

New mediation group tackles public project disputes

By DOUG SHERWIN, The Daily Transcript Thursday, December 1, 2011

Large public projects in San Diego often become the subjects of protracted legal battles, stalling their development for many years or even ending them altogether.

A new group in town would like to change that.

The recently launched Land Use and Environmental Mediation Group is focused on getting stakeholders together to engage in constructive dialogue as a more efficient and effective way to solve some of the region's bigger conflicts.

"Some of these big public policy issues that affect so many people get distorted and buried in a court of law, where in mediation people can talk through things," said San Diego's Barbara Filner, a longtime mediator and one of five members of the group. "Not that I don't think courts are useful -- I do, they're great -- but so many of the issues that affect the environment are so complicated and nuanced and need input from so many people."

Filner, founding director of the National Conflict Resolution Center's Training Institute, has been a mediator for more than 27 years. She believes that mediation forces individuals to really examine what their position is and allows them to be creative in thinking of solutions.

"What is it that you really want and why?" she said. "Do you want more access? Do you want a better way to build something? It gets people to examine why they took a position."

Filner is joined on the Land Use and Environmental Mediation Group by scientist and mediator Richard Caputo and land-use attorneys Michael Jenkins, Cary Lowe and John Reaves.

Collectively, they have more than 100 years of experience in the practice of mediation.

"We each have a different expertise," said Reaves, who comes from an environmental law background and has his own solo practice. "(I'm) not aware of any team offering mediation services the way we are in Southern California. There may be individual land-use mediators but not a team to pick from with the wealth of experience that we have."

Caputo said the state's current environmental review process, which can involve regulatory hearings, may solve any legal disputes but isn't the best way to find a solution that benefits both parties.

"I noticed the same people keep repeating the same comments," he said. "There's no dialogue; no evolution of interaction. The fixed positions are stated over and

over and then some agency makes a decision.

"I always thought (this process) lacked any way to reach common ground. I'm interested in that extra step."

Reaves said mediation has rarely been used to solve environmental conflicts, mainly because the issues surrounding the projects don't involve money but rather principals and other broader objectives.

But those are just the types of disagreements that can be better solved through alternative methods, according to Reaves.

"In most instances, you have parties that have certain agendas and are not listening to the other side's interests," he said. "In a structured facilitation, they often hear things they hadn't heard before that allows them to move forward and see a new approach that may reduce or eliminate other conflicts."

The group can help organize public facilitation, where affected stakeholders are brought together in a public forum to discuss possible problems and likely solutions.

One of the first issues the group is tackling involves the conflict surrounding the proposed redevelopment of the Plaza de Panama space at Balboa Park.

Lowe already has held a mediation session with officials from the Save Our Heritage Organisation, who oppose a plan being considered by the city and Irwin Jacobs, who has helped developed the plan.

It's just one of several projects the new mediation team would like to handle along with ones involving the Embarcadero, wind turbine farms and solar projects in the desert.

"Our goal is to help reduce conflict in the most efficient manner to benefit our region and our economy," Reaves said.