

APPROVED LABOR PROVIDER AGREEMENTS: A WAY FORWARD FOR THEATRICAL LABOR RELATIONS

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APPROVED LABOR PROVIDER AGREEMENTS: A WAY FORWARD FOR
THEATRICAL LABOR RELATIONS

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DEDICATIONS

Dedicated to my children: Randy, Ian, and Caitlin
Thank you for believing in me.

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TABLE OF CONTENTS

ABSTRACT.....	iv
INTRODUCTION.....	1
CHAPTER ONE.....	3
CHAPTER TWO	8
CHAPTER THREE.....	17
CHAPTER FOUR.....	21
CHAPTER FIVE.....	23
CHAPTER SIX.....	31
CONCLUSION.....	37
BIBLIOGRAPHY.....	38

ABSTRACT

The purpose of this paper is to explore how the relationship between theaters and local IATSE could be more successful with a different approach to the traditional bargaining agreement that currently exists between most theaters and their respective local IATSE (International Alliance of Theatrical Stage Employees) unions. These labor agreements, known as “Approved Labor Provider Agreements” can be an agreeable compromise for both the theater and local IATSE chapters.

An “Approved Labor Provider Agreement” allows smaller theaters to have the expertise and skills which their local IATSE crew can provide while still allowing the theater the flexibility to be operated in house by non-union members and thus allowing these theaters to continue to operate within their budgets. It also allows the Local IATSE to work with a theater that had been unavailable to them before because of budgetary restrictions. This is advantageous to smaller Locals, which need the work for its members. Through the process of both my experience of negotiating such a contract with the IATSE and my interview with Lea Asbell-Swanger, the Assistant Director, Center for the Performing Arts at Penn State’s Eisenhower Auditorium in University Park, PA, I was able to establish the advantage for the theater. Throughout the process of the contract negotiations with Allen Baysee and Joe Hartnett as well as the subsequent interviews I learned of the advantages for IATSE and the local stagehand union.

INTRODUCTION

One of the many problems faced by professional mid-sized theaters today is the question of how to staff the theater and who will provide the labor. Larger professional theaters are often run exclusively by IATSE (International Alliance of Theatrical Stage Employees) members while small community venues often prefer to operate with the assistance of volunteers while only employing a small number of full-time in-house employees to serve as the design team.

Between these two extremes lies the mid-sized theater, which often plays a vibrant role in the community, serving both as touring road house, presenting everything from Second National Broadway Tours and touring dance companies to hosting the local symphony orchestras and the recitals for the local dance schools. The technical needs of these theaters require more expertise and staff availability than what is available through a volunteer base. While keeping a staff of part-time, on-call workers who are qualified is cumbersome and fraught with issues, most of these theaters shy away from the idea of contracting with IATSE because of the perceived high cost and lack of flexibility which becoming an “IA” house can incur.

The solution explored in this paper is one being investigated by some smaller Locals and theaters, namely an “Approved Labor Provider Agreement.” This agreement style allows the theaters the flexibility to keep a small staff of non-union members working in house for small events or for events which are not as technically demanding

in nature and still allow them to have a good working relationship and use their local on an as- needed basis for their larger and more technically demanding performances.

This paper will examine two theaters that decided to pursue using the “Approved Labor Provider Agreement:” The Germantown Performing Arts Center, located in Germantown, Tennessee and the Eisenhower Auditorium, in University Park, Pennsylvania. GPAC was chosen because I was involved in negotiating the specific terms of the agreement as they pertained to this venue. The Eisenhower Auditorium was used because they had both negotiated a similar contract with Joe Hartnett and were willing to be interviewed for this paper. This paper acknowledges that there are risks involved with entering such an agreement. However, both the theater representatives and IATSE agree that the benefits outweigh the risks for all parties.

CHAPTER ONE

Throughout the history of the labor movement, there has been a struggle to be fair to both the theaters trying to make a profit and to the workers who perform the invisible, behind-the-scenes, but necessary tasks related to preparing and running a performance. The history of the IATSE (International Alliance of Theatrical Stage Employees) has been littered with poor relationships between employers and workers in an industry that lends itself to difficult working conditions. On the opposite side of this equation, small theaters risk financial ruin if they only use union labor for their work force, however they must also seek qualified and dedicated workers who can ensure the quality, safety and success of the performance.

The purpose of this paper is to discover if there is a viable alternative to the traditional theatrical union contracts. Unions have long held an “all or nothing” mentality towards their labor practices when it comes to contracts with the theaters in which they work. The approach the union has held was one of either a full takeover of all labor in a building or no contract at all. In many theatrical settings, this approach is impractical or far too inflexible to be embraced. The approach being examined in this paper challenges traditional practice. This recently developed approach allows smaller venues in more remote communities, which sometimes have more stringent rules concerning contracts with labor to enter into agreements with the IATSE that would not have been possible previously due to financial and legal constraints.

This paper seeks to explore how this relationship could be enhanced with a different approach to the traditional bargaining agreement that currently exists between most theaters and their respective local IATSE unions. These labor agreements, known as “Approved Labor Provider Agreements” are slowly taking hold with some smaller theaters and local IATSE chapters.

I will examine two theaters that both have had an “Approved Labor Provider Agreement” with their local to examine the reason behind their decisions and the advantages and disadvantages for both the union and the respective theaters.

