

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

-----X
In the Matter of the Interest Arbitration

between

X Re: Docket No.
IA-97-39

PISCATAWAY TOWNSHIP

X

X

"Township"

X

-and-

X

PISCATAWAY POLICEMEN'S BENEVOLENT
ASSOCIATION LOCAL NO. 93

X

X

"Association"

-----X

APPEARANCES

For the Township

ABRAMS, GRAN, HENDRICKS, REINA & ROSENBERG
C. Douglas Reina, Esq., of Counsel

For the Association

ABRAMSON & LIEBESKIND ASSOC.
Marc D. Abramson, Consultant

BEFORE: Martin F. Scheinman, Esq., Interest Arbitrator

BACKGROUND

The parties entered into a Collective Bargaining Agreement on August 25, 1995. Pursuant to the terms of that Agreement, it was to "remain in full force and effect, without reopening of any kind, from January 1, 1995 through December 31, 1997, with the exception of a wage reopener for the year 1997." (Joint Exhibit No. 1) Sometime thereafter, the parties entered into negotiations for "a wage reopener for the year 1997." (Joint Exhibit No. 1) Those negotiations proved unsuccessful, whereupon the Association demanded interest arbitration. Pursuant to the rules and regulations of the State of New Jersey Public Employment Relations Commission, I was designated to hear and adjudicate this dispute.

Hearings in this matter were held before me on June 12, 1997, September 4, 1997, November 4, 1997, November 11, 1997 and December 18, 1997. At those hearings, the parties were afforded full opportunity to introduce evidence and argument in support of their respective positions. They did so. Each side introduced extensive evidence relevant to the statutory criteria. This included budgetary and financial information. The parties submitted charts, graphs and data dealing with all of the statutory criteria. Upon my receipt of same, the hearings were declared closed.

Thereafter, the parties submitted their final offers as well as post-hearing briefs. Upon my receipt of same, the record was declared closed.

POSITIONS OF THE PARTIES

The Association has proposed a four and eight tenths percent (4.8%) wage increase, exclusive of increments, effective January 1, 1997.

The Association maintains that its salary proposal is the most reasonable. It contends that this conclusion is compelled by a consideration of all of the relevant statutory criteria specified in N.J.S.A. 34:13a-16(g).

However, before directly addressing the statutory criteria, the Association makes several points about the Township's demographics which it asserts are relevant to this dispute. It notes that the Township is located in Middlesex County, New Jersey. The Association maintains that of the County's twenty five (25) communities, the Township ranks fourth in population and is one of the most populous communities in the County. In addition, it contends that the Township's Police Officers must patrol and protect a community with the seventh largest area in the County. The Association claims that the Township's population and its density of population is at its highest level since 1985. However, it asserts that the number of Township Police Officers has only increased by four (4) Officers since 1985. It further asserts that the Township has four (4) fewer Officers than it had in 1994. The Association argues that these demographic factors support the reasonableness of the Association's wage proposal.

The first statutory criterion involves the interests and welfare of the public. The Association contends that the interests

and welfare of the public demand a high caliber of police protection which must be considered along with the needs of the Township's Police Officers. It notes that Interest Arbitrators have long recognized a symbiotic relationship between the interests and welfare of the public and the interest and support Police Officers receive from the community. The Association maintains that the interests and welfare of the public are best served by having a highly professional and functioning police force. It argues that in order to obtain that level of service, the public must support its Police Officers by granting them an equitable and reasonable salary increase. The Association insists that it has proposed such an increase.

The Association maintains that its members must exert extraordinary efforts in dealing with crime on behalf of the Township. It contends that the crime statistics in the 1996 Uniform Crime Report clearly show the high caliber of police protection the Township's Police Officers have given the residents of the Township. As an example, the Association points to a March 17, 1997 press release put out by the Township. It asserts that the press release shows that the Township was named one of the ten (10) safest towns in New Jersey. The Association further asserts that the press release shows that from 1990 through 1995, the Township had a 33.3% drop in its violent crime rate and a 40.2% decline in its property crime rate.

The Association maintains that the hard work and dedication of its members are important reasons for the decline in crime

throughout the Township. It points out that the Township's Mayor, Helen Merrolla, stated in the March 17, 1997 press release announcing these crime statistics, that "Piscataway is fortunate because the Mayor and Council have always strongly supported the efforts of the police department particularly when it involves community policing programs. Many of our officers stay involved in programs even when they are off duty." (Association Brief)

The Association asserts that the Township's Police Chief, Pat LaRocca, also acknowledged the important contribution made by the Township's Police Officers in lowering the Township's crime rates. It notes that in that same March 17, 1997 press release, Police Chief LaRocca stated that "our well trained and dedicated police officers work around the clock to insure the safety and well being, not only of our residents and businesses but for everyone who passes through our community." (Association Brief) The Association also points out that in a March 14, 1997 memorandum to all Police Department personnel, LaRocca praised the efforts of the Township's Police Officers in lowering the Township's crime rates: "There are many variables that contribute to those results. The most important fact is that Piscataway Police Department is an outstanding organization made up of dedicated and proud individuals whose efforts on duty and off duty have directly contributed to lowering the crime rate and made the community safer." (Association Brief)

The Association contends that the Township's proposal of no wage increase in 1997 demonstrates that the Township has failed to

connect police productivity to the interest and welfare of the public. It maintains that the Township's wage proposal shows that the Township has chosen to tie the interest and welfare of the public solely to the economic factors confronting taxpayers. Thus, the Association argues that the Township has ignored the needs of its Police Officers which are bound to the interests and welfare of the Township's residents. It asserts that the Township must provide a fair and equitable wage increase in order to maintain its outstanding Police Department. Therefore, the Association insists that its wage proposal best serves the interests and welfare of the public.

As to the criterion regarding a comparison of the wages of other employees performing the same or similar services in public employment in comparable jurisdictions, the Association points to several comparable jurisdictions in support of its position. It draws comparisons between Piscataway and what it calls the "focus" communities of East Brunswick, New Brunswick, Old Bridge, Perth Amboy and Sayreville. However, since the Township is located in Middlesex County, the Association also compares Piscataway to all other Middlesex County communities and, more particularly, to the following Middlesex County communities which are contiguous to Piscataway: Dunellen, New Brunswick, South Plainfield, Edison and Highland Park.

The Association maintains that the most important consideration under this criterion is an analysis of the current trend in wage increases for police officers in comparable

communities. It concedes that its members are not the lowest paid police officers among the officers in comparable communities. However, the Association contends that its members also are not the highest paid police officers.

The Association contend that if its proposal of a four and eight tenths percent (4.8%) wage increase, effective January 1, 1997, were awarded, then the Township's Police Officers would maintain their relative standing among comparable communities within Middlesex County. The Association asserts that the average salary increase for police officers in Middlesex County in 1997 was 4.21%, with three (3) settlements of five percent (5%) or more. It submits the following data in support of that assertion.

1997 Top Patrolman Percent Increases

Middlesex County

<u>Municipality</u>	<u>96 Salary</u>	<u>97 Salary</u>	<u>97% Inc</u>
Monroe	47,477	49,876	5.05%
Dunellen	50,714	53,261	5.02%
Cranbury	52,245	54,857	5.00%
Middlesex	51,934	54,271	4.50%
New Brunswick	54,481	56,797	4.25%
Jamesburg	47,040	49,039	4.25%
South Amboy	52,287	54,379	4.00%
Metuchen	50,519	52,540	4.00%
South River	46,145	47,991	4.00%
South Plainfield	52,939	55,056	4.00%
Plainsboro	53,584	55,459	3.50%
Spotswood	46,433	47,826	3.00%
Carteret			
East Brunswick	56,604		
Edison			
Helmetta	37,012		
Highland Park			
Milltown	46,039		
North Brunswick	54,371		

<u>Municipality</u>	<u>96 Salary</u>	<u>97 Salary</u>	<u>97% Inc</u>
Old Bridge			
Perth Amboy	51,321		
PISCATAWAY	55,754		
Sayreville	53,715		
South Brunswick	50,949		
Woodbridge			
Average	50,578	52,613	4.21%

(Association Exhibit No. 1 at 5)

The Association further asserts that the average salary increase for police officers in contiguous communities in Middlesex County in 1997 was 4.42%. It submits the following data in support of that assertion.

