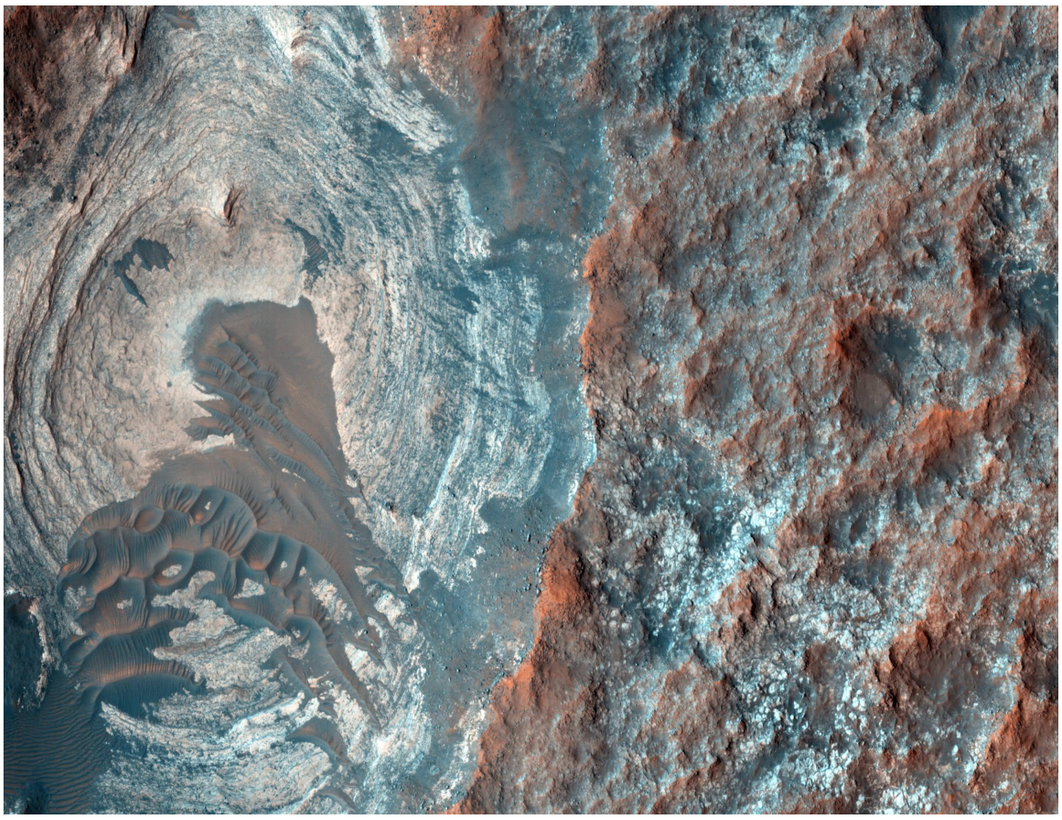

A SHORT GUIDE TO CONSENSUS BUILDING

An Alternative to Robert's Rules of Order for Groups, Organizations and Ad Hoc Assemblies that Want to Operate By Consensus

Massachusetts Institute of Technology

Let's compare what this Short Guide has to say with what Robert's Rules of Order requires. Assume that a few dozen people have gotten together, on their own, at a community center because they are upset with a new policy or program recently announced by their local officials. After several impassioned speeches, someone suggests that the group appoint a moderator to "keep order" and ensure that the conversation proceeds effectively. Someone else wants to know how the group will decide what to recommend after they are done debating. "Will they vote?" this person wants to know. At this point, everyone turns to Joe, who has had experience as a moderator. Joe moves to the front of the room and explains that he will follow Robert's Rules of Order. From that moment on, the conversation takes on a very formal tone. Instead of just saying what's on their mind, everyone is forced to frame suggestions in the cumbersome form of "motions." These have to be "seconded." Efforts to "move the question" are proceeded by an explanation from Joe about what is and isn't an acceptable way of doing this. Proposals to "table" various items are considered, even though everyone hasn't had a chance to speak. Ultimately, all-or-nothing votes are the only way the group seems able to make a decision.

As the hour passes, fewer and fewer of those in attendance feel capable of expressing their views. They don't know the rules, and they are intimidated. Every once in a while, someone makes an effort to re-state the problem or make a suggestion, but they are shouted down. ("You're not following Robert's Rules!") No one takes responsibility for ensuring that the concerns of everyone in the room are met, especially the needs of those individuals who are least able to present their views effectively. After an hour or so, many people have left. A final proposal is approved by a vote of 55 percent to 45 percent of those remaining.

If the group had followed the procedures spelled out in this Short Guide to Consensus Building, the meeting would have been run differently and the result would probably have been a lot more to everyone's liking. The person at the front of the room would have been a trained facilitator -- a person with mediation skills -- not a moderator with specialized knowledge about how motions should be made or votes should be taken. His or her job would have been to get agreement at the outset on how the group wanted to proceed. Then, the facilitator or mediator would have focused on producing an agreement that could meet the underlying concerns of everyone in the room. No motions, no arcane rituals, no vote at the end. Instead, the facilitator would have pushed the group to brainstorm (e.g. " Can anyone propose a way of proceeding that meets all the interests we have heard expressed thus far?") After as thorough consideration of options as time permitted, the facilitator would ask: "Is there anyone who can't live with the last version of what has been proposed?" "If so, what improvement or modification can you suggest that will make it more acceptable to you, while continuing to meet the interests of everyone else with a stake in the issue?"

What's Wrong With Robert's Rules?

