# Consensus Decision Making Subcommittee Report:  Recommendations to the Tesuque Community Planning Committee

Submitted by the Tesuque Valley Community Planning
Consensus Decision-Making Subcommittee

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# I. Introduction and Subcommittee Methodology

The Consensus Decision Making Subcommittee ["Subcommittee" or "we"] held a series of meetings between October 5, 2020 and March 11, 2021 to fulfill its Planning Committee assignment. In advance of the meeting the Subcommittee members agreed that Bruce MacAllister would serve as a "conductor[1]" and that Lynn Pickard would serve as the Subcommittee note taker for the meetings. Despite these collateral duties, each member retained an equal voice in the Subcommittee's work. The Subcommittee designed the meeting process by agreeing initially on its charter and by using a "single document approach[2]" that enabled everyone to suggest changes and additions to the Subcommittee product. Subcommittee members conducted extensive research and reviewed many expert sources regarding community consensus-building and developed a shared understanding of "consensus," "deadlock," and approaches to consensus building. This Report includes the Subcommittee's research and recommendations.

# II. Subcommittee Charter

Based on the tasking conveyed to us by Lucy Foma, Santa Fe County, we agreed on the following charter statement:

> *"The role of the subcommittee is to recommend a process and approaches, which, if approved, will enable the full Tesuque Community Planning Committee to consider substantive issues, using a process designed to maximize fairness, to maximize full and equal participation, and to minimize the potential for deadlock."*

While we agreed that this tasking represented an appropriate charter statement, we also agreed that our recommendations would be developed and presented in the context of the pending Planning Committee discussion relating to fences and walls. The Subcommittee viewed this approach as the most efficient way to enable the Planning Committee to see how our recommendations would apply and be a good way for the Subcommittee, itself, to test its recommendations in advance.

# III. Subcommittee Recommendations on Consensus Concepts and Suggested Meeting Processes

## 1. Responsibilities of the Planning Committee

The overall goal of the Planning Committee is to finalize recommended language for the 2021 Tesuque Community Plan and to agree on key language recommended for sections of the Tesuque "Sustainable Land-use Development Code" [SLDC] overlay provisions applying to the Tesuque Overlay. Section 2.1.5.5. of the SLDC provides that "… The Planning Committee shall determine the planning process to be used and the basic guidelines for consensus decision-making …" Accordingly, the Planning Committee is tasked with evaluating all aspects of the consensus decision making process. These include agreeing on

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[1] *MacAllister suggested the concept of a meeting "conductor" in lieu of a paid outside facilitator. As someone already familiar with the situation, and also an experienced meeting facilitator, the role of "conductor" allowed MacAllister to host and facilitate the series of Subcommittee meetings while allowing him the flexibility to occasionally step outside of the facilitator role to voice his own positions.*

[2] *The "single document approach," is a system by which the product of the working group was tracked and recorded in a single working draft, that became this document.*

definitions for consensus, as well as planning for situations where efforts at consensus fail. Then, using those processes to reach consensus or resolve deadlocks as necessary to prepare its recommendations to the County. This Section provides the Subcommittee's recommendations and proposed definitions for consensus decision making and for working past deadlock.

## 2. Consensus

### Recommended Definition of Consensus Agreement for Use by the Planning Committee

Based on its research, and subject to a process designed to encourage unanimous decision-making when possible, we recommend that the Planning Committee adopt a reasonable standard to determine whether consensus exist by applying the following definition:

> *Consensus does not necessarily require unanimous agreement from all Planning Committee participants. In the Planning Committee context, it means **overwhelming agreement** among the participants after they have engaged in a good-faith effort to reach a unanimous agreement though a full, fair, and balanced discussion. In this context, "agreement" means that even though the proposed option might not be the participant's preferred option, the participant can "live with" it. "Overwhelming agreement" is reached when **seventy-five (75%) percent** of those participating in the Planning Committee discussion (in the then-current meeting, or as the committee otherwise decides) reach agreement as defined in this paragraph[3].*

## 3. Recommended Consensus Decision Making Approach:

The Subcommittee recommends the following steps as a process for seeking unanimous agreement or at least reaching overwhelming agreement. The Subcommittee recommends that the Planning Committee use the following tools and approaches for moving forward:

1. *Advance Agenda.* An agenda and the topic(s) for discussion should be identified and distributed approximately two weeks in advance of the Planning Committee meeting on the topic.

    a. The agenda should be designed to encourage full review of the topic. For example, with respect to fences and walls, the Planning Committee should design the agenda to initially encourage discussion relevant to the overall topic of fences and walls before channeling Planning Committee participants into the more narrow, distinct elements related to that topic.

