FF-682-M
(PERB Case No. SF-IM-107-M)

IN FACTFING PROCEEDINGS PURSUANT TO

THE MEYERS-MILIAS-BROWN ACT

In the Matter Between

Teamsters Local 856,
Union,

and

City of Concord,
Employer

Re: Factfinding

Factfinding Panel

Carol A. Vendrillo, Esq., Neutral
Peter Finn, Vice President Teamsters Local 856, for the Union
Kay Winer, Interim Assistant City Manager, for the City

January 7, 2013

Appearances:

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INTRODUCTION

Teamsters Local 856 represents two bargaining units of employees who work for the City of Concord, the Administrative, Technical and Clerical Unit (ATC) and the Field and Operations Unit (F & O). These units are comprised of approximately 150 employees who provide a broad array of services to the City and its residents (RT 79-86; Union Exhibits 1 and 15). They were represented by United Public Employees Local One until April 17, 2012, when Local One was decertified as the exclusive representative by the Teamsters.

The memorandum of understanding between the City and Local One expired on June 30, 2012 (Union Exhibit 1). On May 24, 2012, the City presented a package proposal to the Teamsters. It sought a one-year contract, with an expiration date of June 30, 2013. The City also proposed, effective July 1, 2012, that bargaining unit members pay the entire member contribution toward CalPERS. Employees in the first tier would pay 8 percent and employees in the second year would pay 7 percent. The City would make no contribution toward employer paid member contribution (EPMC). Under the City's proposal, all other terms and conditions of employment, including furloughs, remain unchanged (City Exhibit 8; Union Exhibit 9).

On May 29, 2012, the Union presented its "Restoration Package Proposal." It also proposed a one-year agreement. It sought no furloughs during the term of the agreement and unfreezing of salary steps. In addition, it proposed a retirement "swap," whereby, effective July 1, 2012, bargaining unit members would receive a base wage increase of 3 percent in exchange for their agreement to pay the additional amount necessary to equal payment of the full member contribution to PERS retirement (8 percent for tier one employees and 7 percent for tier two employees). The Union sought a second retirement "swap," under which the City would make a 5 percent increase to each bargaining unit member's compensation. This swap is in exchange for the 5 percent of salary that bargaining unit members began paying toward their PERS retirement in 2010 and 2011 without a corresponding wage increase (Union Exhibit 10).

The parties were unable to reach agreement and, on August 14, 2012, the Public Employment Relations Board advised the undersigned Arbitrator that a factfinding panel would be convened to recommend to the governing body the terms of settlement of the parties' bargaining impasse. Kay Winer, Interim Assistant City Manager, was selected to serve as the employer's panel member. Peter Finn, Vice President of Teamsters Local Union No. 856, was selected to serve as the exclusive representative's panel member.

The panel met on August 21, 2012, to discuss the issues in dispute and the procedure the panel would follow in conducting hearings and formulating its recommendation. The parties' representatives, Ms. Winer and Mr. Finn, agreed to waive the timelines set out in Government Code Section 3505.5. PERB was made aware of the parties' waiver on August 25, 2012. On September 13, 2012, the panel again met. Present at this meeting was Jonathan Holtzman and Albert Yang, attorneys for the City, and Jason Rabinowitz, attorney for the Union.

A hearing was convened by the panel in Concord, California. On October 9, 10, 11, 17, and 26, 2012, witnesses were called to provide sworn testimony and exhibits were introduced into the record. A court reporter prepared a verbatim transcript of the hearing. The parties reached stipulations regarding the costs associated with various proposals;

these were presented to the panel on November 11, 20, 2012. On November 21, 2012, the parties provided the panel members with written closing briefs.

On December 3, 2012, the panel met and discussed the issues in dispute. By agreement of the parties, on December 17, 2012, the panel chairperson provided Ms. Winer and Mr. Finn with a written draft of the recommendations to be submitted to the governing body. The panel met again on December 21, 2012, to review each member's positions with regard to all outstanding issues and a final recommendation, with concurring and dissenting opinions attached, was thereafter provided to the parties.

PARTIES POSITIONS

The Union's position. The employees have sustained drastic cuts in their compensation over the last three years. These cuts were accepted in recognition of the financial difficulties the City faced due to declining tax revenue caused by the recession. The employees agreed to 13 furlough days, which corresponds to a 5 percent salary reduction; and an increase of 2 percent in employees' PERS contributions on July 1, 2010, and an increase of 3 percent in employees' PERS contributions on July 1, 2011. As a result of the furlough and the 5 percent increase in PERS contribution, bargaining unit employees have lost 10 percent of their salaries. The Union's proposal seeks to restore these cuts.

Increases in the consumer price index have compounded the negative effect of the employees' cuts in compensation. The CPI for the San Francisco-Oakland-San Jose metropolitan area increased by 7.8 percent from August 2009 through August 2012. Coupled with the compensation cuts, employees' real income has fallen behind by more than 19 percent since 2009.

Based on the City's Certified Annual Financial Reports, Dr. James Kimball accurately concluded that the City can afford to restore the cuts to employees' compensation. Although the City's net assets decreased by $16 million, to $796 million, the City's government fund balance increased by $8.2 million and its general fund balance increased by $10.9 million. The City's revenue has experienced modest growth over the past fiscal year; although property tax revenues were down, government revenues increased by $3 million, general funds increased by $2 million, and sales tax revenues stabilized and increased by $1 million. This year, the City's prediction of a beginning fund balance of $6 million was revised to show a $10 million beginning fund balance. The City carries very little debt, less than 12 percent of the general fund.

The City's 10-year plan is based on speculative and unreliable forecasts. The 10-year plan, while useful for general planning purposes, is not properly relied on for determining employees' current compensation, formulating its economic bargaining proposals, or justifying the maintenance or extension of cuts to employees' compensation. The City has received over $10 million a year in Measure Q funding. Using these funds to build up excessive reserves increases the risks caused by deferred maintenance and the negative effect on employee morale.

Although the City has "baked in" furloughs into the 10-year plan, they were proposed as a temporary measure and never intended to extend past the term of the expired contract.

Funds derived from Measure Q appropriately may be used to protect and restore City services through the elimination of cuts to compensation, including furloughs. Diverting Measure Q funds to bloat the City's reserves over the next 10 years to levels exceeding 40 percent of the overall fund is inconsistent with the voters' desires. Nothing in Measure Q, the City Attorney's analysis, or in the official voter guide precludes the use of Measure Q funds to restore services.

