

Inventing Options

Many of us want to jump right to a solution as soon as we think we understand the problem. When we do that we are less effective in getting the best results in our negotiation.

In a ten-year study of negotiators, one characteristic of successful negotiators was that in planning the negotiation they considered twice as many options per issue compared to average negotiators. In face-to-face negotiation meetings they made half as many immediate counter-proposals. Let's use an example.

Marsha is negotiating with her supervisor, Pat to start work at 9:30 a.m., a half hour later than the other nine staff in the customer service department. Marsha offers to stay until 5:30 p.m. to make up the hours. Marsha tells Pat that she is caring for her elderly mother at home and the homecare worker cannot get there until 9:00 a.m. Marsha does not want to leave her mother alone in case she falls and would like to check that the homecare worker has arrived before leaving for work.

Pat has called Marsha for this meeting because Marsha has been frequently late over the last few weeks. After she has listened to Marsha, Pat would like to find a way to accommodate Marsha because it fits with the company's culture of being a caring employer. Marsha is effective and knowledgeable as a customer service representative and only in the last few weeks has this problem arisen with lateness. At the same time Pat wants to be fair to the other employees in the department and above all to have customers feel well-served. The normal hours for customer service in this company are 9 to 5.

Marsha and Pat might now have a push-and-pull conversation about how 9:30 to 5:30 hours could work and maybe they will fiddle with the concept to find something way to arrange 9:30 to 5:30 so that it works for both of them. The only other idea that they have considered so far is the current practice of 9 to 5 hours. Pat may decide that only 9 to 5 hours work and that if Marsha cannot work those hours like everyone else she is not going to be able to work there.

According to William Ury in *Getting Past No: Negotiating Your Way From Confrontation to Cooperation*,

One of the most common negotiating mistakes is to announce that you have found the solution to the problem. . . . Negotiation is not just a technical problem-solving exercise but a political process in which the different parties must participate and craft an agreement together.

If Pat tells Marsha that she is going to work 9 to 5 if she is going to continue to work there or if Marsha says that for her to change to 9:30 to 5:30 hours will be the solution, they then engage in trying to persuade the other that their own solution is best. If one has the power to force the other or at least to stop expressing disagreement, the negotiation may not take much time. However the time spent afterwards dealing with the negative implications will more than make up for any time saved in that initial negotiation. If Marsha accepts the 9 to 5 solution but is frequently late for work, the work environment could be poisoned by the downward spiral of the relationship between Pat and Marsha as Pat invokes disciplinary processes for lateness, and goes through the complaint procedure or if Marsha is in a union, the grievance process. Eventually Marsha may end up being fired and suing for wrongful dismissal.

Even if Marsha and Pat eventually end up with one of these ideas as the final solution both will accept the outcome and therefore be more likely to uphold their end of the deal if they had a part in shaping the solution. The effective negotiator is able to use creative skills to come up with many options. As many authors have said, because of the nature of human brain function we have to suspend analytical thinking so as to allow our creative thinking processes full reign. An effective way to do this is to use the technique of brainstorming. You can brainstorm alone or with the other negotiators on your side in preparation for the meeting. You can also brainstorm very effectively in a meeting with the other side. (See: Munn-thly Memo)

When you are developing options you are not looking for the right way, the ONE solution. At this stage you want to get as many ideas as possible so that you and the other side have ideas to build on or jointly choose. Wise decision making requires a wide range of input rather than just a choice of this or that.

Roger Fisher and William Ury point out in *Getting to*

Yes: Negotiating Agreement Without Giving In that "Time spent brainstorming together is surely among the best-spent time in negotiation." In joint brainstorming the parties are getting to hear each other's ideas and learn more about each other's concerns. They are participating together in a positive climate, which may be a healthy change if there has been a history of conflict between the

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Ten Tips for Effective Brainstorming

1. Before you start, consider whether brainstorming will be best accomplished with the help of a neutral facilitator or mediator.
2. Define your purpose before you begin. What would you like to have when you end the meeting?
3. At the start of the brainstorming session clarify the ground rules.
4. No criticism or evaluation of ideas. Postpone this until after brainstorming.
5. Ideas are not offers. To allow both sides to feel protected when brainstorming in meetings with the other side, make it clear that no one is committed to agree later to any ideas they suggest.
6. Any ideas are welcome no matter how unrealistic or downright crazy. One crazy idea may spark an idea for a workable solution.
7. Encourage many ideas. The more ideas, the more chance there is for good quality ideas to emerge.
8. During brainstorming record the ideas where everyone can see them.
9. Encourage piggybacking or hitchhiking. Combining ideas or improving on the ideas of others is an effective way to build workable solutions.
10. After the group runs out of ideas, mark the listed ideas the group thinks are best. Use those ideas to start evaluating and building solutions. Don't cross off ideas. If you cross off unworkable ideas each side may insist on crossing off the other side's ideas.

"The haste of a fool is the slowest thing in the world."
Thomas Shadwell: *A True Widow*

Munn-thly Memo

As owner/manager of a small company much of my work involves negotiation of contracts with customers and suppliers. Usually we end up talking about some kind of compromise between their position and my position. Even when I'm dealing with staff situations I come away thinking that I need to be more effective in working out solutions. How can I do this better?

