

Tone: The X-Factor in Labor Negotiations

Kurt O. Wilson

City Manager

City of Ridgecrest

In partial fulfillment of the requirements for the
California Public Employer Labor Relations Association
Labor Relations Academy Master certification (CLRM)

Introduction

The purpose of government is to provide services to its citizens. The public workforce is the avenue by which that is accomplished and the organized labor concept is a way to provide assurances to management and labor that the work will get done and the employees will be compensated. Beyond the formulas and pay schedules, there are intangibles that impact the labor negotiation process. Dating back to the early 1900's labor negotiations have been a traumatizing and sometimes violent experience in which participants enter with high hopes and low expectations. Engaging a modern negotiation with that mindset is likely to slow the process and harm the outcome of the ultimate agreement. Setting the stage, or tone, of that process is an often overlooked way to stack the deck in favor of an outcome from which everyone walks away happy.

Factors affecting the tone of labor negotiations

Labor agreements are designed to ensure mutually beneficial labor availability and working conditions that enrich the employee and provide a sustainable course for the public agency to provide quality service to its residents. It seems pretty simple because, on some level, everyone is after the same thing – a happy and productive workforce serving the needs of citizens. In reality, though, negotiating labor contracts can be among the least desirable tasks for Cities and employees alike.

The labor representatives are thrust into an environment where they must represent the interests, and occasionally unrealistic desires, of members. Those members are usually experts in their field who devote their lives to helping others but their desires are not always grounded in mathematically defensible requests or a comprehensive understanding of the organization as a whole. This raises the stakes and increases the task difficulty for the labor negotiations team.

On the public agency side, the negotiator must strike a balance between the fiscal and political realities of the current climate. Like the labor side, the agency negotiator(s) must come up with a solution that meets the needs of an intelligent and engaged group of elected officials who have limited time or information to reach the analytical depths of each issue. In the case of the governing body, the political reality of today's environment includes growing public concern over the long-term sustainability of current practices, compounded by a growing sentiment opposing public sector wages and benefits. Again, although borne of good intentions, this can heighten the pressure and tension for the primary parties in the negotiating process.

Like any complicated issue, the negotiating process can easily be derailed by any of the competing interests. Historical reviews within an organization tend to reveal areas that, in hindsight, are perceived to have produced lopsided benefits for one party. Neither side wants to look back and feel they were cheated. Regardless of reality, either side feeling they were taken advantage of during the last negotiation can produce a profound negative impact on the next round. Negotiations grounded in mistrust or a desire to 'get even' seldom produce positive results regardless of the actual issues.

Impact of tone in labor negotiations

Because of the dynamics of core issues, there is usually a narrow window through which both sides can reach a deal while protecting the interests of the people they represent. The deal is reached at the confluence of creativity and compromise. Finding that solution requires both sides to filter and mitigate a variety of evolving internal and external factors. The process is complicated by the fact that negotiators on one or both sides might not be well-suited for the task. They may have been selected for reasons other than their experience and competence in labor law, finance, negotiations, etc. Asking someone to do even a simple task outside of their comfort zone can produce unpredictable results. It's like asking a poet to do calculus. It's possible for a good result but not likely. But in this case, instead of a simple task, we're asking people to perform the high stakes and complex task of labor negotiation. Now it's like asking that poet to do the calculus in front of an audience. The situation is exponentially less comfortable for everyone. We all handle pressure and discomfort in our own way but many of

us become less productive as we start to sweat, stall, get defensive, or deflect attention to something more comfortable. Given the task at hand, none of these is a desirable outcome.

Consequently, our best chance at reaching that elusive agreement is to create an environment that brings out the best in both sides. We set up and decorate our offices to create the right ambiance for productive work. Educators design their classrooms and even feed their students in an attempt to create the best environment for the task at hand. Contract negotiations are no less sensitive. The right environment or tone can be the difference between agreement and impasse.

Benefits of the right tone

It's hard to play offense while you're playing defense. Focusing on proactive solutions to real problems is hard to do when time is spent fending off attacks from the other side. The impacts of a positive negotiating session will be felt throughout the organization and can propel subsequent negotiations. People talk and it will be no secret that the other side was fair in the last round of negotiations. It is a factor that both sides will consider next time when selecting the member(s) of the negotiating team and will be the subject of off-line conversations for years to come. Each side approaches the process in a cooperative way when they feel their voices will be heard. They are less defensive when history demonstrates the other side is not trying to railroad the process. This also produces the highest levels of comfort and trust which foster the best collective ideas.