On average, employees of Concord are compensated 18.16 percent below employees of comparable jurisdictions. Even relying on the analysis of City expert Geoff Rothman, City employees are compensated, on average, 7.6 percent below employees of comparable jurisdictions. The jurisdictions used by Union expert Ken Akins are more comparable than those used by Mr. Rothman.

The interests and welfare of the public favor an end to the furloughs. Public safety has been compromised and maintenance of critical City infrastructure has been neglected.

The City's position. Proposition 218 prevents local governments from imposing any new general tax without approval by a majority vote of the electorate. Propositions 13 and 8 combine to further constrain the City's collection of property tax revenue. Because of these state laws and the unlikelihood that voters will extend the five-year term of Measure Q, spending Measure Q funds on ongoing labor costs is unwise.

The City's policy priority of eliminating the Employer Paid Medical Contribution (EPMC) is consistent with the recently enacted Public Employees' Pension Reform Act. The City must ensure that employees are contributing at least the employee share of the pension costs.

Measure Q was enacted to help protect and maintain the City's existing level of services, not to restore cuts or employee concessions. It would be inappropriate to restore services at the risk of necessitating addition and deeper cuts in the future. Given the temporary nature of Measure Q revenue, the City would fail in its commitment to protect services it if did not plan for the time after Measure Q expires.

Labor policies adopted by the City as local rules and regulations prioritize fiscal responsibility. This includes the City's longstanding reliance on a 10-year plan as part of its budget process and its targeted 30-percent level of reserves.

Concord continues to face a structural deficit and does not have the ability to increase employee compensation. Recent increases in the City's costs largely have swallowed up the savings achieved through employee concessions. Pension rates have increased, medical insurance costs have increased, and the City's closed retirement program is severely underfunded.

The Union's proposal would increase the size of the City's structural deficit. Eliminating furlough days and unfreezing the steps for the ATC and F & O units alone would cost the City approximately $880,000. When the 5 percent and 3 percent retirement swap is included, the Union's proposal would increase the City's cost for the two units by $1,460,196. Given the uncertainty of the City's revenues, it cannot reasonably add this amount to its expenses this year and must maintain the status quo.

Restoration of the 104 furlough hours would result in harm to public services. Furloughs allow the City to maintain a wider range of services and avoid layoffs. The public interest in preventing further cuts is far greater than the public interest in restoring furlough days. The cost of backfilling forensic specialists and dispatchers is minimal compared to the savings achieved by the furlough program overall.

Concord provides its employees with a generous retiree medical benefit, significantly higher than other comparable jurisdictions. The stability of this benefit to City employees is part of overall compensation.

Concord's overall compensation is in line with comparable jurisdictions. The jurisdictions used as comparables by the City, including Contra Costa County, are more appropriate in terms of the City's relevant labor market. The Union analysis failed to capture the total compensation provided by the City, in particular, the retiree medical benefit.

The City has never asserted that the furloughs are permanent or that they will last for a specific duration. Nonetheless, the furloughs were not meant to expire at the end of the term of the MOU, as the Union contends.

DISCUSSION

At Government Code Section 3505.4(d), the Meyers-Milias-Brown Act sets forth criteria the factfinding panel must consider, weight, and be guided by in determining the recommendation it will make to the governing body of the City. These are:

(1) State and federal laws that are applicable to the employer.

(2) Local rules, regulations, or ordinances

(3) Stipulations of the parties.

(4) The interests and welfare of the public and the financial ability of the public agency.

(5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and

conditions of employment of other employees performing similar services in comparable public agencies.

(6) The consumer price index for goods and services, commonly known as the cost of living.

(7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

In formulating its recommendation in light of these factors, the panel first recognizes certain significant events that have occurred and play a role in understanding the current nature of the parties' relationship. As noted above, employees in the two bargaining units now represented by the Teamsters had been represented by another employee organization until April 2012.

The former exclusive representative bargained on behalf of these employees at the time their prior MOU was reached and when employees agreed to various concessions. Specifically, employees agreed to accept 13 furlough days, which resulted in a 5 percent salary reduction, commencing on July 1, 2009. A freeze was placed on all step increases. On July 1, 2010, employees' PERS contribution increased by 2 percent and, one year later, on July 1, 2011, employees' PERS contribution increased by 3 percent (Union Exhibits 4, 6, 7, and 8). When considered together, since July 1, 2009, members of the

ATC and F & O bargaining units have seen their salary reduced by 10 percent (Union Exhibit 11). Factoring in inflation of 7.8 percent, the real income of employees decreased more than 19 percent since 2009 (RT 263).

This was the state of affairs when the Teamsters decisively decertified the incumbent representative.[1] With the contract set to expire on June 30, 2012, the Teamsters came to the bargaining table keenly aware that employees were frustrated and that low morale permeated their ranks; these workers felt it was time to restore the concessions they made to help the City get through the worst of its economic hard times.

For its part, the City came to the bargaining table mindful of the employees' concessions, but not convinced that its fiscal health had sufficiently revived to justify increases in its labor costs or that it could restore prior cuts in employee wages.

The panel's review of the record seeks to scrutinize the parties' specific budgetary claims and fiscal prognostications. However, employees' expectations, labor peace, and a positive labor/management relationship, while difficult to measure in monetary terms, must weigh heavily in the Council's response to the panel's recommendation.

Government Code Section 3505.4(d)(1) and (2). State and federal laws and local rules, regulations, and ordinances.

With respect to state laws to which the panel must pay heed, the City cites to Propositions 8, 13, and 218 and emphasizes that it is very difficult under current California law to raise revenues. This is true.

Proposition 218 is a constitutional provision that prevents a local government agency from imposing any new general tax unless and until it is submitted to the

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[1] In the ATC unit, 88 percent of the members voted; 93 percent cast their ballots for the Teamsters. In the F & O unit, 91 percent of the members voted; 100 percent cast their ballots for the Teamsters (Union Exhibit 2).

electorate and approved by a majority vote. Propositions 13 and 8, also part of the state Constitution, place limits on the City's ability to collect property taxes. These measures present real challenges to a local public entity when it struggles to balance its budget.

