



Mediation IDEAs

Improving Decisionmaking & Enriching Agreements

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SIGN-UP FOR THE ELECTRONIC NEWSLETTER

Lucy Pauley

The Mediation IDEAs newsletter will soon be moving to an electronic format. In an effort to reduce costs and save paper, we will be making the newsletter available through email or on our website. **If you would like to continue to receive a printed copy, please contact us at 1-888-996-9278.** To receive the newsletter through email, please contact Lucy at lpaule@state.wy.us or Michelle at mmacdo@state.wy.us. Mediation IDEAs will also be available on our website at

<http://wyagric.state.wy.us/divisions/natres/mediation.htm>.

The goal of the Mediation IDEAs newsletter is to keep you informed about the role of mediation and the benefits of using the process for a wide variety of conflicts. We also try to provide information on other programs and services that are available to Wyoming's agricultural producers. We hope that you find our newsletter to be a valuable resource and want to keep reading. ●



Reminder:

If you would like to continue to receive a printed copy, please call 1-888-996-9278

Dr. Alan Schroeder Honored as a Friend of Agriculture

Lucy Pauley

Dr. Alan Schroeder has been chosen as one of the recipients of the 2009 Wyoming Department of Agriculture's Friend of Agriculture Award.



The Friend of Agriculture Award is given to an individual who performs his duties to an effective and admirable level of scientific expertise and passion for agricultural values. Dr. Schroeder was nominated by the Natural Resources and Policy staff for his work with the Mediation Program. He has been involved with the Mediation Program since its beginning in 1987. Dr. Schroeder's tireless work, expertise and passion as a mediator and instructor for the Mediation Program is a great asset

to the department. The Natural Resources & Policy staff is very thankful for his continued dedication and his service to Wyoming's agricultural community.

Dr. Schroeder and the other award recipients will be honored at the Wyoming State Fair and Rodeo on August 14. The evening will include a reception dinner, the Excellence in Agriculture Awards Ceremony, and the PRCA rodeo. ●



Featured Articles

Sign up for the Electronic Newsletter.....	1
Friend of Agriculture.....	1
How to Suggest Mediation.....	2
Mediation Program Activity.....	2



Mediation Training Opportunities.....	3
Mediation and Business Disputes.....	3
A New Approach for Resolving Workplace Conflicts.....	4
Estate Planning Resource.....	4
Collaborative Decisionmaking Update.....	5

HOW TO SUGGEST MEDIATION

Lucy Pauley

It's late afternoon and two neighbors, Bob and Dan, are standing along the fence catching up on news and talking about the weather. As the conversation moves along, Dan mentions that he has been having an issue with his brother and sister. Dan's elderly parents are getting ready to leave the family ranch and retire and none of the family members can agree on what should happen next. Dan's ranch borders his parents and he's been helping out with the day-to-day operation for a few years now. His parents do not have an estate plan, their attitude is that the "kids" should figure it out.

Dan is willing to take over the ranch management but his brother and sister don't think that's a good idea. The siblings have moved to town and no longer participate in many ranch activities. They are uneasy with Dan taking over because they don't know what it means for their inheritance.

Dan and Bob have talked about this issue a few times and Bob notices that Dan is getting more and more stressed out about it. Bob has just returned from an ag conference where he heard about the mediation program. He thinks that mediation might be worth a try in this

situation but he doesn't know how to suggest it to Dan. Bob knows that Dan hasn't figured out a way to resolve this issue on his own and it doesn't look like things are going to get better any time soon.

How do you bring up a sensitive topic? Suggesting that someone might need outside help can sometimes be tricky. Recommending an accountant, a lawyer or a financial advisor is easier, because those individuals are associated with "business" problems. When the problem is a family issue that involves not only the business, but emotions and values, the conversation becomes trickier. In previous issues of the newsletter we've talked about how to start difficult conversations. But how do you suggest that maybe it's time to bring in some outside help?

Bob can begin by mentioning that mediation is a process that is effective for family conversations and that's what Dan and his family need to do. They need to talk.

