Collective Bargaining Is Won Before You Reach the Table

Practical lessons for Oregon city and county managers preparing to negotiate

By David A. Milliron, ICMA Credentialed City Manager | david@milliron.com

After nearly two decades in city management, I have learned that the most expensive language in a labor agreement is often not the provision everyone fought over. It is the sentence everyone thought was clear.

At the Oregon City/County Management Association 2026 Summer Conference in Ashland, I attended a session titled “The Real Truth About Union Negotiations.” Rogue River City Administrator Ryan Nolan facilitated a candid discussion with Diana Moffat of Local Government Law Group P.C., Jackson County Senior Deputy County Administrator Joel Benton, and Ashland City Manager Sabrina Cotta.

I did not walk into the room expecting a primer on collective bargaining. What I heard instead was a sharp reminder that negotiations are rarely won or lost through one brilliant argument at the table.

The outcome is usually shaped much earlier.

It is shaped by whether the governing body understands and supports the employer’s bargaining position—and whether the management team clearly understands the governing body’s direction and limits. It is shaped by whether management knows the true cost of its proposals. It is shaped by the quality of the comparables, the precision of the contract language, the integrity of the bargaining notes, and the credibility the employer has built over time.

The panel used the image of a pebble creating ripples across the water. That is an apt description of collective bargaining. A sentence accepted today may determine how overtime is calculated for years. A consistent and mutually understood practice involving a mandatory subject of bargaining may help establish the status quo and create an obligation to bargain before the employer changes it. A decision about who sits at the table may affect the employer's flexibility in every round that follows.

Oregon's collective bargaining law is not built around the premise that one side must defeat the other. Its stated purposes include improving employer-employee relationships, resolving disputes peacefully and protecting the orderly and uninterrupted operation of government.

For city and county managers preparing to bargain, these are the lessons I would keep close at hand.

Preparation is not the first stage. It is the strategy.

The first bargaining session should not be the first time management has seriously discussed the contract.

Before proposals are drafted, assemble the people who understand the organization from different angles. That normally includes human resources, finance, affected department heads, labor counsel or another qualified labor-relations resource, and the manager or administrator. Each sees something the others may miss.

Human resources know the personnel history, prior grievances, existing practices and administrative problems. Department heads know where contract provisions collide with operations. Finance knows whether an idea that sounds modest is actually affordable. Labor counsel knows where language, process or precedent may create legal exposure.

The governing body is also part of the team, even though it should not be bargaining across the table. Councilors and commissioners need enough information to understand the employer's priorities, financial limits and decision points. Management, in turn, needs clear direction about the authority it carries into negotiations.

In Oregon, a governing body may deliberate in executive session with the people it has designated to carry on labor negotiations under ORS 192.660(2)(d). Those discussions must remain within the statutory purpose of the executive session, and the governing body may not take final action or make a final decision there.

Nothing erodes an employer's credibility faster than changing direction midway through bargaining because the governing body was not adequately informed and aligned before negotiations began. Once the other side concludes that the management team cannot reliably speak for the organization, every proposal becomes harder to resolve.

At the table, credibility is currency. Spend it carefully.
Decide deliberately who belongs at the table.

There is no universal rule about whether the city manager or county administrator should serve on the bargaining team. Organizational size, staffing capacity, bargaining history and the manager's experience all matter.

There is, however, a strategic consequence to the choice.

When the chief administrative officer is not the lead negotiator, the bargaining team retains the ability to pause and consult before responding to a new proposal. "I need to take that back" is not evasion when the team genuinely lacks final authority. It creates room to analyze cost, language and organizational impact instead of negotiating by reflex.

When the manager sits at the table and is perceived as the ultimate decision-maker, that buffer may disappear.

Smaller organizations may not have the luxury of keeping the manager outside the room. That is understandable. But the choice should be intentional. It is also worth remembering that bargaining customs become expectations. Once the manager has participated in every session, stepping away in a later round may be interpreted as a change in commitment or tone.

Before bargaining begins, define who will speak, who will calculate, who will take notes, who may caucus with whom, and what authority the team has to move.

Audit the agreement before proposing changes.

A successor agreement should never be treated as the old contract with new wage numbers attached.

Read the entire collective bargaining agreement. Then read it again with the people who administer it.

