

# Trading Interests

## The Power of Negotiated Investment Strategy

I would like to describe planning as a process of mediation, and to suggest that this view yields some very interesting insights into some of the dilemmas that have plagued the planning field. I will use my involvement in a Negotiated Investment Strategy process (i.e. an intergovernmental mediation effort) in Columbus, Ohio to illustrate.

### Negotiated Investment Strategy

The idea of the Negotiated Investment Strategy (NIS) should be credited to the Kettering Foundation. For years, the "problem" of intergovernmental relations was thought as a problem of synchronization and coordination. The Kettering Foundation had an idea that beneath the apparent problem of coordination is the more serious problem of competing agendas. The reason intergovernmental relations are so hard to work out is not because they are not synchronized, but that they are competitive. The intent of an NIS process is to enable representatives from the public and private sectors to address the complex problems and often competing interests that characterize intergovernmental disputes. The foundation was interested in whether or not these competing interests and agendas could be resolved through mediation.

With the help of the Ford Foundation and the Carter Administration, the Kettering Foundation chose Columbus, St. Paul, and Gary as study sites. For each of these cities, teams representing the local, state and federal governments were asked to develop coordinated public/private investment strategies.

Implementation of the agreements reached between 1978 and 1980 is still continuing. In each city, teams developed a working partnership that acknowledged the interests of each group while devising an investment strategy for the city as a whole. The focus of these negotiations was not merely on questions of physical

development. Policies regarding human services, crime and safety, and jobs were high on the agendas of all three levels of government. In a sense, the planning problems typical of any city are the same ones addressed by an NIS, namely, "how does one decide where one wants to end up and how does one harmonize the interests of the community in getting there?" Instead of relying on a traditional comprehensive planning process, sets of stakeholding teams negotiated with each other to develop projects and program specific guidelines. In the case of Columbus, planners acted as the mediators helping to produce an informal consensus.

For elected officials, (particularly in times of cutbacks), the planning process is, at worst, a splitting of the burden of cutbacks. For the business community, an attractive aspect of the NIS process is the prospect of being able to leverage community support for development projects. When the time comes for hearings and permits, projects should sail through. In all three cities, the NIS process generated a useful way of looking ahead that seemed to be in the best interests of all three levels of government as well as the public and private sectors.

The NIS process focuses on problems rather than goals. It favors a short to mid-term time horizon. The idea is to arrive at solutions that maximize joint gains. While most plans are basically compromises across competing objectives, the NIS approach seeks to generate consensus through a process of trading and negotiations.

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An important outcome is that a consensual process leaves all the parties in a much better position to work together in the future. The mediating process helps foster trust, since no agreement is reached unless all parties voluntarily lend support. Use of a common or joint data base makes it less likely that the discrediting of all technical analysis will occur. This reduces the tendency for politically moti-

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vated arguments to provide the sole basis for settling policy differences. Another important outcome can be the leveraging of public funds with private investment funds, an increasingly important consideration in a period of federal and state cutbacks.

In sum, the NIS process brings together teams representing the three levels of government, with a mediator, to negotiate collaborative approaches to promoting development, and resolving policy differences. The assistance of a non-partisan mediator is crucial.

#### The NIS Process

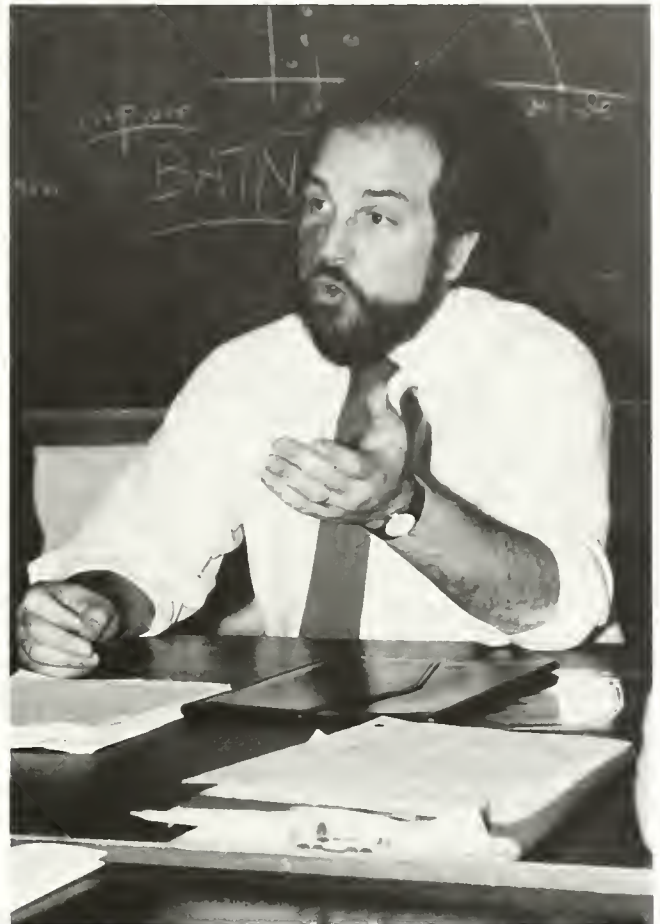
An NIS process can also be used at the state and local levels to bring together government, business, or citizen interests. It is typically composed of five elements:

