved to ensure that their interests are met. In the real world another factor intervenes: controversy. As an issue evolves into controversy, its resolution becomes more difficult to achieve. More time is spent working in "Problem Space" and less in "Solution Space" (see Volume 11, *The Facilitator's Toolkit*). A series of factors or conditions combine to create a climate for controversy. Among the more important conditions there is:

- A small group of local activists who gain moral support and often information from vertically integrated groups
- A climate of concern about the issues that extends beyond the immediate community
- A lack of close and continuous contact between public officials and the concerned public

In addition, a triggering event may surface the conflict. A triggering event has the following characteristics:

- The issue touches an important aspect of people's lives
- The issue affects lives of different community members differently
- Stakeholders are capable of taking some action regarding this event or circumstance

### **What is the history of the situation?**

- Have there been several stages (e.g., latent, emerging, litigation)? Have external events influenced the situation? How?

- Will external events affect the decision-making process or the outcomes?

The history of the situation may be a guide to further action for disputants and the third party.

### **Are the issues framed as integrative, distributive, or redistributive?**

- Are the issues either/or?
- Can distributive or redistributive issues be reframed as integrative?
- Can resources be increased?

**Integrative issues** are those that can be resolved by meeting everyone's needs, and are the easiest to negotiate and lend themselves to cooperative approaches.

**Distributive issues**, such as "How shall this new money be allocated?" often produce competitive orientations.

**Redistributive issues** such as "How shall the city's agencies respond to a 10% budget cut?" -promote adversarial approaches.

**Either/or issues** such as "Do we build the highway or not?" also promote adversarial approaches.

### **How does each party see the available options?**

- Have options been developed for each central issue? For secondary issues?
- Are the options well defined?
- Have all the potential options been explored by all the parties?
- Do any options seem to meet the needs of all of the parties?
- Does any party feel that none of the options meet its needs?
- If new options are generated, will extensive or expensive further study be required?

If all the potential options have been generated and none seems to meet the needs of the parties, joint decision-making may be difficult. If new options can be created that better meet the needs of the

parties, joint decision-making processes may be appropriate. If new options require extensive or expensive study, pre-negotiation protocols should address the group's ability to generate new options.

### **What are the data and information needs?**

- Do each of the parties believe sufficient data is available?
- Are the data and their analyses considered trustworthy by the parties?

- Will each party feel comfortable working with a common body of data?

Developing a common understanding of the problem may require further data collection or additional analysis. Each party must feel comfortable with the data.

## **Understanding the Forums**

Forums for resolution describe the environment in which people come together to solve a problem. Some forums are collaborative and others, such as the court system, are not. Whether a group can be brought together to resolve an issue collaboratively is dependent on many variables. Characteristics of the issues to be resolved, the stakeholders, and the political and legal climate provide an indication of whether or not an issue is amenable to collaboration.

### **Basic Questions for Forum Analysis**

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#### **1. What is the timing of the issue?**

- Is the community facing an emergency where quick action is required? If so, a collaborative process may not be appropriate.
- Is relevant information available?
- Are deadlines too tight?

#### **2. Will the outcome be either precedent-setting or focused largely on principle?**

When the settlement sets a precedent for the resolution of similar issues to follow, parties often have too much at stake to negotiate effectively. The court system may

the best venue for resolution of such an issue.

When an issue primarily focuses on basic differences in values, room for accommodation does not exist. Abortion is example of such an issue.

#### **3. Are parties too polarized?**

- Are productive, face-to-face discussions possible?
- If relationships are so strained, can a mediator be used to help resolve differences?

#### **4. Do the parties need one another to resolve the issue?**

- Are the parties sufficiently interdependent so that they can meet their goals and satisfy their interests through cooperation?
- Are the parties able to influence one another?
- Are the parties capable of taking (or preventing) actions of one another to meet their goals and satisfy their interests?
- Can the parties be identified and involve them in a collaborative process

#### **5. How does each party see its alternatives?**

- How does each party see its best alternative to a negotiated agreement? Its worst alternative? Its most likely alternative?

- Do any of the forums lack credibility from the perspective of any party?

If the parties have superior strategic alternatives to a joint process, they may pursue those alternatives. Some forums may be particularly difficult to sell to some of the parties.

#### 6. Are there any likely existing forums for resolving issues?

- Are there any forums that have been used to resolve similar situations in the past? Have they been perceived as productive?
- Do some of the issues require a certain kind of forum (i.e., constitutional issues may require court involvement)?

The existence of several forums may allow some parties to go forum-shopping. Sometimes the choice of forum is limited by the issues.

#### 7. Is there a formal process typically used for resolving these issues?

- Can all the stakeholders use the formal process?

- Is the formal process adjudicative, administrative, consensual or legislative in nature?

The formal process often helps define the informal process. Joint decision-making processes may only be able to produce advisory outcomes if formal legislative or judicial action is needed. If all of the primary stakeholders cannot participate in the formal process, they may seek to sabotage the formal process or engage in alternatives.

#### 8. Are there any parameters set externally that must be followed?

- Are there any statutes or regulations that govern action in this situation? Is there any flexibility?
- Have there been any similar situations whose outcome will influence what happens here?

The external context may limit what is possible or what the parties believe is possible.

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