Look for language that is ambiguous, outdated or inconsistent with actual practice. Review prior grievances and recurring questions. Identify provisions that supervisors routinely misunderstand. Check statutory references. Examine side letters, memoranda of understanding and unwritten practices that may have acquired significance over time.

Ask department heads a direct question: What in this agreement makes it harder to operate your department fairly and effectively?

Ask payroll and human resources another: What language creates the most confusion or administrative work?

Ambiguity is not harmless. It postpones disagreement. Instead of resolving an issue at the bargaining table, the parties leave it for a supervisor, payroll employee, grievance meeting or arbitrator to sort out later.

The pressure to reach tentative agreement can also cause the parties to stop one question too soon. A new personal holiday sounds simple until someone asks:

> *Is it granted by calendar year or fiscal year? Does it carry over? May it be cashed out? What happens when an employee is hired or leaves during the year? What happens when operational needs prevent the employee from using it?*

Those are not housekeeping details. They are the agreement.

Start early, because the calendar is not your friend.

Public employers often underestimate how long bargaining can take.

Under Oregon's Public Employee Collective Bargaining Act, a 150-day bargaining period applies to successor negotiations. Managers should establish and document the date that period begins at the outset of bargaining, rather than assuming that notice of an intent to bargain starts the statutory clock.

If no agreement is reached after 150 days, either party may request mediation. The parties may jointly request mediation earlier. After at least 15 days of mediation, either party may declare impasse. Final offers and cost summaries follow, along with a statutory cooling-off period. What happens after that depends in part on whether the bargaining unit is strike-permitted or strike-prohibited.

The statutory sequence is only part of the calendar. Scheduling the first session may take weeks or months. Mediation availability, impasse procedures, arbitration scheduling and decision timelines can extend the process considerably.

A negotiation that appears likely to take several months can cross fiscal years and budget cycles. That creates a second problem: retroactive costs may accumulate while the parties bargain.

Managers should work backward from the desired settlement date, not forward from the contract expiration date.

Build a bargaining calendar. Identify council or commission meeting dates, executive-session opportunities, budget milestones, known absences, mediation availability and operational periods when key staff cannot reasonably be pulled away. If several bargaining units are involved, decide how the organization will track proposals and maintain consistency across all of them.

Do not wait for expiration to create urgency. By then, the organization may already be behind.

Document as though the people in the room will not be there next time.

Because they may not be.

One of the most practical points raised during the session was the value of disciplined bargaining notes. Labor agreements often outlive the people who negotiated them. Three years later, the union team may be different. The manager may be different. The human resources director may be different. Yet everyone will have an opinion about what a sentence was intended to mean.

Good notes preserve institutional memory.

Record when each proposal was presented, what problem it was intended to solve, how the parties described its operation, what examples were discussed, and what was exchanged for what. Use consistent file names and version control. Retain costing sheets, tentative agreements, governing-body direction and explanatory materials.

The written agreement is the starting point and will often control. When language is reasonably ambiguous, bargaining history, established practice and other evidence may help determine what the parties intended. Good notes can be invaluable in that analysis, but they are not a substitute for clear contract language.

A poorly documented negotiation does not end when the contract is signed. It simply transfers the argument to contract administration.

Cost the proposal, not just the headline.

One of the most dangerous sentences in collective bargaining is, “It is only one percent.”

A wage increase affects more than base payroll. Depending on the bargaining unit and contract, it may affect overtime, premium pays, certification differentials, retirement contributions and future wage calculations. A change that appears small in isolation can create significant recurring cost across the organization.

Management should cost every economic proposal made by either side. The analysis should distinguish between first-year cost, ongoing annual cost, one-time cost and potential retroactive liability. It should also show how the proposal affects the current fiscal year if an agreement or arbitration award arrives late in the cycle.

Finance staff are indispensable, but they do not always need to sit at the table and respond to rapid-fire questions. In some negotiations, it is more effective to receive questions, caucus, verify the assumptions and provide a deliberate written response.

The objective is not to hide the numbers. It is to make sure the numbers are correct.

When presenting costs, make them understandable. Show the assumptions. Explain what a one-percent increase actually produces when rolled through the compensation system. A clear chart can do more to resolve a disagreement than another hour of positional argument.