For the purpose of this paper, I interviewed three people to discuss their role and viewpoint of the agreement. The first two engaged directly with me in forming the agreement with the Germantown Performing Arts Center (GPAC): Joe Hartnett, the Assistant Director to the Stagecraft Department, and at the time of the interview held the position of International Representative for IATSE and a member of the Organizing Department; and Allen Baysee, the local Business Agent for IATSE Local 69, in Memphis, TN. Finally, I interviewed Lea Asbell-Swanger, the Assistant Director, Center for the Performing Arts at Penn State’s Eisenhower Auditorium in University Park, PA, in order to get the perspective of a different organization and to explore how a similar agreement worked in a different venue.

The finding of this paper is that it is beneficial and financially viable for both theaters and the local unions to work together to form working labor agreements that in essence allow the theater to continue current operation internally but also allows them to work with the highly trained professionals of the IATSE. At the time, I worked as the

Technical Director and the Director of Operations at the Germantown Performing Arts Center, in Memphis, TN. In that role, I helped negotiate the terms of this agreement, known as an “Approved Labor Provider Agreement.”

Performing arts facilities everywhere depend heavily on their stagehand labor to staff their performance. For everything from set construction and painting to the person who changes out the gel color at intermission on a ballet, theaters could not run without the extensive knowledge and talent of these highly trained technical personnel. However, the way in which these theaters find their labor pool varies as much as the various genres of the performances themselves. While many community theaters can get away with having only a few paid key lead personnel and a mainly volunteer staff, professional theaters cannot afford the same liability. They must find competent and knowledgeable staff for everyone from the key lead positions to the person running spotlight. The larger metropolitan theaters can afford to work with a group of consummate union professionals who are members of IATSE (International Alliance of Theatrical Stage Employees)

An additional problem that many of the smaller professional venues face is one of economics. Because of the limited seating and income generating capacity of the venue and the venue’s very carefully balanced budget, many of these smaller theaters present touring art productions and cannot afford to be staffed exclusively by union members. In the case of many venues that have a nonprofit arm there is also the need to cede the use of the facility for public purposes for at least some percentage of the time. Additionally, the nonprofit arm will, because of the mission of the organization, present performances which do not generate as much revenue but are to enhance the lives of the patrons by offering artistic opportunities; the very nature of the performances is to present art which

do not draw sell-out crowds such as that of touring Broadway performances bring. This means the organization cannot operate strictly based on the basis of generating revenue.

This paper explores an option that has been adopted by several theaters as a viable option to the traditional ‘union house’ agreement with IATSE. A decade ago such an agreement would have never been considered by IATSE. Recently, however, the International has been willing to adopt a more collaborative approach towards the performing arts facilities with which they contract and have, when appropriate, entered into alternative agreements. These agreements allow theaters that would have otherwise been unable to work with their local the opportunity to enter into an “Approved Labor Agreement”. This move benefits the locals by giving their workers more work, even if it is not in a scenario that allows the union to take over all labor in the building.

The local chapters have come to the conclusion that it is more important to have the work and the relationship with the performing arts facility than to have complete control over everything that happens in the facility. The theaters are also beginning to try to work with the locals and seeing the stagehands who work in their venues as partners; people who have a vested interest in keeping the theater in good working condition and making things happen in a timely manner so that the shows are loaded in and out and run as they should. This is a move away from the somewhat contentious relationship between management and the local unions, which tended to vilify the other party.

One such example would be of the Broadway union strike of 2007. This strike was damaging to both the IATSE and to Broadway’s bottom line. The strike which occurred right before Christmas, during one of the city’s biggest tourist seasons, cost the

Broadway theaters cost the city over 7 million dollars a day. (Robertson 2007) Details of who was to blame for Local 1's strike became skewed in the media, which placed full blame on the union for the walk out. The media took shots at the union alone by interviewing disgruntled visitors who were left trying to find other entertainment plans.

The union sought to insure that full-time positions remained instead of breaking the positions up into part-time, unworkable positions: "the drive to slash jobs and thereby boost profits threatened safety in the theaters and would ultimately create unworkable part-time jobs from which many would not be able to earn a decent living." (Auken 2007)

CHAPTER TWO

International Alliance of Theatrical Stage Employees: A Brief History

The International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, its Territories and Canada (IATSE) was originally chartered by The American Federation Of Labor as The National Alliance Of Theatrical Stage Employees in 1893. The name has evolved over the course of 117 years of geographic and craft expansion as well as technological advancement. The current title, adopted in 1995, more accurately reflects the full scope of the union's activities in the entertainment industry. (IATSE n.d.)

The history of IATSE dates back to a time when unions were in their infancy. In 1863, a group of stagehands gathered to form a small organization, The Theatrical Mechanical Association, who raised money for sick pay and death benefits for the stagehand's families. (IATSE n.d.) This was at the beginning of the union labor movement when unions such as the AFL (American Federation of Labor) began forming to advocate for better working conditions and fair pay. On April 26, 1886, 41 members of the Theatrical Mechanical Association gathered to form the first theatrical labor union: the Theatrical Protective Union. This group joined forces with the Knights of Labor to eventually bring about changes such as child labor laws and the 8-hour workday. (IATSE Local one n.d.)

Union wages at the time topped out at 50 cents a day during a 60-to-100-hour workweek. The threats to the union were men willing to handle the scenery for the

privilege of witnessing the play. But as stock companies were replaced by traveling (touring) companies, a higher standard of theatrical mechanics and skilled stage employees became essential and drove the unskilled and the free workers from the field.

The first union strike was a work stoppage at the Bowery Theater, a walkout at Wallacks Theater and a strike at the Academy of Music in New York, in 1888. (IATSE Local one n.d.). The union asked for a dollar a show and 50 cents for load in and out. The theater's producers initially responded by hiring strikebreakers. This worked against them however when a flat dropped on acclaimed actor Louis James during Hamlet's soliloquy. The actor informed management that he would not return to the stage until the professional stagehands were reinstated and thus ended the strike.

