

Leopold Fellows: Negotiation Workshop

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Program Overview

- Negotiation and Joint Decision making
 - Theory of Negotiation
 - Theory of Decision making
- Beaufort Sea: Multiparty Negotiation
 - Same-role preparation [Lunch]
 - Negotiation

Decision Making Skill Agenda

- Theory: 3-D negotiation fundamentals
 - Mapping parties
 - Interests v. rights
 - “BATNA”: Best Alternative to Negotiated Agreement
- Theory: Overview of structured decision making
- Process Design: ADR Spectrum
- Application: The Fountain

Goal: Create and Claim Value for the Long Term

3-D Negotiation*

- 1st dimension: Tactics “at the table” - focus on people and process
- 2nd dimension: Deal design “on the table” - focus on value, substance, outcomes
- 3rd dimension: Setup “away from the table” - focus on architecture

* *3-D Negotiation: Powerful Tools to Change the Game in Your Most Important Deals, Lax & Sebenius (2006)*

Third Dimension

- Shaping the architecture of the negotiations
 - Parties
 - Issues
 - No-deal alternatives
 - Process
- Influencing the pace and shape of negotiation by sequencing approach

First Dimension

- Psychological, interpersonal, tactical and stylistic moves that focus on the interaction among the parties and the process of engagement
 - Watch the other side's problem
 - Improve communication
 - Build trust
 - Counter hardball ploys
 - Bridge cross-cultural divides

Second Dimension

- Diagnosing the economic and non-economic, short term and long term interests that underlie the substance of agreement
 - More than price and positions
 - Exploit differences in preferences, expectations, abilities, resources, risk tolerance, reputational needs
 - Monitor BATNAs

Structuring the Decision Process

- Work on the right decision PROBLEM
- Specify your OBJECTIVES
- Develop creative ALTERNATIVES
- Understand the CONSEQUENCES – how well do the alternatives satisfy your objectives?
- Work the TRADEOFFS – what are your priorities and how do you manage the tradeoffs among competing objectives?
- Clarify your UNCERTAINTIES
- Examine your RISK TOLERANCE
- Consider LINKED DECISIONS

Hammond, Keeney and Raiffa “Smart Choices”

PROBLEM

- Be creative in defining the decision problem
- Turn problems into opportunities
- Note what triggered the decision
- Question assumed constraints
- Consider scope and perspective

OBJECTIVES

- These form the basis for evaluating the alternatives
 - Help determine what information you need
 - Help explain your choice to others
 - Establish the decision's importance
- Sketch whole list of concerns you hope to address through your decision.
- Convert concerns into succinct objectives, with a verb and object -- distill the list.
- Distinguish ends and means to identify fundamental objectives. Ask “why”? Means objectives help stimulate alternatives. Ends objectives become criteria to evaluate and compare alternatives.
- Review your objectives: do they capture all your interests?

ALTERNATIVES

- Start with your objectives: “what are possible courses of action we have to achieve these objectives?”
- Challenge constraints
- Consider process alternatives
- Consider information-gathering alternatives
- Consider time-buying alternatives

CONSEQUENCES

- What are the consequences of each alternative against your objectives?
- Describes consequences with accuracy, completeness and precision
- Prepare a consequence table
 - Construct a scale that measures your objective: dollars; time; area; heavy/moderate/light; excellent/adequate/poor; expensive/modest/low; ++/+/0/-.

TRADEOFFS

- One alternative will be better on some objectives than another
- Find and eliminate dominated alternatives – including practical domination
- Use your consequence table, then assess for dominated alternatives and even swaps to simplify your decision
- EXAMPLE

UNCERTAINTY

- Notwithstanding your careful selection of an alternative, you won't know the full consequences until after the decision
 - What are the all the key uncertainties? Consider one at a time.
 - What are the possible outcomes of these uncertainties? Categorize outcomes: mutually exclusive; collectively exhaustive and unambiguous.
 - What are the chances of occurrence of each outcome?
 - What are the consequences of each outcome?
 - Qualitative or quantitative description by objective
 - Decision trees.
 - EXAMPLE

RISK TOLERANCE

Risk tolerance: the willingness to take risk in seeking better consequences. If, like most people, you are risk averse, the downside will weigh heavier on your decision than the upside.

