

# Facilitating a Public Policy Dispute: Practicing Textbook Tools and Confronting Challenges That Textbooks Don't

## TEACHING NOTE

### Summary

This teaching case is supported by video clips excerpted from televised broadcasts of the public meetings of a citizen task force. It illustrates the challenging reality of facilitation that most textbooks do not discuss. The public policy issue involves multiple parties collaborating on a citizen task force to advise the City Council on a proposal made by the owner of the local minor league soccer and baseball teams. The owner will purchase a Major League Soccer franchise if the City renovates and reconfigures the existing stadium for soccer and builds a new stadium for baseball.

The facts have been modified to integrate lessons learned from multiple public policy facilitations by the authors and to achieve the learning objectives. The case is built around ten discussion questions, affording instructors flexibility in adapting the case to serve specific learning objectives. The teaching note is lengthy because it provides guidance in addressing each of the ten discussion questions, as well as guidance for selecting a subset of questions to accommodate the available class time. The case incorporates public documents and events impacting the decision, and is accompanied by a Teaching Note and supplementary Adaptable Takeaway Tools for facilitators to employ.

This case was an honorable mention place winner in E-PARCC's 2014-15 "Collaborative Public Management, Collaborative Governance, and Collaborative Problem Solving" teaching case and simulation competition. It was double-blind peer reviewed by a committee of academics and practitioners. It was written by Steven M. Maser of the Atkinson Graduate School of Management at Williamette University and Samuel J. Imperati of the Institute for Conflict Management, Inc., with thanks to Jessica Ordonez of Apicality Communication, LLC. This case is intended for classroom discussion and is not intended to suggest either effective or ineffective handling of the situation depicted. It is brought to you by E-PARCC, part of the Syracuse University Maxwell School's Collaborative Governance Initiative, a subset of the Program for the Advancement of Research on Conflict and Collaboration (PARCC). This material may be copied as many times as needed as long as the authors are given full credit for their work.

## Case Summary

The case helps students learn to facilitate a group, whether within an organization or across organizations, focused on public policy. The fact pattern draws primarily from the work of a multi-party citizen task force created by Mayor-elect Sam Adams of Portland, Oregon in 2009.

Adams charged the MLS/AAA Task Force with reviewing a proposal by Shortstop LLC, owned by Merritt Paulson, to purchase a Major League Soccer (MLS) franchise and bring it to Portland. In exchange, Shortstop asked the City of Portland to refurbish the stadium where Paulson's Division 1 soccer team and minor league baseball team would play and to build a new stadium for the baseball team. The refurbished stadium would be configured only for soccer, football, and special events. Adams asked Steven Maser to serve as chair; Maser accepted, but chose to adopt a facilitation/mediation approach. As a result, the case and note describe Maser's role as that of a *facilitator*.

The case and teaching note draw on the public record, including video clips—with transcripts to assist students—from Task Force meetings that show participants dealing with real challenges, written materials, and insights from Maser and Sam Imperati, a facilitator/mediator who has managed public policy processes in the Pacific Northwest. The sequence and timing of events described in the case have been altered minimally to achieve the learning objectives. The case puts students in the role of the Task Force facilitator, posing questions to prompt them to make and justify their decisions about process. The Case Appendices may be copied and distributed to illustrate appropriate tools, such as documents governing group processes. Please do not be put off by the length of the teaching note, which has a modular design that allows the instructor to focus on topics specific to the class goals.

## Target Audience

The case is appropriate for courses in negotiation, conflict management, and related subjects. Graduate students in business administration, public administration, public management, public policy, planning, and dispute resolution will learn from it. It may be used with undergraduate students if they are familiar with basic concepts of interest-based negotiation and, ideally, with the roles of a third party in dispute resolution. The case should be useful for practitioners in professional education programs. The instructor can tailor the selection of the questions and the depth and length of discussion to the learning objectives, audience, and available time.

## Relevant Readings

Susan Carpenter and W.J.D. Kennedy in *Managing Public Disputes* (1988), Lawrence Susskind and Jeffrey Cruikshank in *Breaking Roberts Rules* (2006), and John Forester in *Dealing with Differences* (2008) identify and explain tactics for resolving conflicts, especially in the public sector. They primarily use the principles of a consensus-building approach (CBA) to collective

decision-making. In lieu of assigning one or more books, assign an article such as Forester’s “Making participation work when interests conflict” (2006), which favors a mediation approach over facilitating dialogue and moderating debate. CBA defines consensus as general agreement, the judgment arrived at by most of those concerned, or group solidarity in sentiment or belief (Susskind & Cruikshank, 2006, p. 17). In this sense, consensus is a noun and an outcome; the case treats it as a process.

Additional readings include documents prepared by the International Association for Public Participation (IAP<sup>2</sup>), which are available for download from [www.iap2.org](http://www.iap2.org). These include:

- [Public Participation Spectrum](#)
- [Core Values of Public Participation](#)
- [Code of Ethics for Public Participation Practitioners](#)

Additional documents of interest include [A Practical Guide to Consensus](#) by the Policy Consensus Initiative and the website of the [National Coalition Building Institute](#). These documents can provide students with a cursory grounding in the practices, responsibilities, and expectations associated with collaborative public policy decision-making.

## **Class Plan**

The pedagogical approach entails instructor-guided reflection, observation, and discussion of facilitating and coaching. The case provides facts—some written and some on video—pertinent to a sequence of decisions and places students in the role of a process decision-maker. For each decision, the case asks, “What would you do, and why?” The ensuing discussion provides an opportunity to extract lessons learned and relate them to relevant theory and professional standards of practice so that students understand the conditions under which the lessons apply.

For learning purposes, the decisions are independent. The instructor may select questions based on the duration of the class meeting and the objectives for the class. The instructor may assign questions to students, or ask students to select questions. The instructor can place students in small groups to discuss a question and then report out. Each decision point poses a challenge for the facilitator. Some responses and decisions are better than others in terms of achieving the facilitator’s objectives.

The instructor may use the video clips, which are embedded in the case, in one of two ways:

1. The instructor may remove any of the videos from the case, showing them only after students have discussed what they would do in a situation, and then ask students to critique Maser's actions, or
2. The instructor may ask students to watch some or all of the videos while preparing the case before class, and then extract lessons from their critique of Maser's actions and words.

A full [transcript](#) of the videos accompanies the Case and Teaching Note.

## Learning Objectives

After studying this case, students will be able to:

- Decide whether to accept leadership of or membership on a collaborative body advising elected officials,
- Describe the steps involved in preparing to facilitate a public policy group,
- Design a decision-making process, taking into account features of facilitating/mediating in a public versus private setting, to elicit the collective expertise of group members,
- Describe ways to achieve a consensus that supports robust public engagement and increases the likelihood of any recommendations being implemented, and
- Address challenges commonly experienced in public policy collaborations, but not commonly addressed in textbook materials.

## Discussion Questions

The case and teaching note have been developed around ten questions:

1. **Accepting the Role:** What are the responsibilities associated with leading a public policy decision-making group? Should the leader have substantive expertise? Should the leader reveal to the sponsor and/or the group any familiarity with studies bearing on the efficacy of the proposed policy? What are the conditions for accepting or rejecting the invitation to lead?
2. **Preparing for the First Meeting:** What should a facilitator do to prepare for the first meeting of the group?
3. **Establishing Processes and Guiding Principles:** What procedural rules should be promulgated? What can be learned from the discussion of the guiding principles provided by the sponsor? What can be learned from discussions of process about group members' interests and how they bear on the group's charge and scope of work?

