Resolving Transportation Conflicts in Florida: What Have We Learned?

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During the past decade, the Florida Conflict Resolution Consortium (FCRC) has assisted the Florida Department of Transportation (FDOT), other transportation agencies and the public in facilitating agreements and resolving conflicts related to transportation issues in Florida. A recent research report (see http://consensus.fsu.edu/transportation/FDOT_Report_Index.html) features brief case studies of nine transportation projects during the 1990’s in Florida which received facilitation or mediation assistance. The cases illustrate how facilitation and mediation processes are used with groups of stakeholders to resolve differences and achieve agreements.

Transportation planning is one of the most contentious areas of government responsibility. Transportation issues invariably call into play the tensions between economic and environmental interests, old neighborhoods vs. new developments, safety vs. aesthetics and quality of life vs. convenience. Because Florida has and will continue to confront unprecedented population growth, addressing thorny transportation issues will remain a major challenge going forward.

A. Transportation Dispute Resolution Initiatives

The nine cases summarized below took place between 1991 and 2000. The cases are varied in regard to purpose, scale, and intensity. Seven of the nine were successful, but the unsuccessful cases are also instructive. Five of the cases are concerned with the potential construction or improvement of a particular highway. Four of the projects were facilitated by FCRC professional staff, four by outside consultants selected by the stakeholders, and one included both. The following are short summaries of the cases:

♦ Tallahassee/Northeast Parkway: In 1991 the Metropolitan Planning Organization (M.P.O.) for the Tallahassee/Leon County area established a Transportation Redevelopment Forum, a 41 member stakeholders group, to develop recommendations related to a proposed new highway to relieve congestion in the expanding Northeast area of Tallahassee. After seven sessions, the Transportation Redevelopment Forum was able to identify 48 recommendations concerning highway planning to the M. P. O. Many of the recommendations have been adopted and a parkway has never been built.

♦ Sarasota Route 41 Construction Project: In 1995 the Sarasota County Commission and the Florida Department of Transportation formed a nine member Task Force to recommend improvements to U.S. Route 41, a busy and dangerous highway in Sarasota. In addition, the Commission appointed an Advisory Committee of thirty property and business owners along the highway to assist. After 14 meetings, two surveys, and a public hearing, the Task Force agreed on a proposal to control left turns and U-turns and the use of high profile landscaping. The Commission endorsed the proposal with no public dissent.
♦ **Orlando Central Connector Project:** In the early 1990s, the Orlando Metropolitan Planning Organization had proposed a new expressway linking the airport and downtown Orlando. Because of public opposition, the M.P.O. decided to engage facilitators to conduct a mediation process. Between October, 1994 and June 1995, seven mediation sessions were held involving 18 representatives of stakeholder groups and interested members of the public. The representatives achieved consensus in proposing a series of transportation improvements as a preferred alternative to the construction of the Central Connector.

♦ **FDOT and CUBIC Corporation Mediation:** At the urging of the Governor’s Chief of Staff, the Florida Department of Transportation and the CUBIC Corporation, a contractor responsible for installing a new computerized ticketing system for the Florida Turnpike, agreed to resolve contractual disagreements through mediation. Between November, 1995 and February, 1996, four formal mediation sessions were held that resulted in a contract termination agreement. Both parties concluded that mediation was preferable to litigation.

♦ **FDOT “Cumulative Impacts” 404 Permit Guidelines:** In 1998, at the request of the Governor, an inter-agency work group was established to clarify a feature of 404 permits issued by the U. S. Army Corps of Engineers for road construction that may impact wetlands. A group of representatives from six state and two federal agencies met nine times between February, 1998 and February, 1999 with facilitative assistance. The workgroup agreed to a series of guidelines and a screening process to evaluate potential secondary and cumulative impacts in planning and development of transportation projects in the future.

♦ **Osceola Trace Development:** In late 1997, developers of a large commercial development known as the World Expo Center sought expedited approval for a multi-million square foot complex, including a convention center, trade show mall and office space near Interstate Route 4 in Osceola County. While Osceola County and the Governor’s Office of Tourism, Trade, and Economic Development pushed hard for regional approval, the FDOT and Florida Department of Community Affairs resisted because of the inadequate level of transportation impact fees proposed by the developer. A mediation session did not result in a settlement because of a lack of time, preparation and appropriate participation; however, the issue was later resolved to avoid litigation.

♦ **Florida Bridge Symposium:** Replacing and rehabilitating bridges are and will continue to be controversial issues in Florida. So, in November 1999, FDOT funded a symposium organized by the 1000 Friends of Florida and the FCRC to address the issue. Over a two-day period representatives from public and private agencies concerned with bridge development agreed to eleven proposals to better manage bridge development cases in the future.
Florida State Transportation Plan Update: In October 2000, the FDOT completed a 15-month facilitated process to update its state transportation plan. The plan was developed through a Steering Committee of representatives from 22 relevant agencies and stakeholder groups with assistance from three 25-member Advisory Committees. In addition, dozens of workshops involving hundreds of interested parties were held throughout the state. The final report was adopted unanimously by the Steering Committee.