- Consider the relative desirability of the consequences of the alternatives you're considering
- Balance the desirability of the consequences with the chances of occurring
- Choose the most attractive option

LINKED DECISIONS

- Basic decision must be addressed now
- The desirability of each alternative in the basic decision is influenced by uncertainties
- Relative desirability is also influenced by a future decision
- An opportunity exists to obtain information, which could reduce the uncertainty in the basic decision and improve future decisions – but at a cost
- Keep options open with flexibility plans:
 - short cycle plans (reassess often)
 - option wideners (expand future alternatives)
 - all-weather (not optimal for any one situation, but likely to work well on average)

BIASES

- Anchoring: over-relying on initial ideas
 - View the problem from different perspectives
 - Develop own ideas, then seek information and opinions from a variety of people to widen your frame of reference
 - Prepare well
- Status Quo: strong bias toward alternatives that perpetuate the current situation
 - Remind yourself of objectives and examine how they would be served by status quo
 - Identify other options and use as counterbalances, evaluating pluses and minuses
 - Test status quo against alternatives
- Sunk Costs: costs (psychological or economic) expended in past
 - Recognize as irrelevant to future decisions
 - Seek out and listen to views and arguments of people not involved in earlier decision
- Confirming evidence
 - Be honest about motives
 - Ask for respected person to play devil's advocate
 - Expose yourself to conflicting information
- Overconfidence

PROCESS DESIGN

- Consider importance of the process by which the decision is made
 - Decision rule: Coin toss? Auction? Lottery? Vote? Consensus? Binding arbitration?
- Importance of process characteristics -- people more likely to accept unfavorable outcomes if they find the process acceptable:
 - Negotiate process before focusing on substantive outcomes
 - Engagement: involving individuals, asking their input and allowing them to refute the merits of each other's ideas and assumptions
 - Explanation: Everyone involved and affected should understand why the final decisions are made as they are
 - Expectation clarity: once decision made, it is clearly understood what the new standards, targets, roles and responsibilities are

OVERVIEW OF DISPUTE RESOLUTION PROCESSES

NEGOTIATION

- no third party neutral;
non-binding

MEDIATION

- third party neutral;
non-binding

BINDING ARBITRATION

- third party neutral;
binding

TRIAL

- third party neutral (judge);
binding

HYBRIDS

- EARLY NEUTRAL EVALUATION
- MINI-TRIAL
- SUMMARY JURY OR BENCH TRIAL
- NON-BINDING ARBITRATION
- MED-ARB

The Fountain

- Multi-party, multi-issue joint decision making exercise
- Parties:
 - Justice Ed Tigner Memorial Trust
 - Freedom County Finance Director
 - Save the Water Community Action Group
 - Superior Court Judges
 - Liberty City Beautification Group
- Issues:
 - Design
 - Funding
 - Maintenance

The Fountain

- 5:50 – 6:00 -- Prepare: read role, identify your interests and others' likely interests/priorities. What issues to negotiate and possible options for consideration.
- 6:00 – 6:30 – Negotiate
- 6:30 – 6:50 – Debriefing
- 6:50 – 7:00 – Synthesis

Multi-party, Multi-issue Negotiations

- Central Tasks for Leading Advocate
 - Frame problem to be solved to engage participants
 - Envision and build a sustainable “winning coalition”
 - Deal with potential “blockers”

Prepare

- Interests? Priorities?
- Bottom line? Target?
- Other parties' interests, limits, targets?
- Likely allies? Adversaries?
- Potential agreements?
- Likely leaders? Who is most influential?
- Mediators? Spoilers?
- Pre-meeting moves?
- Process plan?

Make Effective Process Choices

- Set proper atmosphere
- Use visual aids to guide group
- Seek process “buy-in”; ground rules; decision rule
- Elicit interests, not positions
- Consider use of third-party neutral to facilitate or mediate