

In the Matter of Arbitration Between:

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**TOWN OF HARRISON**

“Public Employer,”

- and -

**HARRISON PBA LOCAL 22**

“Union.”

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**INTEREST ARBITRATION  
DECISION AND  
AWARD**

Docket No. IA-2007-090

**Before  
James W. Mastriani  
Arbitrator**

Appearances:

**For the Town:**

Robert E. Murray, Esq.

**For the PBA:**

Eric B. Levine, Esq.  
Lindabury, McCormick, Estabrook  
& Cooper, P.C.

The Town of Harrison [the "Town"] and Harrison PBA Local 22 [the "PBA" or the "Union"] are parties to a collective negotiations agreement [the "Agreement"] commencing January 1, 2004 and extending through December 31, 2006. The Agreement covers all uniformed employees in the police department of Harrison below the rank of Chief. This includes Patrolman, Sergeant, Lieutenant, Captain and Deputy Chief. Due to a representation proceeding, the bargaining unit going forward consists of thirty-four patrolmen. After an impasse developed during negotiations, the parties jointly submitted their dispute to interest arbitration in accordance with the rules of the New Jersey Public Employment Relations Commission. Thereafter, pursuant to the mutual agreement of the parties, I was designated by the New Jersey Public Employment Relations Commission to serve as arbitrator.

I held pre-interest arbitration mediation sessions which served to narrow the issues in dispute but many remained open. This required the convening of interest arbitration hearings conducted in Harrison, New Jersey. The Town and Union argued orally, presented testimony and documentary evidence. Testimony was received from Detective Peter Doyle. The record remained open for the submission of additional exhibits. Each party filed written post-hearing briefs, response briefs and additional post-hearing submissions, the last of which was received on May 18, 2009. I have not accepted any submissions filed after receipt of the response briefs.

As required by statute, the Town and the PBA submitted the following last offers on the issues in dispute.

**FINAL OFFER OF THE PBA**

1. Article XXX – Three year contract – January 1, 2007 – December 31, 2009.
2. Article XVII – Salary/Wages – Year 1 – 5.43%; Year 2 – 5%; Year 3 – 5%; All percentages exclusive of incremental increase.
3. Article XVII – Off Duty Pay – (new section) Include language from Town of Harrison Resolution 20468 regarding Extra Duty Assignment Pay in the contract as part of Article XVII and increase the hourly rate by \$5.00/hour to \$62.75.
4. Article XII – Clothing Allowance – Increase clothing allowance to \$1,000.00 per year.
5. Article XIX – Work Schedule – Include current work schedule in the contract and add the following language: “In the event that the Town decides to change, alter or modify the shift/tour of any officer, the Town must provide the PBA with no less than thirty (30) days’ notice before making such change, except in the case of emergency.”
6. Article XVII – Night Differential – (new section) Add the following language: “Any officer regardless of rank working between the hours of 9:00 p.m. and 7:00 a.m. shall be paid a differential of five (5%) percent of that officer’s base pay.”
7. Parking Permits – (new section) All employees covered by this Agreement shall annually be provided with a parking permit issued by the Town of Harrison at no cost to the Employee.

8. Vacation Time – Increase maximum number of annual vacation days by four (4) days.
9. Article XVII – Senior Officer's Pay – (new section) All employees covered by this Agreement who have completed eleven (11) years of service as is defined by the New Jersey Police and Fire Pension laws shall receive a Senior Officer Differential. Senior Officer Differential shall be five thousand (\$5,000.00) dollars per year. It shall be paid with, and considered a part of the employee's regular rate of compensation for all purposes.
10. Direct Deposit – (new section) At the option of the employee, the Town shall direct deposit the Employee's paycheck into the bank account of the Employee's choice.

### **FINAL OFFER OF THE TOWN**

1. Term: Five years (1/1/07 – 12/31/11).
2. Article XI – Insurance

Section 3: Prescription co-pay: effective July 1, 2007, the co-pay shall be \$5.00 co-pay for generic drugs: \$10.00 for brand name drugs and \$25.00 for exotic drugs. Prescription maintenance drugs shall be ordered through the mail order refill program subject to the co-pay for this option.

Section 1(a): modify as follows: effective July 1, 2007, the Town shall pay the full cost of the individual portion of the foregoing insurance coverage and the employee shall pay \$500.00 of the cost of coverage for all extended coverage beyond individual coverage; the employee who elects extended coverage shall pay \$500.00 of the cost of such coverage through payroll deduction. This amount shall be increased \$250.00 effective July 1, 2008 and an additional \$250.00 effective July 1, 2009, and additional \$250.00 effective July 1, 2010 and an additional \$250.00 effective July 1, 2011. Effective January 1, 2008 employees hired after that date shall be entitled to the HMO selection subject to the foregoing shared cost program; if an employee who is hired after January 1, 2008 wishes to enroll in the Traditional Plan the employee shall pay the cost differential for the enhanced

coverage and the shared cost program as set forth in this provision. Payment shall be through payroll deduction.

