

AWARD

In the Matter of the Interest Arbitration

between

CITY OF AUBURN

and

AUBURN POLICE LOCAL 195, COUNCIL 82, AFSCME,
AFL-CIO

PERB Case No. *1A96-036; M96-227*
~~1A92-020, M92-071~~

NY'S PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

The City of Auburn (City) and the Auburn Police Local 195, Council 82, AFSCME, AFL-CIO (Union) were parties to a collective bargaining agreement for the term July 1, 1993 through June 30, 1996. Negotiations for a successor agreement reached an impasse, leading to the appointment of a mediator by the Public Employment Relations Board. Mediation meetings failed to produce an agreement, and on January 27, 1997 the Union filed for interest arbitration.

On March 13, 1997, the Public Employment Relations Board designated the undersigned as members of the Public Arbitration Panel (Panel) to which this dispute between the parties was assigned. The Panel held hearings in Auburn, New York, on August 5 and November 24, 1997, and also met in executive session in Auburn on October 13, 1997.

STATUTORY CRITERIA

Section 209.4 of the State Civil Service Law sets forth the following criteria to be considered by arbitration panels in the resolution of negotiation impasses between public employers and public employee units when such units represent members of Fire or Police Departments:

- (V) The public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

(a) comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;

(b) the interests and welfare of the public and the financial ability of the public employer to pay;

(c) comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

(d) the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provision for salary, insurance, and retirement benefits, medical and hospitalization benefits, paid time off and job security.

ANALYSIS AND AWARD

Salary

The Union proposed that the salary of each officer in the bargaining unit be increased by 8% effective July 1, 1996 and by another 8% effective July 1, 1997. The City proposed zero salary increases in each contract year. For the reasons described below, a majority of this Panel awards an increase in the salary of each officer of 4% effective July 1, 1996 and 3% effective July 1, 1997.

First, we find that the unusual Comparability Adjustments provision in the previous contract, which neither party proposed deleting from or changing in the new contract, does not require the Panel to award salary increases identical to those in the recently negotiated agreement between the City and the Auburn

Firefighters Association for the term July 1, 1996 through June 30, 1999. In the 1993-96 Police contract, that provision read as follows [as Article VIII, Section 1

(d)]:

COMPARABILITY ADJUSTMENTS shall relate to a "bench mark" job or jobs as agreed to between the parties. The Comparability Adjustments shall apply only when the maximum police officers' wages drop below the bench mark salary. For purposes of this section, the comparability adjustment shall represent the difference between the bench mark salary and the existing police officer salary at the maximum step.

The 1993-96 Firefighters contract contained a nearly identical provision -- differing only in referring to firefighter rather than police salaries -- and the 1996-99 Firefighters contract also contains this provision.

The City argues that the intent of this ambiguous provision is to ensure that in the separate contract negotiations between the City and the Police and Firefighters, the salary terms agreed on by the first union to settle will establish the salary pattern for the second union. The City pointed out that this salary pattern -- the first of these two unions to settle establishes the salary increases agreed to by the second union -- was followed by these three parties from 1984 to 1996, with the exception of 1993 when the Police received an increase of 2.42% and the Firefighters received a zero increase. Thus, the City argued, salary increases in the new Police contract (the term of which is limited to two years when decided in interest arbitration) should match the salary increases in the first two years of the recently negotiated Firefighters contract, namely, zero in the first year and 1% in the second year.

The Union argued, on the contrary, that the intent of this provision is to ensure that the first of these two unions to settle in a round of negotiations would not be penalized if the other union received larger increases in negotiations or in

interest arbitration. Police Union President William Cadwallader testified without challenge that this provision was first proposed by then-City Manager Malone during the negotiations for the 1993-96 Police contract, when Mr. Cadwallader told him that Union negotiators were reluctant to accept a contract offer designed to achieve salary parity between the Police and Firefighters because they feared the Police union would again fall behind if the Firefighters won larger increases that year in subsequent negotiations or in interest arbitration.

