

In the Matter of Interest Arbitration Between:

HAMILTON TOWNSHIP

"Employer,"

- and -

**HAMILTON TOWNSHIP PBA LOCAL 66
and HAMILTON TOWNSHIP SUPERIOR
OFFICERS ASSOCIATION**

"Unions."

Docket Nos. IA-2003-102 & IA-2004-001

**OPINION
AND
AWARD**

**Before
James W. Mastriani
Interest Arbitrator**

Appearances:

For the Township:

Steven S. Glickman, Esq.
Ruderman & Glickman

For the Unions:

Richard D. Loccke, Esq.
Loccke & Correia

I was appointed arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425. in matters involving the Township of Hamilton [the "Township"] and Hamilton Township PBA Local 66, and Hamilton Township Superior Officers Association [the "PBA" and the "SOA", or the "Unions"]. Pre-arbitration mediation sessions were held. Despite good faith efforts by the parties, the impasses were not resolved requiring formal interest arbitration hearings. The hearings were held on April 28 and 29, 2004, at which the parties examined and cross-examined witnesses and introduced documentary evidence into the record. Although the petitions were not formally consolidated, all parties recognized the goals of economy and efficiency would be met by receiving evidence common to each negotiating unit during the course of the hearings. This relieved the parties from having to hold separate hearings to independently resubmit documentary and/or testimonial evidence in duplicate fashion.

Testimony was received from Patrolman Mathew Bagley, PBA President, Patrolman Joseph Zaburski, Lieutenant James Stevenson, Andrew Salerno, Township Business Administrator, Robert Morrison, Township Auditor, and Laura Fanuele of LDP Consulting Group. The terminal procedure was conventional arbitration since the parties did not mutually agree to an alternative procedure. This process grants the arbitrator with broad authority to fashion the terms of an award based upon the evidence without being constrained to select any aspect

of a final offer submitted by the parties. Post hearing briefs and reply briefs were submitted by both parties and transmitted by the arbitrator on July 27, 2004

The statute requires each party to submit a last or final offer. I have set forth below the last or final offer of each party.

Hamilton Township PBA and SOA

1. **Duration** – July 1, 2003 through June 30, 2007

2. **Wage Increase.**

The Association proposes an annual across the board wage increase of 5% at each rank and step of the salary schedule for each of the four years of the contract.

3. **Senior Officer Differential**

The Association proposes a new pay provision designated as "Senior Officer Differential". Employees having completed twenty (20) years of service would be entitled to said benefit. The benefit would be an increase in the base pay rate by an amount, equal to one-half (1/2) the difference between the employee's then current base rate and the next higher rate of pay. For example, a Sergeant having, completed twenty (20) years of service would receive a Sergeant's pay expanded by one-half (1/2) the difference between the Sergeant's base rate and the lieutenant's base rate of pay.

4. **Detective Differential – Patrolman III**

The PBA proposes that the Detective differential calculation shall be modified to provide a 3% differential calculated over the top step rate for patrol officer.

5. **Detective Differential – Superiors**

The SOA proposes receipt of the same detective differential for superior officers assigned to the detective bureau.

Hamilton Township

1. **Duration** – July 1, 2003 through June 30, 2007
2. **Preamble & Article XXVII**
Change dates as appropriate.
3. **Article VII – Management Duties to the Union**
 1. Reletter as “1A” and replace the first sentence with the following:
“The Employer shall make the following materials available and accessible to every employee.”
 - 1(a) (Delete “rules and regulations”)
 - 1(b) (Delete “for all employees”)
 - 1B. Add the following new section:
“A copy of any and all new rules and regulations shall be provided to all employees.”
4. **Article IX – Wages**
Effective January 1, 2004, there shall be a one percent (1.0%) across the board salary increase.
Effective July 1, 2004, there shall be a two percent (2.0%) across the board salary increase.
Effective July 1, 2005, there shall be a two percent (2.0%) across the board salary increase.
Effective July 1, 2006, there shall be a two percent (2.0%) across the board salary increase.
5. **Article X – Incidental Economic Benefits**
 - 1(e) Change the four (4) hour guarantee to a two (2) hour guarantee.
 7. Eliminate longevity for new employees by deleting “covered” and replace with “hired on or before July 1, 2003.”

9. Delete "one (1) working day" and replace with "thirty (thirty) working days."

6. **Article XI – Leave Time**

1.B. Insert the following new section: "All employees hired on or after July 1, 2003 covered by this Agreement shall receive the following vacations with pay:

<u>Years of Service</u>	<u>Vacation Days</u>
During the 1 st calendar year, or part thereof of such employee's employment	One (1) day for each month or partial month employment
After completion of one (1) year	Twelve (12) days
After completion of five (5) years	Fifteen (15) days
After completion of fifteen (15) years	Twenty (20) days
After completion of twenty (20) years and thereafter	Twenty five (25) days

6. (b) (1) (Re-letter as "6(b) (1) (a) and on the first line after the word "employee" insert "hired on or before June 30, 2003")

6. (b) (1) (b) (Insert the following new paragraph:)

"All employees hired on or after July 1, 2003 shall receive one (1) personal day after completion of their first full year of employment; (2) personal days after completion of their third full year of employment; and (3) personal days after completion of their fifth full year of employment and every year thereafter."

7. **Article XIII – Insurance**

Effective July 1, 2003, all employees shall be required to enroll in the PPO Plan.

Effective July 1, 2003, the prescription plan shall be modified to a \$2.00 generic/\$9.00 brand name co-pay.

BACKGROUND

The Township of Hamilton is a predominantly suburban community located in southeastern Mercer County. It is one of thirteen municipalities in the County. The others are Trenton City, Ewing Township, Lawrence Township, East Windsor Township, West Windsor Township, Hopewell Township, Princeton Township, Princeton Borough, Washington Township, Hightstown Borough, Pennington Borough, Hopewell Borough.

Hamilton has a land area of almost 40 square miles and is ranked first in population with 87,109 residents, a figure approximately 1,500 more than Trenton. Although predominately suburban in nature, Hamilton has a significant urban population adjacent to the City of Trenton and a significant rural area to the east of the NJ Turnpike. In 2002, Hamilton's tax rate was 0.84 of \$100 assessed value and equalized tax rate was \$2.728 of \$100 of assessed value inasmuch as its County equalization rate was 96.06%. These rates place it seventh among Mercer's municipalities. The Township's ratables are broken down as follows: 78% of the Township's valuation comes from residential taxes, 14% from commercial ratables, 3% from industrial ratables and 1.6% from vacant land.

In 1999, the Township's residents had a per capita income of \$25,441 placing it 11th in the County where the average was \$34,588. Median family income was \$66,986, a rank of 12th in the County where the average was \$85,366. The Township's median household income was \$57,110 also a rank of

12th in the County where the average was \$73,480. As of 1999, almost 30% of Hamilton's households were receiving social security.

The existing collective bargaining agreements expired on June 30, 2003 consistent with fiscal year budgeting. The bargaining units consist of 115 Police Officers (plus 2 vacant positions) and 23 Detectives in PBA Local 66, and 21 Sergeants, 13 Lieutenants and 5 Captains in the SOA.

Against this general background, the parties offer their respective positions on the disputed issues as well as argument applying the statutory criteria to those positions.

The Unions

The Unions contend that an adoption of their last offer will further the interests and welfare of the public due to the productivity of the police officers and the dangers they face protecting the public's health, welfare and safety.

Through evidence presented at the hearing and descriptive testimony, the Unions stressed the high quality of service and diversity of resources available to the community through the Hamilton Township Police Department. Union witnesses testified that the Department is one of the busiest, most active and pro-active in the Northeast and has on several occasions been the subject of national media attention.

In particular, the Hamilton Township Post Office was the location from which the "anthrax" letters were mailed to national figures. According to PBA President Bagley, more than twenty Hamilton Police Officers responded to the Hamilton Postal Facility when it became known that the letters had emanated from that location. The officers were placed on the Cipro medication. In addition, the Department responded to more than 400 calls for assistance from residents who believed that their mail may have also been tainted by the anthrax virus.

Bagley also testified to a second incident which brought Hamilton national attention. This was the rape and murder of a young girl by a neighbor. This unfortunate incident resulted in the adoption of Megan's Law within New Jersey and throughout the country. Hamilton Detectives made the arrest and assisted the Mercer County's Prosecutor's Office in convicting the perpetrator.