4. **Improving the Process:** What, if anything, can a facilitator do to advance group discussions and improve the deliberation and decision-making process?
5. **Responding to a Change in Scope:** How does a co-sponsor's decision to directly engage with the group shed light on the sponsor's true motivations and the relationship between the facilitator and the sponsor? If group members challenge the sponsor about changing the group's charge, how can the facilitator resolve the conflict?
6. **Managing Outside Forces:** How should a facilitator frame the issue and why does it matter? How can a facilitator fulfill the charge of a public policy group in the shadow of ongoing negotiations by actors who are not members of the group? How should a facilitator manage the flow of solicited and unsolicited information, public interest, and the formal and informal media? What should happen if the facilitator becomes aware of a flaw in the information flowing to the group?
7. **Managing Misconceptions:** How can a facilitator manage the impact of history that encumbers group members, creates distrust and militates against agreement?
8. **Focusing and Breaking Impasses:** How can a facilitator keep the group focused on its charge, given the numerous issues being raised?
9. **Assessing Task Force Progress and Seeking Closure:** What is the best way to take the pulse of the group? How will public testimony impact the group's deliberations? How can a facilitator bring a group to closure with a consensus or guide the members toward a conditional agreement? What is the risk of process prevailing over substance?
10. **Reflecting on Outcomes:** What is a good outcome for a public policy mediation?

Discussing all ten questions in detail requires between six and eight hours and is well suited for a professional workshop. Discussing Questions 1, 3, 5, and 10 gives students a good overview of the key points. Table 1 estimates the amount of time per question to allow for discussion in class and identifies relevant learning objectives. The instructor may use Table 1 to select combinations of questions to address topics of interest.

## Facilitating the Discussion

**Discussion 1: Accepting the Role. What are the responsibilities associated with leading a public policy decision-making group?**

Ask students to brainstorm a list of “Responsibilities and Tasks” and write them on the board. Distribute copies of Table 2, which is adapted from Appendix 3 of Susskind and Cruikshank (2006, p. 201). The last two tasks in Table 2 are beyond the expectations for the Chair of the MLS/AAA Task Force.

**Table 1: Instructor’s Guide to Discussion Questions**

Topic	Questions	Time (min)	Learning Objectives
Engaging	1. Accepting the Role	90	<ul style="list-style-type: none"> <li>Identify the responsibilities and tasks in leading a collaborative public policy decision</li> <li>Determine the conditions for accepting responsibility</li> <li>Advise on group composition</li> <li>Understand group public policy decision-making in terms of team dynamics</li> <li>Identify and reason about conflicts of interest and ethical issues associated with leading a group</li> </ul>
	2. Preparing for the First Meeting	45	<ul style="list-style-type: none"> <li>Compose an opening statement that sets a tone appropriate to the group’s charge</li> <li>Discriminate consensus (as opposed to unanimity) from majority-rule decision-making</li> </ul>
Managing Processes	3. Establishing Processes and Guiding Principles	45	<ul style="list-style-type: none"> <li>Attend to principles of public policy collaboration in procedures for making decisions</li> <li>Infer participants’ motivations and interests from their comments and questions when discussing outcome guidelines and criteria</li> </ul>
	4. Improving the Process	10	<ul style="list-style-type: none"> <li>Change the process while maintaining the members’ engagement</li> <li>Use subcommittees to improve efficiency</li> </ul>
	5. Responding to a Change in Scope	20	<ul style="list-style-type: none"> <li>Define the relationship between the facilitator and the sponsor</li> </ul>
	6. Managing Outside Forces	45	<ul style="list-style-type: none"> <li>Establish the scope in the initial charge to the group</li> <li>Frame proposals appropriately</li> <li>Decide upon outside engagements with integrity</li> <li>Respond to media inquiries</li> </ul>
	7. Managing Misconceptions	15	<ul style="list-style-type: none"> <li>Jointly generate clarifying information</li> </ul>
Closing	8. Focusing and Breaking Impasses	15	<ul style="list-style-type: none"> <li>Design a process to ensure multiple perspectives</li> <li>Apply tactics that promote joint problem-solving</li> </ul>
	9. Assessing Task Force Progress and Seeking Closure	30	<ul style="list-style-type: none"> <li>Apply tactics for gauging progress to consensus</li> <li>Manage public input</li> <li>Apply single-text negotiation techniques</li> </ul>
Process Lessons Learned	10: Reflecting on Outcomes	15	<ul style="list-style-type: none"> <li>Evaluate a good agreement and process</li> </ul>

One approach to the first task, assessing the situation, is for the facilitator to map the environment. Think through the economic and other forces that have created the situation. Identify all the stakeholders. Establish whether each member of the task force is representing a larger constituency. See *A Note on Mapping* at [www.hallway.org](http://www.hallway.org).

**Table 2: Facilitator Responsibilities and Tasks**

<p><b>Assessing the situation</b> with participants to determine whether consensus building is appropriate</p> <p><b>Designing ground rules</b>, work plans, and mechanisms with participants to guide the process</p> <p><b>Managing relationships and communications</b> among participants (and their constituencies)</p> <p><b>Training participants</b> in negotiation skills (if requested)</p> <p><b>Facilitating meetings:</b></p> <ul style="list-style-type: none"><li>• Assisting in preparing for meetings</li><li>• Preparing summaries of meetings</li><li>• Calling on individuals who have not spoken to elicit their views</li><li>• Asking probing, nonjudgmental questions to reveal underlying interests</li><li>• Meeting privately with individuals who might be more forthcoming if they can speak without public attribution</li></ul> <p><b>Representing the process</b> to the media and the public</p> <p><b>Respecting confidentiality</b> in interactions with stakeholder participants and the sponsor</p> <p><b>Enforcing the ground rules</b> agreed upon by participants</p> <p><b>Mediating</b>, including shuttling between participants and clarifying interests and positions</p> <p><b>Fact-finding</b> in relation to a specific issue in circumstances where participants accept it</p> <p><b>Preparing a written draft</b> (“single text”) containing a final package of proposals and sounding out participants’ willingness to “live with” the agreements</p> <p><b>Ensuring that participants check with their constituents</b> and sign a statement indicating their personal support for implementation of the agreement</p> <p><b>Monitoring implementation</b> and the need for possible modifications of the agreement</p> <p><b>Reconvening the parties</b> following procedures spelled out in the agreement</p>
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Ask as a follow-up question: “What would you do if it appeared that the sponsors stacked the Task Force to achieve or preclude a particular outcome?” Every tactic has risks. The risk of stacking a group is to undermine its credibility in the eyes of the public, the media, and decision-makers (Susskind & Cruikshank, 2006, p. 23). It also jeopardizes the reputation for impartiality that the facilitator might wish to cultivate. The facilitator’s options include adding or removing members to balance the group or even resigning to preserve professional impartiality. A facilitator should remind the sponsor that the group must have external (outsiders looking in) and internal (insiders looking around the table) credibility to be legitimate.

An alternative way to discuss the responsibilities of a public policy group’s facilitator is in terms of a model of the stages of group dynamics: forming, storming, norming, performing, and adjourning (Tuckman & Jensen, 1977). This parallels the five-step model of the CBA (see Table 3): convening, assigning roles and responsibilities, facilitating group problem-solving, reaching agreement, and holding people to the agreement.

The facilitator becomes, in effect, a team leader. In that role, the facilitator should be sensitive to conflict that is a natural part of the group dynamics, and not a reflection of disagreements over substance. The situation calls for planning to structure the environment to exercise patience without intervention or actually intervene in order to capitalize on the group dynamics and energy. The instructor can display Table 3 and briefly lecture about it, or display the matrix with only the top row and leftmost column visible and ask students to complete the entries in the remaining cells, possibly by taping half-sheets of paper with the typed entries.

