

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between

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**BOROUGH OF ALLENDALE**

"Public Employer"

-and-

**ALLENDALE PBA LOCAL 217**

"Union."

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**INTEREST ARBITRATION  
DECISION  
AND  
AWARD**

Docket No. IA-99-46

**Before  
James W. Mastriani  
Arbitrator**

**Appearances:**

**For the Employer:**

Steven S. Glickman, Esq.  
Ruderman & Glickman, P.C.

**For the Union:**

Richard Loccke, Esq.  
Loccke & Correia, P.A.

I was appointed arbitrator by the New Jersey Public Employment Relations Commission on February 11, 1999 in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Allendale) and PBA, Local 45 (the "PBA"). Pre-arbitration mediation was held on May 6 and July 13, 1999. Because the impasse was not resolved, a formal interest arbitration hearing was held on September 7, 1999 at which the parties examined witnesses and introduced evidence. Post-hearing briefs were submitted by October 15, 1999. The mandatory terminal procedure of conventional arbitration was used to decide all issues in dispute. Under this procedure, the arbitrator has the authority to fashion an award which he believes represents the most reasonable determination of the issues in dispute.

### **FINAL OFFERS OF THE PARTIES**

Before beginning the formal hearing, the Borough and the PBA submitted the following final offers:

#### **PBA LOCAL 217**

##### **Economic Issues**

1. Duration—January 1, 1999 to December 31, 2001.

2. Wages-- Across the board salary increases as follows:

Effective January 1, 1999	5%
Effective January 1, 2000	5%
Effective January 1, 2001	5%

The PBA seeks to reduce the number of steps so that it will take 5½ steps to reach top pay instead of the current 7½ steps.

3. Detective Stipend-- The PBA proposes to codify the current Detective stipend of \$1500.00 per annum.

4. Bereavement Leave-- The PBA seeks to add grandparents to the definition.

5. Clothing Allowance-- The PBA seeks to increase the clothing allowance by \$150.00 per contract year.

6. Work Incurred Injury Procedure-- The PBA asks that the present benefit of wage continuation be sent to the Borough and Borough would keep the employee on regular payroll status thereby permitting the injured officer to be credited with good time for pension purposes.

7. Holidays-- The PBA seeks one additional holiday.

## The Borough of Allendale

1. Duration--January 1, 1999 to December 31, 2001.

2. Salary--

Effective January 1, 1999	3% for Officers at the maximum step. 2% for Officers at all other steps.
Effective January 1, 2000	3% for Officers at the maximum step. 2% for Officers at all other steps.
Effective January 1, 2001	3% for Officers at the maximum step. 2% for Officers at all other steps.

3. Salary for Sergeants-- The Borough proposes that effective January 1, 2000, a three (3) step guide be established by taking the 1999 salary as the starting salary, the 2000 salary as the top salary, and creating an intermediate step between these two steps.

4. Longevity-- The Borough proposes to eliminate longevity for all employees hired on or after January 1, 2000.

5. Medical Insurance-- The Borough proposes that effective January 1, 2000, a \$12.50 co-pay per pay period be implemented for all bargaining unit members maintaining either husband and wife or family coverage.

6. Article IV-Holidays-- The Borough proposes that Section 2 of this Article shall be revised by changing the identity of the holidays to be consistent with Borough policy, which has no impact on the number of holidays.

7. Article IX--Court Time-- The Borough proposes to revise this article to exclude overtime payment for attendance in civil cases so that this Article is consistent with N.J.S.A. 40A:14-135.

8. Article X-Overtime-- The Borough proposes to revise the second paragraph to provide that the minimum guarantee shall not apply when the overtime is contiguous with the employer's regular work schedule.

9. Article XIV-Medical Insurance-- The Borough proposes that without changing the benefits, to delete the identity of the insurance carrier. The Borough also proposes a provision that the Borough has the right to change the insurance provider so long as the same or better benefits are provided.

10. Article XVIII-Car Mileage Allowance-- The Borough proposes to change reimbursement to the IRS rate consistent with Borough policy.

11. Article XIX-Seniority Clause-- The Borough proposes to delete this Article in that it illegally restricts the Borough's right to change Ordinances, Resolutions, etc.

12. Article XXI-Other Provisions-- The Borough proposes to delete this Article in that it no longer applies and is not part of the economic proposals of either the Borough or the PBA.

The Borough and the PBA have offered testimony and considerable documentary evidence in support of their final offers. Allendale Sergeant Joseph Carey and Mahwah Police Officer Scott Cherven testified on behalf of the PBA and Borough Administrator Susan Stanbury testified for the Borough. 22 Township and 45 PBA exhibits were received in evidence. Several of these exhibits consisted of more than one document. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

(1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators 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) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings 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 section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, 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, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 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 or panel of arbitrators shall take into account to the extent that 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 on 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 its 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.

### **BACKGROUND**

Allendale is a suburban, predominantly residential community in Northwestern Bergen County with approximately 6400 residents. Of the 2,163 building units, 1925 are residential. Its net taxable valuation in 1997 was 739,967,149 and 82% of its real property valuation comes from residential property. Allendale's general tax rate has increased from 2.33 in 1996 to 2.60 in 1999. At the same time, its municipal tax rate has decreased from .624 in 1996 to .617 in 1999.

Allendale has been listed in New Jersey Monthly as one of the 25 great towns in New Jersey. In that article, the Borough was praised for its friendliness and its sense of community.



Presently, the Allendale Police Department consists of 14 sworn officers, including the Chief of Police. There are nine Patrol Officers and four Sergeants in addition to the Chief.

The Allendale Police Department has become increasingly active in recent years with the average number of calls logged per day rising from 5.11 in 1993 to 24.01 in 1998. New initiatives have added to the Police Department's activities. Those initiatives include a bicycle patrol, school safety violence program, a program to call the elderly and monitor them, an anti-violence program, seminars for senior citizens, 911 service, fingerprint file program for elementary schools, and a K-9 program. The Allendale Police Department has provided a wide variety of officer training opportunities to enhance police officer skills.

The Borough and the PBA have expertly and comprehensively set forth their positions, arguments and evidence in support of their respective positions. They are summarized as follows.

## **POSITIONS OF THE PARTIES**

### **PBA, LOCAL 217**

Focusing on the statutory criteria, the PBA starts by emphasizing the positive attributes of the Borough and its Police Department. Noting that New Jersey Monthly magazine listed Allendale as one of the 25 great towns in New

Jersey, the PBA points out that Allendale's Police Department is one of its assets.

As the number of residents in Allendale has grown, the PBA emphasizes that the size of its police department has shrunk and that its workload has increased significantly. In addition to new legal requirements and a growing residential base, the PBA points to the 21 new or improved police initiatives over the past few years. They include the bicycle patrol, the school safety violence program, a program to call the elderly and check on them, seminars for senior citizens, 911 service, fingerprint file program for elementary schools, a K-9 program, as well as a variety of officer training programs to enhance their skills.

The PBA cites the testimony of Sergeant Joseph Carey who characterized the Allendale Police Department as "pro-active." But, Sergeant Carey also pointed out that as the workload has increased and the size of the department has shrunk, turnover has also increased. Specifically, Sergeant Carey noted that the career path has shrunk and the chain of command is shorter as a result of the elimination of the ranks of the lieutenant and captain positions. The PBA ties these changes to the departure of two Officers, one to a federal agency and one to Mahwah, a neighboring community. The PBA uses the testimony of Mahwah Officer Scott Cherven, the Allendale Officer who resigned and who now works for the Mahwah Police Department to illustrate its concerns about the compensation package in Allendale. Noting that Officer Cherven had completed basic training

at the Police Academy and had received on the job training from Allendale officers before choosing to resign and work as a Police Officer in Mahwah, the PBA points to his testimony that he chose Mahwah for its compensation package and its promotional opportunities. Despite these difficulties, the PBA points out that Allendale Police Officers retain a good esprit de corps and are proud of the quality and caliber of the work they perform for Allendale's citizens. The PBA characterizes the Department as "highly professional, proactive and efficient." Given the lack of a career path, the PBA maintains that salary base must be used as a means of moving ahead and maintaining the high quality of this department and the increase sought are in the interest and welfare of the public.

