INTRODUCTION

You are a relatively new member of the management team during negotiations with your City’s Firefighter Union. Your job is to assist the Chief Negotiator with preparing for negotiations, providing information at the table and intervening when appropriate. Your Chief Negotiator has over 20 years of labor relations experience and is typically very poised. The Union’s spokesperson is also experienced and knowledgeable, but can be a bit gruff at times.

A series of recent negotiations between the two parties have been unusually “bumpy” due to outside pressures being exerted on them. The union spokesperson is being threatened by his membership for a perceived lack of support for senior members while the City’s Chief Negotiator has been attacked by executive management as being too soft to Union demands. Things seem to be back on course with reasonable progress being made until the proposal of station bidding is on the table for discussion. Station bidding is when fire personnel can bid against their fellow firefighters for specific station assignments for the coming year. Your City’s past practice is based on seniority; however, the management team would like to change the way station bidding is conducted while the Union wants to maintain station bidding by seniority.

Suddenly, a heated and intense debate erupts between the two teams. This reciprocal arguing continues for more than two hours with the rhetoric becoming increasingly hostile and more than a little personal. Both teams seem to enjoy the emotional lobs being targeted at the other side. In an attempt to further antagonize the management team, the Union’s negotiator begins throwing 12 year old memos regarding station bidding at the face of your “not so poised” Chief Negotiator. Your negotiator responds by making innuendos about how more senior and underperforming firefighters only pick the quiet stations where “they can hide.” You feel as though you should intervene, but considering the back and forth heated discussion you reconsider and choose silence as the better part of valor. The rest of your team has a look of complete bewilderment and is unable to think of an acceptable strategy to get things back on track. The Union’s team seems content with allowing the arguing to continue until they can leave for a dinner break. Without warning, your Chief Negotiator loudly calls a caucus, stands up, points at the Union’s spokesperson and walks outside. The
Union’s negotiator grumbles something you do not understand and closely follows him out the door.

After several uncomfortable minutes of shuffling papers and making polite conversation with the Union’s team members, both bargainers emerge and quietly sit down. For a moment you thought you saw a flicker of a grin appear on their faces. Your Chief Negotiator begins by saying that he has agreed to take the proposal of station bidding off the table. The Union’s spokesperson starts to thank him and states how important it is to have continued good relations. You cannot quite process what he just said and believe that you have possibly fallen asleep and are dreaming. After hours of intense discussions regarding an item that seemed destined for eternal disagreement you ask yourself, “What just happened?”

You have just experienced a sidebar!

WHAT IS A SIDEBAR?

A sidebar is characteristically a private meeting between the principal members from both negotiating teams. Sidebar discussions can be conducted anywhere, such as the hallway, offices, meeting rooms, or at your local restaurant. The sidebar is a tactical approach which is sometimes used when direct negotiations and caucuses fail to produce any movement from either side. Some agencies apply it as an impasse-breaking tactic. However, sidebars can also be conducted in order to clarify strategy and team positions, or to share off-the-record discussions and general information. Sidebars can be very quick discussions during team caucuses or can take several hours away from the formal negotiation process.

Sidebar discussions are also mechanisms that provide a way for negotiators to communicate information while maintaining the drama of conflict (Friedman, 1994). On both the management and union sides of the collective bargaining table, both can feel the pressure to posture and perform for their respective sides. Teams may engage in theatrical attacks in order to satisfy the objectives of their members or superiors. During times of conflict, much of the integrative aspects of negotiations can take place away from the bargaining table since sidebars occur in a less visible social space.

Some organizations choose to identify sidebar discussions in their agreed upon ground rules. They do this in recognition that sidebars are an accepted strategy to be used during negotiations and may be of benefit when properly applied. Such organizations also recognize that it is preferable to identify the full parameters of negotiations prior to commencement.

Other agencies are reluctant to utilize sidebars as part of the negotiation process either due to their unfamiliarity with how they can be used, or because it is perceived as an “illegitimate” form of negotiating. These parties feel that any proper discussions belong at the bargaining table and not outside the formal process. They believe that if used incorrectly, sidebars can be counterproductive to successful negotiations and
impede further progress. They also fear that it can erode the structure of the negotiating process by relying more on personalities than on issues.

It should be noted that successful implementation of sidebars requires experienced and skilled negotiators to effectively use them as a negotiation strategy.