Robert's Rules of Order was first published in 1870. It was based on the rules and practices of Congress, and presumed that parliamentary procedures (and majority rule) offered the most appropriate model for any and all groups. The author presumed that the Rules of Order would "assist an assembly in accomplishing the work for which it was designed" by "restraining the individual" so that the interests of the group could be met. [Cite]

In the more than 125 years since Robert's Rules was first published, many other approaches to group work and organizational activity have emerged. The goal of this Guide and the full Handbook is to codify the "best possible advice" to groups and organizations that prefer to operate with broad support, by consensus, rather than simply by majority rule. When we say consensus, we do not mean unanimity (although seeking unanimity is often a good idea). We believe that something greater than a bare majority achieved through voting is almost always more desirable than majority rule. Moreover, the formalism of parliamentary procedure is particularly unsatisfying and often counterproductive, getting in the way of common sense solutions. It relies on insider knowledge of the rules of the game. It does not tap the full range of facilitative skills of group leaders. And, it typically leaves many stakeholders (often something just short of a majority) angry and disappointed, with little or nothing to show for their efforts.

Even with these weaknesses, many social groups and organizations, especially in community settings, adhere to Robert's Rules (by referencing them in their by-laws or articles of incorporation) because they have no other option. The Short Guide to Consensus Building (and the Handbook on which it is based) offers an alternative that builds on several decades of experience with effective consensus building techniques and strategies. No longer must groups and organizations settle for Robert's Rules of Order or parliamentary procedure when they would be better off with an alternative that puts the emphasis on cooperation and consensus.

Definitions

In order to explain what has been learned about consensus building over the past several decades, certain terms are important. Indeed, they are central to the presentation in this Short Guide. They are not part of everyday language and, thus, require some explanation. The key terms we will define are consensus, facilitation, mediation, recording, convening, conflict assessment, single text procedure, creating and claiming value, maximizing joint gains, and circles of stakeholder involvement. These definitions have been developed over the past two decades. There is still not complete agreement among dispute resolution professionals about how they should be defined; so, where important disagreements remain, we will point them out.

Here are the most important definitions: Consensus (which does not mean unanimity)

Consensus means overwhelming agreement. And, it is important that consensus be the product of a good-faith effort to meet the interests of all stakeholders. The key indicator of whether or not a consensus has been reached is that everyone agrees they can live with the final proposal; that is, after every effort has been made to meet any outstanding interests. Thus, consensus requires that someone frame a proposal after listening carefully to everyone's interests. Interests, by the way, are not the same as positions or demands. Demands and positions are what people say they must have, but interests are the underlying needs or reasons that explain why they take the positions that they do.

Most consensus building efforts set out to achieve unanimity. Along the way, however, it often becomes clear that there are holdouts -- people who believe that their interests will be better served by remaining outside the emerging agreement. Should the rest of the group throw in the towel? No, this would invite blackmail (i.e. outrageous demands that have nothing to do with the issues under discussion). Most dispute resolution professionals believe that groups or assemblies should seek unanimity, but settle for overwhelming agreement that goes as far as possible toward meeting the interests of all stakeholders. It is absolutely crucial that this definition of success be clear at the outset.

Facilitation (a way of helping groups work together in meetings)

Facilitation is a management skill. When people are face-to-face, they need to talk and to listen. When there are several people involved, especially if they don't know each other or they disagree sharply, getting the talking, listening, deciding sequence right is hard. Often, it is helpful to have someone who has no stake in the outcome assist in managing the conversation. Of course, a skilled group member can, with the concurrence of the participants, play this role, too. As the parties try to collect information, formulate proposals, defend their views, and take account of what others are saying, a facilitator reminds them of the ground rules they have adopted and, much like a referee, intervenes when someone violates the ground rules. The facilitator is supposed to be nonpartisan or neutral.

There is some disagreement in various professional circles about the extent to which an effective facilitator needs to be someone from outside the group. Certainly in a corporate context, work teams have traditionally relied on the person "in charge" to play a facilitative role. The concept of facilitative leadership is growing in popularity. Even work teams in the private sector, however, are turning more and more to skilled outsiders to provide facilitation services. In the final analysis, there is reason to believe that a stakeholder might use facilitative authority to advance his or her own interests at the expense of the others.

Mediation (a way of helping parties deal with strong disagreement)

While facilitators do most of their work "at the table" when the parties are face-to-face, mediators are often called upon to work with the parties before, during, and after their face-to-face meetings. While all mediators are skilled facilitators, not all facilitators have been trained to mediate. The classic image of the mediator comes from the labor relations field when the outside "neutral" shuttles back-and-forth between labor and management, each of which has retreated to a separate room as the strike deadline looms. These days, mediators work in an extraordinarily wide range of conflict situations. Mediation is both a role and a group management skill. A group leader may have mediation skills and may be able to broker agreement by putting those skills to use. But, again, when the search for innovative solutions rests in the hands of one of the parties, it is often hard for the others to believe that the leader/mediator isn't trying to advance his or her own interests at their expense.

The big debate in professional circles is whether any mediator really can (or should) be neutral. The referee in a sporting match must be nonpartisan; he or she can't secretly be working for one team. The referee tries to uphold the rules of the game to which everyone has agreed. This is what is commonly meant by neutrality -- nonpartisanship. However, some people have argued that a mediator should not be indifferent to blatant unfairness. They believe that the mediator should not turn a blind eye to potentially unfair or not implementable agreements, even if the "rules of the game" have not been violated.

Yet, if a mediator intervenes on behalf of a party that may be about to "give away the store," why should the others accept that mediator's help? The answer probably depends on the level of confidence the parties have in the mediator and the terms of the mediator's contract with the group.

Before the parties in a consensus building process come together, mediators (or facilitators) can play an important part in helping to identify the right participants, assist them in setting an agenda and clarifying the ground rules by which they will operate, and even in "selling" recalcitrant parties on the value to them of participating. Once the process has begun, mediators (and facilitators) try to assist the parties in their efforts to generate a creative resolution of differences. During these discussions or negotiations, a mediator may accompany a representative back to a meeting with his or her constituents to explain what has been happening. The mediator might serve as a spokesperson for the process if the media are following the story. A mediator might (with the parties' concurrence) push them to accept an accord (because they need someone to blame for forcing them to back-off the unreasonable demands they made at the outset). Finally, the mediator may be called upon to monitor implementation of an agreement and re-assemble the parties to review progress or deal with perceived violations or a failure to live up to commitments.