Addressing the comparison criteria, the PBA asserts that Allendale Police Officers are not highly paid. Using 1998 salaries for comparison, the PBA asserts that the Allendale Police Officers earn below average salaries compared to Police in neighboring communities, most of which are in Bergen County. Using Mahwah, Waldwick, Upper Saddle River, Franklin Lakes, Wyckoff, Saddle River, Glen Rock, Midland Park, Oakland, Hoboken and Ridgewood for comparison, the PBA calculates that in 1998 Allendale top step salary was \$67,135 compared with an average top step salary of \$68,494. Pointing out that a \$1300 increase would be needed to bring Allendale Police up to average, the PBA also notes that Allendale Police have one of the longest patrol step schedules of all of the communities in evidence. As a result, the PBA seeks to reduce the Patrol Officer salary guide by two steps so that it will have the same

number of steps as the average agreement in the area. Currently, Allendale Police reach top pay after six years. Additionally, the PBA asserts that there are no off-setting benefits to justify below average salaries. For example, the PBA points out that the annual maximum longevity benefit in nearby communities averages 12%, but the maximum benefit in Allendale is 11.2%.

In making this comparison, the PBA compared longevity benefits in Teaneck, Cresskill, Hackensack, Garfield, Waldwick, Englewood, Ridgewood, Wyckoff, Upper Saddle River, Wayne and West Milford. Among those communities, maximum annual longevity benefits ranged from 8% in Wyckoff to 14% in Garfield and Hackensack. The PBA also looked to holiday benefits to show that that the average annual holiday benefit among nearby communities was 13.133 annual holidays compared with 12 holidays in Allendale. For this comparison, the PBA examined benefits in Englewood, Cresskill, Garfield, Teaneck, Waldwick, Mahwah, Ridgewood, Ho-Ho-Kus, Wyckoff, Upper Saddle River, Franklin Lakes, Glen Rock, Wayne and West Milford. Officers in Garfield, Mahwah and West Milford receive 14 holidays, while Officers in Wyckoff receive 12. All other communities listed provide 13 holidays per year. For this reason, the PBA seeks an additional holiday in Allendale. According to the PBA, awarding an additional holiday would bring Allendale closer to the average holiday benefit, but still below average.

The PBA also calculates that the clothing allowance provided to Allendale Officers is below average. Based upon a comparison among nearby communities, the PBA asserts that Allendale's \$650 annual clothing allowance is \$120 below the average annual clothing allowance of \$770. The PBA based its comparison upon the annual clothing allowance in Cresskill, Garfield, Waldwick, Englewood, Mahwah, Ridgewood, Upper Saddle River, Franklin Lakes, Glen Rock, Wayne and West Milford.

Additionally, the PBA points out that salaries and benefits are not static, and that wage settlements and arbitration awards are providing salary increases. Using the contracts it placed in evidence, the PBA calculates that the average annual increase for 1999 is 4.085%, for 2000 is 4.1% and for 2001 is 4.075%. In addition, the PBA is mindful that Allendale Police Officers are already \$1300 or 2% behind the average police salary for the area. If one adds the increases necessary to bring Allendale Police up to average salaries upon the comparable departments, the PBA asserts that the calculation would result in an amount very close to the PBA's final offer. As such, the PBA maintains that the empirical data in the record and evidence introduced at hearing supports an award of the PBA's economic position.

In contrast, the PBA argues that the Borough's final offer which consists of a "series of regressive changes" would further worsen the relative position of the Allendale Police Officers' compensation package. Asserting that the Borough

has not supported its proposals to take away benefits, the PBA points out that the only support provided for its proposal to eliminate longevity for new hires is that the Borough eliminated that benefit for newly hired unrepresented Borough employees. Thus, the PBA argues that the Borough's proposal to eliminate longevity for newly hired police officers is unsupported by empirical data.

Addressing the Borough's reliance on private sector data, the PBA contends that private sector comparisons are "of little value in an objective evaluation of the issues in this case." According to the PBA, the unique statutory provisions applying to police in New Jersey results in "strong justification for significantly higher compensation" for police employees. Citing the interest arbitration award in Borough of River Edge/PBA, Local 201, the PBA asserts that private sector comparisons should not be controlling in this case. Specifically, the PBA asserts that no private sector job compares to that of a police officer. According to the PBA, a New Jersey police officer must be prepared to act and may be armed at all times while within the State. Additionally, the PBA points out that police operate "under a statutorily created public franchise of law enforcement with on and off duty law enforcement hours." The PBA also notes that after age 35, police pensions are not portable and police officers are not free to transfer their skills to policing in other states. The PBA cites several state and federal laws that control the relationship of police officers to their employers. These laws include:

1. Fair Labor Standards Act, 29 U.S.C. § 201 et. seq. (different standards applied to privates sector employees and to police.)
2. New Jersey State Wage and Hour Law, N.J.S.A. 34:11-56a et. seq. (does not apply to police).
3. N.J.S.A. 40A:14-118 (specific statutory provisions creating and regulating police departments including powers and duties, specifics for assignment of subordinate personnel and delegation of authority.)
4. N.J.S.A. 40A:14-122 (specific qualifications for police officer employment, as well as provisions for dismissal based upon absence without cause, statutorily controlled promotional exams, residency requirements.)
5. N.J.S.A. 40A:14-123.1a (sets hiring criteria and order of preference.)
6. N.J.S.A. 40A:14-127.1 (minimum and maximum age restrictions for initial hire and rehire as a police officer)
7. N.J.S.A. 40A:14-127.3 (acceptance into Police Retirement System as a condition of employment)
8. N.J.S.A. 40A:14-131 (statutorily created minimum police salary that is below current minimum wage).
9. N.J.S.A. 40A:14-133 (Police work week shall not exceed six days "except in cases of emergency.")
10. N.J.S.A. 40A:14-134 (extra duty work paid not in excess of time and one-half.)
11. Maximum age of employment for a police officer is age 65.
12. N.J.S.A. 40A:14-147 - 151 (unique hearing and complaint procedure for departmental charges).
13. N.J.S.A. 40A:14-152.1 (power of arrest).

Additionally, the PBA points out that police are specifically exempted from State firearms laws, and are trained and retrained in police academies. The PBA

points out that failure to maintain required training and retraining can lead to loss of certification as a police officer. The PBA maintains that, few if any, of the requirements and regulations covering police officers apply to private sector employees and that private sector employees enjoy many benefits not provided to police. Specifically, the PBA notes that private sector employees are not restricted by a residency requirement. Therefore, a private sector employee may travel across the country in search of alternate employment while a police officer is restricted by certification to working within the State.

Citing the interest arbitration award by Arbitrator William Weinberg in the Village of Ridgewood, the PBA maintains that local comparisons are more relevant to police wages. Accordingly, the PBA contends that private employment is "an overly generalized category" without the specialized skills and standards required of police. As such, police wages "should be considered on a higher wage plane than private employment generally," according to the PBA.

Noting that the parties stipulated only to a three-year term and to issues that were procedural in nature, the PBA turns to the issue of the lawful authority of the employer. The PBA views analysis of the lawful authority of the employer as an analysis of the funding ability of the municipality within the constraints of the Cap Law. Initially, although the Borough could have used an index rate of up to 5% under the Cap calculation, the Borough used only a 1.5% index rate. Within that index rate, the Borough's 1999 budget showed that it did not use the



entire amount permitted under the Cap and carried forward a substantial Cap bank for the past two years. Based upon the its analysis of the Borough's budget, the PBA calculates that had the Borough used the additional 3.5% available to it, the Borough would have had an additional \$164,724. As a result, the PBA maintains that the Borough waived \$162,724 in additional flexibility. Even though the Borough did not use all of the flexibility available to it, the PBA points out that the Borough's budget under the 1.5% formula still provided more budget flexibility than was used. The PBA calculates that the Borough's 1999 budget, with \$4,694,580 as the total appropriated amount for 1999 was \$259,629 under the amount allowable of \$4,954,201 with the 1.5% index rate. Thus \$259,629 was carried forward in the Borough's Cap bank. This Cap bank, which may be carried forward in 2000 and 2001, virtually guarantees that the Borough will not have a Cap problem for the duration of this agreement given the differences between the final offers of the parties.