The challenges facing a facilitator increase as the size of the group increases. The group’s size might be a function of its scope and the expertise required. Having more members increases coordination costs; having too many members can make some reticent to contribute. Eight to ten might be a reasonable maximum within an organization (Quick, 1972, p. 125). Because public issues tend to be multidimensional and divergent parties expect, if not demand, to be included, task forces in the public sector tend to be large. Thirty is not uncommon. The MLS/AAA Task Force had eighteen members. Its size was a function of its scope, which affected many stakeholders. At a minimum, the facilitator wants to have at the table everyone who could block implementation of a Council action, especially if those stakeholders might have standing to initiate a lawsuit.



**Table 3: Task Force Chair Tasks and Team Dynamics**

	<u>Convening</u>	<u>Assigning Roles/ Responsibilities</u>	<u>Problem Solving</u>	<u>Reaching Agreement</u>	<u>Holding to Commitments</u>
<u>Forming</u> Excitement Optimism Performance anxiety	Select members Assess interests	Define tasks Focus discussion Establish ground rules	Identify information needs		
<u>Storming</u> Question convener's wisdom Clash over leadership Unrealistic goals Attitudes fluctuate		Agree on roles Agree on TF goals	Promote venting Elicit concerns Focus on success Remember cost of failure		
<u>Norming</u> Mutual respect Natural leaders emerge Harmonizing Ownership of the process		Agree on process Agree on criteria for outcome	Promote understanding Encourage constructive criticism		
<u>Performing</u> Task-focused Understand each other Value differences Resolve process problems Loyalty to TF Shared leadership			Add members if needed Form sub-committees Invent options Brainstorm	Gauge support Caucus in private Ask questions Suggest proposals Gauge support	
<u>Adjourning</u> Group owns outcome Interpersonal bonds					Solicit affirmation Review commitments Celebrate

### **Discussion 1: Accepting the Role (cont.) Should the leader have substantive expertise?**

Let students debate the question briefly. Ask whether [the Oregon Mediation Association Core Standards of Mediation Practice](#) provide useful guidance. Susskind believes process skills alone will not suffice; it is a mistake for a third party, especially in a mediation, to accept an assignment relying entirely on process skills and knowing nothing about the substantive issues facing the parties (Susskind, 2000, p. 130). The instructor can explain that the Chair of the MLS/AAA Task Force had limited expertise on the technical public finance issues involved. The Task Force and other stakeholders might have been better served if he had had more expertise in the field. For example, the Chair failed to anticipate the consequences of creating an urban renewal district to help fund the proposed projects, which was one of the primary elements of the proposal being evaluated by the Task Force. (It impacts the tax revenues of overlapping political jurisdictions, such as the independent school district and the County, neither of whom were represented on the Task Force or gave testimony.) Anyone who understood more completely the mechanics of urban renewal funding could have anticipated and better managed the potential negative repercussions.

Ask, “What might be the downsides of being a facilitator with substantive expertise?” Look for answers that speak to bias, a tendency to favor knowledge in hand rather than knowledge needed, and a tendency to consciously or unconsciously influence the outcome. An academic who has conducted and published relevant research can be perceived as partisan. Prior public pronouncements and experience on an issue can become liabilities in the forum of public affairs. However, expertise on the substantive issues is not necessarily an albatross for a member of a public policy group who may have been appointed because the sponsor wishes to have that expertise and interest represented.

### **Discussion 1: Accepting the Role (cont.) Should the leader reveal to the sponsor and/or the group any familiarity with studies bearing on the efficacy of the proposed policy?**

Review the International Association of Facilitators’ [Code of Ethics](#) . Ask whether it informs the proposed facilitator’s decision to disclose prior exposure to economic analyses of government investments in professional sports infrastructure. It does not.

At this point, the instructor can discuss generic prescriptions for ethical decision-making, but more specific guidance is helpful. Possible sources include guidelines for facilitators or mediators promulgated by professional associations, such as the Oregon Mediation Association’s [Core Standards of Mediation Practice](#). In accordance with OMA’s Informed Consent Standard, which operationalizes the notion that participants in a consensual process should make decisions on their own, and OMA’s Impartial Regard Standard, which helps mediators identify when conflicts of interest or biases compromise their ability to perform their duties, the proposed chair would disclose past exposure to the substantive issue.

The instructor might ask Student A to play the role of the proposed chair, and Student B to play the role of the proposed sponsor. Ask Student A to explain his or her situation to obtain Student B's response. One small group of students can serve as advisors to help Student A craft wording, and another small group of students can advise Student B about what he or she should be looking for in a chair. Student A should be direct, honest, concise, and factual, putting the decision to proceed in Student B's hands. Student B should justify his or her response.

After students complete and explain their interactions, pose the following scenario: A prospective task force member or a reporter following the MLS/AAA issue learns about the proposed chair's situation and the sponsor's response. He asks for an explanation. What should the proposed chair and sponsor say?

Posing this scenario not only sharpens the ethical issue, but also introduces early on the notion that public decision-making is, in fact, public. Unlike in private mediations, information tends to become widely available, which can politicize otherwise innocuous management decisions. If Student B rejects/accepts Student A as chair, community members could accuse the sponsor of seeding the task force with proponents/opponents of the project.

A related question to ask is, "Should a facilitator seek privately to learn more about the issues by reaching out to trusted and knowledgeable acquaintances or searching for relevant reports and readings, and should the facilitator ask about issues to raise and landmines to avoid?" This might bolster the facilitator's confidence, but it also might create a perceived or real conflict of interest. Acquaintances might respond because of their prior relationship with the facilitator or because they anticipate an opportunity to do business with the project's proponent if the project is approved. Finally, ask the class, "What if the proposed facilitator were an avid soccer fan? Should that be disclosed?"

### **Discussion 1: Accepting the Role (cont.) What are the conditions for accepting or rejecting the invitation to lead?**

Ask students, "Will you accept, conditionally accept, or reject the invitation?" The answer should be, "It depends." What is the proposed facilitator's personal motivation for joining, let alone leading, a collaborative public policy group? Make a list under the heading "Possible Personal Motivations." Examples include fulfilling a civic duty, building a network and/or a record of public experience, demonstrating prowess to generate business opportunities, earning compensation, and pursuing a policy objective.

Motivation matters because it can influence behavior. A decision-maker motivated by the desire to fulfill a civic duty might pursue the public interest more aggressively than if he or she were attempting to build a network in pursuit of business opportunities. If the motivation is to demonstrate prowess as a facilitator, the group may reach agreement in a triumph of process over substance. Recognizing one's own motivations and the disparate interests that motivate

other members of the group is a precursor to designing a process to generate a productive agreement.

Accepting the facilitator position, regardless of compensation, is like entering into a contract. Accepting the position creates responsibilities that the facilitator should be prepared to accept and execute in good faith. Otherwise, the proposed facilitator should decline the invitation. Ask the class to list questions that a proposed facilitator should answer before accepting the position. These may include:

- Do I have the skills to complete this assignment?
- Am I interested in the subject matter or process?
- Will I engage *pro bono* or for compensation and, if the latter, at what fee?
- Do I have the time?
- How might my reputation be affected by the success or failure of the task force?
- Do I have any conflicts of interest or biases? If so, am I obligated to disclose them to the sponsor and/or the other members of the task force to let them decide whether I should proceed?
- Who is my “client”? To whom do I owe a duty?

Assuming the proposed facilitator can answer such questions satisfactorily, under what conditions should he or she accept the responsibility? In other words, what does the facilitator need to do the job? Ask the class to list key conditions for acceptance or rejection. Partially or fully satisfying these conditions should increase the likelihood of success for the facilitator and the group. Examples may include the following.