The success of the Theatrical Protective Union encouraged other cities to organize local stagehand unions: Chicago, Pittsburgh, Philadelphia, Brooklyn, Cincinnati, St. Louis, Denver, Syracuse, Buffalo and Boston. Representatives from each of the cities assembled at Elks Hall in New York to found the National Alliance of Theatrical Stage Employees on July 17, 1893. By 1902, The National Alliance of Theatrical Stage Employees had added Canadian locals starting in 1896 and so became the International Alliance of Theatrical Employees (IATSE) (IATSE Local one).

By 1904, there were 420 tours, from vaudeville to solo acts traveling the United States and Canada. Worker abuse on tours was prevalent. Tours would hire non-union workers, who were required to work long, hard hours for very low pay and under poor and varying working conditions with possibly hostile workers in the visiting town. Workers on these tours had very little recourse should something go wrong in a city or if

the show suddenly ended. Workers in these situations would often find themselves stranded in an unfamiliar city with no way of getting back home. Finally, in 1912 a contract was developed to help protect the traveling stagehands from sudden misfortune and assist in the advance work of a show. A bond posted with the International guaranteed transportation home, and two weeks' pay for shows that closed prior to the expected time.

During the same time period, locals in the Northwest created a system allowing roadmen to send basic information such as the size and length of time the local crews would be needed ahead to the next destination. This assured that there would be enough qualified people to staff the show. This system revolutionized touring and was adopted by the International a few years later. These have become known as Yellow Card shows or Yellow Card contracts and they hold the venue or presenter obligated to have the contractually set number of workers at all of the crew calls.

In 1936, the Walsh-Healey Act was established which enforced the "prevailing minimum wage" and restricted regular working hours for all workers to eight hours a day and 40 hours a week, with time-and-a-half pay for additional hours (Society for Human Resource Management; Walsh Healey Act of 1936 2008) The Fair Labor Standards Act on October 24, 1938, established the minimum wage of 25 cents an hour, a 44-hour work week with eventual reduction to 40 hours a week in three years, and paid overtime at the rate of time and a half (United States Department of Labor n.d.). The overtime provision made a major difference for stage workers for whom a 60-hour workweek was and still is the norm. When the film industry joined the union family, many film studio worker contracts called for workweeks in excess of 50 hours. In order for the industry to comply

with the law, the producers would have to spread the work out or unwillingly pay what they viewed to be a fortune in overtime. The companies adjusted their schedules to keep the workweeks reasonable.

The present day live theater market is an evolved and varied theatrical world ranging in professionalism from local volunteer-run community organizations which produce performances several times a year to large Broadway road houses which host large touring shows. The science of theater, too, has evolved and grown and become more specialized over the years. Where in the past, lighting was a matter of turning large panels of salt-water switches on and off, lighting takes computer programming skills and artistry; sound has moved from analog to digital computer sound boards, and rigging has become heavier and more mathematically complex. Stage hands today must be prepared to pass rigorous tests which prove them qualified for their jobs and certification in their area of expertise is required by the IATSE such as the Entertainment Technician Certification Program (ETCP) and rigging certifications which are rigorously tested by such organizations as Sapsis Rigging. There are a number of theaters around the country that find themselves in need of qualified personnel but for a number of reasons find the traditional role of IATSE houses unattainable. Many performance halls today host touring performances. This requires a set of skilled and educated workers who are capable of leading, making decisions for the venue and watch out for the best interest of the venue as well as crew the touring performances which come through. These are halls that host everything from local dance school recitals to corporate events to large-scale Broadway productions. Historically, local contracts are written with the venues to work all productions, not for just specific productions. Touring groups have to ask as they are

advancing their shows if they are working with a union house so that they can plan their workdays accordingly. Depending on the type of tour (especially large Broadway tours) many performance venues are contractually obligated to provide the exact number of personnel listed in the rider or work will not start. Labor rules will vary depending on whether a house is union or non-union and indeed, from union house to union house, some of the minimum hours for a work call are different.

For many mid-sized theaters or theaters in higher education settings or municipalities the idea of signing a contract with the IATSE is completely out of reach because of unwillingness of the part of the organization to enter into a union contract or for financial reasons. In the past these venues have been forced into a scenario which is less than satisfactory, often resulting in either an over-worked, underpaid and eventually burnt-out staff of technicians who rotate out of the position every few years, or a non-contract position with a rental and labor company which often times sends workers who are neither trained or invested in the facility or the work. While many facilities would be interested in contracting with a highly knowledgeable and skilled group of technicians as the IATSE provides, fear of strikes, of ever inflating prices and other such anti-union sentiments have stood between venue leaders and the IATSE. This, instead, leaves theaters having to use less qualified labor companies and even sometimes, temp agency hires. Additionally, the IATSE has been, for many locals, an all or nothing proposition: either they were entirely in charge of the facility or they had nothing to do with the facility. For a number of years IATSE would have never considered working with a non-union house in order to fill their needs without fully taking over the run of the venue.

Many professional companies preferred to work exclusively with IATSE. The Metropolitan Opera for instance would never consider bringing in anyone but the most talented, qualified and dedicated professionals as the IATSE. Because of their thorough knowledge these professionals can work as part of the unseen ensemble, swiftly and skillfully moving through performances so that the audience's "willing suspension of disbelief" is never interrupted by a dropped cue or a poorly altered dress.

