



MASTER PLANNING BY THE MOUNT WASHINGTON COMMISSION

Fall 2021 Report



Photo by Patrick Hummel

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Table of Contents

I. EXECUTIVE SUMMARY.....	1
II. INTRODUCTION.....	2
1. Project Background	2
2. Question Presented	2
3. The Commission’s Statutory Purpose and Master-Planning Obligations	2
History.....	3
4. Summary of Process and Methodology	4
Timeline and Process	4
Commission Engagement	5
Direct Observation.....	6
III. KEY FINDINGS	6
1. The Commission’s current approach to addressing operational, short-term issues is not conducive to addressing long-term, strategic master planning.	7
Current meeting structure promotes information-sharing rather than joint problem-solving.....	7
Meetings prioritize getting down to business over strengthening relationships.....	7
Meeting format does not ensure that all perspectives are heard.....	7
While Master Planning is an item on MWC agendas, little time has been devoted to it in recent years, as more pressing items take priority.....	8
Regular meetings lack broader public input, which interviewees noted as a priority for master planning.....	8
Discussions about contested issues in meetings tend to be backward-looking rather than forward-looking.....	9
2. A zero-sum mindset impedes opportunities for collaboration.	9
Gaps between partners’ intentions and how behavior is interpreted create tension.....	9
Positional behavior overshadows examples of cooperation at both staff and commission level.....	11
Information asymmetries engender distrust, which makes collaboration difficult.....	12
3. Master planning presents an opportunity to resolve major sources of friction.	13
Partners expressed optimism that master planning could help the MWC reach consensus on long-term issues.....	13
Regular commission meetings rarely present an opportunity to discuss partners' varying visions for the summit.....	14
Partners have divergent expectations about decision-making roles and responsibilities.	14
IV. RECOMMENDATIONS.....	15
1. Master planning should be distinct from regular meetings in time and format.	15
Plan for longer, dedicated master planning meetings.....	17
Master plan in full body and open format.....	19
Proposals should be written and sent before the meeting to allow for thoughtful deliberation during the meeting.....	21

2. Restructure interactions to encourage value creation.	21
Outline rules, values, and norms for engagement.....	23
Discuss interests before commencing any negotiation.	25
Brainstorm value creating options; implement measures to encourage and respect creativity.....	26
Prioritize time before and after meetings for social interaction.....	27
3. Engage a facilitator.	27
Recommended Resources	29
Sub-Recommendation: Consider the One-Text Procedure	30
V. CONCLUSION.....	31
VI. APPENDIX.....	33
Interview Protocol	33

I. EXECUTIVE SUMMARY

Over the course of the fall of 2021, our team had the privilege and opportunity to work with members of the Mount Washington Commission and other stakeholders to understand what they hope to see in and get out of a master planning process. The Commission is required by statute to create a master plan for the summit of Mount Washington every ten years. The obligation presents an opportunity to come together and collectively envision the future of the mountain.

We conducted interviews, workshop sessions, and direct observation to identify obstacles preventing the Commission from master planning. We came to a number of conclusions, reflecting a series of common issues that the Commission, and many other bodies like it, face.

First, we found that the master planning process will require a different meeting format than the Commission's regular meeting format, which is best at addressing operational and short-term issues. Master planning meetings will need to be forward-looking. They will depend on a commitment to collaboration and joint problem-solving, which will require strong trust and relationships.

Second, we found that the Commission is getting stuck in a "zero-sum" mindset that impedes opportunities to collaborate. Understandably, partners look out for their own interests, rather than seeking ways that their interests might complement those of others on the Commission. There are opportunities to come to mutually beneficial agreements if the Commission can get beyond this zero-sum mindset.

Third, our interviews suggested that master planning presents an opportunity for the Commission to resolve sources of friction that keep the Commission from realizing its full potential. Partners are generally willing and even eager to engage in substantive discussions about the future of the summit, and master planning presents just that opportunity.

Based on our findings, we recommend three main strategies, grounded in dispute resolution and negotiation theory.

1 *Make master planning distinct from regular meetings.*

We offer perspective on how much time successful master planning can take, as well as strategies to solicit input and reduce barriers to brainstorming. We further recommend planning in full body to assure that the outcome of planning is accepted as legitimate and reflects the agreement of all parties.

2 *Restructure interactions to encourage value creation.*

We offer tools to help the Commission shift away from a zero-sum mindset and toward a frame of mind conducive to finding mutually beneficial solutions.

3 *Hire a facilitator.*

We recommend using the expertise of a facilitator, who can act as a neutral and expert guide to this complex process. Many groups faced with complex multi-stakeholder decisions look

to facilitators to ensure that the process is carried out in a way that is fair and constructive.

II. INTRODUCTION

1. Project Background

Since 1969, the Mount Washington Commission (MWC) has been tasked with managing the summit of Mount Washington. New Hampshire Revised Statute 227-B requires the Commission to agree upon a shared vision for the Mount Washington summit, embodied within a master plan. In 2010, the Commission drafted a preliminary master plan, but never finalized or submitted it to the Governor. The Commission again attempted to master plan in 2013, and the process stalled. Since then, master planning efforts have remained unfruitful. Partners have struggled to reach consensus on how best to proceed.

To help the diverse stakeholders work toward a shared vision for the summit embodied in a master plan, the MWC unanimously voted to engage the Harvard Negotiation and Mediation Clinical Program (HNMCP). HNMCP provides Harvard Law students with the opportunity to develop critical problem-solving skills, apply theory to practice, and deliver tailored management solutions to clients. HNMCP focuses on work in dispute systems design, negotiation, mediation, and facilitation.¹

2. Question Presented

How can the Commission best approach the process of master planning in order to comply with its statutory obligation and articulate a shared vision for the future?

3. The Commission's Statutory Purpose and Master-Planning Obligations

The New Hampshire legislature established the Mount Washington Commission in 1969 to “manage the summit of Mount Washington property owned by the state of New Hampshire.” RSA 227-B tasks the twelve-member commission with multiple responsibilities. Notably, the first is master planning.

RSA 227-B:6 requires the Commission to engage in master planning every ten years. Once the Commission has developed a master plan, it must submit the plan to the Governor “on or before” January 1, for “approval and for enabling legislation in the New Hampshire legislature.” The statute thus makes clear that master planning is a critical responsibility of the Commission, one that is important enough to require the involvement

What's in a Master Plan?

- 1 Capital Improvements
- 2 Operations and fees
- 3 Promotion of multiple uses
- 4 Protection of natural resources
- 5 Rights of way
- 6 Cooperative arrangements
- 7 Anything else...

¹ See *About Us*, HARV. NEGOT. & MEDIATION CLINICAL PROGRAM, <https://hnmcp.law.harvard.edu/about-us> (last visited Dec. 3, 2021).

of the Governor and the legislature. Once a master plan has been approved, it serves as a guide for the governor and council’s approval of funding of capital improvements on the summit. RSA 227-B:6 details that the Governor and Council “are to authorize the construction of the capital improvements to the Mount Washington summit . . . in a manner consistent with the ten-year master plan prepared by the commission.” Thus, a well-considered master plan can prepare the foundation for additional capital improvement funding. As the writers of the 2010 draft master plan noted, the legislature has historically passed enabling legislation consistent with the Commission’s recommendations, suggesting “the value placed by the Legislature upon the collective wisdom and knowledge of the members of the MWC.”²

The master plan must include discussion of six distinct topics:

- Capital improvements to be made over the ten-year period
- Proposed operation of the summit, including fees for "facilities operated by the commission," personnel, and franchise agreements
- Promotion of the summit as a "recreational, historic, and scientific" attraction
- Protection of the unique flora and natural resources of summit
- Negotiation of public rights of way
- Cooperative arrangements between private interests and the Commission such as the collection of fees, joint personnel, or any similar subject

In short, the master plan must outline a vision for the summit over a ten-year period and recognize its importance as a multi-use area as well as a unique natural environment. The plan is not limited to infrastructure; instead, the statute makes clear that how members of the Commission relate – how they cooperate, negotiate, and operate the summit – is just as important.

The topics above are not a ceiling on the substance of a master plan but a floor. Nothing in the statute prevents the Commission from adding other provisions in the master plan. For example, some interviewees have expressed interest in including a “dispute resolution” provision, which would address the procedure that the Commission would follow when internal disputes arise.

History

Mount Washington is "part of our identity and the image people everywhere carry of New Hampshire."
- 1970 MWC Master Plan

In 2010, the Commission developed a draft master plan, but did not submit it for approval. Our interviews suggested that the 2010 draft master plan has not been used as a guiding document in the Commission’s work since, and lacks “buy-in.” That draft master plan was the work of a “Master Plan Committee” formed in 2008, comprising eight of the twelve Commission members, and chaired by one of the Commission’s public representatives. The draft never gained

² 10-year Master Plan Committee, *Mount Washington Commission 10-Year Plan*, N.H. STATE PARKS (Jan. 1, 2010), <https://www.nhstateparks.org/getmedia/86694371-920a-4955-855b-d941211d68d1/MWC-TenYearPlan-010110.pdf>.

consensus within the Commission, nor in the Master Plan Committee.

The last, and only, master plan that the Commission developed and got approved was written in 1970, over fifty years ago. We think, based on the 1970 Master Plan itself and our interviews, that planning was done by the full Commission.³ The full Commission forwarded the master plan reflecting their “unanimous judgment” to the Governor and leaders of the legislature after taking 18 months to develop the plan, including holding numerous community meetings to solicit public input.

Members of the Commission wrote in their report to the Governor that they had “valued the opportunity to deliberate together” and that they hoped that their planning would result in “timely action that will afford every citizen the opportunity for a mountain experience unequalled in the eastern regions of our country.” The plan ultimately called for nearly \$3 million in capital improvements and espoused a lofty vision to make the summit of Mount Washington the “pride of the state.” The drafters of the plan referred to Mount Washington as “a part of our identity and the image people everywhere carry of New Hampshire.” In contrast to the 2010 plan, the 1970 plan received unanimous consensus within the Commission.

4. Summary of Process and Methodology



Timeline and Process

We performed research largely in two parts. Throughout September and October, we gathered data by conducting interviews and engaging directly with the Commission. In late October and November, we assessed the data collected and developed recommendations based on expert advice, statutory texts, dispute resolution theory, and best practices in other master planning cases.

