

## Update

November 2009

# You Cain't Rush Mediation

By Henry Smilowicz

Some years ago, I was sitting in a Pittsburgh BBQ restaurant of local renown, a gritty joint in a tough neighborhood. The aging owner from the Deep South crafted great open-pit roasted meats there longer than anyone could remember. It was late at night and business had thinned. The owner dropped by our table, and it was the perfect time for me to ask the secret to his excellent BBQ. His answer was short and sweet: "You cain't rush poke!" (Pork). I've come to realize that mediation is a lot like "poke." Both need to develop slowly and deliberately for the end product to be its best.

This was highlighted by a conversation I just had regarding a recent BNMP mediation. The observer I talked with had a curious experience at the session. One party wished to settle very early in the process, but that was met with resistance not by the other party, but by a mediator. The more veteran mediator said, "we appreciate that, but we aren't quite ready for it." The observer was surprised. Only later in the process did the wisdom in that comment ring true to him. More needed to be done to make mediation successful and for any agreement to be satisfying to all. I've since reflected more on why that's so.

An obvious purpose of mediation is to reach agreement. But there's also a need for relevant facts and circumstances to surface. And beneath the facts and circumstances, there are the parties' opinions, beliefs, and feelings. Then there are their needs, which they may not yet fully understand themselves. Mediations largely begin with an exploration of facts and circumstances, with relatively little about opinions, beliefs, feelings, and needs. Those generally begin to emerge more after



the parties have gotten more deeply involved in the process.

An agreement crafted before we adequately delve into those deeper concerns has a greater chance of failure. More importantly, though, a mediation that hasn't "mined" feelings and true needs has less of a chance to settle, and much less of a chance to really satisfy the parties in the end. It's important for a mediator to recognize

when more "mining" is needed. The recent case with the early settlement attempt was more obvious than most. Often, the situation is more subtle and we mediators have to be watching for clues.

Some of the clues we might encounter are when a party has "shut down." They aren't listening well, and may show tight body language. Their comments may be mostly defensive, or they may say little or nothing. We might hear a purely rational/ intellectual explanation of the situation where the person is acting as if it happened to someone else. Or, they may be so angry that that the mediation is unable to proceed smoothly to the problem solving phases. Some of these difficulties are a natural part of the process. There is upset in the room or we wouldn't be there. And often just the passing of some time and the magic of the process will serve to move through these barriers. But sometimes it's not that simple.

A party may feel intimidated by the process. They may be trying to protect an image in front of their spouse, or neighbors, or get angry hearing the other party's story disagree with their own. And we hear selective memory favoring one's own point of view. These, and many other barriers to the process, happen often. It's a challenge for mediators to recognize how

and when to intervene when those conditions persist. The sooner we get to underlying interests, the sooner we move through those barriers.

I've found it useful to begin connecting to underlying interests with the mediator's recap of the opening comments. We hear about the facts and events leading to mediation, sometimes in excruciating detail. Often there is little comment about true feelings, as a party may have intellectualized the conflict, seeing it as a factual situation with a concrete solution. I like to ask questions about what certain events meant. We've been trained to use the "Could you tell me more about...?" approach. Expanding that to "Could you tell me more about what that meant to you?" for example, can help. Or, the mediator may say, "you seem especially concerned about..." when we sense that a certain point matters greatly, but hasn't been clearly stated as such. Bringing the focus to feelings early in the process is helpful.

The place where exploring underlying concerns flows most naturally is in caucus. People talk more freely there as the other party is no longer listening. And there is generally more of a feeling of connection with the mediator. I suspect that if blood pressure readings were taken then, the numbers would tumble quickly. This is the setting where a mediator can often make great inroads into getting to what factors -- and this usually a shorter list that where it started -- really matter. And it's a natural time to apply reality checks to find out what somebody really needs from the process. This is where mediators do some of their best "cooking." The mediation moves closer to a finished product.