Contiguous within County

<u>Municipality</u>	<u>96 Salary</u>	<u>97 Salary</u>	<u>97% Inc</u>
Dunellen	50,714	53,261	5.02%
New Brunswick	54,481	56,797	4.25%
South Plainfield	52,939	55,056	4.00%
Edison			
Highland Park			
PISCATAWAY	55,754		
Average	53,472	55,038	4.42%

(Association Exhibit No. 1 at 5)

Thus, the Association argues that its wage proposal is clearly reasonable when compared to the wage increases given to police officers in comparable communities in 1997.

The Association further contends that a review of the wage increases granted to its members and to police officers in comparable communities in 1995 and 1996 is relevant to this dispute. It points out that the Township's top step Police

Officers received a four percent (4%) wage increase in 1995. However, the Association maintains that the average wage increase for top step police officers in Middlesex County in 1995 was 4.60% and that the average wage increase for top step police officers in contiguous Middlesex County communities in 1995 was 4.67%. It submits the following data in support of that assertion.

1995 Top Patrolman Percent Increases

Middlesex County

<u>Municipality</u>	<u>94 Salary</u>	<u>95 Salary</u>	<u>95% Inc</u>
Jamesburg	42,467	45,015	6.00%
Edison	49,883	52,627	5.50%
North Brunswick	50,398	53,170	5.50%
Dunellen	46,000	48,530	5.50%
Helmetta	33,097	34,917	5.50%
Milltown	41,759	43,847	5.00%
Monroe	43,019	45,170	5.00%
South Amboy	47,882	50,276	5.00%
Carteret	46,248	48,560	5.00%
South Plainfield	48,132	50,538	5.00%
Middlesex	47,558	49,793	4.70%
Spotswood	42,520	44,433	4.50%
East Brunswick	51,835	54,167	4.50%
South Brunswick	46,992	48,989	4.25%
Cranbury	47,957	49,995	4.25%
Sayreville	49,164	51,131	4.00%
Old Bridge	50,242	52,252	4.00%
PISCATAWAY	51,548	53,610	4.00%
Perth Amboy	47,449	49,347	4.00%
Woodbridge	48,374	50,309	4.00%
New Brunswick	50,250	52,260	4.00%
Plainsboro	49,305	51,277	4.00%
Highland Park	46,165	48,011	4.00%
South River	42,664	44,370	4.00%
Metuchen	46,753	48,576	3.90%
Average	46,706	48,847	4.60%

Contiguous within County

<u>Municipality</u>	<u>94 Salary</u>	<u>95 Salary</u>	<u>95% Inc</u>
Edison	49,883	52,627	5.50%
Dunellen	46,000	48,530	5.50%
South Plainfield	48,132	50,538	5.00%
PISCATAWAY	51,548	53,610	4.00%
New Brunswick	50,250	52,260	4.00%
Highland Park	46,165	48,011	4.00%
Average	48,663	50,929	4.67%

(Association Exhibit No. 1 at 5)

The Association also points out that the Township's top step Police Officers received a four percent (4%) wage increase in 1996. However, the Association asserts that the average wage increase for top step police officers in Middlesex County in 1996 was 4.39% and that the average wage increase for top step police officers in contiguous Middlesex County communities in 1996 was 4.38%. It submits the following data in support of that assertion.

1996 Top Patrolman Percent Increases

Middlesex County

<u>Municipality</u>	<u>95 Salary</u>	<u>96 Salary</u>	<u>96% Inc</u>
Helmetta	34,917	37,012	6.00%
Monroe	45,170	47,477	5.11%
Sayreville	51,131	53,715	5.05%
Milltown	43,847	46,039	5.00%
South Plainfield	50,538	52,939	4.75%
Spotswood	44,433	46,433	4.50%
Cranbury	49,995	52,245	4.50%
Dunellen	48,530	50,714	4.50%
Plainsboro	51,277	53,584	4.50%
East Brunswick	54,167	56,604	4.50%
Jamesburg	45,015	47,040	4.50%
Middlesex	49,793	51,934	4.30%
New Brunswick	52,260	54,481	4.25%
South Brunswick	48,989	50,949	4.00%
South River	44,370	46,145	4.00%

<u>Municipality</u>	<u>95 Salary</u>	<u>96 Salary</u>	<u>96% Inc</u>
Perth Amboy	49,347	51,321	4.00%
South Amboy	50,276	52,287	4.00%
Metuchen	48,576	50,519	4.00%
PISCATAWAY	53,610	55,754	4.00%
North Brunswick	53,170	54,371	2.26%
Carteret	48,560		
Edison	52,627		
Highland Park	48,011		
Old Bridge	52,252		
Woodbridge	50,309		
Average	48,847	50,578	4.39%

Contiguous within County

<u>Municipality</u>	<u>95 Salary</u>	<u>96 Salary</u>	<u>96% Inc</u>
South Plainfield	50,538	52,939	4.75%
Dunellen	48,530	50,714	4.50%
New Brunswick	52,260	54,481	4.25%
PISCATAWAY	53,610	55,754	4.00%
Edison	52,627		
Highland Park	48,011		
Average	50,929	53,472	4.38%

(Association Exhibit No, 1 at 5)

Thus, the Association asserts that going into 1997, its members had received almost one percent (1%) less in wage increases than their counterparts in comparable communities had received in 1995 and 1996. It further asserts that even if the Association's 1997 wage proposal were awarded, its members would still receive almost a one-half (½) of a percentage point less in wage increases over the three (3) year period of 1995 through 1997 than their counterparts in comparable communities had received during that same period. Therefore, the Association insists that its wage

increase proposal for 1997 is clearly reasonable and ought to be awarded.

The Association maintains that if the Township's zero percent (0%) wage increase proposal were awarded, the impact on the Township's Police Officers would be devastating. It insists that the resulting losses in the salary position of the Township's Officers "would be significant in both [the Officers'] ranking within the County and their differential from the County averages." (Association Brief) Therefore, the Township argues that pursuant to this criterion, its wage proposal is clearly the more reasonable.

The Association further maintains that in its prior settlement with the Township for 1995 and 1996, its members made additional sacrifices by agreeing to a large decrease in entry-level salaries and an elongated salary schedule. It points out that Harold Klein, the Township Administrator at the time, explained this aspect of the parties' Agreement as follows:

With the PBA, we [the Township] got a lower entry-level salary for first year officers.... [T]he entry-level salary under the old contract was \$31,314. The new entry-level salary is \$26,000. We anticipate a number of retirements, so we'll be bringing new officers in at a lower rate..... This could possibly save the Township \$250,000 to \$300,000 in the next few years. (Association Brief)

The Association argues that as a result of this concession, the Township will save \$57,395 over five (5) years for every new Police Officer hired in 1995 and thereafter. It submits the following data in support of that assertion.