Interviews

Interviews with Commission members provided a significant source of information for this report. Of the twelve commission members, we conducted interviews with ten members who responded to our requests for an interview. Each interviewee was asked to recommend stakeholders outside of the commission to be interviewed, who had expert knowledge and

³ One participant in the 1970 master planning sessions recalled that “we all worked together on the plan.”

deep concern for the Mount Washington community. By recommendation, we interviewed seven non-commission parties. Additionally, two dispute system design experts gave advice on how to take a structured approach to the data gathered in stakeholder interviews.

In conducting interviews, we applied an interview protocol consistently across interviewees. Information volunteered by interviewees was protected by a promise of confidentiality (that the information be anonymized). Interviewees were asked for information and ideas on (1) the various interests driving Commission discussions; (2) the community history that outlined how the Commission handled master planning in the past; and (3) the Commission processes that encouraged or impeded effective master planning.

Commission Engagement

We engaged directly with the Commission in two meetings.

In the September 24 meeting, Erin Savoie (pictured below alongside Rachel Viscomi) led the Commission in a preliminary exercise where Commission members offered quick ideas and impressions on the Commission’s approach to master planning. Members were asked three questions: (1) how they would describe their efforts toward master planning, (2) what it was that made it challenging to progress toward a master plan, and (3) what specific actions would make it better. Notably, parties identified inadequate efforts despite good intent and identified several obstacles that later resurfaced in interviews. Parties identified shared key themes including that there were few to no resources devoted to master planning, and that the Commission agenda at meetings did not include time to progress on master planning.



Sticky note exercise at the MWC meeting on September 24. Photo by Edith Tucker/The Berlin Sun.

In the October 29 meeting, we brought forth a preliminary assessment of the Commission’s approach to master planning, along with preliminary recommendations for change. The specific contents of the assessment are outlined in Section III of this report. The Commission then engaged in a series of exercises designed to demonstrate key concepts from negotiation theory relevant to effective cooperation and problem-solving. The activities included an arm exercise in which points can be maximized by working together instead of struggling against each other and a letter-counting exercise that showed our need for humility when forming opinions because of how much information we fail to perceive. The activities also introduced the concepts of interests and positions, the “ladder of inference,” and option-generation,

followed by facilitated discussions on the Commission’s future.⁴ During and after the discussions, several Commission members expressed enthusiasm and resolve to make change, stating that they felt “hope” and “the need to be more organized and open to the ideas of others.” Members also assessed that “we need to set a deadline” and noted that “cooperation is possible when led by a facilitator”; as for master planning, they were “ready for it.”

Direct Observation

In early October, during the height of foliage season at Mount Washington, we visited the summit. We spent two days at Mount Washington learning about the summit and the various facilities in and around the mountain. We took tours on the Cog Railway and Auto Road, spoke with State Park staff, visited staff quarters, met Nimbus the cat, and spoke with Observatory staff while touring the Observatory and museum. While on the mountain, we also toured the premises, learned about ongoing renovations at the Tip-Top House, observed the location of the parking lots, Observatory equipment, and trailheads, and experienced a taste of the high winds for which the summit is known.



HNMCPC team members touring the Mount Washington summit during typical weather. Photo by Seorae Ko.

III. KEY FINDINGS

- 1 *Approach to operational, short-term issues not conducive to long-term, strategic master planning.*
- 2 *Zero-sum mindset impedes opportunities for collaboration.*
- 3 *Master planning presents opportunity to resolve sources of friction.*

Our research and interviews led us to a number of conclusions about what is holding the Commission back from successfully master planning. Below are our main findings.

⁴ For a description of interests and positions, see ROGER FISHER & WILLIAM URY, *GETTING TO YES* (2d ed. 1991). For the ladder of inference, see CHRIS ARGYRIS ET AL., *ACTION SCIENCE* 57-58 (1985). For option generation, see ROGER FISHER & WILLIAM URY, *GETTING TO YES* (2d ed. 1991).

1. The Commission's current approach to addressing operational, short-term issues is not conducive to addressing long-term, strategic master planning.

While we heard significant positive feedback about how meetings are currently run vis-a-vis short-term issues, our interviews also suggested that master planning will require a distinct approach designed to facilitate long-term visioning and problem-solving.

Current meeting structure promotes information-sharing rather than joint problem-solving.

Many interviewees told us that Commission meetings mostly involve different partners reporting on activities and improvements. A review of prior meeting minutes supports this conclusion. The reports are often detailed, and some interviewees noted that, without having time to review materials in advance, they are unable to respond constructively in person. Interviewees told us that it is rare for there to be extensive discussion of an issue within a Commission meeting. One interviewee noted, "Agendas are generally pretty much the same from month to month. There's always an update on the projects that are going on. . . There's always reports from different interests going on up there. Then presentations about special projects." Another interviewee described regular meetings as an "information clearing house" but lamented that meetings were seldom "decisional." We were told that the Commission meeting on October 29, in which we led a brainstorming session with members of the Commission, involved substantially more conversation between members about master planning than prior meetings. Interviewees told us that the bulk of substantive decision-making and agreements occurs outside of meetings, in one-on-one conversations; thus, the Commission as a body is rarely involved in joint problem-solving. One interviewee noted, "I see very few votes happening...and pretty much never when there's a disagreement."

Meetings prioritize getting down to business over strengthening relationships.

Many interviewees expressed appreciation for the efficiency of Commission meetings; at the same time, some noted that they would like more time to get to know the other partners on a personal level, particularly considering master planning relies on trust. One interviewee said, for example, "I would like to pause, get to know what's going on, why we're doing it...have a moment to build relationships." During the October 29 brainstorming session, one team highlighted the need to "learn to like each other," in order to proceed to master planning and achieve the Commission's loftiest goals. Others at the October 29 meeting emphasized the need to spend time acknowledging each other's contributions and voicing respect for the work that each member does. Multiple interviewees identified such acknowledgement as a prerequisite to master planning.

Meeting format does not ensure that all perspectives are heard.

The Commission is unique in part because many of its members have been on the Commission for years, even decades. This is an advantage in the sense that partners understand the issues involved in running the summit, have had many opportunities to see what works and what doesn't, and, in many cases, have built strong relationships with other members. Along with these advantages come certain challenges. We heard that the Commission gets stuck in patterns of communication in which certain parties are expected to speak, while others are not; in practice, then, certain members hold more sway on the Commission than others. One interviewee told us that "you have to be assertive to get your voice heard." Others observed that it could be particularly difficult for minority voices, such

as younger members and women, to be heard. The problem is not that there are not opportunities to speak – indeed, we’ve observed at meetings that there are moments when the floor is open to anyone – but that members do not always feel comfortable speaking and instead withhold their views. One interviewee noted that, on controversial issues, people let their anger build without voicing it, causing greater conflict down the line. Some interviewees called for the adoption of norms around communication, to encourage a balanced discussion of issues.

While Master Planning is an item on MWC agendas, little time has been devoted to it in recent years, as more pressing items take priority.

Numerous interviewees indicated that although master planning has been on the Commission’s radar, the Commission has spent little dedicated time on master planning or visioning. One interviewee noted that master planning “gets lost in the fog of time,” and that “other issues come up to distract us.” Another said they had not committed to internalizing the 2010 draft master plan because they didn’t feel that it was “in play.” A different interviewee seconded that sentiment, saying that the 2010 draft master plan languished not because of a lack of consensus but because of a lack of follow-through; the master plan has not been prioritized. In sticky notes written by Commission members during our workshop session on September 24, Commissioners identified a lack of time devoted to master planning as a main reason it hasn’t happened yet.⁵

After interviewing a broad spectrum of stakeholders, both on the Commission and off, we have found that short-term issues occupy individual Commission members’ attention, whether it’s the opening and closing dates of the season; maintenance of summit facilities; sewage and septic; weather; or passenger safety. We also heard that agendas tend to reflect these more pressing topics, without allocating time to discuss master planning. Given the length of regular Commission meetings, many interviewees noted that there simply is not enough time to also talk about master planning. One interviewee, for example, suggested that master planning should occur over the course of a half-day session, where partners could “spend a bunch of time on it without ideas just being thrown around [and not acted upon].”

Regular meetings lack broader public input, which interviewees noted as a priority for master planning.

Although regular Commission meetings are open to the public, we heard and observed that broader public participation in the meetings remains limited. Reports on Commission meetings in the local newspaper may raise awareness about the business of the Commission but are not substitutes for public participation. Multiple interviewees thought that public participation should be an essential ingredient in master planning and called for various means of soliciting public engagement. Ideas included public hearings across the state and requests for comments on the Commission’s website. Some interviewees noted that public attitudes could be critical in resolving important questions such as how to prioritize uses of

⁵ We asked: “What makes it challenging to progress toward a master plan?” Among the responses were the following: “Limited to no planning resources and staff to hold focus and follow up”; “Time and location of meetings”; “The commission agenda not including time to progress at each meeting”; and “Lack of resources: staff, time, money, commitment.”

the summit and whether to institute a carrying capacity. One interviewee put it clearly when they said, “The general public who visits the summit doesn’t know much about the Commission or the governance of the summit. Somewhere in master planning process we need to have public input.”

Discussions about contested issues in meetings tend to be backward-looking rather than forward-looking.

Across interviews, we noticed a tendency for discussions about the future to lapse into discussions about the past. Many partners have served on the Commission for years to decades, so it is understandable that there is substantial “history” and “baggage” that partners have trouble moving beyond. As one interviewee put it, “history still holds sway today.” Nearly every interviewee we spoke with had some moment in the past where they felt they had been wronged in some way. Partners recounted times they felt that they got the short end of a deal, that an idea they proposed was too quickly snubbed, or that one party or another encroached upon the property or responsibilities of another party. To be sure, there are substantial ongoing disagreements between parties on the summit; however, for purposes of master planning, the problem is that such disagreements tend to overwhelm forward-looking discussions. Multiple interviewees expressed regret that master planning has “stalled” due to tensions on the Commission and an inability to resolve prior disputes.