Use comparables that can survive scrutiny.

Comparability is one of the most frequently invoked - and selectively applied - concepts in bargaining.

The union will naturally highlight jurisdictions and individual benefits that support its position. Management has to do more than reject those examples. It needs a coherent methodology of its own.

Comparables are influential in nearly every negotiation, but managers should distinguish between bargaining strategy and Oregon's formal interest-arbitration standard.

For strike-prohibited units subject to interest arbitration, ORS 243.746 directs the arbitrator to compare the overall compensation of employees performing similar services in comparable communities. For that statutory analysis, "comparable" is generally tied to Oregon communities in the same or nearest population range, subject to specific statutory exceptions and the other criteria an arbitrator must consider.

Geography, organizational structure, service model, labor market and economic conditions may still be important to the employer's broader analysis. They should not, however, be casually substituted for the statutory comparator group when preparing for interest arbitration.

Make a distinction between comparables and market draws. An organization may lose employees to a larger nearby employer that is not otherwise comparable. That fact matters for recruitment and retention, but it should be analyzed honestly rather than used to distort the primary comparison group.

Most important, compare overall compensation rather than shopping for isolated line items.

Base wages matter, but so do employer-paid retirement contributions, deferred compensation, longevity, certification and education incentives, employee insurance costs, holidays, vacation and other broadly available benefits. A bargaining unit may point out that another jurisdiction offers longevity pay. The relevant question is not whether both pay stubs contains the same label. The question is how employees compare when the full compensation package is measured consistently.

Use the same methodology over time. If different comparator groups are used for different bargaining units, document the operational and labor-market reasons. Consistency does not require pretending that every occupation competes in the same market. It does require being able to explain the distinction without improvising.

Good-faith bargaining does not require automatic concession.

Managers sometimes confuse a constructive tone with a duty to split every difference.

Good faith requires the parties to meet at reasonable times, confer sincerely concerning mandatory subjects, consider the other side's proposals and comply with applicable information obligations. That can include responding appropriately to a request for information relevant to bargaining or representation.

A union request for information should not automatically be routed and evaluated as though it were merely a public records request. The employer may have separate labor-relations obligations arising from bargaining, grievance administration or the union's representational responsibilities.

Every request should be logged, reviewed promptly and evaluated with human resources or labor counsel. The analysis may include relevance, scope, confidentiality, the availability of the records, the burden of production and whether an alternative format would satisfy the legitimate need.

Silence, delay or an unexplained refusal can create a dispute that is more difficult than the original request. Even when management believes a request is overbroad, the better course is usually to identify the concern, communicate it and determine whether the request can be narrowed.

Good faith does not require either party to accept a proposal, split the difference or make a concession merely to demonstrate movement.

A respectful "no" is still an answer.

The stronger response is one that shows the concern was heard, the position was understood and the proposal was evaluated. Management can acknowledge a legitimate employee interest without agreeing that the union's proposed solution is affordable, workable or equitable.

That discipline matters because unnecessary concessions have ripple effects. Other units may seek parity. A temporary recruiting response may become permanent compensation architecture. A small exception may become the baseline for the next round.

Every movement should have a purpose. Every package should be evaluated at least two moves ahead.

Do not allow the process to damage the organization.

Bargaining can become personal, particularly when attorneys, outside representatives or long-standing grievances increase the temperature in the room. Managers must keep the larger relationship in view.

The outside representatives will eventually leave. The employees and management team will still have to operate the police department, maintain the streets, inspect the restaurants, process payroll and serve the public together.

That does not mean bargaining directly with represented employees or using employee communications to pressure the union. Direct dealing does not have to resemble a formal negotiating session to create a problem. Management can cross the line by soliciting bargaining responses from employees, attempting to reach an agreement around the exclusive representative, or encouraging employees to pressure their union to accept the employer's position.

Smaller working groups can still be useful, but they should be jointly authorized, carefully defined and used to inform - not bypass - the formal bargaining process. Appropriate labor-relations guidance is essential.

Counsel can also be used strategically. Some organizations need attorneys at the table from the beginning. Others benefit from having counsel advise in the background until a legal or tactical issue requires direct participation. The right approach depends on the circumstances, but the goal should be the same: protect the organization without making resolution harder than it needs to be.