The Unions also presented a lengthy list of innovative and cutting-edge programs and law enforcement services provided by the police department.

These include:

- Technical Services Bureau – This is a highly specialized computer unit which has specially trained personnel able to analyze computers and work on cases such as child pornography, video surveillance and video/picture enhancing.
- Mobil Data Terminals – The MDT's being used in patrol cars in Hamilton Township began in 2000. This is cutting edge

technology enhancing the safety of both the public and the officer and making for better case preparation.

- **Defibrillators** – The Hamilton Township Police Department currently has 13 automatic external Defibrillators in use. All personnel are appropriately trained and they are a proven lifesaving measure.
- **EMT's** – These highly trained Police Officers, numbering 16 within the sworn departmental ranks in Hamilton, have the exceptional abilities to aid in the preservation and saving of lives and are spread throughout the shift assignments for availability. In the year 2003 alone this fairly new unit handled 5,100 emergency medical calls.
- **Operation Reassurance** – This is a program in the form of an outreach to senior citizens. A Police Officer in this bureau contacts senior citizens or challenged individuals on a daily basis to check on their well being. In the event that the contact is not made than an officer will be sent to the residence to check and see if any medical assistance is required.
- **Neighborhood Watch Meetings** – This is another program operated by the Services Bureau and has proved a valuable citizen – Police Department link.
- **Security surveys** – Members of the Services bureau have been able to educate many of the citizens about better ways to protect their property and person.
- **Gang Resistance Unit** – This is a program operated by the Educational Services Bureau, the Police Department. The officers so assigned are specially trained in educating youth on a level that they can relate and interact with all 7th and 8th graders to educate them about the dangers of gangs and peer pressure.
- **Mock Trials** – This is a Police Department traffic bureau program to educate young people in high schools about the dangers and penalties for driving while intoxicated among other violations.
- **Child passenger safety** – This program is operated through the traffic bureau and has specially trained officers aid in the supply, installation and utilization of child safety seats.

- **MOI – This highly specialized Methods of Instruction program has 33 officers to train within the department raising the level of skill and professionalism. The Hamilton Township Police Training Unit has trained the New York City Police Department Detectives in Homicide Investigations.**
- **Outside Agency Coordination – This ever increasing interaction between law enforcement agencies is even more prevalent in Hamilton than in most other places. Aside from the national attention on the Anthrax investigation which began in Hamilton Township and the Megan Kanka's law example, the Hamilton Township Police Officers have loaned personnel to the US Marshall's Office, New Jersey State Police Crime Computer Lab Unit, the FBI Task Force on Terrorism, and even a 2002 Olympics. In each of these cases, Hamilton Township Police personnel have been detailed to those other agencies to work outside of Hamilton with said agencies. On a daily basis the Hamilton Township Police Department interacts regularly with the Mercer County Prosecutor's office, Mercer County Sheriff's Department, Trenton Police, Lawrence Police, Ewing Police, Plainsboro Police, and West Windsor Police.**
- **New Jersey State Police Interaction – The most frequently interacted with agency in the Hamilton Township Police Department is the New Jersey State Police. The New Jersey State Police have recently relocated their Troop C Barracks to Hamilton Township. This brings the central New Jersey Headquarters for all State Police operations within the municipal jurisdiction. In addition to the barracks the State Police have built a forensic lab on the same grounds in Hamilton. This forensic operation, which was full described through testimony, is one of the most advanced in the United States and a focal point of such investigations as DNA and computer investigations utilized by Federal Agencies as well as all State agencies and local agencies in the northeast. This Hamilton Township based facility is one of the pre-emanate law enforcement operations in all of the United States.**
- **DVRT – This Domestic Violence Response Team was initially developed in 2002 and has received a great deal of attention as well as success. The DVRT Team is activated on an average of 18 times per month. Each member goes through approximately 80 hours of training and background check. They carry pagers and are put on rotation. Recently this program extended out to assist victims of sexual assault.**

- **School Resource Officers – This Federally funded program brings law enforcement personnel into the school. Also, and most unfortunately, due to the Columbine High School experience, are highly trained to go into schools and meet with armed students should such occur in the future.**

The Unions also pointed out that Hamilton Police Officers are one of the few departments that provide off-duty police with radios. At the hearing, PBA President Bagley testified to the effectiveness of this program while describing how an off-duty officer radioed for assistance and effectuated the arrest of an armed robber.

Also at the hearing Lt. Stevenson described in detailed the Commission for Accreditation for Law Enforcement Agencies program which is being implemented in the Township to improve the professionalism of the department's officers.

The Unions also assert that the Hamilton Police Department is extremely productive, pointing to the fact that calls for service have increased by 26% since 1988, while calls per officer have increased by 20%:

**HAMILTON TOWNSHIP POLICE ACTIVITY
1998-2003**

	(A) 1998	(B) 2003	(C) Change
Calls for service	43,515	54,835	+26%
Domestic Violence	526	875	+66%
Calls per sworn officer	225	306	+20%
Accidents	3,217	3,417	+6%

The Unions also indicated that these demands for increased services were met with a relatively modest increase in the number of officers. The Unions indicates that the number of officers has grown by only 5% since 1988:

PERSONNEL CHANGES 1998 TO 2003

	1998	2003	Change
Total Sworn	170	179	+5%
Officers in Patrol	92	92	no change
SNU Officers	12	6	-50%
Traffic Officers	10	10	no change

At the hearing, PBA President Bagley also discussed the traffic volumes within the township due to its prime location astride the New Jersey Turnpike, Route 195, Route 295, Route 29, Route 129, Route 130 and Route 33. He testified that, according to the NJ Turnpike Authority, an average of 131,900 cars per day exit and enter the turnpike at exit 7A. All of these vehicles must pass through Hamilton.

During the hearing the Unions also presented a PowerPoint presentation which included a video tape of Mayor Glen Gilmore's State of the Township Address of January 2004. Mayor Gilmore stated "Hamilton Township today has the lowest crime rate it has had in more than 20 years and that's a great credit to the men and woman of our police force." According to PBA President Bagley, 75% of the law enforcement personnel in the Hamilton Township Police Department live within the Township and they are a part of the community. The Unions assert that the exceptional level of productivity and high level of morale

within the Department has been delivered directly to the public whose interests and welfare are fully served by the efforts of the police officers.

The Unions assert that their comparability evidence supports their position. They contend that Hamilton Police and Superior Officers are not highly paid among their peers. The Unions assert that the base pay is mid-range, that fringe benefits are below average, and that the officers work the longest schedule of any department in evidence.

The Unions presented several charts which summarize data from the various union contracts presented into evidence. One such chart shows that the maximum longevity benefits are approximately half of the average benefit.

Longevity Benefit Comparison Based on PBA Exhibit in Evidence

Cherry Hill	\$5,784	9.25% @ 25 yrs.
Ewing PBA	\$4,963	6.5% @ 24 yrs.
Freehold Twp	\$4,000	Flat dollar step. Max @ 24 yrs.
Hillsborough	\$5,655	8% @ 20 yrs.
Mercer Sheriff	\$2,850	Flat dollar @ 24 yrs.
Mercer Prosecutor SOA	\$3,900	Flat dollar @ 45 yrs.
Mercer Prosecutor PBA	\$3,900	Flat dollar @ 45 yrs.
Paramus PBA	\$9,041	10% @ 25 yrs.
Manchester	\$7,373	10% @ 24 yrs.
Somerville	\$5,470	8% @ 20 yrs.
Spottswood PBA	\$6,744	10% @ 28 yrs.
West Windsor	\$3,032	Flat dollar @ 25 yrs.

Woodbridge PBA	\$6,722	9.5% @ 24 yrs.
Plainsboro	\$3,550	Flat dollar @ 20 yrs.
Edison PBA	\$6,973	10% max
Princeton Borough	\$3,000	Flat dollar @ 24 yrs.
Princeton Twp	\$2,325	Flat dollar @ 24 yrs.
Average	\$5,017	Annual longevity benefit (2002)
Hamilton PBA benefit	\$2,551	3.5% max @ 24 yrs. (J-1, p. 31)
Hamilton PBA benefit compared to average	(\$2,466) (96.66%)	

The PBA also submits a chart comparing detective increments. The PBA argues the Township's \$800 program is significantly below the average detective differential. In addition, the SOA argues in that the current practice of not providing a detective differential to supervisors in the detective bureau runs contrary to other comparable departments.