Also, Ms. Mimi Satter, Attorney for the Auburn Firefighters and member of that union's negotiating team in 1993-94, testified, in effect, that she agreed with Mr. Cadwallader's understanding of the intent of the comparability provision, and for that reason had advised Firefighter Association officers that if they settled first in the current round of negotiations, which they did, the comparability provision ensured that Firefighter salaries would later be adjusted to match any higher increases that might be awarded the Police Union by this Panel. The City offered no testimony from any City official who had participated in the 1993-94 negotiations that produced the comparability provision.

It is because of that bargaining history that the Panel finds that the Comparability Adjustments provision does not prohibit this Panel from awarding salary increases larger than those contained in the 1996-99 Firefighters contract. As the Union argued, for what reason did the City propose this provision to the Police union, the first to settle in 1993-94 negotiations, and agree to its inclusion in the later Firefighters contract, if not to assure both unions that the first union to settle in any round of negotiations would not lose out if the other union later won a higher salary settlement?

The second reason for our salary award is that we find that the City has the financial ability to pay salary increases similar to those recently received by police unions in comparable communities. The evidence supporting that finding is reasonably clear for the recent fiscal years preceding 1997-98:

One measure of a city's ability to pay is its general fund ratio, determined by dividing the city's unreserved general fund balance at the end of a fiscal year (FY) by the city's total general fund expenditures in that year. The Government Finance Officers Association stated, in a November 1990 Research Bulletin at page 8:

“As a general rule, local governments should maintain an amount equal to 5 percent of annual operating expenditures. This should satisfy some of the credit rating agencies' concerns regarding the adequacy of resources available for contingencies. Those governments facing greater uncertainty should maintain a higher level of unreserved fund balance. Those governments that maintain an unreserved fund balance above 10 percent of annual operating expenditures should be able to provide appropriate justification for maintaining that level.” (Union Ex. 9.)

At the end of each of the four most recent fiscal years (ending 1996-97), Auburn's general fund ratio has measured between 12 and 15 percent, indicating that the City had maintained an ample hedge against contingencies -- amounting at the end of fiscal 1996-97 to \$2.55 million .

Among all local governments in New York State outside of New York City, the average real property tax levy (taxes charged in inflation-adjusted dollars) increased by 16.3 percent from FY 1992-93 to FY 1996-97, but over the same period in Auburn the property tax rate (per \$1,000) increased by only 3.5 percent in current (not adjusted for inflation) dollars. Also, among 9 cities in the state with populations roughly similar to that of Auburn, real property taxes per capita (1991=100) rose by a greater percentage from 1991 to 1996 in 8 of those cities than in Auburn

(where they rose 9 percent), and in real dollars those taxes were higher in 1996 in the same 8 cities than in Auburn. (Union Ex. 2, pages 2-4, but excluding data shown for Binghamton on pages 3-4 because that city's population is significantly larger than Auburn's.)

We certainly do not fault Auburn officials for holding the line on property taxes in these difficult times for both local governments and property owners, and obviously no two communities face identical problems. Yet, such comparisons are another valid, if imperfect, measure of a local government's ability to pay salary increases -- and by that measure, property taxes appear less burdensome in Auburn than in many other upstate communities.

Among the same group of 9 upstate cities with populations similar to that of Auburn, total police expenditures as a percent of total local government expenditures in 1996 were higher in 8 cities than in Auburn, and expenditures in the same year for police services and fringes as a percentage of current operating expenditures were higher in 6 of these cities than in Auburn (Union Ex. 2, page 8). Thus, by this measure, Auburn was spending relatively less on police services than were several other cities of similar population -- at least in 1996, the only year for which the Panel was presented with such data.

The evidence concerning the city's ability to pay salary increases in the current fiscal (and contract) year of 1997-98 is more difficult to appraise, in large part because that year is only about half completed -- and therefore no one can state with certainty what the financial status of the City will be during the entire year. As might be expected, the City's predictions of year-end figures -- and particularly of the City's probable financial status next year -- are considerably less optimistic than the Union's predictions.