The PBA also notes that the amount "under Cap" in the 1999 budget, \$259,620, is greater than the Cap bank for the previous two years combined. This, according to the PBA, is evidence of trends of consistent underutilization of the Cap formula entitlement and a significantly higher cap bank from year to year. The PBA suggests that it is reasonable to assume that these trends will continue.

Looking at the Cap bank in the context of the cost of its position, the PBA calculates that the cost of a one-percent increase in wages is \$8,898. The PBA calculates further that amount under Cap for 1999 was equal to 29 "bargaining unit percentage points." Noting that the amount under Cap does not represent actual cash, the PBA nonetheless maintains that it illustrates the relative impact of the cost of an increase. Accordingly, the PBA asserts that Allendale has the lawful authority to pay the full cost of the increases proposed.

The PBA maintains that an award of its position would have an "extremely small and almost imperceptible impact" upon Allendale's residents and taxpayers. Quantifying the difference between its proposal and the Borough's the PBA calculates that 2% annually is approximately \$18,000 and that the Borough can afford the additional \$18,000 per year. The PBA characterizes the Borough as a "wealthy municipality with a stable tax rate and a rapidly expanding tax ratable base." In support of this description, the PBA points to new commercial and residential construction that brought in over \$27,700 in new taxes in 1998. Based upon the testimony of Sergeant Carey, the PBA notes that several other projects are at the early stages of construction and will bring in new ratables over the next several years. Construction in Allendale results in new homes sell for approximately \$500,000 and town homes sell for approximately \$300,000. According to the PBA, the Borough's ratables exceed \$750,000,000 and are greater than those in most of the area communities. As examples, the PBA points out that the ratable base in Midland Park is \$530 million, in Hohokus

\$634 million, and in Waldwick, \$675 million. The PBA suggests that Allendale's attractiveness including its strong tax base and low and stable tax rates were key factors in its being designated as one of the "25 Great Towns" in New Jersey.

Additionally, the PBA points out that the municipal tax rate in Allendale is stable and appears not to be burdensome on the taxpayers. Citing the Spring 1999 issue of the "Allendale Crescent," the PBA points out that only 25% of the total tax levy is for municipal purposes, including police expenses. Other expenses covered by municipal taxes include funding for reconstruction of the Red Barn Pavilion in Crestwood Park and building of ball fields, reconditioning the tennis courts in the Park and improvements in municipal buildings.

The PBA also points out that both the tax levy and the rate of tax collection have been increasing. The tax levy has increased from \$17,393,349.95 in 1996 to \$18,547,150.93 in 1998. The tax collection rate increased from 97.20% in 1996 to 98.90% in 1998. The PBA also finds evidence that Allendale's taxpayers do not find their taxes too burdensome to be found in the results of the election to approve the school budget. The PBA recounts that in April 1999 the school budget which includes a \$10.3 million tax levy and was \$1.1 million higher than the previous year was approved and only 9.4% of eligible voters turned out to vote. The PBA emphasizes that the school budget vote demonstrates that voters approved an almost 10% increase in costs which results in an increased tax burden averaging \$65 per home. According to the

PBA, the low turnover coupled with the increase in the schools' portion of the tax burden demonstrates the willingness of Allendale taxpayers to increase their local taxes. Additionally, the PBA points out that the impact of an award of its proposal is far less than the \$65 per year than Allendale taxpayers have already accepted for the schools.

Looking to the cost of the PBA's position above the cost of the Borough's position, the PBA calculates that the additional \$17,796 in 1999 divided into the total tax levy of \$18,709,604 results in .00095%. The PBA calculates further that if that percentage is multiplied by the typical \$4,000 residential tax bill, the result is \$3.80 per year. Comparing this to the \$65.00 increase Allendale voters have already approved, the cost of the increase in the school budget is more than 17 times the amount of the impact of an award of the PBA's position. The PBA's calculation assumes that the full cost is funded by taxes. But, the PBA points out that there are already substantial available resources within the Town's budget and budget transfers. According to the PBA additional taxes are not necessary to fund its proposal.

Additionally, the PBA points to the money saved by the Police Department. First, the PBA notes that Officer Cherven who left the Borough's Police Department for Mahwah's Department has not been replaced. According to the PBA, the cost of his compensation alone is more than sufficient to fund the difference between its final offer and the Borough's proposal. Further, the

Borough has not filled the positions of Detective Lieutenant, Lieutenant, and Detective Sergeant as those positions became vacant. Failing to fill those positions by promotion has saved the Department money and resulted in few promotional opportunities for Police Officers according to the PBA. Additionally, those officers holding the rank of Sergeant now are responsible for all supervisory decisions subject to the Chief's authority and they no longer are able to share that responsibility with a Detective Lieutenant, Lieutenant, or Detective Sergeant. The PBA maintains that some of the savings resulting from those personnel shifts and changes should be directed back towards the remaining Police Officers.

The PBA also reiterates that the Borough has demonstrated substantial cash flexibility and the results of operations at the end of the 1998 budget showed \$699,789. Additionally, budget revenues exceeded those anticipated by \$401,618 in 1998. Pointing to the unexpended balances in appropriation reserves at the end of 1997 of \$191,725 and at the end of 1998 of \$185,419, the PBA maintains that the Borough's surplus has increased five-fold from \$547,020 in 1994 to \$2,974,862 in 1998.

Turning to the cost of living criterion, the PBA relies upon the Borough's data showing that it has consistently paid Police Officers almost 2% more than other employees. The PBA also points to the New Jersey Department of Labor information distributed by PERC in December 1998 shows that private sector

salaries increased by 4.78%. The PBA recognizes that cost of living data is somewhat below its position, but notes that it is only one of eight criteria and is "far from a key consideration." Pointing out that cost of living data is regional, and is only one indicator. The PBA maintains that it should not be controlling and notes that it was not controlling in the era when it increased by almost double digits and employees did not receive increases of the same magnitude. Accordingly, the PBA maintains, employees should not now be limited by cost of living data. Additionally, the PBA suggests that it is relevant that Allendale Police are paid less than police in other municipalities subject to the same cost of living factors with settlements or awards already in place for the term of the contract.

Addressing the continuity and stability of employment, the PBA raises the concepts of "area standards" and "prevailing wage" and asserts that these concepts support the PBA's final offer. Looking at area standards in terms of total compensation, the PBA maintains that area standards are not being met and the PBA's proposal "closely parallels the prevailing wage requirement to bring these officers up to average and to keep them there."

A critical factor in this case is the number of steps and base wage rates for employees. Relying on the testimony of Mahwah Officer Chervin, the PBA maintains that the number of steps must be reduced to make reaching the top step for patrolmen attainable. The PBA notes that the Borough takes the opposite position, but does not provide empirical evidence.

The PBA also seeks to include the Detective stipend in the contract language and notes that it is a longstanding pay provision and it merely seeks to codify that provision.

Adding grandparents to the definition of bereavement leave would bring that definition up to the standard form according to the PBA. The PBA also points to the circumstances of a recent death of a grandparent of a patrol officer as additional evidence.

The PBA also maintains that its work incurred injury procedure is an adjustment that would not cost the Borough money. According to the PBA, it seeks to maintain the present benefit of wage continuation, but asks that the wage continuation be sent to the Borough and that the Borough keep the employee on regular payroll status. This would permit the Officer to be credited with good time in the pension system. At present, the Officer receives a check from the insurance company and the Borough supplements the amount. According to the PBA, this results in additional paperwork and requires the Officer to work longer in order to qualify for a full pension at 25 years. The PBA maintains that there is no justification for this penalty to be incurred by an officer injured in the line of duty.