DETECTIVE INCREMENT COMPARISON

	<u>Annual Detective Differential</u>
Cherry Hill	36%
Ewing	\$400
Freehold Township	\$1,700
Freehold SOA	\$1,700
Hillsboro	\$1,485
Paramus	\$4,162
NJ Transit	5% over Patrol officer (\$3350)
Manchester	\$1,250
Somerville	\$1,000
Princeton Borough	\$1,200
Annual Detective Increment	\$1,837

The Unions also argue that the Township clothing allowance is amongst the lowest in comparable departments and presents the following comparisons:

ANNUAL CLOTHING ALLOWANCE COMPARISONS

	Annual Clothing Allowance
Cherry Hill	\$950
Ewing PBA	\$1,075
Hopewell SOA	\$750
Hopewell PBA	\$725
Bordentown Township	All uniforms supplied by town + \$600 per year maintenance
Hillsborough	\$1,040
Paramus	\$600
Manchester	\$800
STFA	\$900
Somerville	\$600
Spotswood	\$1,250
West Windsor	\$850
Plainsboro	\$650
Princeton Township	\$900
Average	\$853 annual allowance
Hamilton Township PBA Annual Clothing Allowance	\$600
Hamilton Township PBA Benefit compared to Average	(\$253) (42.2%)

The Unions indicate that while the comparisons submitted stop with 2002, the last year that the Hamilton Police Officers salaries were modified, other departments have already received increases for 2003 and future years. The

Unions contend that their final wage demands are supported by the salary increases in the following departments:

**AVERAGE RATES OF BASE PAY INCREASE
BASED ON PBA EXHIBITS IN EVIDENCE**

	2003	2004	2005	2006
Ewing	5	5		
Cherry Hill	4	4	4	
Freehold PBA	4			
Freehold SOA	4			
Hopewell SOA	5			
Hopewell PBA	4.4			
Hillsborough	4			
Mercer Sheriff	4.5 (2/2.5)	4.75 (2/2.75)		
Mercer Pros SOA	4	4.5 (2/2.5)	4.75 (2/2.75)	
Mercer Pros. PBA	4	4.5 (2/2.5)	4.75 (2/2.75)	
Montgomery SOA	4			
Montgomery PBA	4			
Paramus	3.9			
Manchester	3.55	8.9	4.25	4.5
STFA	4	4		
SPNCO	4	4		
Somerville		4	4.9	
Spotswood		4.75	4.75	4.75
Woodbridge PBA	4	4		
Plainsboro	4	4		
Woodbridge SOA	4	4	4.25	
Edison	3.9	4		
Princeton Boro PBA	5 (2.5/2.5)			
Princeton Boro SOA	5 (2.5/2.5)			
Princeton Twp	4.9			
Averages	4.224%	4.6%	4.521%	4.625%

The Unions also argue that salary increases for other government employees within Hamilton support the final demand for wage increases. Specifically, they point to contract settlements for the Hamilton Township Board of Education which gave 4% wage increases to administrators/supervisors as

well as annual increases in their longevity compensation; and to the Hamilton Township teachers' contract which provides for slightly higher base wage increases in longevity improvements in each year of that contract.

The Unions also cite the Township's contract settlement with AFSCME, a unit of blue collar employees. These employees received salary increases of 4% July 1, 2004, 4.5% effective July 1, 2005, and 5% effective July 1, 2006. The Township also agreed to a contract with CWA, representing three bargaining units, white collar, supervisors and upper level supervisors, all of which provide salary increases of 4% July 1, 2004, 4.5% July 1, 2005, and 5% effective July 1, 2006.

The Unions conclude that, in view of these contracts, the Township's proposal to increase PBA/SOA salaries by 2% for 2004, 2005, and 2006 cannot be sustained by the proofs submitted.

The Unions take exception to the late submission by the Township of contracts for Lawrence Township, East Windsor Township, Hightstown Borough, and the City of Trenton. In their post hearing brief, the Unions argue that while Lawrence Township has a slightly higher base pay than Hamilton officers, that Lawrence has a substantial longevity benefit, a clothing allowance that is more than double, and work less hours than Hamilton. The Hightstown contract indicates that benefits paid to its officers for longevity and clothing allowance is

significantly higher than in Hamilton and that the work hours are less. In addition, the Unions point out that both the Trenton and East Windsor contracts indicate that all detectives receive a differential payment including superiors' officers who do not in Hamilton.

The Union has also argued, both at the hearing and in their post hearing brief, that the employer has incorrectly stated the starting salary for a patrol officer for 2002. The Unions state that the employer has listed the starting salary for a patrolman as \$50,453 while the actual starting salary is \$40,352¹.

The Unions argue that private sector employment comparisons submitted by the Township are not valid since no private sector jobs are comparable to that of a police officer. Police officers must work in a highly structured environment, must operate within the constraints of statutes and court cases. An officer must carry a weapon and is limited by very strict standards in its use. An officer has arrest powers and, even when off duty, is required to enforce the law and provide assistance to citizens.

With respect to statutory spending limitations, the Unions contend that the local government cap law N.J.S.A. 48:4-45.1 does not prohibit the awarding of its final offer. The Unions contend that the current annual index rate of 2% is only a starting point and that, by vote of the governing body, that rate can be increased

¹ I note that the contract provided as Joint Exhibit JT-2 indicates that the police officer in training salary for July 1, 2002, is \$43,352 while the police officer entry (probationary) salary is \$50,453.)

to 5%. The Unions acknowledge that this additional 3% increase was not adopted by the Township at the time it introduced its fiscal year 2004 budget thus waiving this additional flexibility. The 2% cap adjustment allowed the Township to increase its fiscal year 2004 budget by \$959, 298. However, the Unions point out that the Township had a lot more flexibility under the Cap Law than just the 2% index rate increase. Their analysis of the Township's Cap calculation indicates that the maximum allowable SFY 2004 Appropriations within Cap was \$54,255,295 while the amount actually budgeted by the Township within Cap was \$49,880,075. According to the Unions this results in additional flexibility under the Cap of \$4,375,320 which was not utilized by the Township. The Unions further point out that this non-utilization of allowable Cap increase can be banked and utilized during the next two budget years.

The Unions further contend that their last offers can be adopted without negative financial impact on the governing body, its residents and the public. Turning to financial costs, according to the Unions, the 177 uniformed personnel had a base salary in 2003 of \$13,629,172 and a 1% increase in salaries would cost the Township \$136,291. Therefore, in the opinion of the Unions the municipal cap on the Township's budget is not a relevant factor:

PBA/SOA BASE SALARY (2003)

CAPTAIN	5	\$107,425	\$537,125
LIEUTENANT	13	\$95,861	\$1,246,193
SERGEANT	21	\$85,064	\$1,786,344
PATROLMEN	138	\$72,895	\$10,059,510
TOTAL	177		\$13,629,172

1% = \$136,291

The Unions argue that the salary demands sought by the PBA/SOA are minimal on Hamilton's taxpayers. Comparing the total law enforcement bargaining salaries of \$13,629,172 to the total tax budget within the Township of \$151,626,524 (annual financial statement T-20 sheet 22 line 5) this results in a total impact of 8%. According to the Unions' analysis this represents only \$400 of a \$5000 tax bill. Using another analogy they argued that this breaks down to \$33.33 a month or less than a typical cable bill.

The Unions also point out that the law enforcement officers of the Township generate revenue in numerous ways. In particular, the Municipal court revenues generated over \$1,000,000 in last fiscal year.

The Unions claim that upon examination of the last fiscal year budget, there was an amount reserved under the police division's salaries and wages of \$432,153. This is the equivalent of three dual bargaining unit percentage points. The Unions posited that this was probably the result of four senior people leaving in the preceding year with the Township benefiting by the breakage.

The PBA/SOA also argues that the Township has reaped significant savings over the past several years over the deferral of all municipalities pension costs. Specifically, they point to a memorandum issued by the Division of Pensions and Benefits dated February 7, 2003, which indicates that Hamilton

Township has saved \$1,353,423 as a result of the deferral of the police pension costs.