Much of the disagreement between the parties centered about the City's contention that the FY 1997-98 budget is misleading because one-time revenues in this year's General Fund Budget are far above normal levels. Specifically,

those one-time revenues totaled \$321,406 in FY 1995-96 and \$393,198 in FY 1996-97; they are expected to increase to \$1,316,500 in the current year; and the City predicts they will then drop to \$110,000 in FY 1998-99. That large decline in one-time revenues, coupled with other probable losses in other forms of revenue and a probable increase in costs of as much as \$600,000, means, the City argued, that the General Fund in FY 1998-99 might suffer a total negative impact of as much as \$2.3 million. If that occurs, the City stated, it would need most of the accumulated General Fund balance, which might otherwise be relatively ample at the end of FY 1997-98, to meet these expected losses in the near future.

The Union disagreed with many of the City's predictions, including the following:

The City predicts that the \$400,000 it is receiving this year in State aid to distressed cities will not be replaced in whole or in part in FY 1998-99 because State officials told City officials there would be no repeat of this state aid. The Union argued that 26 of 61 cities in the state shared in this \$26.7 million of aid under "Special Financial Assistance to Certain Municipalities," and the prospects are good that this or a similar type of state aid will be repeated in FY 1998-99 because that will be an election year and both the state economy and state budget are in very good shape.

The City noted that \$435,000 being received in the current fiscal year in Insurance Recoveries and a Special Purpose Federal Grant would not be repeated in FY 1998-99 because they were funds granted to reimburse the City for the loss of a building destroyed by fire. The Union argued that because these funds were reimbursing the City for money it had already spent within the prior year or two, the City will suffer no net loss from not receiving these funds in the next fiscal year. The City agreed with that statement in general, but pointed out that the funds it had

previously paid out on this item were not drawn from the General Fund.

The City predicts that one-time revenue from Sale of Real Property will drop from the \$250,000 expected in the current fiscal year to \$50,000 in FY 1998-99, which the City states is the average level of such revenue (but was inflated in the current fiscal year by the sale of a recently abandoned public works garage for \$200,000). The Union pointed out that although this budget item did indeed total only about \$50,000 in FY 1995-96, it totaled approximately \$149,000 in FY 1994-95, \$133,000 in FY 1993-94 and \$111,000 in FY 1996-97.

In addition to the expected losses in one-time revenues, the City contends that the growing losses it is sustaining in the operation of its landfill means that the negative trend in the Solid Waste Fund will have an adverse impact on the General Fund in both revenues and appropriations. The Union argued that the Solid Waste Fund is an enterprise fund, and therefore the cost of providing sanitation services should be financed exclusively through user fees and not be subsidized from general revenues. The City contends that whether the problems of this fund are met through higher user fees or higher taxes, the impact on Auburn residents and the City's financial status will be much the same.

The City pointed out that it had increased property tax rates by about 5% in FY 1997-98. (In fact, the City Manager had proposed an increase of about 15 percent, but only a 5 percent increase was approved.) The Union stressed that nevertheless the City's property tax rates, as shown above, have remained relatively constant over the past several years, lagging behind rates in many other upstate cities.

We conclude that for the two-year period covered by our award -- July 1, 1996 through June 30, 1998 -- the evidence clearly indicates that the City has the ability to pay the salary increases we are awarding, and the evidence concerning FY 1998-99 is too mixed and speculative to merit smaller increases today as a hedge against a possibly dismal tomorrow.

The third reason for the Panel's award of 4 percent and 3 percent salary increases is that those increases are consistent with the salary increases in police union contracts in recent years in most of the communities cited by the parties as comparable to Auburn. Before reviewing those other settlements, we must acknowledge the following shortcomings in the evidence on this point presented us by the parties:

Neither party presented any evidence, or even any claim, concerning "past practice," that is, whether the Auburn police unit has been linked historically, as either a leader or a follower, to police units in other cities.