That being said, it is against this backdrop that all California municipalities are required by the Meyers-Milias-Brown Act to engage in good faith collective bargaining with employee organizations that represent its employees. The legislature was aware of this obligation when it enacted A.B. 646 and, as part of the factfinding process, included state laws as one criterion to be given consideration by the panel in formulating its recommendation to the governing body. The difficulty the City of Concord faces in raising revenues as a result of these propositions is recognized and is incorporated into the give-and-take of collective bargaining. It is part of the landscape and an obstacle all local governments must contend with when struggling to resolve bargaining impasses under the MMBA.

Regarding local laws, the City points to ordinances it has enacted in connection with the passage of its annual budget and the approval of its 10-year plan. Under Government Code Section 3505.4(d)(2), the panel has considered these local rules and regulations and, in so doing, does not reject the value of long-term budgetary planning. The panel recognizes that, for many years, the City Council has embraced the 10-year plan as one of its core priorities (RT 230). But, in the context of this factfinding process and the factors delineated in Government Code Section 3505.4(d), the Council's election to operate under a 10-year budget plan does not limit or place boundaries on the City's obligations under the MMBA. The state statute requires public entities to engage in good faith negotiations, including the impasse resolution procedure adopted by the legislature as A.B. 646. The City's self-imposed budgetary philosophy does not negate or limit that obligation.

Government Code Section 3505.4(d)(3). Stipulations of the parties.

The parties reached several stipulations regarding the costing of proposals. They have stipulated that the current salaries for employees in the ATC and F & O units total $7,369,670; 1 percent of that is approximately $73,697. Because a change in salaries impacts the cost to both the City and the employees, the parties also stipulated that these salary-driven costs amount to $9,926,599 to the employer. The current total cost of employees in the ATC and F & O units, including salary-driven and non-salary-driven items equals $13,223,488. Restoring the 104 furlough hours would increase the total cost of employee salaries in the two units by $387,880 in each year, over the cost with 104 furlough hours. Restoring the 104 furlough hours would increase the cost to the City of all salary-driven costs for employees in the two units by a total of $522,431 in each year, over the cost with 104 furlough hours. Per the parties' stipulation, each 8-hour furlough day represents $29,837 in salary only and $40,187 in salary-driven cost. Taking into account the number of employees in the City tier 1 and tier 2 pension plans, the City currently pays an average of approximately 2.94 percent in EPMC. Taking into account the number of employees in salary step 5 and steps 1 through 4, if the City granted step increases, the average increase would be approximately 3.6 percent of salary.

Government Code Section 3505.4(d)(4). Interests and welfare of the public and the financial ability of the public agency.

Dr. James Kimball, who testified for the Union, relied on the Certified Annual Financial Reports. Although these reports are not the most current assessments of the

City's financial status, they have the advantage of reflecting the City's actual financial performance (RT 194). For that reason, the CAFRs are a more reliable method of measuring the City's economic well-being than the City's 10-year plan, which, by all accounts, is an estimation of future events.

It is true that the City's net assets diminished by $16 million, to $796 million, a decrease of approximately 2 percent over the previous year (Union Exhibit 13). But there are other indices that are positive. The City's government fund balance is up by $8.2 million; the general fund balance is up by $10.9 million (RT 198; Union Exhibit 13). These funds are generally unrestricted, and can be used to fund restoration of the cuts to employees' wages (RT 199-200). While this includes a one-time transfer of redevelopment assets, and is not a recurring increase, it is a snapshot of the City's current budget (City Exhibit 19).

In terms of revenue sources, for fiscal year 2011, government revenues were up $3 million and general fund revenues increased by $2 million. Sales taxes were up by a modest $1 million, but have not yet regained pre-recession levels of $29 million (Union Exhibit 13; City Exhibit 20, Sales Tax Revenues). As the economic recovery continues, there is every reason to expect that, at a minimum, sales tax revenues likely will return to pre-recession amounts. [2]

It is not disputed that the City's property taxes are down[3] and the panel is fully aware that the increase in this revenue is critical to the City's financial stability. While growth in property taxes will not be swift, the sense is the City's economic health is

[2] Between FY 2010-2011 and FY 2011-2012, sales tax increased by 6.4 percent; the projected increase between FY 2011-2012 and 2012-2013 is 6.5 percent, up to $25.4 million from the $29.1 million peak (City Exhibit 20).

[3] Property tax revenue has decreased $3.6 million, 16 percent, since FY 2007-2008 (City Exhibit 20, Property Tax Revenue).

improving and is better than previously reported. For example, the City revised its beginning fund balance up from $6 million to $10 million (RT 210; Union Exhibit 10; City Exhibits 9 and 10). The City's financial health also is revealed by its debt relative to its overall budget. In Concord, it is less than 12 percent of the general fund (Union Exhibit 13; RT 201). Thus, as Dr. Kimball concluded, the City's overall financial picture is positive and it can afford a reasonable increase in compensation to these bargaining unit employees (RT 192; Union Exhibit 13). Even without Measure Q funding (RT 220).

Dr. Kimball's assessment of the City's financial health is at odds with the forecasts made by Ken Campo (City Exhibit 20). However, Dr. Kimball's testimony cast doubt on the reliability of Mr. Campo's projections. Dr. Kimball cited a number of statistical tests and predictive modeling typically used to ensure the soundness of financial projections (RT 362-363; 366). As examples, he explained to the panel the use of regression analysis, sensitivity testing, and back casting. None of these was employed by Mr. Campo (RT 336; 343). Thus, Mr. Campo's forecasts appear speculative and, when integrated into the City's 10-year budget plan, offer slight basis for outright dismissal of the Union's request for wage increases for this year.

The City's assessment of its financial ability relies on having furloughs "baked in" to its 10 year plan (RT 1013-1015). The appropriateness of this is questionable. First, the City has admitted it never intended the furloughs to be a permanent fixture of City employment. Former Mayor Guy Bjerke offered strong testimony that the furloughs were "absolutely not" intended to be permanent (RT 166-167). Similarly, Valarie Barone, Interim City Manager, testified that, while furloughs are reflected in the 10-year plan, the plan is a financial model that is not binding on the City and the Union (RT 665-667).

The City argues that the parties' intent during the prior round of bargaining, when the Teamsters were not the employees' exclusive representative, is outside the scope of the factfinding panel's legitimate inquiry. Nonetheless, what is before the panel is the City's continued use of the furlough-impacted wage levels as a base line in the 10-year plan and, more importantly, the need for the City to maintain the 5-percent compensation savings derived from the furloughs going forward.

