The Collective Bargaining Process: Techniques for Addressing Impacts on Operations

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During bargaining, the Negotiating Team strives to reach agreement with the employee group through a give and take exchange. Upon reaching an agreement, each side ideally walks away from the negotiation table with a sense of accomplishment. Actually Management and Employee Groups have more in common than they may realize. Each side wants what is in the best interest of its stakeholders. Management needs to consider the impact of its proposals on the agency’s budget, long term strategic goals, operations, core mission, and employee recruitment, retention, and morale. The employee group takes into account the impact of proposals on its members’ hours, wages, and working conditions.

This paper will focus on collective bargaining and the importance of identifying what impact proposals and changes to the MOU will have on Department operations. Bargaining should not be conducted without input from Departments. The negotiating team may become so absorbed with the high pace of the process that they underestimate the intent and impact of its proposal on the Managers who have to comply with the provisions of the negotiated agreement (referred to as the MOU). Neglecting to obtain and consider input from Departments can adversely affect operations. The following approach of sharing information and assessing impacts during bargaining establishes a mechanism by which the Lead Negotiator is able to address problems that arise during the term of the MOU.

I. Preparing for Negotiations

a. Obtain input from department managers before, during and after negotiations. Often they are consulted at the outset then are forgotten as negotiations progresses, with some unfortunate consequences. I will share actual examples of problems I’ve encountered and will underscore the importance of input from operations managers. It is overly optimistic to assume that all department managers will be cooperate and willing to work with you. The negotiator should develop ways to work with uncooperative managers who view negotiations as an encroachment on their authority. A challenging question that remains is how to reach managers who dislike employee groups, avoid unions, and thus undermine your role as the lead negotiator.

II. Engaging Departments in the Collective Bargaining Process

a. Obtaining operational involvement and input during bargaining:

i. At Torrance, we created a core Team of subject matter experts. They were:
   1. Human Resources – salary surveys, job classifications, historical data
   2. Finance – Package costing, premium calculations
   3. Operationally Impacted Departments
a. Public Works – Sanitation, Sewers, Streets, Water  
b. General Services – Facility management, print shop  
c. Community Services – Parks & Recreation, Libraries  
d. Transit  

ii. We requested Departments to submit their problems and concerns. The following areas were identified as priority issues for negotiations:

1. Operations & Policy  
a. DMV Physicals  
b. Safety Eyewear Protection  
c. Union President’s Days Off  
d. Employee Release Time  
e. Probationary Period Definition  
f. Job Classification Implementation  

III. Complying with the MOU during term of contract  

- Following negotiations, the City took the following steps to educate Managers on the changes in the MOUs and thereby encourage a continuing dialogue and problem areas identification to address in future bargaining.  

a. MOU Training for Managers  
   i. A two-hour MOU training session with Peter Brown, Partner at the Law Firm of Liebert Cassidy Whitemore  
b. MOU Booklets were printed for the Union and given to all Managers  
c. The City designed a Grievance Processing Brochure to assist Managers with handling employee filled grievances  
d. Created an email Operations Distribution List to include Department Heads and Managers  
e. Built a close working relationship with the City Attorney’s office  

The discussion will also incorporate real life examples from my experience as a Department Manager and member of the Negotiating Team. During bargaining, I saw instances where certain proposals, if adopted, could have severe consequences on
Departmental operations if we failed to consider input from the impacted Manager(s). This is where information sharing between the Negotiating Team and the impacted Departments is crucial to avoid agreeing to provisions that would have an adverse impact.

The Negotiating Team is faced with many challenges including massive data gathering from Departments, developing the agency’s proposals and creating a mechanism to assess the impact of proposals on departmental operations.

I was the Operations Manager at Torrance Transit prior to joining the City’s Negotiating Team as a newly appointed Assistant to the City Manager and was responsible for the daily running a municipal transit (bus) system which included the oversight of 110 plus employees and various contractors. The daily challenges included dealing with employee relations issues of attendance, employee performance, system reliability, safety, training, and customer service. During the four years at Torrance Transit, labor relations activities including interpreting the City’s Memorandum of Understanding (MOU) and representing the Department at several meet and confer sessions related to the Transit Department. Experience as a Manager also included an arbitration case, meet and confer sessions related to state mandated wage order compliance and an extensive route restructure.

Reading sections of the MOU as a manager I was puzzled at times about the intent of certain provisions as they applied to operations. I recall more than once being frustrated with language that did not address the realities of my everyday operations and I questioned the disconnect I saw between these provisions from real situations.

As an example, Transit industry employees must undergo annual medical exams to meet Department of Motor Vehicle (DMV) requirements. As a past practice, the Transit Department’s required employees to take a City paid medical exam at a designated facility in order to renew their medical cards. On several occasions, the Doctor administering the exam would not sign the medical card for individuals with high blood pressure or other medical conditions. Once, one of the bus operators went to his personal doctor, obtained the medical card and refused to go to the City designated facility. The Transit Supervisor refused to accept the personal doctor’s card, and required the employee to undergo the City sanctioned exam. The employee went to his Union. Based on this experience, when I joined the negotiating team this year, I made certain to include the medical exam issue in our proposal. Below are excerpts of the old and new language of the MOU:

**OLD LANGUAGE**

“City Driver Physicals:

- The City shall provide required medical examinations where required operators license makes such necessary.”

**NEW LANGUAGE**

“City Driver Physicals:
• The City shall provide required medical examinations at a City-designated medical facility where required operators license makes such necessary. Drivers with a Commercial Driver License are required to submit to the required medical examination at a City-designated medical facility.