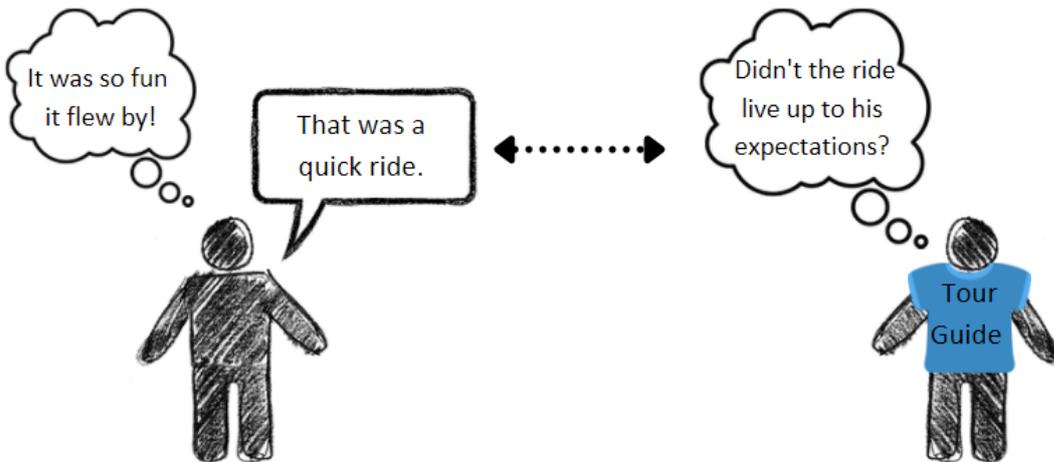
2. A zero-sum mindset impedes opportunities for collaboration.

While we came across several instances of collaboration within the Mount Washington Commission, especially at the staff level, we observed that the Commission’s ability to collaborate effectively is hampered by a zero-sum mindset. A zero-sum mindset is an approach that presumes that a win for one party must mean a loss for another party. It impedes opportunities for collaboration by restricting options to unnecessarily black and white scenarios. The zero-sum mindset affecting the Commission is fueled by (1) a gap between partners’ intentions and how behavior is interpreted by others; (2) positional behavior that limits flexibility in discussions and keeps partners from coming up with creative solutions; and (3) distrust arising out of information asymmetry. We discuss them below.

Gaps between partners’ intentions and how behavior is interpreted create tension.

In interviews, partners expressed a desire to develop friendly relationships with other partners, to contribute to the Commission, and to improve the summit. Yet the interviews highlighted a gap between what partners intend and how their actions and intentions are interpreted by others. Interviewees often expressed enthusiasm in offering to help other parties. As one partner provided, “If there is something that [a] group needs from [us]...we want to help them. I think about it as how I am serving the Commission.” Some partners described specific instances where they made suggestions on an issue, believing that their suggestions would benefit the Commission, and were frustrated to see that other partners viewed them to be acting on selfish motives. In other instances, partners explained how their actions were based on a practical concern for the summit, but their intent was lost in communication. Where some partners explained that they made their choices based on practical concerns, other partners had received the impression that the same choices were based on favoritism or on self-interested motives.

After a ride to the summit...



What we intend is not always what others hear, and what we hear is not always what others intend. Knowing this we should be careful as speakers to be clear about our meaning and as listeners to ask questions to better understand.

Dispute resolution theory draws a distinction between the intent behind an action and the action's impact on a counterpart. Even where a party acts purely out of goodwill for another party, the impact on a counterpart may be quite different from what the actor intended. Because affected parties tend to infer the intent behind actions from the action's impact, they often make different assumptions about the other's intentions. *Difficult Conversations: How to Discuss What Matters Most* describes some factors that exacerbate the gap between intent and impact.⁶ When someone says or does something, they may forget that, even when their intentions are good, the outcome of their action can be hurtful. They may believe that their counterparts are treating them unfairly and harshly, without considering that they are acting out of good intent. On the counterpart's side, it is easy to make premature assumptions about another's intent. When parties make these assumptions, they tend to assume worse intentions, extrapolate that bad intentions mean a bad character overall, and respond defensively to the actor. When parties engage in such thinking, it damages the relationship between parties and impedes collaboration.

We observed these dynamics amongst partners. In many instances, we identified that partners acted out of goodwill for others, but their actions were misinterpreted by other partners because they did not have the opportunity to explain their motives more fully. For example, some partners expressed having offered up their resources in shared efforts to help other Commission members, and other partners interpreted the action as an effort to take control of the process. When multiple parties are involved, some partners approach members with an immediate stake in the issue first. Other partners then interpret their approach to favor certain parties over others.

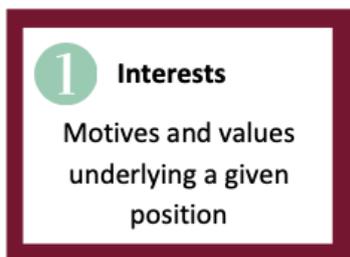
Partners have identified missed opportunities to create shared value, especially with respect to infrastructure improvements and visitor experience. Across interviews, partners offered up various ideas for shared efforts that would improve the summit and benefit the parties

⁶ See DOUGLAS STONE ET AL., *DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST* 44-57 (1999).

involved. Ideas covered a wide range of topics with a focus on infrastructure improvements and visitor experience. Partners mentioned winter usage, summit space sharing, and joint visitor service, as areas that could benefit from cooperation. Some interviewees expressed regret that such ideas would be feasible in a more collaborative setting based on stronger relationships. Other interviewees mentioned that meetings seldom allowed the space for collaborative suggestions to be voiced and heard.

Positional behavior overshadows examples of cooperation at both staff and commission level.

Dispute resolution theory distinguishes between a party's interests and their position. Interests refer to the fundamental motives and values that drive a party to negotiate with other parties. Positions are immediate outcomes that a party prefers. In addition, options are various



I want to preserve Mount Washington's natural resources.



We should cap the summit's capacity!

ways to satisfy an interest or a set of interests, that may or may not align with a given position.

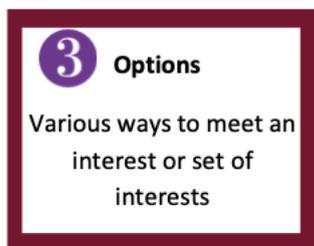
Positional behavior refers to a situation where parties stick to positions that are immediately identifiable. Positional behavior limits the discussion to fixed positions and prevents parties from discussing the interests driving each party. Progress is only marked by

the concessions that parties allow to their positions. And when positions are incompatible, interactions circle around the incompatibility and parties miss opportunities for better options. Conversely, discussing parties' interests often carries the potential to invent new options that could satisfy the interests of multiple parties involved.

We found that interactions in the Commission are often based on positional behavior. In describing their interactions, interviewees could state several partners' positions clearly, but could not outline the interests that drove other partners to advocate those positions.

Interviewees also described how partners with differing positions would not move to

accommodate each other.



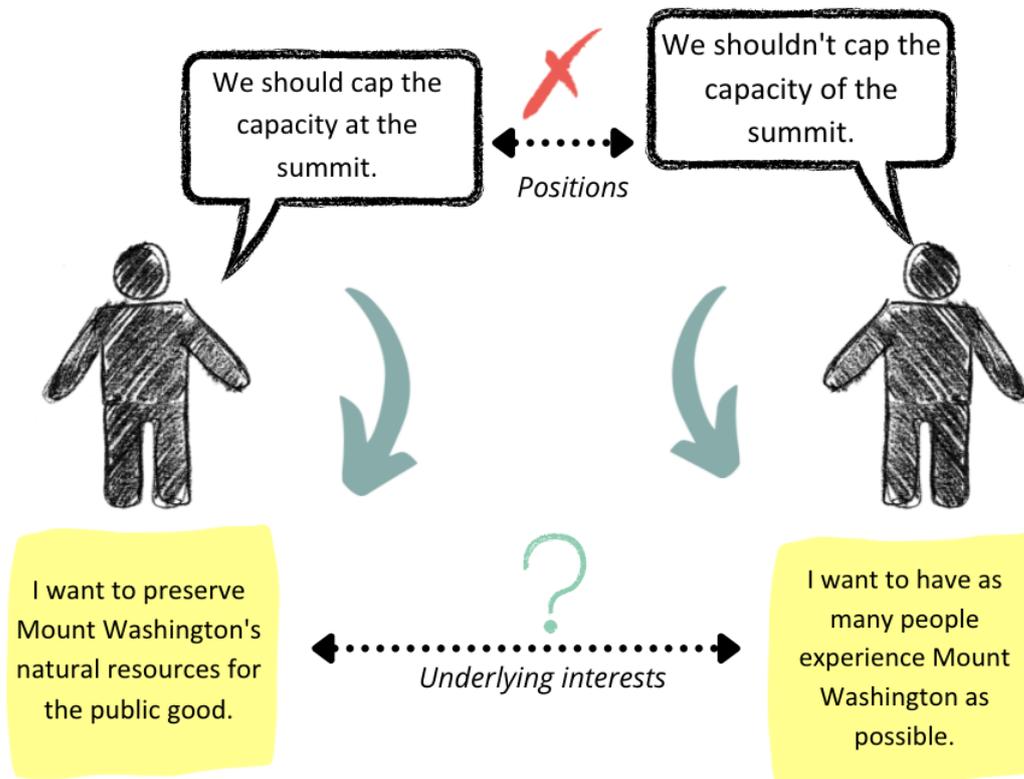
We could encourage visitors to take down their waste.

We could have partial capacity limits for different parts of the summit.

We could use compostable materials.

More specifically, partners observed that while positions are pursued with varied levels of enthusiasm at the Commission, members rarely hold open discussions on how they may satisfy their interests. Meetings provide limited opportunities to bring up each party's interests in full, and there are few chances outside of

regular meetings to engage in in-depth conversations. Partners have not been able to access and understand each other's interests.



When we "take a stance" and lock into a position, it can be hard to find common ground. If we dig deeper, we often find that our underlying interests are more compatible than we thought.

As a result, conversations often stop once conflicting positions are identified, rather than going deep enough into *why* people see things differently for the Commission to think creatively about whether there might be ways to address partners' underlying interests. Even though parties often act out of an interest in serving Mount Washington, they find it difficult to communicate it to other members: "I want to help them ... [but] they won't listen."