Neither party adequately explained the basis for its selection of "comparable" cities. The City labeled its sample of five cities "Comparison of Contiguous Police Departments," a term usually applied to geographically bordering entities, but none of the five cities included in the sample appears to actually border Auburn. Also, the population of these five cities, compared to Auburn's of about 31,000, ranged from about 13,000 (Fulton) to about 164,000 (Syracuse). Similarly, the Union's "Comparability Table" provided data on five other bargaining units -- such as Albany (population of about 100,000), Utica (69,000), and Town of Bethlehem (a community near Auburn) -- without any explanation of why those units should be considered comparable to Auburn's. The only city that appeared in both samples is Ithaca, which does appear comparable in that it is in central New York and its population of about 30,000 is similar to that of Auburn.

For most other bargaining units, the parties presented no data on percentage salary increases, only on absolute salaries. The Panel Chairperson therefore calculated the percentages cited below from the absolute salary data provided by the parties.

In spite of those deficiencies, the parties' comparison samples were surprising similar in the following two key respects:

Absolute salary rankings. The City presented (on pages 6-11 of its initial brief) salary data for six steps or ranks from starting police officer to captain in the Auburn Police Department on July 1, 1995. They also provided salary data for most of those steps and ranks for 1995 in Oswego, Ithaca, and Fulton, but only provided 1996 data for Elmira and 1997 data for Syracuse. Within that six-city sample, Auburn salaries ranked third on two of the six measures (salary step or rank), fourth on three measures, and fifth on one. In short, Auburn ranked a little below average in its own sample, suggesting that in 1995-96 (the last year of the last previous contract) police salaries in Auburn were not excessive when judged by the City's own measure of comparability.

As might be expected, Auburn ranked even lower in the Union's sample, ranking at or near the bottom on several salary steps in Albany, Utica, Ithaca, Bethlehem, and in the State Troopers bargaining unit (although the Union's sample was even less consistent than the City's with respect to years).

Percentage salary increases. In the City sample, police salaries increased 4 percent in Ithaca on January 1, 1996 (and the Union sample shows that Ithaca salaries increased another 3 percent on January 1, 1997); 3 percent in Elmira on January 1, 1997 and will increase another 3 percent on January 1, 1998; 4 percent in Fulton on January 1, 1996; and 6.1 percent on July 1, 1996 in Oswego for the following 18 months.

In the Union sample, police salaries increased, or are scheduled to increase, by about 3.5 percent in Utica on January 1, 1996; 3 percent in Ithaca on January 1, 1997; 4 percent in Albany on January 1, 1997, 3 percent in January of 1997 and 3 percent in January of 1998 in the Town of Bethlehem; and 5 percent in the State Troopers unit on April 1, 1997.

In short, in all the bargaining units designated as comparable by the parties, police salaries have increased by at least 3 or 4 percent annually in recent years. Particularly interesting is that in Ithaca, the only city designated as comparable by both parties, police salaries increased by 4 percent in 1996 and 3 percent in 1997.

In summary, it is for the above reasons that the Panel finds that Auburn Police salary increases in the new contract are not limited by the salary increases in the recent Auburn Firefighters contract, the City has the ability to pay reasonable salary increases in the new contract, and settlements in comparable communities indicate that reasonable salary increases are 4 percent effective July 1, 1996 and 3 percent effective July 1, 1997 -- both increases to be applied to all positions in the bargaining unit.

Union Business Days

The Union proposed to increase these days from 16 to 20. Neither the City nor the Union presented any evidence of the number of union business days provided in other comparable union contracts. The Panel finds reasonable the present provision of 16 union business days at City expense, and therefore this Union proposal is denied.

Disciplinary Procedure

The parties agreed that Article V in the previous contract was confusing with respect to the dual coverage of the Civil Service Law and the parties' Agreement. The parties agreed that the first paragraph of Article V (1) (c) should now read:

Discipline shall be imposed upon employees otherwise subject to the provisions of Sections 75 and 76 of the Civil Service Law only pursuant to this article, and the procedure and remedies herein provided shall apply in lieu of the procedure and remedies prescribed by such sections of the Civil Service Law which shall apply to employees.