Bob should get to the point quickly. What he tells Dan might go something like this:

Have you thought about trying me-



diation? I've heard that it can help in situations like this. It sounds like it's low-cost, it's confidential and it can be quick. It also allows you and your family to make the decisions.

If you find yourself wanting to suggest mediation, make sure you have our toll-free telephone number handy (1-888-996-9278). Phone calls to the Mediation Program are confidential and we can help the parties decide whether or not mediation is appropriate.

Most of us can solve our own problems on our own time. But every once in a while, we run into a situation that can benefit from bringing in some outside help. The next time you run into one of those situations, consider mediation. ●

WHAT CAN YOU MEDIATE?

Lucy Pauley

We frequently get asked about the kinds of cases that the Mediation Program is involved in. As long as both parties are willing to try mediation, the possibilities are nearly endless. Here's an idea of the



kinds of cases that we've been involved in during the last few years:

- grazing permittees and the US Forest Service
- rural housing loan borrower and USDA-Rural Development
 - neighbor v. neighbor dispute over shared fenceline
 - agricultural family estate planning conversations

- ag business conflict over payment for services rendered
- neighbor v. neighbor conflict involving water rights
- ag credit issues between borrowers and USDA-Farm Services Agency
- multi-party board dispute
- workplace disputes between co-workers and employees and managers ●

TRAINING OPPORTUNITIES

Lucy Pauley

This fall, the Mediation Program will be offering a variety of training opportunities. In September, we will kick-off a series of webinars on a variety of mediation topics. The webinars will last one hour and there is no cost for participating. If you are not familiar with the format, a webinar takes place online. In our case, participants will call in

on a teleconference and listen to the presentation while viewing the material on a website.

Interested in becoming a certified mediator? We plan to offer a 30-hour basic mediation workshop in October or November. The workshop will be held in Laramie.

On October 28, join us for a work-

shop on "Mediation and Conflict in the Workplace." We will explore the benefits of using mediation to resolve disputes between co-workers, management and customers. We will also look at other conflict resolution models as tools to resolve workplace issues. This one-day training will take place in Casper.

For more information on the webinars, mediation training or the October 28th workshop, email Lucy at lpaule@state.wy.us or call her at (307) 777-8788. ●

Interested in mediation, facilitation or negotiation training? Get added to our email training mailing list. We frequently receive information on other workshops in the region and we pass that information along to our mailing list.

MEDIATION: A PRACTICAL ALTERNATIVE TO BUSINESS DISPUTES

Mark Travis

Business owners, executives and managers regularly face disputes in some form or fashion. Whether it is issues with customers, vendors, suppliers, clients or employees, disagreements arise. Unfortunately, those clashes often deteriorate into litigation, with resultant legal fees, court delays, bad publicity and the loss of a once-mutually beneficial relationship.

In order to avoid these costs and risks, the business and legal community are increasingly turning to mediation. Not only are parties increasingly turning to voluntary mediation as a means of resolving

business disputes, but court systems and government agencies are also requiring mediation.

When business disputes arise, or litigation develops, emotions heighten and communication becomes difficult. Unlike an arbitrator or a judge, a mediator does not impose a solution on the parties to a dispute. Rather, the mediation process creates an opportunity to explore underlying business interests, instead of focusing on the legal issues of who "breached" an agreement, or the extent of a party's "damages."

Involving a mediator is designed to change the dynamics of a negotiation. A mediator enhances the process of communication by working with the parties to clarify misunderstandings, encouraging the parties to make



realistic assessments of their positions, and making suggestions for a mutually acceptable business resolution. Although any settlement must be reached voluntarily, the final agreement is both binding and legally enforceable.