"Facilitation" and "mediation" are often used interchangeably. We think the key distinction is that facilitators work mostly with parties once they are "at the table" while mediators do that as well as handle the pre-negotiation and post-negotiation tasks described above. Some professionals have both sets of skills, but many do not. Neither form of consensus build assistance requires stakeholders to give up their authority or their power to decide what is best for them.

Recording (creating a visual record of what a group has discussed and decided)

Recording involves skills that seek to ensure that a visual record is created that capture the key points of agreement and disagreement during a dialogue. Some facilitators and mediators work in teams with one person specializing in keeping a written record of what the group has discussed and what has been agreed. This can be done on large sheets of paper, often called flipcharts, tacked up in front of a room. With the introduction of new computer and multi-media technologies, this can be done electronically as well. The important thing is to have an on-going visual representation of what the group has discussed and agreed. Unlike formal minutes of a meeting, a group memory may use drawings, illustrations, maps, or other icons to help people recall what they have discussed. Visual records prepared by a recorder ultimately need to be turned into written meeting summaries. Like minutes, all participants to ensure that everyone agrees with the review of what happened must review these summaries in draft.

Convening (bringing parties together)

Convening, or the gathering together of parties for a meeting or a series of meetings, is not a skill that depends on training. An agency or organization that has decided to host a consensus building process (and wants to encourage others to participate) can play an important convening role. In a private firm, for example, a senior official might be the convener. In the public arena, a regulatory agency might want to convene a public involvement process. There is some disagreement about whether or not the convener or the convening organization is obliged to stay "at the table" as the conversation proceeds. In general, convening organizations want to be part of the dialogue, but we do not feel they must commit to on-going participation in a consensus building process.

Someone has to finance a consensus building process. When it takes place inside an existing organization, financial arrangements are reasonably straightforward. When consensus building involves a wide range of groups in an ad hoc assembly, it is much less obvious who can and will provide the financial support. If costs are not shared equally by the parties, for example, if they are covered by the convening organization, there are special steps that must be taken to ensure that the outside facilitator or mediator has a contract with the entire group, and not just the convener, and that the organization(s) providing the financing do not use that sponsorship to dictate the outcome.

Conflict Assessment (an essential convening step)

A conflict assessment is a document that spells out what the issues are, who the stake holding interests are, where they disagree and where they might find common ground. It is usually prepared by a neutral outsider based on confidential interviews with key stakeholders. There is some disagreement over whether the same neutral who prepared the conflict assessment should then be the one to facilitate or mediate, if the process goes forward. Typically, after interviewing the obvious stakeholders as well as the less obvious participants suggested by the first group, a neutral party will suggest whether or not it makes sense to go forward with a consensus building process, and if so, how the process ought to be structured.

Such an assessment can be presented orally to the convener, but it is probably better that it be written and distributed in draft to everyone interviewed, before it is finalized. The recommendations resulting from a conflict assessment are not the final word. Only the stakeholders themselves can decide whether or not they want to proceed, and, if so, how they want to organize the effort.

Single Text Procedure (A way to generate agreement)

Roger Fisher, Bill Ury, and Bruce Patton, in their well-known book, Getting to Yes, first suggested the phrase "single text" negotiation. Rather than having each party propose its own version of an ideal agreement, a neutral party carries a single version of a possible agreement from party to party seeking "improvements" that will make it acceptable to the next person on the list. (No one needs to know who suggested which modifications along the way.) It is also possible to work together in a meeting to collectively revise a single text, although in that setting it is more likely that some parties will find it harder to accept a proposed "improvement" because they know who it came from.

Creating and Claiming Value (a way to maximize joint gains)

Our colleagues, Howard Raiffa, in his book The Art and Science of Negotiation, and Jim Sebenius and David Lax, in their book, The Manager as Negotiator, have helped to popularize the idea of "creating value." Most people think of negotiation or problem solving as a "zero sum" game in which a fixed amount is allocated among competing parties. An efficient agreement, therefore, is presumed to be one in which all the gains available have been allocated among the parties. This tends to overlook the fact that there are numerous ways to "make the pie larger" in most situations. Thus, an efficient agreement is really one in which the parties have done all they can to create value as well as allocated all the value they have created.

Lax and Sebenius describe what they call, "the negotiator's dilemma" as the key problem facing everyone in a consensus building or dispute resolution process. How should they manage the tension between creating and claiming value? This tension results from the fact that creating value requires cooperative behaviors while claiming value revolves almost entirely around competition. Given that everyone in a group process has what are called "mixed motives" (that is, they want the pie to be as large as possible, but they also want as much for themselves or their side as they can get), they've got to figure out how much to cooperate and how hard to compete.

There is some disagreement among experienced practitioners about how likely it is that value can be created in every situation. On the one hand, those who are generally optimistic assume that value can almost always be created by trading across issues that parties value differently (e.g., "I'll give you this (which is not that important to me), if you'll give me that (which you don't care that much about"). Even in a situation in which there appears to be just one issue -- price -- under discussion, there are ways to "fractionate" the issue (i.e., break it into parts that can be traded) or to link that issue to future considerations. Those who are generally pessimistic assume that there are severe restrictions on the possibility of creating value in many situations, either because there's nothing to trade or because asymmetries in power allow one side to demand what it wants or walk away.

We want to differentiate the idea of maximizing joint gain from the simple-minded language of "win-win" negotiating. We are interested in helping parties do better than what no agreement probably holds in store for them. Doing better than one's BATNA (Best Alternative To A Negotiated Agreement) is the way to measure success in consensus building. There are few, if any situations, where everyone can get everything they want (which is what "winning" sounds like to us).

Circles of Stakeholder Involvement (a strategy for identifying representative stakeholders)

A stakeholder is a person or group likely to be affected by (or who thinks they will be affected by) a decision -- whether it is their decision to make or not. When we talk about circles of stakeholders -- we are talking about individuals or groups that want or ought to be involved in decision-making, but at different levels of intensity. Some stakeholders are very hard to represent in an organized way. Think about "future generations," for example. Who can represent them in a dialogue about sustainable development? In the law, various strategies have evolved so that surrogates or stand-ins can present hard-to-represent groups (like the members of a class of consumers who have been hurt by a certain product or like children who have no capacity to speak for themselves in a court proceeding).