	+4%	+4%	+4%	+4%	+4%
<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
	26,000	27,040	28,121	29,246	30,416
	28,000	29,120	30,284	31,496	32,756
31,314	32,566	33,868	35,222	36,631	38,096
40,170	41,776	43,447	45,184	46,992	48,871
46,852	48,726	50,675	52,702	54,810	57,002
51,548	53,609	55,753	57,983	60,302	62,714
YEARLY	32,566	43,447	52,702	60,302	62,714
SAVINGS	<u>-26,000</u>	<u>-29,120</u>	<u>-35,222</u>	<u>-46,992</u>	<u>-57,002</u>
PER HIRE	6,566	14,327	17,480	13,310	5,712

TOTAL SAVINGS PER HIRE = 57,395

(Association Exhibit No. 1 at 5)

Thus, the Association argues that its "members in the previous settlement were asked to 'bite the bullet' but now, apparently, the Township will not be satisfied unless the PBA will be required to 'swallow the gun as well.'" (Association Brief)

As to the criterion regarding comparisons to public employment in general, the Association refers to the salary increase recently granted to public school teachers in Piscataway and throughout Middlesex County. It contends that teachers in Piscataway recently received a wage increase of four percent (4%) for the 1996-1997 school year and a wage increase of four percent (4%) for the 1997-1998 school year. The Association asserts that Middlesex County teachers received an average wage increase of 4.14% for the 1997-1998 school year. It acknowledges that the Association's 1997 wage increase proposal is slightly higher than these increases. However, the Association argues that since its wage proposal "takes

into account some 'catch up' for their below average previous settlements ... [it] is certainly more realistic than the absurd position of 0% proffered by the Township." (Association Brief)

As to the criterion regarding comparisons to private employment in general, the Association maintains that private sector statistics show that the wages paid to the Township's Police Officers are not out of line with the salaries paid to private workers in mid-level jobs. It asserts that some of those private sector jobs call for more formal education than is required of police officers and that some call for less. However, the Association insists that only police officers experience vigorous specialized training and take the risks unique to and inherent in police work. For this as well as other reasons, the Association argues that there is no real comparable private sector group to which police officers may be compared.

Thus, the Association insists that when all of the relevant comparisons are made, its wage proposal is clearly the more reasonable and ought to be awarded.

As to the criterion regarding overall compensation, the Association maintains that the record demonstrates that the Township's Police Officers have levels of longevity pay, holidays, vacations, personal days and bereavement leave comparable to those enjoyed by police officers in comparable communities throughout Middlesex County. It further notes that the Association is not seeking any improvements in these areas. Therefore, the Association argues that this criteria also supports the awarding of

its wage proposal.

As to the criterion regarding stipulations between the parties, the Association notes that the parties have agreed to the instant interest arbitration process and to the procedures used for the presentation of their respective positions.

As to the criterion regarding the lawful authority of the Township, the Association maintains that this requires an evaluation of the Township's authority to pay for the Association's proposal pursuant to the requirements of New Jersey's Cap Law. It insists that the record demonstrates that the Township has the budgetary flexibility to pay for the Association's wage proposal within the framework of New Jersey's Cap Law. Thus, the Association argues that the Cap Law does not prohibit my awarding the Association's wage proposal.

As to the criterion regarding the financial impact on the governing unit, its residents and taxpayers, the Association maintains that the impact of its wage proposal, if awarded, would be of minimal significance.

The Association points out that New Brunswick, which has the lowest per capita income in Middlesex County, still managed to provide its police officers with a four and one-quarter percent (4-1/4%) wage increase. It notes that Piscataway has the seventh highest median household income in Middlesex County. Similarly, the Association points out that New Brunswick devotes the highest percentage of its total expenditures for public safety when compared to other communities in Middlesex County. It asserts that

Piscataway's percentage of total expenditures spent on public safety is one of the lowest in Middlesex County, i.e., 2.53% less than the County average. Thus, the Association argues that there is no legitimate reason why Piscataway cannot afford to grant its Police Officers the four and eight tenths percent (4.8%) wage increase proposed by the Association for 1997.

The Association further asserts that Piscataway's state equalized value is almost twice as much as the County average. It contends that Piscataway is one of the wealthiest communities in Middlesex County. The Association notes that Piscataway has and continues to maintain an excellent Aa bond rating. It also maintains that along with its wealth, Piscataway has low tax rates. The Association claims that the equalized total property tax rate per \$100 in Piscataway is thirty one cents (\$.31) less than the County average. For these reasons as well, it insists that there is no legitimate reason why Piscataway cannot afford to grant its Police Officers the four and eight tenths percent (4.8%) wage increase proposed by the Association for 1997.

The Association also points to the following evidence in support of its position that the Township has the ability to pay for the Association's wage proposal without unduly burdening its residents and taxpayers:

-The Tax Ratio illustrates a decline from .7225 (1992) to .7200 (1996).

-The Tax Rate for Piscataway is consistently below the average tax rate for Middlesex County jurisdictions and ranks 14th of all-

-Middlesex County towns, below the median.

-Although there has been a decrease in ratables from 1993 to 1997, other towns in Middlesex with similar or greater declines in their respective ratable base have awarded salary increases to their police officers in 1997.

-The per capita amount spent on local government in Piscataway in 1996 was lowest of all Middlesex County municipalities and illustrates a decrease from the per capita amount spent in 1992 by the taxpayers.

-Piscataway enjoys a consistently high rate of tax collections and has collected more taxes than anticipated in three of the past four years.

-While the local tax levy has increased, the Township has experienced a reduction in costs for police services (SFY 97-SFY 98) and the proportion of costs for police services in relation to both Total Appropriations and Amount Raised by Taxes shows declines (costs for police in relation to the two).

-The difference between the Allowable Cap and the Adopted Appropriations within the Cap shows a widening pattern from SFY95-SFY98 (i.e. in SFY 95 Piscataway's adopted appropriations were 97.6% of the Allowable Cap but by SFY98 that figure was reduced to 93.7% suggesting that Piscataway could have legally adopted a higher appropriation figure.)

-Piscataway has a pattern of high budget surpluses at the end of each year, averaging \$478,500 from 1994-1997.

(Association Brief)

Finally, the Association points out that the state.fiscal year 1998 budget adopted by the Township allocated \$6,130,278 for police salaries. (Association Exhibit No. 3 at Table 7b) It asserts that the Township's analysis of the cost of its police, including base salaries, longevity, overtime, holiday pay, etc., for calendar year 1997 indicated that \$5,130,000 would be needed for the Police Department. (Township Exhibit No. 6) The Association insists that this difference of \$1,000,278 is more than adequate to pay for the Association's proposed salary increase.

For all of these reasons, the Association argues that pursuant to this criterion, its wage proposal is clearly reasonable and ought to be awarded.

As to the criterion concerning the cost of living, the Association maintains that it is not a dispositive factor in this dispute. The Association points out that in the past, the percentage rates of increase in the Consumer Price Index were in the double digit range. However, it argues that Police Officers never received double digit wage increases. Instead, during that period of time, common sense required that salary adjustments not equal the increase in the cost of living. In the Association's view, the Township cannot now claim that the cost of living is of major importance. Thus, the Association argues that its wage proposal is consistent with the statutory requirement to consider the cost of living.

As to the criterion regarding the continuity and stability of employment, the Association submits that the wages of police

officers hold no special advantage over the wages of private sector employees or other public sector employees.. However, it points out that police work calls for working shifts around the clock, seven (7) days per week, including weekends and holidays. The Association also notes that police work is an outdoor job much of the time and that police officers are under public scrutiny and pressure from potential dangers. It insists that these special aspects of police work must be considered in determining a fair wage for the Township's Police Officers which will maintain the continuity and the stability of their employment. Thus, the Association argues that pursuant to this criterion, its economic proposal is clearly the more reasonable and ought to be awarded.

The Association acknowledges that the difference between the parties' last and final offers is significant. It maintains that the Association has approached this process in an effort to proffer a realistic proposal. However, the Association contends that the Township's proposal of no wage increase in 1997 "lacked any logical explanation other than that is what it wanted to pay." (Association Brief) It argues that the issue before me does not concern any alleged inability by the Township to pay for the Association's wage proposal. Rather, it concerns the Township's unwillingness to do so. The Association insists that "[t]he previous giveback by the [Association] in terms of the salary guide adjustment easily provided money to the Township, not only in instant financial benefits, but rather significant savings well into the future. In essence, by the additional step adjustments, new employees will

earn less in cumulative earning over their professional careers, savings directly benefiting the Township." (Association Brief) For these reasons as well, the Association argues that its wage proposal is clearly the more reasonable and ought to be awarded.