2. *Reasonable scope.* While general discussion is encouraged, the agenda should be tailored so that the discussion can be completed within the time allotted. Topics should be reasonably narrow to ensure adequate time to discuss and review time at the scheduled meeting. There is no harm in completing the chosen task and ending a meeting early. And, this is preferrable to running out of time before reaching a clear agreement.

3. *Ground Rules.* The Planning Committee should agree to a set of ground rules and working processes at its next meeting. The ground rules should enforce civility and order, maintain focus on the agenda topics, and agree on a process that enables every participant to be heard. They should also include an agreement that Planning Committee participants will share and discuss their ideas and approaches **directly with the Planning Committee (i.e., not filtered by County staff)** so that all participants have equal access to the information.

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[3] *The Planning Committee should expressly agree on the voting pool involved in the consensus process. How does the committee wish to conduct the process to determine consensus?*

4. *Preparing in advance of the meeting*. To enhance meeting efficiency Planning Committee participants should be encouraged to endorse or propose changes to recommendations in advance of the meeting and to coalesce around proposed approaches.

5. *Agree on a facilitation model.* The Planning Committee may wish to consider other facilitation models that do not require county staff to facilitate. The Subcommittee used a "conductor" model that allowed the group to use a resource familiar with the issues and to avoid the expense of an outside facilitator. However, any model supported by the consensus of the Planning Committee is acceptable. It need only be agreed to in advance.

6. *Align expectations at the opening of the meeting.* The meeting agenda, goal, and ground rules should be reviewed at the opening of the meeting.

    a. "Ice-breakers" and other activities should be kept to a minimum to maximize issue-focused discussion time.

    b. Among other provisions, the ground rules should include the detailed information regarding finality of agreement and the processes used to reach agreement as described in the following paragraphs.

7. *Begin the meetings with an open forum.* Once the agenda and ground rules have been reviewed, time should be allotted to each participant so that they may introduce themselves and share their position, thoughts, and questions **relevant to the discussion topic.**

8. *Brainstorming.* After introductions and sharing of interests, through an orderly, informal, but reasonably structured process, and in light of the goal of reaching unanimity or at least overwhelming agreement, the participants should be encouraged to offer proposed compromises or approaches that they believe will protect and/or further the interests involved relative to the planning option, considering options that may be widely acceptable to the group.

    a. Proposed approaches offered with statements such as "could everyone live with this approach?" should be encouraged.

    b. Notwithstanding the goal of unanimity or at least substantial agreement, options still need to be reasonably specific and not so diluted as to render the approach vague, difficult to understand, or of little or no consequence.

9. *Measuring Progress through "Straw Polling."*

    a. A straw poll is an informal polling procedure that allows each participant to indicate whether they "can live with" the proposal under discussion. To measure progress towards agreement, the Planning Committee should periodically use straw polls to gauge progress towards agreement.

    b. After reasonable discussion, any participant may request that the Planning Committee conduct a straw poll and may frame the question to be measured. Those opposed to the agreement, will be given a reasonable opportunity to explain their concerns and objections.

    c. As long as the sixty percent (60%) of the Planning Committee believes that progress towards an agreement is being made, it may continue discussion and periodically measure progress through the straw poling process.

d. If the Planning Committee finds that there is little or no progress towards unanimity, the Planning Committee should measure the extent of agreement through a final straw poll.

e. In the straw voting process, failing to respond will be deemed to be agreement.

10. *Reaching Agreement.* The Planning Committee should determine whether "consensus" has been reached or whether it may have reached a "deadlock."

a. If, after reasonable efforts to secure unanimous agreement have occurred, the Planning Committee determines through the straw polling process that consensus has been reached, as defined in these recommendations, the committee should accept the terms as of the last straw poll.

b. If the Planning Committee finds that there is no consensus, it can determine that a "deadlock" exists and apply the response it has developed as a blanket deadlock response or issue-based deadlock response as described in Sections 4 through 6, below. In the alternative, the Planning Committee may defer the decision for up to 48 hours to allow the participants to evaluate the proposal and reconsider agreement or to suggest a reasonable option designed to break the deadlock.

11. *Confirming agreement*. When the straw polling process indicates that an agreement has been reached, before discussion on the issue is closed, the participants will agree on the language used to document the agreement. A scribe will be identified to record the agreed terms. All meetings shall be recorded and all agreements reached by the Planning Committee shall be documented and distributed to the participants – generally within 48 hours, depending on the complexity of the documentation.