The Unions contend that Hamilton, at \$5,486,519,237 for 2003, has one of the largest equalized valuation rates in all of central New Jersey. During the Unions' PowerPoint presentation the "exception ratable growth" of Hamilton was reviewed.

The Unions also point to Mayor Glen Gilmore's State of the Township Address of January 2004, which they believe provides documentation of the Township's increased ratable base, low tax rate, and low crime rate. The Unions also point to the testimony of Township Business Administrator Andrew Salerno who on cross-examination confirmed that there had been substantial growth and that taxes had been reduced.

The Unions believe that the results of the most recent school board election support its position that there is a lack of tax pressure and lack of citizen concern about taxes. They point out that only 12% of the Township's registered voters voted in the school board election of April 2004. At that time a budget of approximately \$81,000,000 was adopted and an additional question providing for approximately \$1.3 million in capital expenditures was also approved. The budget which was adopted results in an increase in the tax rate of 6 cents.

In its post hearing brief, the Unions made the following general observations in respect to the Township's finances:

- The results of operations at the end of 2003 were \$3,394,613. The same amount for 2002 was only \$359,600.
- For 2003 the amount of budget revenues realized over that anticipated was \$2,251,966.00
- The unexpended balance of appropriation reserves cancelled in 2002 from 2001 was \$410,203. The amount cancelled in 2003 from 2002 rose to \$1,032,135.00.
- The Municipal Tax Rate has been virtually flat since 1999;

1999 -	.72
2000 -	.646
2001 -	.62
2002 -	.61
2003 -	.65

These amounts taken from the preliminary official statement dated July 1, 2003, show that the tax is not driven or significantly impacted by the Municipal portion.

- The tax levy has risen dramatically in recent years.

<u>Year</u>	<u>Dollar Amount</u>
1999	\$132,534,680.00
2000	\$135,561,760.00
2001	\$135,845,048.00
2002	\$139,183,810.00
2003	\$151,626,524.00

- The property values have risen significantly in recent years.

2001	\$4,688,158,580.00
2002	\$4,954,694,960.00
2003	\$5,030,456,546.00

- The collection rate has been very high for municipal taxes. It has averaged over 97% for the last 7 years and was 99.6% for 2003.

- The net debt as reflected in the Report of Audit is only 1.9%. The statutory net debt which is permitted is 3.5%. While the PBA is not suggesting borrowing to fund its award, this is a valid barometer of fiscal stability.
- The Moody's Credit rating for Hamilton Township is Aaa.
- The capital fund as of June 30, 2003, was \$4,211,417 and the current fund as of said date was \$15,570,885.

The Unions summarizes its case by asserting ... "there is no calculable impact on the taxpayers. The taxpayers are the beneficiaries of a highly efficient Police Department operating a Municipality with an exploding ratable base and taxes which are being reduced from one year to the next. The town is fiscally secure and enjoys a high credit rating. It is appropriate and prudent to properly compensate the police in this time of plenty in a town that can well afford it."

The Unions contend that criteria N.J.S.A. 34:13A-16g(8) supports its entire economic proposal. Moreover, they particularly point to a demand for a senior officer differential which is a necessary supplement to the weak longevity program currently in place. The Unions argue that Hamilton's officers are not being compensated at the "prevailing wage" for like employees in comparable jurisdictions and that by implementing the senior officer, this disparity would be narrowed.

In regards to the Township's proposed change to health benefits coverage, the Unions argue that it cannot be awarded "due to its lack of specifications and complete lack of support through evidentiary or testamentary

showing at hearing.” At the hearing the Unions presented a professional insurance consultant, Laura Fanuele of the LDP Consulting Group. Ms. Fanuele testified that according to her review of the Township’s proposed PPO there would be several areas of reduced health benefits coverage from the existing plans available to the Union members. Specifically, there would be a limit on the number of visits available on an annual basis for speech therapy, physical therapy, and occupational therapy. There would also be a penalty for non-compliance with pre-admission review for hospital stays, and a limitation would be placed on the number of hours of private duty nursing.

Based upon the above summary of its position, the Unions urge that their final offers be accepted in their totality.

Township Position

The Township argues that the interests and welfare of the public are best served by ensuring that the police department receives all the training and equipment necessary and available to protect the department members and the public. It points to the testimony of PBA President Bagley to confirm that the Township has made every effort to supply officers with training and equipment including technical capabilities not available to other Mercer County police departments. The Township contends that it has accomplished this while also

affording a generous wage and benefit package to the police and superior officers.

The Township believes that an important element in determining the interests and the welfare of the public is the demographics of the municipality. When comparing Hamilton to the other municipalities within Mercer County, the Township presented charts which indicated that it ranked eleventh in per capital income, twelfth with respect to median family income, and twelfth with respect to median household income. With respect to households receiving social security and percentages of persons receiving public aid, the Township ranked second. Hamilton's equalized tax rate of \$2.728 (per \$100 of assessed valuation in 2002) placed it seventh among Mercer's 13 municipalities.

PER CAPITA INCOME (1999)

	<u>MUNICIPALITY</u>	<u>PER CAPITA INCOME</u>
1	Princeton Township	\$56,360.00
2	West Windsor Township	\$48,511.00
3	Pennington Borough	\$45,843.00
4	Hopewell Township	\$43,947.00
5	Hopewell Borough	\$37,413.00
6	Washington Township	\$35,529.00
7	Lawrence Township	\$33,120.00
8	East Windsor	\$28,695.00
9	Hightstown Borough	\$28,695.00
10	Princeton Borough	\$27,292.00
11	Hamilton Township	\$25,441.00

12	Ewing Township	\$24,268.00
13	Trenton City	\$14,621.00
	Average	\$34,588.07

MEDIAN FAMILY INCOME (1999)

	<u>MUNICIPALITY</u>	<u>MEDIAN INCOME</u>
1	West Windsor Township	\$127,877.00
2	Princeton Township	\$123,098.00
3	Princeton Borough	\$107,089.00
4	Hopewell Township	\$93,640.00
5	Washington Township	\$90,878.00
6	Pennington Borough	\$90,366.00
7	Lawrence Township	\$82,704.00
8	Hopewell Borough	\$77,270.00
9	East Windsor Township	\$73,461.00
10	Hightstown Borough	\$72,092.00
11	Ewing Township	\$67,618.00
12	Hamilton Township	\$66,986.00
13	Trenton City	\$36,681.00
	Average	\$85,366.00

MEDIAN HOUSEHOLD INCOME (1999)

	<u>MUNICIPALITY</u>	<u>MEDIAN INCOME</u>
1	West Windsor Township	\$116,335.00
2	Princeton Township	\$94,580.00
3	Hopewell Township	\$93,640.00
4	Pennington Borough	\$93,366.00
5	Hopewell Borough	\$77,270.00
6	Washington Township	\$71,377.00
7	Lawrence Township	\$67,959.00
8	Princeton Borough	\$67,346.00

9	Hightstown Borough	\$64,299.00
10	East Windsor Township	\$63,616.00
11	Ewing Township	\$57,274.00
12	Hamilton Township	\$57,110.00
13	Trenton City	\$31,074.00
	Average	\$73,480.46

% HOUSEHOLDS RECEIVING SOCIAL SECURITY (1999)

	<u>MUNICIPALITY</u>	<u>% OF HOUSEHOLDS</u>
1	Ewing Township	32.08
2	Hamilton Township	29.64
3	Pennington Borough	26.92
4	Trenton City	26.68
5	Lawrence Township	25.56
6	Princeton Township	24.54
7	Princeton Borough	24.53
8	Hopewell Township	24.22
9	Hightstown Borough	21.18
10	Washington Township	21.08
11	Hopewell Borough	18.10
12	East Windsor Township	15.32
13	West Windsor Township	13.10
	Average	23.30

EQUALIZED TAX RATE PER \$100 (2002)

	<u>MUNICIPALITY</u>	<u>TAX RATE</u>
1	Trenton City	3.983
2	Hightstown Borough	3.826
3	East Windsor Township	3.224
4	Ewing Township	3.159
5	West Windsor Township	2.930

6	Washington Township	2.848
7	Hamilton Township	2.728
8	Hopewell Borough	2.645
9	Pennington Borough	2.625
10	Lawrence Township	2.571
11	Hopewell Township	2.353
12	Princeton Borough	2.118
13	Princeton Township	2.021
	Average	2.850