Reaching that mutually beneficial final result can mean finding the creative solution that no one else was able to find. Placing members of the negotiating team in the environment

that brings out their best ideas helps everyone. It improves the chances that the collective brainpower will reach the deal that best serves the public.

Consequences of the wrong tone

Stifling the creative process might cause the group to miss finding that one perfect solution and, instead, settle for an inferior option that doesn't serve the public as well. There is an old business philosophy that frowns on doing business with someone you don't trust, no matter how sweet the deal. Negotiating with someone you don't trust puts you on the defensive and can consume energy that is redirected away from tangible ideas. In that scenario, one might question the motive behind the simplest of gestures and want to research the impacts of meaningless provisions in the agreement instead of addressing the real impacts of active proposals. This can essentially be a waste of time because each of these adds considerable time to the process without having a positive impact on the results. Instead, by adding so much time, one runs the risk of depleting the patience of the other side. This is a slippery slope where rationality, tolerance, and objectivity soon follow. Each of these hurts the negotiating process in a potentially irreparable way.

Even after the negotiations are complete, the implementation phase can reflect the negativity of a bad negotiation. Throughout the life of the agreement each perceivably ambiguous provision can become the subject of lengthy and costly proceedings when the other side is seeking revenge. Even worse, there is a direct correlation between employee morale and customer service. There is a risk of adversely impacting the public who rely on City services as a result of a bad negotiating process. To avoid this, it is incumbent on all parties to make

every effort to achieve a successful negotiating process. In addition to preparation, education, and realistic goal-setting, this requires setting the right tone for the process.

How to set the right tone

It is important to be respectful of the backgrounds of all participants. The traditional hierarchy that exists within the organizational structure should have no influence on the negotiation process because each member has an equal opportunity to influence a positive outcome regardless of job title or pay grade. A degree of formality is obviously required to cover all bases in this legal process in the event that negotiations fail, however, too much formality can be harmful to a productive dialogue. In our regular work world, when the other side engages legal counsel we tend to respond in kind. In this process, an overreliance on formality or boasting about trivial knowledge of MMBA, for example, could be perceived similarly to engaging legal counsel and do more harm than good for this interactive process.

The right tone is whatever scenario brings out the best, is comfortable, and fosters trust for all parties. That will vary based on the needs of the participants. As a general rule, it is best to identify and target the appropriate environmental factors of:

- attire (comfortable or work casual),
- location (neutral or benefiting labor if management is comfortable there),
temperature (cool and comfortable),
- time (sensitive to labor work and sleep schedules),
- seating arrangement (non dominant roundtable),

- speech (calm, quiet, confident), and
- overall be genuine (people will spot a façade or disingenuous gesture).

Obviously, it is important to stand firm on key issues. It is equally important to avoid:

- being overly assertive or aggressive,
- being argumentative.
- expending high levels of energy or political capital on issues that aren't seminal to your negotiating objectives and strategy,
- appearing condescending.
- showing frustration, rejecting an item without proper consideration, or
- being inflexible without a legitimate intent to bargain.

Conclusion

Negotiating a labor contract is a daunting task. However, with a respectful, honest, and genuine approach, even concession-bargaining doesn't have to drag on or place a barrier that impairs service to the public. The right negotiating tone can retain the respect and confidence of the employees even in tough times. Happy employees with a good morale produce much better results than those who feel betrayed and cheated and those who spend their day plotting and planning their redemption.

Finding a solution that is legitimately in the best interest of the parties based on the available options requires discipline, forethought, sharp minds, and sometimes a little luck. While it is clearly not the most important component, setting the right tone in labor negotiations is an easy way to improve the outcome of the process. It avoids unnecessary delays, produces more creative and responsive solutions, and sets the stage for a healthy long-term professional relationship. It can't replace the traditional calculator-driven aspects of the negotiations process but it can supplement them in a meaningful way.

The environment in which people are comfortable varies from person to person, but, replicating that environment lets down the defenses and sparks the creative confidence to solve the issues. When seeking that right environment, or tone, one should respectfully consider the background, history, expectations, and predispositions of the people on the other side of the table.

In a tense situation, even a small amount of advantage is worth considering. Setting the proper tone tilts the scales by impacting the intangibles of labor negotiation. It's an investment worth making.

Kurt O. Wilson
City Manager
City of Ridgecrest
100 West California Avenue
Ridgecrest, CA 93555
CA (760) 499-5000
kwilson@ridgecrest.ca.gov