



Keeping Minnesota Nice

Or Troubled Towns: what they are, why do we care and what can we do?

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Intelligence

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ASSOCIATION OF GOVERNMENTAL RISK POOLS

How pools can influence public engagement

By Dan Greensweig, League of Minnesota Cities Insurance Trust; Irene Kao, League of Minnesota Cities; and Aimee Gourlay, Mitchell Hamline School of Law

Town hall meetings. Public hearings. Open houses. Transparency and debate. It's the stuff of democracy and the foundation of self-governance. What's not to love?

Unfortunately, quite a bit. Many of our long-established forms of public engagement in local government are not only less than ideal for accomplishing our true goals, in some cases the traditional structure and format for public discourse are counterproductive.

The laws mandating and regulating public discourse are focused on procedure instead of outcome. Put a notice in the paper, let people use the microphone for a few minutes, make sure the governing body has its conversation in public, provide access to decision-making materials, and call it good. Whether these rituals do anything to inform or engage the public, or encourage productive conversation by the governing body, is often secondary to performing them correctly.

This is all fine and good for civics class, but why does it matter to pools serving public entities?

Two reasons:

① Public engagement and governance practices gone wrong can create unnecessary conflicts or hinder resolution of the natural conflicts that sometimes arise. Although some disagreement within public decision making is acceptable, and even welcome, too much conflict can prevent a public body from performing its critical duties.

When that happens, conflict quickly starts to cost real money. Taxpayers see inefficiencies. Pools see an



increased likelihood of employment and law enforcement liability claims, land use disputes, litigation over alleged discrimination in public services, and a host of other risks that can be difficult to defend.

In today's world, it doesn't take long for a public entity member in crisis to rack up \$1 million or more in loss costs, while at the same time losing its credibility among constituents.

② Most of us in the pooling world work in the public sector environment because we believe in local governance, public purpose, and what our members do. We succeed when our members succeed.

It's therefore our goal to help members avoid the unnecessary struggles and suffering that can result from poor public engagement or governing processes. We can do this by giving local public officials, whether elected or appointed, tools to meet their decision-making needs.

Improving public engagement

Positive public engagement is most likely when there is two-way conversation between the public entity and its stakeholders, tailored to the situation. The mutuality of conversation is a critical aspect of successful public engagement.

The Knight Foundation's [Soul of the Community](#) study found merely "attending a public meeting was more likely to reduce a person's sense of efficacy and attachment to community than to increase it."¹

And, a 2014 publication of the Mitchell Hamline School of Law, "[Direct Public Engagement in Local Government](#)," suggests interactions in advisory committees or workshops allow "participation [that] can help people learn about issues, form more consistent and durable opinions, and improve their civic skills and dispositions, including political interest public spiritedness, trust in government, political efficacy, and deliberative competence." The same publication found "traditional engagement approaches such as meetings and hearings seem to have a low impact... on individuals, communities and government and governance."

Given the value and importance of effective, meaningful public engagement, how can a pool help its members with engagement efforts?

At the most basic level, pools can help raise awareness and share the extensive materials on public engagement strategies that already exist. Pools can encourage and connect their members with people and entities actively working on effective methods of public engagement.

Colleges and universities typically have faculty and students involved in public administration and related programs who are looking for opportunities to take on real world issues. Community foundations and other non-profits may offer funding or assistance to build public participation in a host of areas.

Some public engagement materials are tailored for specific audiences and situations. For example, the US Department of Transportation has resources available on [public engagement in transportation and transit planning](#) and many state DOTs do, as well. A variety of resources from both state and federal agencies can be found through a simple internet search on "public engagement"

¹ Matt Leighninger, Three Minutes at the Microphone in THE WORKING GRP

What makes engagement meaningful?

- Opportunities for stakeholders to develop knowledge in order to make informed choices or give feedback
- Clarity and transparency in decision-making process(es)
- Community empowerment and support
- Effective conflict management
- Enhanced communications between decision-makers and public groups
- Improved decisions based on shared understanding

and the public interest topic at hand.