Sometimes, it is necessary to caucus all the groups or individuals who think they represent a certain set of stakeholders for the purposes of selecting a representative for a particular dialogue or problem solving purpose. Such meetings typically need to be facilitated by an outside party. Finally, there are various statutes that govern who may and who must be invited to participate in various public and private dialogues. Ad hoc consensus building processes must take these laws into account.

A Complete Matrix

The fold out matrix that follows provides an overview of all the elements contained in the three parts of the Short Guide. Part I contains a set of procedures that should be used when a group will be meeting for a short period of time or when a temporary or ad hoc assembly of stakeholders is organized for a single purpose. The procedures in the first Part are organized under five steps. While these are presented in more or less chronological fashion, they do not necessarily need to be applied sequentially.

Part II of the Guide focuses on the interaction of participants involved in a permanent group or organization. The suggestions in Part II build on (and are presented in contrast to) what we have suggested for temporary or ad hoc assemblies. Part II deals with consensus building in situations where the parties or their organizations expect to interact indefinitely -- like the Board of Directors of a company or the members of a city council. Even if the participants change (and they surely will over time), everyone knows that whether they personally stay involved or not, others who come after them will have to live with the impact of what occurred and they take responsibility for the long-term interest of the organization.

Part II covers the same five steps as Part I but highlights several important differences between temporary and permanent situations. Also, a sixth step is added, when groups are on going, to take account of the need to capture whatever has been learned so that the organization can continue to improve.

Part III of the Short Guide anticipates serious obstacles to consensus building and suggests procedures for handling them, regardless of whether the participants are involved in an ad hoc or a permanent interaction.

PART I.

HELPING AN AD HOC ASSEMBLY REACH AGREEMENT

We have identified five steps in the consensus building process: convening, clarifying responsibilities, deliberating, deciding, and implementing agreements. The key problems for ad hoc assemblies (as opposed to permanent entities) are organizational. Selecting the relevant stakeholders, finding individuals who can represent those interests effectively getting agreement on ground rules and an agenda, and securing funding are particularly difficult when the participants have no shared history and may have few, if any, interests in common.

STEP 1 -- **CONVENING**

1.1 Initiate a Discussion About Whether to Have a

Consensus Building Dialogue

Every consensus building effort needs to be initiated by someone or some group in a position to bring the key stakeholders together.

1.2 Prepare a Written Conflict Assessment

1.2.1. Assign Responsibility for Preparing the Conflict Assessment

Responsibility for preparing a written conflict assessment should be assigned to a neutral party. A contract for this work should be made between the convening entity and a neutral service provider. The convener should consult informally with other key parties in making the selection of a qualified conflict assessor.

1.2.2. Identify a First Circle of Essential Participants

The convener and the conflict assessor should identify the obvious categories of stakeholders with an interest in the issue or the dispute, as well as individuals or organizations that can represent those views. These are the individuals who should be interviewed at the outset of a conflict assessment. Each interviewee should receive a promise that nothing he or she says will be attributed to them or their organization, orally or in writing.

1.2.3 Identify a Second Circle of Suggested Participants

The first set of interviewees in a conflict assessment process should be asked to help identify a second round of individuals or organizations who might be able to contribute to or in some way block a consensus building effort. These individuals and organizations should be interviewed in the same manner as the first circle of participants.

1.2.4 Complete Initial Interviews

When individuals are interviewed for the assessment, whether by phone or in person, as part of a conflict assessment, they ought to be given an opportunity to review a written summary of what the assessor compiles as a result of the interview.

1.2.5 Prepare a Draft Conflict Assessment

A draft conflict assessment ought to include a clear categorization of all the relevant stakeholders, a summary of the interests and concerns of each category (without attribution to any individual or organization), an analysis of what the agenda, timetable and budget might be for a consensus building process, given the results of the interviews, and a proposal as to whether or not the assessor thinks it is worth going forward with a consensus building process.

1.2.6 Prepare a Final Conflict Assessment

Everyone interviewed as part of the preparation of a conflict assessment ought to receive a copy of the draft conflict assessment and be given adequate time to offer comments and

suggestions. The assessor ought to use this period as an occasion to modify the final conflict assessment in a way that will allow all the key stakeholders to agree to attend at least an organizational meeting, if a recommendation to go forward is accepted by the convening entity. The final conflict assessment ought to include an appendix listing the name of every individual and organization interviewed. In appropriate instances, the final conflict assessment ought to become a public document. If key stake holding groups refuse to participate, even in just one organizational discussion to discuss the conflict assessment, the process cannot go forward.

1.2.7 Convene an Organizational Meeting to Consider the

Recommendations of the Conflict Assessment

1.3 If a Decision Is Made to Proceed, Identify

Appropriate Representatives

Stakeholder groups and organizations should be invited to identify their own spokespeople. These are the individuals who should be invited to the organizational session.

1.3.1 Identify Missing Actors Likely to Affect the Credibility of the Process

If a decision to proceed is made at the organizational meeting, everyone in attendance ought to review the make-up of the group and try to identify missing actors whose absence would be likely to affect the credibility of a consensus building process. Those in attendance (in response to invitations from the convening entity) should work together to identify ways of identifying appropriate individuals to add to the group.

1.3.2 Use Facilitated Caucusing If Necessary

If the members of a stakeholder category are quite diffuse, or if the representation (i.e. selection of a spokesperson) of one category of stakeholders is challenged by another, a process of facilitated caucuses should be initiated. At such sessions -- either by invitation (from the convener) or on an open basis -- individuals or groups willing to represent a category of stakeholders can be selected by the relevant stakeholders. They should use super-majority voting (e.g. 65%) or select a representative by unanimous acclaim. It is often helpful to have a neutral facilitator or mediator organize and manage such caucusing sessions. Facilitated caucusing is the best way for a category of stakeholders to answer a charge made by others that their selection of a representative was flawed.

