



Regional Conflict Leads Utah Legislature to Consensus Building

*The following case, excerpted from an article by Utah State Representative and PCI/NPPC Board member **Ralph Becker**, sheds light on how circumstances compelled the State Legislature to employ a consensus process with surprising results. The case illustrates how consensus building can be successfully applied to a controversial issue.*

In 2003, a dispute between the City of Draper and the Metropolitan Water District of Salt Lake City was brought to the General Session of the Utah Legislature. The Water District had acquired property to build a regional water treatment facility. Draper had recently completed a General Plan and zoned the property for future commercial use; a water treatment plant was not a permitted use in the commercial zone.

Located near an interchange along I-15, Utah's busiest highway, the property was considered a key parcel to provide commercial activities and a tax base for fast-growing Draper. Yet the two governmental entities had not coordinated their planning.

Because the property was not zoned for a water treatment facility, the Water District could not build the facility without Draper's approval through a zoning change. Draper refused to make the zone change.

The Water District, believing it did not have a viable alternative to the site it had acquired, went to the Utah Legislature to seek exemption from zoning requirements.

The Legislature became the forum for a lobbying blitz and arbiter for the dispute. Hours of legislators' time were consumed listening to both sides of the issue in committees and floor debates. The bill crawled through the legislative process until both sides blinked and—outside the halls of the Capitol—agreed on a settlement that would rezone the property in exchange for hefty payments to Draper City for infrastructure improvements and the dedication of ground to public purposes.

Throughout the Session, tempers flared on both sides and legislators felt trapped in a fight that all acknowledged they were poorly equipped to address. As the Session drew to a close, the subject of critical regional facilities was slated for study during the interim between legislative sessions.

That set the stage for an alternative approach to addressing this regional planning issue. At the request of the sponsor, House Committee Chair Kory Holdaway (R-Taylorsville) agreed to support a working group to address the issue.

Four legislators, two from each party, set up a working group of representatives from cities, counties, special districts, private utilities, associations of government, the Utah Transit Authority, the State Planning Coordinator, Utah's Geographic Information System (UGIS) agency, and a Utah intergovernmental advisory group. Other interested parties were also welcome. The effort was staffed by the Utah Office of Legislative Research and General Counsel.

The working group met four times over the following four months. In each meeting, discussions evolved toward reaching an objective: how best to address conflicts among local governmental entities over regional facilities. Issues were identified, options explored, approaches accepted and revised, and consensus was finally achieved. Ideas came from all participants.

For all the working group members, the ideal was to avoid the conflict. Notification and communication became the focal point for prevention. But who should be notified, and how would notification occur?

In the course of several meetings, an approach was agreed upon by all parties. Notice would be given to all "affected" parties planning and acquiring property for regional facilities. The responsibility would be placed on each entity to make the other aware of the proposal. In addition, a clearinghouse maintained by the UGIS agency would contain notices of all activities, and interested parties could go to the clearinghouse website to find out about proposals for planning or facilities. All

cities, counties, school districts, public utilities, and special districts would provide the clearinghouse with a contact person for the information. The clearinghouse would ultimately serve as the notifier.

All parties agreed that leaving resolution of these kinds of disputes to the legislature wasn't desirable, and that the court system was too slow, costly, and unpredictable. Yet finding an acceptable dispute resolution approach took considerable thought and discussion. The working group decided to create a dispute resolution commission for conflicts about regional facilities, modeled on the Utah Boundary Commission, whose duties are to resolve boundary disputes.

Even though consensus appeared to be reached on the package, concerns grew about the mechanism for addressing disputes over regional facilities. The tentative agreement wasn't reduced to legislative language for months. In the meantime, concerns about a power grab and the creation of a 'regional authority' that could gain a foothold multiplied. As the 2004 General Session of the Utah Legislature convened, the future of regional facilities legislation was in doubt.

It was clear to the sponsors that if the bill was going to move forward without major opposition, the dispute resolution commission would have to be dropped. A substitute bill with the notice provisions was introduced and ultimately passed both the House and Senate.

The bill may have far-reaching implications for local governments, special service districts, school districts,

and investor-owned utilities. For the first time, all these entities must provide notice at the front end of their intention to prepare a plan. Prior to introduction of the bill, Utah statutes did not require any public notice to affected entities until a plan was being considered for adoption. Special service districts, school districts and investor-owned utilities were not required to notify local governments or others of their planning activities.

This bill was particularly challenging because so many interests were affected, and they all had their power bases in the legislative process. It's

doubtful that the parties would have come to the table and that legislators would have taken on an issue with so many parties in dispute without the dispute fresh in legislators' and affected parties' minds. Further, the ogre of "regional planning" would likely have emerged and undermined an effort to address the issues. Creating a work group to develop a consensus was critical, and made passage of the bill possible.