- If the sponsor seeks a balanced assessment of the issue from the group, accept; if the sponsor seeks support for his or her position, decline.
- If the charge to the group—including the deadline and format for its report—is clear and feasible, accept; if not, and if it is nonnegotiable, decline.
- If the facilitator has the authority to manage the process, frequency of meetings, list of interviewees, access to data, and budget, accept; if not, and if the facilitator’s authority is nonnegotiable, decline.
- If communications between the members of the group and the sponsor go through the facilitator, accept; if members and the sponsor can communicate independently about the affairs of the group without the facilitator’s knowledge, decline.
- If the criteria for selecting members of the group are appropriate to the group and the environment, and the facilitator or group has the authority to remove or add members, or at least to consult with the sponsor about the group’s composition, accept; if not, decline.
- If the public laws governing the process are clear and workable, accept; if not and if the legal implications are nonnegotiable, decline.

- If the “client” is clearly defined, accept; if not, and if the “client” cannot be clarified, decline.

Ground the discussion about deciding whether to accept and under what conditions in the IAP<sup>2</sup> documents. Ask students whether they accept or have concerns about the [IAP<sup>2</sup> Core Values](#). This sets the context for the group members’ professional responsibilities. Is the sponsor’s proposed process consistent with these guidelines?

These considerations make it important for the facilitator to identify the “client,” which could be the sponsor, the organization with which the sponsor is affiliated, the electorate in the jurisdiction affected by the public policy, and/or the group as a whole. The interests of these stakeholders do not always align. Whose interests should the facilitator serve?

### **Discussion 2: Preparing for the First Meeting. What should a facilitator do to prepare for the first meeting of the group?**

First, to assess the situation and begin to formulate ground rules, the facilitator should know more about the views of the group members. If no one suggests this, the instructor can prompt it by asking, “As facilitator, do you want to know the interests of each member in advance, or is it better for you to let that information come out as the process unfolds? Why?” The answer is that the facilitator can fulfill his or her responsibilities and serve the group better by understanding in advance where the members are coming from. The facilitator can anticipate potential coalitions, identify issues that should be addressed, and identify testimony that should be sought. Ask, “How can you learn about members’ interests and their motivations for participating?” Students may suggest asking in public during the first meeting, privately interviewing each member of the task force in advance, and surveying the members. The instructor can distribute a sample survey and then ask students to suggest how a facilitator could use and report the survey results.

Second, the facilitator should meet with support staff to become familiar with the available resources and draft an agenda. The agenda for the first meeting should begin with an opening statement, self-introductions by the members of the group, a welcome and review of the charge by the sponsors, and presentations by the proponent (in this case, Paulson and Garber) with time for questions and answers. To help members of the group take ownership of the process, the facilitator can close by soliciting their advice about additions, deletions, or changes to the process and guiding principles.

Third, the facilitator should recognize that the opening statement helps set the tone and expectations for a task force. Ask students to work in pairs or small groups for five or ten minutes to compare their opening statements. Have them explain their reasons and objectives for their statements.

 [Video Clip 1: Chair’s Introduction \(1 min, 49 sec\) \[Transcript\]](#)

Instruct students to compare their plan with the facilitator's words, phrasing, timing, and body language. Students might debate whether he should have stood, whether he should have made more eye contact with members of the group, and whether his forward-leaning posture conveyed nervousness.

The instructor can point out that Maser said he would like to bring the group to "consensus," whether for or against the proposal. When Adams reviewed the charge, he applauded Maser for wanting to achieve "unanimity." Adams also reviewed the proposed procedure, which would allow at least three members of the Task Force to file a minority report; this implies decision-making by majority. Maser assumed members of the Task Force knew the difference between consensus and majority rule. Should he have explained the meaning of "consensus" in his introduction? Ask students to explain the difference between majority rule, unanimity, and consensus as matters of process. Then ask how these differences could affect the facilitator's tactics.

Majority rule divides the group into winners and losers based on the dominance of competing arguments and coalitions. In contrast, CBA is a collaborative process that allows group members to distinguish underlying values, interests, and concerns with a goal of developing widely accepted solutions. Consensus does not mean full agreement on each part of every issue, but rather support for a decision *taken as a whole*. A member might vote to support a consensus proposal even though he or she would prefer to have it modified in order to give it full support. Consensus is a process of *give and take*, of finding common ground and developing creative solutions in a way that all interests can support. Consensus is reached if all members at the table support an idea or say, "I can live with that."

Ask students for their perceptions of the benefits of CBA and write them on a board under the heading "Benefits of Consensus." They may state that CBA does the following:

- Motivates creative problem-solving and wise decision-making,
- Promotes stable outcomes through the commitment and engagement of all participants without a disaffected minority,
- Generates an outcome better able to withstand scrutiny because it airs decisions publicly and transparently, which lends it legitimacy, and
- Militates domination by a subset of parties who exercise power by mastering the decision rules and promotes an outcome likely to reflect substantive interests.

In a political environment, an outcome garnering more than fifty-five percent of the votes can be perceived as a landslide with a mandate. Therefore, even a consensus that does not reflect unanimity will be received as a potent endorsement. Unanimity, which implies affirmative endorsement by every stakeholder, is rare in public policy decision-making.

In the multifaceted environment of the MLS/AAA Task Force, a consensus to support or oppose Paulson's proposal could serve the interests of all the parties, although it would depend on

their alternatives to an agreement, which cannot be known. Ask students to speculate about how consensus could serve the interests of different stakeholders. List stakeholders on the board in one column with their interests served in the next column.

- Task force member—interests would be not only heard, but also addressed.
- Paulson—a resounding community endorsement would support his MLS proposal in competition with those of other cities, or a definitive rejection would provide a degree of certainty that has value to businesspeople.
- Adams—would have political cover as he took the matter to a vote of the City Council or decided not to do so.

The facilitator builds trust with group members by asking them to agree on procedural guidelines, using active listening techniques, and treating every question and proposal as legitimate and worthy of consideration. Members who feel they will be heard and respected tend to defer to the facilitator, especially on procedural matters, and listen to each other with greater open-mindedness. By agreeing on process first (which is easier than agreeing on outcomes, even though the choice of process influences outcomes), participants find common ground even with their adversaries. Agreeing on a joint problem-solving approach that is built on trust can encourage them to contribute more useful information, speed the flow of decision-making, and support the broader political order.

**Discussion 3: Establishing Processes and Guiding Principles. What procedural rules should be promulgated? What can be learned from the discussion of the guiding principles provided by the sponsor?**

The facilitator can propose and seek agreement from the group on a set of collaboration principles in public policy facilitations. Referencing these items, and why they matter, operationalizes the ethical concerns presented by IAP<sup>2</sup> and minimizes manipulation. Ask students in breakout groups to compare the rules they generated and report out. Alternatively, distribute copies of the collaboration principles in Table 4 and discuss their efficacy. Next, discuss the process for bringing the group into agreement on them. Elicit a list of process goals that could be discussed and agreed upon by the members. If the discussion stalls, say, “Anticipate what might go wrong or upset the process so that you can your response in advance.”

Some process hurdles are easier to anticipate and manage than others. For example, members will miss meetings, which can be managed with telecommunication technology, proxies, and meeting minutes, but these mechanisms should be agreed upon. Open meeting laws present a greater challenge, because they require advance notification and public observation, often whenever a quorum of a citizen task force meets on task force business. This can delay the process and make communication difficult. Ask, “How do the open meeting and public record laws in Case Appendix 4 affect a task force and its subcommittees?”

**Table 4: Collaboration (Process) Principles**

Work Group Charge and Scope of Work

- Scope of work and timeline
- Public involvement

Work Group Membership Selection and Support

- Role of the chair/facilitator
- Member alternates and replacements
- Project staff support and commitments to the project
- Who hires and pays for consultants, if needed?