Information asymmetries engender distrust, which makes collaboration difficult.

Across interviews, partners showed an enthusiasm for collaboration, and some offered specific action ideas that could benefit the Commission, but they expressed a reluctance to come forward and voice their ideas before the Commission. They attributed their reluctance to information asymmetries among partners.

More specifically, interviewees suggested that there is a lack of transparency on how major decisions are made that affect multiple parties. Some partners appeared to have access to critical information earlier than others, while others received news relatively late through Commission meetings and other sources.

Partners also expressed concern that they did not have access to the full picture of an issue, and that they might have less information compared to others who appeared to have a more complete perspective. When partners assessed that they had incomplete access to information, they found it difficult to trust other partners and expressed concern that it would disadvantage them to speak up first in such an environment. The information asymmetry and the distrust it engenders impede collaboration on important issues including master planning. As one interviewee suggested, “distrust ... needs to be resolved before a master plan can go forward.”



When people feel left out of the loop, they lose trust in their relationships.

3. Master planning presents an opportunity to resolve major sources of friction.

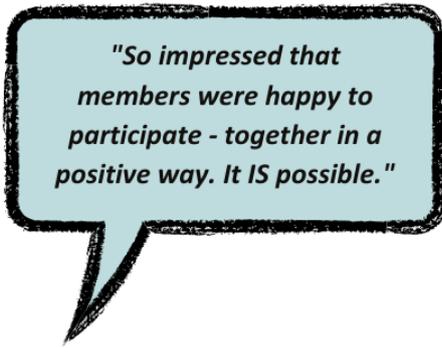
Partners expressed optimism that master planning could help the MWC reach consensus on long-term issues.

"People are responding and ready for it."

"This feels like a 'moment' that can shift attitudes towards what is possible."

Interviewees consistently thought that a master plan would serve as a helpful guidepost for ongoing and future disputes. One interviewee noted that there are many shared goals regarding the summit, and if a master plan served as a goal for the summit, then resolution of discrete disputes could be handled with an eye toward that goal, rather than on a one-off basis. Another said that they wanted a master plan to embody “shared expectations.” Another wanted a master plan to bring “everybody to the same vision.” Largely interviewees viewed a master plan as an opportunity to reach and memorialize a shared idea for the summit.

Individual interviewees expressed optimism about the outcome of master planning. Nowhere was the optimism more evident than at the October 29 meeting when participants had opportunities to brainstorm together. Feedback after the exercise was overwhelmingly positive and hopeful. When asked



what they will take away from the session, one partner responded, “Hope.” All other surveys were optimistic as well.

As demonstrated by the cooperation and progress made at the October 29 meeting, the Commission can work together, and master planning presents an opportunity for it.

Regular commission meetings rarely present an opportunity to discuss partners' varying visions for the summit.

Long-term visions for the summit range widely from a sophisticated, European-style chalet to an environmentally-friendly, natural hiker’s paradise. There is divergence on both the macro and the micro level. For instance, during the facilitated exercise on October 29, two groups reached opposite conclusions regarding whether it was in the best interest for the summit to remain open through the winter. Interviews and direct observation of the Commission consistently demonstrated that members not only disagree regarding the smaller short-term issues but also that partners hold different visions for what is in the best interest of the summit long-term.

Partners are aware that long-term visions for the summit vary widely. As early as the September 24 facilitated exercise, partners began identifying this as an obstacle to master planning. When asked what makes it challenging to make progress towards a master plan, one partner wrote, “competing interests and vision.” When asked what specific actions would make the process better, partners wrote “shared expectations” and a “common vision.”

Though members are aware of the varying long-term goals, interviews demonstrated that regular meetings rarely present an opportunity to discuss those goals. On October 29, a member noted that these “conversations are on the back-burner.” We have noted that meetings are instead focused on short-term issues, and members’ differing long-term visions drive divergent approaches to those short-term issues. While meetings focus on operational issues, these differing visions persist without an opportunity for resolution. Not only do these positions diverge, but the interests motivating them do as well. Partners need an opportunity to discuss those motivating interests and determine whether there are ways to harmonize them.

Partners have divergent expectations about decision-making roles and responsibilities.

Interviewees expressed varying views on the role of the Commission. Shorter-term history has affected the partners’ understanding of the Commission’s role as well. An interviewee expressed the view that the Commission’s role is advisory to State Park management. Others believed that the Commission’s role is to run the summit. Another discussed how contracts for summit property once were between the entity and the Commission itself. The recent history of the Commission indicates that its role has evolved, leading to different understandings. An interviewee discussed how revisions to RSA 227-B have changed the Commission’s oversight capacity. Indeed, the MWC’s role has been in flux according to the

revision history of RSA 227-B,⁷ and these changes were discussed in the 2010 draft master plan which stated the following. “The continued enablement of the MWC demonstrates the value placed by the Legislature upon the collective wisdom and knowledge of the members of the MWC in the management, operation and development of the summit.”⁸ Across the various partners, views on the role of the MWC differ.

Long-term history has added to these differing expectations as well. The long-term history of the summit, which remains relevant to the Commission today, demonstrates how the summit has been managed by different entities over time. Owners of the summit, in part or in full, have included the Cog Railway, the Mount Washington Summit House, Dartmouth University, the Auto Road, and the State of New Hampshire.⁹ Though owners have changed over time, many entities have been present on the summit for over a century. The Auto Road and the Cog Railway both trace their presence on the summit to approximately the Civil War. The Mount Washington Observatory has been continuously recording weather data from the summit since 1932. Responsibilities of the various entities at the summit have, therefore, evolved over time, and, in our view, complicated views about the appropriate role of the Commission as a whole.

The partners’ differing expectations regarding the MWC’s role has led to distrust. Reaching a shared view of the Commission’s role could lead to more productive problem solving with less opportunity for tension.

IV. RECOMMENDATIONS

Based on our findings, we recommend the following courses of action.

-  *Make master planning distinct from regular meetings.*
-  *Restructure interactions to encourage value creation.*
-  *Hire a facilitator.*

1. Master planning should be distinct from regular meetings in time and format.

Master planning should occur separately from regular commission meetings, and the Commission should plan to commit a substantial amount of time to master planning. As a point of reference, the last time that the Commission successfully created a master plan, in 1970, the process took eighteen months.¹⁰

⁷ See RSA 227-B:6 (amended 2017, 2012, 1985, 1978, 1976, 1964, 1971, 1969).

⁸ *10 Year Plan*, *supra* note 2.

⁹ An extensive discussion of the ownership history of the summit can be found on the Commission’s website. K. Allen Brooks, *Ownership History of Mount Washington Summit*, N.H. STATE PARKS (July 23, 2018), <https://www.nhstateparks.org/about-us/commissions-committees/mount-washington-commission>.

¹⁰ See Mount Washington Commission, *Mount Washington: A Ten-Year Master Plan*, N.H. STATE PARKS (1970), <https://www.nhstateparks.org/getmedia/448f066d-2c29-4252-aaa9-3c3d8bc781a3/Mt-Washington-Master->

We believe the Commission should design its master planning process around effective consensus-building principles that have been shown to encourage successful cooperation. Six principles articulated by Dr. Jonathan Raab, an expert in multi-party decision-making, are useful when considering the Mount Washington Commission. The relevant principles are included below:¹¹

1. Initiate consensus-building as early as possible.
2. Include all stakeholders.
3. Provide adequate resources.
4. Do not exclude contentious or sensitive issues from consensus-building efforts.
5. Consider assisted negotiation (e.g., facilitation/mediation).
6. Modify traditional procedures to better accommodate consensus-building opportunities.

We find these principles to be instructive in the Mount Washington context, because our interviews with stakeholders unearthed interests in cooperation, transparency, and problem-solving, which these principles help to address.

Partners also expressed an interest not just in reaching agreement, but in shifting the way that planning is done to something more collaborative and constructive. In the parlance of consensus building theory, the Commission wants to move toward “breakthrough collaboration.”¹²

“Breakthrough collaboration” is needed when the following conditions are present:

1. Dealing with the challenge requires long-term collaboration.
2. Trust is low.
3. There’s no shared vision of a solution or process to get there.
4. There’s no safe space to start having conversations.¹³

Our interviews suggest that partners recognize each of these factors, to varying extents, in the current situation. To achieve “breakthrough collaboration” requires trust-building, creative exploration of options, negotiation, and joint action.¹⁴ Trust-building can occur through various means, including getting to know one another on a personal level and encouraging and modeling acknowledgement. Our interviews revealed a desire for both of these forms of trust-building. Partners suggested spending more time talking informally after meetings and visiting the summit together. Partners additionally noted that acknowledgement of their contributions would be important to moving forward.

According to the Consensus Building Institute (CBI), a leader in this area, making and keeping promises is critical to trust-building. A reinforcing “promise-deliver” cycle occurs

Plan.pdf.

¹¹ Jonathan Raab, *Presentation at Harvard Law School*, RAAB ASSOCS. (Mar. 22, 2016), <http://www.raabassociates.org/main/documents.asp>. Dr. Raab lists two additional principles that are relevant in the particular setting of the energy sector, but less relevant to Mount Washington:

1. Secure direct involvement of the Regulators whenever possible.
2. Structure consensus-building processes to supplement traditional adjudicatory and rulemaking procedures.

¹² David Fairman and Stacie Nicole Smith, *Breakthrough Collaboration: What Is It and How Do We Make It Happen?*, CONSENSUS BLDG. INST. (2019), <https://www.cbi.org/article/breakthrough-collaboration/>.

¹³ *Id.*

¹⁴ *See id.* Our team interprets “negotiation” in a broad sense to mean joint problem-solving.

when partners commit to doing something and then follow through in a way that others expect. This in turn builds trust, which encourages more agreements and promises. Promises can be small – as simple as offering to bring snacks to the next meeting.