3. Article XVI – Grievance and Arbitration Procedures: review, revise and streamline appropriate procedure and steps and appeal.

4. Article XVII – Salaries:

Salary increases to all existing salary schedules and superior offices pay rates as follows:

Effective January 1, 2007	+2.75% across the board
Effective January 1, 2008	+2.75% across the board
Effective January 1, 2009	+2.75% across the board
Effective January 1, 2010	+3.25% across the board
Effective January 1, 2011	+3.5% across the board

This new ten (10) year salary guide shall apply to Patrolmen hired after July 1, 2007:

Begin year one	\$29,744
Begin year two	\$36,000
Begin year three	\$41,511
Begin year four	\$45,500
Begin year five	\$50,436
Begin year six	\$53,879
Begin year seven	\$56,843
Begin year eight	\$62,450
Begin year nine	\$64,537
Begin year ten	\$70,501

(the foregoing schedule shall be in effect for the term of the Agreement without change).

5. Article XVIII – Longevity – effective January 1, 2009, the Longevity pay program shall be terminated. Salary rates in effect on December 31, 2007 as a result of the current Longevity program shall be continued, but such rate shall be red-circled and shall not be increased by the longevity percentages in the future and no new pay rate pursuant to the longevity percentage shall be granted on or after January 1, 2008.

6. Article XIX – Effective as soon as practicable, the work schedule shall be modified to provide an average of forty (40) hours per week.

[The Town will drop this proposal if the PBA drops their increased vacation program.]

Effective January 1, 2007, the Town shall have the right in its sole and absolute discretion to create, modify, change or revise specific work schedules and implement new work schedules without the obligation to negotiate with the PBA provided the number of hours on average per week is not increased. Except in case of emergency, the Town shall provide the PBA with 14 calendar day prior notice before the new schedule is implemented.

Effective January 1, 2007, employees shall be required to attend seminars and training sessions required by the Attorney General and/or County Prosecutor and such time is required for firearm certification without additional compensation. Such additional hours shall be part of the annual work schedule and paid for with the designated annual salary as set forth in Article XVII.

Include in this Article the entire signed Memorandum of Agreement between the parties dated December 27, 2005 and the letter signed dated January 22, 2007 extending the Agreement.

7. Accept Direct Deposit as proposed by the PBA effective as soon as practical after ratification of the new Agreement by all parties.
8. Accept Article XVII – Off Duty Pay as proposed by the PBA (new section). Include language from the Town of Harrison Resolution 20468 regarding Extra Duty Assignment Pay in the contract as part of Article XVII and increase the hourly rate by \$5.00/hour to \$62.75 effective as soon as practicable after all ratifications. The Town reserves the right to change, modify, increase the additional charges to the Extra Rate to reflect Social Security rate and/or the Town's charge for administration.

## **BACKGROUND**

The Town of Harrison is a civil service municipality and is one of twelve (12) municipalities in Hudson County. It had a per capita income of \$28,645 in 2006. Its western boundary is highly developed along the Passaic River and it is intersected by State Highway 280 and the Northeast Corridor Rail System, including PATH. The Town borders the City of Newark, the Borough of East Newark and the Town of Kearny. Its population increased from 13,425 in 1990 to 14,424, an increase of 7.4%. It has the third smallest population in Hudson County.

The Town has been implementing a redevelopment plan that could substantially increase its population and enhance its business district. The Town receives a substantial amount of state aid. The Town qualifies for extraordinary aid through the Distressed Cities Program. Under the terms of that program, the Town has received grants of \$3,500,000 in 2004, \$3,400,000 in 2005, \$2,900,000 in 2006, \$6,600,000 in 2007 and \$7,600,000 in 2008.

The police department consists of one (1) Chief of Police, one (1) Deputy Chief of Police, two (2) Captains, six (6) lieutenants, eight (8) Sergeants and thirty-four (34) patrolmen. The department is productive and efficient. Between 2003 and 2008, there has been a 43% decrease in Part 1

crimes despite a population increase. In 2007, the department responded to 25,644 calls for service, an 11.5% decrease from 2006.

Much of the evidence submitted into the record deals with the Town's financial abilities and comparability data. The PBA emphasizes that going into 2007, the average top step for police officers in Hudson County municipalities was \$74,328 compared to the maximum step of \$70,501 in Harrison, a difference of \$3,827 or 5.43%. This, in part, is said to form the basis for the PBA's three year salary proposal of 5.43%, 5% and 5%. The PBA argues that salaries paid in Harrison should become more competitive with those in the surrounding areas. The PBA characterizes the Town's proposal as one that ignores comparability while dramatically proposing deep concessions into existing benefits provided by the current agreement. The PBA seeks rejection of the Town's reference to the State of New Jersey – CWA agreements that provided for health insurance contributions and salary increases that the PBA terms "below average." According to the PBA, the work performed by those state employees is not comparable and the CWA health package provided for certain details that are absent from the Town's proposals such as providing for pre-tax contributions and an opt-out of contributions for employees who have spouses with health insurance.

