

ISSA Proceedings 2006 - Managing Disagreement In Multiparty Deliberation



1. This paper examines a case of deliberation that took place during a meeting among community leaders and representatives for a land-housing development firm. The meeting involves a speech, made by one of the developer's representatives, and the subsequent discussion of what is put forward among the community leaders and representatives of the development firm. The participants' discussion moves following the speech provide an opportunity to reflect on a practical problem faced by parties to a deliberation: how to enable the expression of sufficient disagreement among participants while preventing the unlimited expansion of disagreement. Observations of the meeting based on a transcript made from an audio-recording will first be described followed by a discussion of the implications of these observations for further understanding how disagreement is managed in multiparty deliberation.

2. The meeting where the deliberation takes place involved eight members of the community's government (the mayor, four council members, planning board chair, and borough attorney) and five representatives of the development firm (main speaker, his assistant, firm's attorney, the president of the corporation's regional division, and the vice-president of land development for the region). The meeting was held as a broader controversy related to the development discussed in this meeting emerges in the community about appropriate land-use and development. The official status of the meeting is not clear since no record of the meeting was available until it was discovered during the pre-trial phase of a lawsuit related to the development discussed during this meeting. The speech lasts nearly 18 minutes and the ensuing discussion lasts 1 hour and 30 minutes.

The speech begins with preliminaries that update those present about matters that the developer has been "*studying*." The speaker defines the land under contract (161 acres) and describes the availability of the adjacent pieces of property. He points out their goal to build 350 units, which is the maximum

allowed by the Borough's ordinance, as a senior lifestyle community with recreational amenities. He also points out that there are several "*outside forces in flux*" including the determination of the protected wetland boundaries on the property and the borough's ordinances. He then previews the main points of the presentation as real estate taxes, infrastructure costs, and ordinances. He defines these as "*three kinds of global issues*" on which the developer "*needs some feedback.*" The speaker then makes a prediction that the borough residents will realize a "*25-42 percent*" real estate tax decrease depending on how many units can be developed and how the project is put together. The speaker puts forward a theory of how to make the project successful and thus attain that tax benefit for the whole community.

The presentation is a quasi problem-solution arrangement that can be summarized as follows: The developer projects that 300 units sold is the point of economic viability for the project and that 350 units sold is preferred. The development's success depends on the way it is marketed and priced. The key barrier to marketing is that the development can not have certain desirable amenities such as a golf course due to the limited availability of land. The proposed solution is to market the development based on the charm of the surrounding community and other recreational amenities such as tennis courts and swimming pools. The key barriers to pricing - the effective cost to each individual buyer - are the cost of building the development, the real estate taxes levied by the community, and the fee for connecting each unit in the development to the community's water and sewer infrastructure. The cost of the development is dependent on how many units can be built.

The developer puts forward two solutions for controlling the effective purchase price of a unit in the development. The first is a payment in lieu of taxes program (PiLT). This program is aimed at equalizing the real estate taxes paid by unit buyers so that the early buyers pay the same real estate taxes as the later buyers. The second solution involves the community waiving the connection fee for each unit sold and, in return, the developer will make improvements to the existing water and sewer infrastructure. Connection fees are the cost of hooking up the units in the development to the community's water and sewer infrastructure. It is a way to make new home owners share in the past costs of building and maintaining infrastructure. The final barrier to the project lies in some problems the developer has with the current landscape, historical, and zoning ordinances

for which the developer suggests changes.

2.1. The discussion following the speech was analyzed by examining how aspects of the speech were made part of the ensuing discussion. The moves made by the community members were the moves that directly address something said or implied in the making of the speech and then making that aspect of the speech part of the discussion that follows the speech. Not every thing said or turn taken in the discussion counted as a move. Of all the contributions made during the 90 minutes of discussion, 42 were considered to be moves made on the speech. These moves raised doubts and disagreements by calling out, addressing, or attacking key parts of the speech. As seen in Table 1, different parts of the speech were made part of the discussion with varying frequency. The infrastructure/connection fee aspect of the speech receives the most attention in the discussion while the number of units, the PiLT program, and the overall proposal draw the participants' attention.