The Township believes that in light of these statistics, it is unreasonable for the Unions to demand salary increases that will maintain a salary level at or near the highest in Mercer County. The Township also decries the association "mindset," as evidenced by the testimony of PBA President Bagley, that the number of calls per officer increased by 20% since 1988 while at the same time being unable to testify as to the percentage of salary increases for that same period. The Township's exhibit reproduced below indicates that the base salary for bargaining unit members has increased by 85% during that time period:

PBA SALARY INCREASES: JULY, 1988 – JULY, 2002

Year	Salary	%
1987	\$32,258	
1988	\$34,554	7.12%
1989	\$37,374	8.16%
1990	\$40,423	8.16%
1991	\$43,301	7.12%
1992	\$46,384	7.12%
1993	\$49,688	7.12%
1994	\$52,965	6.60%
1995	\$56,185	6.08%
1996	\$58,432	4.00%

1997	\$60,770	4.00%
1998	\$63,200	4.00%
1999	\$65,475	3.60%
2000	\$67,832	3.60%
2001	\$70,091	3.30%
2002	\$72,895	4.00%

The Township submits two sets of "comparable" municipalities. The first consisted of all municipalities within Mercer County. The second set of comparables consists of "larger municipalities". The information presented by the Township and depicted in the charts below, indicates that for 2002, Hamilton's maximum salary for police officers was the second highest in Mercer County, and also second amongst the larger municipalities.

**LARGER MUNICIPALITY COMPARABLES
MAXIMUM PATROL OFFICER SALARY 2002**

RANK	MUNICIPALITY	SALARY
1	Paterson	\$76,615.00
2	Hamilton	\$72,895.00
3	Woodbridge	\$70,755.00
4	Edison	\$69,739.00
5	Paterson	\$67,631.00
6	Plainsboro	\$66,824.00
7	Elizabeth	\$62,296.00
8	Atlantic City	\$59,527.00
9	City of Trenton	\$56,200.00
	Average	\$66,942.00

**MERCER COUNTY
MAXIMUM PATROL OFFICER SALARY 2002**

RANK	MUNICIPALITY	SALARY
1	Lawrence	\$74,632.00
2	Hamilton	\$72,895.00
3	Ewing	\$72,723.00
4	West Windsor	\$71,750.00
5	Princeton Township	\$70,575.00
6	Princeton Borough	\$70,549.00
7	East Windsor	\$69,471.00
8	Washington Township	\$67,956.00
9	Hopewell	\$67,808.00
10	Hightstown Borough	\$64,999.00
11	City of Trenton	\$56,200.00
12	Pennington	\$45,000.00

In addition, according to the Township, sergeants, lieutenants, and captains, rank number one in Mercer County for 2002. The Township believes that the Unions' demand for "a senior officer differential" should be denied. It contends that a senior officer differential is simply a euphemism for longevity, which would only serve to enhance the Township's already high economic package in comparison to other comparable municipalities.

The Township also believes that the Unions' demand for an increase in detective differential, and the addition of this benefit for superior officers, is also unreasonable and will have an unwarranted impact in an already comparative high wage ranking for Hamilton Township's patrol and superior officers.

The Township argues that the establishment of a "two tier" system for vacation days for new hires is reasonable because the Township has a very strong economic package for law enforcement personnel. The Township asserts that the large amount of vacation time now provided was reasonable when salaries were low but that since this is no longer the case, the Township should not be required to continue this benefit at the levels it now provides.

In regards to its other bargaining units, the Township points out that police officers receive higher base salaries and benefits exceeding those for almost all other employees. The Township also argues that while salary increases granted to other employee bargaining units for 2004, 2005, and 2006, exceed its offer to the police unions, those same bargaining units received salary increases less than the PBA/SOA in 2002 and 2003. The non-police bargaining units received salary increases of 2% July 1, 2002, no increase in 2003, 1% January 1, 2004, 4% July 1, 2004, 4.5% July 1, 2005, and 5% July 1, 2006.

The Township argues that its proposal more closely approximates the cost of living than those of the Unions' demands. The Township asks that I "take judicial notice" of private sector Wages Increases compiled by NJ Department of Labor. For the period of 2001 to 2002, private sector wages in the state increased by 1.6%, while in Mercer County wages increased by 1.7% considerably, below the Union's demands for its members. The Township also

asks that I take "judicial notice" of reports issued by the Labor Relations Reporter which indicate that private sector settlements declined from an average of 3.9% in 2002 to 3.1% in 2003.

The Township submits that the cap law restrains the lawful authority of the employer by limiting overall budget increases. Therefore, the law restricts the municipality's ability to grant wage increases to all of its employees. The Township points out that the Cap Law does not impose a line item limitation, but instead places a limit on the overall budget. Consequently, if one area of the budget is increasing by more than the allowable 2% provided for under the Cap Law, smaller increases or even reductions must appear on other portions of the budget in order to offset those higher increases.

The Township argues that not only does the Unions salary demand exceed the allowable percentage budget cap increase, but the spiraling cost of healthcare, fully funded by the Township, has a significant impact on the Township's budget cap allocation.

The Township also argues that under the Lawful Authority of the Employer criteria, the arbitrator must not only consider the budget cap law but also the "ability of the Township to pay" in a proposed settlement. The Township presented extensive testimony from both its Auditor Robert Morrison and from Township Business Administrator Andrew Salerno detailing current finances. Mr.

Morrison stated that the Township's surplus has dwindled over the past 5 years from \$8 million to less than \$1.6 million in cash with an additional \$1,835,000 non-cash. The Township also detailed a series of "one shot deals" used to plug revenue shortfalls for the past few years. According to Morrison, the shortfall in these one shot deals will be at least \$2.3 million.

**Township of Hamilton Current Fund Budgets
Use of Non-Recurring and/or Externally Generated Revenues**

	For SFY 2005	SFY 2004	SFY 2003	SFY 2002	SFY 2001	SFY 2000	SFY 1999
Extraordinary Aid (N.J.S.A. 52:27 D- 118.35)		900,000.00	600,000.00				
Utility Operating Surplus of Prior Year	0.00	535,000.00	616,000.00	297,910.68	297,000.00	1,500,000.00	
Additional Revenue from Added Assessments		1,800,000.00					
Reserve for Future Debt Service General Capital	773.33	878,000.00			2,227,322.98		N
Trust Assessment surplus	0.00	17,002.00			20,315.05		O
Cancellation of Reserves		1,017,000.00		1,622,339.59	899,598.74		N
School Taxes Advanced Prior to Billing			1,399,262.50				E
General Capital Surplus	697,640.00				905,858.89		
Sale of Surplus Properties	330.00	278,000.00		59,000.00	241,358.37		
Contribution from Free Public Library	0.00	125,000.00					
	698,743.33	5,550,002.00	2,615,262.50	1,979,250.27	4,591,454.03	1,500,000.00	

The Township asserts that the only potential revenue source to replace these shortfalls is to raise taxes by 4.6 cents without any increase in appropriations.

The Township believes that awarding any economic benefits beyond that offered by the Township would have a detrimental financial impact on the governing unit, its residents and its taxpayers. It points to the testimony presented by its Business Administrator Salerno and Auditor Morrison which indicate that the Township is already required to increase taxes in order to makeup for the loss of "one shot" revenues. Any additional increases beyond those proposed by the Township would necessitate a further tax increase or cuts in other municipal services. The Township stresses that its citizens have one of the lowest per capita incomes coupled with a relative high tax rate in Mercer County. Therefore, the residents should not be required to shoulder an additional tax increase in order to fund what it terms the inordinately high salary demands of the Unions.

The Township argues that its economic offer is more appropriate when one considers that the consumer price index had an annual rate of 2.4% in 2002, and 1.9% in 2003. In the past, police unions have received salary increases in excess of the CPI. Therefore, the Township argues, its proposal is more realistic considering the current and projected rates of inflation. The Township points out that the index rate includes the cost of medical care which is not a factor for its employees because the Township pays the cost of their medical insurance coverage. The Township contends that its economic proposal would best allow it to maintain its workforce at current levels. If an economic package in excess of that proposed by the Township were to be awarded, the ability of the Township to

maintain the continuity and stability at present level of employment would be hampered. The Township provides a serious of articles concerning the continued loss of jobs within the state. It contends that an award in excess of that which it proposed could very well lead to a similar situation in Hamilton.