This question brings to the fore the impact of Measure Q funds on the City's financial ability to satisfy the Union's wage demands. On its face, Measure Q money is to be used to protect and maintain City services. Nowhere in the language of the ordinance or the official publications associated with the measure are the voters informed that this revenue would be used to restore those City services that already had been cut (Union Exhibit 12). But, it appears to the panel that too fine a distinction has been drawn between efforts that will protect and maintain City services and those that will restore City services to pre-recession levels. For example, one of the stated purposes of Measure Q is 911 response times. The work performed by dispatchers, members of the bargaining unit represented by the Teamsters, has a direct bearing on 911 response time. Measure Q revenue also is to be used to fund law enforcement. This function is impacted by the furloughs of bargaining unit members because police officers are used to fill in for dispatchers and crime investigators, thereby diverting officers from their patrol work. The same can be said with regard to gang prevention, also a specific purpose for Measure Q funding. Measure Q also mentions fixing streets and filling potholes, tasks performed by employees represented by the Teamsters. These stated targets of Measure Q funding are integral to the tasks performed by employees in the ATC and F &O bargaining units.

Continuing to furlough these workers 13 days a year fails to protect or maintain the services voters were told were the justification for increasing the sales tax by one-half-of-one percent. Using Measure Q funds now to eliminate furlough days lessens the risk that the City will have to spend more money in the future to repair services it has neglected through deferred maintenance. In sum, it is not a stretch to read Measure Q's purpose of protecting and maintaining City services and infrastructure as consistent with and furthered by the elimination of the furloughs.

More importantly, voters were not informed that the City was going to use Measure Q funds to build up its reserves. Dr. Kimball agreed that, while maintaining a 15-percent reserve is on the high side, it is still prudent. In the 10-year plan, however, the reserve goes up to 40 percent in FY 2015-2016 (City Exhibits 9 and 20). This is not prudent (RT 208). By using Measure Q money in this way, the City loses the opportunity to protect and maintain services performed by City workers. The panel understands the City's reserves were used to fend off drastic fiscal cuts and, if the City had not started with a 30-percent reserve, deeper cuts and layoffs could not have been avoided.[4] But, looking backwards does not justify maintaining high reserves when Measure Q adds $10 million to the City's annual budget.

Measure Q is not on-going funding, as the City correctly asserts. But, it is not one-time money either. Measure Q funding adds to the City's coffers every year over a five-year period. Because of this, it is appropriate to make good use of this added revenue now, as it is collected, to end furloughs that continue to take workers away from their jobs and to modestly increase the compensation of those City employees charged with protecting and maintaining City services. The Council's decision to put aside Measure Q

[4] City Exhibit 20, Historical General Fund Reserves.

funds to buy time for the economy to recover may be defensible from a public policy stand point, but it is not consistent with the stated purpose of the funding measure.

Government Code Section 3505.4(d)(4) directs the factfinding panel to consider, weigh, and be guided by both the City's financial ability and the interests and welfare of the public. While no one can predict with certainty what the City's financial ability will be, going forward, the City's current finances are sound. The interests and welfare of the public are furthered by increasing the compensation of employees who, since 2009, have had to contend with a 19 percent drop in earnings.

Government Code Section 3505.4(d)(5). Comparable jurisdictions. Although there was a considerable amount of testimony and documentary evidence introduced regarding a comparison between Concord and similarly situated jurisdictions, the panel's report only briefly addresses this factor. This is because, in the opinion of the panel chairperson, comparability data is easily manipulated by such skilled advocates as were involved in this factfinding process.

Union witness Ken Atkins convincingly argued that he included Sunnyvale and Santa Clara because these jurisdictions had been used historically by the parties as acceptable comparable agencies. The City's witness Geoff Rothman persuasively argued that Contra Costa County was appropriately included in the comparable jurisdictions because the majority of City workers reside in the County (RT 879; 883-884). However, experts such as Will Atchison point to population as the dominant factor in identifying comparable jurisdictions. With a population ten times the size of Concord, by this measure, Contra Costa County is not a good comparison. Convincing arguments can be made for including Social Security or not, and for including compensation enhancements like longevity increases or not. The difficulty of identifying the precise employee classifications to compare further dilutes the value of comparability data, especially given variation in the breadth of services a public agency may provide.

In the end, despite the vagaries in the sampling, the panel notes that Union data shows City employees to be, on average, 18 percent behind the jurisdictions it polled (Union Exhibits 29-35). Relying on data collected from the jurisdictions it sampled, the City shows Concord workers' wages fall behind by 7.6 percent, on average (RT 963-964; City Exhibit 32). By either measure then, employees in classifications represented by the Teamsters fall below their counterparts in similar public agencies in California.

Government Code Section 3505.4(d)(6). Consumer price index.

In the San Francisco-Oakland-San Jose area, the cost of living increased by 7.8 percent from August 2009 through August 2012 (RT 214; 263). The reduction in take home pay on employees by virtue of the furloughs and the 2 and 3 percent increases in PERS contributions, with inflation, is 11.84 percent. When the 7.8 percent CPI is factored in, employees' compensation has decreased by 19 percent over the last three years.

Government Code Section 3505.4(d)(7). Overall compensation.

The City has convinced the panel that the Union failed to give appropriate weight to the City workers' retiree medical benefit. This benefit is expensive; the normal cost of the annual required contribution accounts for 7.9 percent of payroll for the City's miscellaneous employees (City Exhibit 22). And, this benefit is generous as compared to other public entities. On average, it is 224 percent higher than comparable jurisdictions for tier one employees and 373 percent higher than comparable jurisdictions for tier two employees (City Exhibit 33). Moreover, because the City is pre-funding retiree medical benefit, it affords employees a dependable and stable employment perquisite (City Exhibit 22; RT 458; 441-443).

Government Code Section 3505.4(d)(8). Additional factors.

During the course of the hearing, the panel heard testimony from City employees who are members of the two bargaining units represented by the Teamsters. They spoke about how furloughs have forced them to defer maintenance, causing City infrastructure to deteriorate and negatively impacting the health and safety of City residents. It is clear these employees desire to do the best job they can for the City and to provide excellent public services. In addition to giving testimony, several City workers attended the factfinding hearing and were observed for five days, interacting among themselves and with individuals on the management side of table. From these observations emerged a very tangible feeling of their commitment to the City and their earnest desire to make a contribution to the City's future well-being.