Table 1: Opening Speech Topics x Moves on Speech

| Aspects of the Opening Speech | Number of Moves made on Aspect of Opening Speech |
|---------------------------------|--|
| Infrastructure/Connection Fees | 14 |
| Number of Units, Wetland Buffer | 7 |
| PiLT Program | 7 |
| Proposal | 6 |
| Taxes | 4 |
| Zoning / Ordinances | 4 |
| Total | 42 |

2.2 The moves on the opening speech open up sub-dialogues, as they will be called here, within the broader discussion that expands upon the doubt or disagreement expressed by the participant's move on the opening speech (this is

similar to the distinction made by van Eemeren, Grootendorst, and Snoeck Henkemans (2002). The sub-dialogues can be further characterized in terms of how the initiating doubt and disagreement are developed over subsequent contributions. The initiating move of the sub-dialogue is either developed primarily by one participant over a series of turns or by multiple participants over a series of turns (this is similar to van Eemeren and Grootendorst's (1992) concepts of mixed and non-mixed disputes). These characterizations of sub-dialogues highlight some forms of disagreement expansion that occur through the mutual contributions of one or more participants.

The main feature of the sub-dialogues is that in making contributions other possibilities for doubts and disagreements are exposed that open up alternative directions to be pursued through the interaction. For instance, in example 1:17.1, the mayor (A) develops his point over a series of turns to show that he apparently disagrees with some aspects of the PiLT program that the developers have introduced as a means to control the Borough's use of revenues gained from the development. In making this point, however, the mayor stops and shifts to another point.

Example 1:17

A: .hh okay. I a-ho-I hope that you are that-that (.) the body that you speaking to right now .hh is responsible for only about twenty-five thousand of the taxes.

(1.4)

B: Right.

A: All right ahh this-and I know that everybody on this council uh has a very firm commitment to holding the line against costs and ensuring that there is the maximum tax benefit uhh out of any project that comes along. However that being said we can't speak (0.8) for the school board

B: Right

A: an-and we wouldn't even attempt to uhm. .hhuh p. We ya-know-tha-that-they're going to do what they're going to do,.hh uh We ya-know-tha-that-they're going to do what they're going to do,.hh uh we would hope that they would hold the lines a-as we would. And since they're all paying the taxes as well .hh but, but your point is well taken that .hh when these tax-a-th-as the assessed evaluation, the assessed evaluation goes up and the tax rate starts to drop .hh there's going to be uh-uh it's gonna be like oh manna from heaven.

B: Right

The initiating move is not taken up by B, the developer's spokesperson, who simply lets A make his point. The move by A calls into discussion the PiLT program as an effective control mechanism over how the borough uses its new revenues from the development. Over the course of his contributions A appears to back off of his opening criticism about the lack of borough council control and then shifts to an emphasis on the potential revenue for the borough. It may be that A recognizes how his point of disagreement can not be sustained in the situation because it does not cleanly refute any of what has been argued in the opening speech. This example illustrates how a contribution actually opens up further questions and doubts.

By contrast, example 1:37 illustrates how doubt is introduced and developed over a series of turns by more than one participant. In particular, Example 1:37 illustrates how an initiating move creates further opportunity for doubt to be collaboratively developed and new directions for the interaction to open up.

Example 1:37

A: I-I I just a. Just as a point of information, I'm sure you're aware that you're dealing with two different water sheds here. .hh Uh, the exceptional, que- it may well be that the exceptional quality water shed .hh is that area which is west of your proposal, now that would not be it (alright) (ok, I'm???), That dumps into the empty box creek and that's where the endangered species has been observed.=

G: =Yea but that-that piece of prop, piece of (,8)(cod)cotton head waters up on top there is a real nice piece of wetland..

A: =I understand, that's the head waters a' the Rocky Brook which feeds in to the little stone river.

G: have had your uh your environmental work done now for how. Uh-des. for how long now?

B: What we've-what we've done is we have gone to the state for a call and absent/present determination. Um (1.8) and the state has come back and said that, (.) we have documented cases of endangered species in the area, they can't site a specific species on the property but they've said, we're warning you no:w, they're in the area. Uh we have not gone for a formal wetland delineation although we have-we have gone out and and delineated the extent of the wetlands. Uhm: all through here, and all through here. We kind of stopped when we got to the power lines. (.) So we believe we believe that the wetland line is accurate. Umm we, still have title issues to resolve as to where everybody's

property line is and then create a-a final survey before we can actually submit a formal application to the DEP.