1. an impartial mediator who guides the entire process with negotiating teams which represent the interests of stakeholding parties
2. informal exchange of information before formal proposals are written
3. face to face negotiations
4. a written agreement that contains mutual commitments made by each of the teams
5. public review and adoption of the agreement, with monitoring of subsequent performance by each party.

The process takes place in three interactive phases: pre-negotiation, negotiation, and post-negotiation.

#### A. Pre-Negotiation

In this phase, the first step is the identification of the issues, and if possible the identification of those parties with some stake in these issues. Often, comprehensive problems have no targeted interest group. For example, infrastructure deterioration is a problem in which no group has a major stake. The challenge is to transform diffuse interests into representable interests.



The second step to this phase is the identification of appropriate spokespersons for these interests. This can be a problem. An organization like the Sierra Club, for example, will explain that its charter does not permit the President of the local Sierra Club to commit to anything without a referendum of the local members. As long as there is some way of generating a commitment when it is necessary, it is valuable to include groups with identifiable interests.

The next step is related to team building. Under the guise of citizen participation, what often occurs is that a large group of people simply show up and attempt to proceed with no further organization. This might be an effective way of generating a large list of gripes, but it is an inefficient and perhaps inequitable way of proceeding with the involved tasks associated with a negotiation process. The objective should be to create the smallest number of teams that can represent the various stakeholding interests, while enabling the stakeholders to feel legitimately represented.

Another important task at this stage is the establishment of ground rules. Before teams come to the bargaining table they want to know what the procedures are going to be. For instance:



- What would happen if one became dissatisfied in the middle of the process?
- Do participants have to listen to other team members, or can they break away and form new teams in the middle of the process?
- When and where will the meetings take place?
- What resources will be provided to the teams to develop their own tactical capabilities?
- Will participants have the right to sue if they are dissatisfied with the results?

All of these questions have to be resolved before any mediated negotiation can proceed, in much the same way that the protocols for international negotiations are developed. A long term interest of our work at the Program on Negotiation at Harvard Law School is the development of state enabling legislation that would create ground rules for local and state negotiated investment strategy efforts.

An additional consideration in this part of the process is the setting of an agenda. If the agenda is set narrowly, there will be too few issues on the table to allow for creative trades. When dealing with people with competing interests, these differences are resolved through trading; and in this manner, a consensus

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becomes possible. For instance, If you value something of mine, and it is not so important to me, and you have something that I value highly which is not so important to you, then we can exchange, and create value from our differences. A win-win outcome has been created from what might have looked like a zero-sum situation. If the agenda is too narrow, trading possibilities are constrained; it might not be possible to "create value" from the differences that exist among the various stakeholders. The challenge is to set a manageable, but sufficiently rich agenda. The agenda itself might well be the focus of considerable negotiation during this pre-negotiation phase.

#### B. Negotiation

A very important part of the negotiation process is joint fact finding. The intention here is to develop a shared data base. This is not a data base developed by the "experts." It entails a process through which all groups work together to specify the types of information necessary. They then address the relevant questions, and compile this data together. The idea is to get away from the typical battle of "my