Based upon all of the above, the Township urges that its last offer be adopted in its entirety.

DISCUSSION

The Unions and the Township have offered testimony and considerable documentary evidence in support of their last offers. Each submission was expert and comprehensive. The entire record of the proceeding must be considered in light of the statutory criteria. I am required to make a reasonable determination of all the issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g (1) through (8) which I find relevant to the resolution of these negotiations. These factors, commonly called the statutory criteria, are as follows:

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

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and

conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

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

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq).

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

element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

In interest arbitration proceedings it is traditional to require the party seeking to change the conditions of employment to bear the burden to prove the basis for such modifications. I apply that principle as part of my analysis to each issue in dispute. The issues in dispute are economic including salary, call-in guarantee, longevity, out of title work, paid leave time and health insurance. While I must assess the merits of the disputed proposals individually, I refer to criterion N.J.S.A. 34:13A-16g(8), a criterion that directs the consideration of factors ordinarily or traditionally considered in the determination of wages and benefits. One such element requires that consideration be given to the totality of the changes to be made to an existing agreement. This consideration is

consistent with the statutory requirement that the arbitrator determine whether the total net annual economic changes for each year of the agreement are reasonable under all of the criteria. Thus, any decision herein to award or to deny any individual issue in dispute will include consideration as to the reasonableness of any individual decision in relation to the reasonableness of the totality of the terms of the entire award. I next turn to each issue in dispute.

Article X – Incidental Benefits

The Township has proposed three modifications to Article X. The first is to reduce the guaranteed number of hours for recall from four (4) hours to two (2) hours. The second is to eliminate longevity for new hires. The third is to change the one (1) working day period for out of title work to thirty (30) days. I will review these issues in the order that they have been proposed.

Guaranteed Hours

The Township has proposed to reduce the number of guaranteed hours for those officers recalled to duty from four (4) hours to two (2) hours. The PBA urges rejection of the proposal. This provision appears at Section 1(e):

Whenever an employee, as part of his duties, is summoned to return or report to duty or to headquarters other than for his normal tour of duty, whether for emergencies or otherwise, he shall be paid at least the overtime rate. If more than one (1)

hour has elapsed since the completion of his previous tour of duty, the officer shall be paid for not less than four (4) hours overtime, or more if he actually works longer. The one (1) hour hiatus shall be waived for breathalyzer analysts and evidence technicians.

Although no financial evidence was presented concerning this proposed change to this condition of employment, it is obvious that the intention is financially based, that is to reduce the cost of call-ins to the Township. The basis for the present provision is to reflect the understanding that police officers who are recalled to duty after they have completed their shift, or are recalled on their regular days off, are entitled to receive premium compensation for a minimum number of hours as consideration for these unforeseen demands.. This term has been in effect since at least July 1,1999. The work of a police officer requires the inconvenience of having to be recalled for many unforeseen reasons causing interruption to their personal lives. There is no evidence that this provision has placed an undue financial hardship upon the Township. When all considerations are weighed, I find the Township has not met its burden to reduce this benefit and its proposal is denied.

Longevity

The Township has proposed eliminating longevity for all employees hired after July 1, 2003. The PBA urges rejection of this proposal. The present longevity schedule reads:

5 years of service 1.5%

10 years of service 2.0%
15 years of service 2.5%
20 years of service 3.0%
24 years of service 3.5%

The Township would realize long term savings from this proposal in future budget years after new employees complete five (5) years of service. However, there are other relevant considerations to evaluate. A review of contracts submitted into evidence by the Township for employees in its other bargaining units indicates that those employees, including those newly hired, continue to receive longevity benefits. In addition, a review of the contracts presented by the Township for other police jurisdictions indicate that none have eliminated longevity payments and only one, Washington Township, has created a two-tiered system.

The agreements in evidence also reveal that the average longevity payments in those municipalities are somewhat higher than the longevity payments provided to the Township's police and superior officers. Although there may be long term savings that would accrue to the Township, the desire for such savings must also be weighed against the merits of eliminating an existing compensation related benefit in these units alone. An additional factor is the need to maintain continuity and stability of employment. While this latter factor cannot be determined in a tangible sense, the absence of this type of provision among comparable communities would result in diminishing the Township's overall compensation package for new hires relative to those communities. After

considering these factors, I deny the Township's proposal to eliminate longevity payments for new hires.

Out of Title Work

The Township has proposed to change the one working day eligibility period for "out of title work" to 30 work days. The PBA urges rejection of this proposal. This provision appears at Section 9:

An employee specifically instructed by a higher authority, to assume the responsibilities, authority and duties of a supervisor shall be compensated at the rate of pay for the higher rank after performing these duties for more than one (1) working day.

Currently, an officer instructed to assume the responsibilities and authority of a supervisor is compensated after working one day in that higher rank. While presumably this proposal would reduce cost, no tangible economic or operational rationale for making this change appears in the record. There is rationale for rewarding an employee who works in a higher compensated title and assumes higher responsibility. After balancing these considerations, I deny the Township's proposal to alter the existing provision.

Vacation

The Township has proposed creating a two-tiered vacation schedule for employees hired after July 1, 2003. The PBA urges rejection of this proposal.

The current schedule and the Township's proposed changes are listed below:

<u>Years of Service</u>	<u>Current Vacation Days</u>	<u>Proposed Vacation Days</u>
During the first calendar year	1 per month	1 per month
After completion of one year	24 days	12 days
After completion of five years	25 days	15 days
After completion of ten years	26 days	15 days
After completion of 15 years	27 days	20 days
After completion of 20 years	28 days	20 days
After completion of 25 years and thereafter	28 days	25 days

When comparable municipalities are examined with respect to vacation benefits, the evidence reflects that vacation benefits for Hamilton Township officers for those with lower seniority (10 years or less), have an above average number of vacations days. However, for officers with a greater length of service, the vacation entitlement is average.

The Township's proposal would provide some economic benefit from increased productivity, since some officers would have fewer days off. This would assist in meeting staffing requirements and would avoid overtime payments for reassignments to fill slots caused by paid time off absences. A competing factor is that police officers work in a highly stressful environment and they benefit from paid time off.. After weighing all of the evidence, I find that a reasonable modification in the number of vacation days for new employees has

been justified by the Township. Given the overall wage and benefits package provided for new hires, I cannot conclude that continuity and stability of employment for new hires will be harmed by a reasonable adjustment in the vacation schedule. This modification should be less in impact than that proposed by the Township whose proposal cuts too deeply into the existing vacation schedule. I conclude that a reasonable vacation schedule for new hires shall be:

<u>Years of Service</u>	<u>Vacation Days</u>
During the first calendar year	1 per month
After completion of one year	15 days
After completion of five years	20 days
After completion of ten years	21 days
After completion of 15 years	22 days
After completion of 20 years	25 days
After completion of 25 years and thereafter	28 days

Personal Days

The Township has proposed a two-tiered personal day benefit. The PBA urges rejection of this proposal. Currently, employees receive five personal days. The Township proposes that for all employees hired on or after July 1, 2003, they shall receive one personal day after the first full year of employment, two personal days after the completion of third full year of employment, and three personal days of their fifth full year of employment. The existing benefit is generous but is in line with the remainder of the Township's bargaining units. I note that the other contracts submitted into evidence by the Township for its other bargaining units all indicate that all employees are currently receiving five

personal days and that none of the contracts have a two-tiered schedule. While there would be some increase in productivity since the number of days off for new employees would be reduced, in view of the fact that all other Township employees are receiving five personal days regardless of the date of hire, the Township's proposal to create a two-tiered schedule for personal days in the police department is denied.

Senior Officer Differential

I next turn to the Unions' proposal to create a senior officer differential. The Township urges rejection of this proposal. This would provide officers with 20 years of service an additional dollar payment equivalent to one half of the step between the maximum salary of a patrol officer and a sergeant. There is no data on the cost impact of this proposal. However, at the last salary rates in effect, the proposed calculation would yield an additional \$4,584 per eligible officer or an additional 6.2% above the maximum step. The PBA argues that this benefit could be added with little fiscal stress on the Township and would be an appropriate and necessary adjustment in order to bring Hamilton officers in line with their peers and comparable agencies thus preserving the continuity and stability of employment. I do not award this proposal for the following reasons. The substantial increases that would be required to fund this proposal should be spread among the entire unit. The proposal would necessarily allot a portion of the increases only to those with twenty (20) years of service. The perceived inequity in salaries, especially at patrol officer maximum, is not supported by the

comparability data. In addition, a review of the contracts submitted into evidence indicates that a senior officer differential is not a prevalent benefit in other jurisdictions in Mercer County. Thus, I conclude that the PBA has not met its burden on this issue and this proposal is therefore denied.