THE SKILLED NEGOTIATOR

The atmosphere of negotiations can largely depend on the attitudes and approach of each team. The manner in which the meetings take place can be influenced by prior negotiations, the employer’s attitude toward bargaining, the union’s leadership and demands, or the economic situation of the agency. Other factors such as political influence of the union, community support and/or sensitivity to particular issues coming before the negotiators can also have a significant affect on negotiations. Regardless of the environment, negotiations typically follow the same common pattern which can result in success or failure.

One factor leading toward successful bargaining is the skill and knowledge of the principal negotiators. Through careful preparation, the negotiators must become knowledgeable about not only their own proposals, but the other team’s position on bargaining issues. When the acquired knowledge is used wisely, the seasoned negotiator develops a clearer understanding of the other side’s proposals and needs.

Good listening skills and the ability to communicate in a clear and concise manner are critical skills for a successful negotiator. However, the experienced negotiator should also possess other important skills such as personal integrity and courage. There are several attributes that separates the outstanding negotiator from the average one (Carrell & Heavrin, 2004):

1. Establishes clear objectives
2. Does not hurry
3. Calls for a caucus when in doubt
4. Is prepared for each meeting
5. Remains flexible
6. Continually examines the actions of the other team
7. Respects face-saving tactics employed by the other team
8. Attempts to ascertain the real interest of the other team by the priority of the proposals
9. Actively listens
10. Builds a reputation of being fair but firm
11. Controls emotions
12. Evaluates each bargaining move in relation to all others
13. Measures bargaining moves against ultimate objectives
14. Pays close attention to the wording of the proposals
15. Remembers that compromise is key to successful negotiations; understands that no party can afford to win or lose all
16. Tries to understand people
17. Considers the impact of present negotiations on the future relationship of the parties
18. Is able to effectively communicate to all levels of skill and types of personalities
19. Has the ability to accept critique and attacks without personalizing positions

To hold sidebar discussions, negotiators must be familiar with the other team, know which items are critical and the motives driving team members and issues. The negotiator must also have confidence in his/her negotiating skills and have confidence in the ability to depend on their counterparts’ credibility and integrity (Friedman, 1994). It is critical that the lead bargainers know how to interpret actions and when to utilize sidebars in order to keep negotiations moving forward. This “backstage” strategy is useful but depends largely on the lead negotiators’ abilities to control and manage their relationship with the other side. Generally, the instinctive negotiator is the one best able to maximize the effect of a sidebar.

On the other hand, sidebars can be distracting and confusing to team members if the principal negotiators do not keep them informed of strategy changes and off-the-record discussions and agreements. Over the years, there has been controversy regarding the importance and impact of sidebar discussions. So, do sidebars really help or get in the way of negotiations?

SIDEBAR PROS

Many negotiators find sidebars to be useful tools during the bargaining process. When used properly, sidebar discussions and meetings can be beneficial for several reasons (Friedman, 1994):

1. Sidebar meetings are private. During those private discussions it is not necessary for the parties to maintain a facade, so communication can be more candid. As shown in the example above, there was a lot of posturing and disagreement at the bargaining table, perhaps for the benefit of their constituents and officials. In private, negotiators can share information about their own teams or issues that they cannot reveal in public. That shared information does not necessarily have to be disclosed to their side.

2. If a negotiator presents an exploratory idea at the table, they may feel committed to it. Once the idea is heard by team members, constituents, or their superiors, they may become convinced that an agreement has been made even though it was just stated as an idea. That can limit the lead negotiator’s ability to create other proposals, or make better trades and concessions. Sidebars allow negotiators to float ideas.
3. As information is filtered through individuals and groups, it can easily become imprecise and unclear. It can be much like a children’s game of “Pass it Down” or “Telephone”. For that very reason, some negotiators prefer sidebars to ensure clarity of concepts.

4. If the principal spokesperson has several negotiations to control all at once, sidebar discussions can be used as a private avenue to manage logistics and discuss strategy. For example, during a private meeting, the lead bargainers can possibly agree more easily to extensions and delays as opposed to making such requests in public.

5. If negotiators are unclear about the other team’s signals or posturing, a sidebar discussion can clarify any wrong interpretations. Misunderstandings between the negotiators can be risky and possibly lead to unsuccessful outcomes. Toward the end of negotiations, some bargainers believe it is imperative to have an off-the-record discussion to ensure that all signals are correctly understood between the teams. In such cases the sidebar is used as a type of reality check to ensure negotiation are proceeding as they appear.

