

**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between	:
	:
TOWNSHIP OF MAPLEWOOD	:
"the Township or Employer"	:
	:
and	:
	:
MAPLEWOOD PBA LOCAL 44	:
"the PBA or Union"	:

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No: IA-2003-095

Before: Robert M. Glasson, Arbitrator

APPEARANCES

FOR THE EMPLOYER:

Sandro Polledri, Esq.
Joseph F. Hanlon, Esq.
Genova, Burns & Vernoia

FOR THE PBA:

Marc Abramson, Consultant
Abramson Associates

Background & Procedural History

The Township of Maplewood (the "Employer" or "Township") and Maplewood PBA Local 44 (the "PBA" or "Union") are parties to a collective bargaining agreement (the "CBA") which expired on December 31, 2002. Upon expiration of the CBA, the parties engaged in negotiations for a successor agreement. Negotiations reached an impasse, and the PBA filed a petition with the New Jersey Public Employment Relations Commission ("PERC") on May 30, 2003, requesting the initiation of compulsory interest arbitration. The parties followed the arbitrator selection process contained in N.J.A.C. 19:16-5.6 that resulted in my mutual selection by the parties and my subsequent appointment by PERC on June 18, 2003 from its Special Panel of Interest Arbitrators.

Mediation sessions were held on September 3, October 7 and November 6, 2003. Formal interest arbitration proceedings were invoked and a hearing was conducted on March 3, 2004, when the parties presented documentary evidence and testimony in support of their positions. Both parties filed post-hearing briefs. On October 7, 2004, the Township requested the opportunity to submit supplemental arguments concerning the impact of the Local Budget Law amendments. The PBA and the Township agreed to a briefing schedule to address the impact of the revised Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et. seq. The briefing schedule was extended to December 1, 2004. The Township and the PBA agreed to extend the time limits for the issuance of the award to January 22, 2005.

This proceeding is governed by the Police and Fire Public Interest Arbitration Reform Act, P.L. 1995, c. 425, which was effective January 10, 1996. While that Act, at N.J.S.A. 34:13A-16f(5), calls for the arbitrator to render an opinion and award within 120 days of selection or assignment, the parties are permitted to agree to an extension.

The parties did not agree on an alternate terminal procedure. Accordingly, the terminal procedure is conventional arbitration. I am required by N.J.S.A. 34:13A-16d(2) to "separately determine whether the net annual economic changes for each year of the agreement are reasonable under the eight statutory criteria in subsection g. of this section."

Statutory Criteria

The statute requires the arbitrator to:

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

(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 condition of employment of the employees involved in the arbitration proceedings with the wages, hours and condition of employment of other employees performing the same or similar services 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 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:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or municipality, the arbitrator or panel of arbitrators shall take into account to the extent the evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding 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 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.

PARTIES' LAST OFFERS

PBA's Last Offer

1. **Agreement – Change dates.**
2. **Article 2 – Management Rights – Delete.**
3. **Article 3 – Grievance Procedure**

Section 2 B Delete (provided the grievant requests same)
Section 3 Change (15) to (30).

4. **Article 4 – Salaries:**

Change dates and increase salaries by 6% per year exclusive or increment and an additional 1.5% “catch up” per year. Also increase the pay differential to 15% between ranks. Acting pay should be provided to all officers who are performing in an “acting capacity” function at the superior officer’s per diem rate. A senior patrolman status will be established for all officers who have worked ten years for the Township of Maplewood at a rate of 5% above the rate of top patrolman.

5. **Article 5 – Retention of Benefits:** Delete second paragraph.

6. **Article 9 – PBA Rights and Privileges:**

Add Section 7: In addition to the above sections, the PBA leadership shall be given thirty days to attend union functions.

7. **Article 12 – Leaves of Absence:**

Funeral Leave – modified language to avoid a discriminatory practice and increase the calendar days to seven. Further, expand immediate family to include all “in laws,” significant other, aunts, uncles, first cousins and close friends.

Add: Personal Days – three days per year
Paternity Leave – three days

8. **Article 13 – Sick Leave:**

Provide a cash incentive of \$500 for perfect attendance in addition to the existing benefit.

9. **Article 14 – Holidays:**

Section A Delete (8) and insert (10)

10. **Article 15 – Equipment:**

Section 1 Modify to require the township to replace clothing and equipment damaged in the line of duty.

11. **Article 17 – Personal Leave:**

Change name to “Compensatory Leave” and deleting the following language:

“whenever possible subject to the manpower needs of the Department as determined by the Chief.”

12. **Article 18 – Vacation and Miscellaneous:**

Section 1 - Modified language by deleting manpower conditions. Further, officers shall be able to carry vacation days the next year and in the event that an opening occurs during the year, officers shall be permitted to reschedule vacation picks.

Section 10 - Codify existing practice and add a vision care plan for employees and family at no cost to the employee.

Section 12 – Delete.

13. **Article 21 – Responsibilities of Parties to this Agreement – Delete in its entirety.**

14. **Page 42 – Add the following:**

1. Establish a training allowance of \$250 per officer per year.
2. Increase weapon and maintenance allowance \$100 per year for each year of the contract.
3. Establish a four-hour minimum for court time.
4. Establish an educational recognition as follows:
 - a. Associate degree - \$500
 - b. Bachelors degree - \$1,000
 - c. Masters degree - \$1,500
 - d. EMT - \$500

Township's Last Offer

1. **Term of Agreement:** January 1, 2003 through December 31, 2006.

2. **Wages:**

- a. Effective January 1, 2003, 4% across-the-board wage increase.
- b. Effective January 1, 2004, 6% across-the-board wage increase. (The 2004 wage rate consists of two components: a 4.0% increase plus an additional 2% to address issues related to retention.)
- c. Effective January 1, 2005, 3.75% across-the-board wage increase.
- d. Effective January 1, 2006, 3.75% across-the-board wage increase.

3. **Salaries:**

An Academy wage rate, in the annual amount of \$24,000, will be established for police recruits while they are enrolled in the Police Academy.

4. **Health Benefits:**

The Township may change carriers or self-insure as long as substantially similar benefits are provided.

5. **Sick Time Step System:**

Officers hired after January 1, 2004 will receive twelve (12) sick days per year and will reach seventy-two (72) sick days after six (6) years of service. If needed, officers will then receive seventy-two (72) sick days at half-pay.

THE PBA'S POSITION AND ARGUMENT

The PBA notes that the difference between the parties' last and final offer is significant. The PBA asserts that it developed a realistic proposal to reverse the low morale and high turnover rate. The Township's proposal provides a substantial increase in 2004, however, all the other salary increases are below average will do little to help the low morale and high turnover rate.

The PBA contends that the issue before me is not an inability by the Township to meet the salary proposal of the PBA, but rather its unwillingness to do so. The PBA submits that an unwillingness to pay, as opposed to an inability to pay, should not be persuasive to the arbitrator, since unwillingness is not a component of any statutory criteria. The PBA submits that the record is clear regarding the Township's ability to meet the PBA's proposal and is also clear regarding the crisis affecting the police department. The PBA asserts that the "interests and welfare of the public" require an economic award that will provide stability for the residents.

The PBA cites the Township Labor Counsel's opening statement as supportive of the PBA's claim regarding the turnover rate in the police department:

There is a retention issue that we'd like to address. There are compensation issues here that we'd like to improve and those are essentially the reasons for that.

On the retention side I think the numbers that I have in our brief or our exhibits, which are T46, which we'll supplement with the other data you had requested I think essentially agrees with what the PBA has presented. A number of officers have left. The numbers we have show that 26 officers left since 1998. Twenty-two of them had 10 years or less of service time. And the intent in structuring our final offer the way we did was that we would let everyone benefit from that, what I call the extra 2 percent in 2004 as opposed to structuring it in a way that will only benefit the more senior officers by way of a senior officer differential because that would be more targeted to the group that have more than 10 years of service. They are ordinarily the higher paid group and they typically have a better schedule due to their seniority. So that's why we set our final offer up that way and we refrained from including the senior officer differential. (Tr. at 75-76).

The PBA submits that although the Township recognizes its problem, its proposed solution lacks the necessary "economic muscle" to get it out of the problem it finds itself in because of years of not addressing the needs of police officers.

The PBA compared the impact of the parties' last offers on salary. In 2002, maximum patrol salary was \$61,446 which is \$2,266 below the Essex County average. Applying the Township's 2003 proposal, officers would be making \$63,903 in 2003, which is \$2,282 below average. In 2004, applying the Township's proposal, officers would be making \$67,737 which is still \$609 less than the average. The Township is proposing 3.75% for each of the next two years, while the average voluntary settlements released by the Public Employment Relations Commission appear to be 4.13% and 4.15% respectively. One can only project that the Township's proposal for years 2005 and 2006 will produce further losses in the differential from the average since those settlements will be approximately ½ % per year less than the average settlements. The PBA characterizes the Township's proposal as "too little, too late." The PBA notes that although the 6 % increase in 2004 is higher than the average of all public sector settlements, it is not significantly high enough to offset the less than average salary increases in 2005 and 2006 and remedy the problem confronting this police department. Although, the Township has resisted the need to develop a senior

patrolman status and seeks to hide behind a one year improvement in salary, it is clear that something must be done not only to attract new officers but more importantly to retain those officers. The answer is without question, the establishment of a senior patrolman status as noted in the PBA's final offer.

The PBA contends that the "senior patrolman status differential" would promote stability and increase retention. It would give officers a real economic reason to stay in Maplewood and thus would in combination with the other aspects of the PBA final economic proposal go a long way to ameliorate the serious turnover problem confronting the police department.

The senior patrolman status would give officers something to look forward to attaining if they stayed with the department. In 2001, the longevity schedule for new hires was changed to a dollar amount which exacerbated the turnover rate. This longevity change for new hires using the \$61,446 figure provides \$3,200 dollars after twenty years, for those hired after Jan. 1, 2001. Officers hired before January 1, 2001, receive 8% longevity or \$5,065 which is \$1,865 more.

The PBA submits that the Township submitted no real evidence of an inability to pay. The PBA submits that the Township recognizes the seriousness of the problem, but its salary offer is insufficient to correct the turnover problem.

The PBA submitted considerable comparability data in three categories. First, by listing of municipalities in Essex County; second, by comparing data with focus communities; and third, by comparing contiguous communities. The focus communities are South Orange and Nutley and were chosen for their demographic similarities. Contiguous communities were simply those communities within the County that bordered Maplewood.

Demographics

Of the twenty-two communities in the County sample, Maplewood is distinguished by having the eleventh largest population. It is characterized as an "urban suburban" community. Along with the 11th largest population, Maplewood has the ninth largest area to patrol and protect. It is important to note that while Maplewood had a significant increase in population from 1998-2000 of approximately 14%, the police force saw no such increase. (PBA 1, Sec. 3)

In the demographic analysis section of PBA 1, it is noted that the number of people per police officer in Maplewood is 405 which is significantly higher than the County average of 277. That ratio remained similar in comparing the contiguous and focus municipalities as well. The above statistic, coupled with the fact that Maplewood has approximately 14.8 officers per square mile which is much less than the County average of 22.5, clearly suggests that Maplewood officers' initial structural workload environment is not as attractive as many of their counterparts throughout the County.

Interests and Welfare of the Parties

The PBA asserts that the interests and welfare of the public demands a high caliber of police protection, which must be considered in tandem with the needs of its police officers.

Arbitrator Weisenfeld (IA-81-3), described this symbiotic relationship as follows:

"....The interest and welfare of the public are best served by having a police department which is interested in its work and supportive of its community. This interest and support, however, exists in a dialectal relationship with the interest and support, which a police department receives from its community. Both are woven of the same thread and an erosion of one will inevitably erode the other."

Arbitrator Weisenfeld's analysis of the "interest and welfare" criterion has been echoed by other arbitrators as well. Arbitrator Hammer, stated the following:

“....The interest and welfare of the public demands a high caliber of Police protection which must be considered along with the needs of those making up the Police Department.

“While members of the Department evidence their interest and support for the Community it serves by putting forth their best efforts to protect its citizenry, the City and its taxpayers have only a single way of exhibiting its support to and appreciation of its Police, namely by granting each and every one of them an equitable and reasonable salary increase.” (IA-91-176)

An analysis of the statistics reported in the 2002 Uniform Crime Report shows the effort exerted by the Maplewood police in handling crime on behalf of its residents. The PBA submitted statistical data dating from 1994, which showed the high caliber of police protection afforded the residents of Maplewood. The Total Crime Index reveals that the index for the last several years is much lower than those reported in the mid-nineties. The number of crimes per officer is also at a low level over the nine-year period. Total crime rate per 1000 shows a favorable rate. The average crime rate per 1000 is thirty-seven while Maplewood enjoys an average crime rate of 28.7. Those statistical benefits for Maplewood hold true for both violent and nonviolent crime rate per 1000. (PBA 1, Sec. 3)

The PBA notes that in 2002 there were fifty-nine officers, the same number as in 1998. Over a nine-year period the number of officers never exceeded fifty-nine. Yet the population from 1998-2000 increased from 20,518 to 23,868. That increase can best be described as significant, although the police department remained virtually static. (PBA 1, Sec. 3 & 11).

The PBA submits that the Township failed to connect police productivity to the interests and welfare of the public. The Township, instead, chose to tie the interest and welfare criterion solely to the economic factors confronting taxpayers in general and with no viable rationale. The PBA contends that this situation needs to be corrected to insure that the interests and welfare of the community are maintained.