I think the mediator plays a role much like Rocky, the BBQ chef. They apply seasoning -- not too much and at the right time -- to the product. And they let it develop slowly under their watch until it develops into what it should be.

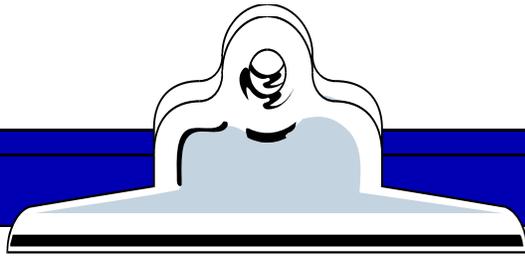
**BNMP Wins First Prize in the WMA  
Conflict Resolution Day Challenge for  
*Naughty Neighbors* !!!**

presented October 16th at the Crossroads Stage  
(See photos from the play at right.)

We want to thank all of our volunteers and the City of Bellevue employees who participated! Special thanks to Lynn Terpstra, Catherine Zimmerman, Charlsey Webster at Crossroads Mall, Bellevue TV, and Bellevue Children's Theater.

## Photos from *Naughty Neighbors*





## Parent—Teen Update

By  
Cathy Goldman

October was a busy month for the parent-teen program. We had many intake calls and we scheduled three mediations in one week! We continue to get calls about our service! We participated in the first Truancy workshop for the Bellevue School District on October 28<sup>th</sup>. Although there were only a few families who came, we got a sense of how it works. I am pleased to be part of the process. Our teen mediators did a great job talking to the teen participants.



Please plan to attend our November 17<sup>th</sup> in-service. John Shafer and Don Desonier will talk about "The Changing Role of Law and the Practice of Mediation." John and Don have been practicing law for many years and will share the changing trends and the new opportunities for mediation. I am excited to have them present to us on this topic.

Please plan to attend. I look forward to our monthly meetings as a way of keeping in touch with one another!

## **BNMP Training Opportunities For Mediators and Conciliators**

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

with Cathy Goldman  
Wed. Jan. 6th, from 6-8 PM in room 1E-112

### *One Day Training:*

#### **Cultural and Gender Issues in Negotiation and Mediation**

with Nina Meierding  
Wed. Jan. 13th, from 9 am—5 pm  
in room 1E-108 Cost: \$75

### *Volunteer Recognition Party*

Tues. Feb. 9, 2010, from 5 pm—8 pm  
Mercer Slough Environmental Education Center

### *Training:*

#### **Basic Mediation Training Spring 2010**

Wed. *April 14* 5:00 pm — 9:00 pm  
 Fri. *April 16* 9:00 am — 5:00 pm  
 Sat. *April 17* 9:00 am — 5:00 pm  
 Wed. *April 21* 5:00 pm — 9:00 pm  
 Fri. *April 23* 9:00 am — 5:00 pm  
 Sat. *April 24* 9:00 am — 5:00 pm  
 Cost: \$250

## **VOLUNTEER NEWS**

### *Congratulations to our recent Conciliation Training Graduates:*

Christopher Hill, Colleen James, Joseph Scovel,  
 Kemberley Tayler, Michael Kenway, Mike Brown,  
 Pan Pan Chu, Peter Sugarman,  
 Vaishali Balasubramanian

### **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:*

**Evan Loshin**



Evan has grown up in Bellevue, Washington and is currently a Senior at Newport High School. Having two older brothers as role models, he has found the importance and joy in giving back to his community. Evan was nominated by his counselor to the Parent-Teen Mediation Program and accepted with interest and enthusiasm. He values the opportunity to learn about communication and relationship dynamics and helping others solve conflicts. Evan also finds these skills very useful outside of mediation. He applies them to his leadership positions at school and in the community in addition to his own personal service business *WhizKids for Seniors (and Not-So-Seniors)*, a business centered on helping adults with technology. He is currently applying to colleges while balancing out his work with his passion for snowboarding and tennis.



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