## The Process In Practice

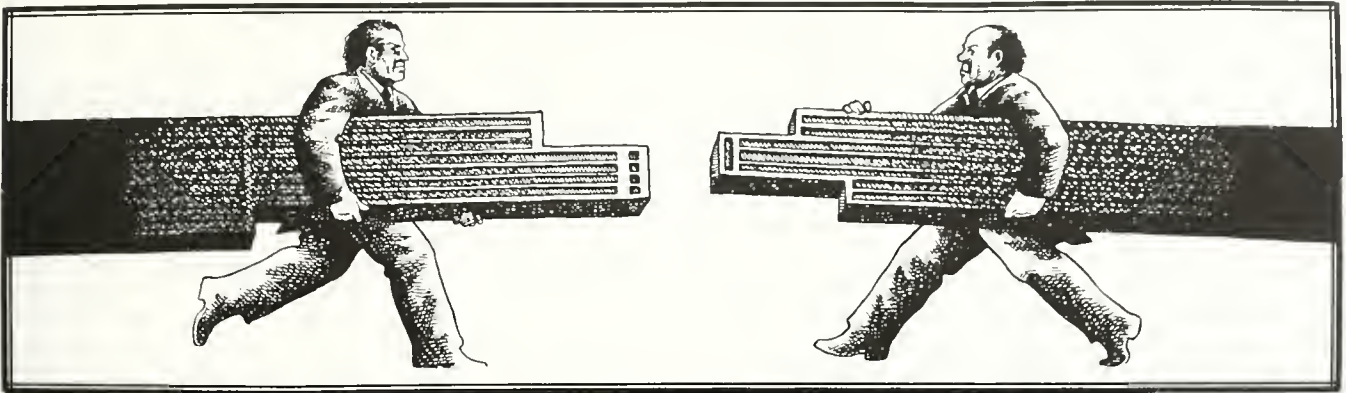
Like many other cities around the nation, Durham, North Carolina, has no organization or structure to guide the funding of non-profit service organizations -- those which provide a broad scope of programs from cultural events to senior citizen programs. As a result, the City and County of Durham, United Way, and other philanthropic agencies each have their own funding criteria, application requirements, and decision process.

Frustrated by the traditional, often unbalanced process of funding non-city non-profit service organizations, Durham City Councilwoman Lanier Fonvielle became interested in pursuing a cooperative approach to allocate funds to these groups. During the winter of 1984, she approached faculty at the Department of City and Regional Planning at U.N.C. for suggestions, shortly after Larry Susskind had introduced Harvard's Negotiated Investment Strategy at a presentation to the department (from which the accompanying article was derived).

Fonvielle, with guidance from David Godschalk, a professor at U.N.C., began soliciting interest from the three main funders of non-city service organizations. The Greater Durham Community Foundation, still in its infancy but eventually to become a major philanthropic funder, was also included. To generate interest and introduce alternatives for coordinating the allocation process of these agencies, the City sponsored an afternoon seminar led by Susskind. The forum, held in April, was open to all interested parties and generated an enthusiastic and curious attendance, including many representatives of the area's numerous community organizations.

Susskind introduced the idea of mediated negotiation, stressing that the format was flexible enough for the actors involved to structure it for their own needs. The seminar then broke up into small group sessions to share relevant concerns. Susskind wrapped up the afternoon by discussing one way that interested actors could structure the funding process by beginning with a collectively gathered data base on community needs.

It is too early to tell if the four involved agencies will commit themselves to a formalized negotiation process. But the agencies have begun a valuable informal dialogue, including a recognition that the funding process could be far better coordinated. The seminar has also heightened appreciation of the difficulties that non-profit service organizations have in acquiring funds. The positive informal dialogue may be the beginning of a formalized shared allocation process some time in the future.



technical expert is better than your technical expert...I can discredit anything you say." This type of battle does nothing but demean the value of technical analysis in the eyes of the public, and can discredit the use of technical analysis in policy making. It is important to make joint fact finding satisfactory for all the teams, since they should use this common data base for the negotiations.

The next item of business in the NIS process is the identification of items to trade. This involves the identification of the major differing interests of the stakeholders. The intent should be to create and divide value; to find things to trade and to agree on how best to share the value created. If there are insufficient differences, it is possible to introduce linkage, a concept Henry Kissinger made famous in international negotiations. One starts connecting issues with each other and trading across issues. If this is not enough to close the gap between the parties, one can talk about the use of compensation or other ways of tying future commitments to specified outcomes.

All of these ideas for creating value require translation of trades or commitments into a single text, agreeable to everyone. In any negotiation, the single worst thing that can happen is for all sides to be working with their own version of the agreement. Ideally, one hopes to achieve a single text as quickly as possible, with all sides trying to improve the text to make it more acceptable.