The Commission has multiple ways to creatively explore options. In a decision-making process, applying creativity means finding ways to break out of “stuck” conversations, and to approach what may feel like old problems from new angles. The “newspaper headline” activity that we led at the October 29 meeting, asking participants to imagine headlines about the Commission’s success 10 years in the future, is one such technique. The benefit of such an activity is that it asks a different question than the Commission has been asking; instead of asking “what should we do?” it asks, “what would success look like?” The activity encourages stakeholders to step out of their perspective and imagine the Commission’s work from the outside, offering yet another way of breaking out of normal patterns of thinking. Another technique is role playing, or skits, which can be used to encourage stakeholders to see things from others’ perspectives. Anonymous brainstorming, which reduces fear of judgment, can offer an additional way of approaching old problems in new ways. Expert interviewees also mentioned techniques such as brainstorming by drawing and dividing into breakout groups to generate ideas before returning to the full session. Additional techniques related to exploring options will be discussed in Section IV.2.

Negotiation is also a necessary part of “breakthrough collaboration.” The primary takeaway is that it can take time. CBI recommends discussing and agreeing to the process by which decisions will be made prior to engaging in the substantive discussion; without adequate time set aside, this kind of problem-solving will not be possible.

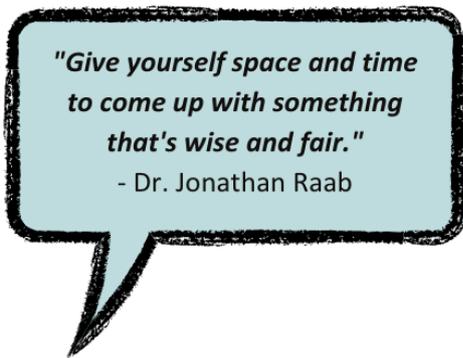
The final ingredient to “breakthrough collaboration” is joint action, which is “the deliberate effort by a group of stakeholders to start working together.” CBI emphasizes that collaboration does not happen overnight; instead, it builds upon the reinforcing influence of rising trust, option generation, small acts of collaboration, and continuous joint problem-solving. Successful master planning requires the Commission to commit to a different kind of conversation and process than it has had in regular meetings – one that prioritizes relationship-building, nonjudgmental brainstorming, and joint problem-solving.

Our research and interviews have led us to five conclusions under the umbrella of holding distinct master planning meetings.

Plan for longer, dedicated master planning meetings.

Partners noted that a significant obstacle to master planning has been a lack of time. Regular commission meetings do not have enough time to make significant headway towards a product. Research and our expert interviews support the importance of dedicating adequate time to the planning process.¹⁵ For master planning, partners should plan to meet for longer and to only address master planning.

¹⁵ See generally Sara Cohen, *Collaborative Approaches to Environmental Decision-Making: A State Agency’s Guide to Effective Dialogue and Stakeholder Engagement*, CONSENSUS BLDG. INST. (2013), <https://www.cbi.org/report/collaborative-approaches-to-environmental-decision-making-state-agency-s-guide-to-effective-dialogue-and-stakeholder-engagement/>.



Two case studies outlined in the MIT-Harvard Public Disputes Program’s “State Agency Guide to Effective Dialogue and Stakeholder Engagement” demonstrate the importance of aligning resources, both in terms of time and money, to the complexity of the task.¹⁶ The guide presents twelve case studies of government agencies in New England and how they solved complex problems through effective dialogue. We identified two cases that are particularly applicable to master planning for Mount Washington. Distilling

lessons from the case studies, the guide lists “time, information, incentives and resources . . . available for negotiation” as necessary to successful decision-making.

Case 1: Town of Old Saybrook (very complex problem, high commitment of resources)
When the Town of Old Saybrook needed to create a novel decentralized wastewater treatment program – a major project that ultimately cost \$42 million – it hired a mediator and devoted 10 months to planning.

Case 2: Zebra Mussel Task Force (simpler problem, smaller commitment of resources)
On the other hand, when the Zebra Mussel Task Force was faced with the question of how to control the spread of an invasive species in a single lake in Massachusetts, the road to success was simpler and shorter. Guided by a facilitator, the task force held four meetings over four months, framing the issues, exploring and evaluating options, and reconciling competing interests, including those of boaters, landowners, the tourism industry, the general public, and state actors.

The MWC's task has aspects in common with both cases above, and it is up to the Commission to set its level of ambition for the outcomes of master planning. The last successful master plan, in 1970, ultimately called for nearly \$3 million in capital expenditures, including the construction of what is now the Sherman Adams building. It is no wonder that such an ambitious plan took eighteen months to develop. Conversely, the Commission could set more modest goals, which in turn would reduce the amount of time needed to engage in an effective dialogue. We recommend that the Commission discuss what sorts of commitments it is willing to make for the master planning process, both in terms of time and money, from the start. By discussing the scope of ambition for master planning at the outset, the Commission can set itself up to have adequate resources allocated for the process.¹⁷

The amount of time and commitment required may seem like a lot at the outset, but spending time to discuss and resolve contested issues can pay off down the road by avoiding litigation and stakeholder opposition. Investing time and effort in a collaborative process can also help advance secondary goals, such as settling technical debates, aligning related policies or

¹⁶ *Id.*

¹⁷ In our interview with Dr. Raab, he suggested that when starting a planning process, stakeholders should consider different options depending on the resources that they have available to commit: one option if they can commit money, another if they can commit time and money, and yet another if they can only commit time but not money. In all cases, however, planning requires dedicated commitment of resources in order to succeed.

regulations, and improving relationships.

Master plan in full body and open format.

The Mount Washington Commission values buy-in and recognition of key stakeholders' interests. In our view, master planning as a full body would best reflect these values.¹⁸

RSA 227-B identifies the composition of the Commission and endows the Commission with the responsibility to master plan. This suggests that the process is meant to be accomplished by the MWC as a whole, not a smaller subgroup. The Commission could be likened to a focus group, and secondary literature supports the notion that each member is necessary. When putting together focus groups, designers try to create representative small groups of a larger community pool.¹⁹ The Commission already is a small working group meant to represent the spectrum of interests in Mount Washington. If a master plan is written by a portion, regardless of who is represented, important entities will be missing. And those who are not involved in the master plan drafting will likely have less incentive to agree to the final draft.

Master planning in full body presents an opportunity to build trust within the Commission, enabling partners to work together toward a creative, common goal. Interviewees and partners in Commission meetings noted a lack of trust amongst the Commission as well as frustration with information asymmetries and a perceived lack of transparency. These dynamics will likely be exacerbated rather than assuaged by excluding members from the master planning process. Engaging in a collaborative process could go a long way toward helping partners overcome a zero-sum mindset and could minimize intent/impact gaps, promoting a sense of trust and collaboration.

Consensus building and dispute systems design theory confirms the point that inclusion of all viewpoints is often essential to successful facilitation. As Judith Innes and David Boohar write, "Many consensus building groups try to get all key stakeholders to the table, and professional facilitators often regard representing all interests to be part of their ethical responsibility."²⁰ Given that the statute sets forth a particular composition for the Commission, and tasks that body with master planning, it follows that the Commission members represent "key stakeholders" for purposes of master planning. If all partners are key, then subdividing will not represent all necessary interests. Ultimately, we agree that "No matter how good an agreement is by some standards, if it was reached by a process that was not regarded as fair, open, inclusive, accountable, or otherwise legitimate, it is unlikely to receive support."²¹

Structure sessions to ensure that all perspectives are shared.

¹⁸ See generally R. A. KRUEGER & J. A. KING, INVOLVING COMMUNITY MEMBERS IN FOCUS GROUPS (1998); Judith E. Innes & David E. Boohar, *Consensus Building and Complex Adaptive Systems*, 65 J. AM. PLAN. ASS'N 412 (1999).

¹⁹ See KRUEGER & KING, *supra* note 18.

²⁰ Innes & Boohar, *supra* note 18.

²¹ *Id.*

It is not only important but also necessary that all Commission members share their input in order to master plan effectively. As experts in difficult conversations note, “you can’t move the conversation in a more positive direction until the other person feels heard.”²² Our interviews suggested that partners place great weight on feeling “acknowledged” within the Commission, and yet some indicated that they find it difficult to have their voice heard or do not always feel comfortable sharing their perspective.

The Commission should structure deliberations to actively solicit input from each participant. This is important not just to promote fairness, but also because hearing from all stakeholders can help others better articulate their interests and find mutually beneficial solutions.²³ In addition to opening the floor to volunteers, participants should be asked directly to share their views. We recommend adopting a variety of approaches for soliciting input, and the Commission can also find its own creative ways. One simple technique is to ask participants to speak for a few minutes with the person sitting next to them prior to joining a group brainstorming session.²⁴ Individuals or pairs can then be asked to share reflections from their conversation. Breakout groups are another option. We noticed that conversation generally flowed freely and comfortably during the October 29 session, when participants formed smaller groups of 3 to 4 members. Such breakout groups can be used as a means of generating conversation and creating lower-risk interactions within the course of a whole-body master planning session.



Some ideas for reducing barriers to brainstorming and soliciting input.

The Commission might also look for opportunities to use nonverbal methods to collect input. Options might include anonymous post-it notes, passing around notecards that are then shuffled and redistributed so that people read someone else’s comment, or using different colored stickers to indicate degrees of support (e.g. red for opposition, yellow for mild

²² STONE, *supra* note 6, at 205.

²³ See LAWRENCE E. SUSSKIND et al, THE CONSENSUS BUILDING HANDBOOK 306 (1999).

²⁴ See *id.* at 315.

support, green for strong support). The Commission could also use digital tools to solicit input, such as online sticky note applications to brainstorm remotely,²⁵ and surveys and live polling to evaluate or rank options anonymously.²⁶ While the Commission can be creative in how it solicits interaction during master planning meetings, the Commission should make sure that each member knows that their opinion is valued before proceeding.

Proposals should be written and sent before the meeting to allow for thoughtful deliberation during the meeting.

Numerous interviewees suggested that they need time to process information before forming an opinion. To this end, we recommend that reports relevant to master planning be sent as early as possible to Commission members in advance of master planning meetings, so that participants have time to consider the information, and come to meetings ready to deliberate.

2. Restructure interactions to encourage value creation.

In Section II.2, we described the zero-sum mindset that impedes collaboration in the Commission. The mindset presumes that parties are competing against each other and that more for one party means less for another. That is not always the case, and dispute resolution theory suggests that parties may often create opportunities for mutual benefit. Rather than focusing on how to distribute an already-existing amount of value, Commission members have the power to create new value for themselves and their partners, by contemplating specific points of discussion where partners' interests overlap and interact to offer value-creating opportunities.