Detective Stipend

The Unions have proposed an increase in benefits for detectives. Currently detective patrolmen receive a stipend of \$800 per year. Superior officers serving in the detective bureau receive no additional compensation. The Unions have proposed that all personnel serving as detectives regardless of rank receive a differential of 3% above their base salaries. The Township urges rejection of this proposal. Assuming most detectives are already at their maximum salary, this would result in a detective differential of \$2,211 based upon their salaries as of July 1, 2002 and the differential would also increase in future years as salaries increase.

The present cost of the detective differential is \$18,400. Based upon the PBA's proposal this cost would increase to \$50,853 per year. While this represents only about one third of a percentage point of the base salary for this group, it would be a significant immediate increase of \$1,411 or 276% for each of the officers who receive the differential.

While I conclude that the PBA has established a basis for an increase in the detective differential, the formula proposed is not warranted. A more reasonable increase has been justified. I award an increase in the detective differential of \$100 on July 1, 2004, and an additional \$100 on July 1, 2005, totaling an increase of \$200 over the life of the Agreement.

The SOA has also proposed that superior officers serving in the detective bureau should also receive the detective differential pay. They have not received any stipend in the past. Although the Township objects to this proposal, it has already determined that it is reasonable to pay detectives at a higher rate of compensation based upon the additional duties and responsibilities they perform. There is no basis evident in the record to not provide a similar payment to superior officers merely because they occupy superior officer rank. However, the SOA's proposal to compensate superiors at 3% of their salary is not reasonable and would conflict with terms provided for patrol officer detectives. To compensate detective superiors with the same differential rate of pay provided to police officer detectives will not impose a financial burden upon the municipality due to the small number of officers involved. Therefore, effective July 1, 2004, I award all superior officers serving as detectives an annual differential of \$900 to be increased by an additional \$100 on July 1, 2005.

Health Insurance

The Township has proposed several modifications to Article XIII – Insurance. The PBA opposes the Township’s proposals. The proposal would amend Section 1(a) which now states:

The Employer shall continue to provide at no cost to the employee and their dependents, medical insurance equivalent to Blue Cross and Blue Shield, including Rider “J”. Rider “J” benefits will include lab/x-ray combined \$250.00 per year. A PACE schedule and a \$200.00 deductible on major medical coverage mandatory second opinion and mandatory ambulatory surgery program. A Prescription Program with a \$5.00 deductible provision, for all employees covered by this Agreement. The Employer will provide, at retirement, the equivalent of Blue Cross and Blue Shield insurance coverage as outlined in Chapter 88.

The Township’s first proposal is to modify the prescription plan from a \$5.00 deductible to \$2.00 for generic drugs and \$9.00 for brand name drugs. The PBA opposes this proposal. The record reflects that the cost of prescription drugs is rising far more rapidly than the CPI. The proposal would reduce the increase in cost for the municipality but will only result in a relatively small increase for those employees who use name brand drugs. The employee cost would decrease for those employees who use generic drugs. This proposed benefit would match the co-payments required of other Township employees resulting in increasing the ease in administering the program. In addition, the two-tiered co-payment plan will encourage employees to request generic prescriptions since they will have a monetary incentive to do so. The Township’s proposal is reasonable and is awarded.

The Township has proposed to modify its program of health benefits to require police officers to enroll in a PPO plan for health benefits. Currently, employees have available, at no cost, "medical insurance equivalent to Blue Cross and Blue Shield including Rider J which includes lab/xrays combined at \$250. A PACE schedule and \$200 deductible on major medical coverage, mandatory second opinion, and mandatory ambulatory surgery program."

In the last three fiscal years, the Township's cost for all health benefits has grown from \$5,225,000 to \$6,564,000. The Township's agreements with AFSCME and CWA contain the same program it has proposed here. It is reasonable and prudent for the Township to institute cost containment measures in order to control these rising costs while providing coverage that is broad in scope. I conclude that the Township has sustained its burden for a modification to this benefit but believe that the proposal goes too far during this contract term. The testimony of Laura Fanuele, a representative of LDP's Consulting Group, raises some unanswered questions concerning the program that, for existing employees, could result in unanticipated impacts especially in areas concerning penalties for non-compliance with pre-admission review procedures and the managed care components of the mental health benefits. I do not award the proposed change for current employees. The issues involved in changing programs should be jointly explored further during this contract term and be a subject for negotiations for the next agreement without prejudice to either party. I

do find it reasonable for the Township to implement its proposal for new employees hired after the date of this award. Such employees would be ineligible for the more costly traditional program but these employees and their dependents will be covered by the PPO program without cost to the employee.

SALARY

I next turn to the salary proposals. The Unions have proposed salary increases of 5% in each of the four years for this agreement. The Township has proposed no salary increase for July 1, 2003, 1% January 1, 2004, 2% July 1, 2004., 2% July 1, 2005 and 2% July 1, 2006. The cost of the parties' proposals both annually and over the life of agreement are depicted in the chart below.

SALARY PROPOSALS Annual Costs

Unions

Base	July 03 5%	July 04 5%	July 05 5%	July 06 5%	Total Cost
\$13,629,172	\$681,459	\$715,532	\$751,308	\$788,874	\$2,937,172

Township

Base	July 03 0	Jan 04 1%	July 04 2%	July 05 2%	July 06 2%	Total Cost
\$13,629,172	\$0	\$136,292	\$275,309	\$280,815	\$286,432	\$978,848

The differences in the proposals are significant. The Unions' proposal will cost the municipality almost \$2,000,000 more over the life of the agreement than the Township's proposal.

The parties' perceptions of Hamilton's finances are at opposite poles. The Unions have argued that "the town is fiscally secure", that the "impact of the award of the PBA/SOA position in this case is almost incalculably small on the taxpayers," that there is "cap flexibility" and that "the police department would not require any form of additional significant funding" in order to provide for the increases they demanded.

On the other hand, the Township argues that it is "in fiscal distress" that it has relied on "one-shot deals" to plug revenue shortfalls, has depleted its surplus and it would require a significant tax increase without any other increases in appropriations, that the Township has a "unconscionably high percentage of households receiving public aid and households receiving social security" and "an unreasonably high total tax rate". All of these factors, according to the Township, weigh against adopting the Unions' position and instead argue in favor of the position put forth by the Township.

When the statutory criteria are applied to the evidence and supporting arguments neither party's salary proposal is sustainable.

The Union's position is not supported by the cost of living data and is supported mainly by the evidence on comparability. Based upon the labor agreements submitted into evidence concerning law enforcement officers within the County the average annual settlement rate is 4.0%. The Unions give little recognition to the financial criteria other than to assert that the Township can legally fund its 5.0% proposal and that the Township has the overall financial resources necessary to fund the PBA proposals.

The Township's position places much emphasis on the cost of living and the financial impact of the PBA's proposals on the governing body and its taxpayers and residents. While doing so, the Township gives scant recognition to the comparability evidence and the continuity and stability of employment of its police officers. The Township has established that its police officers rank highly within the County but has failed to establish why its relative standing within the County should be substantially eroded by an award that would total less than one half of the amount of the average increases among comparable municipalities.

I conclude that a reasonable determination of the salary issue is one that will not diminish the Township's relative standing within Mercer County but recognizes the unique financial stress experienced by the Township during its 2003 and 2004 fiscal years. An award fashioned along these principles will further the interests and welfare of the public by requiring that it meet its responsibility to fund a productive police department that protects its health,

safety and welfare at a cost that it can bear without sacrificing its ability to meet its other financial responsibilities.