12. *Commitment to Participation.* Reaching clear, final agreements is a primary goal of the Planning Committee. For efficient use of time, the Planning Committee should seek express agreement during the meeting when apparent consensus has been reached. The ground rules should reflect that all participants have the responsibility to participate in good faith and to state agreement or disagreement with proposals. Unless a participant expressly requests additional time to consider the tentative agreement, silence will be deemed to be agreement.

13. *Settlement evaluation time.* If requested by a participant, to encourage the widest agreement possible and to accommodate different individual processing and decision-making styles, the Planning Committee may agree to allow parties up to 24 hours to consider on the pending agreement. The party seeking the additional time has the burden to notify the Planning Committee of their agreement or disagreement. Failure to notify the Planning Committee within the allotted time will be deemed as agreement.

14. *Moving the agreement forward.* When all positions are final, if the consensus polling process indicates that there is overwhelming agreement in any event, the Planning Committee may determine that it has reach agreement and move forward. If there is not unanimous or overwhelming agreement, the Planning Committee may determine that there is a deadlock and implement the pre-agreed outcome that the deadlock implicates.

15. *Finalizing the Agreement.* After reaching agreement during the meeting, the Planning Committee should prepare the agreed language for distribution to the participants. When distributing the agreement documentation, the Planning Committee will provide a deadline, after which the

agreement, as documented, becomes final. If there are changes that can be reconciled among the participants outside of a meeting, the participants can submit revised language for review and approval at the next meeting. This review process is intended as a good-faith mechanism to ensure full and fair acceptance of an agreement. It is not intended for use by anyone as a tactic to disrupt the consensus process. The Planning Committee may refer back to the recorded transcript of the meeting to resolve differences in proposed language. If a majority of the Planning Committee determines that the review process is being abused, and there is nonetheless "overwhelming agreement," in spite of an individual objection, the Planning Committee may finalize the agreement as developed at the last meeting.

## 4. "Deadlock"

### Deadlock Defined:

Based on its research, the Subcommittee developed the following definition of deadlock:

> *"Deadlock" exists when, after good faith efforts to reach "consensus" (i.e., unanimous or "overwhelming agreement," as defined) through the Planning Committee's consensus decision making process, the Planning Committee members fail to agree on recommended language. Should deadlock occur, the Planning Committee agrees that, the default option agreed to by the Planning Committee in advance of the discussion shall apply.*

## 5. Avoiding Deadlock and Ensuring Equal Commitment to the Process and Advance Agreement on the Implications of "Deadlock"

The Subcommittee determined that potential power imbalances among participants can adversely affect the consensus decision making process. To ensure full participation, the Subcommittee recommends that the Planning Committee embrace a decision making process that ensures that all participants place "everything on the table" and have an equal stake in the outcome. If certain parties believe that they can negotiate from a point of strength, they will be less committed to full participation. Accordingly, the Subcommittee recommends that the Planning Committee agree *in advance* what the implications of deadlock will be. This can be an important technique for neutralizing real and perceived power imbalances.

## 6. Implications of and Moving Through "Deadlock"

After it confirms the definition of "deadlock," the Subcommittee believes that it is imperative that the Planning Committee agrees in advance what the implications of deadlock will mean relative the pending issue(s). Before discussing any issue where there is a reasonable possibility of deadlock, the Planning Committee should agree on the implications of deadlock as a part of its ground rules discussion. The Planning Committee may develop a default approach for how to move through deadlock on a blanket basis or on an issue-by-by issue basis.

Based on its research and review of the root causes of deadlock to this point, the Subcommittee determined that a contributing reason for current deadlock stems from differing understandings of the implications of deadlock and the resulting default outcome. For example, some potentially perceive an advantage to simply not participating, as they may perceived the implications of "deadlock" mean that current language remains in place and that is what they desire. Thus, the Subcommittee believes in the importance that all participants agree that all options are placed equally on the table pending a consensus-based agreement. With *advance agreement and understanding* that everything is on the table, and that failure to reach consensus on specific language means a specific default will occur, all participants come to the meeting on an equal footing, and full participation is more likely.

The Subcommittee considered the range of approaches for moving through deadlock and, simply put, found four options. While some Subcommittee members shared their individual preferences, the Subcommittee is not identifying one approach as preferred or recommended. However, as stated, it strongly recommends that the Planning Committee reach an ***advance agreement of the implications of deadlock before moving into any potentially controversial discussion.***

The Subcommittee identified these optional approaches for this advance agreement. In light of deadlock, the Planning Committee can elect to:

1. *Continue review and defer further discussion pending additional research and information.* If there is consensus (as defined herein) to support this approach, the Planning Committee may defer a decision on the issue and seek additional information or preparation (See, SLDC 2.1.5.4)[4] and agree to revisit the issue with additional information;
2. Agree in advance that deadlock means that the existing language of the 2013 Community Plan and current overlay remain in place.
3. Agree in advance that deadlock means that current Community Plan language is removed and that the Planning Committee supports, by default, removal of any language in the in the County's SLDC Overlay for Tesuque, or the applicable overlay area, reverting to default general County SLDC language.
4. Agree in advance to a more acceptable hybrid alternative reached, through advance discussion or as a result of discussions based on additional information.