Bargaining does not end when the agreement is signed.

Some of the most consequential labor-relations mistakes occur between bargaining cycles.

Before changing a schedule, benefit, policy, assignment practice or other condition affecting represented employees, management should stop and ask whether the change concerns a mandatory subject of bargaining - or whether the effects of an otherwise managerial decision must be bargained.

The answer may depend on the agreement, established practice, the employees involved and the operational consequences of the change. Oregon law also provides an expedited process for certain midterm changes. That process begins with clear notice to the union and gives the union a defined opportunity to demand bargaining.

A sound management practice is simple: no material change affecting represented employees should be implemented until human resources and labor counsel have examined the bargaining obligation.

The fact that management possesses the authority to make an operational decision does not necessarily mean it may disregard the decision's effects on represented employees.

Choose contract cycles for a reason.

Organizations with multiple bargaining units eventually face a choice: align contract expirations or stagger them.

Alignment can improve consistency. All units bargain in the same economic environment, and one settlement is less likely to leapfrog another in a later year. It can also make benefit administration easier when agreements share common provisions.

The tradeoff is workload and budget uncertainty. Bargaining several contracts at the same time can place a significant burden on a small management, human resources and finance team. It can also make financial planning more difficult because the organization may be negotiating wage and benefit changes with several bargaining units before knowing the final cost of any one agreement.

Staggered expirations allow the employer to focus resources on one unit at a time and enter later negotiations with more known costs. The tradeoff is that bargaining may become nearly continuous, and each newly settled agreement may influence the next.

There is no universally correct cycle. There should, however, be a conscious reason for the cycle the organization has.

Before the first session, answer these questions.

- What is the employer's three most important outcomes?
- What provisions create the greatest operational or administrative problems?
- What is the governing body prepared to support - and what is it not prepared to support?
- Who has authority at the table, and when must the team return for direction?
- What is the full cost of the employer's likely proposals?
- How will management cost and respond to union proposals?

- Which comparables will be used, and why can they be defended?
- What unwritten practices or side agreements may affect the negotiation?
- How will proposals, notes and tentative agreements be documented?
- What relationship does the organization want to have with this bargaining unit after the agreement is signed?

If those questions cannot be answered, the employer is not ready to bargain.

The agreement is not the finish line.

The best collective bargaining agreement is not the one that produces the loudest declaration of victory.

It is the one the organization can fund, explain, administer and defend. It is written clearly enough that a supervisor can apply it at 2 a.m. without reconstructing the bargaining history. It treats employees fairly without compromising the employer's responsibility to the public. It resolves today's priorities without planting avoidable disputes for the next manager, council or bargaining team.

That is the real work of collective bargaining.

The table matters. Preparation matters more.

This article offers management-practice observations and a general overview of Oregon public-sector labor relations; it is not legal advice and should not substitute for qualified labor counsel. A companion resource, **Before You Bargain: An Oregon Public Employer's Readiness and Compliance Checklist**, provides a practical framework for preparation, costing, governing-body alignment, contract review, bargaining, midterm changes and implementation. View the checklist at https://tinyurl.com/4kmrb4pj

BEFORE YOU BARGAIN:

An Oregon Public Employer's Readiness and Compliance Checklist

Prepared as a practical companion for Oregon city and county administrators

Developed by David A. Milliron, ICMA-CM | david@milliron.com

Purpose. Use this checklist to organize management preparation, identify legal and operational questions early, and document the decisions that must be made before, during and after collective bargaining. It is intended as a management tool, not a substitute for advice from qualified labor counsel. Complete one checklist for each bargaining unit or negotiation cycle.

Employer		**Bargaining unit**	
Agreement expires		**Lead negotiator**	
Notice deadline		**Target settlement**	
Labor counsel		**HR/finance leads**	

1. Six to twelve months before expiration

- ☐ Confirm the agreement's expiration date, reopening provisions and notice deadlines.
- ☐ Determine whether the unit is strike-permitted or strike-prohibited.
- ☐ Develop a complete bargaining calendar, including budget milestones, governing-body meetings, executive sessions, mediation periods and likely ratification dates.
- ☐ Identify management's three highest-priority outcomes.
- ☐ Identify provisions creating recurring grievances, payroll problems or operational difficulties.
- ☐ Review all side letters, memoranda of understanding, settlement agreements and prior tentative agreements.
- ☐ Inventory established practices that are not clearly reflected in the agreement.
- ☐ Review bargaining notes and proposal histories from prior negotiations.
- ☐ Confirm that statutory references and legal terminology in the agreement remain current.
- ☐ Review pending legislation, ERB decisions and legal developments with labor counsel.