1.3.3 Use Proxies to Represent Hard-to-Represent Groups

If the participants in a consensus building process decide that it is important to find a way to represent a hard-to-represent or diffuse group, they may decide to invite proxy individuals or organizations to represent those interests. Representation by proxy must be agreed upon by all the other groups and individuals who agreed to participate, as must the selection of specific individuals or organizations that agree to accept such an assignment. Proxy representatives must agree to do their best to "speak for" a hard-to-represent category of stakeholders.

1.3.4 Identify Possible Alternate Representatives

If a consensus building process is likely to extend over several months or years, participants may decide to appoint alternates to stand in for them on occasion. The role and responsibility of alternates should be carefully defined in writing. Alternates, who attend on a regular basis, when their regular representative is also present, may be asked to play a less active role or to accept other restrictions on their involvement.

1.4 Locate the necessary funding

There are almost always costs associated with convening, preparing a conflict assessment, and implementing a consensus building process, if that is what the stakeholders decide to do. Sometimes these costs can be subsumed within the existing budgets of the convener and the participating stakeholders. Other times, funds have to be raised specifically to underwrite the consensus building effort.

STEP 2 -- **CLARIFYING RESPONSIBILITIES**

2.1 Clarify the Roles of Facilitators, Mediators, and Recorders

2.1.1 Select and Specify Responsibilities of a Facilitator or a Mediator

If a trained facilitator or mediator is going to be asked to assist the parties in a consensus building effort, it is important to select an appropriate individual acceptable to all the key stakeholders. It is also important to clarify, in writing, the facilitator's or mediator's responsibilities to the group. These services can be provided by an individual or a team.

2.1.2 Select and Specify the Responsibilities of a Recorder

A qualified recorder, if one is to be hired, must work in tandem with a facilitator or a mediator. The recorder also needs a written indication of his or her obligations to the

group. Usually, the recorder works with any other neutrals involved to produce draft-meeting summaries. In general, written summaries of all group decisions, as well as highlights of the dialogue (i.e., points of agreement and disagreement), should be circulated after each meeting for group approval.

2.1.3 Form An Executive Committee

If there are more than two categories of stakeholders involved in a consensus building effort (i.e., environmentalists, business interests, unions, etc.), it is useful to appoint an Executive Committee (with one person selected by each major category of stakeholders) to make decisions between meetings, approve the allocation of funds to support the effort, and be available to the facilitator or the mediator if logistical decisions must be made between meetings.

2.1.4 Consider the Value of a Chair

Even if a facilitator or a mediator is involved, it is helpful to appoint a chair (either of the Executive Committee or of the full assembly). This position can rotate if the dialogue goes on for an extended period. The primary responsibility of the Chair is to represent the process to the world-at-large. It is also appropriate to assign this function to the mediator or the facilitator and to forgo the appointment of a Chair.

2.2.6 Set Rules Regarding the Participation of Observers

Some consensus building processes will proceed on a confidential basis, depending on the content of the discussions. Many will proceed in a very public way. If sessions are open to the public, the rights and obligations of observers should be spelled out in writing as part of the ground rules endorsed by the participants. It is not inappropriate to allow observers a brief comment period at the end of some or all formal sessions. In some instances, uninvited observers may even be offered a larger role. It is crucial that rules governing the participation of observers be posted prior to any and all meetings and that they be enforced consistently by the facilitator, mediator, or chair. It is also important to take account of legal requirements regarding the used of closed meetings when public officials are involved.

2.3 Set an Agenda and Ground Rules

2.3.1 Get Agreement on the Range of Issues to be Discussed

If the agenda for a consensus building process is drawn too narrowly, some potential participants may have a good reason not to come to the table. If it is drawn too broadly, other participants will become discouraged, and may drop out, because the task facing the group seems overwhelming. While it is possible to add issues along the way (in response to new developments in the dialogue) and with the agreement of the full group, it is important to get concurrence on a sufficiently rich but manageable agenda at the outset. The completion of a conflict assessment, based on confidential interviews, is the best way to pinpoint the most important items to include on a consensus building agenda.

2.3.2 Specify a Timetable

It is important to be realistic about the amount of time it will take for a group that is not used to working together to reach agreement on the items to include on a complex work agenda. At the outset, a great deal of a group's time is usually spent clarifying procedural matters. Under such circumstances it is often necessary to "go slow to go fast." That is, it is not a good idea to rush through early procedural matters to get to the most difficult issues on the agenda. Early exchanges on peripheral issues may offer a good opportunity to begin building relationships and establishing trust. Success along these lines will provide a foundation on which the group can build. It is important for the full group to participate in setting a realistic timetable. In some instances, a group might be forced to set a target date for completion, and then build a work plan that fits that timetable.

2.3.3 Finalize Procedural Ground rules

The final version of the conflict assessment should contain a set of suggested ground rules. These should address procedural concerns raised in the interviews undertaken by the assessor. The suggested ground rules should be reviewed and ratified at the opening organizational meeting. Most ground rules for consensus building cover a range of topics including (a) the rights and responsibilities of participants, (b) behavioral guidelines that participants will be expected to follow, (c) rules governing interaction with the media, (d) decision-making procedures, and (e) strategies for handling disagreement and ensuring implementation of an agreement if one is reached.

2.3.4 Require All Participants to Sign the Ground Rules

At the outset of any consensus building process, every participant should be expected to sign the ground rules agreed to by the group. Copies of these ground rules should be sent directly to every organization or group that has designated a representative to participate in the process. Observers should be asked to sign the ground rules before they are allowed to attend meetings -- even those open to the public.

2.3.5 Clarify the Extent to Which Precedents Are or Are Not Being Set

One of the reasons people engage in consensus building efforts is to formulate tailored solutions to whatever problem, issue or dispute they face. It is important that the participants in these processes feel free to generate plans or solutions that fit their unique circumstances. If everyone agrees that no precedent will be set, it is usually easier to convince reluctant groups or organizations to participate. Moreover, this allows future consensus building processes to proceed unimpeded.