The parties disagreed, however, on the time limits to be placed on the initial grieving of a notice of discipline (the Union proposed 15 calendar days, the City 10) and of any pre-hearing suspension (the Union proposed 30 days, the

City 60). The Panel finds that the comparable provision in the new Firefighters contract provides a reasonable compromise on this issue and therefore orders the inclusion of the following paragraph incorporating that compromise:

If an employee and the union elect to grieve a notice of discipline or discharge under the arbitration procedure contained in Section 4 of Article IV of this contract, they shall do so within ten (10) calendar days of the receipt of said notice. If the Employer feels that the continued presence of the employee represents a potential danger to personnel or property, or would interfere with the operation of the Department, the employee may be suspended until the conclusion of the disciplinary hearing, but in no event in excess of thirty (30) calendar days without pay.

Health Insurance

The Panel awards the following on the several dimensions of this complex issue:

No change in the coverage of costs for prescription drugs contained in the previous contract. The Union proposed that the City provide a prescription card with a \$3.00 co-pay to replace the provision in the expiring contract that prescription costs shall be 80% reimbursable with no deductible, and the City shall reimburse the employee for certain deductible expenses paid by the employee. The Union justified the proposal by pointing to the City's agreement with the Civil Service Employee Association, in which a \$3.00 co-pay prescription card is provided. The City reasonably argued that if the CSEA provisions were adopted, it should be done in toto, deleting the language in the Police contract providing that the City shall reimburse employees for certain deductible expenses they have incurred. Also, the Union stressed its desire for parity with the Firefighters in arguing for several other changes in health insurance, but the Firefighters do not have a \$3.00 co-pay prescription card. We therefore rule against the Union proposal.

Adoption of the same contribution formula contained in the new Firefighters contract. The Union proposed

that the contribution formula in the expiring contract -- under which current employees paid 10% of the insurance premiums and new employees paid 25% in the first year of employment, 20% in the second year, 15% in the third, and 10% in the fourth -- be altered to provide that the City pay 100% of health insurance premiums covering all employees. The City proposed that all future premium increases shall be paid by the employees. Neither party presented compelling evidence that the Police contribution rate should not match that in the Firefighters new contract, namely, 5% for employees hired before July 1, 1997, and for those hired on or after that date, 20% in the employee's first year of employment, 15% in the second year, and 10% thereafter. (We see no reason why the new Firefighters contract states that the higher contribution for newly hired employees becomes effective on July 16 rather than July 1, 1997, and we have therefore altered the Firefighters formula in that one respect.)

Adoption of the Firefighters contribution rate for dental care insurance. The Union proposed that the City pay 100% of dental insurance premiums; the City proposed no change in the contribution rate in the previous contract. The contribution rate in the new Firefighters contract (both old and new) is slightly more favorable to employees than the previous Police contract, and again neither party offered compelling evidence why the two contracts should not be comparable in this respect. The new Police contract shall therefore incorporate the following provision: "The Employer shall contribute \$12.70 per month for any employee electing to participate in a Group Health Dental Plan. The additional cost of said Plan shall be paid by the employee."

No City contribution to the cost of eye insurance. The Union proposed 100% coverage of all premiums for an eye care plan, but again the Panel voted for parity with the Firefighters contract, which contains no coverage for eye care.

Police captains shall be provided with fully paid health insurance upon retirement, provided they have served in the rank of captain for eight years prior to retirement. The Union proposed this change, pointing out that the four Assistant Chiefs in the City Fire Department have this benefit and since the four

Captains in the Police Department are also the second highest in command in their department, as the Assistant Chiefs are in their department, they should enjoy the same benefit. We agree.

No change in the Health Insurance Plan deductible. The City proposed that this deductible be increased from \$100.00 to \$150.00 per person. No such change was made in the Firefighters new contract, and we therefore see no need to direct such a change in the new Police contract.