Value-Creation in Practice: Cross-Promotion

Cross-promotion, where companies or organizations agree to promote each other's work, is common in the business world, and it is a form of value creation. The benefits can be significant. Instead of each business advertising just their product through their channels, cross-promotion offers the possibility of reaching more consumers and highlighting secondary benefits of products that may matter to consumers. Opportunities for cross-promotion on Mount Washington abound because visitors are attracted to Mount Washington for different reasons. Some visitors are railroad buffs; others are fascinated by the history of the Auto Road; others love science and are most interested in the observatory's museum; others go for nature and to enjoy the state park facilities at the top. Cross-promotion offers an opportunity to create value by recognizing that the Mount Washington experience is more than the sum of its parts.

Robert H. Mnookin, a leader in the field of dispute systems design, outlines four such sources of value creation: (1) differences between partners; (2) noncompetitive similarities; (3)

²⁵ The Consensus Building Institute recommends [Mind Meister](#), [Web Whiteboard](#), or [IdeaFlip](#) for group brainstorming. See *Using Online Tools to Empower Collaboration*, CONSENSUS BLDG. INST. (Mar. 18, 2020), <https://www.cbi.org/article/using-online-tools-to-empower-collaboration/>.

²⁶ [Google forms](#) can be used to create free online surveys. [Poll Everywhere](#) (<https://www.poll.everywhere.com/>) and [Kahoot!](#) (<https://kahoot.com/business-u/>) can be used to run live polls to solicit feedback or rank options. Many other sites exist to facilitate group collaboration.

economies of scale and scope; and (4) reducing negotiation costs for partners.²⁷



Creating value doesn't always require finding areas where parties' interests are the same. It can also come from finding different but complementary interests, non-competing interests, and from reducing friction.

By examining the above four sources, partners can identify starting points for creating value. First, differences between partners enable value creation through trading. Commission members can mutually gain value by trading what their partners want (something they value less, and their partners value more) with what they want (something their partners value less, and they value more). Exchangeable differences occur in various ways, including differences in resources, relative valuations, risk preferences, and timing preferences. A difference in resources among parties presents an opportunity for a party to swap excess resource with their partner's excess resource. When parties attach different valuations to the same items, they can reach a mutually beneficial agreement by exchanging what a party values less (but their counterpart values more) for what the party values more (but their counterpart values less). A difference in risk preferences means that one party can absorb a certain type of risk

²⁷ See ROBERT H. MNOOKIN, BEYOND WINNING: NEGOTIATING TO CREATE VALUE IN DEALS AND DISPUTES 13-27 (2000).

better than another party can. In this situation, the parties can benefit by each agreeing to take on different types of risks for the group. Finally, a difference in timing preferences means that parties have differing preferences for when an event occurs. Here, a party who feels less strongly about timing can accommodate another party with a stronger preference on timing in exchange for receiving something else.²⁸

Second, partners sometimes have interests that “truly do not compete, in that one person’s gain does not mean the other’s loss.”²⁹ In this case, partners can combine their efforts for their aligned interests and build lasting relationships along the way. The Commission holds much potential for building on non-competing interests because organizational missions often overlap. Many partners are interested in serving and entertaining visitors and managing the summit as a natural resource.

Third, economies of scale and scope encourage joint ventures that make more efficient use of partners’ resources and knowledge compared to individual ventures. Because each member brings distinct resources and knowledge to the summit, the Commission can generate a significant amount of value by tapping into multiple partners’ help to plan successful joint ventures.

Lastly, partners can create value by reducing the costs of negotiating. They can reduce costs by making the negotiation process less time-consuming, increasing trust and credibility among partners, and aligning future incentives. In other words, strengthening relationships and creating a collaborative atmosphere in the Commission creates value for members by allowing negotiation processes to run more smoothly and cost-efficiently.

Dispute resolution literature offers a wide array of value-creating techniques. Based on these techniques, we bring four recommendations to help the Commission create value in member interactions. We recommend that the Commission (1) outline rules, values, and norms for engagement; (2) discuss interests before commencing any negotiation; (3) brainstorm value-creating options and implement measures to encourage and respect creativity; and (4) prioritize time before and after meetings for social interactions. We discuss these recommendations in more detail below.

Outline rules, values, and norms for engagement.

As a starting point, we recommend that the Commission outline rules, values, and norms for engagement. During and after the October 29 meeting, partners found it satisfying and productive to engage with other partners in facilitated group exercises.

²⁸ See generally *id.*

²⁹ *Id.* at 17.

In these exercises, we supplied a supporting basis for conversations by providing engagement rules (“Let’s have discussions at each table and convene as a group in five minutes”) and norms (each table has a chance to present their ideas and other tables listen with respect).



Having a basic framework for engagement helped partners interact efficiently with each other to develop a shared vision and create ideas for collaboration. In order to continue holding effective conversations, we

recommend that Commission members work together to agree upon a distinct set of rules, values, and norms that will guide master planning.³⁰ An interviewee noted applying such a frame-setting process for a local group and suggested that the Commission would benefit from a similar process: “In a group I am part of, we set some collective values and that has been really helpful. [Participants should not] just identify [values] but read them aloud at each meeting. There are no ground rules right now. We need to time out, back up, say *let’s do this together.*”

Note that having rules and norms and having shared values serve different functions for successful engagements. Regarding rules and norms, by establishing a process supported by shared rules and norms, partners form reasonable expectations about how interactions will proceed and how they can exchange opinions productively.³¹ For this reason, groups should discuss and agree upon consensus building rules and norms prior to commencing the actual negotiation.

Similarly, the Commission should come together to decide which rules and norms can facilitate successful conversations among members. As a reference, *Negotiating Rationally* by Bazerman and Neale offers examples of helpful rules and norms. The text suggests that groups should adopt a flexible discussion process where parties are able to reveal individual interests and suggest creative approaches, rather than a process driven by a strict issue-by-issue agenda.³² For example, partners could adopt various rules such as randomizing tables every half hour, collecting anonymized input at intervals and sharing them at each meeting, and opening up the floor for any questions or opinions each time a different topic is introduced. By setting norms, partners could set a broader approach to meetings and interactions, for example, by agreeing to be present in the moment and to prioritize

³⁰ The current structure of Commission meetings substantially follows Robert's Rules of Order, which is a structured, formal approach to discussion. We suggest that the Commission explore alternative structures to encourage creative discussions.

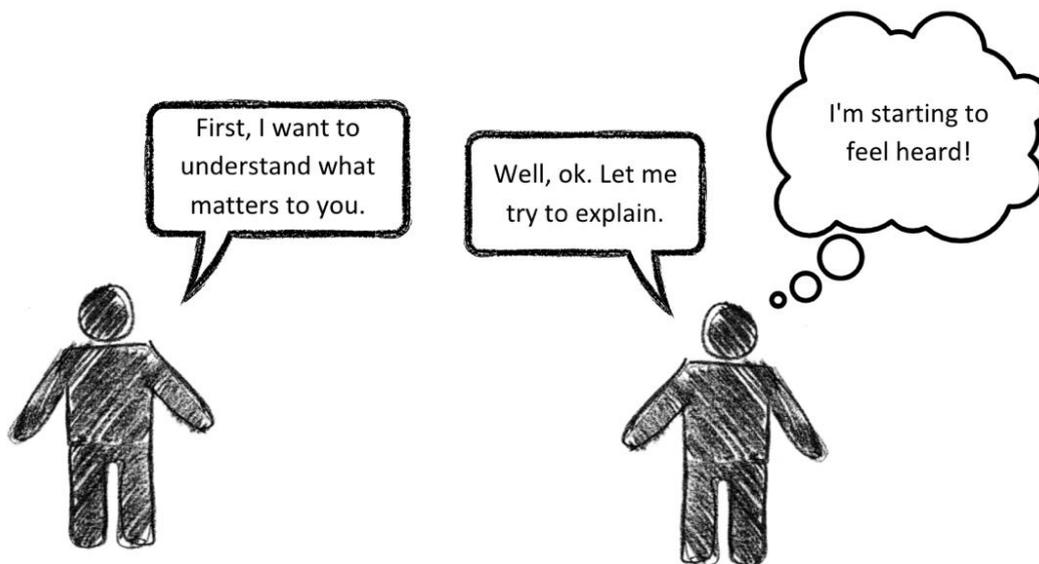
³¹ See MNOOKIN, *supra* note 27, at 207-11.

³² See MAX H. BAZERMAN & MARGARET A. NEALE, *NEGOTIATING RATIONALLY* 126-39 (1992).

cooperation and collaboration.

Regarding values, dispute resolution theory suggests that, with a flexible mindset, parties can integrate personal and collective values.³³ For example, partners could agree to show mutual respect and to refrain from blaming or shaming. Once parties succeed in identifying how their personal values connect with their group's collective values, they can anchor themselves with the connection during periods of uncertainty in decision making.³⁴ Such parties remain engaged in group decisions which they assess to be in line with their own values. By setting common values that are inclusive toward partners' individual values, the Commission can motivate partners to be actively engaged in Commission deliberations and decisions.

Discuss interests before commencing any negotiation.



When joint problem-solving begins with inquiring about each other's interests, it creates room to collaborate and helps build camaraderie.

During interviews, partners communicated interests that were richer and more nuanced than how other partners perceived them. Commission members' motives for pursuing certain outcomes were often backed by a vision for the community as well as individual goals and long-term aspirations as well as immediate concerns. But the more nuanced aspects of partner interests are easily lost if parties show positional behavior and presume each other's interests without allowing further explanation. Interacting based on presumed and simplified interests limits the discussion to outcomes that members put down on the table. In contrast, where interests are more fully discussed, parties can go beyond the initially suggested outcomes. Sharing interests opens up a potential for creativity and allows parties to brainstorm new solutions that give more value to each party than the original suggestions.

To that end, we recommend that the Commission create opportunities to discuss interests before commencing negotiations on desirable outcomes. We suggest that partners be given time to explain their goals and concerns before the partners begin discussing outcomes as a

³³ See PAUL W.B. ATKINS ET AL., PROSOCIAL: USING EVOLUTIONARY SCIENCE TO BUILD PRODUCTIVE, EQUITABLE, AND COLLABORATIVE GROUPS 144 (2019).