For example, a claim for breach of a distributorship agreement may be settled by redefining territories and/or commissions. Disagreements between vendors and purchasers have been settled by agreements on future price discounts. In some employ-

Continued on page 5



USING PRINCIPLES OF MEDIATION FOR LARGE CULTURAL GROUP INTERVENTIONS

Sue Sharp

Intervention in large group workplace conflict is not so different from using mediation between two feuding participants; it's just on a larger scale. Organizational symptoms usually include chronic and unsolicited negative feedback usually going past those in charge straight to the top. Decision makers may feel there is no remedy except for heads to roll. Unresolved conflict can seriously cost organizations by increased turnover, decreased job satisfaction, lost time accidents, increased health related absenteeism, lawsuits and hostile work environment issues. A cost formula has been developed to drive home unresolved conflict's effect on the bottom line of any organization.



Under the scenario of a large group (five to 75) intervention, large scale avoidance is usually the culprit. Pos-

sibly the boss has decided to alter or avoid difficult performance reviews, is accused of favoring certain employees, or has become inconsistent in reprimands over time. There are unintended consequences to those behaviors. Employees may push the right buttons to focus attention on the problems they see – of course; the problem may be believed to be the boss. Conflict levels may gradually increase from level one (everyday noise coming from employees having a bad day); past level two (people take sides and become vocal about how they feel); to level three, “demands for dismissal!”

Sometimes mediation is disappointing to employees who think a mediator will recommend firing the boss. On the other hand, the boss may expect the mediator to help employees see the error of their ways and point out how lucky they are to have a job and of course, remind them who is in charge.



Mediation is not a tool to make people pay for their perceived bad behavior. The good news is, large group mediation isn't about finding fault, it's about depersonalizing and identifying top issues then convening the group to craft a plan for the future.

In reality the group is working together to define their future working environment. Therefore the first line of defense for a mediator is to educate prior to surveys, interviews and group meetings. The first question becomes do you care enough about the relationship/environment to acknowledge, let go of the past and start over? The sec-

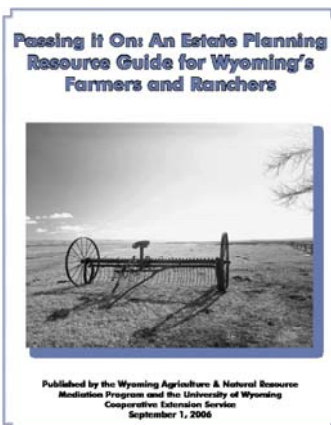
Continued on page 6

ESTATE PLANNING RESOURCE STILL AVAILABLE

Lucy Pauley

Copies of our popular estate planning resource “Passing It On: An Estate Planning Resource Guide for Wyoming's Farmers and Ranchers” are still available for \$10.00 each, which includes shipping costs.

“Passing It On” was published in September 2006 and more than 500 copies have been distributed since then. The resource guide is designed for



families that are just getting started in the estate planning process. The guide is not a “do-it-yourself” approach and is not intended to substitute for legal advice. “Passing It On” does offer information on starting the conversation with your

family, developing common goals, taking stock of the estate, coming to an agreement and succession planning. There are also several articles on the many different tools that can be used in estate planning such as trusts, wills, gifting, life insurance and many more.

To order a copy, please contact Lucy Pauley at lpaule@state.wy.us or (307) 777-8788. “Passing It On” is also available online at <http://uwadmnweb.uwyo.edu/UWCES/passingiton.asp>.

UW ENR WELCOMES NEW FACULTY MEMBER

Nicole Korfanta

The University of Wyoming (UW) will soon welcome a new expert in collaborative natural resource decision-making to its faculty. Dr. Steven Smutko, currently the director of the Natural Resources Leadership Institute in North Carolina, will be the new Spicer Distinguished Chair of Collaborative Decision-



Making in UW's Environment and Natural Resources program. Dr. Smutko will continue to train natural resource leaders in collaborative processes and will also develop courses for UW students and mid-career professionals. Dr. Smutko will begin at UW at the start of the spring 2010 semester. ●

BUSINESS (continued from page 3)

ment contract disputes, a neutral letter of reference or providing outplacement services may serve to resolve a potential lawsuit.