J: Have you done in-independently of the (estimate) DEP, for umm: your LOI, you've done any environmental work to

B: Yes

J: let you know what you think is out there? =

B: =Yes our environmentalist has come back and said, you-There may be some habitat that's suitable. umm suitable habitat doesn't mean the species exists. (.) Y'know, you can put some French fries in a parking lot and a condor will swoop down and-and eat them. .hh That doesn't make it suitable habitat. uh so, (0.7) while they've said there appears to be suitable habitat in the area, it doesn't mean that that the species is actually there.

(1.8)

A: I'm just-the mpoint that I'm making is that the species, one endangered species has been identified in the uh empty box creek .hh area which is the west

B: That's a creek shed.

A: water shed, yes right right. They we do not have any documented sightings, for the Rocky Brook area.

B: Okay

A: To the best of my knowledge

B: Okay

In this example the mayor (A) raises what he calls a point of information about wetlands. The move calls out the part of the opening speech where the representative for the developer acknowledges that the delineation of the wetland buffer will have a dramatic effect on the number of units that can be built. The mayor's point is picked up by another council member (G) who asks a related question to the developer. The representative (B) answers the question only to be further questioned by the borough attorney (J) and then finally the mayor reiterates his point. The participants do not appear to be concerned so much about the wetlands and the relationship to special habitats but seem more oriented toward the effect the wetland boundary delineation will have on the project. Calling out the wetland buffer for discussion raises doubts about the developer's ability to make the development happen.

In the discussion, there were 14 sub-dialogues characterized by disagreements developed through an exchange among participants and 18 sub-dialogues

characterized by doubts developed through an exchange by participants. Not all moves were taken up in sub-dialogues as 6 disagreements were developed as an individual's point over a series of turns and 4 doubts were developed by an individual over a series of turns. Of the 42 moves made on the speech (see Table 1), 32 were sub-dialogues and 10 were individual expansions.

The sub-dialogues were strung together during long stretches of the meeting that actually formed coherent sets of threads where the participants carried out a sustained development of doubt and disagreement on two topics of speech: the PiLT program and the infrastructure/connection fees. The thread on the PiLT was pursued through sub-dialogues oriented toward understanding the program. The infrastructure/connection fees thread was pursued through sub-dialogues oriented toward challenging that aspect of the proposal. The pattern of sub-dialogues represents a kind of collective choice about what merits discussion and how it is to be discussed.

These observations about the moves made on the opening speech illustrate how participants' moves open up opportunities and directions for the interaction. Given the various ways that disagreement can be expanded, the next section turns to the question of how the expression of doubt and disagreement space was managed.

3. While the participants take issue with many important features of the plan, such as the PiLT program and the infrastructure changes, the expression of disagreement does not escalate beyond the control of the participants. Three ways that the participants collectively manage the expansion of disagreement are found in the participants' use of standard ways of reasoning about proposals, the way participants frame the meeting event, and in the way participants frame the activity of proposing. The first relates to the uses of disagreement to shape what the proposed course of action becomes while the other two relate more to shaping the form of interactivity among the participants in deliberation.

3.1. The moves that participants make in the discussion following the speech initiate sub-dialogues that raise doubts or put forward disagreements with various aspects of the plan described in the speech. One reason the discussion of the speech does not escalate is that the parties orient toward the speech as a proposal and organize their evaluations and assessments as such. In a prior analysis of the opening speech, Aakhus (2005) found that the opening speech

displayed characteristics of the speech act of proposing. The overall organization of the speech and the appeals made had the following characteristics: (1) the speech focused on a future act (A) of both a proposer (P) and a recipient (R), (2) the speech was an attempt to enlist the recipients in mutually bringing about A, (3) the speech revealed that P believes A will mutually benefit R and P or at least that if it benefits P it will leave R no worse off, (4) the speaker argued that R and P are able to contribute to the accomplishment of A, (5) the speaker argued that it is not obvious to both P and R that either P or R can do A of their own accord in the normal course of events, and (6) the speaker argued that A will leave neither P nor R worse off than not doing A.