Finally, the Association objects to what it calls the Township's untimely proposal that whatever wage increase might be awarded in 1997, not be retroactive to those Police Officers who worked during the time period in question but have since retired or resigned. It concedes that the Township has the right to raise new proposals during the interest arbitration proceeding. However, the Association urges me to consider why the Township waited to the "eleventh hour" to make this aspect of its wage proposal. In addition, it points out that the instant dispute concerns a reopener for 1997 Police Officer salaries and nothing else. Therefore, it argues that I am "proscribed" from considering anything other than the salary reopener. The Association insists that "[w]hether an employee who retires and leaves the employ of the Township before a settlement is reached, is entitled to the adjusted salary, is better left to what the practice of the parties were regarding this matter. It is clear that this issue should be left to a grievance arbitrator not an interest arbitrator who was provided with no real information and whose authority is at most, questionable." (Association Brief)

In all, the Association submits that its final wage offer comports more closely than the Township's with all of the relevant statutory criteria set forth in N.J.S.A. 34:13A-16 (g). It asks

that its final offer be awarded.

The Township, on the other hand, maintains that its final offer is the more reasonable one. It claims that its proposal of no across the board wage increase, exclusive of increments, in 1997, allows the Township to be competitive with comparable communities, while staying within its ability to pay and not unduly burdening its residents and taxpayers. In the alternative, the Township has proposed that if a wage increase is awarded for 1997, that it should be restricted to those members of the bargaining unit maintaining their status of Township employees as of December 31, 1997.

The Township does not contend that its Police Officers performed their duties in other than a professional and competent manner. However, it insists that in and of itself this fact does not warrant that its Police Officers be awarded a wage increase.

As to the criterion regarding the interests and welfare of the public, the Township maintains that its proposal best serves those objectives. It maintains that given the current wages and benefits paid to the Township's Police Officers, they will continue to provide professional and competent service to the public even if they are not awarded a wage increase for 1997. The Township also suggests that the morale of other Township employees will suffer if Police Officers receive a salary increase in 1997. It asserts that there must be a limit upon taxes within the Township, otherwise "Piscataway will not be in the future what it is today." (Township Brief at pg. 13) Thus, the Township argues that the interest and

welfare of the public demand that no wage increase be awarded its Police Officers in 1997. Therefore, its insists that its wage proposal best serves the interests and welfare of the public.

As to the criterion regarding a comparison of the wages of other employees performing the same or similar services in public employment in comparable jurisdictions, the Township, like the Association, points to several comparable jurisdictions in support of its position. Since the Township is located in Middlesex County, the Township primarily relies upon comparison with police officers in other Middlesex County communities.

The Township maintains that in 1996, a top patrolman in Piscataway received a salary of \$55,754. It contends that this was second within Middlesex County. The Association also contends that of the twelve (12) Middlesex County communities for which 1997 police officer salaries were reported, only New Brunswick with its increase, and East Brunswick, with or without an increase in 1997, would be paying their police officers salaries higher than the salaries paid to Police Officers in Piscataway, even if no wage increase were awarded in 1997. It submits the following data in support of that assertion.

1997 Top Patrolman Percent Increases

Middlesex County

<u>Municipality</u>	<u>96 Salary</u>	<u>97 Salary</u>	<u>97% Inc</u>
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North Brunswick	54,371		
Old Bridge			
Perth Amboy	51,321		
PISCATAWAY	55,754		
Sayreville	53,715		
South Brunswick	50,949		
Woodbridge			
Average	50.578	52,613	4.21%

(Association Exhibit No. 1 at 5)

The Township further maintains that even if every other community in Middlesex County granted its officers a wage increase in 1997 equal to the average wage increase granted to police officers thus far, i.e., 4.21%, the only other municipalities whose salary for top patrolman would exceed Piscataway's would be North Brunswick and Sayreville. It contends that even if no wage increase were awarded to the Township's Police Officers in 1997,

their salary ranking would only drop from second in the County to fifth out of a total of twenty five (25) municipalities. The Township insists that this would not be a drastic or even a significant change.

The Township contends that the adequacy of the wages already being paid to its Police Officers is further buttressed by a comparison between Piscataway and other municipalities within Middlesex County in other relevant areas. It asserts that the evidence submitted by the Association shows that the Township ranks seventh in number of officers, fourth in number of people per officer, seventh in the number of square miles per officer, seventh for fewest number of officers per square mile, eighteenth in 1989 per capita income, seventh in 1989 median household income, eighth in 1989 number of persons living in poverty, tenth in 1990 median value for a single family home, and ninth in 1990 median rent. (Association Exhibit No. 1 at Section 3 and Section 9)

The Township maintains that the record demonstrates that Piscataway "is neither the lead dog nor the last in line. It is basically somewhere in the middle of the pack...." (Township Brief at pg. 4) It insists that the Township's wage proposal, if awarded, would not result in a drastic reduction in the standing of Piscataway Police Officers in terms of wages, but would only result in the maintenance of the status quo.

As to the criterion regarding comparisons to public employment in general, the Township contends that the income of its Police Officers compares favorably to the incomes of other municipal

employees. It asserts that the Township's Police Captains rank fourth in terms of income, its Police Lieutenants rank sixth in terms of income, its Police Sergeants rank thirteenth in terms of income, and its senior patrolmen rank fourteenth in terms of income among all municipal employees. (Township Exhibit T-1 at Item 7)

The Township further maintains that the evidence shows that the average local government wage increase in New Jersey in 1996, as reported by the New Jersey Department of Labor, was three percent (3%), or one percent (1%) less than the four percent (4%) wage increase granted to the Township's Police Officers. (Township Exhibit T-1 at Item 1) It also contends that the actual salary increase for the Township's teachers for fiscal year 1997 and fiscal year 1998 was three percent (3%) in each of those years. (Township Exhibit T-1 at page 2) The Township asserts that the four percent (4%) increases alleged by the Association were due to incremental step increases and not an across-the-board wage increase, which is what the Association is seeking for its members.

Thus, the Township argues that when all of the relevant comparisons are made, its wage proposal is clearly the more reasonable and ought to be awarded.

As to the criterion regarding overall compensation, the Township does not dispute that the benefits given to its Police Officers are comparable to those granted to police officers in comparable communities. However, it maintains that if the Township's wage proposal were awarded, then its Police Officers would not suffer a drastic reduction in terms of overall

compensation, but would only result in the maintenance of the status quo. Therefore, the Township argues that this criterion also supports the awarding of its wage proposal.

As to the criterion regarding the lawful authority of the Township, the Township does not in its brief dispute the Association's assertion that New Jersey's Cap Law permits my awarding the Association's wage proposal.

As to the criterion regarding the financial impact on the governing unit, its residents and taxpayers, the Township maintains that the evidence demonstrates that the financial difficulties being encountered by the Township "are real, not imagined." (Township Brief at pg. 6) It contends that Gregory C. Fehrenbach, an experienced municipal administrator and chief financial officer, who undertook the duties of Township Administrator on March 24, 1997, credibly testified regarding the financial difficulties confronting the Township and the steps the Township has taken to deal with those financial difficulties. The Township asserts that the data provided by Fehrenbach showed projected lost revenues to the Township in fiscal year 1998 of \$2,447,6000, which would require a tax rate increase of 11.3 points. It further asserts that the record shows that municipal taxes needed to be raised by \$1,578,372, or eleven percent (11%), in order to cover approximately one-third (1/3) of the increase in the municipal budget. (Township Exhibit T-1)

The Township maintains that the record shows that it has taken numerous steps to limit the tax increase to eleven percent (11%),

such as a hiring freeze, a spending freeze, no provision for salary increases in calendar year 1997 and fiscal year 1998, elimination of travel and conference expenses, reductions in appropriations to the lowest possible levels, pursuit of maximum available Discretionary SMPTRA Aid from the division of Local Government Services, and special relief from the Local Finance Board to permit the Township to defer currently owed debt of \$3,600,000 attributable to tax refunds for appeals won by property owners, by restructuring that obligation into refunding bonds payable in 1998 through 2002. (Township Exhibit T-1 at attachment 3A, 3C and 3D)

The Township maintains that other economic evidence shows the extent of the financial difficulties confronting the Township, its residents and its taxpayer. It contends that the Township experienced the fifth greatest tax rate increase among all municipalities in Middlesex County between 1995 and 1997. It submits the following data in support of that assertion.