The PBA also seeks adjustments to the clothing allowance and an additional holiday. The PBA maintains that these adjustments are supported by the empirical data among comparable communities.

In contrast, the PBA contends, the Borough has presented a laundry list and seeks to divest Police Officers of long standing benefits. The PBA describes the Borough's proposals as "almost universally regressive and contrary to the concept of creating a solid career path scheduled and intended to retain talented officers." Since the Borough has taken away most promotional opportunities for Officers, the PBA asserts that Police can advance financially only through the collective bargaining process.

### **Position of the Borough of Allendale**

Initially, the Borough contends that the PBA failed to meet its burden of proof with respect to its economic proposals. According to the Borough, simply submitting collective bargaining agreements is not sufficient to support the PBA's economic demands. Additionally, the Borough asserts that the PBA's exhibits showing residential development do not support its proposals because residential development is a "tax loser." According to the Borough, the workload statistics presented by the PBA demonstrate merely that Borough Police Officers work in return for their compensation and benefits. With respect to the exhibits showing that the Borough has the ability to pay, the Borough acknowledges this and notes



that the PBA has not submitted direct evidence or testimony supporting its wage demand or other proposals to any of the statutory criteria. Arguing that the purpose of briefs is to summarize the evidence and argument presented at the hearing, the Borough asserts that briefs may not be used to present new evidence. Therefore, the Borough argues, the PBA can not rely on the collective bargaining agreements and the documents submitted by the Borough at hearing and use those documents to argue about the reasonableness of the PBA's position in its brief. As a result, the Borough concludes that even consideration of the PBA's demands would violate the spirit and intent of the statute and established case law. Accordingly, the Borough asserts that the PBA failed to meet its burden of proof and its argument must be rejected "in total."

In contrast, the Borough asserts that its position is supported by the evidence and argument and should be award in total even considering that the arbitrator has been given conventional authority.

Turning to the statutory criteria, the Borough argues that a public employer best serves the interest and welfare of the public by balancing the interest in satisfying its employees and avoiding labor strife with its interest in maintaining a stable level of government services. Citing Hillsdale, the Borough points out that the public is a "silent partner" to interest arbitration proceedings and this factor must be given proper weight. In other words, the Borough emphasizes that the award's effect on its citizens and taxpayers must be considered. Noting that the

average award granted to police and fire personnel dramatically exceeds inflation, the Borough contends that if wage increases continue to outstrip inflation and private sector salary increases, the taxpayer's burden will also increase. Therefore, the Borough maintains, its proposal supports the public interest by providing a reasonable salary increase and considering the interest of its taxpayers. On the other hand, the Borough asserts that the PBA's final offer places primary emphasis on the wants and desires of its members and little weight on the interests and welfare of the public, the Borough's ability to pay, the Borough's lawful authority and the financial impact on the Borough, its residents and taxpayers. The Borough argues that it is better equipped to weigh the all of the statutory criteria and that its proposal in total "must be" the position awarded despite the conventional nature of this proceeding.

The Borough emphasizes that its demographics are important both to the interest and welfare of the public criterion and to the comparability criteria. The Borough describes itself as a "relatively small-sized municipality" when ratables are considered. Additionally, the Borough acknowledges that the moderate to high per capita income enjoyed by its residents is balanced by a high tax levy per capita.

Comparing itself to municipalities in Northwest Bergen County and Pascack Valley, the Borough points out that it ranks 17<sup>th</sup> out of 21 municipalities with respect to the equalized value of ratables; 11<sup>th</sup> out of 21 with respect to the

equalized tax rate; 6<sup>th</sup> out of 21 in per capita income; and 7<sup>th</sup> out of 21 with respect to the tax levy per capita.

The Borough also maintains that it is in the interest and welfare of the public for the Borough to implement its policies consistently. To that end, the Borough's proposal to revise the Holiday Article to identify holidays consistent with Borough policy should be awarded. The Borough points out that its proposal would have no impact on the number of holidays or on the bargaining unit.

Additionally, the Borough maintains that it is in the interest and welfare of the public that its policies and practices are consistent with law. Accordingly, the Borough seeks to revise the Court Time provision to exclude overtime payment for attendance in civil cases so that the provision is consistent with N.J.S.A. 40A:14-135<sup>1</sup> precluding payment to police officers for participation in civil cases. The Borough contends that since this provision is consistent with the law, it would have no impact on the bargaining unit. Additionally, the Borough points out that the PBA has argued that there are Federal statutes and case law that contradict this statutory provision, but has not provided evidence or specific citations.

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<sup>1</sup> N.J.S.A. 40A:14-135 provides as follows: The governing body of any municipality may, by ordinance, provide that whenever any member of the police department or force shall be required to appear before any grand jury or at any municipal, County, Superior or Supreme Court proceeding, except in a civil action, the time during which he is so engaged shall be considered a time of assignment to, and performance of duty. When such appearance occurs during the member's assigned duty hours, he shall suffer no loss in compensation. When such appearance occurs outside his assigned duty hours, he shall receive either compensatory time off from his regular duty hours or additional compensation.

The Borough maintains further that it is in the interest and welfare of the public that employee overtime payments be limited to when they are working in excess of their normal shift and employees should not receive premium pay during regular work hours. For these reasons, the Borough urges adoption of its proposal to revise the Overtime provisions of the collective bargaining agreement to provide that the minimum guarantee shall not apply when overtime is contiguous with the employee's regular work schedule to be awarded.

The Borough also contends that it is in the interest and welfare of the public to permit the Borough maximum flexibility in obtaining medical coverage for its employees because it permits the Borough to seek the best premium without impacting employees' medical coverage. Therefore, the Borough seeks to delete the identity of the insurance carrier and to include a provision indicating that the Borough may change insurance providers so long as the same or better benefits are provided.

The Borough also asserts that maximum flexibility in modifying ordinances and resolutions is in the interest and welfare of the public, so long as those modifications do not impermissibly encroach on the PBA's negotiations rights. Accordingly, the Borough proposes to delete the Seniority Clause provision in that it restricts the Borough's right to change its ordinances and resolutions.

The Borough also relies upon the interest and welfare of the public for support for its proposal to delete the Other Provisions Article of the collective bargaining agreement. The Borough reasons that it is in the interest and welfare of the public that all collective bargaining agreements accurately reflect the rights and responsibilities of all parties to the contract and the Other Provisions Article no longer applies and is not part of the economic proposals.

Turning to the comparability criteria, the Borough contends that review of the comparables and overall compensation demonstrates support for its proposal. Therefore, it argues that its package must be selected and the PBA must meet the burden of making the "strongest of showings on the comparables" in light of the statutory criteria.

Looking first to comparable municipalities, the Borough shows that in 1998, its Patrol Officers ranked 9<sup>th</sup> out of the 21 municipalities it used for comparison. The Borough used Franklin Lakes, Hillsdale, Waldwick, Ho-Ho-Kus, Allendale, Upper Saddle River, Wyckoff, River Vale, Glen Rock, Washington Township, Emerson, Oakland, Woodcliff Lake, Westwood, Mahwah, Ridgewood, Saddle River, Ramsey, Midland Park, Park Ridge, and Montvale as comparable communities. The Borough compares this ranking to its relative ranking among those communities with respect to equalized valuation and notes that it is higher. Further, the Borough points out that if its final offer is awarded, the relative

ranking of the Patrol Officers' salary would still exceed the Borough's equalized ratable ranking.

The Borough addresses the meaning of the comparability criterion and asserts that this does not require that municipalities must provide the same benefits. Indeed, if this were the case, the Borough argues, benefits would not change and all municipalities would provide the same benefits package. Rather, the Borough claims trends within the State and the country, as well as considerations of when "enough is enough" must be taken into account.

To that end, the Borough points to its proposal for a three-step salary guide for Sergeants. The Borough suggests that this proposal follows recent trends to create salary guides where none existed previously and to expand existing salary guides in recognition of the fact that employees learn from experience and in recognition of the need to reduce gaps between steps and/or ranks. The Borough argues that its proposal for a three-step salary guide for Sergeants follows these concepts and is supported by the comparability criterion.