These same six lines of reasoning come into play in the discussion following the speech when the community members express doubt and disagreement with the speech. For instance, this can be seen excerpt 1:26.1 below, where the borough council member calls out the connection fee waiver as a problem.

Example 1:26.1

C: I can see possibly a thirty percent reduction .hh or a reduction in your hook up fees down to the extent of-of that so it would it-it would lessen possibly what you're putting out for infrastructure(.) but it would be>defendable by<saying, look the borough doesn't need to uh reach into its pockets for anything but, I,-I-I have a hard time getting behind supporting umm waiving the fee completely or-or reducing it beyond (1.8) a defensible position. It-may-ma-just get beyond something, that wouldn't even 'if we make make us not have to spend.'

C's move offers an alternative position that he considers more defensible. He is saying that the borough should not have to pay for improvements the development needs to exist. The move plays off the sense that in proposing, the future action should leave neither party worse off than not doing the action. That is, a full waiver does not leave the borough better off and is thus not a defensible course of action whereas a reduced waiver might be.

In example, 1:30.1, the mayor (A) attacks the developer's premise about what needs to be repaired and whether the community needs to make any further contribution to infrastructure repair in order for the development to be built.

Example 1:30.1

A: But le-le-lemme let me give you the true scenario here, and that is the

residents of this this community have paid .hh(uh) substantial money to improve a sewer plant that can handle twice the population of our community. You do not need to improve that sewer plant in order to add your houses to it, however, (0.2) .pt you may need to (.) do some INI reduction to keep us within our permitted flows, .hh which is not a capacity issue, .hh that is-that is a it's -it's a it it's another issue regarding the way that the DEP does their assessment of-of of I mean the measuring of the effectiveness of the plant, uh the other side of that is, that it may be feasible, I'm not sure how how feasible, that the permitted flows of the plant may be increased due to a doubling of the size of the community so-so therefore y'know the uhh, the .pt point about having to add capacity of the plant I don't think is a valid one.

A's move makes it appear that the developer is asking for something that has already been done. This move is built around the condition of proposing, which is that both parties are able to contribute to the accomplishment of the proposed action.

It should be pointed out that in describing the actions of the participants through felicity conditions for proposing (Aakhus, 2005), the participants are not taken to be following conventional rules but instead taken to be engaged in practical reasoning about what has been said. The parties are attending to the unfolding discourse of the event, the context of practical activity in which they are involved, and the broader social context in which they are situated. Felicity conditions reveal standard lines of reasoning about the practical problems people face in figuring out what to say and how to say it in attempts to accomplish their goals and implement their plans (Jackson & Jacobs, 1981; Jacobs and Jackson, 1989; and Kline, 1979). What is evident in the present case is that these standard lines of reasoning are used in producing doubts and disagreements about the speech and that the participants' orientation toward the speech as an act of proposing reflects their collective management of the expression of disagreement. The focus on the speech as a proposal, contributes to what the proposal will become, and keeps the expression of disagreement from escalating.

3.2. Framing the activity is another way that disagreement was managed. This has less to do with the making of arguments and more to do with shaping or influencing the interactivity of the participants. Even though it is clear from references in the transcript that the developer had been taking actions to bring about a development and that the developer had met with borough leaders on at

least one occasion before the present meeting, neither the opening speech nor the event is officially framed as a proposal by the community leaders. This was consequential for managing disagreement in this deliberation.

An obligation for the developer to make a proposal was not established at the beginning of the meeting. In example 1:1 the mayor (A) describes the occasion and purpose of the speech.

Example 1:1

A: Uh Good evening gentlemen.

Audience: Good evening good evening

A: Uh this is a (.) uh a committee meeting (.) .hh of the council (.) um (.) and uh (.) it's not really a formal meeting that we take action on or anything like that but it's from my understanding that you wish to .hh make a presentation .hh to the council and we appreciate you being here .hh Uh we have our chairman of our (.)uh planning board as well here .hh to (.) uh listen to what you have to say and uh .hh might as well just (.) uh unless the council has anything that they wish to address first (.) .hh uh (.), we'll turn it over to you so you can get in and out and make (.) it (.) as sweet as you can.

