



11.255 Negotiation and Dispute Resolution in the Public Sector

Spring 2021
Class #18

+ Debriefing

- What outcomes did each group achieve?
- What were the most significant barriers to reaching agreement, and how did your group try to overcome them?
- Did the mediator help? Would you have reached an agreement without the help of the mediator? Would parties have been equally satisfied with the result, if a mediator had not been involved?

What are the most important lessons from this game?

+ The accountability problem

- To whom and how should environmental mediators be held accountable?
- What makes public sector (e.g. environmental) disputes so different from more traditional conflicts (e.g. labor issues)?
- What criteria can we use for evaluating these mediation efforts?

+ The accountability problem

- Who represents *diffuse and inarticulate interests*?

- What has changed in public sector mediation in the last 30 years?
 - Professional association
 - Legal framework
 - Agency buy-in and public awareness

+ Principled negotiation

- Results must appear fair to the community
- Results are Pareto optimal
- Results are consistent with principles reflecting pre-existing practice
- Agreement sets a good precedent
- Agreement reached quickly and at low cost
- Improves rather than worsens relationships among parties
- Parties readily accept the outcomes and stand by their commitments

+ Activist mediation

In the next 2 min place a  next to the questions that you find most challenging and a  next to the ones you would be confident answering now

- What does it mean to take an activist mediation approach?
- What might be some of the problems associated with taking an activist approach?
- How might these problems be overcome?
- How should we decide whether a power imbalance requires an activist approach, and when not?
- What does it mean to be neutral when taking an activist mediation approach?
- Can planners act as effective mediators? Why or why not?
- What other professionals might serve as activist mediators?

+ Activist mediation

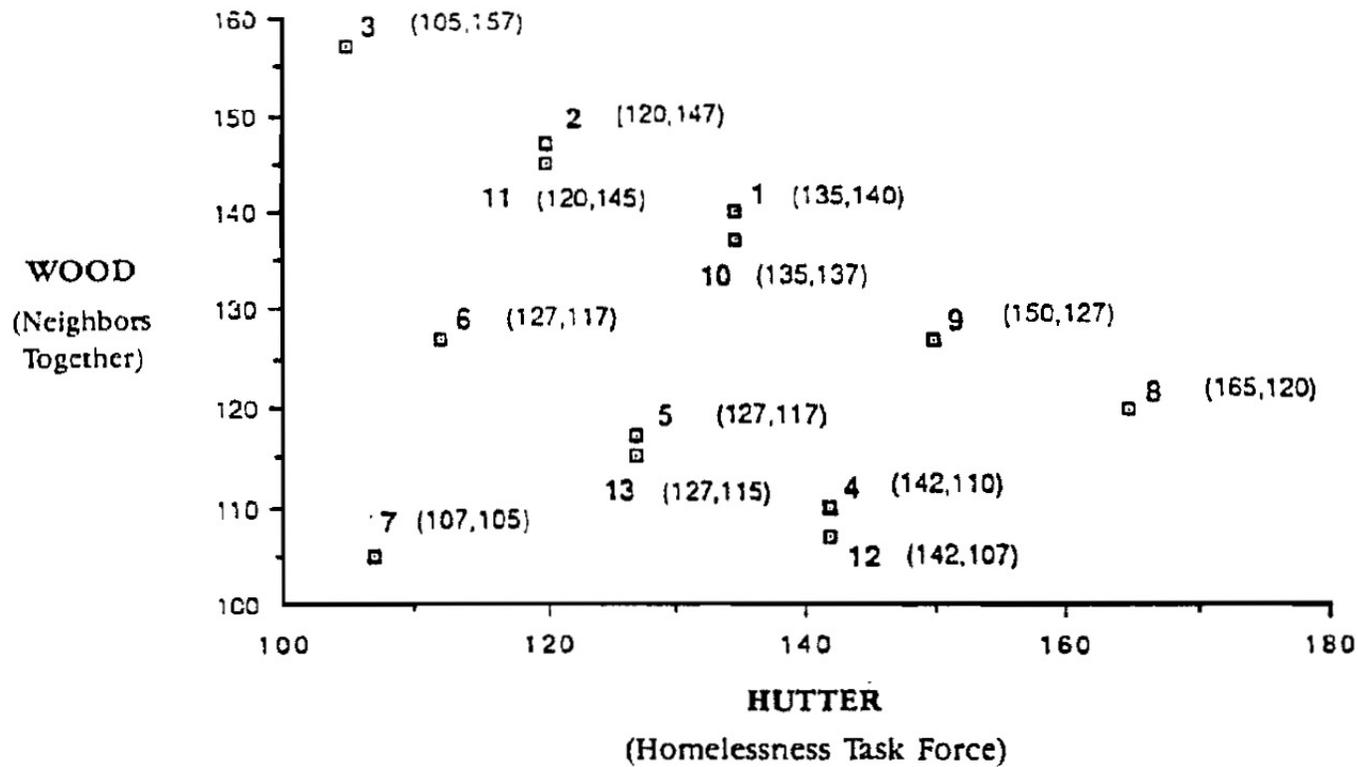
TABLE 1
Mediation Strategies in the Face of Power

	Power Balanced	Power Unbalanced
Neutral Mediator	Fair process Impartiality Affected parties assumed to be represented? Legitimation of outcome by process	Fair process Impartiality Exclusion of affected interests, thus unstable? Legitimation of outcome by process Power imbalances perpetuated
Activist Mediator	Balances information and participation Seeks representatives for any affected parties not present Possible perception of bias Can mediator maintain role?	Balances information and participation Seeks representatives for affected parties not present Possible perception of bias Can mediator maintain role? Can mediator empower weaker party?

Forester and Stitzel (1989), Pg.256

+ Activist mediation

FIGURE 1
Possible Agreements in Westville



Forester and Stitzel (1989), Pg.259

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