



## Transformative Mediation

By Andrew Kidde

Fifteen years ago, Robert Baruch Bush and Joseph Folger stirred up a great debate in the mediation community with their book *The Promise of Mediation*. They argued that "mediation is unique among third party processes in its capacity to be transformative." They pointed out that this transformative capacity was due to the fact that mediation both empowers parties to resolve disputes themselves, and provides opportunities for acknowledgment and recognition between the parties. Bush and Folger proclaimed: "the goal is a world in which people are not just better off but better: more human and more humane." By articulating a higher purpose, Bush and Folger's book was a rallying cry and an inspiration for many mediators.



*Robert Baruch Bush*



*Joseph Folger*

imbalance, the pure empowerment techniques of transformational mediation can lead to a weaker party being coerced into an unfair agreement.

So, instead of an orthodox transformative style, we have encouraged a nimble heterodoxy. Transformative style is our preference, our first approach, but ultimately we will also help people simply settle, and we may from

time to time encourage less informed and vulnerable parties to obtain expert advice before returning to mediation.

But transformative mediation is still the most satisfying, most inspiring work we do. While it does not happen in every mediation, we celebrate it when it does. Not so long ago, we had one, and I have written it up, with many significant details changed to protect the confidentiality of the parties. Here it is:

...Woodview, a small neighborhood abutting a park, is a place where neighbors got along fine – until the "no parking" signs appeared on the empty lot. Then, bitterness took hold, and neighbors began to complain: "We used that lot for guest parking until Jim Jordan put up those signs." "They never spoke to anyone -- they think they're better than us." "He got a back door deal with county utilities -- only pays \$20 a month to lease that lot."

Jim Jordan, who lived next to the empty lot, had a different view. "Sure everyone used that weed patch as a parking lot, and they blocked my driveway! Totally disrespectful, trash left on the ground.... Their attitude is 'what's yours is theirs.' Thank goodness the county leased it to me."

The complaints caught the utilities department by surprise. They used standard procedure for leasing unused property. Furthermore they managed a utilities system and had no time to resolve a "neighborhood spat." Not that this stopped neighbors from calling all day long.

For Bush and Folger "the goal of transformation ... should take precedence over the other goals mediation can be used to obtain." They criticized what they saw as the prevailing practice in mediation of focusing on settlement and satisfaction: "...the Satisfaction Story has gained sway as the guiding vision of the movement, other visions such as that of the Transformation Story have been attended to less and less." They urged mediators to adopt the transformative style – one that emphasized the empowerment of parties and provided as much opportunity as possible for acknowledgement and recognition.

At the Bellevue Neighborhood Mediation Program we have promoted the transformative style of mediation to a significant extent. Yet, a rigid orthodox approach to mediation sometimes can be limiting. For instance, some parties may have no desire to use a particular conflict as an opportunity for transformation -- they may simply want to settle this issue and move on. Providing these folks with a settlement oriented mediation seems reasonable. Also, in cases where there is a significant power

The case was referred to mediation, and five key households agreed to mediate. The mediation started awkwardly. Opening statements were stiff and positional, full of blame. The mediators pressed on cautiously.

As the negotiation got underway, several neighbors stated that the dirt wasn't the issue as much as Jim Jordan's sneaky behavior. Later, one neighbor had a spontaneous, heart-felt outburst. She talked about past neighborhood parties, watching children grow up, families enjoying the park, and her place in that history; she wanted that caring community to return; she wanted the people to be more important than the price of a house. Her bottom line was "how do we regain our community?"

It struck a chord with Jim, and he replied with a caring directness that had been absent (he had been posturing most of the night). He began to see his place in the community as something more important than just his legal rights, and the additional parking he needed. The wind didn't just leave his sail, it was as though the sail came down – and he became interested in a fair resolution for the whole community.

The neighbors reached agreement on the empty lot. But, more important than the terms of the agreement, was the optimism and renewed feeling of community that they carried back to their neighborhood.

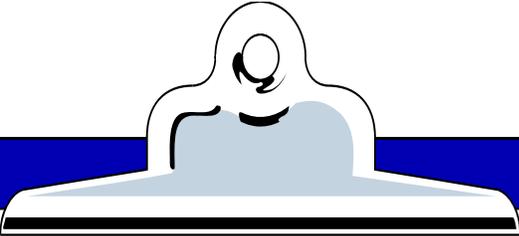
## Upcoming In-service on managing your own emotions as a mediator!