First take the time to understand the other person's interests — the needs, wants, fears, and concerns that motivate their thinking. There may be interests that you have in common with the other person. Don't forget that they need to understand your interests.

After building that base of understanding between you and the other person you are ready to move on to think creatively. Together you need to come up with ideas to answer the question "What are ideas to find a solution that will meet our common interests ... (summarize the list), your interests ... (summarize the list) and my interests ... (summarize the list)?"

Brainstorming is a very effective technique for thinking creatively to develop options. Listed on the cover are some guidelines for brainstorming in negotiation. After you have a list of brainstormed options you and the other person then can discuss what ideas can be put together to build a solution.

BULLETIN: 60% Settlements in Mediation Program

In the 2-year pilot program for mandatory mediation in all civil, non-family cases in Toronto and Ottawa there have now been 549 mediations completed. Of those cases 228 settled at mediation, 90 were partially settled and 231 did not settle at that time according to a recent Status Report of the Ontario Mandatory Mediation Program for the period ending October 1, 1999. That's just under a 60% settlement rate.

An evaluation is being done by an outside evaluator which will track the satisfaction of the partici-

pants. The first interim report of the evaluator is expected on November 8, 1999.

For more information about the Ontario Mandatory Mediation Program which began January 1, 1999 see *The Rule in Brief*, Common Ground, April, 1999. Call us for a copy or find it at www.munnrcs.com.

Birth Announcement: www.munnrcs.com

Our bouncing baby website has been born! Back issues of *Common Ground* are available for you to read or download.

Anything you like or don't like about the website? Anything you'd like to see? Please let us know your comments.

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parties. Each person has the opportunity to participate and to suggest ways to meet the interests of themselves and the others.

Besides brainstorming other methods for generating options are exchange of offers, often with one offer building on the other party's previous offer. An exchange of offers may also follow a brainstorming session when the parties have had the opportunity to analyze the ideas and build workable packages to which they could agree. In some cases it is appropriate to hire experts to provide a range of options based on technical knowledge which may not be shared by the negotiating teams.

Let's go back to Marsha and Pat. I have used this example in many presentations. When I ask the participants to brainstorm ideas I generally get a long list in a fairly short time period. For example: investigate whether the employee benefits plan would cover home-care for Marsha's mother; check other 'homecare' services to find out if they can accommodate Marsha's requirements; assess how permanent the arrangement is for Marsha — is she the caregiver just until her mother can get into a nursing home?; change Marsha's hours on a temporary basis until she is able to make other arrangements for her mother's care; assign Marsha to do paperwork for the department between

5:00 and 5:30 when the phones are quiet; involve the other customer service reps in the solution so that they don't feel Marsha is getting special treatment; refine company policies to be clear about accommodations that would be made in this type of situation; examine the customer service functions of the company - find out whether customers would like longer hours than 9 to 5; extend the customer service hours to earlier and later times to accommodate customers in other time zones or who have other reasons for wanting more availability of customer service; find out when peak times are for customers calling and give all staff the option of more flexible hours as long as the peak times are well staffed. Maybe Marsha could work from noon until 8 and even reduce her homecare costs by sharing the load with other family members who can be home by 5 p.m. The list goes on.

With this wealth of options to build on Marsha and Pat are likely to come up with a workable solution that leaves both of them feeling satisfied with the possible bonus of improving the company's relationships with customers and employees.

Don't begrudge the time spent generating options. Invest the time and energy necessary to devise lots of options, remembering that it is a necessary step in getting to the ultimate goal of a wise agreement.

Mark Your Calendar

Upcoming Training Events

Presented by Kathryn Munn

Fanshawe College, Business and Career Development in London

Call (519) 452-4425 for more information.

Mediation - Phase I - Nov. 16, 17, & 18

Civil Justice for Mediators - November 26

Negotiation - Phase II

November 30, December 1, & 2

University of Western Ontario, Continuing Education in London

Call (519) 661-3658 for more information.

Getting the Deal: Contract Negotiation
November 19

Getting the Job Done: Negotiation Skills for Administrative Assistants
November 5 & 12

The Management Centre, Lambton College in Sarnia

Call (519)542-7751 Ext. 505 for more information.

Communication from Conflict to Consensus
November 2 & 3

Mediation I - November 23, 24, & 25

Conflict Resolution - December 7 & 8

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Kathryn Munn, LL.B., C.R.C. is a mediator, arbitrator and lawyer. Through her firm Munn Conflict Resolution Services she works exclusively in alternate dispute resolution from a base in London, Ontario. She is a Roster Mediator, Ontario Mandatory Mediation Program - Toronto / Ottawa and a mediator under contract for Canadian federal government departments and Crown Corporations.

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2090 Richmond Street
London, Ontario
N5X 4C1

telephone (519) 660-1242

fax (519) 660-1618

toll free outside London area 888-216-3202

e-mail kathryn.munn@sympatico.ca