The City's "human capital" is an additional factor the panel has considered and weighed as part of this factfinding process. While difficult to quantify, the City's workforce is a valuable asset to Concord. City workers who testified before the panel are hard-working individuals who have taken wage cuts and suffered because of it. The concessions they made have had a real impact on their lives, on where and how they live. This income has been lost and will never be restored.

In deciding how to proceed in the future, the panel sees the value of investing in this human capital. It is an important additional factor the panel has utilized to arrive at its findings and recommendations.

CONCLUSIONS

The panel has attempted to consider, weigh, and be guided by the factors delineated in Government Code Section 3505.4(d). It has reviewed the testimony of witnesses and the documents introduced into the record in an effort to assess the strengths and weaknesses of the parties' positions. Factfinding is, however, an extension of the collective bargaining process and, because of that, it draws in large part on the art of persuasion. At the bargaining table, the parties try to persuade each other. In factfinding, the parties try to persuade the panel of the soundness of their positions and the "facts" on which their positions are based. We know, however, that facts can be selectively chosen or omitted. They can be parsed and presented in ways that suit their promoter.

Collective bargaining also is a matter of making choices and of identifying and acting on priorities. The case can be made that wages may be increased without jeopardizing the City's fiscal soundness. Conversely, the case can be made that the economy remains uncertain and, therefore, the City should maintain the status quo. Both can find validation in the "facts" brought forward in the course of the hearing. In the end, it is a choice that falls to the City Council.

The "best practices" of the General Finance Officers Association instructs that the scope of a long-term financial plan "should consider all appropriated funds, but especially those funds that are used to account for the issues of top concern to elected officials and the community." (City Exhibit 20, Best Practices.)

The statute directs the factfinding panel to present a recommendation for consideration by the governing body. For the reasons expressed above, it is this panel's recommendation that furloughs be discontinued and that the freeze on salary steps be lifted. Bargaining unit members should be given a wage increase of 3 percent in exchange for payment of the full member contribution to PERS retirement, depending on whether they are enrolled in tier one or tier two of the retirement plan. The panel also recommends that employees be given a 3-percent wage increase as a first step in restoring the wage concessions they accepted in 2010 and 2011. In the interest of stabilizing labor relations while at the same time recognizing the uncertainty of the City's financial strength going forward, the panel recommends a two-year agreement with a reopener on wages during the second year.

Dated: January 7, 2013

CAROL A. VENDRILLO, ESQ.
Panel Chair

Kay Winer : I dissent
Kay Winer,
Interim Assistant City Manager, City Member

Peter Finn,
Teamster Vice President, Union Member

The City's dissent begins on the following page.

As a member of the fact-finding panel for the proceedings between the City of Concord (City) and Teamsters, Local 856, (Union), representing the City, I dissent to the panel chair's (Chair's) January 7, 2013 recommendation.

I. Introduction

The Chair's recommendation is rendered under the framework of a new state law, AB 646, which authorizes public employee unions to demand non-binding fact-finding after the parties have reached an impasse in negotiations, and mediation has failed. In this case, the parties entered fact-finding far apart – a reality that this recommendation sadly will do nothing to improve.

In 2010, the City, like virtually all cities in California, reached agreements with its Unions to reduce personnel costs to help address major structural shortfalls in the City's Budget primarily caused by the Great Recession and increases in the cost of employee benefits. These agreements included furloughs, freezing employee compensation, sharing 50/50 all medical cost increases, and employees paying part of the Employee Contribution towards their pensions.[1] That same year, the voters passed a temporary tax measure (Measure Q) to help the City preserve services. In addition to raising taxes for five years, Measure Q created a Citizen Oversight committee charged with reviewing and reporting on the use of Measure Q funds.

In order to preserve services even after Measure Q expires, the City Council and the Measure Q Oversight Committee set a policy of restoring the City's reserves with any excess revenue that was not necessary to bridge the City's structural deficit. The City Council and the Measure Q Oversight Committee have made clear that the City must protect public services, reduce its structural budget deficit, and move cautiously and gradually on any ongoing expenditure increases – keeping in mind that the temporary revenue voters provided with the passage of Measure Q expires in just over three years from now, and that assessed valuations in Concord are down over 60% from their peak and still have not bottomed out.

Nonetheless, despite the still sluggish economy, the Union has proposed:

(1) eliminating all furloughs (increasing compensation by 5%);

(2) ending the freeze on employee compensation (so employees will receive salary "step increases" of 3-5%); and

(3) increasing wages by an additional eight percent (8%).

Shockingly, the Chair has recommended that the Council accept the Union's position virtually in its entirety. In fact, the Chair has proposed raising employee compensation (wages

[1] The Government Code provides that employees should pay 7-9% of their salaries towards their pensions, depending on their pension formula. In good years, the City had agreed to pay both the City contribution and the employee contribution. In 2010, employees agreed to pay 5% of the Employee contribution. The City still pays 2-3% of the employee contribution plus the entire City contribution

and pension costs) by an average of **<u>12.3% in a single year</u>**,[2] with a "reopener" to negotiate further increases in six months. The Chair's recommendation makes it clear that she believes that the City should raid the Measure Q reserve to pay for these wage increases, second-guessing core financial policy decisions the voters have placed in the hands of the elected City Council and the Measure Q Oversight Committee.

As a result, the Chair's recommendation is singularly unpersuasive and I must dissent on nearly every point.

II. Discussion

Before I explain my opposition to the Chair's recommendation in detail, I will preface my dissent by acknowledging that there is one point on which the Chair and I wholeheartedly agree: Concord's employees provide excellent public services and are deeply committed to the City. They have unquestionably made significant sacrifices to help the City address the dramatic budget shortfalls it has faced due to a combination of falling revenues and huge increases in employee and retiree benefit costs.

The Council and the public, in turn, have worked hard to protect *employees*, a fact that the Chair's recommendation, if adopted, would actually undermine. For example, the Council not only agreed to use a large proportion of the City's reserves to preserve jobs and benefits, it also proposed a ballot measure that, upon passage, reduced the need for severe cuts, despite an $8 million deficit. In addition, the City has made a priority of minimizing involuntary lay-offs, instead choosing to reduce staff through attrition and offering a generous early retirement package. Thus, despite shrinking its workforce by 119 positions, the City was forced to lay-off only *eight* employees over the past three years.