Luckily for the smaller venues the attitudes of looking critically at working agreements with the union is slowly changing on both sides of the negotiating table. There are a number of venues throughout the United States that have decided to negotiate an alternate agreement with their local with the aid of an International Representative for the area instead of steadfastly insisting on the all-or-nothing working agreement of the past.

The union has had its share of public relations problems. When labor relations go sour in New York, the International makes the front page. One such example of this is when labor negotiations broke down in December 2013 between Carnegie Hall and IATSE Local 1. Several papers picked up on the salaries of the highest paid employees and to some extent both vilified and marginalized the work done by the stage hands by talking about the high salaries and the hefty overtime which is accrued on the sets of some performances (Cooper 2013). Even the Wall Street Journal joined in the disparaging comments, "For over a century, Local One has been collective-bargaining the life out of New York's performing arts" (Panero 2013). The New York Times article's authors Lorne Manly and Michael Cooper failed to understand the reasons or explore the reasons why a show would require the same 5 people on deck every night or why it

would be important for to compensate workers when they are required to work through a meal break. With these kinds of over frustrations over seeing the work of a modern stage hand as someone who merely schleps scenery around instead of highly trained and educated professionals it becomes easier to understand the frustration surrounding the Broadway shutdown of 2007. Articles like these and coverage of the 2007 strike in New York did little to assist IATSE in their efforts to win the favor of theatrical board members of their venues for better pay and working conditions for all their employees.

At the heart of the misunderstanding on the side of management is a basic lack of knowledge of what stagehands do and why. For instance, articles have pointed out that shows often have one person to simply “push a button” to raise a curtain. It is easy to over simplify the work that stagehands do. Forgetting that the person who is simply: “pushing a button” or “pulling a rope” has also done complex mathematical calculations to insure the safety of those standing under curtains and the scenery, which can weigh thousands of pounds. They have studied rigging: both the physical aspects of this profession and the mathematical formulas and use them daily. in the theater. During performances they ensure that everything moves correctly, safely, and on cue. When things go wrong they are there to troubleshoot and fix the problems so quickly that the audience is never even aware that there were issues. The bigger problem facing stagehands is that labor is simply seen as expendable and many do not understand that stagehands hold a great deal of knowledge and most often, college degrees. Stagehands are not simply “box pushers”; they are an educated group who work with their minds and their hands. The more advanced the industry becomes and the larger and more

computerized the performances, the more important it becomes to have these educated and highly qualified workers on the deck.

In the Carnegie Hall dispute in an effort to gain more equitable labor practices for the IATSE, Local 1 decided on a walkout and strike in order to force producers to the bargaining table. While much was said about the 2 million dollar a day cost to the City of New York, little was said of the frustrations of the everyday stagehand. These personnel are essential to the life of performances on Broadway. They must live in New York City, one of the most expensive places in the country to live, however they cannot afford a middle-class lifestyle. The New York State Department of Labor lists the median income of Camera Operators, Television, Video, and Motion Picture at \$56,390 and those who generally work in Arts, Design, Entertainment and Sports making a median wage of \$69,460 (New York State Department of Labor n.d.)in 2014.

Joe Hartnett was the International Representative assigned to District 4, which includes locals in Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and Washington, DC as well as District 7 that includes North Carolina, South Carolina, Georgia, Tennessee, Mississippi, Alabama and Louisiana. In my 2013 interview with Joe, he commented, “Some of the locals that I have a relationship with can also formally request me to be assigned, as well.” (Hartnett 2013)

In his interview, Joe Hartnett admitted that many times events such as the union strikes in New York hamper his ability to negotiate contracts. These strikes often scare off potential clients. The attitudes of frustrated union workers and the lure of less expensive and often less qualified personnel are often hurdles that International

Representatives face when they begin the process of courting a new theater. There are times when the union rally call in the past has been one of dissent that has hurt the overall reputation of unions. “(It is the) public misconceptions of unions, the local political climate, and non-union labor brokers who can drive the wages down if it is direct competition. Sadly, sometimes our own locals and members have been their own worst enemies and their reputation precedes them.” (Hartnett 2013)

CHAPTER THREE

Germantown Performing Arts Center

Germantown, Tennessee

The Germantown Performing Arts Center (GPAC) is an 824-seat hall in an upper-class suburb of Memphis, Tennessee. GPAC's mission is "To serve the community by presenting the highest quality endeavors to engage, enrich and transform." GPAC fulfills its mission with a mixture of dance performances, jazz, world music and family performances as well as classical artists. To round out those numbers, there are a large number of community groups, from the Memphis Symphony Orchestra and Germantown Youth Symphony, to local dance schools, which rent the facility for their events. Many of these local and community groups do not require and cannot afford to work with union labor. With all these varied groups and touring shows, GPAC remains busy three hundred days out of the year.

The staff of GPAC in 2012 was small and efficient theater. It is owned and operated by the City of Germantown. The Germantown Foundation is the non-profit entity which runs the 501-C (3) and presents the GPAC Presents season every year. It included ten full time workers, one part-time box office worker and a small handful of part-time stagehands who worked as employees for the City of Germantown. GPAC had a budget of around 1.2 million. (Olson 2012) The technical staff included only two full-time workers. Sound was usually hired out to an outside vendor. The theater traditionally filled the calls for performances through the part-time and full time labor which worked directly through the hall and contracted over hire labor, labor brought in

specifically to fill the calls on a performance to come in and work on an as needed basis for performances like large dance groups. For several years, the theater had used a non-union group in town for their over-hire needs, labor requirements which could not be filled by the number of in-house workers, until it became obvious that, due to unresolved issues surrounding the qualifications of the workers with the labor group, the company would need to be replaced the following season with a different labor source. It was at this point that GPAC began looking at the options available and investigated the possibility of using IATSE Local 69 as the labor provider of choice for their over-hire needs.