The PBA acknowledges that the interest and welfare of public criterion relates to fiscal responsibility but not to the exclusion of offering a compensation package that maintains high productivity and high morale in the workforce. While noting that the Town has been listed on the Municipal Distress Index since 1996, it asserts that its analysis of the Town's financial posture reflects that it ranks at or above the Hudson County average in key economic areas. One such indicator is income earned. The PBA points to data showing that the median household income and median family income are at or close to the County and national averages. Focusing on financial evidence, the PBA notes that the Town has consistently been able to regenerate surplus, that it increased revenues above anticipated revenue projections, has an excellent tax collection rate, increased property values, maintains a healthy fund balance and does not suffer from any Cap-related problems because its budget is well below the cap limit.

Notwithstanding its Distressed City qualification, the PBA contends that ongoing redevelopment will dramatically increase the Town's tax rates. The PBA cites official Town documents touting a new hotel, new apartment buildings and a new stadium hosting professional soccer and entertainment events. The PBA notes that its staffing levels are below what has been recommended by consultants and that the redevelopment projects will place enormous burdens and police officers to service increases in traffic and crime.

The PBA also contends that the overall compensation presently received by unit employees is substandard. For example, the clothing allowance ranks tenth in the County and the PBA's night differential proposal merely seeks parity with neighboring Kearny. The PBA terms the Town's health care proposal as "shocking." It submits that [i]f adopted, the Town's proposal amounts to a 300% increase in health care premium contributions at the same time the Town proposes removing longevity, creating a more extensive salary schedule for new hires, and proposes salary increases that barely keep up with inflation."

The PBA acknowledges that its salary proposals exceed the cost of living data but it notes that the Town's proposals, if awarded, would call for increases that are below the cost of living data.

The PBA asserts that its proposal will further the continuity and stability of employment of unit members while the Town's proposals would not. The PBA submits the following argument on this point:

There can be no doubt that positive morale is a major determining factor in continuity and stability of employment. As we have demonstrated above, the PBA's salary proposal is necessary to break the cycle of having Harrison's salary schedule lag behind its neighbors, especially in light of what the future holds for Harrison and the members of the PBA. It follows

inexorably that the Town gains nothing but negative morale if the arbitrator accepts its proposal, especially its salary and health benefits proposal. In fact, one could argue that if such paltry terms are adopted, the Town risks the success of the redevelopment, in which it has invested billions of dollars, as the morale of the PBA will most certainly plummet. How could it not when faced with the pending increased responsibility that the members face?

The PBA offers support for its non-salary schedule proposals. It seeks a 5% night differential based upon the increased workload it contemplates during night shifts due to redevelopment and the health risks associated with night shift work. The PBA offers similar rationale for the introduction of Senior Officer's Pay at an additional \$5,000 after eleven (11) years service. It asserts a need to retain qualified officers to police the newly developed commercial and residential areas. Its clothing allowance proposal seeks parity with other police departments, including Kearny. Its proposal to require thirty (30) days advance notice for schedule changes is said to provide greater stability for police officers and their personal lives. The proposal for parking permits is based upon Detective Doyle's testimony that officers find it difficult to locate on-street parking and they are often subjected to parking violations if forced to park in a metered spot or at a spot that requires a permit. The proposal to increase the maximum number of vacation days by four (4) days is based upon equalizing vacation time with the hours that police officers actually work.

The Town disagrees with the PBA's analysis of the evidence presented at hearing. The Town emphasizes that the State of New Jersey has recognized that the Town of Harrison has special needs requiring additional financial assistance. The Town submits that the purpose of the additional financial assistance is not to provide "extraordinary" salary and benefit increases but, instead, is a recognition of the Town's need to limit the tax burden placed upon its residents. The Town points to the Memorandum of Understanding that it was required to execute with the State of New Jersey as a prerequisite for receiving additional aid. These terms have included hiring freezes, salary freezes for employees not covered by labor agreements, plans to reduce staff through attrition, restrictions on out-of-state travel and expenses and comprehensive reports to be filed with the State concerning revenues, expenditures, fees paid to consultants and details of labor negotiations prior to the ratification of labor agreements. By the very terms of the Memorandum, the Town argues that the State has recognized its financial distress and the mutual goals of the State and the Town to restore the Town's financial stability.