2.4 Assess Computer-based Communication Options

Determine how computer technologies will be used during deliberations. Create e-mail mailing lists, web-based conferencing capabilities, and list servers as needed. Assess participant access to computers and internet connections and respond appropriately to any disparities that exist.

2.5. Establish a Mailing List

Once a consensus building process is underway, some groups or individuals eligible to participate may decide not to attend on a regular basis, or not to participate at all. These individuals, as well as any other members of a stakeholder organization or category, should be added to a mailing list so that they can receive either periodic progress reports or regular meeting summaries.

STEP 3 --- **DELIBERATING**

3.1 Pursue Deliberations in a Constructive Fashion

3.1.1 Express Concerns in an Unconditionally Constructive Manner

It is important to maintain a problem-solving orientation, even in the face of strong differences and personal antagonism. It is in every participant's best interest to behave in a fashion they would like others to follow. Concerns or disagreement should be expressed in an unconditionally constructive manner. That is, there should be a premium on reason giving and explanation. Those who disagree with the direction in which the discussion is headed should always explain the basis for their disagreement.

3.1.2 Never Trade Interests for Relationships

No one in a consensus building process should be pressed to give up the pursuit of their best interests in response to the "feelings" or the "best interests" of the group. Thus, no one should be asked to give up his or her interests to ensure harmony or the success of the process.

3.1.3 Engage in Active Listening

Participants in every consensus building process should be encouraged (indeed, instructed, if necessary) to engage in what is known as active listening -- a procedure for checking to be sure that communications are being heard as intended.

3.1.4 Disagree Without Being Disagreeable

Participants in every consensus building process should be instructed to "disagree without being disagreeable." This dictum should probably be included in the group's written ground rules.

3.1.5 Strive for the Greatest Degree of Transparency Possible

To the greatest extent possible, consensus-building processes should be transparent. That is, the group's mandate, its agenda and ground rules, the list of participants and the groups or interests they are representing, the proposals they are considering, the decision rules they have adopted, their finances, and their final report should, at an appropriate time, be open to scrutiny by anyone affected by the group's recommendations.

3.2 Separate Inventing From Committing

3.2.1 Strive to Invent Options for Mutual Gain

The goals of a consensus building process ought to be to create as much value as possible and to ensure that whatever value is created is divided in ways that take account of all relevant considerations. The key to creating value is to invent options for mutual gain. This is best done by separating inventing from committing -- engaging in cooperative behaviors that "make the pie larger" before giving in to competitive pressures "to get the most for one's self."

3.2.2 Emphasize Packaging

The best way to create value is by packaging multiple issues and sub-issues. If parties "trade" items or options that they value differently and bundle them together properly, they ought to be able to help most, if not all, stakeholders exceed the value of their most likely "walk away" option. If that is not possible, than no agreement is likely; indeed, agreement may well be inappropriate.

3.2.3 Test Options by Playing the Game of "What If?"

The most important technique for creating value is the exploration of options and packages using "what if?" questions. Sometimes these are best asked by a neutral party (and sometimes they may need to be asked confidentially) before stakeholders will feel comfortable answering them.

3.3 Create Subcommittees and Seek Expert Advice

3.3.1 Formulate Joint Fact-finding Procedures

If left to their own devices, the participants in a consensus building process will produce their own version of the relevant facts (or technical data) consistent with their definition of the problem and their sense of how the problem or issue should be handled. This often leads to what is called "adversary science." It is better if all the participants can agree on the information that ought to be used to answer unanswered or contested questions. An agreement on joint fact-finding should specify (a) what information is sought, (b) how it should be generated (i.e., by whom and using which methods), and (c) how gaps or disagreements among technical sources will be handled. It is perfectly reasonable for there to be agreement on facts while substantial disagreement on how to interpret such facts remains.

3.3.2 Identify Expert Advisors

It is often helpful to supplement ad hoc consensus building discussions with input from expert advisors. Such individuals should be selected with the concurrence of the participants, and in response to the needs of the group. Typically, a neutral party assisting the process should be in touch with expert advisors before, during, and after their involvement to ensure that they understand the objectives of the consensus building effort and that they offer their advice in a form that will be most helpful to the group.

3.3.3 Organize Drafting or Joint Fact-finding Subcommittees

Joint fact-finding should be handled by a subcommittee or a working group appointed by the full set of participants in a consensus building process. Fact-finding should be viewed as an opportunity to learn more about the issues under discussion; thus, not only the most technically sophisticated participants should be assigned to these sub-committees or working groups. Subcommittees should have a clear mandate. They should not be decision-making bodies; instead, they should bring information and alternative policy choices back to the full group.

3.3.4 Incorporate the Work of Subcommittees or Expert Advisors

The findings of subcommittees or expert advisors should be viewed as only one input into a consensus building process. Differences in interpretation as well as conflicting interests among the participants often mean that the work of sub-committees or expert advisors will not lead to agreement. It is important, nevertheless, to tap the best available technical sources.

3.4 Use A Single Text Procedure

3.4.1 Draft Preliminary Proposals

Often, the best way to focus a consensus building dialogue is to provide a set of preliminary proposals to focus the conversation. Each set of proposals should deal with an item on the agenda and present the widest possible range of ideas or options. Preliminary proposals can be prepared by the facilitator or the mediator. They can also be prepared by a proposal drafting sub-committee that includes members of each key category of stakeholders. Preliminary proposals are meant to focus conversation, not end it.

3.4.2 Brainstorm

Brainstorming is an important step in a consensus building process. Whether undertaken by a sub-committee or the full group, brainstorming should seek to expand the range of proposals considered with regard to each agenda item. Brainstorming should also be used to generate packages that incorporate trade-offs among agenda items.