As previously stated, sidebars can be used as a tactical approach when direct bargaining fails to produce any movement from either side. Negotiators can meet in private to discuss arduous proposals and expectations. Some lead bargainers even use sidebars as a final step before impasse and arbitration. However, any agreements reached in sidebars must always be honored when the formal meetings reconvene. When these private discussions are engaged in by skilled negotiators who are familiar with the other side and have credibility and integrity, sidebars can be beneficial to both sides.

**SIDEBAR CONS**

As with any issue or strategy, there is another perspective to sidebar discussions. Some agencies and negotiators opt not to use sidebars and prefer a more formal process. Here are some reasons why sidebars should be avoided:

1. If sidebar meetings are part of the negotiating process, some proposals made at the bargaining table may only be for theatrics only to be seriously discussed later in private. This can cause cynicism and reduce confidence in the negotiation process.

2. If negotiators are not skilled or if they question their counterpart’s credibility, sidebar discussions should not be part of the negotiation strategy. Lead bargainers should monitor each other carefully and look for signs of professionalism and trustworthiness. If negotiators are professional, then it is safe to assume that they accept the basic tenets of the labor relations system (Friedman, 1994). But, if there is any doubt
regarding the character of the other negotiator, then sidebar meetings should be avoided and all discussions should take place at the bargaining table.

3. Sidebar discussions can be confusing and unclear to team members if too much information discussed in private is not shared with them. Members can feel “out-of-the-loop” and left wondering why certain decisions are made or modified. The example above demonstrates how poor communication by the lead negotiator can cause confusion and isolation. This behavior can lead to team apathy regarding the negotiation process.

4. Negotiators should avoid sidebar meetings if their constituents are suspicious of them, if they do not have an established reputation, or if members were dissatisfied with deals that were made during previous negotiations (Friedman, 1994). Under those circumstances, lead bargainers may be better off negotiating only at the bargaining table where all proposals are discussed in the presence of others.

5. Interacting with novice negotiators or fostering new relationships can sometimes be difficult. Sidebar discussions are more beneficial when bargainers have an established association and trust each other, as well as adeptly understand the formalities of negotiations.

6. Sidebar discussions can be distracting and may sidetrack the defined goal and objective of the bargaining meeting.

   If an agency has historically not used sidebar discussions as part of the negotiation process, or if the informal practice is not condoned by superiors, then bargainers should tread lightly when considering private discussions with the other team. Sidebar discussions can be viewed by some as unprofessional negotiating tactics which can be counterproductive to the formal process. Negotiators should not only consider the negative aspects of sidebars as previously stated, but should also look at their agency’s labor relations environment to determine the value of sidebar discussions.

CONCLUSION

During formal bargaining, all discussions and agreements are public and very visible. Sometimes, negotiations for both labor and management are filled with great pressure and angst. Chief negotiators must be careful regarding what they say and how they act.

At the bargaining table, audience expectations can be high which leads to posturing and displays of public drama. Lead negotiators need to act like opponents, leaders and experts, willing to push hard to achieve goals while maintaining control.
(Friedman, 1994). Negotiators also need to be good representatives of their side, displaying unity and confidence.

Sometimes, the desires of the group, constituents and superiors can limit lead bargainers to publicly display only what is expected of them. In that case, most of what the two bargainers discuss is not informative. During those times, negotiators need to find a balance between maintaining their image and reaching satisfactory agreements that benefit their side.

Sidebar discussions and meetings are a mechanism that provides a different avenue for bargainers to communicate. These private gatherings have been utilized by negotiators for many years and in different settings, within both public and private sector, and with and without success. If both teams have bargaining experience, are professional and have integrity, then they most likely will find other ways to communicate besides the formal process. Sidebars can be helpful when properly used by skilled negotiators, or ineffective when used under the wrong circumstances.

In the end, what is most important is the successful negotiation of your contract with beneficial results for both labor and management. Here is one cardinal rule of negotiations:

“Negotiation is not about winning or losing. Both sides need to keep in mind their goal: a reasonable settlement is one that will not make relations between the parties more difficult in the future. Do not take personally anything that occurs in negotiations. Remember that you have to work together afterward, and you do not want resentments arising from incidents during bargaining to poison the ongoing relationship” (Albey, 2003, p.29).
REFERENCES


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