FDOT Palm Beach International Airport I-95 Interchange: The FDOT Palm Beach International Airport Interchange Project consists of highway improvements and construction of an interconnecting road system between Interstate 95 and the Palm Beach International Airport. In March 1999, several affected neighborhoods petitioned for a hearing with the Division of Administrative Hearings to challenge the grant of a variance to FDOT by the South Florida Water Management District (SFWMD) for the storm water management system. Four settlement mediation sessions and one workshop offered the neighborhood association and the agencies an opportunity to jointly create mutually acceptable alternatives that fulfilled the permitting requirements of SFWMD, FDOT’s need to begin the construction of the project and the neighborhoods’ need to eliminate the original pond and create acceptable storm water alternatives.

B. Lessons Learned

Each of these cases is unique and instructive in themselves. In looking across them, however, there are a number of commonalities and shared lessons. Several of these lessons have to do with the conditions that establish a foundation for success such as having enough time and resources to do the job. Some of the lessons have to do with the design of the facilitation and mediation process such as providing adequate information and stakeholder participation. Then, there are lessons about the methods that were successful in most cases such as conducting preliminary interviews and/or a survey to clarify key issues and concerns of particular parties. In regard to these three general areas, five lessons have been selected in regard to each, which are identified below.

Conditions that Contribute to Success

The following conditions involve things that help assure success if put into place or agreed to at the outset of a facilitation process.

1. Authoritative Sponsorship: The stronger the authority that calls parties together to seek consensus and resolve conflict, the greater the opportunity for success. Among the cases, this is particularly well illustrated by the initiating role of the Governor’s Office in the FDOT/Cubic Corporation mediation and in the success of the interagency work group that developed guidelines regarding “secondary and cumulative impacts” in 404 permitting. The fact that the Secretary of
Transportation chaired the Steering Committee that developed the updated Florida State Transportation Plan is another good illustration of this principle.

2. **Inter-agency Cooperation:** One of the important features of transportation planning is the necessity to involve local, county, regional, state and federal agencies. Their ability to work together cooperatively, from the outset, is a critical condition for success in planning and consensus building. The importance of this condition is particularly well illustrated in the development of the State Transportation Plan and the Bridge Symposium cases. Conversely, conflict between agencies contributed to difficulties in the case of Osceola Trace Development project and the Palm Beach Airport I-95 Interchange project.

3. **Adequate Time:** In almost all of the cases, a great deal of effort over a moderate to long period was required to build consensus. Adequate time is necessary to assure an adequate assessment prior to designing a facilitated process, in order to obtain, and organize sufficient information for participants. Then, enough time is needed for people to work out their disagreements. The Osceola Trace Development project stands out as a failure particularly because of this consideration.

4. **Adequate Support:** In addition to time, adequate support in terms of budget and staff resources is necessary to assume project success. This was so in almost all of the cases in this report. It is particularly interesting to note that the direct costs for facilitative assistance in these cases are modest. In addition to these costs, indirect costs must be met to prepare materials, mailings, presentations, reports, conducting meetings, and in some cases, transportation, per diem, and lodging. On balance, with direct and indirect costs considered, the costs of facilitative processes that lead to consensus are far less than costs that would arise from litigation and project delays.

5. **Early Engagement of Facilitators:** Sometimes people have the erroneous impression that facilitation only involves managing discussions in meetings for a client. In fact, this is only a small but visible part of the process. Effective facilitation, in almost every case, involves background research and assistance in designing an approach to conflict resolution, preparation of parties and consensus building based upon an understanding of the issues, client-systems, and the operating environment. As will be seen in all of the successful cases discussed in this report, the consultants were engaged from the outset. Further, in addition to conducting meetings, the facilitators devoted even more time to studying issues, discussing matters with relevant participants, and developing materials to help guide the process.

**Collaboration Design Features that contribute to success**

The cases that are described in this report include many similar design features that contributed to project success. Five of the most prominent are as follows:
1. **Stakeholder Representation:** A critical consideration in resolving conflicts and building consensus is to assure that all interested parties are adequately represented. These cases illustrate many approaches to assuring adequate representation. In the Tallahassee Northeast Parkway case, for example, the mediator personally contacted 40 organizations to send a representative. In the Bridge Forum, the facilitators sent out a survey that included a request to suggest other groups that should participate. In the Sarasota Highway 41 case, a parallel Advisory Committee was created to assure adequate involvement of business owners, and in the development of the State Transportation Plan, three 25 member advisory groups were organized. In the Palm Beach Airport I-95 Interchange case involved both parties to the DOAH proceeding and other interested parties to discuss potential options for the project.

2. **Establishing Ground Rules:** In order for a number of people to consider many issues and options in a group, it is necessary to agree on procedures for discussion and decision-making. Accordingly, in almost all of the cases in this report, the professional facilitators began the work of each deliberative group by establishing agreements on the group process. As a case in point, the Sarasota Highway 41 project began with an agreement that all participants would be courteous and respectful, no individual would be allowed to dominate, and there would be a time limit on the remarks of participants. To promote consensus, many groups establish a very high standard for achieving agreement. For example, in the Tallahassee Northeast Parkway case, the participants agreed that 75% must agree to any decision and in the case of the development of the Florida State Transportation Plan an 80% agreement guideline was established.