Likewise, the Borough asserts that its proposals to eliminate longevity for employees hired on or after January 1, 2000 and its proposed \$12.50 co-pay per pay period for husband and wife or family medical coverage are supported by the comparability criterion. According to the Borough, even with its proposal to eliminate longevity pay for new hires, its compensation package is comparable to

other Bergen County municipalities and competitive State-wide. Viewing longevity as a form of compensation recognizing years on the job, the Borough maintains that given current salaries, it is no longer necessary to provide longevity pay to adequately compensate Police. To that end, the Borough asserts the existence of a State-wide trend to eliminate longevity or to calculate it on a flat-rate dollar basis to provide cost containment for municipalities. Similarly, the Borough points to a trend in both the public and private sectors to include employee contributions to the cost of medical coverage and the Borough maintains that its proposal is consistent with this trend. In support of this trend, the Borough cites a Watson Wyatt Survey showing statistics on employee contributions to medical plan coverage. According to this survey 96.6% of employees in the Northeast were required to contribute to the cost of their health insurance and 100% of employees in the Northeast were required to contribute to the cost of their medical insurance when a spouse or other family members received coverage.

Placing Police Officer salaries in context, the Borough points out that Police salaries far exceed those of other Borough personnel outside the Police Department. According to the Borough, the only managerial employee whose 1999 salary exceeded the 1998 salaries for Police Officers is the Borough Administrator. Therefore, the Borough points out that although the percentage increases it proposes for Police is slightly lower than other Borough employees, their dollar amount increase will be comparatively higher than other Borough

employees. According to the Borough, the salaries of most of its other employees are so far behind those of Police that a larger percentage increase for other employees does not allow them to “catch up” to Police salaries. Further, the Borough calculates that the dollar amount of the increase it proposes to provide to Police will equal or exceed the dollar amount of the increase provided to other Borough employees. In contrast, the Borough asserts that the PBA's proposal would provide Police with both a higher percentage increase and a higher dollar amount increase than other Borough employees. That increase would, according to the Borough, “significantly and unconscionably” exceed the salary increase provided to other Borough employees.

Additionally, the Borough's proposal to eliminate longevity for newly hired Police would bring the Police “in line with” all other Borough employees who do not receive longevity. Likewise, the Borough's holiday proposal would result in Police and other municipal employees enjoying the same holidays. The Borough also seeks to change the reimbursement for the Car Mileage Allowance to be consistent with the IRS rate and with Borough policy. In addition to providing consistency among municipal employees, this proposal would result in an improved mileage benefit for Police.

The Borough also views its proposal in comparison to recent settlements in the Metropolitan area. Citing the Police agreement with the Port Authority, the Borough notes that agreement provided a 25% increase over seven years for an



average of 3.5%. However, the Borough also points to changes resulting in savings of \$12.5 million to the Port Authority. The Borough also cites the agreement covering Garden State Parkway toll collectors which provides a 13.5% salary increase over four years averaging 3.4% per year. The Borough emphasizes that in return, toll collectors agreed to increase their health insurance co-payments to up to \$150 per month for family coverage. Based upon these comparisons, the Borough urges adoption of its compensation proposal and its proposal for medical co-payments as is.

Looking to national wage trends, the Borough highlights data compiled by BNA for the first 20 weeks of 1999 which shows that median first year wage increases in newly negotiated agreements equal 3.0% with a weighed average increase of 2.6%.

The Borough asserts that in light of the demographics and evidence submitted, the comparability and overall compensation criteria require acceptance of its final offer as is.

Turning to the lawful authority of the employer, the Borough emphasizes the intent of the Cap Law to control local government costs and to protect homeowners. The Borough also points out that costs incurred to fund an interest arbitration award must be considered by a municipality in determining its overall appropriations, including whether it exceeds its authority under the Cap Law.

Citing N.J. State P.B.A., Local 29 v. Town of Irvington, 80 N.J. 271, 281-282 (1979) and City of Atlantic City v. Laezza, 80 N.J. 255, 266 (1979), the Borough emphasizes the responsibility and need to consider the Cap Law in fashioning an interest arbitration award. The Borough places great importance on the emergency provisions of the Cap Law and upon the “primary responsibility” of the municipality to allocate “available resources among various services which it choose to provide its inhabitants.” Laezza, 80 N.J. at 263.

The Borough acknowledges that it can fund its economic offer, the PBA's offer or any amount in between. But, the Borough maintains, requiring it to fund an award above its proposal would hamper its budgetary strategy. The Borough has a declining surplus, stable or decreasing State aid, and no one-shot deals. Instead, the only source of revenue for the Borough to fund budgetary increase is municipal taxes, which are already relatively high. In addition, the Borough is faced with expenses including funding improvements in compliance with the Americans With Disabilities Act, sidewalk repairs, increased insurance premiums, salary increases and other expenditures.

The Borough also considers additional residential growth to be a “tax loser” because the cost of services rendered to residences exceeds the taxes paid by those residences and new residences require additional municipal services including infrastructure, recreational and school facilities. Therefore, any award in excess of the Borough's final offer will be to the detriment of the

Borough's ability to fund municipal services and required capital projects without increasing the tax rate. Accordingly, the Borough asserts that since its final offer is reasonable as is, there is no need to grant any benefits in excess of its offer.

Looking beyond the Borough's ability to pay to the financial impact on the governing unit, its residents and taxpayers, the Borough contends that its final offer considers this financial impact by taking into account "the State's bleak economic condition" as demonstrated by the documents and articles showing the high unemployment rate, layoffs and downsizing that "darken" the State's economic picture. Since the economy impacts upon the Borough's ability to raise taxes, the Borough argues that an award in excess of its final offer would have a "detrimental impact" on its ability to minimize tax increases. That, according to the Borough would be contrary to the criterion requiring consideration of the financial impact on the governing unit, its residents and taxpayers. Therefore, the Borough asserts, any award in excess of its final offer would have a detrimental impact on its ability to maintain and expand existing local programs and services, or to initiate new programs and services as required by the financial impact criterion.

Emphasizing that the CPI increased only 1.6% for 1998, the Borough points out that its Police have consistently received increases well in excess of increases in the CPI. The Borough points to the added significance of the cost of living and limited increases in the CPI in light of increases averaging 10% per

year in health insurance premiums since 1984. Noting that these increases are far in excess of increases in the cost of living, the Borough points out that during that same period employee contributions to those increasing costs have remained at zero. Therefore, the Borough asserts that it is reasonable for Police to contribute towards the cost of health insurance for their spouses or families. The Borough contends that given present and projected increases in the cost of living, its proposal is more realistic and more reasonable than that of the PBA and its proposal should be awarded as is.

Lastly addressing the continuity and stability of employment, the Borough argues that its proposal would best serve this criterion by allowing the Borough to maintain its workforce at current levels throughout the municipality. According to the Borough, an award in excess of its final offer could hamper its ability to continue to do so. Citing examples of layoffs in both the public and private sector and increasing unemployment rates at both the State and national levels, the Borough maintains that its final offer takes into consideration the continuity and stability of employment and its desire to maintain a stable level of government services. In contrast, the Borough views the PBA's proposal as an unsupported attempt to garner economic advantages for its members. Therefore, the Borough urges adoption of its final offer as is proposed.

## DISCUSSION

As stated above, I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Borough and the PBA have articulated fully their positions on the issues and have submitted evidence and argument on each statutory criterion to support their respective positions. The evidence and arguments have been carefully reviewed, considered and weighed.

Initially, I note that several issues remain in dispute. One principle which is ordinarily and traditionally considered in the determination of wages, hours and conditions of employment through the bargaining process is that a party seeking such change bears the burden of showing the need for such modification. I apply that principle to the analysis of each issue.