The contract shall state, "Dental benefits are not applicable at retirement or included within the medical benefits offered at retirement." The Union agreed that dental benefits have not been extended to retirees in the past, and we therefore agree with the City proposal that this past practice be made explicit in Article XXIII of the Agreement.

No inclusion of a provision that employees who are eligible for coverage under another group plan at a cost equal to or less than the City's full health insurance cost shall not be eligible for insurance coverage under the Police contract. We vote against this City proposal, primarily because it is not included in the new Firefighters contract but also because we believe it would be difficult to enforce.

Exchange of Sick Leave Pay by Retirees

The previous contract provided that retiring police officers may utilize unused sick leave time as payment toward future health insurance premiums "at a dollar value equivalent of three (3) accrued leave days to one (1) paid work day." The Union proposed changing that formula to exchanging one (1) accrued leave day to one (1) paid work day; the City opposed any change. Again, the Panel comes down in favor of parity with the Firefighters and directs that the exchange formula be changed to read: "Sick leave will credited towards an employee's future health insurance premium costs at a dollar value equivalent of two and one half (2 1/2) accrued leave days to one (1) paid work day."

Sick Leave Pay For Employees Hired After July 1, 1993

Before the previous 1993-96 contract was adopted, each employee, upon completion of his probationary period, was credited with 260 days of paid sick leave. Under the 1993-96 contract, however, employees hired on or after July 1, 1993 are credited with 30 working days of paid sick leave upon completion of their probationary period and thereafter accumulate sick leave at the rate of one per month, with no maximum limitation on the total number of days an employee might accumulate. The Union proposed the restoration in the new contract of a full sick leave bank of 260 days for all employees, regardless of their date of hire; the City opposed any change.

The Panel sees no way of resolving the parties' conflicting claims regarding the negotiating history of this issue. The City claims that it gave up something (unspecified) to obtain the new provision in the previous contract and the Union claims that it obtained little if anything in return for that concession. To repeat, we see no way of resolving that disagreement. Also, we find merit in the City argument that post-1993 hires have one advantage over pre-1993 hires, namely, there is no maximum on how many leave days they can accrue after 20 years of employment, whereas pre-1993 hires can accrue only 260 days. Also, as the City argues, the General Municipal Law grants disability benefits for job-related injuries and those payments are not deducted from sick leave credit, so those hired after July 1, 1993 have a major protection for job-related injuries even if they have not accumulated many sick leave days. For those reasons, the Panel directs that no change be made in this sick leave provision.

The above constitutes the award of the undersigned members of the Arbitration Panel.

December 19, 1997



Donald E. Cullen
Public Panel Member and Chairperson

December 19, 1997



Peter Killian
Employee Organization Panel Member

* * *

DISSENTING OPINION:

I must respectfully dissent from the opinion of my colleagues with regard to salary increases for City of Auburn Police Officers and paid-up health insurance benefits for retired Police Captains.

In as much as the analysis and award relates to the salary increases for City of Auburn Police Officers, I must respectfully dissent from the decision of my fellow panel members. It is my opinion that the City of Auburn does not have the financial ability to pay salary increases of 4% and 3% effective July 1, 1996, and July 1, 1997, respectively. This opinion is based on the following.

During the two days of hearing the City adequately and persuasively demonstrated to the panel its dire financial condition. This evidence came in the form of documentary and testimonial evidence reflecting past, current and forecasted revenues and revenue losses for the City. The area which caused the most problems for the parties and the Panel were the one-time revenues for fiscal year (FY) 1997-98, and projected revenue losses for FY 1998-99.

The City provided evidence that certain funds the City received in its General Fund for FY 1997-98 were one-time revenues. These one-time revenues came in the form of:

- (1) \$400,000 in aid to Distressed Cities from the State;
- (2) \$300,000 in special purpose grant monies from the Federal Government;
- (3) \$200,000 from the sale of property located on Nelson

Street; and

(4) \$135,000 from insurance recovery monies.

