

E-bulletin #22  
Public Dispute Resolution in North Carolina  
School of Government, UNC-Chapel Hill  
October 10, 2006

- For more information, or to unsubscribe, contact John Stephens: [stephens@sog.unc.edu](mailto:stephens@sog.unc.edu) or 919-962-5190
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## THE STORIES

### **New NC Agricultural Mediation Program – first training in November**

The United States Department of Agriculture (USDA) has certified a North Carolina Agriculture Mediation Program (NCAMP) with Western Carolina University (WCU) College of Business as its sponsor. WCU received about \$95,000 to initiate the program. NCAMP's goal is to have eastern, central, and western divisions, each with six to ten trained mediators.

Applications are being taken for a 21-hour training that begins November 17 at WCU and is limited to 24 participants. The registration deadline is Nov. 10<sup>th</sup>. NCAMP is seeking attorneys, agricultural professionals, and others.

Mediators who have completed the 21-hour Community Mediation Course or the 40-hour Superior Court Mediation Course do not have to take this course to become an agricultural mediator. The remaining 49 hours will be offered at a later time, in two separate training sessions. Overall, 60 hours of training will be offered to prepare mediators.

In addition to providing mediation services and training, NCAMP will educate the public, ranchers and farmers about the availability of mediation for the resolution of credit and non-credit agricultural issues. WCU plans to work with the North Carolina Department of Agriculture and Consumer Services, the North Carolina USDA Rural Development Office, North Carolina

Agricultural and Technical College, North Carolina State University, and other universities within the UNC university system.

Many other states have offered formal mediation under USDA auspices for decades. Disputes related to farm credit and non-credit agricultural issues such as wetlands determinations, compliance with farm programs, rural housing, pesticides, and rural development are eligible. Disputes can involve the Farm Services Agency (FSA), the Natural Resources Conservation Service (NRCS), Rural Development (RD), Risk Management Agency (RMA) and other USDA agencies.

NCAMP is operated by the WCU College of Business, Business Law Department, which is in the process of obtaining approval for a minor in conflict resolution and cross-cultural communications. The Executive Director is Dr. Jayne Zanglein, who has been a mediator since 1994. Previously, she taught mediation, cross-cultural communication, and ADR for ten years at Texas Tech University School of Law where she was an endowed professor of law.

For more information, contact:

Professor Jayne Zanglein, [jzanglein@email.wcu.edu](mailto:jzanglein@email.wcu.edu) 828 227-7191.

OR Courtney Howard, [mcs2003@yahoo.com](mailto:mcs2003@yahoo.com) 336-552-6222

## **Applications due October 20 for NRLI – Facilitative Leadership Program for 2007**

The mission of the Natural Resources Leadership Institute (NRLI) is to educate and support a diverse group of North Carolinians who are committed to building consensus on issues affecting the sustainable development of the state's natural resources and the quality of our environment. Each year 25 participants from a wide range of groups, communities, and organizations are selected for an 18-month continuing education program.

Applications are sought from people from federal and state natural resource agencies, resource-based industries, environmental and conservation organizations, local government officials, private landowners and managers, educational institutions and elected officials.

The program includes six 3-day sessions (January-June 2007) at various locations in North Carolina and one session in Washington, D.C. (of four days, including travel time). Each session typically begins with lunch on the first day and ends in mid-afternoon on the third day. For July 2007-June 2008, there are two 1-day review sessions, a leadership practicum, and a graduation ceremony. Scholarships for partial financial support towards tuition and/or travel expenses are available.

Applications are Due October 20, 2006. The application can be found at:

<http://www.ces.ncsu.edu/depts/agecon/nrli/index.htm>

For more information, contact: NRLI Leadership Program Director, Mary Lou Addor, (919) 515-9602 or [Mary\\_Addor@ncsu.edu](mailto:Mary_Addor@ncsu.edu)

## **Challenges of Regional Collaboration – Analysis of *Voices and Choices***

What happens when a “convener and facilitator” of collaboration on sustainability and quality of life issues becomes an advocate? This is one focus of a case study funded by the Z. Smith Reynolds Foundation which analyzes Voices & Choices of the Central Carolinas. Voices & Choices (V&C) is a regional non-profit organization serving the 14-county, two-state region of metropolitan Charlotte.