One area that is often challenging for mediators is the management and processing of strong emotions both for the parties and for themselves in the course of mediation whether it be a Parent-Teen, Community, or Workplace mediation. The presence of strong emotions on the part of mediators can affect both their ability to conduct the mediation and possibly can impact their ability to maintain a neutral process. This session will focus on dealing with strong internal emotions as experienced by mediators. The presence of these strong emotions is sometimes identified as mediator bias.

There is a revolution occurring in our understanding at the neurological level of how people make decisions and this presentation will present some of this information as it applies to decision making by mediators and the parties. If you have ever had a situation where you were concerned that your emotions were or could have been impacting a mediation, this presentation will provide you with additional tools you may use to manage your emotions and thus to be more effective in your role as a mediator. The session starts at 6:00 pm and ends by 8:00 pm and will be presented by Lars Watson, a mediator with the Bellevue Mediation Program and a person for whom this has been an ongoing topic of interest.

## Volunteer Recognition Party '09





## Parent—Teen Update

By  
Cathy Goldman

We are getting more parent-teen calls now and have scheduled more mediation sessions. My goal is to get more observation and mediation opportunities for you all. Our February Volunteer Recognition Night was a big success. Thanks to all who attended! We appreciate your service so much! We were asked to come to Newport High School in March and teach conflict resolution skills in an Independent Living class. I am excited to have this opportunity!



Our next in-service training will take place on Tuesday March 24<sup>th</sup> at 6 pm in room 112. We will examine effective mediator interventions through practice. Mock mediations provide valuable practice and feedback! On April 22<sup>nd</sup> at 6 pm Lars Watson, a long time mediator and volunteer in our program, will present a training on "Dealing with Mediator Emotions." Lars will focus on mediator emotions in the role of the mediator. Please mark your calendar for both these events. We decided to postpone the in-service on culture until May and June. More details about that in-service will come later!

Thanks for your continued enthusiasm toward the parent-teen program!

## BNMP Training Opportunities For Mediators and Conciliators

### *Parent-Teen In-Service:*

#### **Looking at Mediator Moments; Where Do I Go from Here?**

Cathy Goldman

Tues. Mar. 24th, from 6-8 PM in Room 1E-112

### *Joint Neighborhood and Parent-Teen In-Service:*

#### **Dealing with Mediator Emotions**

Lars Watson

Wed. Apr. 22nd, from 6-8 PM in Room 1E-112  
6:00 refreshments, 6:30-8:00 program

### *Training:*

#### **Basic Mediation Training (40 hours)**

March 2009 at Bellevue City Hall

## 16th Annual Northwest Dispute Resolution Conference:

At University of Washington

Fri. and Sat., May 1st and 2nd

### Mediation Book Group Takes a Rest

We are laying down the mediation book group for a spell. It has had a good run, but sometimes it's just time to take a rest. We've read and discussed some fascinating books — not just mediation classics like *Getting to Yes* and *Difficult Conversations*, but also titles from a wide range of fields including behavioral economics, cross cultural studies, and psychology. All of them have had something to contribute to our understanding of the practice of mediation. Special thanks go to Barbara Miller, who has done the lion's share of organizing the book group. Perhaps sometime we'll get it going again. Heaven knows, there are plenty more books out there with plenty more to teach us about being a mediator.

### **Program Staff:**

Program Co-Manager:	Cheryl Cohen	-	452-5222
Program Co-Manager:	Andrew Kidde	-	452-5288
Program Assistant	Gwen Jones	-	452-2897
Parent-Teen Coordinator:	Cathy Goldman	-	452-4091

City of Bellevue website: <http://www.bellevuewa.gov>  
(Look for the Mediation Program under "Neighborhood Information")

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*Volunteer Profile:*

**Jillian Hostenske**



Jillian Hostenske grew up in Bellevue and has worked for the City for almost 20 years. Jillian manages retirement programs in the Human Resources Department. She lives in the Somerset neighborhood of Bellevue with her 17-year-old daughter. Preparing for her soon-to-be empty nest, Jillian is pursuing volunteering in the community. “The Parent/Teen Mediation training at the City of Bellevue is exceptional” states Hostenske, “I can hardly wait for opportunities to serve.” Inspired by Hillary Clinton’s *It Takes a Village to Raise a Child* borrowed from an African proverb, Jillian hopes to make a difference. She has been a single parent for 12 years – and knows the truth of the saying and the value of those who step up to make a difference. In addition to volunteering with this program, Jillian is a CPA and coordinates the financial literacy outreach program on the Eastside for the Washington State CPA Society in which volunteer CPAs provide financial education to schools, community groups and non-profits. Jillian has also served as an advocate for the Eastside Domestic Violence Program on the crisis line for over 5 years.



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