• If a physician at the City-designated medical facility requires the employee to go to his/her own physician for any reason, and the employee is unable to perform his/her duties until cleared by the City physician, the employee will need to use leave (sick, vacation or compensatory time off) time. The employee shall have the right to use sick leave, vacation or compensatory time at their choice. If sick leave is chosen, that sick leave usage will not be counted as part of the employee’s annual evaluation of attendance or for any disciplinary purpose.”

Since joining the City Manager’s Office, I’ve had the opportunity to be involved in the City’s bargaining process. I was fortunate to be on the negotiating table with the City’s Chief Labor Negotiator Peter Brown of Liebert Cassidy Whitmore. During negotiations, I observed the unique role of the negotiating team and the constraints that create unintended disconnect because of the disconnect between the negotiating table and departmental operations. It is essential to build functional relationships throughout the course of the term of the contract to identify issues and avoid potential problems. Although unintended consequences may still occur, by engaging Departments from the onset of negotiations, negative impacts will be limited and hopefully avoided in the future.

To have a dynamic approach to policy development, one must develop a proactive approach before negotiations begin to avoid reactionary policy making. By identifying and addressing operational realities, a successful outcome in negotiations is more likely. A negotiator should be educated on the issues and advocate for positions while maintaining a balance between the needs of the department and the effect on the employee organization.

CONCLUSION

As a Manager, I recall being frustrated with employee groups and at times questioning their existence. As I matured as a Manager and later in my role as Labor Negotiator, I’ve come to realize and appreciate the role of employee groups and look for ways to maximize the positive outcome (Win-Win) opportunities. It is important to build a professional working relationship with the employee groups. Educating labor group leaders and Managers on common themes and challenges is key to encouraging dialogue. Both sides need to appreciate the other’s role and contributions. As an employer, the City must stay competitive in the labor market in order to recruit and retain qualified employees. The role of the employee representative is to protect the rights of its members, advocate for competitive wages, benefits and working conditions. The ultimate goal for all employees is to provide efficient service to the residents.
I believe that Management and employee groups have more in common than they admit. The challenge is to create an environment that allows for dissent, while maintaining an effective working relationship. A posture of strict, unyielding positions by both sides obscures opportunities to build on common themes. To create a harmonious relationship, each side must be willing to share information, avoid conflict in the early stages, and be cautious in picking its battles. Elected officials have a duty to respond to the needs of the citizens, Management has the fundamental responsibility of providing essential services to the residents while maintaining a fiduciary balance and the employee group has a duty to represent the core needs of its members and ensure compliance with all provisions of the collective bargaining agreement.

In the spectrum of public service, each group is dependent on the other. Dissent does not necessarily justify a negative relationship. It identifies challenges and creates an opportunity for working together. The challenges facing the public sector will continue. As labor relations professionals, we must utilize our duty to bargain with a view to allocating resources, embracing visionary thinking and creating opportunities for employee growth while guaranteeing service delivery to our residents.
I want to share my project and issue management techniques. Without constant attention to these practices, I will be ineffective with meeting deadlines and unable remain responsive to elected officials, City Departments, and Employee Groups.

• Utilizing Microsoft Outlook to Manager Employee Relations
  o Email organization – Work flow management
    ▪ Address each email/issue immediately upon receipt
    ▪ Create an “ACTION” folder for post inbox

  o Task Folder – Individual Project management
    ▪ Create a Task for each project/issue – i.e. AFSCME Library Page Vacation/Sick Leave Automation
      • Each time an update is made, use the following format to keep tract of issues/updates
        o 11/1 Received a call from the Library Department to inform AFSCME regarding setting up automated payroll notification for vacation/sick leave accruals
        o 11/3 Scheduled a meeting with AFSCME for 11/4
    ▪ Create a Project Email Folder – i.e. AFSCME Library Page Vacation/Sick Leave Automation
      • Each time an email is received related to issue, file in the corresponding project folder. Utilize the E-copy program to create PDF’s of hard copy documents, and email to store in the Outlook Project Folder

  o CLOSED Project
    ▪ Once a project is closed, forward the Task item via email. Store the completed project in the CLOSED folder. This will archive all issues for future reference.

  o Keeping your Boss informed
    ▪ Each time a project/issue is complete, an email is sent to my boss notifying her of the Closure.
**My Techniques for Managing Labor Relations**

The impact of being responsive to your Managers and on building good working relationship with your Managers and Employee Groups

- Continuing Education
- Planning ahead to next contract
- Need to create future issues folder to capture identified language problems in the current contract and use the PF 73-2 grievance database to analyze trends
- Encourage Departments to identify problems early, think of creative solutions, and create a mechanism to address issues during term of contract or for future negotiations.

Suggested ways to improve management/labor relations

- Establish on-going meetings to discuss any outstanding issues from either side
- Keep employee group in the loop on any topic that may impact their members, NO surprises, email/call employee group Presidents to let them know of any upcoming Agenda items that may impact their members.
- Look for common themes and issues to build partnerships on common goals/themes. Use success stories to build upon and nurture the relationship
- Share success together
- Follow through on employee group request for information
- Keep an open door

**OPERATIONAL CONSIDERATIONS**

- It is essential to capture operational impacts and address issues during the collective bargaining process.
- Become an advocate for Departments while building mutual trust with employee groups
- Key to explain City’s position to Departments and help them see the BIG PICTURE
- Sometimes change desired by Departments takes time and must be done on an incremental basis.