This framing sets out a footing for the various participants in the meeting and the obligations for participation. The committee will take no action, the community leaders present are there to “listen,” and the developers are there to “present.”

About one-third of the way through the meeting after some differences of opinion about the plan had been surfaced, the mayor (A) in excerpt 1:25 draws attention to the reason for gathering:

Example 1:25

A: uh many people in community, uh recognize that y'know wit- our water filtration system, water treatments sy-plant had needs improvements.

B: Right

A: hh t-today, we do needen more water storage capacity today, um hum right, so uh, tch we-we understand that there is uh we Have some staKe in any improvement

that's [put in]

B: [Right]

A: place now, the-th extent.hh of that is yet to be determined a'right and uh that's

one of the reasons why we sit and why we have the dialogues, so that we can, try to y'know find that medium ground if you will,

B: Yep .hh *uhm:

The mayor is making an explicit attempt to shape the possibilities for discussion. In the early part of this move, A acknowledges some points made in the opening speech but not the whole theory presented by the speaker. The mayor points out that “some” not all the people in the community recognize a need for some improvements but not all the improvements identified by the developer. Moreover, the mayor points out that the community has “some stake” in “any improvement” that is “yet to be determined.” These qualifications combined with leaving the sewer system improvement off the list define what is possible and what is not. The community leaders are no longer just listening they are engaged in what the proposal is becoming but not yet accepting what is being proposed.

Closer to the meeting's end, in excerpt 1:52.1, the borough's attorney (J) comments on the value of the preceding discussion and points out that some concrete proposals will have to be put forward by the developer. The attorney for the developer (F) responds by describing the developer's view of the gathering.

Example 1:52.1

F: No no, what we wanted to do was have th' discussion first, cause very [honestly] we didn't make a lot of sense to suddenly put together a a pack[age or

J: [Right] [mm understood]

F: expect, have you spend our time reviewing the package without some sense about what we wanted to accomplish an, an an an be willing to consider that kind of situation.

Each of these examples, from the beginning, middle, and end of the meeting, illustrates how participants framed the meeting in the flow of the encounter. On one level the community members treat the opening speech as a proposal in the way their moves evaluate and assess the speech but at another level, as seen in the examples in this section, it is never quite clear that the community members are treating the opening speech or the meeting as an event of working out the proposal into a course of action. The framing of the meeting does not draw attention to the opening speech as a formal proposal but to the fact that the parties are engaging with each other over things proposed. This seems a bit ironic but it has an effect on managing the expansion of disagreement. In the current

situation unresolved disagreements are not as problematic since there is no explicit commitment to the proposal as something that will go forward. The developers are able to get key information about points of impasse without running the risk of the proposal being rejected. The community members are able to hear the proposal without committing themselves to it in any publicly accountable way.

3.3. The opening speech is framed as an incomplete proposal by the community members. Indeed, the community members do not refer to the speech or the actions of the developers as a proposal until near the end of the meeting. At that point, the community leader's responses mark the entire opening speech, and the accompanying points made during the discussion, as something less than a full proposal.

In example 1:52, the council member (C) and the borough attorney (J) challenge the developer to make a more concrete proposal while acknowledging the value of the discussion.

Example 1:52

C: (1.5) John what would you suggest, a uh s-some kind of uh proposal as to what the numbers in the PILT program would be and and like the time it would be worked under an' add over, and what the expected end rate would be.

(0.4)

J: Well, I think uh y'know George, got to kind of sort of got to the bottom line before, I mean they, they know it's going to work for them economically so, .hh uh I would think it would be incumbent upon them, to come up-to come to us, with the total package, you're basically saying there's like we can only spend so much money we can we can only build so many expenses into this project to make it build able and profitable for us. and we've talked about all number of different factors y'know, the connection fees, .hh the offside improvement contributions, the the-taxes .hh uh, you know what your costs are, y'know so I would say come to us with a proposal, or proposals as to how um you can get to uh, what you're gonna be claiming is going is your bottom line. An'I think you've listened to the council t'night, I mean. I don't think anybody's uh pounded their shoe on the table and (0.2) said we're not willing to uh listen to anything. But-I think I think it's been a good meeting in the sense that you've introduced a lot of the new concepts to us, .hh but I think if we're gonna to move it to the next leve or have th' chance

of moving it to the next level, we're hafta start seeing some concrete proposals, and uh, (0.2) certainly not going to emanate from this side.