Comparability of Salaries

The PBA submits that the available statistics show that the annual average private-wage increased by 6.9% in 2000 and, in Essex County, the average wage increase was 4.3% in 2001 which ranked fourth in the state. (PBA 1, Sec. 5).

The PBA notes that there are factors generally considered in the determination of police wages that are not present when considering wages of other public and private employees: the police departments operate on a twenty-four hour basis, seven days a week; police officers are subject to work weekends and holidays; subject to on-call, call-back and court dates on their time off; subject to work in a street setting in all kinds of weather; subject to being evaluated by supervisors under public scrutiny; and subject to working under constant pressure from potential danger. (PBA 1, Sec. 5).

The PBA maintains that the best salary comparison is with other police departments. For example, the Borough of Sussex (Sussex County) was restrained from hiring out its police services to a private security firm because Judge Stanton ruled that security firms and their personnel: (1) were not adequately trained; (2) did not possess any legal ability to perform functions restricted by law to law enforcement officials (search, detain, investigate, arrest, beyond the restriction of a citizen's arrest, etc.); and (3) that it was not in the public interest and welfare to continue the use of private firms in a policing function. The decision, rendered in Morris County on July 30, 1993, leads one to conclude that there is no real private sector group to which police may be compared.

The PBA cites Arbitrator Scheinman's finding that there is "no comparable private employment that is proper for comparison purposes to police work," explaining further:

For example, police cover twenty-four (24) hour shifts. They work weekends. They work holidays. They are subject to on-call, call-back and court dates. They work in a setting where they are subject to much public scrutiny as well

as the possibility of real danger. In contrast, most other employees work scheduled shifts with weekends and holidays off. They rarely confront the physical danger inherent in police work. For all of these reasons, I find no comparable private employment. (IA-91-98, at 121).

Another comparable public sector group is public school employees. The average settlement in Essex County for teachers in 2003-2004 was 4.82% and the State trend for teachers is 4.8% in 2003-2004, 4.83% in 2004-2005 and 4.84% in 2005-2006. The trend indicates that the percentages are on the increase.

The PBA notes that the Township has been successful in maintaining its "pattern settlement" dating back to an early interest arbitration award by Arbitrator Jeffrey Tener. Although the Township is deviating from the pattern settlement concept in this case, it is clear that even in the Tener decision, it is suggested that significant reasons could be provided to cause an acceptance of that deviation from the pattern. The PBA contends that "pattern bargaining" has contributed to the undisputed turnover and retention problems.

The PBA submits that the pattern concept is not universally embraced by all arbitrators. In IA-2000-10, Arbitrator Hammer stated the following:

While there is no question but that an employer, any employer, would like to be in a position to offer the same percentage pay raise to all of its employees, it simply is not feasible. The job and working conditions differ vastly between a police officer and a secretary, a street cleaner or an office worker. The police officers' are responsible for enforcing the law whether on or off duty. When a crime is committed in a police officer's view, he cannot simply turn his back and say: "I'm off duty." He must act, He must respond.

While one generally tries to treat all employees alike, an interest arbitrator, with statutory guidelines or criteria to follow, cannot blindly endorse for all employees what an employer unilaterally may have imposed on a particular class of employees having little or no bargaining power.

Equaling compelling, is a decision rendered by Arbitrator Di Cindio in IA-94-067 in which he stated the following:

Next, the City argues that a fair indicator of a reasonable economic offer is the settlements entered into with its other collective negotiations units. It submits that the blue-collar, white collar, firefighters and superior officers' unions in the City all agreed to 0% (wage freeze) in 1994, and comparable proposals for 1995 (4%) and 1996 (4%). While these other bargaining units may have agreed to the City's proposal, there is no basis for implementing this proposal upon the PBA involved in this interest arbitration. Moreover, these prior settlements cannot dictate what is fair and reasonable regarding the question that must be decided by the undersigned. Is the PBA supposed to accept as "reasonable" that which other bargaining units have settled for in the past? I think not...each Interest Arbitration Award is determined by particular facts in that municipality and certainly is not binding as precedent in a separate case involving different facts. (PBA 1, Sec. 5)

The PBA cites salary data showing 4% average salary increases in 2003, 2004 and 2005 for awards and voluntary settlements. Both parties have acknowledged the existence of a real problem which is going to require a greater than the "going rate." of 4%. The PBA submits that the Township offer of an average 4.3% increase is a "de minimus" increase which is not sufficient to stem the turnover rate.

In 2001, the top patrol salary in Maplewood ranked third lowest in Essex County, \$2,222 below average. In 2001, the average percentage increase was 4.01% in Essex County; Maplewood officers received 3.25%, well below the average. (PBA 1, Sec.5)

In 2002, the top patrol salary in Maplewood ranked 6th from the bottom in the County, \$2,266 below the Essex County average. Maplewood's 4% increase was almost equal to the county's 4.07%.

In 2003, the average increase in Essex County was 3.68%. The PBA proposed a 6% + 1.5% catch up salary increase and the Township proposed a 4% salary increase. The PBA's salary proposal is significantly higher than the "going rate" in order to begin to fix the problem while the Township's offer is bordering on the going rate which will do nothing to begin to correct the problem. The Township's proposal increases the maximum salary to \$63,903, \$2,282 below the Essex County average.

In 2004 the Township's proposal increases the maximum to \$67,737, \$609 below the Essex County average. The PBA submits that the Township's proposed 3.75% increases in 2005 and 2006 will not reverse the retention problems.

The PBA submits its 7.5% annual salary increases will stabilize the work force and reverse the turnover problems. The PBA notes that if its 7.5% increases are awarded in 2003 and 2004, the Maplewood maximum salary would be the fourth highest in the County and would go a long way toward alleviating the high turnover rate. This same application in 2005 and 2006 would probably eliminate the retention crisis and certainly help all those officers who made Maplewood their professional career in gaining toward their cumulative losses in earnings through all the previous years.

The PBA cites Arbitrator Scheinman's 1995-97 award in New Brunswick:

"Thus, I am persuaded that a wage package which unnecessarily deviated from the type of salary increases provided to other police officers in comparable communities, would not serve the interests and welfare of the citizens of the City. After all, the interests and welfare of the public criterion is not limited solely to the public's financial interests and welfare in having its police force continue to serve its essential needs and provide essential services. Under any reasonable view, the economic proposal set forth by the City will unnecessarily and invariably cause a decline in police morale. This does not serve the interest and welfare of the public."

The PBA contends that the same circumstances exist today in Maplewood as they existed in the above arbitration in the City of New Brunswick. The PBA submits that the Township's salary proposal continues to jeopardize the interests and welfare of the public.

Overall Compensation

In addition to salary increases, settlement packages generally contain other economic and non-economic improvements in benefits such as longevity programs, schedule modifications, clothing allowances, vacations, personal days and paid holidays and various insurance coverages. Another of the statutory criterion calls for the Arbitrator to consider the

overall level of economic and non-economic benefits enjoyed by the bargaining unit members. Therefore, a comparison of those benefits among the sample units is instructive.

The comparison charts provided by the PBA reveal that for the most part, Maplewood police officers' counterparts throughout the County enjoy similar levels of benefits. One of the areas that is starkly different is the longevity program. The PBA contends that the two-tiered longevity benefit negatively affects employees. Clothing and maintenance is higher than the County average while vacation and holiday are at the County average. Maplewood officers do not enjoy personal days, the average in the County is three and Maplewood officers enjoy one less bereavement day than their County counterparts. Maplewood officers enjoy sick leave benefit higher than the County average. However, the Township wants to reduce that benefit for new employees, certainly not a move that would encourage prospective employees to come to work in Maplewood.

Lawful Authority

Chapter 89 of the Laws of 1990 revised the Local Government Cap Law which eliminated most of the special exceptions to the expenditure limitations. However, the 1990 appropriations were made part of the cap base amount. This larger cap base, therefore, results in a greater permitted increase to be allocated among all service costs. Exemptions from the cap may be granted when extraordinary circumstances result in an unanticipated increase for essential services, one time expenses for starting new programs, the use of surplus if in fiscal distress and operating the municipal courts. The PBA asserts that for the Township to simply choose not to provide for salary increases and then say *sorry, we have no money*, is not acceptable, is irresponsible and not persuasive.

Financial Impact

The PBA maintains that the Township can fund the PBA's economic proposals. The Township's witnesses never testified on direct examination or cross examination that the

Township could not fund the PBA's economic proposals. The PBA's witness (Dr. R. Caprio) prepared a certification in which he wrote the following:

As a result of my examining and analyzing the aforementioned documents, I determine that I am in a position to comment with some authority on the finances of the Township of Maplewood and its ability to secure a contract settlement that is without undue impact on the community as specified by existing PERC criteria. My definitive determination in this case is that there is nothing evident in the offer to Local 44, as has been requested by PBA Local 44.

Based on the above and the lack of testimony to the contrary by the Township, it is evidently clear that the Township could, and more importantly, should, provide those wage increases.

The PBA provided the following additional financial statistics:

The 2002 State Equalized Valuation indicates Maplewood is at \$2,194,679,529, ranking eighth in the County. The Revenues from Property Tax indicates a significantly better than average amount. When you factor in State Aid, Total Revenues for Maplewood reflects an upper County ranking and which is significantly higher than the average. The Percent of Expenditures for Municipal Functions reflects an average of 46.93% while Maplewood's percentage for municipal functions is 32.11%, which is significantly below the County average. (PBA 1, Sec. 9).

Township Committee member, David Huemer, chair of the Finance Committee, stated:

Fiscally conservative budgeting over several years has left the Township of Maplewood financially healthy in bad economic times. Despite double digit increases in insurance and pension costs, the tax impact of this year's municipal budget, exclusive of the possible purchase of the Verizon building, is only 2.7%. This meets our goal to keep the tax impact of the municipal budget at or below the rate of inflation used to calculate cost of living adjustments for pensions and social security. (PBA 1, Sec. 3).

Township Committee member David Huemer is further quoted in the Spring 2003

The Maplewood Leaflet:

These are exciting times for economic development in Maplewood. We are continuing long-overdue work on Springfield Avenue. That work has prompted property owners along the Avenue to make improvements and

build new ratables at the fastest pace in over a generation. Maplewood Village continues to thrive. We have multiple developers interested in various sites in our small industrial zone along Burnett Avenue and Rutgers Street, and we are thoroughly investigating the possibility of moving our court and police station to the Verizon building on Burnett Avenue.

It was further reported in the Leaflet that there were several improvements to the Township's financial position:

- Reserved surplus for 2003 is \$1,250,000, an increase of 250% over 2002.
- Reserved surplus for the Community Pool for 2003 is \$63,683, compared with under \$1,000 in 2002.
- Increased revenues by 25% not including what is to be raised by taxes.

The Township has worked hard in presenting a case that its economic proposal is so significant and therefore has no desire in providing the proposals requested by the PBA, however, its argument pales when analyzed regarding its "inability to pay." As previously mentioned, the Township's proposal when viewed over the four-year period is just about the "going rate" and the "going rate" is not enough to stop or curtail the turnover rate.

The PBA notes that its consultant, Dr. Caprio, has served as a member of the Board of Examiners for the licensing examination for Certified Municipal Finance Officers. He has also been certified as an expert in over fifty interest arbitration cases in New Jersey and has provided training to Arbitrators on behalf of the Public Employment Relations Commission. Dr. Caprio prepared his certification to describe the Township's financial condition. The PBA submitted the following highlights from Dr. Caprio's certification:

- The total property values in Maplewood, based upon Department of the Treasury data, characterize Maplewood as a municipality with a robust growth in real estate values. The current data available in state documents point to an increase in property value in Maplewood of 44.3% between 2000 and 2003. In short, the Maplewood real estate market is clearly robust, with concomitant ability to support appropriate municipal services.
- Looking at the question of the Maplewood property tax burden and whether there has been any impact upon the municipality's ability to collect taxes, I

again find the data to indicate that there is no fiscal stress in the community in so far as the percentage of real property taxes collected.

- Maplewood, not unlike many Essex County municipalities, receives a higher than average proportion of its local government budget resources from miscellaneous revenue, typically state aid. An analysis of anticipated miscellaneous revenue and the amount actually received during each fiscal year from 2000 through 2003 shows absolutely no evidence of fiscal instability, uncertainty, or financial stress. In three of the past four fiscal years, the amount of miscellaneous revenue received exceeded the amount anticipated, and the actual amount received during the most recent fiscal year, just over \$8 million, is actually at a level higher than at any point in the recent past.
- All municipalities secure unanticipated budgetary resources, and Maplewood is no exception. An analysis of the last three fiscal years, excluding fiscal 2000 which appears to have generated a higher than average amount of non-budgeted resources, would suggest that Maplewood will have about \$125,000 in non-budgeted resources available for wage settlements from this source alone. Again it is prudent to anticipate unbudgeted resources available for a contract settlement.
- Maplewood has virtually no delinquent taxes and tax liens. In 1998 it was 3.75% and in 2002 it is .80%.
- Maplewood's fund balance (surplus) has increased almost one million dollars in just two fiscal years. Maplewood entered the 2001 fiscal year with a surplus of \$1.215 million, and completed the 2003 fiscal year with a surplus of almost \$2.2 million. Given the anticipated use of over \$900,000 of the fund balance in 2003, this represents a surplus in revenue resources over operations of approximately \$1.2 million, funds available for use by the Township for these negotiations.
- Maplewood's Aa3 Moody rating is best described as inherently solid suburban communities, most with income levels equal to or higher than those found in Maplewood. Other towns with the same rating are Avalon, Colts Neck, Hopewell, Lawrence, Fort Lee, Tewksbury and Paramus. (partial list)

Dr. Caprio concluded that based upon his data and analyses, Maplewood is financially able to meet the PBA's economic proposal. He further concluded that the Township can meet these demands with assurance that the community will not be materially impacted in any negative manner.