Collaboration Protocols

- Quorum
- Openness of meetings, public notification, and consideration of public comment
- Option to caucus
- Meeting agendas and meeting materials
- Work group member expectations of each other
- Group decision-making: consensus vs. majority
  - Consideration of majority and minority views
  - Representation in voting

Interpretation, Use and Confidentiality of Documents/Reports

- Communications with nonmembers of the work group (i.e., media)
- Meeting summaries
- Public records and confidentiality



The facilitator should work closely with local attorneys, because public record and open meeting laws vary by jurisdiction. The facilitator strikes a balance between respecting the intent of these laws and ensuring candid communications among members of the task force through an agreement on process that deals with the confidentiality, non-discoverability, and inadmissibility of group communications in pending and future administrative and judicial proceedings.

**Discussion 3: Establishing Processes and Guiding Principles (cont.) What can be learned from discussions of process about group members' interests and how they bear on the group's charge and scope of work?**

 [Video Clip 2: Guiding Principles and Scope of Work \(13 min, 23 sec\)](#) [[Transcript](#)]

Ask students: “How might group members’ comments and questions suggest their underlying interests or motivations?” And, “How might those comments and questions validate information obtained and reported by the facilitator from a survey of participants prior to the first meeting?” In some cases, interests are transparent, such as those of a task force member who represents a neighborhood where a stadium might be located, or an official of a union whose members might be employed in building or operating the stadium. The interests of other members are less transparent. Students should focus on the expressed and implied hopes and fears of the members from both a process and a substantive perspective.

When discussing the scope of work, you may refer to IAP<sup>2</sup>'s [Public Participation Spectrum](#) and ask where the sponsor has positioned the Task Force. The sponsor has not empowered the Task Force to make and implement a decision, but the sponsor expects that the Task Force will do more than inform, consult, and involve members of the public. The sponsor expects the Task Force members to collaborate. This matters, because it favors the facilitator seeking a consensus, which puts the chair more in the role of a mediator (helping parties break impasses) than a facilitator (helping parties through a process). The knowledge, skills, and aptitudes required of a mediator are legion and evolving (Herrmann, Hollett, Gale & Foster, 2001; Imperati, Brownmiller & Marshall, 2007).

How might a sponsor define a task force's charge? Examples include:

- Collecting and summarizing information for a sponsor who has insufficient time,
- Analyzing and reporting findings to a sponsor who has insufficient expertise,
- Evaluating one or more proposals and advising a sponsor who seeks systematic input from multiple parties,
- Solving a problem and implementing a solution for a sponsor who wishes to delegate responsibility to those in a better position to act,
- Leading a group to support the sponsor's preferred outcome for a sponsor who wants to spread responsibility for a decision, or

- Completing other tasks (see the IAP<sup>2</sup> [Spectrum of Public Participation](#)).

Provide a caveat: In many communities, individuals with widely recognized interests may appear repeatedly on public policy task forces. These “usual suspects” know that defining the guiding principles and the scope of work can determine the outcome, so they—and others—might behave strategically during this stage to promote their substantive agendas. However, not everyone behaves strategically. Some people are thorough and make professional and competent suggestions because that is how they define their roles, so their comments and questions might not suggest their interests or motivations. This is even more reason for a facilitator to prepare by surveying or interviewing members before the group convenes.

Students should also be sensitive to the ways in which comments and questions about outcomes and procedural guidelines speak to the group’s charge and its scope of work (Case Appendix 3). Notice how the scope of work tends to expand as members of the Task Force seek answers or interpret their charge as allowing them to weigh in on various matters. One of the challenges of facilitating a public policy group is focusing the members on the charge and settling upon a practical and politically feasible scope of work. The facilitator should track, clarify, and establish the legitimacy of the interests expressed, because consensus will be possible only if they are addressed. The charge provided by the sponsors becomes the touchstone for framing the scope of work. When the group seeks to expand or constrict the proposed charge, as is usually the case, the facilitator becomes the *de facto* mediator between the task force and the sponsoring entity. This is a potentially awkward and challenging position. Not surprisingly, this subject arises again in Discussion 4, *Improving the Process*. For teaching purposes, you may discuss it now or in Discussion 4.

Finally, identifying a set of criteria, such as the “Guiding Principles” supplied by the sponsors (Case Appendix 2), against which proposed outcomes can be assessed, is a basic negotiating and collaboration technique. That can be easier than seeking agreement on outcomes because principles are more generic and broader than the specific positions. As a result, participants might agree to principles (especially those of fairness) more easily than to a specific distributional outcome. The process also builds confidence within the group because it creates another agreement among the members.

However, the distinction between a principle and a position is blurry. For example, ask whether the following is a principle or a position: “No public funds may be used in the project.” That is a position, a particular outcome. Now ask whether the following variation is a principle or a position: “People who benefit from the stadia and sports entertainment should bear the costs.” That reads like a principle, but for some, it might be a position. If everyone agrees to it as a financial criterion for assessing Shortstop’s proposal, then using ticket fees, parking fees, and rents paid by the sports franchises for use of municipal facilities follows naturally. Therefore, the position of “no public funds may be used” in the project softens to “no General Fund

monies derived from taxes may be used, but fees collected by the City in its Spectator Facilities Fund may be used.” Disagreement might follow if some feel citizens other than event attendees benefit, and so the City should subsidize the activity. However, the debate over principles is generally easier than one over positions such as “No public funding.” As a practical matter, facilitators will combine the charge and guiding principles into a single.

**Discussion 4: Improving the Process. What, if anything, can a facilitator do to advance group discussions and improve the deliberation and decision-making process?**

Ask students how they would advise the facilitator. Responses may include:

- Ask members of the group whether the process is serving them well and, if not, which changes they would recommend,
- Allow periods in which group members can digest the information by talking among themselves after each presentation, even though this creates logistical hurdles,
- Propose a plan to reorganize and focus the members, including the creation of subcommittees, and
- Evaluate the meeting after each session on both process and substance.

People in a public policy decision-making group have different expertise, and the workload grows with the complexity of the issues. If a group is much larger than six or seven, the members can become overwhelmed by the quantity of information they must process. Some will become bored because they have little interest in aspects of the decision and will naturally defer to others in the group with known relevant expertise. It makes sense to specialize, creating subcommittees with specific, limited scope and timelines to report to the full group. Ask students, “Would you create subcommittees from the beginning or wait until the group requested them? What process would you use to determine the makeup of these subcommittees? Are the meetings of the subcommittees open to other members of the group and the public?”

**Discussion 5: Responding to a Change in Scope. How does a co-sponsor’s decision to directly engage with the group shed light on the sponsor’s true motivations and the relationship between the facilitator and the sponsor?**

The sponsor’s intervention in this case is not uncommon in public policy mediations and can support rich discussions of three important themes:

1. The chair’s relationship with the sponsor(s) and role in managing the process,
2. The definition of the charge to a task force as it impacts the likelihood of reaching a consensus, and
3. The public’s overall acceptance of task forces when rules change in midstream to influence a different outcome.

The third theme surfaced early in the process (see Discussion 3), but arose again as a point of controversy when the sponsor intervened.

 **[Video Clip 3A: Sponsor Intervention: Announcement \(4 min, 29 sec\) \[Transcript\]](#)**

The facilitator's relationship with the sponsor matters. It determines the sponsor's commitment to the process and willingness to accept the recommendations of the task force. Ask, "How would you manage the relationship from the outset? What are the red flags associated with Leonard's announcement?" One is that the facilitator did not know the reason for the visit. Another is that Leonard acted in part on communications he received *ex parte* from members of the Task Force who were displeased with the group's progress and direction, which implies that some members were circumventing the facilitator and the established process.

