

COLLECTIVE BARGAINING BASICS & THE ROLE OF THE FINANCE COMMITTEE

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The Usual Disclaimer

2

The contents of this presentation are for informational purposes only and should not be considered legal advice.

A BRIEF OVERVIEW
of
PUBLIC SECTOR COLLECTIVE
BARGAINING

M.G.L. c. 150E

M.G.L. Chapter 150E

4

- ❑ The municipality is the employer for collective bargaining for town/city unions.
- ❑ The School Committee is the employer for collective bargaining for school unions.
- ❑ For purposes of collective bargaining with school unions, the employer includes the school committee and a municipal representative. (MGL c. 150E, §1)
- ❑ Collective bargaining agreements cannot exceed 3 years.

GOOD FAITH BARGAINING

5

- Bargain over mandatory subjects of bargaining.
- Meet at reasonable times.
- Provide information.
- Be prepared with proposals and responses to Union proposals.
- Authority to reach tentative agreements.
- Duty to support agreement.
- Fulfill bargaining obligations.

MANDATORY SUBJECTS OF BARGAINING

6

- Wages
- Hours
- Conditions of employment
- Standards of productivity
- Process for performance evaluations
- Benefits
- Health Insurance
- Breaks
- Contracting out bargaining unit work

Management Rights & Areas Not Subject to Decision Bargaining

7

- Core Managerial Rights
 - Decision to reorganize
 - Decision to abolish a position
 - Level of service decisions and minimum manning (except where safety is implicated)
 - Curriculum decisions
 - Authority of Police and Fire Chiefs to make assignments
 - Superintendent's authority to appoint teachers and supervisors

DECISION/IMPACT BARGAINING

8

- Decision & Impact Bargaining:
 - Changes in mandatory subjects of bargaining within management's control
- Impact Bargaining Only:
 - Impacts regarding changes outside of management's control
 - Impacts regarding decisions by management regarding non-mandatory subjects of bargaining

SATISFYING YOUR BARGAINING OBLIGATIONS

9

- Successor Bargaining
 - Negotiate to agreement or impasse
 - When Agreement is reached, a Memorandum is signed
 - The Memorandum is subject to:
 - (i) ratification by the union membership,
 - (ii) approval by the Mayor/City Manager/Town Manager/Board of Selectmen or School Committee, and
 - (iii) funding by the legislative body (town meeting or the city council) if it is an agreement with a city/town union. Agreements between the School Committee and school unions are NOT subject to funding.

SATISFYING YOUR BARGAINING OBLIGATIONS

10

If agreement is reached, every member of the bargaining team is required to support the agreement with an affirmative vote.



SATISFYING YOUR BARGAINING OBLIGATIONS WHEN IMPASSE IS REACHED:

11

ALL UNIONS EXCEPT POLICE AND FIRE

Mediation

Fact Finding (for all unions except
police and fire)

Negotiation over Fact Finder's
report resulting in either Agreement
or Impasse.

If impasse is reached, the DLR
determines bargaining obligations
have been satisfied & the employer
implements its Last Best On-The-
Record Offer

POLICE & FIRE UNIONS

Mediation

Interest Arbitration (JLMC)

JLMC Arbitration Awards are subject
to funding by the legislative body

JLMC: An Overview

12

- ❑ Created by statute for Police and Fire disputes only.
- ❑ Process begins with investigation where the parties “certify the issues”, followed by mediation.
- ❑ If impasse remains, the mediator asks the JLMC to take jurisdiction.
- ❑ The JLMC will vote to hold a 3(a) hearing if it finds that the issues in negotiations have remained unresolved for an unreasonable period of time and the collective bargaining process has been exhausted.
- ❑ The hearing is conducted by a panel consisting of the JLMC chair, a volunteer labor representative, and a volunteer management representative.
- ❑ The panel issues a report and recommendation to the full committee.

JLMC: The 3(a) Process Cont.

13

- ❑ Interest arbitration
 - ❑ The committee will order interest arbitration if there is an apparent exhaustion of the collective bargaining process which constitutes a potential threat to public welfare.
 - ❑ Typically conducted by a tripartite panel.
 - ❑ Parties present evidence through witnesses and exhibits.
 - ❑ Panel considers the employer's ability to pay, internal comps, and external comps.
- ❑ Interest arbitration decision is binding on both parties subject to the legislative body appropriating funding.

14

Getting Started

PREPARATION FOR COLLECTIVE BARGAINING

15

Select a bargaining team.

- Each party selects its own bargaining team.
- Recommend: No quorum at the bargaining table!
- Don't bargain during employees' work hours.

PREPARATION FOR COLLECTIVE BARGAINING

16

- Review the current collective bargaining agreements for *all* bargaining units.
- Note patterns and differences
- Identify common areas for changes



PREPARATION FOR COLLECTIVE BARGAINING

17

The Employer should:

- ❑ Review unfair labor practice charges filed during the prior contract term.
- ❑ Review grievances and arbitrations from the prior contract term.
- ❑ Identify areas that result in litigation and consider proposing language to reduce litigation.