The Town observes that notwithstanding its receipt of extraordinary aid, it has still been compelled to substantially raise property taxes. The municipal portion of the 2007 tax rate of 2.117 was an increase from the prior year's rate of 1.831, an increase of almost 16%. The overall tax rate increased by 8.4%. The Town submits that an additional 18% increase would have been required

without State assistance unless the Town reduced its budget to accommodate the shortfall. The Town also emphasizes that its pension contributions rose to over \$2,000,000 in 2008. Because of budgetary concerns, the Town urges adoption of its health insurance and longevity proposals. In respect to the proposal for premium contributions the Town notes that it would be an anomaly for the State to provide several millions of dollars in aid to a community which, unlike the State, does not receive help from its employees towards the payment of premiums. The Town further argues that:

A review of prescription co-pay evidence in the record demonstrates the reasonableness of the Town to propose changes. The immediate and direct change is the co-pay increase; but it must be noted that there is a separate proposal concerning prescription maintenance drugs requiring them to be ordered through a mail order refill system subject to the co-pay for that option. Even if the arbitrator awarded this last provision, the Town would be able to effectuate a small savings in what has been a staggeringly more costly program for prescription coverage.

The Town of Harrison has also proposed that a longevity revision be made which would maintain current rates that had been granted through the year 2007 but commencing in 2008 there would not be further longevity pay adjustments. It has been argued in many quarters that the longevity systems are simply a "double-dipping" method of calculating salaries. It is noted that the Police Chief and Deputy Chief of the department have had their longevity program modified in precisely this manner.

The Town also disagrees with the PBA's view of comparability. The Town refers to the settlement in West New York that, while providing for a 4% average wage increase, also provided for a substantial increase in prescription

co-pay, the introduction of a greater co-pay for exotic drugs, and the limitation on new employees to participate in the health insurance program limited to an HMO. The Town further notes an Agreement between the City of Jersey City and the Police Superiors Association that provided increases of 3.5%. Turning to North Bergen, the Town notes that top step in 2006 was \$68,120 compared to the figure of \$70,608 in Harrison. The Town points out that most of the comparability data submitted into the record concerns contracts that were negotiated before the legislature enacted the tax levy. This legislation led to an amendment in the interest arbitration act by providing for criterion 34:13A-16g(9), the factor that provided for recognition of the 4% cap placed upon increases in a municipality's tax levy. The Town further notes that the 4% figure is inclusive of all costs that could affect the tax rate, including the payment of increments and longevity step advancement. On this point, the Town emphasizes that there is more than an additional percentage point in cost impact from step increases towards top step pay because thirteen (13) officers out of thirty-five (35) qualify for substantial increases in pay before the across-the-board increases are calculated.

The Town contends that its proposal will maintain the continuity and stability of employment for its police officers. According to the Town, it has no difficulty in recruiting highly qualified new employees and no record of excessive employee turnover. These facts are said to demonstrate that the

current wages, hours of work, benefits and other terms and conditions of employment reflect that the Town is meeting marketplace requirements to hire and maintain highly qualified employees.

The Town argues that its longevity proposal should be adopted. Its proposal would convert percentages into dollar amounts at rates granted through 2007. The dollar amounts would then be frozen thereafter. Existing employees would be red-circled and the program would be terminated for new employees. The Town points to changes that were made with the police chief and deputy chief similar to what it seeks in its proposal with the PBA.

The Town seeks to modify the existing grievance and arbitration procedure. The stated purpose for its proposal is to "revise and streamline the steps

### **DISCUSSION**

The Town and the PBA have submitted substantial documentary evidence, testimony and oral and written argument in support of their respective last offers. All submissions have been thoroughly reviewed and considered.

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 (9) that I find relevant to the resolution of these negotiations. 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.

- (9) Statutory restrictions imposed on 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 section 10 of P.L. 2007, c 62 (C.40A:4-45.45).

In interest arbitration proceedings, the party seeking to modify existing terms and conditions of employment has a burden to prove that there is basis to modify an existing provision, to delete that provision or to add a new term to the Agreement. I have applied that principle to my analysis of the issues in dispute, not only in this proceeding, but in the companion proceeding that concerns the FMBA. The burden to be met must go beyond merely seeking a change in the absence of providing sufficient evidentiary support based upon an application of the statutory criteria. Any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. This is so because the awarding of any single change can reasonably impact upon the resolution of other issues. Put another way, there may be merit to awarding or denying a single issue if it were to stand alone but a different result may be required after assessing the merits of any individual issue within the context of an overall award.

I also note, at this juncture, that I have also issued an Award between the Town and FMBA Local 22. The overall evidence concerning the Town's finances in each case is similar in nature prompting a similar analysis on economic issues due to the financial impact of the Award on the Town's budget and the longstanding relative comparability between the units. The interests and welfare of the public would not be served ignoring the relative comparability that has evolved between the Township and its public safety bargaining units, despite the existence of individual differences between the nature of the two services. I note that neither award is based upon tying one unit's award to the other but rather upon an equitable distribution of the Town's funds to both public safety units in a manner that maintains pre-existing parity.