Cost of Living

The Consumer Price Index (CPI) from the Bureau of Labor Statistics is the best known indicator of the movement of prices. While the cost of living is a criterion to be considered in rendering an interest arbitration award, the CPI rate was never intended to equate to police salary increases, or it would be dispositive. This was recognized in the "Nutley" award by Arbitrator Scheinman, when he observed:

Moreover, I agree with the Union that, in the past, the officers did not receive the same wage adjustments equal to the cost of living when the cost of living was double digits or close to double digits. Then, common sense required that salary adjustments not equate to the cost of living.

Ordinarily in periods of very high inflation that salary increases tend to lag behind the rate of inflation, where the cost of living is quite moderate, wage adjustments somewhat exceeded the cost of living.

The PBA notes that Maplewood salaries gained \$790 per year in cumulative earnings above CPI projected salaries. However, it is one of the lowest gains in the County, which average \$1,229 per year.

Continuity and Stability of Employment

The PBA contends that in addition to the basic work load issues differentiating police work from other work, Maplewood officers must contend with the instability of the workplace. The PBA cites the testimony of Lieutenant Paul Conlon. Conlon testified that a total of twenty-two police officers have left the police department since the current Chief took office in July 2000. Of the twenty-two officers, seventeen resigned to pursue careers at other law enforcement agencies, three officers retired, and one officer was indicted on federal drug charges.

In 2003, twelve officers resigned. Eleven of these officers were assigned to the Patrol Division which is normally staffed with thirty-six officers. This represents approximately

In 2003, twelve officers resigned. Eleven of these officers were assigned to the Patrol Division which is normally staffed with thirty-six officers. This represents approximately 30% of the Patrol Division. A large majority of those officers (ten of twelve) have chosen to pursue law enforcement careers with other agencies.

Conlon also noted that the police department is currently staffed with fourteen supervisory officers. He indicated that within the next five years all fourteen supervisors will be eligible to retire. The Patrol Division currently has twenty-one officers with less than five years experience. If all the supervisory staff leave within that five-year period, the majority of officers eligible for promotion will have less than ten years of service. In five years, it is possible to have thirty-five police officers out of sixty-one with less than ten years of experience working in Maplewood. (Tr. at 36-40 & PBA 1, Sec.11).

The PBA asserts that these special factors must be considered in the determination of fair wages and benefits for police officers. Further, the Arbitrator must consider the continuity and stability of the workforce along with the interests and welfare of the community served by its police force.

Conclusion

The PBA submits that the Maplewood Police Department is in a state of crisis. The turnover rate has skyrocketed and remained high, while the morale among officers is at an all time low. There is no stability in the workforce and "no light in the tunnel" with respect to an end to the problem.

The PBA suggests that it is arguable that through the years, the Township of Maplewood has been too successful and has extracted from the PBA through voluntary settlements and awards too many concessions. The result is that Maplewood has become

a training ground for other law enforcement agencies, a way station where the officer picks up enough experience for future employment.

The PBA submits that the identification of the problem is easy. The solution is much more complex. The PBA asserts that it has constructed an economic proposal that will cure the problem. However, with every cure there is a cost and in this matter the cure is expensive. The PBA submits that if the problem is left untreated, the costs will be greater. The PBA asks: How does one put a cost on risk of human life? The PBA maintains that the residents of Maplewood are entitled to be protected by experienced and competent officers, and that the turnover problem needs to be fixed now.

The PBA submits that the Township's proposal will not cure, nor will it mitigate the problem in Maplewood. The Township's proposal will simply let the problem continue to fester.

The PBA contends that the Township's proposed givebacks will continue the turnover problem. Finally, the PBA notes that at no time during the Township's direct presentation or during cross examination did the Township raise the issue of "inability to pay." The PBA submits that an unwillingness to pay as opposed to an inability to pay certainly should not be persuasive and is not supported by the statutory framework.

The PBA's submits that its proposals are directed toward economic relief first and improvements in the officers' working environment second, and that both are necessary to stop the high turnover rate, which if not corrected, will destroy this police department.

The PBA asserts that its proposals should be judged the more reasonable and urges their adoption.

THE TOWNSHIP'S POSITION AND ARGUMENTS

Cost-out of the Parties' Proposals

The Township submitted a cost out of the PBA's proposals. The PBA's proposal includes the following key economic components: (i) 6% increase in salaries per year; (ii) an additional 1.5% increase in salary per year as a "catch up"; (iii) pay differential of 15% between ranks; (iv) senior patrolman status will be established for all officers who have worked ten (10) years for the Township at a rate of 5% above the top patrolman's rate; (v) cash incentive of \$500 for perfect attendance in addition to the existing benefit; (vi) training allowance of \$250 per officer per year; (vii) increase weapon and maintenance allowance \$100 per year for each year of the contract; (viii) establish four (4) hour minimum for court time; (ix) establish educational recognition of \$500 for Associate's degree, \$1,000 for Bachelor's degree, \$1,500 for Masters degree and \$500 for EMT; (x) establish detective stipend for detective superiors; and (xi) all special assignments shall provide additional compensation in the amount equal to the officers serving in the detective bureau.

The Township's proposal includes the following key economic components: (i) salary increases of 4%, 6%, 3.75% and 3.75% for each year of the contract respectively; and (ii) the establishment of an Academy rate at \$24,000. In calculating the cost-outs some information was not quantifiable and was not included in the cost-out. For the PBA's proposal, the cash incentive for perfect attendance, four hour court time, an educational stipend, detective superiors stipend and special assignment compensation is not quantifiable. For the Township, the Academy rate is not quantifiable. These issues were not quantifiable as these issues could not be calculated based on the information contained in T-2 and T-5.

PBA Cost-Out

	2003	2004	2005	2006
Salary + 1.5% catch - up	\$358,490	\$386,686	\$366,623	\$385,539
15% diff. between ranks	\$64,963	\$69,831	\$75,068	\$81,378
Training All.	\$14,500	\$14,500	\$14,500	\$14,500
Weapons All.	\$5,800	\$5,800	\$5,800	\$5,800
Senior Patrol	\$62,757	\$81,660	\$87,791	\$94,369
Total	\$506,510	\$558,027	\$549,782	\$581,586

Township Cost-Out

	2003	2004	2005	2006
Salary	\$236,808	\$317,337	\$201,294	\$198,355
Total	\$236,808	\$317,337	\$201,294	\$198,355

The cumulative cost of the PBA's proposals is \$1,242,111 more than the Township's proposals over the four-year contract term. The Township asserts that the cost of the PBA's proposal is excessive and unwarranted considering the generous proposal offered by the Township.

Comparison of Wages, Hours and Conditions of Employment

The evidence presented shows that Maplewood police officers receive compensation and benefits which are superior to civilian Township employees. The evidence also shows that the Township's offer is more reasonable in comparison to other Essex County police officers. Moreover, the Township's offer will achieve the goal of bringing Maplewood police officers in line with other police officers in comparable Essex County municipalities. Maplewood police officers also receive compensation greater than many other public sector employees. Finally, PBA members receive better compensation than employees in the private sector.

Comparison to Other Township Employees

The average base salary of a Township police officer was \$58,331 on February 1, 2004. (T-2). The average salary for a civilian unrepresented employee is \$46,613. A Maplewood police officer is paid 25.1% more than his unrepresented civilian counterpart.

The Township's offer of 17.5% over four years, will maintain the premium pay afforded to uniformed employees over civilian employees, whereas the PBA's proposal of 30% salary increases will compound the already substantial difference.

Settlements Between the Township and its Other Unions.

The Township asserts that its salary proposal is fair and reasonable when compared with recent settlements with the other unions within the Township. The agreement with the FMBA includes increases of 4%, 4%, 3.75% and 3.75% in each year. (T-46). The Township and the FMBA also agreed that the Township could change insurance providers as long as the benefits are substantially similar. (T-46). The agreement with the United Construction Trades & Industrial Employees International Union is 3.25% in 2003 and 3.5% in 2004, 2005 and 2006. (T-48) The Township notes that the agreement with the CWA included an increase of 3.25% in 2003. The Memorandum of Agreement contained in T-48 has been modified. The modifications to the Memorandum of Agreement include the wages set forth above, an additional \$50 for uniform allowance, and no longevity for new hires. The parties also agreed to keep Section 5.6 in the collective negotiations agreement.

The Township's offer to the PBA is greater than what other Township employees have received. The average salary of an employee in the United Construction Trades & Industrial Employees International Union is \$40,291. The average salary of a Maplewood police officer of \$58,331 is 30.9% greater than the average salary of an employee in the United Construction Trades & Industrial Employees International Union. The average salary

of an employee in the CWA unit is \$29,847. The average salary of a Maplewood police officer is 48.8% greater than the average salary in the CWA unit.

The other units in the Township are the Dispatchers unit (T-47) and the library workers (T-50). The average salary of a dispatcher is \$35,591 and the average salary of a library worker is \$37,610. The average salary of a Maplewood police officer is 39% greater than the average salary of a dispatcher and 35.5% greater than the average salary of a library worker.

The Township submits that the PBA's proposal of 7.5% each year coupled with the senior patrolman 5% increase and the mandatory 15% between ranks is excessive when compared to the Township's other most recent agreements. Maplewood police officers are already well-compensated and receive greater fringe benefits than the other employees within the Township. (T-46 through T-50). Moreover, the PBA's proposal will increase the premium the PBA receives over other units.

The compounding effect of the PBA's proposal will give patrol officers a 30% increase. The differential between the ranks will give captains a 52.7% increase, lieutenants with a 44.7% increase and sergeants with a 38.5% increase. The PBA's proposal benefits the more senior and superior officers at a much higher rate than officers with less than ten years experience. In comparison, over the same time period, the FMBA received a 15.5% increase and the CWA received a 13% increase. The Township's offer of 17.5% exceeds the settlements with other Township units.

The Township contends that it structured its final offer to maintain a pattern with the FMBA. The Township submits that the evidence establishes a pattern with the FMBA that should not be disturbed by this award. It is well-established that "[p]attern bargaining is a factor which is traditionally applied in many collective negotiations settings . . . " City of

Asbury Park and Asbury Park Corrections Officers Association, PBA Local No. 6, Docket No. IA-88-92 (1989, Joel M. Weissblatt), p. 16. In the Asbury Park matter, Arbitrator Weissblatt noted:

The concept that a pattern of bargaining is a major consideration under the statutory criteria is well accepted as part of the interest arbitration process. This concept has regularly been given considerable (even controlling) weight by arbitrators and its validity has been noted by the courts. [Thus a] proven pattern of bargaining must be given great weight in an interest arbitration proceeding. Id. at 10.

Arbitrator Weissblatt further noted that an advantage to pattern bargaining is that consistency among all employees is more likely to promote stability of employment. Id. at 11. In the Matter of the Interest Arbitration between County of Essex and Essex County Corrections Officers, PBA Local 157, IA-84-93, (July 3, 1985, Joel M. Weissblatt) the Arbitrator upheld the validity of an employer's pattern, even where there were slight "variations" in the pattern. Arbitrator Weissblatt noted the "significant presumption" accorded such a pattern, writing:

The existence of a pattern of agreements creates a significant presumption supporting the County's offer which fits within that pattern. Absent a showing of equally significant countervailing factors, such a presumption could properly stand as the controlling element under the statutory criteria.

Arbitrator Weissblatt reiterated the importance of pattern in another arbitration award, stating "consistency in negotiations is a concept that is generally in the public interest. It provides for greater morale among public employees and provides a predictability factor in the bargaining and budgetary processes." In the Matter of City of Passaic and Passaic PBA Local 14, IA-99-76, (April 25, 2000, Joel M. Weissblatt).

Most directly on point to this matter is that in the prior negotiations between these parties, Arbitrator Mastriani recognized the strong pattern that has existed between the PBA and the FMBA within the Township. In the Matter of Township of Maplewood and

Maplewood PBA Local 44, IA-99-57, (December 8, 2000, James W. Mastriani (T-61). The pattern covered five separately negotiated agreements. (T-61 at p. 68). Arbitrator Mastriani quoted Arbitrator Tener's award of 1990 when Arbitrator Tener stated, "there has been a history of parity between police officers and firefighters." (T-61 at p. 68). Arbitrator Tener recognized it would take "an overwhelming set of circumstances" to give a different benefit than was afforded the firefighters. (T-61 at 68). Arbitrator Mastriani concurred and found that there was no justification to award the PBA different salaries than the FMBA. (T-61 at 68).

The Township suggests that the PBA may dispute the existence of a wage pattern. However, the Township asserts that the pattern of settlement between the PBA and FMBA is well-established. The Township argues that it has a strong interest in maintaining the pattern of settlement and that any alteration in the pattern will destroy the well-established pattern with the FMBA, and have a severe negative impact upon future negotiations.

The Township contends that its salary proposal is only slightly different from the FMBA settlement. As Arbitrator Weissblatt correctly noted, slight variations do not detract from an across-the-board wage increase pattern. In 2004, the Township is offering 6% to the PBA, rather than the 4% that the FMBA received. The Township submits that the additional 2% is specifically designed to address the retention issue in the police department. As T-45 indicates, twenty-six police officers have left the Township since 1998. Of those twenty-six officers, only four have ten or more years of service. The Township seeks to distribute the additional 2% in an equitable, across-the-board manner to address the retention issue. The Township asserts that the PBA's proposal more heavily benefits the superior officers and the senior patrol officers with greater than ten years of service at the expense of patrol officers with less than ten years of service, which is the demographic of the officer that is leaving the department.