3. **Providing Information:** To promote understanding and objectivity, each of the cases discussed in this report organized efforts to inform participants about the history and features of the issues they considered. This takes a lot of time and effort, but it assures that stakeholder proposals are relevant and realistic. Several of the cases illustrate the breadth and depth of information that is needed. For example, the Orlando Central Connector Proposal case describes presentations made at each meeting. The FDOT “cumulative impacts” guidelines case describes how four meetings were held for the participating agencies to educate others about their practices and concerns. And in the case of the Bridge Symposium, a pre-meeting information packet was distributed to all participants.

4. **Creating a Framework:** Almost all of the cases described below involve considerations that are complex and involve many issues of different type and magnitude. Therefore, a very important need to be met is to create a framework to sort out and order issues so as they can be adequately understood and addressed. The importance of the intellectual leadership that good facilitators or mediators provide in this regard is not to be overlooked. The Tallahassee National Parkway case demonstrates how the mediator helped participants to organize a host of concerns into six issue areas. In the Sarasota Highway 41 case,
the facilitator helped participation by organizing alternatives into three potential scenarios. And in developing the Florida State Transportation Plan, issues were organized into three areas for advisory committees to address.

5. **Providing Structure and Flexibility**: An influential factor in building a successful consensus process is to provide a manageable structure to review issues and develop proposals while adapting to changes or difficulties that arise. As most of the following cases illustrate, different meetings were organized with particular groups for specified purposes. Sometimes, as happened in the Tallahassee Northeast Parkway case, an additional meeting was added. In many cases, as will be discussed shortly, the facilitators poll people between meetings to determine preferences it would take too long to do at a forthcoming meeting.

**Methods that Contribute to Success**

In addition to conditions and design features that contribute to successful facilitation and mediation, there are some particular methods that are helpful. Five of them that are illustrated in the cases contained in this report are as follows:

1. **Pre-Assessment Review**: As standard operating procedure, facilitators and mediators need to carefully review the background of an issue they will help to resolve. This may consist of a preliminary assessment as is illustrated in the Orlando Central Connector Case to a series of preparatory interviews as was done in several of the other cases. Sponsors of projects need to make available materials and access to relevant staff and outside sources familiar with the issues in question to assure an adequate assessment. Ultimately, an adequate assessment may consist of up to one-third of the schedule and budget of a project. The review informs the mediator and more importantly it helps the parties broaden their understanding of the shared challenges and the proposed process.

2. **Issue Survey**: Following or as a part of pre-assessment activity, a survey questionnaire may be distributed to relevant parties to identify, clarify, and obtain opinions about issues to be addressed. Several of the cases in this report utilized this method. For example, in the Sarasota Highway 41 case, surveys were undertaken with business owners and road users. The Bridge Symposium case illustrates how this method was used to help design a single event. The Florida State Transportation Plan survey provides a good example of the number and range of issues that can be identified through a preliminary survey.

3. **Straw-man Documents**: Often consensus building efforts can be advanced by having a working document prepared to help guide discussion of issues and alternatives. The resolution of conflicts between the FDOT and the CUBIC Corporation illustrates how this method contributed to the resolution of a two-party dispute. The Tallahassee Northeast Parkway case demonstrates how a group of participants can undertake this task. The Orlando Central Connector case illustrates how this effort can be undertaken by technical consultants.
4. **Polling Surveys:** When issues and options are many and time for deliberation is at a premium, a poll may be conducted between meetings to help determine the preference of participants. The FCRC often uses this method. A good illustration of this method is provided in the Tallahassee Northeast Parkway case in which 205 recommendations were rated between the fifth and sixth meetings. Another example can be found in the Orlando Central Connector case in which stakeholder agencies rated proposals between the sixth and seventh negotiating sessions.

5. **Informal discussions:** To remain effective, mediators and facilitators need to keep abreast with the concerns, ideas and preferences of stakeholders. To do this, they often contact representatives by phone, e-mail or in person between meetings. This was an important approach in the resolution of the FDOT/CUBIC Corporation mediation, for example. In the lengthy preparation of the Florida State Transportation Plan, FCRC facilitators were in regular communication with FDOT officials and participants. The mediator in the Palm Beach Airport I-95 Interchange case communicated with participants between sessions to ensure that the meeting processes and the technical data were supporting their needs as negotiators.

C. **Conclusions**

Additional and different learnings can be gleaned from these cases. For a more in depth treatments of each of these cases and for additional lessons, visit the website at http://consensus.fsu.edu/transportation/FDOT_Report_Index.html As these cases illustrate, the FDOT and the FCRC have created a productive partnership that reflects a commitment to collaborative approaches that can inspire similar collaborative partnering in other agencies at the state and local levels to build consensus in Florida and throughout the nation.