³⁴ See *id.* at 145.

group. Procedurally, this would mean that discussions should designate time at the beginning for interest sharing. Each participant should have an opportunity to describe their interests.

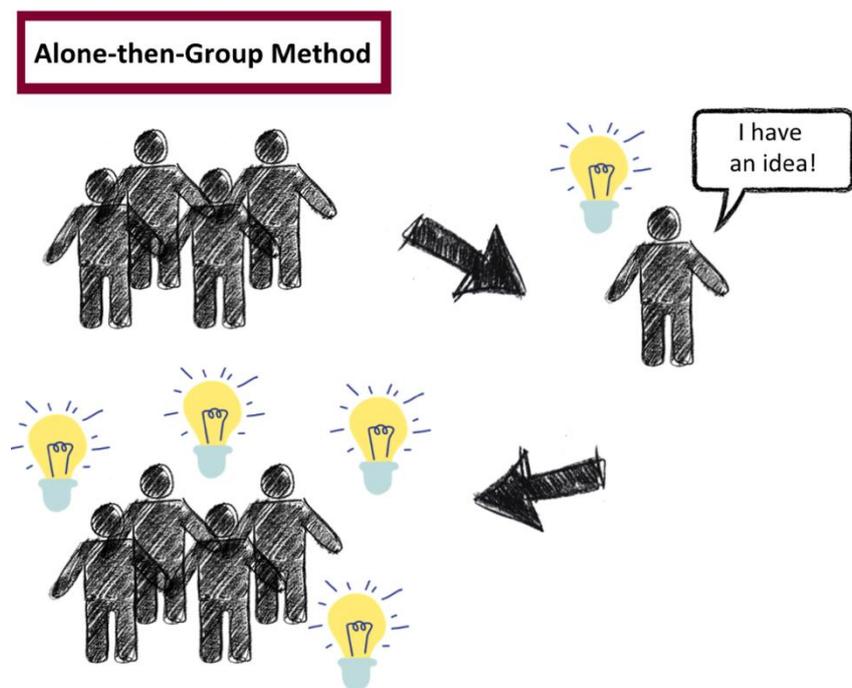
Brainstorm value creating options; implement measures to encourage and respect creativity.

To generate value-creating options, we recommend that the Commission set aside time to brainstorm both individually and together as a group. Brainstorming sessions should encourage members to think creatively about collaborative options and allow them to raise their ideas freely without having to commit themselves to certain outcomes. To maximize productivity, we suggest that the Commission shape its brainstorming sessions on the basis of four principles set forth in *Applied Imagination* by Alex Osborn: (1) expressiveness, where partners do not censor or hold back ideas; (2) no criticism, where partners refrain from passing judgment, placing blame, or making evaluations on ideas; (3) quantity, where partners focus on putting out as many creative suggestions as possible, without being concerned about quality; (4) and building, where partners actively modify, extend, connect, and build on the idea of other members.³⁵ These principles will help create an open environment for partners to conceive and develop ideas for value creation.

It is also helpful to structure brainstorming sessions in a way that helps implement the above principles for creativity. We

recommend that the Commission adopt the Alone-Then-Group structure developed by Leigh Thompson in *Creative Conspiracy: the New Rules of Breakthrough Collaboration*.³⁶ The Alone-Then-Group structure begins by giving each participant time to generate ideas individually, and proceeds to bring participants together for group brainstorming. It is a hybrid model that takes advantage of both the individual power for forming creative ideas and the group's ability to build on those ideas. The

Commission, with its specialized partners, would benefit from having partners generate ideas independently before bringing them together for group sharing.



To generate ideas, it can often be helpful to brainstorm individually before brainstorming as a group.

³⁵ For a succinct description of Osborn's principles, see LEIGH L. THOMPSON, *CREATIVE CONSPIRACY: THE NEW RULES OF BREAKTHROUGH COLLABORATION* 152-54 (2013). For a full explanation of the principles, see ALEX F. OSBORN, *APPLIED IMAGINATION* 124-36. (1953).

³⁶ LEIGH L. THOMPSON, *supra* note 35, at 160-61.

In addition, we recommend that the Commission implement a series of measures to increase productivity and keep ideas flowing in brainstorming sessions. For one, the Commission should consider anonymizing initial brainstorming suggestions so that partners can bring up ideas without committing – or giving the appearance of committing – to certain outcomes. Topics should be broken down into manageable pieces before being given to partners for brainstorming, and once group discussions begin, the Commission should consider applying time pressure with a tight schedule to encourage efficiency.

A point to note is that groups quickly lose energy when brainstorming, so we suggest that the Commission stimulate groups by introducing diverse suggestions, words and pictures, different postures, etc. Another way the Commission can stimulate group discussion is to put group members in pairs for brainstorming and rotate the composition of pairs in short intervals.

Prioritize time before and after meetings for social interaction.

During interviews, Commission members expressed regret that they had limited opportunities to interact with other members in a conversational way that is not necessarily related to the meeting agenda. Several interviewees suggested that opportunities for social interaction would improve relationships and help partners understand each other's situations. But partners currently have limited opportunities to interact outside of the regular meetings.

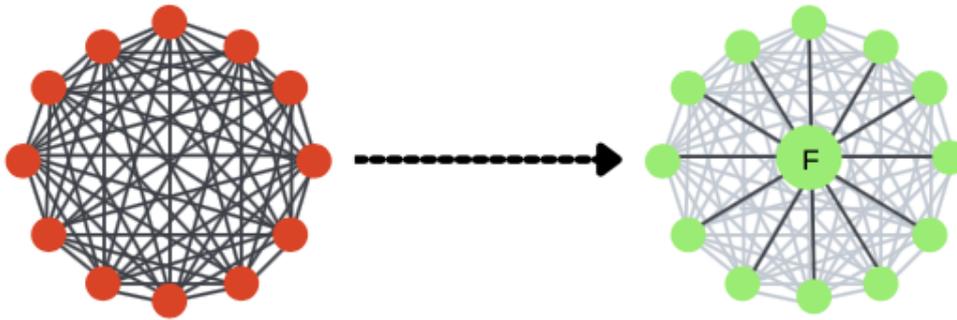
Correspondingly, we recommend that the Commission prioritize time before and after meetings to allow partners to engage with each other socially. Designated time for social interactions will provide a basis for collaborative and productive engagements by building trust and allowing parties to converse more deeply about their interests.³⁷

3. Engage a facilitator.

Our team highly recommends engaging a facilitator, and we do so for several reasons. First, our other recommendations are more easily, and likely better, implemented with the aid of a facilitator. A facilitator's expertise will be helpful as the Commission tackles the process and relational barriers to master planning. Second, a facilitator, or third-party neutral without a stake in the outcome, could bring a disinterested perspective, and therefore a sense of legitimacy, to master planning meetings.

Outside facilitators bring a skillset to consensus building that is unlikely to be replicated by the Commission attempting to overcome these obstacles alone.

³⁷ Once parties accept each other as belonging to a shared social group, they develop the ability to trust and rely on each other in interactions. See Jeremy Lack & Francois Bogacz, *The Neurophysiology of ADR and Process Design: A New Approach to Conflict Prevention and Resolution?*, 14 CARDOZO J. CONFLICT RESOL. 33, 40-41 (2012).



Discussion across a large group is made simpler with a facilitator.

Participants in facilitated complex multi-party negotiations have supported the aid of facilitators. In case studies reviewed by Raab Associates, participants “suggest[ed] that the particular skill and experience that facilitators and mediators bring can make a critical difference in designing and carrying out a collaborative process that proves rewarding and effective.”³⁸ Similarly, partners have expressed enthusiasm and appreciation for the specific skillset of a facilitator. After the October 29 activity, one partner wrote, “The commission needs [a] strong outside project to lead.” Another noted that, “cooperation is possible when led by a facilitator.” Those who have engaged in facilitated discussion and negotiation have spoken to the specific skillset that trained professionals have that improves the complex process of multi-party negotiation.

Tackling the issues that we have presented in our findings is fundamental to facilitators’ roles. We have devised our recommendations from our own survey of this information, but a facilitator would be well-versed and specifically trained to guide conversations around complex issues involving diverse interests. In *The Consensus Building Handbook*,³⁹ when discussing the role of a facilitator, two of the core tasks include “establish[ing] a work plan” and “creat[ing] a climate for problem solving.”⁴⁰ These skills directly correlate to our previous recommendations. Our interviews with experts Stacie Smith and Dr. Jonathan Raab additionally stressed this point. Both emphasized that facilitator aid is often critical in large-scale and complex planning processes.⁴¹ Though we have included our own process and relational suggestions to the Commission, a facilitator would come equipped with the tools to aid the master planning process.

Engaging a facilitator will also bring additional legitimacy to the master planning process. As we have discussed, Commission partners need to build trust. It is therefore of great importance that the master planning process is not conducted by anyone who might be “affiliated with a particular ‘side’ of the issues in question.”⁴² Secondary literature

³⁸ Cohen, *supra* note 15.

³⁹ “For many, this is the absolute key book to this topic.” JEFF BISHOP, *THE CRAFT OF COLLABORATIVE PLANNING* 235 (2015).

⁴⁰ SUSSKIND, *supra* note 2340, at 220-21.

⁴¹ Interview with Stacie Smith, Managing Director, Consensus Building Institute (Oct. 6, 2021); Interview with Dr. Jonathan Raab, President, Raab Associates, Ltd (Oct. 12, 2021).

⁴² SUSSKIND, *supra* note 40 23, at 671.

emphasizes that “Neutrality and professionalism are important if the evaluation is to be meaningful and trusted.”⁴³ Master planning, in our view, would clearly benefit by a third-party neutral shepherding the process.

Though engaging a facilitator requires resources, our team feels that the benefits outweigh the costs. In an effort to make clearer the cost of engaging a facilitator, our team reached out to some organizations in the field to understand pricing structures. The results varied widely,⁴⁴ indicating to us that if the Commission chooses to engage a facilitator, there will likely be an organization that matches Commission resources.