The City's commitment to avoiding job and service cuts has shaped its positions in fact-finding and drives this dissent. With regard to furloughs, I agree that they should be eliminated, both because of their impact on employees and their inevitable effect on public services. But the cost of eliminating furloughs altogether represents a 5% increase in wage and pension costs for every member of the bargaining unit. In light of the City's continuing structural budget deficit, the only responsible way to end furloughs is to spread the reductions over a period of years or pair them with full employee contributions toward the *employee* share of their pensions.

The Chair's proposal that compensation be increased by an average of 12.3% in a single year is not even remotely responsible and shows a complete lack of understanding of the delicate balance the City Council has needed to strike in the past few years. An increase of that magnitude would only lead to devastating service cuts and layoffs in the near future.

The central flaw in the Chair's reasoning is the inappropriate elevation of her own views on labor compensation over policy decisions of the Council and the Measure Q Oversight Committee, which represents a broad spectrum of Concord's community. Measure Q is a

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[2] Actual increases will run from 11-13% in wages plus an additional 0.7% increase in the City's cost for pension benefits due to a "trade" of 3% wages for the employees paying their full Employee Contribution towards the pension.

temporary sales tax increase that will end in a little more than three years. The City currently relies substantially on Measure Q revenues to cover its ongoing structural deficit. As reflected in the policies adopted by the citizen Oversight Committee and the Council, when Measure Q expires, the City will need to rely on some of the money collected today to fund jobs and operations in future years. Strangely, the Chair does not agree that the City should be fiscally prudent and put this money aside; moreover, as her recommendation makes clear, she believes that saving that money would be inconsistent with the will of the voters.

In rejecting the policy of the Council and the voter-created Measure Q Oversight Committee, the Chair strays far beyond her authority. More to the point, however, the idea that voters passed Measure Q as a way to satisfy pent-up demand for employee wage increases, *rather than protect public services*, now and into the future, is a true perversion of voter intent.

1. **The Role of Measure Q**

The voters specifically created the Measure Q Oversight Committee to ensure the money derived from that measure was wisely spent. That Committee, and ultimately the Council, knowing the City continues to run a large deficit without the Measure Q funds ($5.5 million in fiscal year 2012-13), determined that some of the money should be conserved so that the City can preserve services and avoid a "fiscal cliff" even after the Measure Q tax increase expires. The unelected Chair of the fact-finding panel has second-guessed this policy decision.

It is worth remembering that in passing Measure Q, the voters were told there would be sacrifice on all sides. The *voters* sacrificed by increasing the local sales tax by a full 0.5% for five years; the *employees* sacrificed by agreeing to pay a portion of their retirement and health costs, taking furloughs and freezing compensation increases. The Chair now suggests that the City Council unwind this bargain, and increase wages by an average of 12% overnight! Such a decision would be a serious betrayal of the people of Concord.

2. **The Recommendation to Provide an Average 12.3% Increase, with the Potential for Even Greater Increases, Is Out-of-Touch with the Reality of Concord's Finances**

The chair recommends that the City: (1) discontinue the use of furloughs – a 5% increase in pay; (2) lift the freeze on salary step progression – a 3-5% increase in pay for every bargaining unit member; (3) provide an additional 3% across-the-board wage increase; (4) provide another 3% wage increase *in the same year* in exchange for employees' payment of the *employee contribution* for pension (this "trade results in a 0.7% increase in pension benefit cost)[3]; and (5) agree to negotiate yet another wage increase in the second year of a two year agreement.

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[3] This component of the chair's proposal suggests a fundamental misunderstanding on her part; namely, the City cannot simply "swap" a 3% wage increase for 3% contributions by employees to their pensions: When the City provides a 3% wage increase, it must also pay more for "salary-driven" costs like payroll taxes and employer pension contributions, which amount to more than 30% of salary. By contrast, employee contributions to pension are pre-tax and are made as a percentage of salary only, without any effect on salary-driven costs.

This represents a total average increase of 12.3%, with the potential for *even more increases* in the second year.

No public employer in California is providing this type of increase in compensation. A 12.3% increase would be very generous even in a thriving economy, and while the City has emerged from the depths of the recession, it is not out of the woods by any means. The City must still address a $5.5 million annual structural deficit. And assessed valuations of residential property (and thus property tax revenues) are still falling in Concord even as they are stabilizing elsewhere.

The Union's theme in fact-finding – and the theme apparently adopted by the Chair – is that the City should restore wages to pre-recession levels. But the City's economy has not returned to its pre-recession strength, while costs of pension and other benefits have skyrocketed. The City's cost of funding employee pensions has increased by almost *60%* from 2009 to 2012; this increase alone represents the equivalent of a 9% increase in employee salaries.

At the end of the day, the Chair's 12.3% recommendation would lead to unprecedented job and service reductions -- *precisely what the voters sought to avoid though the passage of Measure Q.*

Based on the parties' stipulated agreement on costs of the various proposals, the recommendation would add at least $1.25 million in additional *ongoing* labor costs for the Teamsters bargaining units alone. In addition, I estimate that implementing the recommendation for *all* non-sworn employees would create approximately $2.5 million in ongoing costs. This represents a 45% increase in the structural deficit. The City is already using more than half of the revenue from Measure Q this year to fund its $5.5 million annual structural deficit. It has set aside the remainder to soften the impact of the $8-10 million drop in revenues the City will experience when Measure Q expires and to fund the remaining structural deficit at that time. The more the City adds to the deficit today, the deeper the cuts the City will have to make when Measure Q expires.

3. The Recommendation Completely Ignores the City's Significant Structural Deficit; the Chair's Analysis of the City's Financial Condition Is Inadequate.

It is shocking that the Chair's recommendation is based solely on a vague "sense [. . .] that the City's economic health is improving," especially because this "sense" arises out of the City's Comprehensive Annual Financial Report (CAFR)[4] – a two-year-old document whose analysis does not even reflect the City's operating budget or the significant increases in pension and benefit costs over the past two years.

[4] A CAFR is a financial statement that complies with a series of regulations promulgated by the Governmental Accounting Standards Board (GASB), and which all California cities must prepare. Because a CAFR is an audited statement prepared after the end of a fiscal year, it is a one-year snapshot and is necessarily outdated by the time it is released; the City's most recent CAFR covers the period from July 1, 2010 to June 30, 2011. In addition, a CAFR must account for all assets and liabilities a City carries, regardless of their liquid or illiquid nature. For example, a CAFR counts investments and infrastructure as assets and depreciation in property as a liability. A CAFR also includes funds that are restricted to specific purposes, such as those held for capital improvements. It is therefore difficult to analyze the limitations of the City's operating budget on the basis of its CAFR.