In one local NIS, in Malden, Massachusetts, there were six major items on the agenda, including education. Each of the three negotiating teams -- business, government, and neighborhood -- was asked to appoint a person interested in education to serve on a drafting team that would develop a single text on education. With technical staff support, the team members went through a joint fact finding process while developing an understanding of the issue, and finally came up with some ideas about what might be done. These ideas were placed in a single text which was brought back to each negotiating team to modify. In a full negotiating session, the mediator attempted to get all the parties to

agree on one version of a text summarizing their suggested changes or tentatively formulated agreements.

In order for such a drafting process to work, team members must touch base on a fairly frequent basis with the people they are representing. Otherwise, the credibility of the process and the ability to achieve consensus will be diminished. When a final draft agreement is reached, it should be published in the newspaper in full detail. Public hearings should be held to receive comments from any stakeholders whose views might not have been adequately incorporated in the agreement. After making adjustments, the members of all teams should convene to sign the final agreement. In signing, the representatives are committing the people they represent to try to implement the agreement.

### C. Post-Negotiation

The final agreement requires a set of mechanisms for "re-mediation". It is possible that one of the groups may change its mind, or perhaps the head of one of the groups may be replaced by someone who does not like the agreement. In cases like these, it is necessary to have mechanisms described in the agreement that allow for any of the signing parties to call the mediator back in to re-mediate a point. Some type of monitoring mechanism is needed that designates a subcommittee of the whole to track the implementation process. Milestones can be created, and if the milestones are not met, the whole group should reconvene. The process should also be thoroughly documented, so that newcomers will be able to go back and review the process by which particular parts of agreements were reached.

### The Planner's Role in an NIS Process

Mediated negotiation in the public sector is relatively new, with no hard and fast rules for proceeding. Unlike a labor mediator, a planner serving as the mediator in an NIS process assumes an activist role, helping to define the process itself. The planner helps





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participants search out potential joint gains, caucuses privately with participants, and helps foster open communication concerning the needs and desires of the participants. In addition, through trading, the mediator helps participants, to create alternatives that might not have surfaced otherwise. This is done almost exclusively by asking questions and offering tentative proposals. These proposals are put forth in a way so as not to identify them with the mediator, because if the mediator is perceived as having a favorite option, all sense of non-partisanship is lost. The mediator must not be viewed as partisan.

In addition to assuming an activist role during negotiations, the planner must be ready to help with any future re-mediation that becomes necessary. The planner might also be called back to help review progress at key points.

There are many similarities between the NIS process and the planning process as it has been typically construed. An important difference, though, concerns the planner's role in taking responsibility for building consensus. In effect, the planner acting as a mediator tries to broker a consensus.

The planner as technical analyst lays out and analyzes options, and leaves the fostering of consensus to the politicians. The advocate planner represents those who can least advocate their own interests effectively, becoming partisan to one interest. The planner/mediator,

however, acts as an agent of compromise, seeking to maximize joint gains.

The planner as mediator is committed to the process of building consensus. In a sense, this represents a return to planning as a process, and to a planner as someone who helps make this process work. The planner as mediator seeks to ensure that a context exists in which people can exchange and extract commitments from each other, groups can have a sufficient amount of trust in one another, and where sufficient connection to commonly perceived facts is maintained. This is necessary to ensure that whatever is agreed upon actually works, and that relationships will not fall apart once an agreement has been reached.

Finally, the planner acting as a mediator must be involved in education and capacity building. The planner must constantly educate participants about the merits of the process -- reminding people why they are there, and what has been accomplished. The planner must also build the capacity of all individuals to make enforceable commitments. There is no point in getting people to agree on something that will not work. Little is accomplished if a commitment is extracted that cannot possibly be honored. Such an agreement will eventually fall apart, and demean or undermine future efforts to deal with differences through mediation. Because the NIS process involves all interested parties it will have greater success where other plans have fallen before the political process. ⊕



*This article was derived from a February 1, 1984 presentation to the Department of City and Regional Planning (DCRP) at UNC-Chapel Hill. Susskind's Speech was transcribed by Susan Jones and edited by Gerard McMahon of DCRP.*

*Suggestions for further reading are Susskind and Ozawa's "Mediated Negotiation in the Public Sector: Mediator Accountability and the Public Interest Problem" (American Behavioral Scientist, Vol. 27 No. 2, November/December 1983), Fisher and Ury's Getting to Yes (Penguin Books, 1983), and Raiffa's The Art and Science of Negotiation (Harvard University Press, 1982).*