Ask, "What are the possible repercussions of sponsor intervention for a group of this type?" The intervention could undermine the group's sense of ownership of the process, leading some members to question the value of their participation. It could undermine the credibility of the facilitator, at least in the eyes of some members. Alternatively, it could reinforce the bonding among members who might perceive the sponsor's intervention as an intrusion and become protective of "their" process.

Ask, "What might your reaction be, as facilitator, listening to Commissioner Leonard's comments?" Answers could include:

- I've been blindsided,
- He's undercut my authority,
- He's steamrolling the Task Force,
- I have to object,
- I should have asked why he wanted the time and discussed this with him first,
- I've lost control,
- I will resign as chair,
- I have to reassert control, and
- I'm grateful that he's helping.

Ask the class to revisit the setup of the Task Force. To execute the charge, what should a facilitator do at the outset? Sample answers might include:

- "Manage up" and clarify the relationship between the sponsor, the facilitator, and the group,
- Establish the channels, frequency and transparency of communication between the sponsor, the facilitator, and the group, and
- Identify to whom the facilitator owes a responsibility.

Ask students, “If you are the facilitator, who is your ‘client’?” Write their answers on the board; the list could include the sponsor(s), the City, the citizens, the Task Force and/or the process. The answer matters, because it frames how you facilitator will address procedural issues.

The politics of the situation are unavoidable, raising ethical issues for the facilitator. Elected officials have motivations that others do not. For example, an elected official’s job requires considering how others will react to his or her decisions, either because others might support or oppose the elected official in an election, or because elected officials are not dictators and must have the support of others to accomplish anything. Elected officials have a practiced ability to understand others’ political preferences, to speak to them articulately, and to combine the two into a dance of decision-making sometimes called heresthetics (Imperati & Maser, 2014; Riker, 1986). Their job is to build winning coalitions. The instructor can discuss the ethical issues this presents to the facilitator and ways to resolve them.

Thinking back to the beginning of the case, ask: “As the proposed facilitator, what (if any) role should you have had in selecting the members of the Task Force?” If the sponsor selected the members and recruited the facilitator for his or her facilitation/mediation skills, the facilitator should have no role in selection. However, if those facilitation/mediation skills include assessing the overall environment of the public policy issue, the facilitator’s role should include understanding why each member has been selected and, preferably, consulting with the sponsors in advance about who should be on the Task Force, who should be kept informed about its deliberations, and who should be asked to testify. Membership should be inclusive and balanced.

It might be easier to create a task force that is preordained to achieve or avoid particular outcomes than to assure objectivity and balance. However, such outcomes are likely short-lived. Balance requires opponents and proponents, people with expertise and technical skills, and people with political agendas, all working together through a compelling process. In general, the group should comprise members with varied abilities to analyze, judge, plan, and be creative (Quick, 1972, p. 128).

A sponsor might appear at the first meeting, convey the charge, and then wish the group well. That does not mean the group will be left to its own devices. If it appears to stall or veer off course, the sponsor might reassert control substantively, procedurally, or both. Public policy decision-making groups do not work in a vacuum. Therefore, the facilitator should remain in contact with the sponsor, providing progress reports and soliciting feedback. Transparent arrangements for doing so should be established at the outset.

The task-oriented, goal-directed, and collaboration-oriented facilitator of the MLS/AAA Task Force welcomed the Commissioner’s engagement, framed it positively, and moved forward. If the Commissioner, as co-sponsor, became so involved as to assume the leadership of the group, the Chair’s objection or resignation would have little impact on the outcome. The Chair asserted subtle control in subsequent meetings by sitting the Commissioner at the far end of

the table. The Commissioner did not assume a leadership role, but provided information when asked.

**Discussion 5: Responding to a Change in Scope (cont.) If group members challenge the sponsor about changing the group's charge, how can the facilitator resolve the conflict?**

 [Video Clip 3B: Sponsor Intervention: Charge and Scope Debate \(5 min, 44 sec\)](#)  
[\[Transcript\]](#) and

 [Video Clip 3C: Sponsor Intervention: Charge and Scope Debate \(10 min, 25 sec\)](#)  
[\[Transcript\]](#)

The video clips show Leonard attempting to clarify the charge to the Task Force, Task Force members challenging him, and the Chair attempting to clarify the discussion. These clips revisit the concepts raised in Discussion 3. To resolve the conflict, the facilitator first has to establish the bases for disagreements between members of the group and the sponsor. Ask students whether they could do that from the verbal exchanges. Write students' findings on the board, and try to categorize them as:

- Disagreements over process versus disagreements about the charge,
- The real interests being expressed or implied in the discussion,
- The group dynamics and the impact on project success,
- Tone of voice and body language as clues about what is really happening,
- Conflict-management tactics used by the facilitator, and
- What the students would do differently as facilitator to manage the process and discussion.

Alternatively, split the class into subgroups, with each subgroup focusing on a different category and identifying the lessons to be learned, possibly with a full-group debrief.

The situation in this case reflects reality. Members of task forces dealing with multi-issue public policy problems frequently want to expand their charge and scope of work. The debate in the clips suggests that the charge was poorly defined and understood. Members are sensitive to the definition of the charge and scope, because it bears on the likelihood that decisions will address their interests and be well informed. The lessons to be learned and reinforced are described under Discussion 3.

Point out that more people spoke in Video Clip 3C than in Video Clip 3B. Are people being strategic by not speaking? Are they allowing the Commissioner to carry their agendas forward? Notice that members of the Task Force did not hold back in expressing their concerns, perhaps reflecting a climate created by the collaborative process in previous meetings.

## Discussion 6: Managing Outside Forces. How should a facilitator frame the issue and why does it matter?

The proponent may ask the facilitator to reframe the proposal. Research on decision-making under uncertainty helps to explain why rhetoric matters (Birke & Fox, 1999; Imperati & Maser, 2014; Thaler, 1985; Tversky & Kahneman, 1986). One key to achieving a consensus is to induce the group to engage in joint problem-solving rather than in a test of wills. In a public policy group, where members and their constituents anticipate actions, if not motivations, from words, voice inflections, and body language, the way in which the problem is framed can upset different parties.

Thus, the facilitator can influence the decision through rhetoric. Ask, “If you think about the proponent’s proposal from the perspective of a venture capitalist dealing with an entrepreneur, what is your focus?” Then ask, “If you think about the proponent’s proposal from the perspective of a landlord dealing with a tenant, what is your focus?” Have students reflect on how the answers differ depending on how the question is framed.

### [Video Clip 4: Framing Decisions \(1 min, 14 sec\) \[Transcript\]](#)

Organizations are organic entities, as are the communities of which they operate, so the forces that gave rise to a group public policy process are unlikely to abate while awaiting the result of the deliberations. Interested parties will continue to interact in both public and private on matters germane to the group. The facilitator, if not other members, may be drawn into those interactions. A facilitator should span these negotiations, remaining sensitive to their dynamics and using information about them to help the group complete its task. This raises several issues. In practice, mediators are more likely to be more comfortable with *ex parte* communications than facilitators.

Ask students, “What are the benefits of attending these negotiations?” Responses might include:

- The facilitator is better informed about the environment in which the task force operates, so he or she can focus its attention to keep it relevant,
- The facilitator can represent and report on the thinking of the task force so that the *ex parte* negotiations do not run afoul of interests and concerns raised on the task force, and
- The facilitator becomes sensitive to new issues and players that the task force should consider.

Ask students, “What are the costs of attending these negotiations?” Responses might include:

- The time commitment increases.

- The facilitator becomes privy to information, some of which might be proprietary, from different sources, yet must track information so as not to reveal privileged information in a public forum.
- The priorities of proponents or sponsors involved in the *ex parte* negotiations might differ from those of the task force members, yet the facilitator's responsibility is to promote the priorities of the task force.