Because there is a limit to the time and money even the most committed public entity can devote to engagement efforts, one of the ways a pool can help its members is by providing education and guidance about situations when it is most important to build a robust engagement process. While specific evaluation of that question will depend on local conditions, interests, and controversies, a good rule of thumb is that it's especially important to make extra engagement effort:

- For complex project issues
- When decisions might impact specific sub-groups within a community
- In situations where there is specific or concentrated controversy around issues
- When seeking to build integrated solutions with multiple partners
- To build consensus around possible solutions

Effective public engagement isn't always easy. It's not always pleasant, and it's not always efficient. The effort itself, though, is a critical part of building public support for important decisions, and in building trust between the people making the decisions and the public they serve. That credibility makes for better public policy and, ultimately, better public risk management.

Pools familiar with public engagement resources that assist members in this way not only help support better decision making to decrease public entity risks, they enhance their image as active partners interested in resolving important member-level issues.

Managing public conflict

Strong public engagement is good for decision making, which is good for public entities and the pools that serve them. But not every engagement of public interests and input will have immediate, positive impact. Sometimes engagement creates (or unearths) disruption and conflict.

With the rise of technology and ease of communication through a range of media that would have been unimaginable a generation ago, citizen concerns might be expressed publicly before or instead of through conversation with public officials. More people have opportunity and venue to offer their thoughts; as such, multiple perspectives or values about a controversial issue can be given voice very quickly.

Public commentary that takes place via social media can be specific but indirect, which might cause public entity elected and appointed officials to:

- Attempt to “set the record straight”
- Focus on communicating their perspective rather than listening to others
- Convince the “other side” they are wrong or have misapplied the facts
- Ignore commenters as unimportant, self-centered, power hungry or ill informed
- Solve the underlying problem as quickly as possible to avoid further conflict

In a polarized situation, both sides may quickly settle into an adversarial set of assumptions about the other, before exploring whether they have overlapping interests or can come to shared understanding. And once a person starts down an adversarial path and becomes positional, it is very difficult to change course.

In this kind of circumstance, it might be tempting to default to traditional process-oriented public engagement models because they allow debate over “rightness” and a decision based upon the most correct course of action. But traditional engagement choices risk escalating the levels of conflict, ultimately making public decisions even more difficult.

Public engagement beyond traditional meetings is critical in conflict scenarios to create relationship-based

conversations rather than a mere trading of facts and accusations. Relationship-based engagement processes produce doable and durable public decisions, especially in a polarized situation.

Two-way conversations can be challenging for officials who are used to being in control and have the responsibility to make decisions for the public benefit. **A pool can help by identifying possible resources and strategies to improve the odds of success. Here are a few ideas:**

- Develop and deliver a training course on collaboration and listening skills for public officials, or partner with another organization that offers this service to train your members.
- Identify facilitators your members can use during public meetings likely to be contentious, so elected officials can fully participate and not have to worry about managing process.
- Engage retired local officials to serve as troubleshooters for members dealing with conflict situations. One idea is to have a seasoned, retired official meet in a study session or informal forum (keeping in mind any requirements for open meetings), where a high conflict issue can be talked through with less stress and by someone who has “been there, done that.”
- Develop an engagement planning tool based upon specific scenarios that present common areas of risk within your pool’s membership. Include key steps and a time line so members appreciate the need to adequately allow for discussion with key stakeholders, a variety of input methods, partnership with community groups to share responsibilities and outcomes, and other important engagement strategies.
- Develop relationships with universities, state agencies, and nonprofits that offer engagement and mediation services, and regularly communicate the availability of those services to your members.
- Provide problem solving resources to members *before* litigation is commenced.
- Implement appropriate conflict resolution strategies on behalf of members that have been sued.

When the governing body suffers from conflict

Unfortunately, there are examples of conflict between members of governing bodies, themselves, that create serious risk concerns. A governing body divided over the job performance of its top appointed official might take employment action on a split vote, with some members making public comments along the way and resulting in an employment claim. Or maybe there's threatened litigation because of land use decisions that have been made, reevaluated, changed, reviewed, and restored over the course of multiple public hearings, various committee decisions, and rising frustration levels. You can probably think of examples within your own pool membership.