As the Technical Director and Director of Operations at the Germantown Performing Arts Center, it was my responsibility to locate a suitable work force for our large shows and maintain a reasonable working relationship. That relationship included ensuring that we came in on budget and maintained a high level of professionalism and knowledge from the workers who worked for GPAC.

In order for GPAC to have a working relationship with the local, it had to be made clear that the union members were not employees of IATSE and thus not covered under the City of Germantown's insurance. It was also made it clear that the workers were not "independent contractors" but rather covered by the International's collective bargaining agreement. The City of Germantown felt that it was most important to not be locked into a long-term agreement. When first approaching this, not being able to enter into an agreement to use the IATSE as the sole labor source made the possibility of entering into any agreement with the local impossible. After exploring the problem with Joe Hartnett however, the solution of an "Approved Labor Provider Agreement" made

moving forward with a contract possible. I first heard about this possibility through Joe Hartnett when I began discussing the possibility of working with local 69. I had been told that under no circumstances would the City of Germantown entertain the possibility of unionization of GPAC.

An Approved Labor Provider Agreement is, in many ways, the best of both worlds for both parties. This agreement secured knowledgeable and skilled IATSE workers (something which is of absolute importance on some show contracts) and solidified the rates for the length of the agreement. For Local 69, this opened the doors of GPAC to the tasks the local needed for their workers.

The relationship between the venues and of most locals and indeed the International has in the past been strained. IATSE would have not been open to an arrangement which would have their local union members working only in this type of “as needed” basis, citing issues ranging from fair pay to safety. In more recent times, the inability of an organization to pay a full-time staff of union members, as well as the fiscal limitations of the organization, has forced IATSE to reexamine its position. According to Joe Hartnett more and more locals are beginning to see the benefits to such a nontraditional arrangement and have sought out assistance in making this option work. There are a growing number of performance venues that have looked to the IATSE to be their labor source for their large performances that cannot be dealt with in-house. Instead of trying to negotiate a full contract that would give exclusive working privileges to IATSE, many houses are choosing to work with the IATSE on an as needed basis and to keep the contractual obligations limited. This allows the venue’s renter the option of using just house crew, an outside production company, or even (if the venue allows it)

qualified volunteers depending on the contract and the production's need. While this is not the type of agreement any local would prefer, it is one that many locals can agree works best for their situation. IATSE International Representative, Joe Hartnett conceded, "We (IATSE) would prefer to have direct contracts with the venues, but since many municipalities, cities, and states arts entities are not allowed to sign an agreement, this is the best case scenario to protect the workers and ensure they are properly classified by the IRS and eligible for workers compensation when an injury regrettably occurs on the job site." (Hartnett 2013)

CHAPTER FOUR LOCAL 69

IATSE Local 69 was formed in Memphis, TN in 1899. At its inception it was comprised mainly of projectionist and theater stagehands. The stagehands worked both in with the local opera and vaudeville performances during the local's infancy. In the last thirty years, Local 69 expanded to include camera operators, workers on trade shows, live concerts, and corporate productions.

The union has also worked with facilities and outside companies to assist with the installation of specialized products such as theater line arrays, theatrical light and theater rigging installation as well as maintenance of all of these items.

Local 69's history has not always been positive. In 2003, three members pled guilty to falsifying records. One of those three was William Klyce, former Business Agent for Local 69. (Union Facts n.d.) In 2005, Kathy Jacobsen, former Secretary-Treasurer for Local 69, was charged in a two-count indictment with one count of embezzling union funds in the amount of \$10,000 and one count of making false entries in union records. She was sentenced to one year of probation, which included six months of home detention. (Union Facts n.d.)

Local 69 had tried twice in the past to GPAC but had encountered great resistance from the City of Germantown. The local was in a frustrating position: it was suffering from a state of apathy from the membership and Local 69's board was unwilling to assist the business agent in expanding their reach. Allen Baysee, Local 69's business agent was

not willing to give up on the potential of new work for the members of his local and decided to put a call in to the International to assist in his endeavors. Baysee said he gambled on bringing Joe Hartnett in to assist with the GPAC contract negotiations

IATSE Local 69 began a process with GPAC that eventually led to a working agreement with the venue. Local 69 is a smaller local, having around 70 active and local (non-touring) members on their roster. They are well established in the downtown venue, the Orpheum Theater. However, years of corruption in the local's board, poor workmanship, and poor attitudes from a frustrated work force did a great deal of damage to the impression the local had on other venues in Memphis such as GPAC.

CHAPTER FIVE

Stephanie Roberson, Director of Operations

With GPAC, the International had a difficult road ahead of them. While they had the possibility of earning the work at a new venue, they first had to convince me, as GPAC's Director of Operations, that they were an organization they would want working in the venue. I started my career as a huge supporter of the union. It was preached to me while I was in college that the union was the best route to pursue as a professional stage worker of any sort. Unfortunately, I was not exposed to the union's positive aspects when I took a position at the Cannon Center for the Performing Arts in downtown Memphis.

When I started working in Memphis, all I had seen was the negative aspects of the IA: hands that were uninterested in the wellbeing of the house. What I witnessed was stagehands mostly interested in riding the clock and defensive about their position on the crew and on the deck. I viewed them as unhelpful and hostile. This was not the kind of technicians I wanted working on my deck at all.