The PBA seeks to codify the current Detective stipend of \$1500 per year in the agreement. The agreement provides salaries for Detective Sergeant and Detective Lieutenant, but those positions have not been filled. That the current stipend is \$1500 is not disputed and the Borough raises no specific objection to the codification of that stipend. Accordingly, the Agreement shall be amended to provide that Patrol Officers assigned as Detectives shall receive a \$1500 annual stipend.

The PBA seeks to add grandparents to the definition of those for whose death an employee is entitled to bereavement leave. At present, Article XVII of the Agreement provides that up to three days leave may be granted between the time of death and burial in the event of a "death in the employee's family, such as wife, husband, mother, father, child, brother or sister, mother-in-law or father-in-law, or other close relative residing with the employee." The provision also provides that an employee may be granted a one-day leave of absence to attend the funeral of any other close relative. There is no evidence that the Borough has failed to grant such leave under this provision or that the terms of this provision has failed to sufficiently cover the death of any grandparent. Nor is there evidence that. Accordingly, this proposal is denied.

The PBA proposes to increase the clothing allowance by \$150.00 per year from its current level of \$650.00. While increases sought by the PBA over the life of the agreement are in excess of what may be appropriate to update this benefit, review of clothing allowances in other police departments in northwestern Bergen County reveal that Allendale's allowance is on the low end. Annual clothing and maintenance allowances range from \$600 in Ho-Ho-Kus to \$1200 in Upper Saddle River, with the average being approximately \$800 per year, a modest adjustment is warranted. Therefore, the clothing allowance shall increase by \$50 effective January 1, 2000 and by another \$50 effective January 1, 2001. The total cost of the increased clothing allowance is \$650 in 2000 and an additional \$650 in 2001.

The PBA seeks to amend the work incurred injury procedure to keep employees on regular payroll status so that the injured officer would be credited with good time for pension purposes. Currently, the injured officer receives an insurance payment that is supplemented by the Borough. Under the PBA's proposal, the Borough would receive the insurance payment and would pay the injured Officer his salary. By keeping the Officer on payroll, the time off during injury would be included in pension calculations. This proposal is a no cost item which could potentially benefit the Borough's Police Officers without adverse affect on the Borough. Accordingly, it is awarded.

The PBA also seeks to add an additional holiday to bring the total number of holidays to 13. The Borough seeks to amend Section 2 of Article IV to provide a list of 12 holidays "consistent with current Borough policy". According to the PBA, an additional holiday is necessary to bring Allendale Police up to the average holiday benefit provided in comparable municipalities. Although Police in many municipalities enjoy a greater number of holidays than do those in Allendale, review of leave time shows that on balance, Allendale Police receive benefits similar to those in comparable communities. Under these circumstances, an additional holiday is not justified. Likewise, the Borough's proposal to change the holidays covered by the contract to be consistent with Borough policy has not been justified inasmuch as a need for conformity on this issue has not been demonstrated.

The Borough seeks to implement a \$12.50 co-payment per pay period for all Police maintaining either spouse or family health care coverage. In support of its proposal, the Borough points to a private sector study showing that employees at all of the companies in that survey contributed to the cost of such insurance. The Borough also cites contributions included in collective bargaining agreements between the State of New Jersey and certain of its employees. This evidence does reflect more involvement in co-payments by public and private employees but this evidence does not reflect a trend towards participation by law enforcement employees. Indeed, the Agreements with employees employed by the State of New Jersey does not reflect such participation in co-pays by its law enforcement employees. Further, there is no evidence among municipalities in Northwest Bergen County reflecting participation in medical insurance co-payments. Based upon the record in this case, there is insufficient justification to adopt co-payments for health insurance and this proposal is denied.

Citing N.J.S.A. 40A:14-135, the Borough seeks to eliminate overtime payment for attendance in civil cases. That section requires compensation for appearance at criminal proceedings. The Borough interprets the provision to preclude payment to Police for appearances in civil cases. The PBA disputes the Borough's interpretation of this provision. Plain reading of the statute reflects that the provision is a grant of authority to municipalities to enact an ordinance requiring police to appear in court in criminal proceedings and makes provision



for the payment of police for their appearances. This statute exempts civil cases from that authority, but does not expressly prohibit payment, including overtime payment, to police for court appearances in civil cases. Accordingly, there is insufficient evidence to support this proposal and it is denied.

The Borough proposes to revise the second paragraph of the current overtime provision to provide that the minimum guarantee does not apply when overtime is contiguous with the employee's regular work schedule. The provision already provides that the minimum guarantee applies only "when an employee... is called in while off duty." Although it is reasonable that an employee called in for overtime work before a tour of duty should get no greater benefit than an employee who works after a tour of duty, there is insufficient evidence that the current provision has resulted in excessive unnecessary amounts of overtime. Thus, the proposal is denied.

The Borough proposes to amend Article XIV covering medical insurance to delete the identity of the insurance carrier and to provide that the Borough has the right to change the insurance provider so long as the same or better benefits are provided. This proposal appears to be wholly consistent with law. This proposal is granted inasmuch as it will allow the Borough to monitor healthcare costs while protecting the level of coverage currently enjoyed by employees.

The Borough seeks to eliminate Article XIX, the Seniority Clause because it illegally restricts the Borough's right to change ordinances and resolutions. Article XIX provides: "It is agreed that existing provisions and practices in Borough Ordinances, Resolutions, or any other form, shall not be altered during the terms of this contract." This provision is directed towards the maintenance of past practices and cannot be applied in a manner which significantly interferes with or substantially limits the Borough's determination of governmental policy. There are no instances presented which justifies the elimination of this provision. The proposal is denied.

Likewise, the Borough seeks to eliminate the "Other Provisions" article of the contract because it no longer applies. Article XXI provides:

In the event that a general cost of living wage adjustment for other Borough employees is granted (other than increases that are normally granted at the beginning of the year), it is agreed that this contract can be reopened, at the request of either party to negotiate that condition of the wage agreement only.

Employees may elect to carry all Holidays, Red Dot, Vacation and/or Personal Days into the succeeding calendar year. Any days not used within that succeeding year will be forfeited.

There is no evidence that either party has sought reopeners in the past nor have circumstances been presented showing that this provision is redundant or unnecessary and it shall remain in the agreement.

The Borough seeks to change the mileage reimbursement rate from its current rate of \$.20 per mile to the IRS rate. Taking notice of the current escalation in the price of gasoline, this proposal is fair and equitable, as well as consistent with Borough policy. As such, it is awarded.

I turn now to the issue of salary increases. The current wage scale is as follows.

**Schedule A  
Salary Guide**

<b>Patrolman</b>	<b>Eff. 1/1/95</b>	<b>Eff. 1/1/96</b>	<b>Eff. 1/1/97</b>	<b>Eff. 1/1/98</b>
New Employee (Academy)	\$27,193	\$28,280	\$29,341	\$30,368
Balance of First Year of Employment	\$30,456	\$31,674	\$32,862	\$34,012
During the Second Year	\$34,111	\$35,475	\$36,805	\$38,094
During the Third Year	\$38,204	\$39,733	\$41,223	\$42,665
During the Fourth Year	\$42,788	\$44,500	\$46,169	\$47,785
During the Fifth Year	\$47,924	\$49,841	\$51,710	\$53,520
During the Sixth Year	\$53,675	\$55,822	\$57,916	\$59,943
Over Six Years (Maximum)	\$60,116	\$62,520	\$64,865	\$67,135
Sergeant	\$63,952	\$66,510	\$69,004	\$71,420
Detective Sergeant	\$67,424	\$70,121	\$72,750	\$75,296
Lieutenant	\$65,804	\$68,436	\$71,002	\$73,487
Detective Lieutenant	\$69,276	\$72,047	\$74,749	\$77,365

There are thirteen (13) unit employees. Nine (9) are Patrolmen. All are at maximum step on the guide at \$67,125 in 1998. Their total salaries amount to \$604,215. There are four (4) Sergeants earning \$71,420 at the single rate step for Sergeants. Their total salaries amount to \$285,680. The total bargaining unit salaries amount to \$889,895, one percent (1%) equals \$8,898.