2. Management-team preparation

- ☐ Designate the chief spokesperson.
- ☐ Identify who has authority to make proposals and tentative agreements.
- ☐ Include operational, human-resources and financial expertise.
- ☐ Decide whether the city manager or county administrator should sit at the table or remain available for consultation.
- ☐ Preserve a meaningful decision-making level above the bargaining team when organizational capacity permits.
- ☐ Designate a note taker and proposal custodian.
- ☐ Require consistent attendance from core team members.
- ☐ Decide whether labor counsel will participate at the table or advise in the background.

- ☐ Establish caucus and internal communication protocols.
- ☐ Decide whether ground rules are necessary.
- ☐ Address recording, remote participation, proposal format and document exchange before disagreements arise.

3. Governing-body alignment

- ☐ Obtain clear bargaining parameters from the council, commission or board.
- ☐ Explain the difference between total compensation and individual pay-line items.
- ☐ Present estimated first-year, recurring and retroactive costs.
- ☐ Identify decisions that require additional governing-body direction.
- ☐ Schedule executive sessions at useful decision points.
- ☐ Keep elected officials in the policy and ratification role rather than placing them in a position where they are pressured to make bargaining decisions at the table.
- ☐ Make sure the bargaining team understands what it can recommend, what it can tentatively accept and what it cannot support.

4. Contract and practice audit

- ☐ For every article, ask whether the language is clear.
- ☐ Confirm whether actual practice conforms to the language.
- ☐ Identify provisions that have generated grievances or recurring questions.
- ☐ Determine whether supervisors administer the provision consistently.
- ☐ Confirm whether payroll and human resources interpret it consistently.
- ☐ Check for obsolete statutory references and internal cross-references.
- ☐ Identify provisions that unnecessarily convert a management prerogative into a contractual commitment.
- ☐ Test whether each provision answers likely implementation questions.
- ☐ Identify unwritten exceptions, side agreements and informal commitments.
- ☐ Determine whether an established practice affects the employer's ability to change the condition.

5. Costing and comparables

- ☐ Cost every economic proposal from both parties.
- ☐ Separate one-time, first-year, recurring and retroactive costs.
- ☐ Include payroll rollups such as overtime and applicable differentials.
- ☐ Verify wage schedules independently before presenting or signing them.
- ☐ Identify the fiscal-year impact if settlement occurs late.
- ☐ Use a consistent comparator methodology.
- ☐ Distinguish statutory interest-arbitration comparables from recruitment-market competitors.
- ☐ Compare overall compensation, not isolated benefits.
- ☐ Document why each jurisdiction was included or excluded.
- ☐ Review compensation relationships among the employer's bargaining units.

6. At the table

- ☐ Put every formal proposal in writing.
- ☐ Date and identify the party submitting each proposal.
- ☐ Maintain a clean version history and a master proposal log.

- ☐ Record the stated purpose and explanation of each proposal.
- ☐ Ask how proposed language will operate in real situations.
- ☐ Work through accrual, eligibility, carryover, cash-out, separation and scheduling questions.
- ☐ Keep an updated costing sheet.
- ☐ Track tentative agreements separately from unresolved proposals.
- ☐ Confirm that tentative agreements remain subject to the required ratification process.
- ☐ Avoid bargaining directly with represented employees.
- ☐ Do not use employee communications to pressure the exclusive representative.
- ☐ Keep the management team's message consistent.
- ☐ Preserve a professional relationship with employee bargaining-team members.

7. Information-request protocol

- ☐ Record the date the request was received.
- ☐ Identify whether it relates to negotiations, grievance administration, enforcement or another representational function.
- ☐ Do not assume that the Public Records Law supplies the only applicable standard.
- ☐ Identify potentially responsive records and responsible departments.
- ☐ Preserve relevant records.
- ☐ Review confidentiality and privacy concerns with counsel.
- ☐ Communicate promptly when clarification is needed.
- ☐ Explain objections rather than allowing the request to sit unanswered.
- ☐ Consider whether partial production, redaction or an alternative format can resolve the issue.
- ☐ Maintain a record of what was requested, produced, withheld and explained.