3.4.3 Withhold Criticism

The best way to encourage brainstorming is to adopt a formal ground rule that urges participants to withhold criticism when new options are suggested. The withholding of criticism should not be viewed as an indication of support or agreement; it is, however, the best way to encourage creative thinking.

3.4.4 Avoid Attribution and Individual Authorship

Consensus building is best viewed as a group enterprise. When individuals or a single group insists on claiming authorship of a particular proposal (i.e. in an effort to enhance its standing with its own constituents), they are likely to provoke criticism or counter-proposals. Consensus is much more likely to emerge if participants avoid attributing or claiming authorship of specific ideas or packages.

3.4.5 Consolidate Improvements in the Text

As the dialogue proceeds, participants should focus on "improving" a consolidated text prepared by a drafting subcommittee or a neutral party. Avoid competing texts that seek to maximize the interests of one or just a few parties. When changes to a text are made, do not indicate where they originated. All revisions to the single text need to be acceptable to the group as a whole.

3.4.6 Search for Contingent Options

As the discussion proceeds, participants should search for ways of bridging differences by suggesting contingent agreements. Using an "if...then" format is likely to be helpful. That is, if a group is opposed to the prevailing draft of a recommendation or a consolidated agreement, then it should suggest the changes necessary for it to accept that proposal.

3.5 Modify the Agenda and Ground Rules (if necessary)

3.5.1 Reconsider the Responsibilities, Obligations and Powers of Sponsoring Agencies and Organizations

During the course of a consensus building process it is not inappropriate to re-visit the assignment of responsibilities and obligations of sponsoring agencies and organizations set by the participants at the outset. Changes should only be made if consensus can be reached on suggested revisions.

3.5.2 Reconsider the Obligations and Powers of Late Arrivals

During the course of a consensus building process, as unanticipated issues or concerns arise, it may be desirable to add new participants. With the concurrence of the group, representatives of new stake holding groups -- attracted or recruited because of the emerging agreement or shifts in the agenda -- can be added. The obligations and powers of late-comers (especially with regard to requesting that issues already covered be reconsidered) should be reconsidered by the full group upon their arrival. Changes in the agenda or the ground rules should only by made with the concurrence of all parties.

3.6 Complete Deliberations

STEP 4 --- **DECIDING**

4.1 Try to Maximize Joint Gains

4.1.1 Test the Scope and Depth of any Agreement

The results of every effort to maximize joints gain should be continuously assessed. This is best accomplished by having a neutral party ask whether the participants can think of any "improvements" to the proposed agreement. In addition, it is important to ask whether each representative is prepared to "sell" the proposal to his or her constituents and whether each can "live with" the group's recommendation.

4.1.2 Use Straw Polls

Even groups that agree to operate by consensus (or unanimity for that matter!) may find straw polls helpful for testing the scope of agreement along the way. When such polling devices are employed, it is important, each time they are used, to explain that the results are intended to explore the scope agreement that has or has not been reached, and not to seek commitments.

4.1.3 Seek Unanimity

It is appropriate to seek unanimity within the time frame set by a consensus-building group.

4.1.4 Settle for An Overwhelming Level of Support

It is appropriate to settle for an overwhelming level of support for a final recommendation or decision, if unanimity cannot be achieved within the agreed upon time frame. While it is not possible to specify an exact percentage of support that would constitute an overwhelming endorsement, it would be very hard to make a claim for consensus having been reached if fewer than 90% of the participants in a group were not in agreement.

4.1.5 Make Every Effort to Satisfy the Concerns of Holdouts

Prior to making its final recommendation or decision, a consensus-building group should make one final attempt to satisfy the concerns of any remaining holdout(s). This can be done by asking those who "cannot live with" the final recommendation or decision to suggest a modification to the package or tentative agreement that would make it acceptable to them without making it less attractive to anyone who has already expressed support for it.

4.2 Keep a Record

4.2.1 Maintain a Visual Summary of Key Points of Agreement and Disagreement

It is important for a recorder to keep a written record of a consensus building dialogue. This is best done in a form that is visually accessible to all participants throughout the process. It is not necessary to keep traditional minutes of all discussions as long as key points of agreement and disagreement are captured in writing.

4.2.2 Review Written Versions of All Decisions Before They Are Finalized

A written draft of the final report of a consensus building process should be circulated to all participants before they are asked to indicate support or opposition.

4.2.3 Maintain a Written Summary of Every Discussion For Review by all Participants

A written summary of every formal group discussion should be kept, even after a final report is produced by a consensus-building group. Such an archive can be important to the credibility of the group's recommendation and can help to clarify the group's intent should problems of interpretation arise later.

STEP 5 -- **IMPLEMENTING AGREEMENTS**

5.1 Seek Ratification by Constituencies

5.1.1 Hold Representatives Responsible for Canvassing Constituent Responses to a Penultimate Draft

The participants in a consensus building process should be asked to canvass the response of their constituents to the draft of the group's final report. Copies of the draft should be circulated with sufficient time for the members of the group or organization to let their representative know how the report might be improved.

5.1.2 Hold Representatives Responsible for Signing and Committing to a Final Agreement in their Own Name

At the conclusion of a consensus building process, the participants should be asked to endorse the final report if there is one. Representatives should be responsible for endorsing the proposal in their own names even if their organization or group is not able to commit collectively. A signature should be interpreted as a commitment to do everything possible to assist with implementation, if an agreement was reached.

5.1.3 Include the Necessary Steps to Ensure that Informal Agreements are Incorporated or Adopted by Whatever Formal Mechanisms are Appropriate

Often the results of a consensus building process are advisory. Sometimes they must be ratified by still another set of elected or appointed officials. Any agreement resulting from a consensus building process should contain within it a clear statement of the steps that will be taken to ensure that the informal agreement will be incorporated or adopted by whatever formal means are appropriate. For example, informally negotiated agreements can be stipulated as additional conditions when a permit granted by a government agency. This must be done according to the rules of the permitting agency.

5.1.4 Incorporate Appropriate Monitoring Procedures

Negotiated agreements must often be monitored to ensure implementation. Responsibilities and methods for overseeing implementation should be specified in the written report of any consensus-building group.