Mediation is particularly desirable in business disputes when certain factors are present: (1) the desire to avoid a legal or business precedent; (2) the need to avoid publicity and/or to ensure confidentiality; (3) the necessity of preserving a continuing business relationship; (4) the need for a quick resolution; and (5) the desire to avoid the high costs of litigation. In contrast to litigation, mediation typically works for the following reasons:

Control by Parties. The participants have control over the process and the outcome. Parties have the opportunity and incentive to formulate business-driven solutions not generally available in court. In an informal and personal process, the parties have a sense of investment in the outcome and are more open to re-evaluating their perceptions about a dispute. Additionally, the parties can select a qualified medi-

ator with specific expertise relevant to the type of dispute.

Greater Efficiency. Any lawyer will tell you that most lawsuits ultimately settle, at some point in time. In mediation, the mediator and parties can often telescope in a matter of hours, the facts and legal issues that are likely to take months to develop in litigation. As a result, parties can avoid substantial costs in legal fees, litigation expenses and the indirect business opportunity costs associated with a lengthy legal action. On the other hand, the costs of a mediator generally pale in comparison, which are normally shared equally by the parties.

Flexibility. The process and the result are flexible, and can be designed in the manner best suited to achieve the parties' business goals and objectives. In fact, the parties often agree to terms that would not even be available in a court proceeding.

Privacy and Confidentiality. The private and confidential nature of

the process enhances the possibility of settlement. Parties generally disclose sensitive information once they become comfortable with the mediator and the mediation environment. Many businesses opt for mediation to avoid adverse publicity that may have an even larger negative impact upon the company than the dispute itself.

In view of these considerations, it is indeed the rare business dispute that would not lend itself to consideration of mediation. When confronted with a potential business dispute that may well lead to litigation (if it hasn't already), mediation offers a relatively inexpensive and quick method of resolving the issue. ●

Mark Travis is a licensed attorney in Wyoming and Tennessee. He is a certified mediator in the Wyoming Agricultural and Natural Resource Mediation Program, and holds a Master of Laws in Dispute Resolution from the Pepperdine University School of Law. Mark can be reached at (931)252-9123 or by email at mtravis@adrspecialists.com.

AMERICANS WITH DISABILITIES ACT

TO OBTAIN THIS PUBLICATION IN AN ALTERNATIVE FORMAT, CONTACT THE WYOMING DEPARTMENT OF AGRICULTURE AT (307) 777-8788.

EQUAL OPPORTUNITY IN EMPLOYMENT AND SERVICES

WORKPLACE (continued from page 4)

ond question becomes are you willing to personally contribute for the good of the whole? There is great power in unity and forgiveness.

In an interview with the boss and human resources, the story of the conflict is told. The impact on the organization is assessed as appropriate for mediation by the mediator/facilitator. Customized confidential written surveys are distributed to everyone in the organization for their voluntary feedback directly to the mediator. Random confidential interviews with a percentage of the group willing to talk to a mediator are scheduled in a neutral and discreet location. Topics include how did we "get here", what internal processes or behaviors should stop, start or continue in order to significantly improve the workplace.

Paraphrasing and reframing issues which repeatedly boil to the top is essential. The number one issue identi-

fied is usually communication or the lack of it. In itself communication as an issue is vague, so digging deeper helps.

After the top five to ten topics are identified everyone receives the results directly from the mediator. The 800 pound gorilla in the room reveals itself as communication, everyday organizational processes, respect, integrity and other organizational and cultural norms.

By then all hopes are dashed that the mediator is going to right all the wrongs of either party. Now energy is turned towards building a new culture. Large group facilitation may seem chaotic but in the end each person in the organization has had their say to help improve the workplace. Then it's up to the organization's leadership to shepherd the movement forward so that employees participate in the changes they themselves suggest. ●

Sue Sharp, principle mediator, Sharp Consulting & MediationWest, routinely performs large group facilitation and coaches on emotional intelligence and professional burn-out. She is an organizational development consultant and lobbyist and works with small to mid-sized business and non-profit organizations. sue@mediationwest.com or 307.752.0687



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