Under the PBA's proposal, captains, lieutenants and sergeants will receive a 52.7%, 44.7% and 38.5% increase, while patrol officers with less than ten years of service will receive 30%. The Township's offer seeks to spread the extra monies evenly to all of the members of the unit to address the retention issue. The Township asserts that the PBA's offer bears no resemblance to the historical pattern with the FMBA nor does it address the retention issue in an evenhanded manner.

Comparisons to Public Employment in General

The Township contends that Maplewood police officers are well-compensated in comparison to other police employees. In 2002, the PBA received a 4% increase. This was the last year of a four-year contract with a total wage increase of 14.75%. The average increase in 2002 was 3.9%.

The Township submits that Maplewood police officers have received increases consistent with other police officers throughout the state, and that its salary offer will continue that trend. The Township submits that the PBA did not produce sufficient evidence to justify its 7.5% wage increase along with the multitude of other economic benefits that it seeks.

Comparison to Public Employment in the Same or Similar Comparable Jurisdictions

The Township submits that the comparability factor has undergone immense changes over the history of interest arbitration. The law has evolved to a point where the "going rate" and "parity" arguments, which police and fire unions traditionally relied upon with great success in interest arbitration, are no longer blindly accepted. Hillsdale PBA Local 207 v. Borough of Hillsdale, 263 N.J.Super. 163 (App. Div. 1993) aff'd in part, rev'd in part, 137 N.J. 71 (1994). Arbitrators may no longer assume that uniformed employees are per se

entitled to higher percentage increases than non-uniformed employees. Id. at 198. With this perspective in mind, the Police and Fire Interest Arbitration Reform Act requires an interest arbitrator to consider wages and conditions of employment of the same or similar comparable jurisdictions. N.J.S.A. 34:13A-16(g)(2)(c); N.J.A.C. 19:16-5.14(d).

In comparing the Township's offer to other Essex County law enforcement officer settlements, the Township contends that its proposal is generous. In Essex County, the average police salary increases are 3.96% in 2003, 3.98% in 2004, 3.72% in 2005 and 4% (only one municipality) in 2006. (T-36). The average increase in is 3.92% per year. The Township's proposal averages 4.375% annually. The PBA is proposing a 30% increase over the same time period – almost twice the Essex County average. The Township submits that its proposal is more reasonable and is above the average increases received by other police officers in Essex County.

The Township asserts that it offers a comparable benefit or exceeds the Essex County average on many benefits. Maplewood police officers receive five weeks of vacation upon their twenty-first year of service, which is exceeded by only five municipalities in Essex County. (T-41A). The thirteen paid holidays is on par with several Essex County municipalities. (T-41). Moreover, Maplewood's longevity benefit is comparable to other Essex County police officers. (T-43).

The clothing allowance, a weapons allowance and clothing maintenance allowance are all above other Essex County municipalities. (T-40). The \$1,175 clothing allowance is exceeded by only two other Essex County municipalities. (T-40). The weapons and clothing maintenance allowance of \$350 is exceeded by only three other Essex County municipalities. No other Essex County municipality pays their officers more than the \$1,525 Maplewood pays for these two benefits. (T-40). Maplewood also provides a detective stipend of \$1,934 that is exceeded by only three other Essex County municipalities. (T-42).

In addition, Maplewood police officers do not contribute anything for health insurance. By contrast, ten other Essex County municipalities are required by their CBAs to pay deductibles or co-pays for doctor visits or prescriptions. (T-44).

Maplewood, however, ranks below average on base salary. It ranks 15th out of 19 Essex County municipalities for maximum salary in 2002. (T-37). Maplewood ranks 12th of 18 Essex County municipalities for starting salary in 2002. (T-39). The Township submits that it structured its salary offer so that its patrol officers are paid at a more comparable rate with other Essex County patrol officers.

The Township contends that T-38 shows that by 2004 Maplewood would move up one notch to 14th, and would only trail the median municipality (Millburn) by \$543. Maplewood would be further ahead of Nutley and within \$157 of South Orange police officers. (T-38). These municipalities are singled out because the PBA labeled these two Essex County municipalities as “focus communities” in their presentation. When it is factored in that Maplewood officers receive a generous clothing and weapons and maintenance allowance as well as not paying for health care at all, Maplewood’s overall compensation package is above average for Essex County.

The Township asserts that the PBA’s offer is excessive. Notwithstanding the budget issues that the Township would face if the PBA’s package on compensation is granted, it is unreasonable in terms of comparison to other Essex County municipalities. The PBA’s offer is almost double in percentage increases over the four-year contract term than what police officers in other Essex County municipalities are receiving on average. Further, if the same calculations are applied to T-38 using the PBA’s proposal of 7.5% increases each year, Maplewood’s maximum patrol salary would be \$71,032 placing it 7th of 19 municipalities and \$2,728 over the median.

The Township concedes that the Maplewood police officers are below the average in Essex County. However, they receive superior benefits compared to other Essex County police officers in several other areas – vacation, maintenance allowance, clothing allowance, health insurance and detective stipend. The Township submits that its offer maintains these advantageous benefits while bringing salaries closer to the average. The Township argues that there is simply no requirement that police officers must be awarded salaries which exceed the average of comparable jurisdictions in interest arbitration. The Township's offer exceeds the Essex County average in order to address the retention issue within the police department. The Township asserts that its final offer is more reasonable and should be implemented.

Comparison to Private Employment Compensation

The Township submits that Maplewood police officers have fared better than private sector employees. The Township contends that the PBA's proposed increase of 7.5% per year over a four-year contract term is excessive considering the increases provided to private sector employees over the last several years.

Impact on the Governing Unit, its Residents and Taxpayers

Fiscal Problems Facing the Township

The Township submitted the following to show that it is confronting a number of difficult fiscal problems and financial challenges:

- **Increase in the Tax Rate:** The municipal tax rate increased 12.2% from 2001 to 2003 and the overall tax rate increased 13.6% over the same time period. (T-11, ¶9, T-17, T-20).
- **Increase in Health Care Costs:** The costs related to employee healthcare continue to rise at a dramatic rate. The costs of health care have increased 57.3% since 1999. In 2003, the Township paid \$1,595,733 to provide health insurance to its employees. (T-11, ¶13, 14, T-22).

- Decrease in State Aid: Over the past three years State aid has leveled while expenditures and health care costs have skyrocketed. State aid for Maplewood has decreased 1.7% since 2003. (T-11, ¶16, 17, T-21).
- Employee Pension Systems: Beginning in 2004, the Township will make additional pension contributions to the PFRS and beginning in 2005, it will make additional pension contributions to PERS. (T-11, ¶20, T-25, Chapter 108, Assembly No. 3073(Second Annual Session, 2003)). This is a deferred liability which will add to the financial strain placed upon the Township.
- New Police Headquarters: The Township will be funding a new police headquarters, the cost of which is expected to be at least \$13 million. (T-11, ¶18).

The Township emphasized that these increased costs and revenue shortfalls are not caused by mismanagement or poor decision-making. These problems, including the spiraling property tax rates (T-24, T-25), increased cost of health care and state aid reductions remain outside the control of the Township's governing body and municipal managers.

Nonetheless, the Township has enacted a number of measures in an attempt to meet its responsibilities and face its financial dilemma. These measures have been designed to increase revenue and control expenses. Local taxpayers have shouldered their share of the burden as the municipal tax rate has increased by 12.2% since 2001. (T-11, ¶9). In addition, the Township has switched to the Statewide Insurance Fund which realized a \$231,835 savings in 2003, converted the manner in which Department of Public Works disposes of trash and switched local and long distance telephone services saving \$2,000 per month. (T-11, ¶24, supplemental certification of Peter N. Fresulone). The Township also combined the position of CFO and Tax Collector which saves \$69,000 per year along with eliminating two (2) part time clerical positions. (T-11, ¶24).

In addition to cutting expenditures, the Township also has increased its revenues over the past few years to offset rising costs and decrease in state aid. Among the fees which have been increased are pool membership, sewer, liquor license, flu shots, smoke detector

inspection, etc. (T-11, ¶22, 23). The Township clearly has made efforts to offset rising costs.

Maplewood is also growing in population. Between 1990 and 2000 the population of Maplewood increased by 10.2%. In the same time frame, the population of Essex County increased 2.0%. The increase in population has required the Township to provide additional services in order to maintain the appropriate level of services within the community. (T-30).

In reviewing other social and economic factors, the Township's unemployment rate is lower than the unemployment rate in Essex County and New Jersey. (T-28). Out of the twenty-two (22) Essex County municipalities, Maplewood ranks 11th in total crime. (T-34). The Township ranks 13th lowest of families below the poverty line. (T-32). These numbers indicate some of the fiscal and socioeconomic strain placed upon the local economy. In 2000, the per capita income in Maplewood was \$36,794. The average salary of a Maplewood police officer of \$58,331 is much higher than the per capita income for Maplewood. (T-27). The Maplewood police force is well-compensated when taking into consideration of the condition of the economy on both the state and local level.

The PBA introduced the certification of Dr. Caprio who indicated that the Township is in good financial condition. The Township is not alleging that it is facing financial collapse, but is not in such great shape that it can afford the unreasonable demands of the PBA without restructuring its budget. The weakening of the Township's financial condition is best-stated in Moody's which attributed the weakening financial condition due to, "...new pension expenditures in fiscal 2004, increasing payrolls, and the rapidly growing costs of medical benefits. Moody's also believes that the Township will face challenges to augmenting recurring revenues given essentially flat State aid and an already high tax rate

environment.” (T-11, ¶28, T-26). Any increase in expenditures will most definitely increase costs considerably, requiring the Township to undertake a massive endeavor to maintain fiscal strength through further decreases in expenditures, reduction in services to the public, or increasing taxes upon its citizens. Thus, the PBA’s proposal is highly detrimental to the residents of Maplewood.

The Township submits that it presented abundant evidence to show that its final offer is fair and is within its budgetary constraints. The Township’s offer may not require a tax increase, will not require a decrease in service, but will still allow police officers to receive increases far above that which has been awarded to other Essex County police units. The PBA’s proposal provides for increases which remain greater than those provided to most other public and private employees and significantly exceed the compensation provided to the average employee or resident of Maplewood.

The Township asserts that its final offer is more reasonable and should be adopted by the arbitrator in its entirety.

Health Benefits

The Township submits that all municipalities within the State of New Jersey are facing substantial increases in the cost of health care. Despite these substantial increases, employees of the Township, including members of the PBA, do not pay for their health insurance. The Township pays for the entire cost of this benefit. The Township is not seeking any contributions from employees to their health insurance. Instead, the Township is asking for a little flexibility to provide it some options to combat the skyrocketing health insurance costs. As such, the Township seeks language which will enable it to change carriers or self-insure as long as substantially similar benefits are provided.

The Township of Maplewood insures its employees under the State Health Benefits Program. The cost of providing its employees with the benefits of the State Health Benefits Program has increased 57.3% over the past five years. (T-11, ¶13). In 2003 alone, the Township paid \$1,595,733 to provide health benefits under the State Health Benefits Program. This has created a significant financial strain upon the budget and the taxpayers of the Township.

The spiraling increase in health insurance is not an issue unique to Maplewood. This is a problem for employers throughout the state and the country, both in the public sector and private industry. The Township provided several exhibits which show the alarming rate in which health insurance is escalating. (T-106 through T-115). The Township asserts that it seeks an avenue to explore more affordable options while not affecting the quality of healthcare that its employees currently receive and without making employees contribute toward the cost of the premium. The Township needs this option to combat skyrocketing health care costs.

The Township notes that the FMBA voluntarily agreed to the exact language in recent negotiations:

The Township reserves the right to change insurance providers provided that the new provider has substantially similar benefits, and the Township consults with the union after allowing the union to review the proposed benefit package for a minimum of thirty (30) days. (T-46).

The Township asks that I follow the pattern that arbitrators have consistently adopted between the FMBA and the PBA in Maplewood.

The Township submits that its health care proposal be awarded considering the current financial situation in Maplewood, the skyrocketing costs of health insurance and its generous wage offer.

Cost of Living

The Township presented historical evidence related to the CPI as well as data concerning the CPI-U. (T-102 through T-104). The evidence shows that both nationwide, and within the region, increases in the CPI have been modest, especially in comparison to the increases provided to members of the PBA. A comparison of the CPI and past salary increases given to the PBA shows that the unit's wage levels have far outpaced inflation. During the four-year period of the prior CBA and assuming the offer of the Township is granted, the Maplewood police officers have received pay raises which have consistently outpaced the CPI. (T-105).

The Township asserts that its final offer permits reasonable wage increases, while maintaining a pace which results in real wage increases above the cost of living.

The Interests and Welfare of the Public

The arbitrator must consider the "interests and welfare of the public" in determining his award. N.J.S.A. 34:13A-16g(1); Hillsdale PBA, 137 N.J. at 83. In the Appellate Division's decision in the Hillsdale matter, the Court found that the public interest factor "focuses in part on the priority to be given to the wages and monetary benefits of public employees within a municipality's budget and plans." Hillsdale, 263 N.J. Super. at 188.

"It is not enough to simply assert that the public entity involved should merely raise taxes to cover the costs of a public interest arbitration award. That would also conflict with other enumerated factors and render them hollow." Id.