The Borough and the City agree upon a three-year contract term. The PBA has proposed a 5% across the board increase in each year. The cost of the PBA proposal is \$44,495 for 1998, \$46,719 for 2000 and \$49,055 for 2001; the increases total is \$140,369. The Borough has proposed a 3% increase in each year for those Officers at the top step, or those who have completed six years. For Officers at all other steps, the Borough proposes increases of 2% per year. Because there are no unit employees below maximum step, I will cost the Borough's proposal based upon existing payroll. That cost is \$26,697 for 1999, \$27,498 for 2000 and \$28,323 for 2001; the increases total \$82,518. The difference between the proposals is \$17,798 for 1999, \$19,221 for 2000 and \$20,732 for 2001. The total difference over the three year period is \$57,575.

The Borough seeks cost containment by limiting increases for Officers not at top step on the salary guide and to create a three-step salary guide for Sergeants. The Borough also seeks to eliminate longevity for newly hired police officers. Because there are no police officers below maximum step, the Borough's proposals for future cost offsets are all directed towards employees it will hire in the future. The PBA seeks to shrink the current salary guide for Patrol Officers by two steps to allow for quicker advancement through the guide. While I have carefully reviewed and thoroughly considered each of these individual proposals, I have also considered these proposals in their totality because they are all deeply related to the overall present and future compensation package.

After such review, I have concluded that the Borough's future cost containment proposals should be sustained in part and denied in part. By placing somewhat smaller increases on the salary guide for the first three steps through the first two years of employment will provide immediate and cumulative savings for any newly hired employees who would still receive the benefit of the higher steps if they remain as longer-term employees of the Borough. An additional step for the ranks of sergeant somewhat below the single rate step for a one year period also has merit in that it may encourage future promotions and will provide a short-term cost offset to do so. The remaining compensation proposals are denied. These include the PBA's proposal to compress the current salary guide by two steps and the Borough's proposal to eliminate longevity for newly hired police officers. The existing salary guide is not elongated requiring compression. The PBA's proposal to delete two steps from the salary guide is not supported. Allendale's salary guide, which reaches top step after six years, is at the midpoint between communities such as Upper Saddle River and Mahwah where officers reach top pay after four years and Franklin Lakes where top pay is achieved after eight years. Six years is a reasonable period to progress through a police salary guide and no further modification is necessary. Additionally, the testimony of Officer Chervan that he left the Allendale Police Department due to the better salary and benefits package in Mahwah was based upon his view of the total package and opportunities for promotion available in a larger police department. Officer Chervan did not resign from the Allendale Police Department because it took too long to reach top pay. For these reasons,

the PBA's proposal to delete two steps from the salary guide is denied. The elimination of longevity for new hires would substantially reduce compensation for new hires after several years of service. The small size of the department would yield little in the way of savings and any savings to be achieved must be weighed against the potential adverse effects that a dual compensation scheme might yield within this small department between employees who must work together on behalf of the public's welfare and safety.

Based upon the arguments and evidence submitted, and after applying the statutory criteria, I have determined that wage increases for top step Patrol Officers and for Sergeants shall be 4.0% effective January 1, 1999; 3.75% effective January 1, 2000; and 3.9% effective January 1, 2001 for a total increase of 11.65% over the three year agreement. These increases represent an average of 3.88%. The first three steps through the first two years of employment shall be increased by 3.0% annually. Officers who are newly promoted (after the date of this Award) shall receive a salary \$1,000 below the adjusted rates for Sergeant (Sergeant and Detective Sergeant) set forth in this award for a period not to exceed 12 months from the date of promotion. They will then move to the maximum step.

The new salary schedule shall read as follows.

**Schedule A**  
**Salary Guide**

<b>Patrolman</b>	<b>Eff. 1/1/99</b>	<b>Eff. 1/1/00</b>	<b>Eff. 1/1/01</b>
New Employee (Academy)	\$31,279	\$32,217	\$33,183
Balance of First Year of Employment	\$35,032	\$36,083	\$37,165
During the Second Year	\$39,236	\$40,413	\$41,626
During the Third Year	\$44,371	\$46,035	\$47,830
During the Fourth Year	\$49,696	\$51,560	\$53,570
During the Fifth Year	\$55,660	\$57,747	\$59,999
During the Sixth Year	\$62,340	\$64,678	\$67,200
Over Six Years (Maximum)	\$69,820	\$72,438	\$75,263
First Year Sergeant		\$76,062	\$79,067
Sergeant	\$74,276	\$77,062	\$80,067
First Year Detective Sergeant		\$80,222	\$83,389
Detective Sergeant	\$78,287	\$81,222	\$84,389
Lieutenant	\$76,426	\$79,292	\$82,384
Detective Lieutenant	\$80,459	\$83,476	\$86,731

This Award results in a net economic change of \$107,620 over the three years. The difference between the PBA's proposal and the Award is \$8,900 in 1999, \$12,014 in 2000 and \$11,031 in 2001. The difference between the Borough's proposal and the Award is \$8,898 in 1999, \$7,207 in 2000 and \$9,701 in 2001. Over the three year period, the Award is \$25,806 above the Borough's proposal and \$32,045 less than the PBA's. These figures reflect that all officers are presently at top step on the salary guide. It does not reflect any cost adjustments for new hires or promotions. The analysis that leads me to this Award is as follows.

The terms of this Award are clearly within the lawful authority of the Borough and will not have adverse financial impact on the governing body, its residents or taxpayers, and is within the range of law enforcement increases in comparable communities. Each of these factors is relevant and entitled to substantial weight. The record reflects that the Borough has been prudent with

its finances. It enjoys a credit rating from Moodys of AA3. The Borough's 1998 budget established a Cap level of 1.5%, well below what would be allowable under P.L. 1976 c. 68 (C.40A:4-4.5 et. seq.). The total allowable appropriations in the 1999 budget were \$4,954,201. Actual appropriations for 1999 were \$4,694,580.97 or \$259,620.12 under CAP.

The record reflects that the Borough is in excellent financial health. The 1998 Annual Financial Statement reflected a surplus of \$763,394.46 and the results of operations included in the 1998 Annual Financial Statement (\$699,789) reflects the Borough's ability to continue to generate surplus funds. The financial data also demonstrates excellent and increasing tax collection rates of 97.20% in 1996, 98.52% in 1997 and 98.90% in 1998. The budget revenues for 1998 reflect an excess of \$401,618 over the 7,698,416 which was anticipated. The 1998 Report of Audit reflects an increase in the Schedule of Fund Balances between the years 1995 through 1998.

The financial data also shows that the Borough has successfully limited increases in municipal taxes. The rate increased from 0.616 in 1998 to 0.617 in 1999. These figures represent a decrease in the municipal tax rate which was set at 0.624 in 1996 and 0.626 in 1997. During this time, the total tax rate has increased but the increases are attributed to increases in the County and school tax rates during this period.



The Borough raises the specter of tax losses resulting from new residential construction. New residences require more in the costs of infrastructure and municipal services than can be funded by the taxes paid by those residences. Although these are valid considerations, the record does not reflect that any trend in this direction has affected the positive financial posture of the Borough or would require any modifications in the terms of this Award.

Based upon these factors, I conclude that the terms of this Award will not adversely impact upon the financial health of the governing unit, its residents and taxpayers. I have considered the Borough's argument that the New Jersey Supreme Court's Hillsdale decision precludes an award based on ability to pay or a failure to prove inability to pay. Hillsdale does not render the financial or budgetary status of a municipality as irrelevant to an analysis on wage determination. The Court's admonition does weigh against an award of the PBA's proposal merely because the Borough's financial health could finance such a result but it does not conflict with the terms of this Award which are consistent with the Borough's ability to pay, will not adversely affect its residents, does not conflict with the Borough's lawful authority and I have also duly considered the remaining statutory criteria.

