

Governing Your Commons

JIM DRENNAN
UNC SCHOOL OF GOVERNMENT
NOVEMBER 2015

The Commons

A pasture is owned in common. Ten people each have one cow grazing in the herd. It can easily accommodate ten cows and each cow prospers. There are no rules for using the pasture. One of the herders adds another cow. He makes more money than any of the other herders. Another adds a cow. Soon we have the tragedy of the commons.

What happens?

The Tragedy

- "The essence of dramatic tragedy is not unhappiness. It resides in the solemnity of the remorseless working of things."

—Garrett Hardin, *TRAGEDY OF THE COMMONS*

The Lesson of the "Commons"

All participants must agree to conserve the commons, but any one can force the destruction of the commons.

The Shadow of the Future-Axelrod

- People who know they will not meet you again have nothing to lose by not cooperating and maximizing their gain
- Someone you will meet again may be deterred from not cooperating, since you will play another game with them

The Dilemma of Collective Action and Free-Riders

- It takes all parties to make a collective agreement work, but only one to make it fail
- Individuals will still be able to benefit from the actions of others without taking comparable action themselves, e.g., recycling, paying taxes

The Prince speaks to us

And one should bear in mind that there is nothing more difficult to execute, nor more dubious of success, nor more dangerous to administer than to introduce a new order to things; for he who introduces it has all those who profit from the old order as his enemies; and he has only lukewarm allies in all those who might profit from the new.
-- Niccolo Machiavelli

This is not a new problem

- "For that which is common to the greatest number has the least care bestowed upon it." - Aristotle, *Politics*, circa 350 B.C.
- *The law arrests both man and woman who steal the goose from off the common, But lets the greater villain loose, who steals the common from the goose.*
- Folk poem, circa 1764

The Courthouse Commons

- The court system, as a whole, is a “commons,” a resource shared among all of you
- As individual decision makers, you are free to make your own choices, and you will often gain personally from the decision, at least in the short run, but the costs are often distributed among all the users; often in the long run everybody loses

Decisions in the Courthouse Commons

- ***Sole responsibility of one official, no affect on others***
- ***Sole responsibility, but affects others***
- ***Sole responsibility, affects others, but none of their business***
- ***Not assigned to anyone, but affect everyone***

Your World

- No one in charge, checks and balances to an extreme
- Elections, elections, elections
 - This is a tough job. It never stops at the office door. Everywhere I go, the job follows. I realize that I have spoiled people by bending the rules to help them. I am a Judge on the front lines. This county is small and trying to keep my by being reelected has always had to be in the back of my mind.

Governing Your Commons

- How will your commons be governed?
- Options
 - Silo management
 - Shadow of the future
 - × Mutually assured destruction
 - Collaboration
 - × *Working together to achieve a common goal that is impossible to reach without one another*

Planning a Meeting

- Court systems are overloaded and time is a valuable commodity
- If a meeting is called, it is essential to use the time wisely
- A well-planned meeting respects people's time and produces results
- **Planning an effective meeting requires at least as much time as the meeting itself**
- Conventional wisdom about meetings gives little attention to planning

Meetings as a Governing Tool

- Type of meeting—ongoing or special purpose?
- Who's in the group?
 - Role of Stakeholders
 - ✦ Decision makers, implementers, people affected and blockers
- Should they be regular or called?
- Should there be an agenda? Who sets it? How?

Meetings as a Governing Tool

- If one or more people see the need for a meeting, who do they ask to call it?
- Who presides?
- Who would plan the meeting?
- How would decisions in the meeting be legitimized and put into action?

What Is the *Purpose* of the Meeting?

- “The purpose of this meeting is to . . .”
- Make decisions
 - Inform
 - Plan
 - Negotiate differences
 - Report
 - Analyze
 - Track progress
 - Problem-solve
 - Team-build
 - Learn

Formal and Functional Roles

- When working on common tasks, the formal roles as judge, clerk, etc, may morph into a role as team-member
- May need to add group members for functional roles not served by those with formal roles

Displaying and Preserving the Group Memory

- **The group memory is an ongoing record of what happens during the meeting**
- It is visible to everyone
- It contains key words and phrases spoken by the participants
- It frees people from taking notes and allows for immediate correction
- It provides information for making a decision
- It preserves information for writing up minutes

Hospitality

Hospitality is an essential component for a successful meeting; lack of it can kill a meeting

- Choosing and arranging the space
- Providing comfortable seating
- Assuring that everyone can hear and that the temperature is adjusted properly
- Welcoming people
- Providing food and drink

Questions to Ask About Calling a Decisional Meeting

- Would a meeting help assure this decision will be **implemented and sustained?**
- **Who is responsible** for the issue in question?
- **Who will be affected** by decisions made on this issue?
- **Who can help implement it?**
- **Who can prevent its implementation?**
- **What method of decision-making** best fits this situation?

Examples of Desired Outcomes

- “By the end of this meeting we will . . .”
- Reach agreement on an inclement weather policy
 - Select a workgroup to oversee the construction of the new courthouse wing
 - Decide whether or not to recommend to the county that a consultant be hired to help us improve courthouse security
 - Decide on steps we need to take to improve our hospitality and care of jurors

Decision-Making Options

Before any business is begun, get agreement on how decisions will be made

- **One person makes a decision** and announces it
- The decision-maker gathers input **from individuals** or **from a meeting** and decides
- The decision is made by **consensus**: everyone agrees to live with, support, and help implement it
- The **decision-maker** sets parameters for the decision and **delegates** it to the group

Have a Fallback Decision Making Plan

Agree in advance on what will happen when consensus on a decision can't be reached in the time available

- Majority vote
- Agreement by 2/3 (or 75% or 80%, etc.)
- Agreement by unanimity minus one (or two or three, etc.)
- The decision defaults to one person or subgroup; e.g., “If we can't reach consensus in the time available, then **x** will take the information from the discussion and make the decision.”

Using a Gradient of Agreement

Adapted from Sam Kaner, *Facilitator's Guide to Participatory Decision-Making*

Provides a way to discern the different positions people are taking without casting a formal YES or NO vote

8	7	6	5	4	3	2	1
Endorse	Endorse with minor reservations	Agree but with reservations	Abstain	Stand aside	Formally disagree but willing to go along with majority	Formally disagree and unwilling to help implement	Block
"I like it"	"Basically, I like it"	"I can live with it"	"I have no opinion"	"I don't like this but don't want to hold the group up"	"I want my disagreement noted in writing but will support the decision"	"I don't want to stop it but I don't want to help implement it"	"I veto the proposal"

What Are the Qualities of a Good Decision?

- The focus is on collective decisions
- What recent decision have you been part of that's an example of a good decision?
- Does thinking about the qualities of a bad decision provide useful information about making good decisions?