## IV. RECOMMENDATIONS FOR NEXT TWO PLANNING COMMITTEE MEETINGS

### A. Proposed Ground Rules for Planning Committee

1. The meeting will be recorded on the video platform used.
2. Each member has a responsibility to share their positions and perspectives.
3. The meeting process should be structured to enable all participants an opportunity to provide input. Periodically, the group should pause to verify participation by offering opportunities for all participants to share their input, opinions, and position.
4. Building agreement in in real time in the meeting is preferred.
5. The Committee will measure its progress towards agreement by periodically conducting straw polls.
6. If an agreement has tentatively been reached, if participant needs time to reflect on the pending agreement, they must specifically request the additional time, so that the pending agreement can be deferred for further review as provided in Settlement Evaluation Time section. If the participant does not request time, or fails to respond within the agreed additional time, the Committee will move forward as provided, above.

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[4] *"2.1.5.4. County planning staff in coordination with the Planning Committee shall develop a public participation plan that assures representation of a diverse cross section of the community. The public participation plan may include public meetings, surveys, establishment of topic specific Subcommittees, outreach to community groups and interested parties."*

7. The committee will designate a meeting facilitator as described above. If this person is also a member of the committee, i.e., a "conductor," they must expressly identify times when they are speaking as a participant and not as the "conductor."
8. The facilitator/conductor, will outline ground rules for the orderly conduct of the meeting and will request that participants will use the "raise hand function" in the video platform or raise hand in their video window if the conductor observes that participants are not able to provide timely input to the topic.
9. Participants should not interrupt one another and they will allow each participant to finish their complete thought without interruption.
10. The notetaker and others may ask for clarification of points made by other participants.
11. If a participant needs to step away from the meeting temporarily or leave the meeting before its conclusion, they should advise the group, as the total group size affects the proportions that govern determining consensus.
12. Any member may suggest additional ground rules at any time.

## B. PROPOSED AGENDA FOR PROCESS MEETING
### 1. Opening Activities:
1. Review of Virtual Meeting Protocols
2. Brief Introductions
3. Review of Proposed Agenda
4. Review Ground Rules
5. Agree on meeting goals for meeting

### 2. Substantive Work
1. Review Consensus Decision Making Subcommittee Recommendations and confirm or modify the:
   a. Definition of Consensus
   b. Definition and implications of Deadlock
   c. Advance agreement on implications of deadlock, and
   d. The general overall approach
2. Wrap up
   a. Document process agreements and affirmation or modification of Subcommittee Recommendations

## C. PROPOSED AGENDA FOR FENCES AND WALLS MEETING
### 1. Opening Activities
1. Review of Virtual Meeting Protocols
2. Brief Introductions
3. Review of Proposed Agenda
4. Review Ground Rules
5. Agree on meeting goals for meeting

### 2. Fences and Walls Discussion
1. At this stage participants should be encouraged to share their perspective on the interests that they believe should be protected or furthered.
2. Identify shared common interests
3. Identification of options and proposed approaches
4. Agree in advance what the implications of a deadlock will be, such as:
   a. Deferring pending receipt of more information;

b. Agreeing to Rescind current Community Plan Language regarding fences and walls and allow the default general County language to apply;
   c. Agreeing to completely accept the language of the current Community Plan relating to Fences and Walls; or,
   d. Applying a pre-agreed hybrid agreement.
5. Reaching a consensus-based agreement relative to the Community Plan and related overlay language. Modifications may include changes in scope of overlay, wall setbacks, wall height, changes in areas subject to limitations, and other elements.

3. Meeting Conclusion
   1. Affirm the specifics of all agreements and document the results.
   2. Identify any open items that were unresolved or pending a post-meeting evaluation.
   3. Agree on focus for Next Meeting.
   4. Set Date of Next Meeting.

# V. Conclusion

The Subcommittee unanimously recommends that the Planning Committee use the definitions, approaches, and processes provided in this report as a primary tool to move forward to fulfill its mission in support of the County planning initiative.

Respectfully submitted,

Tesuque Valley Community Planning Consensus Decision-Making Subcommittee

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