Therefore, it makes sense to respond to invitations to participate in *ex parte* negotiations rather than to seek to be included in them. In either case, the facilitator should think strategically before doing so and, if involved, adopt the role of a listener and representative of the task force; establish ground rules as to what is or is not told to whom and when.

To underscore the point about *ex parte* communications involving the facilitator, relate the following scenario: Soon after the second meeting of the Task Force, the local proponent invites the facilitator, along with others in the community, to a presentation by the MLS Commissioner to be held at a local hotel. The facilitator consulted with City staff, who did not perceive a conflict of interest. Ask, "Would you attend the presentation by the MLS Commissioner?" Explore the advantages and disadvantages of attending.

With stakeholders likely to interpret every action through their lens of support or opposition, the facilitator must consider how every decision could be perceived. If students argue that the facilitator has clearance to attend, ask, "How would you react to a headline in the newspaper the next day that reads, 'Soccer Task Force Chair Receives Private Briefing'?"

**Discussion 6: Managing Outside Forces (cont.) How can a facilitator fulfill the charge of a public policy group in the shadow of ongoing negotiations by actors who are not members of the group? How should a facilitator manage the flow of solicited and unsolicited information, public interest, and the formal and informal media? What should happen if the facilitator becomes aware of a flaw in the information flowing to the group?**

The takeaways from a discussion about managing the flow of solicited and unsolicited information and public interest include:

- No decision-making group will have all of the information it would like to have. A rule-of-thumb variant of the Pareto Principle, the 80/20 rule, applies: Given the increasing cost of obtaining the desired information, decisions likely will be made with 80% of the desired information.
- Receiving information is not the same as processing, evaluating, or promoting it.
- Processing information should be part of the work plan that the group helps to create.
- The facilitator should ensure the transparency and integrity of the process. For example, if a credible, outside observer calls the facilitator and discloses a major



flaw in a key document, the facilitator probably has an obligation to forward that information to the group. This can be fraught with peril if the sponsor does not want the facilitator to do so. This and related issues should be resolved in the collaboration principles document.

- The facilitator and group members should agree on their information needs.
- Processing information requires more than merely having members receive copies of reports and slides and allowing them to ask questions.
- Asking challenging questions of presenters and each other elicits differences and probes assumptions. The best questions are open-ended; closed-ended questions should be followed by a request for an explanation. The role of the facilitator is to ensure that challenging questions do not become aggressive ones that assert a position. The goal is to facilitate an exploration—not a debate.
- Warn group members that outsiders expect high levels of commitment and performance. Group decisions likely will be called into question by those who oppose the recommendations. This is compounded by the fact that controversy—not consensus— makes news.
- Public participation in the age of instant telecommunications is fraught with peril. One approach, however minimal, is to inform the group members about the risk of public approbation, especially in the blogosphere, so they are not caught unawares.
- Every question asked, especially by the media, presents an opportunity to educate, but can be time-consuming. Ask students, “What can you do to manage this?” Responses may include having a group spokesperson, creating a “Frequently Asked Questions” webpage, accepting questions only in writing, and creating a protocol that the facilitator and task group can control.
- The local media might put a dramatic spin on stories to attract an audience. Although any consensus reached reflects an amalgam of interests, reporters tend to focus only on the most controversial ones. The facilitator should respond by focusing on the process and content of a task force’s deliberations. The facilitator should direct questions to those who are involved in the implementation of the recommendations.

**Discussion 7: Managing Misconceptions. How can a facilitator manage the impact of history that encumbers group members, creates distrust and militates against agreement?**

 [Video Clip 5: Managing History \(10 min, 4 sec\)](#) [[Transcript](#)]

Some projects appear *de novo*, but most have a history. A task force facilitator should be sure members of the group have accurate information about relevant history so that their decisions and judgments are not colored by uninformed biases. In this case, the Chair asked City staff to review the history of PFE and the City’s obligations. The Task Force members learned that the General Fund had suffered little loss, but private parties associated with PFE had lost millions of dollars. With this realization, the elephant in the room largely disappeared. Nevertheless, the

earlier deal had created exposure for the City's General Fund, because the City negotiated a percentage of net revenues in exchange for floating the bonds. The lesson learned was a principle: The more financial risk one party takes, the greater its claim to a share of the gains. If the MLS/AAA Task Force wants to minimize risk to the City, it should not advise the City to seek a share of the potential gain. Reviewing the history generated a decision-making principle largely accepted by the Task Force members.

Close the discussion with his point: Participants in a public policy decision-making group often engage in joint fact-finding. The facilitator, members of the group, and/or support staff have to identify sources of credible information and bring that information to the group through channels perceived to be legitimate. Quantitative information must be valid and reliable. Sources should not have a stake in the outcome. CBA aims to reduce mistrust and disagreements engendered by past conflicts in an environment that rewards collaborative problem-solving; finding credible information can help.

**Discussion 8: Focusing and Breaking Impasses. How can a facilitator keep the group focused on its charge, given the numerous issues being raised?**

Given the diversity of public interests, government decisions rarely cover a single issue around which interested parties are aligned in support of one option. The greater the number of issues, the greater the likelihood of chaos with a result dictated more by process than by substance (Arrow, 1953; Imperati & Maser, 2014) and power politics. This is what lends importance to the facilitator's collaborative problem-solving and facilitation/mediation skills. Ask students what tools and techniques they might be able to employ. Responses might include:

- Determine whether the charge or scope of work precludes consideration of an issue,
- Create a subcommittee to prepare a recommendation to the main task force,
- Exclude the participation of people known to have a single-issue agenda, thereby risking charges of bias and potential lawsuits, and
- Include the participation of people known to have a single-issue agenda, but use facilitation tactics to elicit the underlying interests and attempt to negotiate a consensus.

Students are less likely to suggest using an "umbrella question" (a problem posed as a question that asks how to achieve an objective while satisfying the interests of the concerned parties to induce joint problem-solving) such as, "How can we satisfy interest A while also satisfying interest B, thereby allowing us to reach a balanced solution C?" When the group accepts a formulation of the problem, it legitimates the reflected individual interests. It also channels the energy of individual passions into a common cause (Podziba, 2003). Consider asking students to construct an umbrella question, such as, "How can we protect the General Fund while investing in underserved neighborhoods and maintaining public land available for parks, thereby creating a government-business partnership that allows the City to capture the benefits of a second

major league sports team?” Explore with students how such an umbrella question might have helped the process and outcome.

Students are also unlikely to suggest devising a contingent agreement in which the parties agree, or the sponsor asserts, that selected issues will be addressed in a different venue. City officials asked labor groups to bring their issues, which could have derailed the sports entertainment initiative, to the City Council separately. At least one Commissioner was working with representatives in the State legislature to address collective bargaining rights. Bifurcating the issues can be advantageous or disadvantageous. In the authors’ experience, good practices suggest that it is better to have all the interests at the table.

### **Discussion 9: Assessing Task Force Progress and Seeking Closure. What is the best way to take the pulse of the group?**

Periodically, the facilitator should take the pulse of the group and report it. This helps the group measure its progress toward reaching agreement. Ask, “How, mechanically, can the facilitator take the pulse of the group?” Responses may include:

- Ask permission of the members to conduct an informal, non-binding straw poll, or ask the members to indicate their likelihood of agreeing to the emerging proposal, with brief explanations of their concerns. The intent is to assess the degree of support for the draft proposal and to allow the group to assess the distance it has to cover to reach agreement.
- Conduct 1-2-3 consensus polling, which carries less risk of dividing the group into “pro” and “con” coalitions than asking for up or down votes. In the consensus poll, the facilitator articulates an emerging proposal and asks each member to respond with a 1 (unconditionally supports), 2 (agrees, but prefers modification to justify unconditional support), or 3 (refuses to support). This can be repeated as necessary until all members are voting 1 or 2.
- Conduct a private straw poll, including clarifying questions, with permission of the group members. Early in the process, assess their underlying interests (Susskind & Cruikshank, 2006, p. 46); later in the process, assess their “ideal” outcome (Susskind & Cruikshank, 2006, p. 103). This allows the facilitator to craft elements of a single-text statement designed to capture and reveal elements of an agreement that can become the basis for further discussions and consensus. The single-text statement focuses the remaining time on reaching a consensus by turning areas of disagreement into problems to be solved.