When I moved from my large venue downtown to GPAC I was completely uninterested in working at all with the union. I did speak to International representatives when I went to conventions only to be disregarded and ignored. It wasn't until I started exploring my options to replace the non-union stage labor company that Joe Hartnett actually stopped to listen to my concerns. He took the time to do the damage control and

PR work that Local 69 needed to heal the decades of bad relationship the local had earned.

Joe had in fact been working with Local 69 and with Baysee to address the attitudes of the workers and how they were negatively affecting the relationship that the local had with the venues. Baysee in turn started working with the workers and explaining the situation; encouraging the workers to put their best foot forward, to try to take care of the venue and go the “extra mile” to show the management that they were interested in this theater not just for a paycheck to also to see the performances and the venue succeed. It was this big picture approach that finally helped turn the tide.

The three main people engaged in the negotiations with GPAC and Local 69 were Allen Baysee, the Local 69 business agent; Joe Hartnett, International representative for IATSE and the representative for District 4; and myself, Director of Operations for the Germantown Performing Arts Center. The next year was an exercise in patience and persistence. When Opera Memphis contracted the facility that fall, they chose to use Local 69 as their contract labor of choice. Joe Hartnett kept in close contact with Allen Baysee, Local 69’s Business Agent, and myself to ensure that the union was indeed putting their best foot forward. Local 69 was certainly motivated to make a good impression. “We had tried in vain at least twice to organize GPAC but encountered great resistance from the city (of Germantown) (Baysee 2013).

The year prior, Local 69 had worked the opera performance and I remember the local had left the venue a complete wreck, even going so far as leaving huge gouges in the floor made by a careless hand who was dragging scenery. This time things were quite

different. The crew, having been encouraged by Baysee to really view the facility as their own, behaved as though they already had a contract and a vested interest in the facility. They consulted with my assistant and me on the best use of the facility and left it in better condition than they found it. This was the change I had been looking for in the union: an honest investment in GPAC. For the first time I actually began thinking about using the local for the touring productions with which GPAC contracted.

Over the following year, Hartnett had multiple conversations with both Baysee and me to repair the relationship between the theater and the local. By the following spring, GPAC was ready to move forward with an agreement with the union.

There were, however, a couple of problems that stood between GPAC and Local 69 entering an agreement. The city was concerned about the union members being construed as city employees. The city could not enter into an agreement with a union. The GPAC Foundation, the nonprofit entity that presents GPAC's season, was afraid to enter into a contract that would lock them into a long term agreement over concerns that it could possibly harm the organization in the future. The theater's Executive Director was concerned that a contract would disallow outside renters from using event staff of their choosing. The Executive Director's concern was that without the choice of staff, the renters would be unable to afford the facility. After several rounds of conversations and failed negotiations, Hartnett suggested an approved "labor provider agreement". This agreement allowed GPAC to avoid the conditions they were concerned about: the union members would not be considered employees of the city and there was no long term binding contract which locked the theater or the renters into using only union labor. While it took another month of negotiations, back and forth with the city's attorney and

IATSE's legal department, the local finally had what they wanted: the work at GPAC, and GPAC had what it wanted: qualified workers for their large performances.

In essence, the contract allowed the GPAC and the City of Germantown freedom with who was used for labor. This meant the Director of Operations, Technical Director, and all part-time workers previously hired through the city would continue to work for the city as at will employees and would not be represented by the union. The stagehands hired through Local 69 would be contracted through the union and Local 69 would get the work they both wanted and needed for their members.

Overall, it was the best outcome for all parties. GPAC had been searching for a solution to their labor issues for some time. As GPAC's Director of Operations, wanted to know that the laborers coming into the theater would be invested in the theater like they were at the Orpheum Theater downtown (where Local 69 had a full contract) and that I would get really good quality people. I knew my constraints and I was very pleased that Joe was willing to work with me as a go between to assist Allen Baysee in making this happen. While this agreement is not a typical labor contract with the union, both Joe and Allen recognized that this was a positive step for the local and the international as well. When asked how pleased he was about the agreement Joe's response was "Very. But we still have a lot to do for workers in the industry and "internal organizing" of our locals to try and see the big picture. Most locals get it (that compromises like these have to be made) and some don't. Those that don't face the fate of the projectionists we represented who didn't adapt to the changes in the industry. Both technical (the projections) and the labor is now a dying workforce. (The challenge) is getting them to see the bigger picture." (Hartnett 2013)

The benefits of taking on a smaller venue in the manner which Local 69 took on GPAC extends to more than the paycheck for their members. The effect of unions can be felt far and wide in the work place and in all professions. “The stagecraft workers are provided protections under the agreement. Our goal is to ensure that all workers in stagecraft, regardless of union affiliation, are able to make a fair wage, have protections if injured on the job, access to health care, and a way to retire with dignity. If more venues do this, even if it is just standard operations without a union contract or to keep the union out, we are at least making the lives of the workers better.” (Hartnett, 2013) Indeed, while unions may have as few as 60 members they may employ 200-300 employees. In right to work states, workers can and do work through their local while trying to earn their membership without the benefit of being a union member. At minimum, the IA offers all workers workman’s compensation should they become injured on the job: something that is not available to workers who are employed as 1099 employees or independent contractors.

Hartnett admits that the union would prefer to have a full-out contract, as this would be a better scenario for both the workers and for the International as a whole. However, the International has conceded that this is an acceptable compromise in situations where they are not allowed by law to sign an agreement. Unions however, also work as a collective bargaining agent for the workers, negotiating the rate of pay and terms of the work, worker’s compensation and representation should there be a human resource issue.