5.1.5 Include Re-opener or Dispute Resolution Procedures

Any agreement reached by a consensus-building group should include within it a mechanism by which the participants can be re-assembled if a change in circumstances or a failure on the part of one or more participants to live up to their commitments suggest that another meeting is necessary. Appropriate dispute resolution procedures (and ways of activating them) should be described in the agreement or report.

PART II

HELPING A PERMANENT GROUP OR ORGANIZATION REACH AGREEMENT

The same five consensus building steps apply when dealing with permanent groups, although there is a sixth step -- organizational learning -- that needs to be added. Permanent groups or organizations are likely to have well-established decision-making procedures. This can be an advantage in that less time should be needed to reach agreement on how the group should operate. At the same time, resistance to change may be a new source of difficulty. An organization that has historically operated in a top-down management style may have a heard time adapting to a consensus building approach. A shared commitment to the long-term well being of the organization, however, can provide common ground on which to build.

STEP 1 -- **CONVENING**

Key Differences:

-- Less of a problem getting started, routines are known

-- Less mistrust of the convener’s motives (all part of the same group)

-- Greater clarity about who needs to be involved

-- Less difficulty launching a conflict assessment

-- More experience with each other to build on

STEP 2 -- **CLARIFYING RESPONSIBILITIES**

Key Differences:

-- Less inclined to use an external professional neutral unless an impasse is reached

-- Greater acceptance of the legitimacy of other participants

-- Less of a problem to clarify responsibilities because of past experience

STEP 3 -- **DELIBERATING**

Key Differences:

--- More experience dealing with each other; could cut either way (making it easier or harder to reach consensus depending on past experience)

-- More experienced with consensus building techniques

-- Presumably improvements have been made based on past experience

-- Involvement in long-term relationship might lead parties to put greater value on maximizing joint gains

STEP 4 -- **DECIDING**

Key Differences:

-- Greater respect for needs of other parties; awareness that each person could be the odd-person-out the next time; may lead to an emphasis on reason giving and an appeal to objective criteria

-- Commitments may be viewed with less skepticism because long-term relationships are in play (not necessarily)

-- Impossible not to set at least informal precedent

STEP 5 -- **IMPLEMENTING AGREEMENTS**

Key Differences:

--- Long-term relationships increase the focus on implementation

--- Dispute resolution procedures may already be in place

--- Past experience with each other may make it harder to get believable implementable agreements

STEP 6 -- **ORGANIZATIONAL LEARNING AND DEVELOPMENT**

Key differences:

--- Clear need to invest in Organizational Learning

--- Payoff of organizational development work is clear

Invest in Organizational Learning

For groups that will continue to work together, it is important to set aside time to reflect collectively on what can be learned from each episode in the group's history. Time should be set aside, periodically, to determine which features of the group's activities have worked well and which have not. Organizational learning can be assisted by qualified neutral parties.

Invest in Organizational Development

The lessons of organizational learning will not lead automatically to increased group capacity or improved decision-making. Training and other organizational development efforts must be made. These will require the time and attention of all participants to be effective. Organizational development can be assisted by qualified outside consultants.

PART III.

DEALING WITH THE BARRIERS TO CONSENSUS BUILDING

Both temporary and permanent groups and organizations are likely to encounter certain predictable obstacles to consensus building. It is important that both groups handle these obstacles with great care.

7.0 Respond To Disruptive Behavior

If a participant or an observer of a consensus building process acts in a disruptive manner, the facilitator, mediator, or chair -- whoever is managing the meeting -- should remind that individual of the procedural ground rules they signed. If that does not result in the desired change in their behavior, they should ask the participants with the closest ties to the disruptive party to intercede on behalf of the group. If that, too, fails to deter the disruptive individual, it may make sense to adjourn the meeting temporarily and allow the group as a whole to convince the disruptive person to either alter his or her behavior or leave. If that fails as well, participants should not be afraid to contact the relevant civil authorities and ask for assistance in removing the individual involved.

8.0 Accept An Advisory Role if that is all that is allowed

In many instances, both in the public arena and inside private organizations, consensus-building groups are often granted only advisory, not decision-making, power. Formal decision-making may still reside with elected or appointed officials or officers. This need not diminish the contribution that a consensus building effort can make. From the standpoint of a decision-maker, it is always helpful to know which options or packages are likely to have the full support of all the relevant stakeholders. Moreover, if those with decision-making authority are involved in a consensus building effort -- or, at last, kept apprised of its progress -- they may feel sufficiently comfortable with the result to endorse it.

9.0 Clarify the Presumed Liability of the Participants

If the participants in a consensus building process are dealing with confidential or proprietary information that could create legal liability, the scope of this liability should be stated in the invitation to participate extended by the convener, and be explained in the ground rules governing the group's operations.

10.0 Clarify Confidentiality Arrangements

There are legitimate reasons for consensus building processes, however public they may be, to adopt confidentiality arrangements. Both the arrangements and the rationale for adopting them should be spelled out in the group's ground rules. These arrangements must take account of open meeting and sunshine laws if public officials are involved.

11.0 Clarify Legal Obligations if the

Participants are Simultaneously Involved in Pending Litigation

If a consensus building effort is meant to resolve issues that are simultaneously the subject of litigation, the participants in the informal dialogue should be apprised (by counsel) of their legal rights and the impact that informal consensus building conversations might have on the legal proceedings, and vice versa. They should also approach the judge or adjudicating body to talk about the best way of coordinating the two processes.

12. 0 Clarify the Extent to Which Precedents Are or Are Not Being Set

One of the reasons people engage in consensus building efforts is to formulate tailored solutions to whatever problem, issue or dispute they face. It is important that the

participants in these processes feel free to generate plans or solutions that fit their unique circumstances. If everyone agrees that no precedent will be set, it is usually easier to convince reluctant groups or organizations to participate. Moreover, this allows future consensus building processes to proceed unimpeded.