EQUALIZED TAX RATES FOR MIDDLESEX COUNTY COMMUNITIES

<u>Municipality</u>	<u>1995 Eq.Rate</u>	<u>Rank</u>	<u>1996 Eq.Rate</u>	<u>Rank</u>	<u>1997 Eq.Rate</u>	<u>Rank</u>	<u>%Increase 1995-1997</u>	<u>Rank by %Increase</u>
Carteret	3.03	4	3.06	4	3.27	3	7.9	11
Cranbury	2.06	21	2.19	20	2.22	23	7.8	12
Dunellen	2.93	6	2.88	7	3.25	4	10.9	7
East Brunswick	2.40	13	2.47	13	2.53	16	5.4	17
Edison	2.03	22	2.07	23	2.16	24	6.4	14
Helmetta	1.91	23	2.06	24	2.31	21	20.9	1
Highland Park	3.26	1	3.46	1	3.46	1	6.2	15
Jamesburg	2.77	9	3.01	5	2.96	6	6.9	13

Metuchen	2.58	11	2.57	12	2.66	12	3.1	20
Middlesex	2.47	12	2.66	10	2.72	11	10.1	8
Milltown	2.38	14	2.35	16	2.41	19	1.3	21
Monroe	1.84	25	1.80	25	1.86	25	1.1	22
New Brunswick	3.25	2	3.29	2	3.38	2	4.0	19
North Brunswick	2.16	19	2.35	17	2.60	13	20.4	2
Old Bridge	2.94	5	2.94	6	2.89	9	-1.7	24
Perth Amboy	3.17	3	3.10	3	3.15	5	-0.6	23
Piscataway	2.18	17	2.27	18	2.49	17	14.2	5
Plainsboro	2.17	18	2.27	19	2.42	18	11.5	6
Sayreville	1.91	24	2.16	22	2.29	22	19.9	3
South Amboy	2.77	10	2.63	11	2.94	7	6.2	16
South Brunswick	2.09	20	2.19	21	2.40	20	14.8	4
South Plainfield	2.35	15	2.40	15	2.55	14	8.5	9
South River	2.85	7	2.86	8	2.75	10	-3.5	25
Spotswood	2.78	8	2.83	9	2.93	8	5.4	18
Woodbridge	2.35	16	2.41	14	2.54	15	8.1	10

Source: Middlesex County 1995-1997 Abstract of Ratables

(Township Exhibit T-1 at Item 8)

The Township also asserts that there was a decrease in the average resale price of homes in Piscataway between 1995 and 1997 of five percent (5%). It submits the following data in support of that assertion.

AVERAGE SALES PRICE
OF HOMES (RESALES)
TOWNSHIP OF PISCATAWAY

	<u>1995</u>	<u>1996</u>	<u>1997</u>
Total Number Sold	374	377	430
Average Sales Value	154,161	149,184	146,458
% Loss of Value		3.3%	1.9% 5.0%

Source: State of New Jersey
Division of Taxation
Accumulative Usable Sales Report
9-12-95
8-28-96
8-21-97

(Township Exhibit T-1 at Item 9)

The Township further asserts that the assessed value of tax
ratables in Piscataway has decreased by 7.7% since 1991, while the
Township's tax rate has increased by 89.7% during the same period.
It submits the following data in support of that assertion.

RECENT HISTORY OF
TAX RATABLES AND RATES
1991 -1997
TOWNSHIP OF PISCATAWAY

<u>Calendar</u> <u>Year</u>	<u>FY</u>	<u>Assessed Value</u>	<u>Change from</u> <u>Previous Year</u>	<u>Local Purpose Rate</u> <u>CY</u>	<u>FY</u>	<u>Change</u> <u>in Local</u> <u>Tax Dollars*</u>
1991		2,348,187,652		0.390		
1992	93	2,334,634,005	(13,553,647)	0.387	0.418	(52,859)
1993	94	2,309,952,646	(24, 681,351)	0.422	0.504	(95,517)
1994	95	2,276,897,492	(33,055,154)	0.507	0.576	(139,493)
1995	96	2,255,276,755	(21,620,737)	0.576	0.600	(109,617)
1996	97	2,216,243,743	(39,033,012)	0.599	0.652	(224,830)
1997	98	2,167,966,537	(48,277,206)	0.721	0.740	(289,180)
Six-year Cumulative Change			(180,221,115)	+0.331	+0.35	(911,496)

CONCLUSIONS:

- (1) Assessed value dropped 7.7% over six year period, 2.2% drop in 1997 alone.
- (2) Tax rate has increased 35 points or 89.7% over the six year period 23.5% in 1997-98 alone.

*Had the assessed value not dropped, the Municipality alone would have collected this more in taxes. If the school district and county were included the amount would be much higher.

(Township Exhibit T-1 at Item 10)

Finally, the Township claims that the amount actually paid out by Piscataway in tax refunds totaled \$1,623,504 in fiscal year 1997

and \$1,225,693 in fiscal year 1998. (Township Exhibit T-1 at Item 11)

The Township argues that "[t]hese are real numbers which have created a real problem." (Township Brief at pg. 8) It insists that "[t]hey cannot be ignored or minimized." (Township Brief at pg. 8)

In addition, the Township asserts that the opinions of the Association's expert, Alan Zalkind, "deprecating the financial plight of Piscataway and attempting to make its condition more favorable, were based upon a fanciful vision of reality." (Township Brief at pg. 8) As an example, the Township asserts that Zalkind has ignored the fact that the Township's tax rate has increased disproportionately to that of other municipalities in Middlesex county. (Township Exhibit T-1 at Item 8) It further asserts that the tables presented by Zalkind concerning the financial condition of municipalities in Middlesex County, ignore numerous Middlesex County communities and are premised on different lists of communities. The Township suggests that Zalkind selectively disclosed data or used incomplete and inconsistent data to form his conclusions.

The Township acknowledges that it had a cash surplus of approximately one million dollars (\$1,000,000) in fiscal year 1997. However, it maintains that Piscataway has historically utilized its surplus in any given year to fund the revenue needed for its budget in the succeeding year. Of more significance, according to the Township, is the fact that since 1993 there has been a continuing decrease in this surplus which has required equivalent tax

increases. It submits the following data in support of that assertion.

**CASH SURPLUS ANALYSIS
TOWNSHIP OF PISCATAWAY**

SFY	Total Year End Surplus	Total Cash Surplus	Surplus Anticipated (Utilized) In Succeeding Year	Not Anticipated Cash Surplus
FY 1992	1,004,853	1,004,853	600,000	404,853
1993	1,942,429	1,637,120	1,600,000	37,120
1994	2,271,769	1,901,020	1,900,000	1,020
1995	1,761,211	1,680,744	1,520,000	160,744
1996	1,867,513	1,425,689	1,421,920	3,769
1997	1,286,301	1,003,819	1,000,000	3,819

Source: 1996 Audit Report Pg 192
1997 AFS Sheet Pg 21
1998 Budget Document Pg 4

(Township Exhibit T-1 at Item 12)

The Township argues that its taxpayers rely upon this surplus to offset taxes. It insists that if a surplus were not realized "the tax consequences in the succeeding year for which the surplus would have helped fund the budget would be catastrophic." (Township Brief at pg. 11)

The Township further maintains that without any wage increase for calendar year 1997, its actual out-of-pocket cost for salaries and benefits for its Police Officers increased by \$155,812 or 2.2 percent. It insists that if the increase proposed by the Association were awarded, the financial impact would be "severely

burdensome" to the Township as well as its residents and taxpayers.
(Township Brief at pg. 12)

For all of these reasons, the Township argues that pursuant to this criterion, its wage proposal is clearly the more reasonable and ought to be awarded.