8. Midterm change-control screen

- ☐ Define exactly what management proposes to change.
- ☐ Determine whether the subject is addressed in the agreement.
- ☐ Check side agreements, policies and the employee handbook.
- ☐ Determine whether there is a clear and consistent past practice.
- ☐ Ask whether the decision concerns wages, hours, benefits or another condition of employment.
- ☐ Determine whether the decision itself is mandatory, permissive or prohibited.
- ☐ Even when the decision is a management prerogative, assess whether its effects are bargainable.
- ☐ Provide the union clear written notice when required.
- ☐ Track whether the union demands bargaining.
- ☐ Determine whether the expedited process under ORS 243.698 applies.
- ☐ Obtain labor-counsel approval before selecting an implementation date.

9. Union access and representative-rights compliance

- ☐ Maintain procedures for paid representative time for qualifying representational activities.
- ☐ Address union participation in investigatory and due-process meetings when applicable.
- ☐ Provide required access to newly hired represented employees.
- ☐ Provide lawful access for meetings with represented employees at appropriate work locations.

- ☐ Address appropriate use of employer facilities.
- ☐ Address authorized use of employer communication systems.
- ☐ Transmit required bargaining-unit employee information on time and in the required format.
- ☐ Maintain proper dues-deduction and remittance procedures.
- ☐ Respond to deduction disputes without improperly advising employees about union membership or revocation.

10. Unfair-labor-practice warning signs

- ☐ Changing a represented-employee practice without completing a bargaining analysis.
- ☐ Disciplining or criticizing an employee because the employee contacted or acted for the union.
- ☐ Asking employees what bargaining proposal they would personally accept.
- ☐ Encouraging employees to pressure or bypass their union.
- ☐ Refusing or delaying a potentially relevant information request without explanation.
- ☐ Interfering with lawful union access or communications.
- ☐ Treating employees differently because of protected union activity.
- ☐ Failing to comply with an agreement or binding arbitration award.
- ☐ Refusing to reduce a completed bargaining agreement to writing.
- ☐ Using public funds to influence employees' decisions about union organization or membership.

11. Tentative agreement and ratification

- ☐ Assemble all tentative agreements into one complete draft.
- ☐ Compare the draft against every signed tentative agreement.
- ☐ Proofread names, dates, cross-references and article numbers.
- ☐ Recalculate all wage schedules.
- ☐ Confirm effective dates and retroactivity.
- ☐ Identify implementation responsibilities for payroll, human resources and departments.
- ☐ Prepare a complete cost summary for the governing body.
- ☐ Confirm that the management bargaining team can support the agreement it reached.
- ☐ Obtain all required approvals and signatures.
- ☐ Preserve the final signed agreement and bargaining record.

12. After ratification

- ☐ Prepare an implementation matrix assigning each contract change to a responsible employee.
- ☐ Train supervisors on changed provisions.
- ☐ Brief payroll on compensation, leave and effective-date changes.
- ☐ Update policies, forms and administrative procedures.
- ☐ Calendar future reopeners and expiration dates.
- ☐ Preserve bargaining notes, proposals, costing sheets and tentative agreements.
- ☐ Document how new provisions are administered.
- ☐ Address disagreements early before inconsistent administration becomes a new practice.

Manager’s closing review

- ☐ Are the governing body, management team and bargaining spokesperson working from the same priorities and authority?
- ☐ Can the employer explain and document the cost, operational purpose and legal basis for each proposal?
- ☐ Has the employer identified the decisions that require labor-counsel review before action?
- ☐ Is the organization prepared to administer the agreement it is seeking - not merely obtain ratification?
- ☐ Will the process preserve the working relationship needed after bargaining ends?

Notes and follow-up assignments

Issue / assignment	Due date

Legal and currency note. This checklist is a general management aid. Oregon public-sector labor law, ERB rules and case law change over time, and bargaining obligations depend on the agreement, bargaining history, established practice and specific facts. Verify statutory references and obtain qualified labor advice before acting on a particular matter.