The New Jersey Supreme Court emphasized that "the public is a silent party" to the interest arbitration process, and that "an award runs the risk of being found deficient if it does not expressly consider" the public interest. Hillsdale, 137 N.J. at 82-83

The Township asserts that its offer is more supportive of the interests and welfare of the public than the PBA proposal. The final offer of the Township will accomplish several

important public policy goals. First, it will enable the Township to switch to a more affordable insurance carrier as long as it provides substantially similar benefits. This would enable the Township to better manage the element of risk and volatility presented by healthcare costs and the needs of individual employees. The wage component of the final offer would enable the Township to control its costs and the rate of municipal tax increases better.

The Township submits that the best interests and welfare of the public favor its more financially sound offer. The PBA will continue to receive a comprehensive level of health benefits with no contributions. The wage component of the Township's final offer of 17.5% for four years is very reasonable. It is more than the FMBA received and exceeds the Essex County average for police officer settlements. Maplewood police officers would receive a wage increase far in excess of the cost of living.

The Township maintains that its final offer takes the interests and welfare of the public into account, and that this factor weighs heavily in favor of the its final offer.

The Lawful Authority of the Employer

The Appellate Division in Hillsdale interpreted the "lawful authority of the employer" criterion (N.J.S.A. 34:13A-16g(5)), to refer to the Local Government Cap Law. Hillsdale, 263 N.J.Super. at 193. The Supreme Court agreed: "[G]iven the existence of financial constraints and budget caps . . . an award to police or fire departments necessarily affects other municipal employees and the entire municipal budget." Hillsdale, 137 N.J. at 86. (C-10). In Hillsdale, the Appellate Division required the arbitrator to consider the impact of the award on other budget items. Hillsdale, 263 N.J.Super. at 194. In applying the lawful authority of the employer criterion, the Arbitrator must address the Township's budget CAP situation, as well as the statutory requirement that the Township prepare a balanced budget each year. The Township submits that it presented evidence showing that its final offer is more reasonable under this factor. In 2003 and 2004 the Township has passed a resolution to exceed the CAP.

(T-11, ¶26). In light of the financial challenges currently facing the Township, as well as dwindling state aid, a four-year contract is a sensible and well-reasoned measure that will allow the parties to readdress contract issues when economic conditions have hopefully stabilized.

The Township submits that the PBA failed to provide evidence about where Maplewood will obtain the necessary revenue to fund the its excessive proposal. The PBA has not disputed the cost-savings measures already adopted by the Township, nor has the PBA identified any new or untapped revenue sources. The Township contends that the PBA's proposal will throw Maplewood's budget into disarray and reverse any positive effect of the cost reductions that have already taken place. The Township asserts that its offer is more reasonable and justified under this factor.

Overall Compensation

The arbitrator must consider the overall compensation received by the Maplewood police officers. The average base salary in this unit is \$58,331. The Township notes that Maplewood police officers receive a broad range of economic benefits including, but not limited to: a clothing allowance of \$1,175; a weapons and clothing maintenance allowance of \$350; thirteen holidays; up to twenty-five vacation days; longevity benefits up to 10%; and comprehensive medical insurance benefits which, even under the Township's final offer, would not require employee contributions. These benefits are superior to their Essex County counterparts. Maplewood police officers are also enrolled in the Police and Firefighter's Retirement System, which permits a police officer to retire after twenty years of service and receive a pension equal to 50% of final compensation, or after twenty-five years of service up to 65% of final compensation.

The per capita income for Maplewood residents is \$36,794. The average Maplewood patrol officer's base salary of \$58,331 is 59% higher than the income of the average Maplewood resident. When the additional compensation that Maplewood police officers

receive are considered, it is clear that Maplewood police officers earn substantially more than the average Maplewood resident.

The salaries of Maplewood police officers have consistently outpaced the CPI over the years. Therefore, only minimal increases would be required to maintain the PBA's financial condition relative to other workers. The Township asserts that its offer is more reasonable under this factor.

Stability and Continuity of Employment

The "stability and continuity of employment" criterion N.J.S.A. 34:13A-16(g)(8) concerns issues such as the likelihood of layoffs, "give-backs" and salary freezes. Hillsdale, 263 N.J. Super. at 195. The Appellate Division interpreted this criterion to also require arbitrators to consider factors such as the employer's overall salary structure, the rate of unemployment generally, employee turnover, and the "virtual absence of unemployment among police." Fox, 266 N.J. Super. at 519.

The average seniority for a Maplewood police officer is 12.22 years. Even though a member may retire after twenty years of service, there are fourteen members (24.1%) with over twenty years of service. More significantly, no Maplewood police officer has been laid off in over twenty years.

The complete absence of any layoff or downsizing is in complete contrast to the current climate, both in New Jersey and across the nation. (T-80 through T-101). Mass layoffs, job cuts and unemployment claims have become everyday occurrences. Maplewood police officers, however, enjoy secure and stable employment, without the threat of a job loss, which is present in many private corporations and other government positions. Admittedly, many Maplewood police officers, the large majority of them with less than ten years of service, have chosen to leave the department. These officers have not been forced out, but have chosen to leave. The Township submits that its offer has taken the turnover

problem into consideration, showing that its willingness to take steps to alleviate turnover in the department.

The Township contends that the PBA has used the turnover issue as a red herring in order to provide extra compensation to senior officers who are not going to leave the department. The PBA's proposal includes senior officer differential and extra compensation between ranks which will not benefit the class of officers leaving the department. The Township's offer is evenhanded while providing extra compensation to address the retention issue specifically.

The Township contends that Maplewood police officers have not taken advantage of opportunities to better their financial situation. Officers have refused to take the promotional test and have boycotted the promotion process.

Township police officers are assured of a position, paying significantly more than the per capita income of Maplewood residents, for as long as they wish to remain employed. The Township submits that this factor favors its last offer.

Township's Other Issues

Academy Wage Rate

The Township seeks to increase the academy wage rate to \$24,000 for police recruits. Police recruits are currently paid \$19,800 plus holidays. The Township notes that the PBA has not challenged its proposal and should therefore be awarded.

Sick Time Step System

The Township seeks to establish a sick leave step system for new hires. Officers hired after January 1, 2004 will receive twelve sick days per year and will reach seventy-two sick days after six years of service. After the sixth year, officers will receive the full complement of seventy-two sick days at full pay and seventy-two sick days at half pay

PBA's Other Issues

Management Rights

The PBA seeks to delete the Management Rights article. The PBA did not present evidence as to why this article should be deleted. Such a proposal unsupported by any evidence in the record should be denied by the arbitrator.

Grievance Procedure

The PBA proposed the deletion of Section 2B and changing the time in which to file a grievance from fifteen days to thirty days. The PBA did not present any evidence as to why these revisions should be made to the grievance procedure. Such a proposal unsupported by any evidence in the record and should be disregarded by the arbitrator.

Acting Pay Paid at Superior Officer's Per Diem Rate

The PBA is seeking that acting pay should be provided to all officers who are performing in an "acting capacity" function at the superior officer's per diem rate. This proposal is unnecessary. If an officer feels he is not receiving proper compensation, he has a right to challenge such determination through the grievance procedure. There is no basis for awarding this proposal.

Senior Patrol Pay

The PBA seeks a Senior Patrol Rate that is 5% above the maximum patrol salary. The Township notes that no other Essex County PBA receives such a benefit. The Township submits that the senior wage rate proposal be denied.

Cash Incentive for Perfect Attendance

The PBA seeks a cash incentive of \$500 for perfect attendance in addition to the existing benefit. Currently, the existing benefit is that for every three months of perfect attendance, an officer shall be credited with a personal day. The Township submits that there is no evidence or justification for giving the PBA an additional attendance incentive.

Holidays

The PBA is seeking payment for ten hours straight time rather than the eight hours straight time for holidays. The Township contends that the PBA has offered no evidence to support its claim and asks that it be denied.

Training Allowance

The PBA seeks the establishment of a training allowance of \$250 per year. The Township contends that the PBA submitted no evidence to justify that a training allowance is necessary. Nor was any evidence submitted that other municipalities receive a training allowance. The Township asks that the proposal be denied.

Weapons Maintenance Allowance

The PBA proposes that the weapons maintenance allowance be increased \$100 in each year of the new CBA. Currently, only six Essex County municipalities provide for a weapons and/or clothing maintenance allowance. The PBA's proposal would make this benefit substantially greater than other Essex departments. The Township asks that the proposal be denied.

Other Economic Items

The PBA's proposal also included several other economic items in its last offer:

- Personal Days – three days per year
- Paternity Leave – three days per year
- Vacation – officers be permitted to carry vacation days to the next year
- Vision – codify existing practice and add a vision care plan at no cost to the employee
- Court time – establish four hour minimum for court time
- Education – establish educational stipends
- Detective superior stipend – establishment of detective superior stipend
- Special assignments – all special assignments shall provide additional compensation in the amount equal to the officers serving in detective bureau

The Township asserts that the PBA presented insufficient evidence to support these proposals. The Township notes that officers are entitled to use compensatory time whenever they need to use a personal day. (J-1, p. 27). Additionally, officers may earn personal days when they have three months perfect attendance. (J-1, p.21). Officers therefore may take personal days without the proposal being granted. The Township asserts that there is no "existing practice", since there is no current vision plan. The PBA did not present a specific vision plan nor was evidence submitted that the PBA should be granted a vision plan.

For all of the other economic proposals, the Township submits that no evidence submitted to support these proposals and they should be denied.

Other Non-Economic Issues

The PBA's proposal also included several other non-economic items:

- **Retention of Benefits** – delete second paragraph
- **Rights and Privileges** – PBA leadership given thirty days to attend union functions
- **Funeral leave** – avoid a discriminatory practice and allow for seven days for bereavement leave; add "in-laws, aunts, uncles, first cousins and close friends".
- **Equipment** – require the Township to replace clothing and equipment damaged in the line of duty
- **Personal Leave** – delete "whenever possible subject to the manpower needs of the Department as determined by the Chief."
- **Vacation** – delete manpower conditions; officers shall be permitted to reschedule vacation picks.
- **Vacation** – delete provision that there shall be a limit of three patrol officers of the Department on vacation at one time.
- **Responsibilities of the Parties to the Agreement** – delete in its entirety
- **Training Notification** – officers be permitted to thirty days notice prior to the scheduling of training days.

The Township notes that the PBA presented approximately thirty proposals in interest arbitration. The Township submits that most of these proposals were presented without any evidence. The Township contends that these proposals are unreasonable and that the PBA is seeking to rewrite the entire CBA without any support as to why it should be changed. The Township maintains that the PBA has not met its burden of proof and the proposals should be denied.

Conclusion

The Township asserts that its final offer is fair, reasonable and well-balanced. It recognizes the retention issue within the police department. The Township submits that its wage proposal will bring its police officers in line with other Essex County police officers since its wage proposal of 17.5% over four years is greater than what comparable Essex County police officers are receiving in those years. The Township emphasizes that it has offered an additional 2% in 2004 for the sole purpose of addressing the retention issue within the police department. This wage proposal exceeds the FMBA wage increases for the specific purpose of addressing the retention issue. The Township asserts that it has taken significant steps toward improving the compensation of its officers. The Township's wage proposal exceeds the FMBA, is above the average settlement in Essex County and far outpaces the CPI. Because of the heavy municipal tax increases, reductions in state aid and increased operational and health benefit costs, the Township asserts that its final wage offer is more than reasonable and falls within the Township's fiscal constraints.

The Township asks that its health care proposal be granted to provide needed flexibility in changing insurance carriers. PBA members will not have their benefits reduced nor will they be asked to contribute anything toward the generous health benefits they receive. The

Township submits that its proposal is entirely reasonable considering the current trend in health care cost increases. The Township notes that the PBA did not submit any evidence to show that its proposal is unreasonable. Finally, the Township asks that its sick leave and academy rate proposals should be granted.

The Township submits that the PBA's proposals are unreasonable. The PBA seeks a wage settlement well in excess of what is the average settlement in Essex County and throughout the State of New Jersey. The PBA also seeks a senior officer differential which is not received by any other police officers in Essex County. Its other proposals are unsupported in the record. The Township asks that its final offer be awarded in its entirety.

Discussion and Analysis

The parties have presented testimony and more than 250 documentary exhibits in support of their last offers. I am required to make a reasonable determination of the issues, giving due weight to the statutory criteria which are deemed relevant. Each criterion must be considered and those deemed relevant must be explained. The arbitrator is also required to provide an explanation as to why any criterion is deemed not to be relevant.

I have carefully considered the evidence as well as the arguments of the parties. I have examined the evidence in light of the statutory criteria. Each criterion has been considered, although the weight given to each factor varies. I have discussed the weight I have given to each factor. I have also determined the total net economic annual changes for each year of the agreement in concluding that those changes are reasonable under the statutory criteria.

I shall set forth the award at this time so that, in discussing the evidence and applying the statutory criteria, the terms of the award will be the reference point. This will allow the reader to follow the analysis which led to the award. The parties related the evidence and arguments regarding the statutory criteria primarily to its own last offer and to the last offer of the other party. I shall not do so because, in this conventional proceeding, the terms of the award will be the reference point rather than the parties' last offers. Conventional arbitration is a more flexible process which grants the arbitrator broad authority to fashion the terms of an award based on the evidence without the constraint of selecting any aspect of a final offer submitted by the parties. The prior statute required the selection of the final offer of one party or the other on all economic issues as a package and then to justify that selection.

A governing principle that is traditionally applied in the consideration of wages, hours and conditions of employment is that a party seeking a change in an existing term or condition

of employment bears the burden of showing a need for such change. I shall apply this principle to all new proposals.

The parties agree that the duration of the new four-year agreement shall be January 1, 2003 to December 31, 2006. I accept this agreement as a stipulation as to the term of the new agreement and shall award a four-year agreement. The agreement shall be effective January 1, 2003 and continue to December 31, 2006.