In fiscal years 1995-96 and 1996-97 the City did not receive any similar State or Federal aid to the General Fund. This fact only further solidified the City's argument.

Conversely, the Union argued that these one-time revenues would again repeat themselves in FY 1998-99 because that would be an election year and both the State economy and the State budget were in very good shape.

In my opinion, the City adequately and sufficiently demonstrated that the above-listed revenues were one-time income producers, unlikely to happen again in the near future.

Additionally, the City argued that its inclusion of \$200,000 and \$142,000 for sale of property and insurance recoveries money, respectively, in its FY 1997-98 budget were abnormally high, unlikely to occur again. As such, those revenues should be afforded little weight in determining wage increases. Once again a review of the previous two fiscal years 1995-96 and 1996-97 would corroborate the City's argument.

While the Union took issue with the City's application of insurance recovery monies, it did not dispute the City's claim that the sale of property for FY 1997-98 was disproportionately high from prior budgets.

I find the City's above-stated argument to be compelling and persuasive.

In addition, the City argued that the Solid Waste Fund, which

is an enterprise fund, will have a negative impact on the General Fund for FY 1997-98. The following facts and circumstances supporting this claim were outlined by the City Comptroller. To conform with DEC rules and regulations, the City was required to close its landfill and build new costly "cells", which increased substantially to the cost of running the landfill. The Comptroller forecasted the increased cost to the Solid Waste Department to be approximately \$600,000.

Furthermore, the City provided evidence that the Solid Waste Department based upon current revenues would be unable to meet its projected budget revenue for FY 1997-98. This revenue shortfall would amount to approximately \$400,000.

The City argued that the above shortfall in the Solid Waste Fund not only would effect FY 1997-98, but would negatively impact the General Fund for FY 1998-99 with losses of \$1,000,000 (revenue loss of \$400,000 and increased operating costs of approximately \$600,000).

The Union argued the Solid Waste Fund, as an enterprise fund, should be financed exclusively through user fees and not subsidized by general revenues.

In my opinion, the Union did not adequately provide a counter-argument to the City's bleak financial picture in regard to the Solid Waste Fund. The monies to mitigate the above shortfalls will have to come at least in part from the General Fund.

In summary my fellow panel members opined that "the evidence

concerning FY 1998-99 (was) too mixed and speculative to merit smaller increases today as a hedge against a possibly dismal tomorrow."

My fellow panel members went on further to conclude that "the City has the ability to pay reasonable salary increases in the new contract, and settlements in comparable communities indicate that reasonable salary increases are 4 percent effective July 1, 1996, and 3 percent effective July 1, 1997 ...".

I respectfully disagree with my fellow panel members' finding. It is my opinion that the City presented direct and concise facts evidencing the City's dire financial situation. Let there be no misunderstanding that it is not this panel member's opinion that the Auburn City Police Officers should not be given a reasonable wage increase; however, the above percentage increases are inconsistent with the City's proven financial condition.

Therefore, I must respectfully dissent from my fellow panel members' finding in this regard.

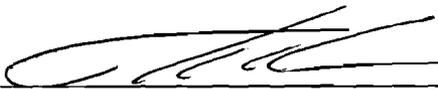
In addition to the above, I disagree with my fellow panel members finding that Police Captains should be provided with fully paid health insurance upon retirement, provided they have served in the rank of captain for eight (8) years prior to retirement. This is a benefit historically reserved for management personnel.

The majority panel's finding that since the Assistant Chiefs in the Fire Department receive this benefit and are second in command, then the Police Captains who are second in command should

receive it also is misplaced inasmuch as the Assistant Chiefs within the Fire Department are not in any Collective Bargaining Unit. There currently exist no bargaining unit positions within the City of Auburn which have this benefit.

Therefore, based upon the above I respectfully dissent from my fellow panel members' finding in this regard.

Dated: January 19, 1998



THOMAS G. LEONE