PREPARATION FOR COLLECTIVE BARGAINING

18

The Employer should:

- ❑ Seek input from Department Heads, Human Resources Director.
- ❑ Ask Department Heads to consult with supervisors and other administrators outside of the bargaining unit
- ❑ Ask them to identify barriers in the CBA to meeting objectives.
- ❑ Ask them to identify issues and interests that would help them meet objectives.

PREPARATION FOR COLLECTIVE BARGAINING

19

Determine the data that is needed and collect data

- Internal comps
- External comps
 - Check with Professional Organizations (MMA, MASC)
 - “Apples to apples” – salaries, benefits, work year, work day
 - Always note timing and changed conditions
 - Cost of living
 - Ability to pay
 - Distinguish comps from competitors

Know the Following About the Bargaining Unit:

20

- ❑ Total number of FTEs in the bargaining unit.
- ❑ Number of employees at each grade and step and each educational lane on the salary schedule.
- ❑ The percentage of the bargaining unit on the maximum step.
- ❑ The percentage increase(s) between steps.
- ❑ The cost to the employer if the salary schedule remains the same (i.e. the cost of step and lane advancements and longevity).
- ❑ The cost to the employer if the salary schedule were increased by 1% across the board.

PREPARATION FOR COLLECTIVE BARGAINING

21

- Determine funding resources.
- Identify likely and possible reductions or increases in anticipated revenues.
- **Finance Committee's role**



PREPARATION FOR COLLECTIVE BARGAINING

22

- Draft and review initial proposals.



Always Ask:

23

- ***How will the proposed change impact the operation?***
- **What are the direct and indirect costs of the proposed change?**

PREPARATION FOR COLLECTIVE BARGAINING

24

- Presentation on the budget and the financial situation.
- Let the unions know your financial situation.
- Show the unions what you can realistically expect in financial resources.



THE FINANCIAL PRESENTATION

25

□ **Revenues:**

- Known and anticipated revenues and their sources. (Distinguish between one-time money and continuing money.)
- Known and anticipated reductions in anticipated revenues.

□ **Expenditures:**

- Known and anticipated expenditures
- The cost of annual increments (steps) and education level advancements (lanes/tracks) without an increase to the salary schedule.
 - The number and percentage of employees who are eligible to advance a step/grade and the cost of such advancement.
- Increased costs of benefits paid by the employer such as increases in health insurance premiums

THE FINANCIAL PRESENTATION

26

- Remember to have a consistent message about finances.
- Communicate the same message to the unions in bargaining.
- Actions should be consistent with the message.

CAUTION!

27

Watch out for the proposals that are in lieu of COLAs:

- Increased leave time (such as more vacation days days) (Remember there's a cost to backfill on overtime)
- Reduction in work year for teachers (each day has a value of approximately $\frac{1}{2}\%$)



A Note on Retroactive Pay Increases

28

See M.G.L. chapter 44, section 68:

“Whenever a city, town or district votes to grant a salary increase to all or any of its employees, such increase may be retroactive to a date not earlier than the beginning of the fiscal year prior to the date of such vote.”

- Note MGL c. 44 sec. 68 does not apply to JLMC interest arbitration awards

Finance Committee's Scope of Involvement

29

- G.L. c. 39, § 16 authorizes the establishment of a Finance Committee for the purpose of making reports or recommendations.
- The Committee may also prepare a budget to be submitted to Town Meeting unless the by-laws authorize the Board of Selectmen to do so.

Finance Committee's Scope of Involvement

30

- The Committee does not have any direct responsibility or control over collective bargaining, but nothing prevents the Chair from playing a role in planning bargaining goals and strategies.
- The Committee also has the authority to urge Town negotiators to taken long-term impacts of financial items into account, and to inform Town Meeting of the budget impacts of an agreement before it approves cost items and appropriations.

Role of the Finance Committee

31

- Know the municipality's budget. Be prepared with information on resources, expenditures, obligations, etc.
- Prior to negotiations, engage in a joint meeting with the Board of Selectmen, Town Manager, School Committee to discuss resources and parameters. (Remember the Finance Committee can only make recommendations. So be prepared with data to support recommendations/parameters.)

Role of the Finance Committee

32

- After negotiations, cost out incremental cost items in the agreement.
- Identify the impacts associated with funding of the agreement.
- Identify the impacts associated with funding a JLMC interest arbitration award. Will there need to be a reduction in services and/or layoffs to fund the award?

How Can Finance Committees Assist In Collective Bargaining?

33

- Be realistic and open about resources and obligations in executive sessions with the Board of Selectmen, School Committee, etc.
- Provide data and information about Municipal resources and obligations.

Q & A

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