The parties disagree on the length of the new contract. The Town proposes a five (5) year agreement extending through December 31, 2011 while the PBA proposes a three (3) year agreement that would expire on December 31, 2009. The PBA's main argument focuses on its view that the Town is in transition from "an aging urban core" into a "vibrant and emerging community." This is in reference to the record evidence detailing projected high rise office complexes, street level retail stores, the new professional soccer stadium and new apartment complexes which the PBA believes will transform the Town's financial base. The PBA views the Town's economic proposals as representing a "crushing blow" to the morale of the workforce,

“extreme” and based upon old evidence which will change when 2010 and 2011 arrive. In short, the PBA sees the potential for adoption of the Town’s proposals beyond 2009 as an unfair result because improved conditions in 2010 and 2011 would allow a refreshed view of the Town’s finances. The Town asserts that stability and efficiency require a longer term agreement and that the Town’s finances do not project the greater financial capacities in the future as foreseen by the PBA due to prospects for lower state aid packages to support its own revenues.

I find that the Town’s view of a lengthier contract to be a sounder approach towards greater labor relations stability. While not directly related to this conclusion, this Award has not adopted the terms of the Town’s financial proposals that the PBA sees as causing devastation to the unit. I have on this day also awarded a contract of the same duration for the FMBA. Accordingly, there shall be a five (5) year agreement with effective dates of January 1, 2007 through December 31, 2011.

Each party has proposed to change the rate of off duty pay. The terms for Off Duty Pay are included in Town of Harrison Resolution 20468 but no contract language exists in the current agreement. The parties agree that a new section, Extra Duty Assignment Pay, should be included in the Agreement at Article XVII, Salaries. They also agree that the hourly rate of pay should be

increased by \$5.00 per hour to \$62.75. The Town seeks additional language that would reserve its right to modify the administrative charges it makes to vendors reflecting administrative charges and social security rates. Such language is reasonable so long as the rate paid to police officers remains unaffected. Accordingly, I award language that adopts the PBA's proposal concerning the rate of pay and the Town's proposal concerning administrative charges:

Include language from the Town of Harrison Resolution 20468 regarding Extra Duty Assignment Pay in the contract as part of Article XVII and increase the hourly rate by \$5.00/hour to \$62.75 effective as soon as practicable. The Town shall have the right to increase the additional charges to the Extra Rate to reflect Social Security rate and/or the Town's charge for administration so long as the hourly rate received by the police officers remains unaffected. Any such changes shall be preceded by thirty (30) days notice to the PBA.

The Town and the PBA also agree on the PBA's proposal to, at the option of the employee, provide for direct deposit of the employee's paycheck into a bank account of the employee's choice. This change shall be made as soon as is practicable after the date of the award. A new section added to Article XVII shall state:

As soon as practicable after the date of this Award, the Town shall take steps to allow a unit employee, at his or her option, to have his or her paycheck directly deposited into the bank account of that employee's choice.

Each party has submitted a proposal concerning work schedules. As a backdrop to this issue, the Town and the PBA in the recent past reached an agreement and signed off on work schedule language. The Town and the PBA both acknowledge that its terms should be included in the new agreement. Each party's proposal contains language that would provide notice to the PBA in the event that a new schedule is implemented. In such case the Town proposes fourteen (14) calendar days and the PBA proposes thirty (30) days. These notice provisions would not bar a change in the case of an emergency. The PBA's proposal also extends to changes in the shift/tour of any individual officer. The Town has also proposed to modify the work schedule to provide an average of forty (40) hours per week but has also proposed to withdraw this aspect of its proposal if the PBA withdraws its demand for increased vacation time.

After due consideration of the parties' submissions on this issue, I award the inclusion of the work schedule Memorandum of Agreement into the new labor agreement. The award shall also include the PBA's language proposal concerning notice except that the notice provision shall be for no less than twenty-one (21) calendar days and shall not extend to the modification of an individual officer's shift. The parties' respective rights concerning individual shift changes shall remain as it may exist under the "status quo." I award no other changes. The language awarded shall read:

The Memorandum of Agreement concerning the work schedule shall be incorporated into the Agreement. In the event that the Town decides to change, alter or modify the current work schedule, the Town must provide the PBA with no less than twenty-one (21) days' notice before making such change, except in the case of emergency.

The PBA has proposed to modify the existing vacation schedule. Its main justification is to equalize vacation time with the hours an officer actually works. The existing provision at Article VIII provides a vacation schedule and an augmentation of the days within that schedule based upon longevity. After review of the PBA's arguments and evidence in support of this proposal, and the Town's response in opposition, I find that there is insufficient justification to award an increase in the number of vacation days. Accordingly, the proposal is denied.