Remarkably, the Chair's recommendation fails to mention the structural deficit even once in its discussion of the City's financial condition. As I've noted, in the *current year*, the City's ongoing revenues will fall short of ongoing expenditures by $5.5 million. If not for the temporary boost in revenue provided by Measure Q, the City would be hemorrhaging cash. And, no matter how rapidly the City's economy recovers, it is unrealistic to expect that this structural deficit will disappear in the near future.

The current structural deficit is a hold-over from the depths of the recession. In 2010, despite already having cut $10 million in planned spending, the City still needed $13 million in additional cuts. By the time the City proposed Measure Q, the City had made $5 million in cuts, but was unwilling to lay off more of its employees or further compromise public services. The additional revenue generated by Measure Q allowed the City to avoid additional dramatic cuts at the time, and now allows the City to close its structural deficit through economic recovery rather than severe expenditure reductions.

While the deficit has been shrinking as planned, it still represents almost 8% of the City's annual general fund budget.

The persistence of the City's structural deficit can be attributed to a few factors. First, it is a sign of how far the City's revenues fell during the recession. Sales tax revenue fell by $6.7 million, or 23%, from its peak, while property tax revenue has fallen $3.6 million, or 16%, from its peak and continues to fall. Though sales tax revenue is beginning to recover, it is still well below pre-recession levels, and, unlike other Bay Area cities, Concord continues to see declining property values. In fact, the *decline* in both assessed valuations of residential property and property tax revenue in Concord has actually been *accelerating* for the past three years.

Second, it highlights the fact that recent increases in employee pension and health costs have largely swallowed the savings achieved through employee concessions. As noted above, between 2007 and 2012, pension rates have increased by 60%, representing 9% of employee salary. In 2013, the City's contribution for pension will increase by an additional 2% of salary, resulting in an overall increase in the City's contributions to employee pensions of 73% above 2009 levels. In addition, over this time period, increases in the City's contributions for medical insurance represent an additional 2% of salary.[5]

Rather than acknowledging and addressing the structural deficit, the Chair's recommendation simply adopts the vague conclusion that "the City's overall financial picture is positive." The recommendation relies on testimony from the Union's economic expert: the Teamsters' in-house Washington D.C. economist, who is admittedly unfamiliar with municipal finance in California[6] and whose analysis focused on the City's two-year old CAFR rather than the current operating budget.

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[5] Importantly, the City has also been funding its annual contribution to retiree health care at the rate of more than 13% of payroll annually; that cost is due, in large part, to the wild increases in health care costs that have occurred in recent years and are expected to continue.

[6] The Union's expert admitted during fact finding testimony that he has no true understanding of Propositions 13, 8, and 218, which are essential pieces of the legal and fiscal landscape in which California cities operate, and which

The Chair's assessment of the City's financial condition is inadequate in several respects. First, a CAFR is an after-the-fact statement, and the most recent CAFR available is two years behind the current fiscal year. Moreover, the CAFR's accounting of "governmental funds" is not the same as the City's operating budget. Some of the monies assigned to these funds are restricted to specific uses and are not available to spend on labor costs.

Second, the Union's expert relied on the estimated value of the City's *net* assets, which includes the value of City infrastructure like sewers, sidewalks, streets and buildings. This accounting method sheds no light on the cash the City has available for day to day operations or to increase compensation.

Third, the Union's expert and the Chair's recommendation cite the City's low debt ratio as a sign of fiscal strength. However, unless the Chair is suggesting that the City take on new *debt* to finance ongoing employee *compensation* -- in violation of the state constitution -- the City's debt ratio has nothing to do with the City's ability to pay wage increases.

The 2010-2011 CAFR relied upon by the Chair provides a perfect example of the folly of relying on a CAFR as a basis for recommending wage increases. The Union's expert stated that the City's "general fund balance" increased by $10.9 million in fiscal year 2010-2011, and the Chair's recommendation notes the same increase. The vast majority of this "increase," however, reflects a transfer of land from the dissolved Redevelopment Agency to the City's general fund. State law has since required that the value of this land be transferred from the general fund to the redevelopment successor agency, and the City is obligated to use the money generated from the sale of this land to cover the successor agency's financial obligations. In other words, although the CAFR showed a $10.9 million increase in the City's general fund balance, this did not actually represent a positive change in the City's finances. Indeed, the loss of the Redevelopment funding (while still having to pay the Agency's debts) is a net *negative* to the City's finances.

4. The Recommendation Embraces the Union's Demand for Wages While Ignoring Basic Points of Fact

The Chair's recommendation dismisses the budget documents provided by the City as an unreliable "estimation of future events." Of course, any budgeting document necessarily relies on some degree of prediction. But a few simple facts are beyond dispute:

- The City has a $5.5 million structural deficit in the current fiscal year. This deficit represents almost 8% of the City's operating expenditures.

- Measure Q, by its terms, will sunset in just over three years from now, at which point the City's revenues will drop by $8-10 million. Unless the City has a significant reserve in fiscal year 2016, it will have to make drastic cuts to address this lost revenue.

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limit Concord's ability to raise revenues. It is therefore difficult to credit his opinions regarding Concord's fiscal outlook. (See attachment A, Excerpt of Transcript.)

- The City cannot treat Measure Q revenue as an ongoing revenue source that will be available to pay for ongoing costs like wages and pension and health costs. It is axiomatic that the City should not use temporary revenue for ongoing expenses.[7]

The recommendation also states that "[t]he City's assessment of its financial ability relies on having furloughs 'baked in' to its 10 year plan."[8] The fact is, the City's 10 year plan simply uses the baseline of current expenditures – as any city does in planning for the future. And whether or not the fact-finder agrees with the City's budget-construction practices, this decision has no effect on the City's actual financial condition. Even if the City hadn't used employee compensation including furloughs as the budgetary baseline, the City would not be able to afford an average 12.3% increase in compensation.

5. The Recommendation Inappropriately Dismisses the City's Long-Standing History of Sound Fiscal Planning

The City has long relied on a guiding principle of long-term financial planning to navigate both good and bad times and to avoid placing itself in financial jeopardy or making commitments that it cannot keep.