I shall award the following salary increases:

- a. 4.5% across-the-board salary increase effective January 1 of 2003.
- b. 6.0 % across-the-board salary increase effective January 1 of 2004.
- c. 4.5% across-the-board salary increase effective January 1 of 2005.
- d. 4.5% across-the-board salary increase effective January 1 of 2006.

I shall award health care language to provide: "The Township shall have the right to change health insurance carriers, provided that the level of benefits remains substantially equal to the current level of benefits and that the provider network remains substantially equal to the existing provider network." This shall be effective January 1, 2006.

I shall award the PBA's proposal to replace clothing and equipment damaged in the line of duty. This shall be effective January 1, 2005.

I shall award the Township's proposal to increase the salary for police recruits while in the Academy to \$24,000. This shall be effective January 1, 2004.

All other proposals of the Township and the PBA are denied.

Cost of Salary Proposals

The current bargaining unit (at the close of the record) includes forty-five police officers, seven sergeants, five lieutenants and one captain. The total base salary is \$3,379,397.

The following is the placement of the fifty-eight bargaining unit members on the Salary

Schedule:

<u>Step</u>	<u>Salary</u>	<u>Number of Officers</u>	<u>Cost</u>
PTL 7 th Class	\$35,194	7	\$246,358
PTL 6 th Class	\$41,269	3	\$123,807
PTL 5 th Class	\$50,341	3	\$151,023
PTL 4 th Class	\$53,062	4	\$212,248
PTL 3 rd Class	\$55,893	0	0
PTL 2 nd Class	\$58,615	3	\$175,845
PTL 1 st Class	\$61,446	25	\$1,536,150
SGT	\$68,204	7	\$477,428
LT.	\$74,963	5	\$374,815
CPT.	\$81,723	1	<u>\$81,723</u>
TOTAL			<u>\$ 3,379,397</u>

The calculations of the parties' last offers do not include incremental step increases and roll up costs nor do they assume any resignations, retirements, promotions or additional new hires. Neither party included the incremental costs in their presentations. Historically, incremental costs have not been factored in by the parties. These incremental costs fluctuate depending on the amount of turnover in a bargaining unit. High turnover, while not desirable, tends to keep the public employer's average salary costs down because entry level officers replace senior officers making in some cases less than 50% of the maximum step officer's salary.

Changes since the close of the hearing are not relevant since the parties' salary proposals are based on the same complement of officers. Neither party included the cost of increments in their last offers. Calculations for 2003, 2004, 2005 and 2006 do not include the cost of increments.

2003

The PBA proposed a 7.5% across-the-board salary increase to be effective January 1, 2003. The cost of the 7.5% increase in 2003 (excluding increments) is \$253,455. The total cost of the PBA's salary proposal in 2003 is \$3,632,852.

The Township proposed a 4% across-the-board salary increase to be effective January 1, 2003. The cost of the 4% increase in 2003 (excluding increments) is \$135,176. The total cost of the Township's salary proposal in 2003 is \$3,514,573.

I awarded a 4.5% across-the-board salary increase effective January 1, 2003. The cost of the 4.5% increase in 2004 (excluding increments) is \$152,073. The total cost of my award in 2003 is \$3,531,470. The cost of the awarded salary increase in 2003 is \$101,382 less than the PBA's 2003 salary proposal and \$16,897 more than the Township's 2003 salary proposal.

2004

The PBA proposed a 7.5% across-the-board salary increase to be effective January 1, 2004. The cost of the 7.5% increase in 2004 (excluding increments) is \$272,464. The total cost of the PBA's salary proposal in 2004 is \$3,905,316.

The Township proposed a 6% across-the-board salary increase to be effective January 1, 2004. The cost of the 6% increase in 2004 (excluding increments) is \$210,874. The total cost of the Township's salary proposal in 2004 is \$3,725,447.

I awarded a 6% across-the-board salary increase effective January 1, 2004. The cost of the 6% increase in 2004 (excluding increments) is \$211,888. The total cost of my award in 2004 is \$3,743,358. The cost of the awarded salary increases in 2004 is \$60,576 less than the PBA's 2004 salary proposal and \$1,014 more than the Township's 2004 salary proposal.

2005

The PBA proposed a 7.5% across-the-board salary increase to be effective January 1, 2005. The cost of the 7.5% increase in 2005 (excluding increments) is \$292,899. The total cost of the PBA's salary proposal in 2005 is \$4,198,215.

The Township proposed a 3.75% across-the-board salary increase to be effective January 1, 2005. The cost of the 3.75% increase in 2005 (excluding increments) is \$139,704. The total cost of the Township's salary proposal in 2005 is \$3,865,151.

I awarded a 4.5% across-the-board salary increase effective January 1, 2005. The cost of the 4.5% increase in 2005 is \$168,451. The total cost of my award in 2005 is \$3,911,809. The cost of the awarded salary increases in 2005 is \$124,448 less than the PBA's 2005 salary proposal and \$28,747 more than the Township's 2005 salary proposal.

2006

The PBA proposed a 7.5% across-the-board salary increase to be effective January 1, 2006. The cost of the 7.5% increase in 2006 (excluding increments) is \$314,866. The total cost of the PBA's salary proposal in 2006 is \$4,513,081.

The Township proposed a 3.75% across-the-board salary increase to be effective January 1, 2006. The cost of the 3.75% increase in 2006 (excluding increments) is \$144,943. The total cost of the Township's salary proposal in 2006 is \$4,010,094.

I awarded a 4.5% across-the-board salary increase effective January 1, 2006. The cost of the 4.5% increase in 2006 is \$176,031. The total cost of my award in 2006 is \$4,087,840. The cost of the awarded salary increases in 2006 is \$138,835 less than the PBA's 2006 salary proposal and \$31,088 more than the Township's 2006 salary proposal.

Interests and Welfare of the Public

The New Jersey Supreme Court in Hillsdale determined that the interests and welfare of the public must always be considered in the rendering of an interest arbitration award and that an award which failed to consider this might be deficient. The amended statute specifically requires the arbitrator to consider the CAP law in connection with this factor. I have considered and fully discussed the relevance of the CAP law in the section on Lawful Authority but at the outset it is sufficient to state that the award will not cause the Township to exceed its authority under the CAP law. The award can be funded without the Township exceeding its spending authority.

The interests and welfare of the public require the arbitrator to balance many considerations. These considerations traditionally include the Employer's desire to provide the appropriate level of governmental services and to provide those services in the most cost effective way, taking into account the impact of these costs on the tax rate. On the other hand, the interests and welfare of the public requires fairness to employees to maintain labor harmony and high morale and to provide adequate compensation levels in order to attract and retain the most qualified employees. It is axiomatic that reasonable levels of compensation and good working conditions contribute to a productive and efficient work force and to the absence of labor unrest. The work of a Police Officer is undeniably and inherently dangerous. It is stressful work and is clearly subject to definite risks. Police Officers are certainly aware of this condition of employment. This is a given which is usually balanced by the appropriate level of increases in compensation to be received by a Police Officer from one contract to the next.

I agree with the analysis provided by Arbitrator Jeffrey B. Tener in a recent interest arbitration award in Cliffside Park. Arbitrator Tener's analysis:

"The arbitrator is required to strike an appropriate balance among these competing interests. This concept has been included in the policy statement of the amended interest arbitration statute. N.J.S.A. 34:13A-14 refers to the 'unique and essential duties which law enforcement officers . . . perform for the benefit and protection of the people of this State' and the life threatening dangers which they confront regularly. The arbitration process is intended to take account of the need for high morale as well as for the efficient operation of the department and the general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the taxpaying public and to promote labor peace and harmony."

(In the Matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.)

I shall discuss the open issues with respect to the interests and welfare of the public factor.

Salary

The Township and the PBA agree that there is high level of turnover of police officers in the Township. A review of the record shows that thirty-eight police officers have been hired by the Township during the ten-year period from January 1, 1993 to December 31, 2002. Twenty of these police officers left Maplewood to join other police departments. Eighteen of the original thirty-eight remain employed by the Township. The following is the year-to-year breakdown:

- 1993 - Two of the four officers hired in 1993 left Maplewood to join other police departments.
- 1994 - One of the two officers hired in 1994 left Maplewood to join other police departments.
- 1995 - One of the four officers hired in 1995 left Maplewood to join other police departments.
- 1996 - Both of the two officers hired in 1996 left Maplewood to join other police departments.
- 1998 - Three of the five officers hired in 1998 left Maplewood to join other police departments.
- 1999 - Six of the eight officers hired in 1999 left Maplewood to join other police departments.

- 2000 - One of the two officers hired in 2000 left Maplewood to join other police departments.
- 2001 - One of the three officers hired in 2001 left Maplewood to join other police departments.
- 2002 - Two of the five officers hired in 2002 left Maplewood to join other police departments.

This data shows that more than twenty of the original thirty-eight police officers hired by the Township have resigned to join other police departments. This means that more than 50% of the police officers that the Township recruited and paid to have trained have left the Department. The recruitment and training of a police officer is expensive.

I am familiar with the high cost of training caused by a high turnover rate. I have encountered this issue in other cases including the following involving a high turnover rate for Correction Officers in Burlington County:

The parties agree that the single most important issue in this matter is the high turnover rate and the need to improve the terms of conditions of employment of Correction Officers. This issue is paramount to *the interests and welfare of the public*. Recruitment and retention of Correction Officers has been a serious problem in Burlington County during the last decade. Evidence in the record shows that 481 Correction Officers were hired between 1990 and 2000. As of November 1, 2001, only 149 of the original 481 were still serving as Correction Officers. (P-3). This is a 69% turnover rate. Training Correction Officers is justifiably an expensive proposition. It is exceedingly expensive when you have a 69% turnover rate. (Burlington County and PBA Local 249, IA-2001-60, September 30, 2002, R. Glasson, at 88-89).

Record evidence in the Burlington County matter calculated the recruitment training costs at \$8,261 per recruit with the total cost to the County calculated at \$2.7 million during the ten-year period.

There is no evidence in the record calculating the cost of recruiting and then training a police officer in Maplewood. The training period for a police recruit is twenty-two to twenty-six weeks. The Township must provide the police recruit with a full complement of clothing and equipment including a departmental issue weapon and shotgun with ammunition,

psychological and medical testing, etc. In addition, the Township must pay the police recruit a salary during the six-month training period. This is currently \$19,800 plus the value of holidays and will increase to the Township's proposed \$24,000. It is fair to estimate that the cost of recruiting and then training a police officer in Maplewood is between \$12,000 and \$15,000. The record is silent on the cost, if any, to the Township for health benefits for officers during the six-month training period. The additional cost of health insurance would increase the minimum training costs to the Township to between \$19,000 and \$22,000 per officer.

Following graduation, the new police officer is classified as a probationary police officer. A probationary police officer will then receive field training for up to an additional year. This field training has an additional cost attached to it since the newly graduated police officer will not be a fully functioning police officer immediately upon graduation from the Police Academy. The financial cost to the Township of high turnover is considerable but the cost to the Township in reduced experience is immeasurable. High turnover and the resultant large number of inexperienced police officers is not in the best interests and welfare of the public. The high turnover rate must be reversed to give the Township a more experienced police force.

The record shows that nineteen Township police officers have three years experience or less with thirteen of the nineteen police officers having less than one year of experience. This is directly attributable to the high turnover rate in the Township. The Township has hired thirty-two new police officers in the five-year period from January 1, 1999 to March 26, 2004. Ten police officers left the department and twenty-two police officers remain with the department. This means that nearly 33% of the police officers in the department have less than five years of experience. According to T-4, the percentage of police officers with less than four years of experience in the patrol division is even higher at 40%.

The Township has a serious problem with retention that must be corrected. It is self-evident and universally accepted that experience is a significant and essential element of effective police work. This is important in all work environments but it is particularly important in a police department given the inherent dangers of the job and the need to maintain the highest levels of safety for the residents of Maplewood. Highly trained and experienced Police Officers are an essential component in maintaining the highest levels of safety for the residents of Maplewood.

Improving recruitment and more important, retention, is the single most significant factor in my analysis of the salary proposals. I have decided that above average salary increases are required to stabilize the workforce and reverse the undisputed trend of experienced police officers leaving the Township police department for employment with other police departments. I have structured my salary award to make the salaries more competitive with other municipalities in Essex County.

The awarded 19.5% salary increases spanning four years will bring the Township police officer close to the median maximum patrol salary in Essex County. This 19.5% salary increase is approximately 3.5% above the average increase shown in the comparability data provided by the parties and PERC within the County and throughout the State. The Township's salary proposal also exceeded the comparability average by 1.5 % whereas the PBA's salary proposal exceeded the comparability data by at least 14% and as much as 30% when the PBA's proposed rank differential and senior officer pay increases are included.

I have awarded salary increases that are 2% higher than the Township's proposed increases and higher than the comparability data in the record which shows salary increases at 4% annually in Essex County and throughout the State. The awarded salary increases are considerably less than those proposed by the PBA. The PBA's proposal for 7.5% annual salary

increases and other costly salary schedule and economic improvements are not justified. The PBA is correct that measures must be taken to reverse the high turnover rate but its proposal is beyond what is possible and beyond what is needed.