I next address the economic proposals that the Town and the PBA have each offered that I have decided to deny based upon the proposals either having undetermined economic impact or economic impact on unit employees or the Town that would not be in relative balance with the terms of the overall award. The arbitrator is required to consider the total annual net economic change caused by the award. I find that the awarding of any of the following proposals would yield a result inconsistent with the total annual net economic change yielded by the terms that I have awarded that I have deemed to

represent a reasonable determination of the issues. These include the PBA's proposals for Night Differential and Senior Officer Pay. These also include the Town's proposal to terminate the longevity program while red-circling existing payouts at rates in effect as of December 31, 2007.

The PBA has proposed an increase in the Clothing Purchase and Maintenance Allowance to \$1,000 per year. The current allowance is \$625 and was last set in January 2004. Given the fact that existing practices governing uniforms have remained in effect, a reasonable increase designed to offset costs due to the passage of time is warranted. I award an additional \$25 per year in contract years 2008, 2009, 2010 and 2011, thus increasing the allowance to \$725 per year in 2011.

The PBA has proposed to provide each officer with a parking permit at no cost to the employee. PBA testimony supports its position that parking in and around City Hall and the Police Department is extremely difficult. Notwithstanding this fact, the PBA has not established that the cure for the problem it depicts would be consistent with the Town's actual ability to guarantee parking in the limited public parking areas on the adjacent streets. Accordingly, the proposal is denied.

The Town has also proposed to modify the medical insurance program set forth in Article XII. The Town has provided justification for some changes to be made in Article XII. The evidence submitted by the Town shows that it provides a comprehensive health insurance program and that it has experienced substantial increases in premiums. The first portion of its proposal concerns prescription coverage. The current prescription program provides for a \$1.00 co-pay for generic drugs and a \$5.00 co-pay for brand name drugs. There are no employee contributions to medical insurance and the Town offers an array of plans, including the Traditional Plan. There have been no changes to Article XII for several years. Some additional employee participation in costs is warranted and insufficient evidence exists in opposition to any modification other than an unwillingness to increase that participation. A substantial number of the settlements and awards in evidence reflect some increase in employee participation in various forms even in communities who, unlike Harrison, do not receive substantial State subsidy in the form of Distressed Cities grants. The PBA, however, has demonstrated that the Town's proposals, if awarded, would be overly burdensome on unit employees.

Based upon the above, I award the following modifications. With respect to Article XII, Section 6, prescription coverage, I award the Town's proposals as phrased in its submission, except for a change in the exotic drug co-pay and the effective date:

Prescription co-pay: effective January 1, 2010 the co-pay shall be \$5.00 co-pay for generic drugs; \$10.00 for brand name drugs and \$20.00 for exotic drugs. Prescription on maintenance drugs shall be ordered through the mail order refill program. The corresponding amounts for mail order shall be the same for a ninety (90) day supply.

The second portion of the Town's proposal concerns contributions towards medical insurance. Under the Town's proposal, each employee who has chosen extended coverage would ultimately pay \$1,500 annually. Employees hired after the date of this award would only be entitled to medical insurance under the HMO option.

I award the Town's proposal that employees hired after the date of the award would have access to the HMO option under the Plan. Existing employees will retain all rights to scope and option of coverage under the existing Plan. Contributions toward the Plan, but more limited in nature than sought by the Town, would offset some of the burden of premium cost now entirely borne by the Town. Commencing January 1, 2011, unit employees shall contribute \$30.00 per month towards health insurance premiums regardless of plan selection or the extent of coverage. The Town shall provide a Section 125 Plan to allow for pre-tax deductions which will reduce the actual amount that an employee will be required to pay. This shared cost program shall be administered through payroll deductions.

The issue of salary remains a major issue in dispute. The submissions on this issue are very comprehensive. The PBA focuses on external comparability with other municipal law enforcement departments. Its expert's financial report depicts the Town as being in a more favorable condition than that described by the Town. The Town relies upon its posture as a distressed city, its dependence upon state aid, its rising tax obligations, budgetary pressures including rising pension obligations and its spending and tax levy caps. The Town disputes that the communities that the PBA relies upon are, in fact, comparable to Harrison.

The record supports an award that is greater than the Town has proposed but less than what the PBA has proposed. The PBA's financial report comprehensively details the Town's revenues, its comparative tax structure and notes its trend towards redevelopment. It does support a finding that the Town can fund this labor contract at a level beyond what the Town insists is the most reasonable sum that it can offer. In post-hearing briefs, the Town appears to argue on behalf of a "status quo" on wages. The PBA has objected to that submission.

The financial report identifies dollars within the budget that could theoretically be spent on a new police contract. However, it does not take into consideration the fact that the Town must allocate its resources among many

competing factors and needs and, moreover, must do so without causing a potential for increases in tax burdens that its residents could not easily meet. The Town, while arguing that its taxpayers cannot bear the burden of the wages proposed by the PBA, does shoulder the responsibility to provide adjustments to the compensation package that is more reasonably consistent with adjustments provided for in surrounding communities.