As to the criterion concerning the cost of living, the Township maintains that the record demonstrates that percentage increases in Police salaries within the Township from 1991 through 1996 far exceeded the percentage increase in the Consumer Price Index during the same period. It submits the following data in support of that assertion.

CPI SALARY V ACTUAL TOP PATROLMAN SALARY
Cumulative Earnings

PISCATAWAY

<u>YEAR</u>	<u>CPI</u>	<u>CPI SALARY</u>	<u>ACTUAL SALARY</u>
1991			42,791
1992	3.6%	44,331	45,617
1993	3.0%	45,661	48,630
1994	2.4%	46,757	51,548
1995	2.5%	47,926	53,610
1996	2.9%	49,314	55,752
	Totals	233,989	255,157
		GAIN/LOSS	+21,168
		PER YEAR	4,233

(Township Exhibit T-1 at Item 5)

The Township asserts that if the salary of its top step Police Officers had increased by the rate of inflation from 1991 through 1996, then that salary would have increased from \$42,791 in 1991 to \$49,314 in 1996, an overall increase of \$6,523 or 15.2 percent. However, it points out that in actuality, the salary of the Township's top step patrolmen increased a total of 30.2 percent or \$12,961 to \$55,752. The Township contends that this rate of increase is approximately double the percentage increase in the Consumer Price Index over the same period of time.

For these reason, the Township argues its wage proposal is supported by the statutory requirement to consider the cost of living and ought to be awarded.

As to the criterion regarding the continuity and stability of employment, the Township submits that there is complete stability of employment within its Police Department. It asserts that there have been no layoffs within its Police Department. Thus, the Township argues that pursuant to this criterion, its wage proposal is clearly the more reasonable and ought to be awarded.

The Township rejects any suggestion by the Association that the savings resulting from a decrease in the wages paid to newly hired Police Officers ought to be passed on, at least in part, to other Police Officers. It argues that "[i]f savings were needed, recognized by both parties and agreed upon in a formulation least likely to impact an existing employee, there is no benefit in eliminating part of the agreed upon, essential savings." (Township

Brief at pg. 5) The Township insists that "[i]f there were to be adherence to the [Association's] position, no savings could ever be realized except on a very temporary basis." (Township Brief at pgs. 5-6)

The Township also rejects any suggestion by the Association that the low crime rate in the Township should be an element in determining the percentage wage increase to be awarded, if any. It points out that other police officers argue that they should be paid more because of a community's high crime rate. The Township asserts that "a comparatively pleasant, low crime environment is not harder on a police officer." (Township Brief at pg. 6) It further asserts that the Township's low crime rate is attributable to the socio-economic condition of the Township as much, if not more than to an extraordinary effort by the Township's Police Department.

In all, the Township maintains that its wage proposal best comports with all of the relevant statutory criteria set forth in N.J.S.A. 34:13A-16(g). It asks that its wage proposal be awarded.

OPINION

Several introductory comments are appropriate here. In the absence of an agreement to the contrary by the parties, the procedure to be used in this matter is conventional interest arbitration. As interest arbitrator, I must adhere as follows to the statutory criteria set forth in N.J.S.A. 34:13A-16(g).

[The interest arbitrator must] decide the dispute based on a reasonable determination of the issues, giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor:

(1) The interests and the welfare of the public. Among the items the arbitrator shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c.68 (C.40A:4-45.1 et seq.).

(2) Comparisons of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing the same or similar services and with other employees generally:

- (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
- (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
- (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with sections 5 of P.L. 1995, c.425 (C.34:13A-16.2); provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

- (3) The overall compensation presently received by the employees, inclusive of direct wages, salaries, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulation of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c.68 (C.40A:4-45.1 et seq.).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator shall take into account, to the extent the evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element or, in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

Accordingly, and with these principles in mind, I now turn to the facts of this dispute.

The Association has requested a four and eight tenths percent

(4.8%) wage increase, exclusive of increments, effective January 1, 1997.

The Township has proposed no across-the-board wage increase be granted in 1997. In the alternative, the Township has proposed that if a wage increase is awarded for 1997, that it be restricted to those members of the bargaining unit maintaining the status of Township employees as of December 31, 1997.

I find both the Association's and the Township's proposals to be unacceptable. Clearly, given the financial circumstances of the Township, there can be no justification for a salary increase of a four and eight tenths percent (4.8%) effective January 1, 1997, as proposed by the Association. Under no circumstances can this level of increase be justified in light of the relevant statutory criteria.

On the other hand, the Township's proposal of no across-the-board wage increase in 1997, also is not justified. It would result in the Township's Police Officers unnecessarily falling behind their counterparts in relevant comparable communities. Even the Township acknowledges that its wage proposal, if awarded, would result in a drop in the salary ranking of the its Police Officers when compared to the wages paid to police officers in comparable jurisdictions. As explained below, the financial circumstances of the Township can be taken into account without requiring a drop in the salary ranking of the Township's Police Officers when compared to the wages paid to police officers in comparable jurisdictions. Thus, the Township's wage proposal also cannot be justified when

all of the relevant statutory criteria are taken into account.

Instead, I am persuaded that a wage increase between the Association's four and eight tenths percent (4.8%) proposal and the Township's zero percent (0%) proposal is appropriate here. In addition, I am equally convinced that the 1997 wage increase should be delayed until sometime after January 1, 1997. This will provide a cash savings to the Township while permitting the salaries of its Police Officers to keep pace with the salaries paid to officers in comparable communities. It will, of course, also lessen the total financial cost of the awarded increase.

In order to determine with specificity the appropriate economic package, it is necessary to analyze each of the statutory criteria in relation to the positions proffered by the parties.

As to the interests and welfare of the public, I agree with the Township that its citizens are not benefitted by a salary increase which the Township cannot afford and which results in reductions in other needed services. Therefore, logically, the Township's proposal, which is lower than the Association's, is preferred when evaluating the economic interests and welfare of the public.

However, the public's interests and welfare are also served by a police force that is stable and whose morale is high. This is especially so in a community like Piscataway where there is a high level of community involvement by Police Officers which has resulted in a significant drop in crime.

Thus, I am persuaded that a wage package which unnecessarily

deviated from the type of salary increases provided to other police officers in comparable communities, would not serve the interests and welfare of the citizens of the Township. After all, the interests and welfare of the public criterion is not limited solely to the public's financial interests and welfare. By necessity, it also must involve the community's interest and welfare in having its police force continue to serve its essential needs and provide essential services.

Under any reasonable view, the zero percent (0%) wage increase proposed by the Township, if awarded, will unnecessarily and invariably cause a decline in police morale. It would unquestionably cause officers to be frustrated and sense a lack of appreciation of their laudable efforts. This does not serve the interests and welfare of the public. Moreover, it is not necessitated by the evidence concerning the statutory criteria submitted by the Township.

By delaying a wage increase until sometime during the calendar year after January 1, police officers can receive a higher salary at the end of a calendar year than they would be receiving if the same amount in annual wages was paid to those officers over the course of the entire year, after a smaller percentage increase at the beginning of the year.