The statutory criteria implicated on this issue are interests and welfare of the public, continuity and stability of employment, and the financial impact of the award on the governing unit, its residents and taxpayers. The interests and welfare of the public require nothing less than an experienced police force. As stated above, highly trained and experienced Police Officers are an essential component in maintaining the highest levels of safety for the residents of Maplewood. The continuity and stability of employment is also implicated and favor measures that will stabilize the work force to provide for better continuity and stability of employment in the Township. The financial impact of the awarded salaries, while higher than the Township's salary proposal, is not significant when calculated over the four years of the new CBA. The cost of the award is $\frac{1}{2}$ of 1% above the cost of the Township's proposed salary increases in the first two years of the new CBA.

I awarded a 4.5% salary increase in 2003 whereas the Township proposed a 4% salary increase in 2003. I awarded a 6% salary increase in 2004. The Township proposed a 6% salary increase in 2004. The difference in cost in the first two years of the new CBA is \$17,910 ($\frac{1}{2}$ of 1%). I awarded 4.5% salary increases in 2005 and 2006. This is 0.75% above the cost of the Township's proposed salary increases in 2005 and 2006. The difference in the cost is \$28,747 in 2005 and \$31,088 in 2006. There is no evidence that the terms of my award will require the Township to exceed its lawful authority. The CAP law, or lawful spending limitations imposed by P.L. 1976 C.68, is not directly impacted by this proceeding nor is there any evidence that the terms of this award will impact on the Township's obligations under the amended budget CAP law, N.J.S.A. 40A:4-45.1 et seq.

The Township's costs for police salaries are considerably below the costs of departments with normal turnover. This is attributable to the "breakage" that goes to a public employer when an employee is replaced by an employee at a lower salary. T-4 shows that twenty of the forty-five officers on the salary schedule are not at maximum. This does not include the four officers who were in the Police Academy when the record was closed. T-4 also shows that seventeen officers are at the four lowest steps which range from \$35,194 to \$53,062. Departments with normal turnover would have considerably fewer officers moving through the steps of the salary schedule and considerably more officers at the maximum salary of \$61,446. There are seven officers at \$35,195, three officers at \$41,269 and three officers at \$50,341. The breakage from these thirteen officers alone is \$277,610. This is the difference between the officers' current salary and the salary of thirteen officers who would be at maximum but for the high turnover rate. As previously stated, high turnover, while not desirable, tends to keep the public employer's average salary costs down because entry level officers have replaced senior officers making in some cases less than 50% of the maximum step officer's salary. Simply stated, the high turnover rate has reduced the Township's police salary costs in relation to other municipalities with more stable work forces.

The Township provided comparability data in T-37 showing that Township police officers ranked 15th out of nineteen communities surveyed. T-37 further shows that the Township police officers' maximum salary was \$2,008 below the Essex County median of \$63,474. Tab 5 of PBA-1 shows that the \$61,446 Maplewood maximum in 2002 was the lowest when compared with the five contiguous communities of Livingston, Newark, Irvington, South Orange and Millburn. The above average salary increases that I have awarded will narrow the gap at maximum and permit Maplewood maximum patrol officer salaries to move up to or slightly above the median. This will make the salary schedule more attractive.

I have also awarded above average salary increases to offset the impact of a non-percentage longevity benefit for employees on the lower tier. Tab 6 of PBA shows that all other Essex County municipalities have a traditional percentage longevity benefit. A traditional percentage longevity benefit provides a larger payout than a fixed dollar schedule such as the one in Maplewood.

In summary, I find that the interests and welfare of the public require a stable and experienced police force and that the terms of my award will improve the Township's ability to recruit and retain qualified and experienced police officers and that such improvement is consistent with the requirements of this factor.

Comparison of The Wages, Salaries, Hours and Conditions of Employment

Comparisons of the wages, salaries, hours and conditions of employment of the Township police officers are to be made with other employees performing similar services as well as with other employees generally in the following three groups: 1) in private employment in general, 2) in public employment in general, and 3) in public employment in the same or similar jurisdictions. I shall discuss these in order.

The first part, private sector comparisons, calls for comparisons with private sector employees performing similar services as well as private employees generally. As both parties acknowledged, there are no easily identified private sector police officers who perform services similar to those performed by Township police officers. I find this aspect of the comparison to be of no relevance.

The second part of this factor requires a comparison with other employees generally in private employment. The current data on average salary increases in private sector employment in general shows that the PBA's proposed salary increases, the Township's proposed salary

increases and the terms of my awarded salary increases exceed the average annual salary increases in the private sector. The Township's last offer is more in line with private sector settlement data. The salary award is 2% above the Township's last offer over four years and is structured to reverse the high turnover and improve the Township's ability to retain experienced police officers. This sub-factor is not entitled to significant weight.

The next comparison is with public employees in general. This has two parts: comparisons with public employees in the same jurisdiction and comparisons with public employees in comparable jurisdictions. The first comparison is with employees in Essex County. Neither party submitted data on this sub-factor. Salary increases for employees in Essex County will again fall below the Township and PBA last offers as well as the terms of my award.

The second part of this comparison involves comparison with employees in comparable jurisdictions. The data submitted by both the PBA and the Township show that the maximum patrol salary is near the bottom in Essex County. The data in the record also shows that the longevity benefit for employees hired after January 1, 2001 is the only longevity program in the County (except for Millburn) that does not include a percentage longevity program. I have given this data considerable weight and structured my award to improve the ranking of the maximum salary as compared to police officers in other Essex County police departments.

The Township contends that it structured its final offer to maintain a pattern with the FMBA. The Township contends that it maintained the pattern with the FMBA settlement with the exception of its 6% proposal in 2004. The Township submits that the evidence establishes a pattern with the FMBA that should not be disturbed by this award. The Township provided excerpts from other interest arbitration decisions emphasizing the importance of settlement patterns. (See pp. 26-28).

I agree with my colleagues' analysis of the importance of maintaining an established pattern of settlement. An established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and provides consistency in bargaining. I have issued awards in which established patterns of settlement were given great weight. See Ocean County Sheriff's Office and PBA Local 309, PERC Docket No. IA-2003-026, issued 2/16/04; Somerset County Sheriff's Office and FOP Lodge 39, PERC Docket No. IA-2002-046, issued 3-15-03; and State of New Jersey and NJ PBA Law Enforcement Supervisors Association, PERC Docket No. IA-2001-035, issued 11-1-02.

While it is correct that the Township's salary proposal mirrors the terms of the FMBA settlement in 2003, 2005 and 2006, it cannot be said that the Township is maintaining a pattern. The Township contends that its salary proposal is only slightly different from the FMBA settlement. In 2004, the Township is offering 6% to the PBA, rather than the 4% that the FMBA received. This cannot be described as "slightly different" when there is an additional 2% salary increase. The Township argues that the additional 2% is specifically designed to address the retention issue in the police department, noting that twenty-six police officers have left the Township since 1998. I find that this is a sound and reasonable basis to depart from the pattern.

The Township recognized by the structure of its salary offer that continuing the pattern with the fire department will not address the major problem of high turnover in the police department. There is no such problem in the fire department and it makes little sense to argue pattern when a continuation of the pattern will foster and exacerbate the undisputed turnover problem in the police department. The Township, for sound operational and financial reasons, recognizing that it needed to improve the salary schedule in the police

department to address the problems associated with high turnover, "broke pattern" when it proposed a 6% salary increase in 2004.

Comparability is always an important factor for consideration. The Township's internal comparability data with the firefighters and other civilian employees (organized and unorganized) has been reviewed. However, the weight normally associated with such data must be balanced with the undisputed need to address the turnover problem. Thus, as the Township recognized in fashioning its last offer above the FMBA settlement and significantly above the civilian settlements, I have given this sub-factor little weight.

I have given the comparability data with other Essex County police officers the most weight since this is the comparison that impacts directly on the problems associated with turnover and retention of experienced police officers. However, the need to address the high turnover rate is implicated more under the interests and welfare of the public factor and continuity and stability of employment as previously discussed.

Overall Compensation

Overall compensation levels within the Township when compared with other municipalities are reasonably similar. All employees are covered by or receive social security, workers' compensation, disability and health care benefits. They are covered by State pension plans. The Police and Fire Retirement System is much richer than that available to employees in the Public Employees Retirement System, although employee contributions to PFSR are appreciably higher than those to PERS. All law enforcement personnel belong to the same pension system and enjoy similar vacation, holidays, sick leave and personal leave.

Stipulations

There are two stipulations in this matter. The first stipulation is that the duration of the new CBA shall be January 1, 2003 to December 31, 2006. I have adopted this stipulation in the award. The second stipulation, entered on November 15, 2004, provides as follows:

1. On November 26, 2004, the Township agrees to implement a retroactive wage increase in the gross amount of \$1,000 which will apply to certain Maplewood police officers. This retroactive wage increase shall apply to Maplewood officers who (i) are on the payroll on November 24, 2004; and (ii) were employed as Maplewood police officers between January 1, 2003 and December 31, 2003.
2. The Township will make this payment in a lump sum and all ordinary payroll and statutory deductions will be assessed.
3. The parties recognize and agree that these payments will operate as a credit and a setoff against the interest arbitration award which is currently scheduled to be issued by January 15, 2005. (By way of example, in the event that Arbitrator Glasson determines that a 4.0% wage increase should be awarded for the period from January 1, 2003 through December 31, 2003, the \$1,000 increase which is described in this Stipulation shall be applied against and deducted from the 4.0% award, in which case the Township will only be required to pay the difference between the 4.0% award and \$1,000 to satisfy the arbitration award.)
4. By entering into this Stipulation, the PBA is not waiving its claim for retroactive wage payments for all officers who have been employed during the term of the successor Agreement, regardless of whether or not they are currently employed by the Township.

Lawful Authority of the Employer

This factor, among other things, requires the arbitrator to consider the limitations imposed on the Employer by the CAP Law which, generally, limits the amount by which appropriations of counties and municipalities can be increased from one year to the next. This was intended to control the cost of government and to protect homeowners. The limitation applies to total appropriations and not to any single appropriation or line item.

This can be a significant factor in interest arbitration matters when the parties fair and final offers on salary are extreme or when a party is asserting that the CAP Law affects their ability to fund salary increases.

There is certainly no ability to pay argument under the New Jersey Cap Law (including the recent amendments) given the difference between the cost of the Township's four-year salary proposal and my award. A more detailed analysis would be required if I had awarded the PBA's salary proposals which are much higher than my award. There is absolutely no evidence in the record to show that any aspect of this award will cause the Township to approach the limits of its financial authority or to breach the constraints imposed by the CAP Law in funding the salary increases I have awarded.

**Financial Impact on the Governing Unit,
its Residents and Taxpayers**

The financial impact of the awarded salary increases, while higher than the Township's proposed salary increases, is not significant when calculated over the four years of the new CBA. The cost of the awarded salary increases is $\frac{1}{2}$ of 1% above the cost of the Township's proposed salary increases in the first two years of the new CBA. The difference in cost in the first two years is \$17,910. The cost of the award in 2005 and 2006 is $\frac{3}{4}$ of 1% above the cost of the Township's proposed salary increases. The difference in the cost is \$28,747 in 2005 and \$31,088 in 2006. There is no evidence that the terms of my award will require the Township to exceed its lawful authority. The CAP law, or lawful spending limitations imposed by P.L. 1976 C.68, is not directly impacted by this proceeding nor is there any evidence that the terms of this award will impact on the Township's obligations under the recently amended budget CAP law, N.J.S.A. 40A:4-45.1 et seq.

Based on the evidence in the record, I conclude that the award's financial impact will not adversely affect the governing unit, its residents and its taxpayers.

Cost of Living

Arbitrators must consider changes in the cost of living. The cost of living data shows that increases in the Consumer Price Index ("CPI"), as published by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS"), are well below the salary proposal of both the PBA and the Township and the terms of my award.

The annual increase in the CPI for New York/Northern New Jersey for the year ending December 2003 was 3.2%. The most recent data shows that the CPI for New York/Northern New Jersey for the year ending December 2004 increased by 3.8%. This is the largest year-end increase since December 1990. There is no reason to believe that this trend will continue and it is more likely that the awarded 4.5% salary increases in 2005 and 2006 will exceed the CPI resulting in an increase in real earnings of bargaining unit members for the 2003-2006 duration of the new CBA. The last offer of the PBA, the Township and the terms of the award exceed the CPI in 2003 and 2004. I have not given great weight to this factor.

I conclude that the awarded salary increases, while higher than the increases in the cost of living in 2003 and 2004 (and probably higher in 2005 and 2006), provide for an acceptable increase in real earnings that must be measured against the delivery of quality police services in the Township and the need to improve the Township's ability to retain qualified and experienced police officers.

Continuity and Stability of Employment

The salary award in this matter will not jeopardize either employment levels or other governmental services. It is undisputed that the single most important issue in this matter is the high turnover rate and the need to improve the retention of experienced police officers.

The salary award will provide a more competitive salary schedule and improve the Township's ability to recruit and retain qualified and experienced police officers.

I find that the terms of the award will improve the continuity and stability of employment and satisfy the requirements of this factor. I have given significant weight to this factor.

Other Issues

I shall now address the other issues. A governing principle that is traditionally applied in the consideration of wages, hours and conditions of employment is that a party seeking a change in an existing term or condition of employment bears the burden of demonstrating a need for such change. I shall apply that principle in my analysis of each of the issues in dispute. While I am required to evaluate the merits of the disputed issues individually, I am guided by criterion N.J.S.A. 34:13A-16(8) that directs the consideration of factors which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment. An element that must be considered is the totality of the changes to be made to an existing agreement. This is consistent with the statutory requirement that an arbitrator determine whether the total economic changes for each year of the agreement are reasonable under all of the criteria. Thus, any decision to award or deny any individual issue must be balanced with consideration of the reasonableness of each issue in relation to the reasonableness of the terms of the entire award.

