

## Dispute Resolution

### Packet Synopsis

*Planning is political.* This is the essential point Guy Benveniste, internationally recognized planner and author, makes in *Mastering the Politics of Planning: Crafting Credible Plans and Policies that Matter*, Jossey-Bass, San Francisco, 1989.

Politics has been defined “as the art of accomplishing the possible.”

Effective **dispute resolution** by the professional land use planner requires “political skills” and “political awareness” but such is not just necessary for the professional staff of the planning commission but also for the commission itself. By their inherent natures, land use requests coming before a planning commission for decision can be controversial. The smart commission will use its professional staff to “accomplish the possible” before the request is officially on its table, making the commission’s task that much easier, as well as for that of the ultimate approving authority, be it a city council, county board or town board.

The readings included in this packet provide good direction and advice for **dispute resolution** by land use planners and planning commissions.

“Planning In the Face of Conflict: Negotiation and Mediation Strategies in Local Land Use Regulations”, John Forester, *APA Journal*, Summer 1987, Chicago. – all parties, planners, developers, community, special interests have common responsibilities and interests: (a) to navigate what can be a complex review process, (b) be timely and (c) deal with conflict or differences in a civilized manner. The author notes that planning’s complexities can give planners influence – they have the expertise - and that different actors require different strategies. He presents six strategies/ways to mediate local land use conflicts. The author substitutes “diplomacy” and “diplomatic skills” for “political skills” and “politics” but the essence is the same.

“Using Mediation to Resolve Land-Use Disputes”, *Zoning News*, May 1993, American Planning Association, Chicago. – discusses the Alternative Dispute Resolution (ADR) tool of **mediation**. However, the focus is on using a professional outside party mediator and describes a formal mediation process. It summarizes the advantages and disadvantages of professional mediation and further notes that mediation best works in variance requests, building permit requests and development proposals. It also notes that state statutes should be examined to see if using an outside party is a permissible delegation of the “police power.”

“Dealing with Citizen Opposition: Lessons Learned”, Merriam, Dwight H., *Land Development Magazine*, Spring-Summer 1999, National Association of Home Builders, Washington, DC. – Here the basic premise is “don’t think of the opposition as opposition but potential allies to be won over.” It presents a sophisticated developer’s thoughts on dealing with citizen opposition and presents his ten principles for managing opposition

and turning it to advantage. Although written to advise the “developer” as to how to resolve dispute to the “developer’s advantage”, it gives good insight into the dynamic of dispute resolution. It also acknowledges that “time is money” for the developer.

“Dealing With an Angry Public”, Stein, Debra, *Planning Commissioners Journal*, Number 37, Winter 2000, Burlington, VT. – presents good common sense suggestions for conducting meetings where the topic of discussion is controversial and can lead to angry constituents. Its essential advice is to clearly lay out meeting ground rules and for the moderator or chairperson to be firmly but fairly in control.

A selected bibliography for **conflict/dispute resolution** is available via the web site of the Canadian nonprofit organization Peacemakers at [www.peacemakers.ca](http://www.peacemakers.ca).

## INTERLIBRARY LOANS MATERIALS

The following on **dispute resolution** can be borrowed via MnLINK.

- Alternative dispute resolution [video recording]. Published: 1998.  
Video recording of a seminar presented by Sensible Land Use Coalition on October 22, 1998. Call No: DR02 0001 14 1998

## LEGAL NOTES

The use of **alternative dispute resolution** and **mediation** is specifically authorized by Minnesota Statutes Chapter 414, Municipal Boundary Adjustments, in annexation disputes. This is the only area in Minnesota’s land use law where these **dispute resolution** approaches are specifically mentioned and authorized. This does not necessarily mean that a formal approach, especially one that would be binding upon all parties, to resolving land use conflict by a planning commission or Local Unit of Government is not permissible when formally agreed to by all parties, but as noted above in “Using Mediation to Resolve Land Use Disputes”, legal opinion should be sought before proceeding on such a course.

The **Local Planning Assistance Center at the Department of Administration** helps local governments with planning efforts, including comprehensive planning, zoning, hazard mitigation planning, GIS applications and development issues.

Upon request, this document will be made available in an alternate format, such as Braille, large print or audiotape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for the Department of Administration.

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