For example, a four percent (4%) wage increase granted on July 1, results in police officers being paid a weekly salary during the last half of the year equal to the weekly salary they would have been paid had they received a four percent (4%) wage increase on

January 1. However, over the course of the entire calendar year, the officers will have received total wages equivalent to the amount they would have received had they been granted a two percent (2%) wage increase on January 1. Thus, delaying wage increases has two benefits. At the end of the year officers are receiving the same weekly salary as their counterparts in comparable communities who received the same percentage increase at the beginning of the year. Whatever ground was lost in rate at the beginning of the year has been made up. However, the Township has paid out less in wages for the entire year and has more money available for its other budgetary needs. Thus, the financial burden on the public of granting wage increases to the Township's Police Officers can be taken into account without awarding a wage package which dramatically deviates from the type of salary increases provided to officers in comparable communities.

The interest and welfare of the public criterion also requires that the limitation imposed on the Township by N.J.S.A. 40A: 4-45.1 et.seq. be considered. As I have explained below in the discussion of the lawful authority of the employer, the wage increase awarded herein is well within the constraints of New Jersey's Cap Law and does not interfere with the Township's lawful authority.

For all the above, I find that the statutory criterion concerning the interest and welfare of the public favors awarding an 1997 wage increase between the increases proposed by the parties.

The second criterion requires a comparison of the wages,

salaries, hours and conditions of employment of Piscataway Police Officers with those of other employees performing the same or similar services in the public sector in comparable jurisdictions, in comparable private employment and in public and private employment in general.

The evidence demonstrates that both parties believe that Piscataway should be compared to other communities in Middlesex County. Based on the record before me, I find that the Middlesex County communities relied upon by both the Township and the Association are appropriate comparable communities for purposes of drawing the comparisons required by the statute.

The Township relied upon evidence that showed that even if its Police Officers were not awarded a salary increase in 1997, they would rank third in terms of salary among Middlesex County communities, including the twelve (12) communities for which 1997 police officer salaries have been reported. (Association Exhibit No. 1 at 5) The Township also relied upon evidence that showed that even if the other communities in Middlesex County granted their police officers wage increases in 1997 equal to the average wage increase granted by Middlesex County communities in 1997 thus far, i.e., 4.21%, the Township's Police Officers would rank fifth in terms of salary out of a total of twenty five (25) municipalities, even if they did not receive a wage increase in 1997.

However, the evidence relied upon by the Township also demonstrates that the Township's Police Officers will significantly

fall behind their counterparts in comparable jurisdictions in 1997 if the Township's wage proposal is awarded.

The record demonstrates that in 1996, the Township's Police Officers ranked second in terms of salary among Middlesex County communities reporting their salary increases in 1996. Even if the five (5) communities in Middlesex County which have not yet reported their officer's 1996 wage increases, granted their police officers wage increases in 1996 equal to the average wage increase granted by Middlesex County communities in 1996 thus far, i.e., 4.39%, the Township's Police Officers would still rank second in terms of salary. (Association Exhibit No. 1 at Tab 5)

The Township concedes that if its Police Officers received no wage increase in 1997, and other police officers in Middlesex County received wage increases in 1997 equal to the average wage increase granted thus far by Middlesex County communities in 1997, i.e., 4.21%, the Township's Police Officers would drop in rank to fifth in terms of salary. However, the Township's analysis did not include those communities such as Edison and Old Bridge, for which there was no reported salary increase in 1996. If police officers in those communities received the average wage increase granted to police officers in Middlesex County in 1996 and 1997, and the Township's Police Officers did not receive a wage increase in 1997, then the Township's Police Officers would drop in rank to seventh in terms of salary. (Association Exhibit No. 1 at Tab 5)

A drop in salary ranking from second to seventh among twenty five (25) comparable communities constitutes a drastic alteration

in salary ranking. It is not supported by the record evidence. Thus, I find that an analysis of the comparable communities relied upon by the Township supports awarding the Township's Police Officers a larger wage increase than the Township has proposed.

The Association introduced evidence which demonstrated that the average wage increase granted to police officers in Middlesex County thus far in 1997 has been 4.21 percent. (Association Exhibit No. 1 at Tab 5) This is significantly less than the four and eight tenths percent (4.8%) increase proposed by the Association. In addition, the evidence relied upon by the Association shows that a 1997 increase of less than the average 1997 increase of 4.21 percent would be sufficient for the Township's Police Officers to maintain their second place ranking in terms of salary. (Association Exhibit No. 1 at Tab 5) Thus, even under the analysis of comparable communities proffered by the Association, a salary increase of the magnitude proposed by the Association is not required to maintain the relative ranking of the Township's Police Officers in terms of salary.

Therefore, although the record evidence concerning the salaries of police officers in comparable communities clearly supports the awarding of a 1997 wage increase in excess of the zero percent (0%) wage increase being proposed by the Township, it does not support the magnitude of the wage increases being proposed by the Association. Instead, I find that this evidence also favors awarding an increase between the increases proposed by the parties.

A similar conclusion is reached after an analysis of the other

evidence of comparability submitted by the parties which was unrelated to the salaries paid to police officers in comparable communities. For example, both parties relied upon evidence which showed that the Township's school teachers recently received a wage increase in between the wage increases being proposed by the parties for the Township's Police Officers in 1997. The private sector settlements cited also fall within this range. Thus, the public and private sector evidence of comparability presented by the parties, which was unrelated to the wages paid to police officers in comparable communities, also supports the awarding of a wage increase in between the wage increases proposed by the Township and the Association.

In summary, I find that the different types of evidence of comparability presented by both the Township and the Association support the awarding of a wage increase somewhere between the increases proposed by the Township and the Association.

The next criterion deals with the overall compensation received by the Township's Police Officers. I agree with the Township that the overall compensation received by its Police Officers is quite good. I also agree with the Association that the overall compensation of the Township's Police Officers tends to be similar to the overall compensation received by police officers in comparable jurisdictions. The same points can also be made about the benefits received by the Township's Police Officers. However, the overall compensation of the Township's Police Officers would not fare relatively well with the overall compensation received by

other police officers in comparable jurisdictions, if I were to award the Township's wage proposal. Under those terms, the Township's Police Officers would fall behind their counterparts in comparable jurisdictions in terms of overall compensation and benefits. On the other hand, the wage increase being sought by the Association is more generous than is necessary to maintain the relative standing of the Township's Police Officers in terms of overall compensation and benefits. Thus, I find that this criterion also demonstrates the appropriateness of awarding a 1997 wage increase which falls somewhere between the wage increases being proposed by the Township and the Association.

As to the criterion concerning the stipulations of the parties, I find that there are no stipulations by the Township and the Association which are relevant to this dispute.

As to the lawful authority of the employer, I note the existence of New Jersey's Cap Law. I agree with the Association that this criterion requires an evaluation of the Township's authority to pay for a 1997 wage increase pursuant to the requirements of New Jersey's Cap Law. The Association has persuasively argued that the Township has the budgetary flexibility to pay for the Association's 1997 wage proposal within the framework of New Jersey's Cap Law. The Township has not presented any persuasive evidence to the contrary. This is not to say that the Township has failed to present a compelling case that it is not flush with money and that it cannot afford to pay for the 1997 wage increase proposed by the Association without over-burdening its

residents and taxpayers. However, that type of evidence is more appropriately considered when evaluating the financial impact on the governing unit, its residents and taxpayers. Thus, there can be no dispute that the Township has the lawful authority to pay for the 1997 wage increase awarded herein.

The statutory criteria concerning the financial impact of the parties' proposals on the governing unit, its residents and taxpayers, essentially asks for an analysis of the Township's ability to pay for the parties' proposals.