If the Commission determines that the resource cost of engaging a facilitator is too high, then the purpose may be partially served by connecting with a third-party neutral instead. Though the expertise level will not be the same, the additional benefits of legitimacy can be retained. In that regard, we would recommend master planning being overseen by a non-Commission member who does not represent any individual interest in the final product.

*Recommended Resources*⁴⁵

Web References for the Professional Mediation and Facilitation Organizations

- 1** **Adamant Accord:** www.adamantaccord.com
Adamant Accord designs and facilitates discussions and negotiations regarding complex environmental and public policy issues.
- 2** **The Consensus Building Institute:** www.cbuilt.org
CBI is a nonprofit organization with decades of experience helping leaders collaborate to solve complex problems.
- 3** **The Environmental Mediation Center:** www.emcenter.org
EMC is a nonprofit organization that designs and administers environmental and agricultural dispute resolution programs.
- 4** **The Keystone Policy Center:** www.keystone.org
The Keystone Policy Center aids shared-goal partners to find mutually agreeable solutions in energy, environment, education, health, agriculture, emerging genetic technologies, land management, and tribal communities.
- 5** **The Logue Group:** www.LogueGroup.com
The Logue Group helps organizations struggling with a conflict or decision. They can help by developing a strategy, engaging stakeholders, training staff, and resolving conflicts.
- 6** **Raab Associates:** www.raabassociates.org
Raub Associates provides mediation, facilitation, training, and consulting options to provide expert dispute resolution services. They specialize in energy, climate, environmental, and regulatory issues.

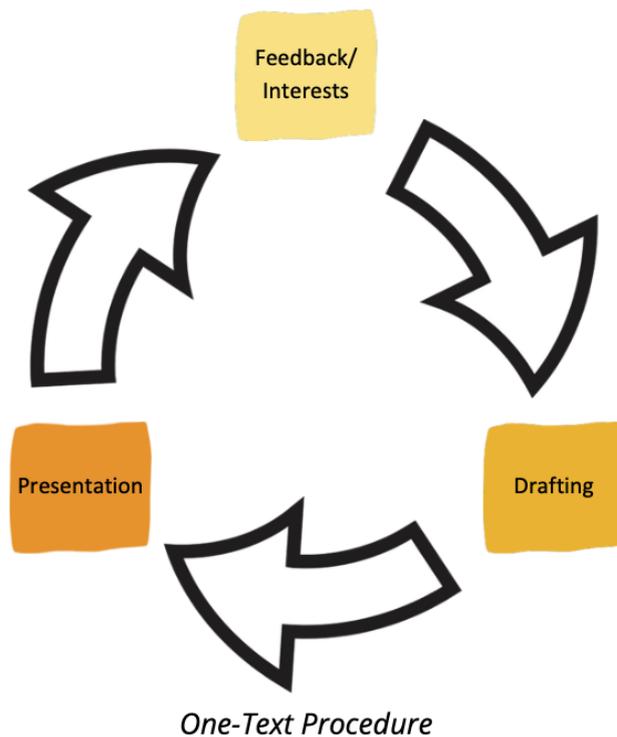
⁴³ *Id.*

⁴⁴ When given a short description of the Commission’s structure and the task, organizations quoted prices including \$1,800/day expecting 2-3 days of work, approximately \$8,000, and \$150/hour expecting 2-3 days of work. All organizations stressed that these numbers were approximations and that they could shift either higher or lower depending on the scope of the project.

⁴⁵ These references were sourced from secondary literature. *See* Cohen, *supra* note 15, at 36. Except where otherwise noted in this report, we have not independently contacted nor assessed these organizations.

Sub-Recommendation: Consider the One-Text Procedure

Though we defer to the judgment of any hired facilitator, one process that a facilitator or third-party neutral could use is the One-Text Procedure. Here is a quick outline of the one-text procedure. A facilitator, either jointly or individually, discusses the desires and interests of the participants.⁴⁶ The facilitator then drafts an interim proposal and presents it to all the participants. Participants then have an opportunity to offer feedback on the draft. The facilitator turns around another draft for participant feedback. This process continues until the facilitator determines that they have prepared the best possible solution. At this point, participants can accept or reject the final proposal.



We recommend this approach primarily because it efficiently handles many diverse interests and is adaptable to the Commission’s needs. The procedure helps manage many diverse interests. Roger Fisher and William Ury write that, “Fifty negotiating parties . . . cannot constructively discuss fifty different proposals. Nor can they make concessions contingent upon mutual concessions by everyone else.”⁴⁷ Conversely, a single facilitator who remains master of each draft *can* manage constructive discussions around one proposal and keep track of concessions and their relevant contingencies. Reaching agreement with twelve people can be challenging, and this is an approach that seeks to improve the process by designating one person as the sole drafting party.

Another primary benefit of this process for the Commission is that it could be adapted to work by Zoom and email. The master planning process could take months and finding time for all partners to attend meetings could be difficult. Additionally, New Hampshire’s open meeting laws prevent a quorum of the Commission from meeting with a facilitator virtually. This process, however, could be done with individual or small group interviews over Zoom, reducing the time commitment for partners and potentially the cost of facilitation.

Literature also supports additional benefits that align well with our findings and recommendations. The one-text procedure allows the facilitator to learn what participants really want rather than participants individually focusing on positions in individual negotiations.⁴⁸ Traditionally in positional negotiations, participants measure success by concessions. The one-text procedure removes this mindset from the process.

⁴⁶ See FISHER & URY, *supra* note 4, at 112-16.

⁴⁷ *Id.*

⁴⁸ See Roger Fisher, *Coping with Conflict: What Kind of Theory Might Help*, 67 NOTRE DAME L. REV. 1334-35 (1992).

Fisher and Ury describe another benefit of the one-text procedure: it focuses on interests rather than positions. In most negotiations, as discussed in Section III.2, discussions are based on positions. Fisher and Ury write that, when asked “‘Will you accept this today?’ it is often most logical to say ‘No.’ Committing to a proposal makes little sense when others are not yet committed, and you can still wait. Saying ‘No’ today can also lead to a better package tomorrow. As a result, people get increasingly locked into their positions, and reveal little about the interests and concerns underlying those positions.”⁴⁹ Rather than falling into this pattern, the one-text procedure allows a facilitator to dig deeper into partners’ interests.

Finally, Fisher and Ury describe how the process encourages value creation in an environment that might be hostile to information sharing. They write, “Faced with fears like appearing too flexible, getting ‘taken,’ and being misunderstood as committed when we’re not, we tend to do little inventing with the other side. Given this, we may stay on the same course not because of its merits, but because we fear the costs of suggesting change will be too great.”⁵⁰ Given our findings, this is a particularly apt description of how the Commission often operates.

V. CONCLUSION

We are so grateful to have had the opportunity to work with the Mount Washington Commission this semester. That the Commission unanimously decided to seek our outside perspective and recommendations says a lot about partners’ commitment to and care for the Commission’s work. We thank the partners and our other interviewees for sharing their time and perspectives with us and for coming to the activities we led with an open mind.

In this report, we tried to identify what is holding the Commission back from successfully creating a master plan. What we found was not a lack of will or a lack of interest in creating a shared vision but instead a need for tools to change partner interaction. We wanted to put forth recommendations that can aid the Commission in fostering collaboration, reducing barriers to brainstorming, getting excited about the future instead of dwelling in the past, and identifying opportunities for mutual benefit. We hope that our recommendations further these goals.

We could not help but feel optimistic after our meeting with the Commission on October 29, 2021. During that meeting, Commission members joined in groups and began to envision what the Commission could achieve with coordinated effort. Some imagined school programs to bring New Hampshire students to the summit; others imagined a “seamless visitor experience”; others described an “incredible facility” and an unmatched view. One team even imagined the state giving the Commission more land to manage because the Commission was so adept at managing the summit.

Master planning presents an enormous opportunity to come together and create a future for the Mount Washington summit that improves upon what is already working. We hope the Commission will take up its duty with this spirit in mind.

⁴⁹ *Id.*

⁵⁰ *Id.*



Photo by Edith Tucker/The Berlin Sun

VI. APPENDIX

Interview Protocol

Introduction

- Introduction of the Harvard Clinical Team
 - Brief introduction of our work
 - Mission at Mount Washington: retained by the Mount Washington Commission to develop recommendations for a shared vision for the Mt. Washington summit
- Promise of confidentiality
 - Anything that interviewee says will not be attributed to them outside of the interview
 - Interviewee will not be identified by name; should the interviewee feel that they may be identified by the information they give, they can request the team to further anonymize information
- Promise of impartiality
 - The team does not act or advise on behalf of any particular party; we come to the process fresh and do not hold views on how the Commission should be run
- Preview of discussion:
 - The interview addresses the Commission's goals vis-a-vis master planning, and how the interviewee envisions achieving them
- Questions for the team

Interests

- General goal: to better understand the vantage point of the interviewee and the organization they represent
- Sample questions
 - Can you tell us a bit about your organization's work, including its responsibilities and mission?
 - How do you see the master planning process serving the Commission?
 - What would be the best possible outcome of a successful master planning process for your organization?
 - What issues would you like to see addressed through the master planning process of the Commission?
 - In answering, could you differentiate between short-term and long-term goals?
 - With which groups on the Commission does your organization most align in terms of goals for Mount Washington? With what groups does your organization least align?

History

- General goal: to understand the history of difficulties associated with master planning
- Sample questions
 - To what extent has the Commission engaged in long-term planning in the past?

- What challenges have arisen when trying to make long-term planning decisions?
 - What are the greatest sources of conflict, or where does the Commission get stuck?
 - Specifically, why did the master plan that the Commission was developing in 2010 not receive final approval?
- On what issues has it been easiest to reach consensus, and why do you think that is?
- How well do you feel your interests are being heard within the Commission?

Process

- General goal: to understand how the Commission undertakes master planning, and where inefficiencies and conflicts arise
- Sample questions
 - How does the Commission allocate its meeting time? How well does that work?
 - How, if at all, does long-term planning get onto the agenda?
 - Who on the Commission, if anyone, leads discussions about long-term planning, and what processes are in place for allowing members to share their perspective on an issue?
 - How does the Commission make final decisions?
 - How do you think the process could be improved?

Closing conversation

- Interviewee's recommendation for other people to interview, if any.