As a general rule, a governmental body has reached an unacceptable level of conflict if it can no longer make timely and justifiable decisions, run professional meetings, deal appropriately with the public, maintain constructive relationships with employees, or provide the services that form the entity's core purpose.

In cases where conflict within the governing body has become unproductive, there are several strategies a pool might implement to help its member get back on track. Making the member aware the pool is monitoring problems might be enough to help things resolve. When a member has just begun to drift into troubled waters, the officials and staff might not know they're becoming outliers. A gentle reminder from the pool – essentially a collection of peers – can serve as a wake up call to right the ship.

Some conflicts arise because an organization is confronted by a specific, practical problem that it lacks the skills or the resources to solve. For example, a public entity might find itself wrestling with a complicated financial question where the issue isn't disagreement over a proposed solution, but an inability to even figure out the solution in the first place. Elected officials may get frustrated or overwhelmed, which can lead to arguments, hurt feelings, and rash decisions. Once the underlying problem gets solved, though, the public body is quickly able to return to normalcy.

In this type of situation, the pool might help its member find and even pay for the resources necessary to address the problem. If a member is having trouble figuring out how to pay for a solution to an infrastructure problem

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that's creating potential liability, it could be in the pool's best interest to pay for a finance person to lay out the member's options. It's often cheaper to fix a problem early on than it is to litigate conflict that's been allowed to fester.

Other conflicts between elected officials can be harder to resolve. Imagine a not-so hypothetical scenario with two elected officials who happen to be next door neighbors. One of them wants a permit to raise dogs. The other one hates the idea of living next to a kennel. The disagreement plays out over months of hearings and zoning proposals and letters to the editor and shouting matches at public meetings.

This kind of conflict can't be solved by hiring a specialist to figure out the solution, because there isn't one right answer; the problem involves personality conflicts and policy disagreements. In this kind of situation, the pool or its member might consider bringing in a professional mediator with expertise to help find resolution.

Many states have formal mediation programs. Programs might be independent non-profits, affiliated with universities or law schools, run by the state court system, or set up as a separate state agency. In Minnesota, for instance, the Legislature created the State Office of Collaboration and Dispute Resolution for the purpose of assisting the "government and citizens of Minnesota in using conflict resolution and collaborative process to address pressing issues of public interest." There are similar organizations in Oregon, Arkansas, New York, Texas, and most places in between.

Recognizing financial and other costs to the public that accompany dysfunction in government, many mediation agencies have resources designed specifically to address public policy questions. Pools might look for dispute resolution programs such as these, developing collaborative resources or building relationships where it makes sense to do so. Helping members bring mediation concepts into governing processes and other conflict

scenarios could be an excellent way to meet pooling goals of serving members and saving money.

There will be cases where even strong support, guidance, and mediation won't be enough. In the Case of the Controversial Kennel, intervention by the entity's administrative staff, attorneys, courts, and mediators proved unsuccessful. What finally helped? One official's son married the other official's daughter and the happy couple had a child. As much as those officials disliked each other, they loved their grandchild more.

A grandchild might be the ultimate relationship-builder, but for those times when love won't save the day – whether in a conflict between elected officials or in a difficult community decision requiring high degree of public engagement and discourse – pools have a variety of resources to consider on behalf of their members. More effective public engagement and conflict resolution can help a public entity create solid decision-making practices, and build a solid foundation upon which to find the best solution to any question it might face.

About the Authors

This installment of *Intelligence* is based upon the 2016 Mitchell Hamline Law Review, “[Increasing Productive Communication in Local Government and Decreasing Barriers to Community Interactions](#),” written by Dan Greensweig, Irene Kao and Aimee Gourlay.



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The Association of Governmental Risk Pools (AGRiP) energizes the power of pooling, making member organizations more effective, collaborative, and informed. AGRiP represents and connects all pooling organizations while providing education and resources to its members. AGRiP brings the brightest minds and ideas together to help make pooling successful.