Many non-union companies exist whose main purpose is to hire out workers. While on the surface these companies may seem legitimate, many do not offer the same

protections: fair labor rates, insurance, and worker's compensation. Essentially they are hiring independent contractors: "Some payroll companies have had unscrupulous owners and have decided to become labor brokers as well. We have to make sure that the company is reputable and trustworthy." (Hartnett 2013)

While the labor agreement was a huge gain for Local 69 and their members, there were disadvantages for Local 69. While the agreement gave Local 69 the work at GPAC it needed for the members, it did not give them the assuredness of work or all of the work available at GPAC. Without a traditional contract, local 69 was not working in GPAC as their house crew. In addition, this meant that they had no assurance that they would have any of the work from one week to the next.

The decision to only have a "Labor Provider Agreement" is also fraught with issues of longevity for the IATSE. Should the theater decide to move in a different direction, have a change of staff or should any grievance occur there is no recourse for the local to hang on to the position of labor provider. This very thing also happened when the City of Germantown decided that in the interest of cutting their budgets they would need to also cut the entire technical department.

The Labor Provider Agreement had been in effect at GPAC for well over a year and it had been quite successful for both the union and GPAC. GPAC Foundation's budget had stayed on target financially from show to show and the union was forming a very strong relationship with the technical staff.

The City of Germantown was in a budget crisis in October 2012 when Kristen Geiger discovered a shortfall in the budgets and warned the City Administrator, Patrick

Lawton, that the shortfall would require either deep cuts or the need to increase property tax rates 90 cents over the \$1.485 per \$100 of assessed value. (Bailey 2013) In an effort to head off catastrophe the city decided to have every department of the city make deep, sustainable cuts to their budgets. GPAC opted to outsource the entire technical department to an audiovisual company. GPAC then made the decision to terminate its agreement with Local 69. The decision essentially freed the city of all needs for theatrical technicians on the payroll and put the burden of technical fees and labor on the Germantown Foundation.

GPAC had entered into an agreement with Nolan's Audio Visual to be the sole labor provider for the city in the venue. There was no reason to keep the agreement with Local 69 and all the full-time technical staff was dismissed. It was devastating, professionally, to be let go from a position I had held for so long. This was coupled with the frustration of seeing the work I had put into making certain that my space was well taken care of and that we provided the highest caliber of service to our tours and renters, was gone in a flash.

I called Allen as quickly as I could to tell him that I was no longer employed and that the union would also no longer be working at the Germantown Performing Arts Center. I did not want him to believe this was because of a decision on my part nor was it because of anything the local had or had not done. With the small house crew's departure, GPAC also dismissed Local 69. The agreement and the work for this local were gone in a day.

In the end, the arrangement that was reached between Local 69 and GPAC that allowed GPAC the freedom to remain a non-union house and still allow for a working agreement with Local 69 was the best arrangement for both entities at that time. GPAC had skilled labor that cared about the client and the building, and Local 69 had the work and a new relationship with a busy venue that promised a bright future. Neither side regretted their decision to enter into this initial agreement in spite of the fact that the union's position was tenuous, and ultimately the agreement was dissolved by the city.

While there are obviously unforeseeable issues that doomed the agreement with GPAC, not all agreements suffer the same fate. For many theaters, the agreement is precisely what both parties need. The outcome can be a long-term, friendly relationship between theater and local. When both parties are getting what they need from the relationship and everyone is comfortable with the arrangement, the resulting symbiotic relationship is beneficial for everyone involved.

CHAPTER SIX

The Eisenhower Auditorium

The Penn State Center for the Performing Arts' flagship facility is the Milton S. Eisenhower Auditorium, located on the University Park campus of The Pennsylvania State University. The Center also presents performances at other University Park venues, including Schwab Auditorium and the Pasquerilla Spiritual Center. University Park, Pennsylvania is located in the middle of the state, adjacent to the Borough of State College. (Center for the Performing Arts at Penn State About 2013)

The Center for the Performing Arts' mission is to "provide a context, through artistic connections, to the human experience. By bringing artists and audiences together we spark discovery of passion, inspiration, and inner truths. We are a motivator for creative thinking and examination of our relationship with the world." (Center for the Performing Arts at Penn State About 2013)

The Center for the Performing Arts at Penn State operates as a separate 501(c) 3. The facility host somewhere between 37-40 performances annually, mostly during the academic year September through April, in its 2500 seat hall. With a budget of 4,303,147.00, (Center for the Performing Arts Annual Report 2013)they present a full season of performances spanning the entire spectrum with dance, Broadway musicals, live music, and orchestra. The most demanding of these performances are the Broadway shows.

The Eisenhower Auditorium employs twenty-seven full and part time employees. This complement includes four administration and marketing personnel: six ticketing office workers; and six full-time production staff.

Lea Asbell-Swanger, the Assistant Director for Center for the Performing Arts at Penn State's Eisenhower Auditorium in University Park, PA, spoke of the venue's limitations. "For us, the small market is typically so small that we do one-nighters." (Asbell-Swanger 2013) (A one nighter refers to a touring show which loads in the show in the morning, does one performance and loads out immediately following the performance that evening). In the past, there had been times that the theater had been able to do week long "sit downs" where tours were able to schedule longer stays but with the current economy, in the summer of 2013 when we spoke, this was no longer possible.