The Township has made a compelling case that it is not flush with money. That is, any substantial increase in Police wages will necessarily result in either the cost of that increase being shifted to the Township's residential taxpayers or a reduction in other important municipal services. Moreover, the evidence shows that between 1995-1997 the Township's equalized tax rates have increased at a rate greater than most other Middlesex County communities. (Township Exhibit T-1 at Item 8) The record also demonstrates that from 1991 to 1997, the assessed value of the Township's tax base decreased from \$2,348,187,652 in 1991 to \$2,167,966,537 in 1997. (Township Exhibit T-1 at Item 10) In addition, the evidence establishes that the Township's budget surplus between 1994 and 1997 declined from \$1,901,020 to \$1,003,819. (Township Exhibit T-1 at Item 12)

Given the record evidence concerning the current economic climate in Piscataway, this statutory criterion requires that I not award the 1997 wage increase being sought by the Association.

Instead, the wage increase awarded must be more modest. Otherwise, there will be an unnecessary burden upon the governing unit and its residents and taxpayers. For this reason, I conclude that while a weighing of all of the relevant statutory criteria entitles the Township's Police Officers to a wage increase significantly higher than the zero percent (0%) increase proposed by the Township, the financial circumstances of the Township necessitate moderating the cost of such an increase to the Township. Thus, primarily because of the financial impact upon the governing unit and its residents and taxpayers, the 1997 salary increase awarded below is less than what would be justified if the other statutory criteria were emphasized.

However, the Township's Police Officers must not be required to bear the entire brunt of the Township's financial difficulties. The record demonstrates that in the current Agreement the Association agreed to substantial reductions in the starting salary for newly hired Officers and to an elongated salary structure. These changes in the parties' salary structure resulted in real savings for the Township. They also represent a substantial concession by the Association which went a long way toward paying for the wage and benefit improvements in the current Agreement.

The Township is correct in pointing out that these savings were agreed to by the parties because of the Township's difficult financial circumstances. In addition, the Township is persuasive in arguing that since these financial difficulties remain, it would make little sense to return part of these savings to the Township's

Police Officers in the form of a larger 1997 wage increase than would otherwise be justified. Therefore, I will not consider these savings as being available to fund a 1997 wage increase.

However, these previously agreed to cost saving measures demonstrate that the Township's Police Officers have already made sacrifices in order to assist the Township with its financial difficulties. In addition, there is no evidence in the record that the Township's Police Officers have taken a disproportionate amount of the Township's resources or that they are otherwise responsible for the Township's financial problems. Thus, the 1997 wage increase awarded below is somewhat larger than it otherwise would have been had the Association not already made concessions to assist the Township financially.

For all of these reasons, I have determined that the 1997 wage increase, exclusive of increments, shall be a four and one-quarter percent (4-1/4%) across-the-board increase effective April 1, 1997. This results in a cash cost to the Township in 1997 equivalent to a 3.19 percent wage increase which is substantially less than the increase requested by the Association.¹ Although this increase is substantially greater than the increase proposed by the Township, it takes into consideration the Township's financial circumstances and constitutes more than a one (1) percentage point less cash increase than the 4.21 percent average cash cost of the wage increase granted to police officers in other Middlesex County

¹
Of course, there will be a roll-out cost of 1.06% in 1998 as a result of this amount being delayed in 1997 for three (3) months.

communities. However, this level of increase will not result in the Township's Officers failing significantly behind their counterparts in comparable communities.

Thus, the financial circumstances of the Township and its residents and taxpayers have been taken into account and the wages of the Township's Police Officers have not fallen behind the wages paid to officers in comparable communities.

As to the cost of living, the evidence demonstrates that since 1992, the percentage increase in wages granted to the Township's Police Officers have been greater than the percentage increase in the cost of living over the same period of time. (Township Exhibit T-1 at Item 5) However, I agree with the Association that police officers in the past did not receive wage increases equal to the cost of living when the increase in the cost of living was running in the double digits or close to the double digits. Under those circumstances, common sense required that salary increases be less than the cost of living.

This is not surprising. It is ordinarily the case that in periods of very high inflation, salary increases tend to lag behind the rate of inflation. Conversely, in times of low inflation, when the cost of living is quite moderate, wage adjustments somewhat exceed the cost of living. Pursuant to historic trends in the cost of living and Police Officer wage rates, I find the wage increase awarded herein to be the appropriate result. The awarded cash increase slightly exceeds the 1996 increase in the cost of living (2.9% vs. 3.19%), but reflects the long term historic trends in the

cost of living and is far more moderate than the increases received by Police Officers in prior years.

Thus, I have incorporated relevant evidence concerning the cost of living into this Award. Stated otherwise, the increase awarded herein reflects and takes into account the declining cost of living.

The final criterion concerns the continuity and stability of the employment of Piscataway's Police Officers. The evidence establishes that the present complement of Officers in Piscataway have a high level of continuity and stability in their employment. That is, there is no evidence to suggest that the Township's Police Officers face the imminent threat that their positions will be eliminated or that the number of Officers will be reduced. As a result, this criterion favors a more moderate increase than the one sought by the Association. This criterion, too, influenced my decision to delay the awarded increase.

The final issue in dispute concerns whether the 1997 wage increase awarded herein must be paid to Police Officers who were not on the payroll as of December 31, 1997. The economic difficulties being faced by the Township, as well as a consideration of the other relevant statutory criteria, dictate that the Township not be required to pay a 1997 wage increase to individuals who are no longer employees of the Township. While I understand that those individuals, too, gave valuable service to the Township during all or part of 1997, they were compensated fairly for those services. In addition, they provided those

services to the Township without any promise that their wages would be retroactively adjusted upward. Thus, I am not persuaded that the 1997 wage increase should be paid to these former employees.

In summary, in light of all of the statutory criteria, as described in detail above, I award the following 1997 wage increase, exclusive of increments, to Police Officers who were on the Township's payroll on or after December 31, 1997:

April 1, 1997

4-1/4% across-the-board

This increase balances the legitimate right of the Township's Police Officers to be compensated appropriately without unduly burdening the residents and taxpayers of Piscataway. In addition, the wage increase awarded herein intentionally cushions the impact of the awarded increase on the Township's financial resources by delaying the increase until April 1, 1997 and by not requiring that it be paid to individuals who were not Township employees on or after December 31, 1997.

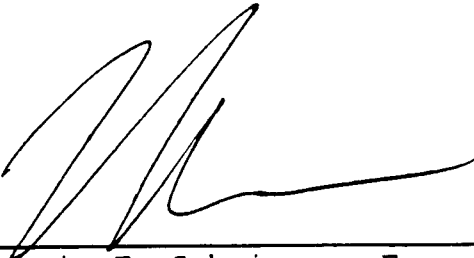
In summary, I have carefully considered all of the relevant statutory criteria, as well as the type of standards normally evaluated in interest arbitrations of this kind, in reaching my findings above. In my view, they balance the rights of the members of the bargaining unit to a fair wage increase with the legitimate needs of the Township to budget its economic resources.

AWARD

1. WAGES

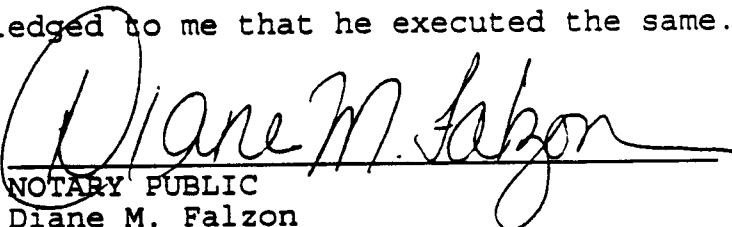
An April 1, 1997 across-the-board wage increase of four and one-quarter percent (4-1/4%) payable to all Police Officers who were on the Township's payroll on or after December 31, 1997.

June 18, 1998.



Martin F. Scheinman, Esq., Arbitrator

On this 18 day of June 1998, before me personally came and appeared MARTIN F. SCHEINMAN, ESQ., to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.



NOTARY PUBLIC
Diane M. Falzon
Registration No. 01FA5073646
County of Nassau
Expires March 3, 1999