The mission of V&C is “to ensure a sustainable quality of life for today and the future by engaging citizens, governments and community organizations in shaping a shared vision for our region and by fostering collaboration on common concerns and opportunities.”

Denis Hayes and Tracy Russ authored the study. The purpose of the study was threefold:

- to record, for historic purposes, the Voices & Choices process in the Charlotte region
- to serve as a civic engagement model to be used by governments, non-profits and citizens
- to be used as a resource for techniques in consensus-building, collaboration and community resource development

Among other findings, V&C shifted its focus from that of bring primarily a convening and facilitating organization to that of an advocate of the Vision which was produced at the 1998 Regional Environmental Summit and the 150-point plan produced by the Action Teams throughout 1999.

For copies of the December 2002 report, contact: Tracy Russ [groupruss@aol.com](mailto:groupruss@aol.com)

## **NC Court of Appeals: 2005 mediation did not violate open meetings law**

On August 1<sup>st</sup>, a three-judge panel of the NC Court of Appeals unanimously affirmed a lower-court judgment that the April 2005 method of private mediation sessions with representatives of the City of Asheville and Buncombe County government did not violate the state law concerning open meeting.

I was the mediator for the April 26, 2005 mediation. I first spoke in open sessions, separately, to the Asheville City Council and the Buncombe County Board of County Commissioners. They voted separately to go into closed session for purpose of advising their respective attorneys about potential litigation. The mediation was conducted with the attorney representatives of the two sides, and one elected member of each board. Periodically the private mediation session would recess, and the representatives would go back to their respective, closed-session board meetings.

The Asheville Citizen-Times and WLOS TV were the plaintiffs in the case. The Appeals Court found that the private mediation sessions did not constitute an official meeting of a government body, and thus did not run afoul of open meetings standards. The plaintiffs argued that another portion of the open meetings law prohibits informal meetings that evade the purpose of the Open Meetings Act. The Appeals Court found, “The structure and function of the meetings and the mediation do not evidence such an intent.”

## **Two mediations on Chatham County election rules: one agreement, one failure**

In September, the Chatham County Board of Elections went to mediation on two separate challenges to their actions. In one mediation, an agreement led to a change of wording for a ballot referendum this fall. The other mediation ended without agreement, and a court ruled against the board.

Two local grassroots activist groups -- the Chatham Coalition and a new organization called Chatham Citizens for Countywide Voting -- filed an official complaint about how the board had worded a referendum that will be on the November 7<sup>th</sup> ballot. The referendum concerns the proposal for the district election of the county commissioners. The ballot wording, the complaint charged, was "misleading and confusing," didn't explain what the impact of the vote would be and showed bias in support of the measure.

The complainants and the board went to mediation. As part of the mediated agreement, the board changed the wording to make it clear what the effects of such a voting change would be and what is the current voting procedure.

On a second matter, mediation was ordered for a dispute between the elections board and two citizens who sued the board in April 2006 alleging violations of the open meetings law and public records law earlier that year. Representatives of the board of elections and two Chatham residents spent about three hours in mediation Wednesday, September 6<sup>th</sup> trying to settle a lawsuit. The mediation ended without a settlement.

On September 11<sup>th</sup>, a Superior Court Judge John Smith ruled that election board meetings January 17, March 7 and March 14 violated the open meetings law because the board did not properly publicize them ahead of time. However, Smith thinks the board acted in good faith. "We don't have corrupt intent," he said.

Although plaintiffs Gretchen Lothrop and Gael McKeon prevailed, they were disappointed the county didn't have to pay more than \$3,500 of the \$35,000 it cost them for attorneys' fees to pursue the case. Lothrop said, "... the attorneys' fees are truly a tragedy. Basically what it says is if you want open government, boy, you have to pay for it."

- Adapted from reports by the *Chapel Hill Herald* and the *Raleigh News and Observer*.

## **Web Resources on Deliberative Democracy**

Deliberative democracy – models and tools to promote more “engaged” or “deliberative” ways for citizens to address public issues – seems to have some significant growth and greater recognition in recent years. Related to the more common topic of “public participation,” there is an ethos of inclusion and examination of the quality of the exchange, unlike whether a meeting met a public hearing legal standard.

One resource in this area is <http://www.deliberative-democracy.net/> A second resource includes summaries of the June 2006 conference: “Deliberative Democracy: New Directions in Public Policy Dispute Resolution.” See: <http://launch.vermontlaw.edu/epp/index.html>