#### [Video Clip 6: Results of a Private Straw Poll \(15 min, 21 sec\) \[Transcript\]](#)

Ask students about the facilitator’s choice of language in reporting. You can distribute the script the facilitator used in conducting the poll. Assess the neutrality of the presentation. Remind students about the risks of private communication in a public policy setting.

**Discussion 9: Assessing Task Force Progress and Seeking Closure (cont.) How will public testimony impact the group’s deliberations?**

 [Video Clip 7: Public Testimony \(9 min, 58 sec\)](#) [[Transcript](#)]

Having heard the emerging consensus, students should consider the potential impact of public testimony. Elicit students’ reactions to the public testimony. Ask, “Is this public testimony useful? Why or why not?” Public testimony might identify issues that require group consideration in preparing recommendations. Ask, “What did you hear in the video clip that might require further consideration?”

In this case, public testimony revealed serious concerns that the Task Force had not heard. Veterans did not want the Coliseum demolished to make way for a baseball stadium. Labor unions and related groups asked the Task Force to ensure that employees working in the new facilities could bargain collectively and earn living wages. The City previously agreed to subsidize minimum wages paid by PFE at PGE Park; however, wages paid to City employees at other facilities and wages paid by subcontractors at PGE Park were not necessarily covered. Labor unions wanted those wages covered in the proposed deal. Ask students whether and how the group should address such issues.

**Discussion 9: Assessing Task Force Progress and Seeking Closure (cont.) How can a facilitator bring a group to closure with a consensus or guide the members toward a conditional agreement? What is the risk of process prevailing over substance?**

Given the diverse interests and multiple issues, the recommendation upon which a group can reach a consensus might take the form of a position subject to conditions, each one crafted to address the interest of an individual or a subgroup. This requires uncovering the motivating interests and engaging in creative problem-solving to address them. The facilitator often invokes a norm of reciprocity to assure each party considers the interest of the other members of the group.

 [Video Clip 8: Single Text Negotiation \(2 min, 4 sec\)](#) [[Transcript](#)]

The text of the emerging “Task Force Recommendation to the City Council” begins with a statement of support for bringing MLS to Portland with City involvement. The statement of support is subject to ten conditions that reflect interests expressed strongly by several members of the Task Force (see the [Final Task Force Report and Recommendations](#)). To obtain a consensus, other members of the Task Force will have to agree with each condition on its merits, approve each condition in exchange for agreement by others on the one that matters more to them, or be indifferent. The facilitator must choose between voting on the entire package and voting on each condition separately. Ask, “What choice did the facilitator make and what were its advantages and disadvantages?”

With respect to the group member whom everyone expected to vote “no,” but who voted “yes,” ask students, “What’s the risk of process prevailing over substance, which might have occurred in the case of an avowed opponent ultimately voting in support?” The risk is that the outcome does not address the fundamental interests of a party. That party might later waffle, if not withdraw support, during implementation or when responding to his or her constituents.

### **Discussion 10: Reflecting on Outcomes. What is a good outcome for a public policy mediation?**

The instructor can refer to the [Oregonian article](#), the [City Council Resolution](#), where reference is made to a different Paulson legal entity, Peregrine LLC, rather than Shortstop), and/or the [proposed deal terms](#). Discuss whether the substantive outcome is a good one. Ask students to list the attributes of a good outcome. Like a good negotiation, a good mediation addresses and fairly balances the interests of the participants, makes efficient use of everyone’s time, extracts the best available information, and improves relationships among the parties so they are committed to implementing the outcome. In the public policy group decision-making setting, a good outcome responds to the charge and serves the balanced interests of the participants.

Ask students, “Are the Task Force’s recommendations, taken as a whole, a ‘settlement’ or a ‘resolution’?” Practically speaking, a settlement is achieved when everyone walks away equally unhappy; a resolution is achieved when everyone walks away with underlying personal and professional needs reasonably satisfied as the result of a full, fair and respectful exploration of the issues—not a power-based debate.

Conclude the class by showing the Lessons Learned video in which Maser and Imperati critique the Task Force and its processes. Alternatively, skip the video and facilitate a class discussion eliciting the views of the students.

 [Video Clip 9: Lessons Learned \(8 min, 58 sec\) \[Transcript\]](#)

## References

- Arrow, K. J. (1953). *Social choice and individual values*. New Haven, CT: Yale University Press.
- Baron, D. (2009). *Business and its environment* (6<sup>th</sup> ed.). Upper Saddle River, NJ: Prentice-Hall.
- Birke, R., & Fox, C. R. (1999). Psychological principles in negotiating civil settlements. *Harvard Negotiation Law Review*, 4(1).
- Carpenter, S., & Kennedy, W. J. D. (1988). Guidelines for making the program work. In *Managing public disputes* (pp. 157-196). San Francisco, CA: Jossey-Bass.
- Forester, J. (2006). Making participation work when interests conflict: Moving from facilitating dialogue and moderating debate to mediating negotiations. *Journal of the American Planning Association*, 72(4), 447-456.
- Forester, J. (2009). *Dealing with differences*. New York, New York: Oxford University Press.
- Herrman, M., Hollett, N., Gale, J., & Foster, M. (2001). Defining mediator knowledge and skills. *Negotiation Journal*, 17(2), 139-153.
- Imperati, S. J., Brownmiller, D. C., & Marshall, D. (2007). If Freud, Jung, Rogers, and Beck were mediators, who would the parties pick and what are the mediator's obligations? *Idaho Law Review*, 43, 643-708.
- Imperati, S. J., & Maser, S. (2014). Why does anyone mediate if mediation risks psychological dissatisfaction, extra costs and manipulation? Three theories reveal paradoxes resolved by mediator standards of ethical practice. *Ohio State Journal of Dispute Resolution*, 29, 223-260.
- Lasswell, H. D. (1950). *Politics: Who gets what, when, how*. New York, NY: P. Smith.
- Podziba, S. (2003). The human side of complex public policy mediation. *Negotiation Journal*, 19(4), 285-290.
- Quick, T. (1972). *Your role in task force management: The dynamics of corporate change*. Garden City, NY: Double Day and Company.
- Riker, W. H. (1986). *The art of political manipulation*. New Haven, CT: Yale University Press.
- Salacuse, J. (2008). *Seven secrets for negotiating with government*. New York, NY: Amacom.
- Susskind, L. (2000). Confessions of a public dispute mediator. *Negotiation Journal*, 16(2), 129-132.
- Susskind, L., & Cruikshank, J. (2006). *Breaking Robert's Rules: The new way to run your meeting, build consensus, and get results*. New York, NY: Oxford University Press.
- Thaler, R. (1985). Mental accounting and consumer choice. *Marketing Science*, 4(3), 199-214.
- Tuckman, B. W., & Jensen, M. A. C. (1977). Stages of small-group development revisited. *Group & Organization Management*, 2(4), 419-427.
- Tversky, A., & Kahneman, D. (1986). Judgment under uncertainty: Heuristics and biases. In H. R. Arkes & K. R. Hammond (Eds.), *Judgment and Decision Making: An Interdisciplinary Reader* (38-55). Cambridge, UK: Cambridge University Press.