The local today, Asbell-Swanger said, was not the same as it was in the 1980's when she started at the theater. "The only full-time union members in town (was the union representing) projectionists and we only had three full-time projectionists in town. There are none if I understand it now, because everyone is going to automated systems" (Asbell-Swanger 2013)

Because Eisenhower Auditorium is situated on a university campus there are occasions when the theater will try to engage students to work load in's and work calls. In the past, this had worked well for smaller productions; however, over the years a shift had occurred in the types of performances and their demands. "When you get up to twenty-five to thirty students working a "load in call," it becomes a little problematic; because there is no through line. It may take you three people to make one position in a

day.” (Asbell-Swanger 2013) While the theater has in the past had to hire workers to work in this type of scenario, it creates a great deal of problems. The touring groups find it frustrating to have to start over explaining how to do something; there is no follow through after the performance for the load out; and there are the inherent problems with trying to keep up with more workers’ hours.

The theater generally only engages IATSE workers into the theater’s schedule, about four to five times a year, when the Broadway performances come through with a “yellow card” show. As explained previously, yellow card shows are touring performances that come with the stipulation in the contract that there MUST be the complete number of stagehands for the entire engagement and that without those numbers the work will stop until those numbers are filled. This is something typically seen on very large productions because it becomes dangerous if there are not enough workers to fill the call and perform the work among other reasons.

The biggest benefits of working with the local are that “We know them. They know us. They know the venue fairly well. By and large we see the same people on calls. Because it is a small community and a small local, the members who work at the Eisenhower all have “day jobs.” As a result these people are known in the community in other settings, which fosters a sense of trust: “The relationship between us and our local is pretty unusual in the sense that it’s... about getting the work done. The rules that we follow tend to follow the rules of the local because they just make sense” (Asbell-Swanger 2013)

The Eisenhower Auditorium is set on the campus of a university and as such needs the flexibility to be able to employ some students for performances because they are a teaching facility and have a responsibility to make this type of working and learning opportunity available to the students. This flexible contract allows the crew to be “mixed,” that is to say, a small number of the workers are allowed to work as employees through the university in the mass population of the crew call. This is important on a university campus: “There is a critical mass of people that we recognize and that’s a bonus because our contract includes the ability for us to continue to hire students in the mix. On a call of over 10 or 15 people we get one student, if it’s a call of 20 people we get 2 students. There’s always going to be a mix of our student employees in the system with them so they know them (IATSE) and having people who work here regularly that work in conjunction with the local, keeps the house staff from having to be everywhere all at once.” (Asbell-Swanger 2013)

Because they are covering such a large geographic area and there will sometimes be several shows on the same day there is a good amount of shuffling of personnel which will take place in the days before the show which means that the call list will change right up till load in. There are even occasions, because so many of these workers travel so far to work the show, that someone’s car will break down and the call will be short a worker. But the union is really good at working with us to resolve those problems. These are more of an inconvenience, in Asbell-Swanger’s mind. “What’s more is that because the touring company that’s in here this year is the same as the one that was here last year, just with a different show, everybody knows everybody.” (Asbell-Swanger 2013) Asbell-Swanger spoke of how often touring shows would travel from one theater in the area to

the Eisenhower and show up to find the same crew for load in that had loaded them out at the last theater. For the touring groups “this was huge for them because they don’t have to reinvent the wheel one more time. It happens a lot for us because ...we are close enough that we can pool the union resource but we are far enough apart that it doesn’t impact our audience” (Asbell-Swanger 2013) In addition, in this part of the state, there is a minimal number of union workers, who because the venues are a reasonable distance apart are able to get a reasonable amount of work which is also advantageous to the Eisenhower and Local 636.

When talking about the last round of union negotiations between the university and the union Asbell-Swanger spoke positively of both sides, describing the amusement of both parties as they worked with HR representatives trying to work through the details of a rather complicated work agreement “The relationship is positive between both groups. Everyone is trying to do the best they can for the people they are there to represent without breaking anyone’s bank...it just works. And it just works because of the people involved.” (Asbell-Swanger 2013)

While IATSE has focused for many years on winning new traditional contracts with theaters around the country, taking a different approach to their relations with performing arts venues is beneficial for both the venue and IATSE’s members. Small local venues are able to work with IATSE within their constraints and the members of smaller local unions benefit with the work that these venues afford them.

As this is not the same kind of binding contract that would be found ordinarily in a IATSE contract there is the possibility of a change of circumstances at the venue which

could result in the loss of work at that venue. This is a chance however, which many locals are willing to embrace to gain the foot in the door at the venues and the work their members need. The move towards an Approved Labor Provider Agreement is beneficial for everyone.

CONCLUSION

The Germantown Performing Arts Center in Germantown, Tennessee and the Eisenhower Auditorium in University Park, Pennsylvania, explored unique agreements with their Local IATSE. The agreements between Local 69 and GPAC and The Eisenhower Auditorium and Local 636, while experiencing varying degrees of longevity in their agreements, were considered a success by both the theaters and by their Locals. An “Approved Labor Provider Agreement” can successfully help theaters with difficult restrictions and small Local IATSE chapters to work together by allowing both parties the flexibility in the contracts necessary to make the agreements work. While often the role of IATSE has often been seen as black and white bargaining, this kind of agreement could be the answer to keeping small Locals alive and keeping its members working as well as giving small and mid-sized theaters in their jurisdiction the expertise and professionalism in their workers they need. Theaters and IATSE both need to recognize that changes need to be made which reflect the need to accommodate financial difficulties of these smaller road houses and their need for both the skills and expertise the union provides while acknowledging their financial constraints. In return, the theaters’ needs the flexibility to find the financial respect union workers deserve for their work. In coming to these agreements, everyone benefits and good will can be mended on both sides of the bargaining table.

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