For example, the City has adopted a 10-year plan as a part of its annual budgeting process since 1995. The 10-year plan, *which is updated each year*, allows the City to consider the ongoing effects of its decisions and to identify potential problems early. The Government Finance Officers' Association has identified such long-range planning as a **best practice**, and the City views the preparation and upkeep of its 10-year plan as part of its obligation to residents to preserve services and safeguard public funds.

The City's practice of careful fiscal planning has well served both the public *and* City employees in recent years. In 2008, the City had a policy of maintaining a 30% reserve. In fiscal year 2009, the City spent much of this reserve and lowered its target level to 15% of general fund expenditures. The following year, the City further spent down its reserve, eventually shrinking its reserve level to 6%. As the Chair's recommendation recognizes, *had the City not maintained a sufficient reserve at the start of the recession, Concord would have had to make far deeper cuts than it did, including cuts in employee compensation.*

The irony is apparently lost on the Chair.

The use of the 10-year plan also helped the City to identify revenue shortfalls early in the recession, and provided the City with time to craft a prudent response. For example, rather than scrambling to reduce its workforce, the City was able to offer an early retirement program. In

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[7] Although the recommendation acknowledges that "Measure Q is not on-going funding," it inexplicably concludes that because Measure Q is collected over five years, it is not strictly speaking "one-time money," and should be used to fund ongoing expenditures, even though those expenditures will extend beyond five years.

Moreover, as a general matter, it is unclear how the recommendation's tangent on the parties' bargaining history over furloughs relates to the City financial ability; the nature of the parties' agreement in 2010 has nothing to do with what the City can afford, or what savings it must achieve today.

addition, the City proposed a revenue measure in 2010, well before most other jurisdictions went to the ballot. By seeking additional revenue from Concord voters at this early date, the City *protected its employees from further cuts* and in response to the Union's firm request, was even able to provide a no layoff guarantee from July 1, 2010 through June 30, 2012.

All of these efforts allowed the City to limit the total number of layoffs prior to Measure Q to eight, and to protect employees and the public from further cuts in services.

Moreover, although the Chair's recommendation recognizes that City policies are an express factor that must be respected in fact-finding, she inappropriately dismisses the City's policies and historical success when it comes to long-term fiscal planning. For example, the Chair finds the City's policies favoring long-term planning *irrelevant*, based on a non-sequitur: the 10-year plan does not change the City's obligation to negotiate in good faith.

Well, sure. But sound fiscal planning is certainly not *inconsistent* with good faith. And the City has negotiated in good faith consistent with its financial means, and will continue to do so.

And in a bizarre flourish, the Chair off-handedly dismisses the City's demonstrated success in fiscal planning by stating that "looking backwards" does not support the continued use of a long-term outlook -- despite having noted that the City was able to stave off further cuts thanks to its reserves at the start of the recession!

In other words, planning is okay when it benefits employees financially, but not when it stands in the way of pent-up demand for compensation increases. I categorically disagree with this double standard.

6. **The Recommendation Oversteps the Legal Bounds of Fact-finding by Misinterpreting the Purposes of Measure Q and Directing the Use of Measure Q Revenue.**

According to the Chair's recommendation, the central question in this fact-finding is the availability of Measure Q funds to satisfy the Union's wage demands. By fashioning her own interpretation of the purposes of Measure Q, the Chair inappropriately invades the province of the Measure Q Oversight Committee and City Council, who have been entrusted by Concord voters to ensure the appropriate use of Measure Q revenue. As noted above, she ignores the fact finding criteria established by AB 646, which require recognition of "local rules, regulations or ordinances."

The establishment of the Measure Q Oversight Committee was essential to passage of the measure. The Committee represents a guarantee to Concord voters that the temporary revenue generated by Measure Q would be used to protect core City services. The Committee adopted three criteria to evaluate whether the use of Measure Q funds will protect services: 1) whether the use of funds protects core services; 2) whether the use of funds rebuilds the City's reserves; and 3) whether the use of funds helps to resolve the City's structural deficit. The City Council has incorporated these criteria in each adopted budget.

Yet, the recommendation fails even to mention the Measure Q Oversight Committee or the three criteria.

One of the most bewildering parts of the recommendation is its apparent conclusion that Measure Q funds should be used to further increase employee compensation. Although there is a logical connection between *furloughs* and services, there is no evidence that the voters intended Measure Q to increase employee *compensation.*

Even if it were appropriate for the Chair to construe the purposes of Measure Q and direct the use of Measure Q funds, her analysis of Measure Q is incorrect. As Concord voters are well aware, Measure Q is meant to "protect and maintain" city services. The only reasonable interpretation of this directive is that Measure Q funds are meant to protect and maintain services for the long haul. Indeed, the voters were told that the purpose of Measure Q was to give the City time to align its revenue and expenses while preserving services.

7. The Parties Agree that Both Employees and the Public Would Be Served by Eliminating Furloughs

I do agree with the Chair's recommendation that furloughs be eliminated; however, I doubt that the Council will be able to do so this fiscal year. While sales tax revenues this year have exceeded expectations, property taxes have done far worse than expected. Further, a careful analysis of sales tax revenues suggests they are driven by pent-up demand for new cars and durable goods; it is unclear whether sales taxes will continue to rise at anywhere near their present rate. Based on these and other considerations, the experts who provide Concord (and most other cities in the state) with tax revenue projections are predicting Concord will experience a very gradual growth in revenues. By contrast, there is nothing gradual about the 12.3% increase in compensation recommended by the chair.

Moreover, it is clear from other experts' testimony that employee benefit costs will continue to rise. Under these circumstances, the City's economic experts are predicting that the City will be able to afford *about a 1.5% increase in employee compensation annually beginning next year.*

Hopefully, the local economy will recover at a faster rate, and, if it does, these numbers will be adjusted. However, given the current budget realities, I would have been prepared to support a partial easing of furloughs beginning in the coming fiscal year (2013-14).

III. Conclusion

The Chair's recommendation raises false hopes. Had the Chair adhered to the standards set in AB 646, which give deference to local laws and policies, this may not have happened. Sadly, the Chair's recommendation is an artifact of the kind of short-term thinking that has left so many local and state governments in dire straits.

The value of the fact-finding process is its potential to bring the parties closer together. This recommendation, however, does not offer a viable path forward for the City. I therefore dissent. Adopting this recommendation, with its preposterously out-of-scale wage increases, would not benefit the people of Concord or, in the long run, its employees.