Man ?: I [don't know] what it's gonna Do.

Man ?: [()]

F: No no, what we wanted to do was have th' discussion first, cause very [honestly] we didn't make a lot of sense to suddenly put together a a pack[age or

J: [Right] [mm understood]

F: expect, have you spend our time reviewing the package without some sense about what we wanted to accomplish an, an an [an be willing to] consider

A: [(th' around acceptor)]

J: Sure.

F: that kind of a situation.

J: No, I agree, I think that's what you intend an' I think you made a lot of sense, and I-again, I can't speak for the council, but from my perspective uh .hh as you said uh, I think, uh' the: you did a good job (.) explaining the concepts, and uh you have seen our reaction to them, in the sense of th' questions we have, and (0.2) I think it was a productive uh I think it was a productive step.

This example illustrates how the participants portray the opening speech and the contributions by the development group as achieving something less than a full proposal. The opening speech is described as explanatory and the discussion as informative but not a proposal on which they can reach a conclusion or engage in working out details.

By framing the speech as less than a full proposal, the proposal remains in a state of development and the parties are not obligated to working out the proposal together. This manages their obligations to each other and to others involved in the potential decision-making. In this case, the community leaders keep the proposal in the developer's hands so the community leaders effectively have no proposal to present to the public nor do they have to take any kind of official stand on the matter. Moreover, by framing the speech as less than a full proposal, the doubts and disagreements expressed to this point in the meeting are reframed as opportunities for further discussion or meaningful constraints to be worked with.

4. This paper has described some observations about how the possibility for disagreement is expanded and managed by participants in a deliberative meeting.

Section 2 describes how the possibility for disagreement is expanded through the emergence of sub-dialogues about some aspect of the meeting's opening speech. Three ways that the participants manage the expansion of disagreement are described in Section 3. First, the participants' doubts and disagreements reflect standard lines of reasoning for evaluating a proposal and this appears to keep the argumentation focused on developing what is proposed in the opening speech. Second, the community members do not frame the speech as a proposal or the event as one where a proposal is being worked out. Third, the community members call for further proposal development. The picture that emerges from the preceding analysis is that even though the discussion during the meeting treated the speech as though it was proposing a course of action, the participants at the same time treated the event as something other than the activity of proposing. So, what is going here in terms of how disagreement is managed in this deliberative setting?

Kauffeld (1995; 1999) explains how the circumstances of proposing feature one party that wants a second party to consider something that the second party may otherwise be inclined to regard as not worth considering. Such a circumstance requires that proposals are designed, as Kauffeld points out, to induce participation in a dialectical exchange wherein the speaker has the initial burden of proof but aims to shift that burden to the recipient of the proposal. Thus as the activity of proposing progresses, the recipient's role shifts from one of dismissing or casting doubt to a role where the recipient engages in working out the proposal. Kauffeld thus links the act of proposing to an activity of proposing by outlining a shift in obligations and commitments participants take up in the activity of making, challenging, and defending a proposal.

Following Kauffeld's analysis, what appears to be happening in the deliberation analyzed here is that participants have prevented the shift in obligations and commitments to take place. The community members have retained their role of dismissing or casting doubt while the developers remain in the role of initiating a proposal. This has several practical benefits for the parties as described above. It enables the participants to have disagreements about a policy without generating impasse, it allows for an exchange of information about what may or may not work in the policy setting, and it allows the participants to avoid making any commitments to a course of action while generating a better understanding of a possible course of action.

Relative to pragma-dialectical theory and the critical discussion model (van Eemeren & Grootendorst, 1992) the participants appear to be procedurally open to critique as doubts and disagreement were raised repeatedly throughout and that there seemed to be considerable resolution mindedness as the participants kept to the matters at hand and explored issues raised by the speech. However, argument was used more to create a zone of agreement over which the participants could bargain than as means for rational resolution. The main constraint to rational resolution was the possibility that pursuing some issue to its end might in turn block the ability to satisfy some important value or self-interest for one side or the other or to prematurely end the discussion because some issue was not amenable to resolution.

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