Management Rights/Retention of Benefits

The PBA seeks to delete the entire Management Rights article. The PBA also seeks the deletion of the second paragraph of the Retention of Benefits article. The PBA did not present any testimony or documentary evidence about why this language should be deleted.

Accordingly, I conclude that the PBA has not met its burden to justify its proposals and they are denied.

Grievance Procedure

The PBA proposed the deletion of Section 2B and to change the time in which to file a grievance from fifteen days to thirty days. Again, the PBA did not present any evidence or testimony concerning problems with the administration and processing of grievances caused by this section of the CBA nor has the PBA submitted any basis why its proposal should be awarded. Accordingly, I conclude that the PBA has not met its burden to justify its proposal and it is denied.

Acting Capacity Pay

The PBA's proposal seeks to establish that acting pay be provided to all officers who are performing in an "acting capacity" function for a higher ranking officer at the superior officer's per diem rate. The PBA did not provide testimony nor did it provide documentation showing other municipalities with such provisions. There is simply no basis in this record to award the PBA's proposal.

Accordingly, I conclude that the PBA has not met its burden to justify its proposal and it is denied.

Senior Patrol Pay/Rank Differentials

The PBA seeks a Senior Patrol Rate that is 5% above the maximum patrol salary for all officers with ten or more years of service. The evidence in the record shows that no other Essex County police bargaining unit receives such a benefit. This is an expensive proposal which the Township costed out at \$62,757 in 2003, \$81,660 in 2004, \$87,791 in 2005 and \$94,369 in 2006. I have awarded salary increases that are above the average of all settlements in the County and throughout the State. The award of additional compensation at more than 2% is not justified.

The PBA seeks to increase the differential between ranks to 15%. The current differentials provide for an 11% differential for Sergeants, a 10% differential for Lieutenants and a 9% differential for Captain. The Township calculated the cost of the PBA's proposed 15% as \$64,963 in 2003, \$69,831 in 2004, \$75,068 in 2005 and \$81,378 in 2006. The Township's calculations assume a 7.5% annual increase as proposed by the PBA.

I calculated the PBA's proposed 15% differential on the awarded salary increases and compared the costs to the current differentials. The cost of the proposed 15% differentials applied to the awarded salary increases cost \$62,753 more in 2003, \$66,518 more in 2004, \$69,511 more in 2005 and \$72,640 more in 2006. This is equivalent to 1.85% additional compensation in 2003 which, if added to the awarded salary increase of 4.5%, brings the total cost to 6.35%. The PBA's rank differential proposal is not justified for several reasons.

First, I awarded salary increases that are above the average of all settlements in the County and throughout the State. The award of additional compensation at more than 1.85% is not justified. Second, the PBA's proposal would give a Sergeant an immediate 4% increase bringing the total salary increase to 8.5% in 2003. The PBA's rank differential proposal compounds for the Lieutenant and Captain ranks providing an additional 9% for Lieutenants and an additional 16% for the Captain. This compounding of the rank differential would increase the total salary increase in 2003 for a Sergeant to 13.5% and to 20.5% for the rank of Captain. These increases for superior officers cannot be justified when maximum step rank-and-file police officers receive a 4.5% salary increase in 2003. The retention of rank-and-file police officers is a serious problem that must be addressed. There is no basis to award much higher increases to superior officers given the high turnover of experienced rank-and-file police officers.

Finally, I note that the above average annual salary increases are applicable to all police officers in the bargaining unit including the superior officers. Accordingly, I conclude that the PBA has not met its burden to justify its proposal and it is denied.

Cash Incentive for Perfect Attendance/Personal Days

The PBA seeks a cash incentive of \$500 for perfect attendance. The existing benefit provides that for every three months of perfect attendance, an officer shall be credited with a personal day. Thus, an officer is currently able to earn up to four personal days in each calendar year.

The PBA also seeks a new benefit to provide for three personal days and three paternity days. The PBA did not provide testimony nor did it provide documentation showing other municipalities with such provisions. There is simply no basis on this record to award the PBA's proposal.

Accordingly, I conclude that the PBA has not met its burden to justify its proposal and it is denied.

Holidays

The PBA seeks to increase the payment for holiday pay from eight hours to ten hours. This is effectively a 25% increase in this payment. Officers currently get paid for thirteen holidays or 104 hours annually. This would increase to 130 hours under the PBA's proposal. The additional twenty-six hours is equivalent to an additional 1.25%. I have awarded salary increases that are above the average of all settlements in the County and throughout the State. The award of additional compensation is not justified.

Accordingly, I conclude that the PBA has not met its burden to justify its proposal and it is denied.

Training Allowance & Weapons Maintenance Allowance

The PBA seeks the establishment of a training allowance of \$250 per year. The PBA also proposes that the weapons maintenance allowance be increased \$100 in each year of the new CBA. The PBA submitted no evidence that police officers in other municipalities receive a training allowance nor did it provide any justification for its proposal.

The current weapons maintenance allowance in Maplewood is \$350. The PBA's proposal will bring this to \$750. The evidence in the record shows that only five other municipalities in Essex County provide a weapons (or clothing) maintenance allowance with sixteen communities without such an allowance. The evidence in the record also shows that Township officers currently enjoy a \$1,175 clothing allowance which is surpassed only by Millburn and Roseland at \$1,200. There is simply no basis to award an increase in the weapons maintenance allowance.

Accordingly, I conclude that the PBA has not met its burden to justify its proposals and they are denied.

Sick Time Step System

The Township seeks to establish a sick leave step system for new hires. Under the Township's proposal, officers hired after January 1, 2004 will receive twelve sick days per year and will reach seventy-two sick days after six years of service. After the sixth year, officers will receive the full complement of seventy-two sick days at full pay and seventy-two sick days at half pay.

This is not the time for the Township to establish diminished benefits for new hires. This would be inconsistent with the Township's need to stabilize the work force. Providing lesser benefits for the very employees it seeks to recruit and retain will only exacerbate the Township's inability to retain experienced and qualified police officers.

Accordingly, I conclude that the Township has not met its burden to justify its proposal and it is denied.

Health Insurance

The Township seeks to add the following language to the CBA:

The Township reserves the right to change insurance providers provided that the new provider has substantially similar benefits, and the Township consults with the union after allowing the union to review the proposed benefit package for a minimum of thirty (30) days.

The PBA is opposed to the inclusion of this language in the new collective bargaining agreement. The Township notes that this is the exact language that the Township negotiated with the FMBA in the most recent round of negotiations. The Township points out that it is not seeking any contributions from employees to their health insurance but is solely seeking additional flexibility to review options to combat the large increases in health insurance costs.

The Township's proposal deserves serious consideration given the FMBA's agreement to the language. This consideration is supported by the Township's decision not to seek any contributions from employees during the duration of the new CBA. The Township's options in this regard are limited by its participation in the State Health Benefits Plan. However, I am reluctant to award language that sets a standard that is arguably significantly lower than the standard required by PERC and judicial case law. The level of benefits provided by health insurance is a significant issue that must be carefully addressed by both parties. It is my experience that while public employers are always looking to achieve cost savings they are very sensitive to the need to maintain adequate health care coverage for its employees.

I have had considerable experience with this issue in other municipalities and counties. I have assisted parties in the negotiation of standards for continued health care that permit a resolution satisfactory to both the public employer and the police association.

I shall award a standard that is stronger than the standard sought by the Township. While this standard is stronger and more consistent with PERC case law, it provides the Township with the needed flexibility to survey and review health care options that preserve the current contractual health benefits.

Accordingly, I shall award the following health care language to be effective January 1, 2006:

“The Township shall have the right to change health insurance carriers, provided that the level of benefits remain substantially equal to the current level of benefits and that the provider network remains substantially equal to the existing provider network.”

Damaged Clothing

The PBA seeks new language to provide that clothing and equipment damaged in the line of duty shall be replaced by the Township. This is a common clause in police and fire CBAs. Common sense dictates that a police officer should not be required to pay for the replacement of clothing or equipment damaged in the line of duty.

The PBA's proposal is awarded and shall be effective January 1, 2005.

Other PBA Issues

The PBA submitted many other proposals in its last offer but provided no testimony or documentary evidence in support of these proposals. It is well established that a party seeking a change in an existing or new term or condition of employment bears the burden of demonstrating a need for such change. There is absolutely nothing in the record to justify these proposals and they are hereby denied in their entirety.

Summary

I have carefully considered the evidence as well as the arguments of the parties. I have examined the evidence in light of the statutory criteria. Each criterion has been considered, although the weight given to each factor varies. I have discussed the weight I have given to each factor. I have also determined the total net economic annual changes for each year of the agreement in concluding that those changes are reasonable under the statutory criteria.

I have decided that recruitment and more important, retention, of experienced and qualified police officers is the single most important issue in my analysis of the salary proposals. I have decided that above average salary increases are required to stabilize the workforce and reverse the undisputed trend of experienced police officers leaving the Township police department for employment with other police departments. I have structured my salary award to make the salaries more competitive with salaries in other jurisdictions in or proximate to Essex County.

The statutory criteria implicated on this issue are the interests and welfare of the public, continuity and stability of employment, and the financial impact of the award on the governing unit, its residents and taxpayers. The interests and welfare of the public require nothing less than an experienced police force. Highly trained and experienced police officers are an essential component in maintaining the highest levels of safety for the residents of Maplewood. The continuity and stability of employment is also implicated and favor measures that will stabilize the work force to provide for better continuity and stability of employment in the Township. The financial impact of the award on salaries, while higher than the Township's is not significant when calculated over the four years of the new CBA.

Accordingly, I hereby issue the following award:

AWARD

1. **Term of Agreement:**

There shall be a four-year agreement effective January 1, 2003 through December 31, 2006.

2. **Salary:**

All steps and ranks on the 2002 salary schedules shall be increased by 4.5% effective January 1, 2003. All steps and ranks on the 2003 salary schedules shall be increased by 6.0% effective January 1, 2004. Effective January 1, 2004, an Academy step of \$24,000 shall be established for police recruits. All steps and ranks on the 2004 salary schedules shall be increased by 4.5% effective January 1, 2005. All steps and ranks on the 2005 salary schedules shall be increased by 4.5% effective January 1, 2006. All salary increases are full retroactive. The retroactive payout shall be offset by the terms of the November 15, 2004 stipulation included in this Award. Schedule A-1 and A-2 shall be modified as follows:

Schedule A-1

<u>Step</u>	<u>1/01/03</u>	<u>1/01/04</u>	<u>1/01/05</u>	<u>1/01/06</u>
PTL. 5 th Class	52,606	55,763	58,272	60,894
PTL. 4 th Class	55,450	58,777	61,422	64,186
PTL. 3 rd Class	58,408	61,913	64,699	67,610
PTL. 2 nd Class	61,253	64,928	67,850	70,903
PTL. 1 st Class	64,211	68,064	71,127	74,327
SERGEANT	71,273	75,550	78,950	82,502
LIEUTENANT	78,336	83,037	86,773	90,678
CAPTAIN	85,401	90,525	94,598	98,855

Stipends

Detective	2,021	2,142	2,239	2,339
Exec. Officer	2,967	3,145	3,287	3,435

Schedule A-2

<u>Step</u>	<u>1/01/03</u>	<u>1/01/04</u>	<u>1/01/05</u>	<u>1/01/06</u>
ACADEMY	-----	24,000	25,440	26,585
PTL. 7 th Class	36,778	38,984	40,739	42,572
PTL. 6 th Class	43,126	45,714	47,771	49,920
PTL. 5 th Class	52,606	55,763	58,272	60,894
PTL. 4 th Class	55,450	58,777	61,422	64,186
PTL. 3 rd Class	58,408	61,913	64,699	67,610
PTL. 2 nd Class	61,253	64,928	67,850	70,903
PTL. 1 st Class	64,211	68,064	71,127	74,327
SERGEANT	71,273	75,550	78,950	82,502
LIEUTENANT	78,336	83,037	86,773	90,678
CAPTAIN	85,401	90,525	94,598	98,855

3. **Clothing:**

Effective January 1, 2005, clothing and equipment damaged by a police officer in the line off duty shall be replaced by the Township.

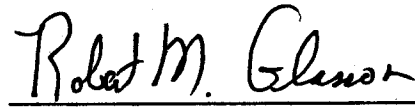
4. **Health Care Insurance:**

Effective January 1, 2006, the following language shall be added to the collective bargaining agreement:

“The Township shall have the right to change health insurance carriers, provided that the level of benefits remain substantially equal to the current level of benefits and that the provider network remains substantially equal to the existing provider network.”

5. All proposals of the Township and the PBA not awarded herein are denied and dismissed. All provisions of the CBA shall be carried forward except for those provisions modified by the terms of this Award.

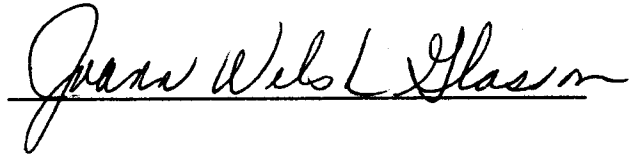
Dated: January 21, 2005
Pennington, NJ

A handwritten signature in cursive script, reading "Robert M. Glasson", written in black ink.

ROBERT M. GLASSON
ARBITRATOR

STATE OF NEW JERSEY) ss.:
COUNTY OF MERCER)

On this 21st day of January 2005, before me personally came and appeared ROBERT M. GLASSON, to me known and known by me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

A handwritten signature in cursive script, reading "Joann Walsh Glasson", is written over a horizontal line.

Joann Walsh Glasson
Notary Public
State of New Jersey
Commission Expires 12-11-06