The Town's reliance upon State aid is heavy. The Town's argument that increasing deficits in the State's budget could reduce the amount of aid that it has been receiving cannot be dismissed as being overly speculative given the State's declining revenues and increasing budget deficits. The Town's surplus, while relatively consistent, is modest and has declined over the past several years. The costs required by the PBA's proposal could curtail the Town's ability to carry surplus funds into succeeding budgets unless revenues substantially increase. The terms of the award can also not jeopardize the Town's statutory obligations under the budget cap and the tax levy cap. On the other hand, the comparability evidence introduced by the PBA demonstrates that the Town's proposal would result in a salary schedule that would be at a competitive disadvantage with other police departments, including some communities who also suffer some degree of financial distress.

The interests and welfare of the public will be served by an award that meets the above requirements. Additional considerations include the cost of living data which more closely is aligned with the Town's proposal and does not support an award at or near the level proposed by the PBA. The record also reflects that there has been continuity and stability of employment within the department which weighs against an award that would require the substantial increases sought by the PBA in order to hire and retain employees. I have taken into consideration the cost impact of step movement through the schedule and have awarded differentiated percentage increases for steps one through seven.

A balance must be struck among competing factors. The overall health of the Town's finances is more healthy than the Town has depicted but less stable than the conclusions reached by the PBA. The Town is not guaranteed continued future funding from the State at levels that are in evidence through 2008. The evidence on aggregate true value of real property show stagnancy since 2005. Assessments in 2007 are at substantially the same levels as in 2000 and are less than 1996. This tends to diminish the PBA's reliance on communities who do not share these circumstances. The Town, however, must be compelled to fund a labor agreement that will continue to reward a police department whose productivity is high and whose morale must be

maintained to fulfill the Town's obligation to protect the safety and security of its residents and its redevelopment efforts.

The Agreement provides a Firearm and Protective Equipment and Maintenance Stipend. The total economic package awarded should include modifications to the schedule. An additional 0.25% added to that schedule in each of the years 2008 through 2011 would be commensurate with prior increases to this stipend and shall accompany the increases I have awarded to the salary schedule. I have calculated the costs for this modification as \$6,643 in 2008, \$6,840 in 2009, \$7,079 in 2010 and \$7,309 in 2011.

The across-the-board increases shall be 3.5% at each rank and top step in contract years 2007 through 2010 and 3.25% in contract year 2011. Steps One through Six for patrolman hired before July 1, 2001, and Steps One through Step Seven for officers hired after July 1, 2001, shall be increased by 3.0% annually.

Based upon all of the above, I award the following modifications to the existing compensation package:

Effective January 1, 2007 – increase the top step of the salary schedule by 3.5% across the board. Steps One through the steps below Top Step shall increase by 3.0%.

Effective January 1, 2008 – increase the top step of the salary schedule by 3.5% across the board. Steps One through the steps below Top Step shall increase by 3.0%.

Effective January 1, 2009 – increase the top step of the salary schedule by 3.5% across the board. Steps One through the steps below Top Step shall increase by 3.0%.

Effective January 1, 2010 – increase the top step of the salary schedule by 3.5% across the board. Steps One through the steps below Top Step shall increase by 3.0%.

Effective January 1, 2011 – increase the top step of the salary schedule by 3.25% across the board. Steps One through the steps below Top Step shall increase by 3.0%.

The salary schedule for 2007 through 2011 shall read as follows:

Patrolman: Hired Before 07/01/01

	<b>2006</b>					
	<b>Existing</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Begin Year One	\$27,944	28,782	29,646	30,535	31,451	32,395
Begin Year Two	\$50,436	51,949	53,508	55,113	56,766	58,469
Begin Year Three	\$53,879	55,495	57,160	58,875	60,641	62,461
Begin Year Four	\$56,843	58,548	60,305	62,114	63,977	65,897
Begin Year Five	\$62,450	64,324	66,253	68,241	70,288	72,397
Begin Year Six	\$64,537	66,473	68,467	70,521	72,637	74,816
Begin Year Seven	\$70,501	72,969	75,522	78,166	80,902	83,531

Patrolman: Hired After 07/01/01

	<b>2006</b>					
	<b>Existing</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Begin Year One	\$29,744	30,636	31,555	32,502	33,477	34,481
Begin Year Two	\$41,511	42,756	44,039	45,360	46,721	48,123
Begin Year Three	\$50,436	51,949	53,508	55,113	56,766	58,469
Begin Year Four	\$53,879	55,495	57,160	58,875	60,641	62,461
Begin Year Five	\$56,843	58,548	60,305	62,114	63,977	65,897

Begin Year Six	\$62,450	64,324	66,253	68,241	70,288	72,397
Begin Year Seven	\$64,537	66,473	68,467	70,521	72,637	74,816
Begin Year Eight	\$70,501	72,969	75,522	78,166	80,902	83,531

Effective January 1, 2008 the Firearm and Protective Equipment and Maintenance stipend will be increased to 1.25%. This stipend shall be increased effective January 1, 2009 to 1.5%, effective January 1, 2010, to 1.75% and effective January 1, 2011 to 2.0%.