The Township's 2003 budget (July 1, 2003 through June 30, 2004) was severely restrictive. The PBA questions the wisdom of the Township's decisions to adopt a low cap formula (2%) instead of the highest cap allowable (5%) and to reduce its municipal tax levy by \$11,223,993 during the time frame between December 31, 1999 and December 31, 2003. These decisions clearly provided the Township with short term tax relief during this time frame. Ratables grew by \$354,324,420 but increased costs coupled with tax rate reduction also placed the Township in a financial squeeze for the 2003 fiscal year. This is evidenced by the small 0.8% surplus of \$369,851 out of an almost \$50,000,000 budget. The financial squeeze is also evident from the terms of the labor agreements the Township negotiated with its three other bargaining units. The PBA points to increases of 4.0%, July 1, 2004, 4.5% July 1, 2005 and 5.0% July 1, 2006 in these units, but omits reference to these units having received only a 2.0% increase July 1, 2002 and a six month wage freeze commencing July 1, 2003 followed by a 1.0% increase on July 1, 2004. The lower than average increases during the 2003 fiscal year was clearly related to the needs of the Township to spend less on its labor agreements.

Given all of the above, an award of 3.5% effective January 1, 2004 will address the Township's financial circumstances for the contract and fiscal year

commencing July 1, 2003. This will sustain the Township's proposal for no increase between July 1, 2003 and December 31, 2003, while allowing for an increase approximating, but still less, than comparable increases for the remaining six months of the contract year. Given a base of \$13,629,172 the payout for this increase will be \$238,510.

For the second contract and fiscal year commencing July 1, 2004, I award a 4.0% increase effective October 1, 2004. This will result in a 3.0% payout for this fiscal year. The costs for this year will be computed on a base of \$14,106,193 which includes \$238,510 paid out in fiscal year 2003 and an equivalent amount deferred into this fiscal year. The 3.0% payout will cost \$423,185 and contain a deferred cost of \$141,061 into the fiscal year commencing July 1, 2005.

For the third and fourth contract and fiscal years commencing July 1, 2005, I award increases of 4.0% effective on July 1 of each year. The July 1, 2005 cost will be \$586,824 over a base of \$14,670,430. The July 1, 2006 cost will be \$610,290.

The terms of the Award average 3.875% over the four contract years with a payout average of 3.187% by the Township. There will be financial impact but such impact can be administered within the Township's financial resources

without adverse impact or by compelling the Township to exceed its statutory spending limitations..

The Township has made a compelling argument that the Union's proposal of 5.0% annually cannot be awarded due to the Township's fiscal position, the current inflation rate and the overall strong position of Hamilton's police officers comparable to other adjacent jurisdictions. But, based upon the contracts submitted into evidence, wage settlement trends in Mercer County do indicate an average annual settlement at 4% for other law enforcement officers. The Award reflects the need to provide wage increases which will maintain the standing of the Hamilton police force with comparable jurisdictions. However, the overall record weighs against a payout that would cost the municipality that much in each fiscal year.

The terms of the award also provide some fiscal relief for the municipality by delaying the wage payouts, combined with the health benefits cost containment plan for new hires, prescription co-pay increases and a new vacation schedule for new hires. Additional offsets are provided by restructuring the salary schedule for employees hired after July 1, 1997 by maintaining a status quo in the "Police Officer in Training" rate at \$43,352 and increasing the "Police Officer Entry" rate by 2% annually.

The financial "squeeze" experienced by the Township was real but does not signify that the Township is not a financially healthy and sound community. The record reflects that the Township's ratables grew by hundreds of millions of dollars during the time that its revenues dropped. Its municipal tax rate declined by 10 cents from 1999 to 2001 and in 2003 was 7 cents below that in 1999. Notwithstanding these facts, property values increased by more than \$300 million between 2001 and 2003. The Township's tax collection rate has risen to 99.6% in 2003, it has received over a million dollars from municipal court revenues and has been successful in obtaining a substantial amount of grant money to fund its police department. The Township continues to regenerate surplus and has seen a significant increase in commercial ratables from a sound economic development program. In short, the Township's financial resources can fund the terms of the Award without negative financial impact.

Although the Township adopted a 2% cap index rate the amount appropriated in Fiscal Year 2004 was \$4,375,320 below the allowable appropriation of \$54,255,395. The terms of the Award will not compel the Township to exceed its statutory spending limitation.

The award will promote the continuity and stability of employment for the Township's police officers by providing reasonable increases with cost offsets that will not diminish the attractiveness of employment in the Police Department. The award does so by preserving benefit levels for current employees while

providing the Township with savings by delaying the wage payout and establishing cost containments for new hires.

Accordingly, and based upon all of the above, I respectfully enter the following Award.

AWARD

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

Vacation

The vacation schedule for police officers hired after the date of this Award shall be:

<u>Years of Service</u>	<u>Vacation Days</u>
During the first calendar year	1 per month
After completion of one year	15 days
After completion of five years	20 days
After completion of ten years	21 days
After completion of 15 years	22 days
After completion of 20 years	25 days
After completion of 25 years and thereafter	28 days

Detective Differential

The detective differential shall increase by the following amounts:

\$100 effective July 1, 2004

\$100 effective July 1, 2005

All Superior Officers serving as Detectives shall receive an annual differential of \$900 effective July 1, 2004. That differential shall be increased by an additional \$100 on July 1, 2005.

Health Insurance

Police Officers hired after the date of this Award shall be ineligible for the traditional program. Police Officers hired after the date of this Award and their dependents will be covered by the PPO program without cost to the employee.

Prescription Copayment

The prescription copayment shall be \$2.00 for generic drugs and \$9.00 for brand name drugs. This shall be effective as soon as practicable but shall not effect prescriptions written prior to January 15, 2006.

Salary

Salaries shall increase at each step and rank, effective and retroactive to the following dates with the exception of the steps noted in Schedule B below:

Effective January 1, 2004	3.5%
Effective October 1, 2004	4.0%
Effective July 1, 2005	4.0%
Effective July 1, 2006	4.0%

The Police Officer in Training step shall remain at \$43,352 and the Police Officer Entry step shall be increased by 2% annually.

The salary schedules shall read:

Schedule A BASE WAGE RATES

	1/1/04	10/1/04	7/1/05	7/1/06
Police Officer in Training	---	---	---	---
Police Officer Entry (Probational)	---	---	---	---
Patrolman I	\$59,978	\$62,356	\$64,851	\$67,445
Patrolman II	\$67,707	\$70,415	\$73,232	\$76,161
Patrolman III	\$75,446	\$78,464	\$81,602	\$84,866
Detective	\$76,274	\$79,325	\$82,498	\$85,798

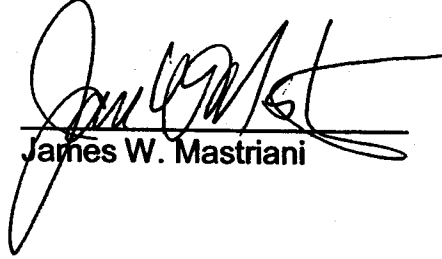
Schedule B (EMPLOYEES HIRED AFTER JULY 1, 1997)

	1/1/04	10/1/04	7/1/05	7/1/06 %
Police Officer in Training	\$43,352	\$43,352	\$43,352	\$43,352
Police Officer Entry (Probational)	\$49,064	\$50,045	\$51,046	\$52,067
Patrolman I	\$54,918	\$57,114	\$59,399	\$61,775
Patrolman II	\$60,051	\$62,453	\$64,951	\$67,550
Patrolman III	\$65,183	\$67,790	\$70,502	\$73,322
Patrolman IV	\$70,314	\$73,127	\$76,052	\$79,094
Patrolman V	\$75,446	\$78,464	\$81,602	\$84,866
Detective	\$76,274	\$79,325	\$82,498	\$85,798

**Superior Officers
Schedule A Salary Guide**

	1/1/04	10/1/04	7/1/05	7/1/06
Sergeant	\$88,041	\$91,562	\$95,225	\$99,034
Lieutenant	\$99,216	\$103,184	\$107,312	\$111,604
Captain	\$111,184	\$115,632	\$120,257	\$125,067

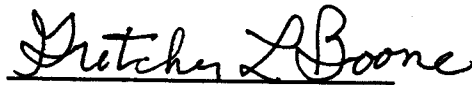
Dated: December 30, 2004
Sea Girt, New Jersey



James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 30th day of December, 2004, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



Gretchen L. Boone

GRETCHEN L. BOONE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 8/13/2008