The Borough and the PBA submitted extensive comparability data dealing with Bergen County and whole or various sub-parts of the County, as well as certain municipalities located near Bergen County. This data is relevant and I weigh this data more heavily than comparable data for non-law enforcement

public employees. Although all of the municipalities in Bergen County are relevant, the municipalities which have close geography and similar community profiles, as reflected in the record, are more comparable and should be given more substantial weight. These include the communities of Franklin Lakes, Waldwick, Upper Saddle River, Saddle River, HoHoKus, Oakland, Ridgewood, Mahwah, and Ramsey. They are the most relevant for comparability purposes. The 1998 top patrolman's salaries for these communities are as follows.

**Northwestern Bergen County Municipalities  
Top Patrolman's Salary**

<b>Town</b>	<b>1998</b>
Mahwah	\$72,659
Franklin Lakes	\$71,972
Waldwick	\$71,700
Upper Saddle River	\$69,846
Saddle River	\$68,331
Ramsey	\$68,077
Allendale	\$67,135
Hohokus	\$65,552
Oakland	\$65,800
Ridgewood	\$65,000

Review of top step salaries in 1999 among these communities shows that of Franklin Lakes, Waldwick, Upper Saddle River, Saddle River, Mahwah and Ramsey had higher salaries, while HoHoKus, Oakland and Ridgewood had lower top step patrol officers' salaries. Salary levels and increases in these communities during these contract years are strikingly similar and generally average in the vicinity of 4.0%. The comparability in compensation among these communities in this region is strong and entitled to substantial weight. Inasmuch

as Allendale is below Ramsey, Saddle River, Upper Saddle River, Waldwick, Franklin Lakes and Mahwah, a lower increase as proposed by the Borough will cause a wider gap in compensation and is not warranted by the record evidence. The higher increases proposed by the PBA would narrow this gap on the upward side but widen the gap below which exists between Allendale and HoHoKus and Oakland. This result is not warranted by the record evidence as well. Accordingly, these terms averaging 3.88% in for top step patrol officers Allendale are reasonable and will not disturb its relative salary relationship among the aforementioned communities and is hereby awarded. There is no basis in the record to support the PBA's proposal which is well above these terms or the Borough's proposal which is well below.

In 2000, fewer of the communities used in comparison had completed their negotiations at the time this record was developed. Among those that had concluded negotiations were Mahwah (4%), Upper Saddle River (3.94%), Franklin Lakes (3.90%), Ramsey (3.90%) and HoHokus (4.0%).

In 2001, only Frankin Lakes, Wyckoff, Midland Park, and HoHoKus have settlements. Those settlements range from 3.5% to 4.5%, and an increase at the median level is reasonable. There is no persuasive evidence warranting a disturbing in the relative salary relationships among the aforementioned municipalities.

I have also considered the total compensation and benefit package presently received in Allendale. On this issue, unit members are favorably situated. The terms of this award maintain most existing levels of economic benefits. The only change in benefits is the modest increase in clothing allowance and the modifications to the salary guide.

The terms of the Award are consistent with the private sector wage data submitted into the record. According to the New Jersey Department of Labor report showing changes in the average wages of private sector jobs covered under the state's unemployment insurance system published in December of 1998, comparing wages between 1996 and 1997, the following data is reflected. The data shows an increase in total private sector wages of 4.76%. The Bergen County increase in private sector wages was higher at 5.0% but were computed on salaries substantially less than that received by Allendale police officers.

I have also considered the cost of living data. This factor does favor the Borough's salary proposal. The cost of living data has been given weight to the extent that it is a moderating factor and weighs against an award which leans more heavily towards the PBA's proposal, but I do not conclude that the terms of the award should be set at the equivalent level of the cost of living or should be the sole determining factor in the determination of wage increases. I note that

the private sector wage data and comparability data both exceed recent annual increases in the cost of living.

The continuity and stability of employment for Allendale Police is a relevant factor and the terms of the Award will help preserve the desirable goal of stable employment. The terms of the Award generally maintain the pre-existing levels of benefits, preserve comparable relationships in the absence of evidence which would dictate deviation and provide modest future cost-savings to the Borough.

The Borough and the PBA have each set forth arguments that the interests and welfare of the public are better served by the final offers each has advanced. It is relevant to the determination made herein. The terms of the Award have reviewed, considered and weighed all of the arguments and evidence presented. These terms are below the PBA's proposals but above those of the Borough. They are within the lawful authority of the Borough and without adverse financial impact on the governing body or its taxpayers, and within the general range of comparable terms in comparable communities. As such, the interest and welfare of the public will be maintained by the terms of this Award.

Accordingly, and based upon all of the above, I respectfully enter the following Award as a reasonable determination of the issues.

## AWARD

There shall be a three-year agreement effective January 1, 1999 through December 31, 2001. All proposals by the Borough and the PBA not awarded herein shall be denied and dismissed.

### **Salary**

The salary schedule set forth in Schedule A shall conform to the terms of this decision and shall be adjusted by the following percentage increases at each step above the "During the Second Year" step and shall be retroactive to the dates provided for herein. For the "During the Second Year" step and below, the increases shall be 3% annually.

1/1/99	4.0%
1/1/00	3.75%
1/1/01	3.90%

<b>Patrolman</b>	<b>Eff. 1/1/99</b>	<b>Eff. 1/1/00</b>	<b>Eff. 1/1/01</b>
New Employee (Academy)	\$31,279	\$32,217	\$33,183
Balance of First Year of Employment	\$35,032	\$36,083	\$37,165
During the Second Year	\$39,236	\$40,413	\$41,626
During the Third Year	\$44,371	\$46,035	\$47,830
During the Fourth Year	\$49,696	\$51,560	\$53,570
During the Fifth Year	\$55,660	\$57,747	\$59,999
During the Sixth Year	\$62,340	\$64,678	\$67,200
Over Six Years (Maximum)	\$69,820	\$72,438	\$75,263
First Year Sergeant		\$76,062	\$79,067
Sergeant	\$74,276	\$77,062	\$80,067
First Year Detective Sergeant		\$80,222	\$83,389
Detective Sergeant	\$78,287	\$81,222	\$84,389
Lieutenant	\$76,426	\$79,292	\$82,384
Detective Lieutenant	\$80,459	\$83,476	\$86,731

### **Detective Stipend**

The stipend, pursuant to prior practice, shall be codified into the terms of the Agreement as follows:

"Patrol Officers assigned as Detectives shall receive a \$1500 stipend each year."

### **Clothing Allowance**

Article VII is amended to provide that effective January 1, 2000, the annual clothing allowance shall be increased by \$50 to \$700 and effective January 1, 2001, the annual clothing allowance shall be increased by \$50 to \$750.

### **Work Incurred Injury Procedure**

The Agreement is amended to add a provision providing that Officers on leave as a result of a legitimate work incurred injury shall remain on payroll and receive compensation from the Borough directly. The Borough shall be entitled to any insurance money paid to cover a portion of the Officer's salary.

### **Medical Insurance**

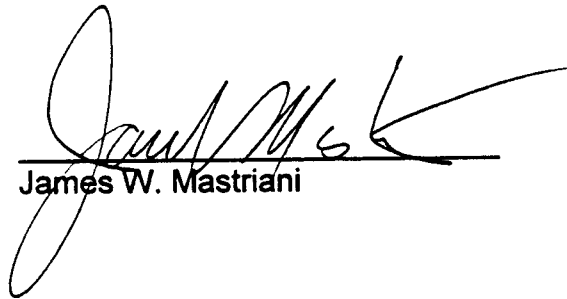
Article XIV is amended to delete the reference to the identity of the insurance carrier and to provide as follows: "Consistent with the law, the Borough

has the right to change the insurance provider so long as the same or better benefits are provided.”

### Car Mileage Allowance

Article XVIII is amended to provide as follows: “Reimbursement for use of personal cars for Borough business shall be at the IRS rate per mile.”


Dated: April 17, 2000  
Sea Girt, New Jersey



James W. Mastriani

State of New Jersey    }  
County of Monmouth   }ss:

On this 17th day of April, 2000, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



**GRETCHEN L. BOONE**  
**NOTARY PUBLIC OF NEW JERSEY**  
**Commission Expires 8/13/2003**