The above terms have been calculated based upon data showing an end of 2006 gross salary level of approximately \$2,467,599. The annual cost of the salary portion of the Award in terms of gross salaries expended, as compared with how the parties' proposals affect gross salaries are set forth as follows:

	PBA Proposal	PBA Gross Salary	Award		Town Proposal	Town Gross Salary
2007	5.43%	\$2,601,589	3.5%	\$2,553,964	2.75%	\$2,535,457
2008	5.0%	\$2,731,699	3.5%	\$2,643,353	2.75%	\$2,605,182
2009	5.0%	\$2,868,252	3.5%	\$2,735,871	2.75%	\$2,676,825
2010	5.0%	\$3,011,665	3.5%	\$2,831,626	3.25%	\$2,763,822
2011	5.0%	\$3,162,248	3.25%	\$2,923,654	3.50%	\$2,860,555

\*Assumes a 5.0% proposal for 2010, 2011

The annual cost difference of the gross salaries is \$47,625, \$88,346, \$132,381, \$180,039 and \$238,594 less than the PBA's proposals over each year of the 2007-2011 time period and \$18,507, \$38,171, \$59,046, \$67,804 and \$63,099 more than the Town's over each year of the same time period.

Based upon all of the foregoing, I respectfully enter the terms of the following award as a reasonable determination of the issues in dispute.

### **AWARD**

1. All proposals by the Town and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been voluntarily agreed to and/or modified by the terms of this Award.

2. **Duration**

There shall be a five-year agreement effective January 1, 2007 through December 31, 2011.

3. **Health Insurance**

Article XII, Section 6 shall be modified as follows:

Prescription co-pay: effective January 1, 2010 the co-pay shall be \$5.00 co-pay for generic drugs; \$10.00 for brand name drugs and \$20.00 for exotic drugs. Prescription on maintenance drugs shall be ordered through the mail order refill program. The corresponding amounts for mail order shall be the same for a ninety (90) day supply.

Effective January 1, 2011, unit employees shall contribute \$30 per month towards health insurance premiums regardless of plan selection coverage. The Town shall provide a Section 125 Plan to allow for pre-tax deductions. Employees hired after the date of the Award shall be entitled to medical insurance under the HMO option.

4. **Salaries**

The top step of the salary schedule shall be increased by 3.5% effective on January 1, 2007, 3.5% effective January 1, 2008, 3.5% effective January 1, 2009, 3.5% effective January 1, 2010 and 3.25% effective January 1, 2011. The steps from Begin Year

One through the steps below top step shall be increased by 3.0% in each year. The salary schedule shall read:

Patrolman: Hired Before 07/01/01

	2007	2008	2009	2010	2011
Begin Year One	28,782	29,646	30,535	31,451	32,395
Begin Year Two	51,949	53,508	55,113	56,766	58,469
Begin Year Three	55,495	57,160	58,875	60,641	62,461
Begin Year Four	58,548	60,305	62,114	63,977	65,897
Begin Year Five	64,324	66,253	68,241	70,288	72,397
Begin Year Six	66,473	68,467	70,521	72,637	74,816
Begin Year Seven	72,969	75,522	78,166	80,902	83,531

Patrolman: Hired After 07/01/01

	2007	2008	2009	2010	2011
Begin Year One	30,636	31,555	32,502	33,477	34,481
Begin Year Two	42,756	44,039	45,360	46,721	48,123
Begin Year Three	51,949	53,508	55,113	56,766	58,469
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Begin Year Five	58,548	60,305	62,114	63,977	65,897
Begin Year Six	64,324	66,253	68,241	70,288	72,397
Begin Year Seven	66,473	68,467	70,521	72,637	74,816
Begin Year Eight	72,969	75,522	78,166	80,902	83,531

Effective January 1, 2008 the Firearm and Protective Equipment and Maintenance stipend will be increased to 1.25%. This stipend shall be increased effective January 1, 2009 to 1.5%, effective January 1, 2010 to 1.75% and effective January 1, 2011 to 2.0%.

All economic terms, unless provided otherwise, are retroactive to each effective date for those presently employed and those who were employed on each effective date and retired on ordinary or disability pension prior to the date of the Award.

5. **Article XVII – Extra Duty Pay (new section)**

Include language from the Town of Harrison Resolution 20468 regarding Extra Duty Assignment Pay in the contract as part of Article XVII and increase the hourly rate by \$5.00/hour to \$62.75 effective as soon as practicable. The Town shall have the right to increase the additional charges to the Extra Rate to reflect Social Security rate and/or the Town's charge for administration so long

