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In the matter of Compulsory Interest Arbitration  
concerning the negotiations impasse between

The Township of Vernon, New Jersey

DECISION AND AWARD

and

of

Policemen's Benevolent Association, Local 285

Frank A. Mason, Arbitrator

Re: Public Employment Relations Commission  
Docket IA-2002-031

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#### APPEARANCES

FOR THE TOWNSHIP: Joseph J. Ragno, Jr., Esq., Struble Ragno Petrie et al

Meridith Robson, Township Manager

Dan Teolis, Assistant Township Manager

Roy L. Wherry, Chief of Police

Chuck Ferraioli, Township Auditor

FOR THE ASSOCIATION: Richard D. Loccke, Esq., Loccke & Correia

William Fischer, President, Local 285

Scott Alsberge, Keith Kimkowski, Thomas Zabriskie &  
Sergeant John F. Kazmierczak, Members

Vincent J. Foti, Financial Consultant

#### INTRODUCTION AND PROCEDURAL BACKGROUND

The Township of Vernon and Vernon PBA, Local 285 were parties to an Agreement which expired on December 31, 2001. Negotiations for a successor Agreement covering all ranks of police officers excepting the Chief of Police reached an impasse and a petition to initiate compulsory interest arbitration was filed by the PBA with the PERC on January 15, 2002. The Township timely filed a response to the petition on January 18, 2002 in which it expanded the issues at impasse to all articles of the past Agreement. The PERC docketed the matter as IA-2002-031 and on January 28, 2002 appointed Frank A. Mason as the arbitrator, pursuant to a mutual request of the parties, under its authority to

conduct appropriate proceedings as are required to resolve the dispute between these parties. An informal meeting at which the arbitrator attempted to mediate the impasse was conducted on April 10, 2002. This resulted in a substantial narrowing of the positions of the parties and a resolution of certain elements in dispute. However, it was agreed there should be a formal hearing as to remaining items and that a binding determination issued in the form of an award should be made. A hearing was conducted on May 27, 2002 at which each party presented argument and numerous exhibits into evidence, was provided opportunity to examine and cross examine sworn witnesses and after the hearing to submit post-hearing briefs before the case record was closed on July 18, 2002 with briefs being exchanged at that time. There being no contrary agreement of the parties the conventional method of arbitration was initiated as provided by statute.

## **POSITIONS OF THE PARTIES**

### **FINAL OFFER OF THE ASSOCIATION**

#### **ECONOMIC ISSUES**

1. Wages: The PBA proposed a three year Agreement with across the board increases of 5% to be effective on January 1st of each contract year and retroactive to January 1, 2002.
2. Longevity: PBA proposed a deletion of the grandfather clause incorporated in prior contract which has the effect of precluding employees hired on or after January 1, 1996 from eligibility for the longevity provisions of the Agreement. It further proposed that longevity benefits be made applicable to all pay elements as opposed to the limitation to pension calculation only as now set forth in the current Agreement.
3. Senior Officer Differential: PBA proposed the 20 year threshold for eligibility for this benefit be reduced to 15 years of completed service.
4. Sick Leave: PBA proposed the maximum payout for unused sick leave at retirement be increased from the current \$10000 to \$20000.

There were no non-economic items included in the PBA final offer. The PBA position is that all other elements of the current Agreement be continued in the new contract.

### **FINAL OFFER OF THE TOWNSHIP**

#### **ECONOMIC ISSUES**

1. Wages: Township proposes a 3% across the board increase for each year of a three year Agreement to be effective each January 1st and retroactive to January 1, 2002.

2. Health Insurance: Township proposes that employees contribute 5% of the premiums for health benefits and Township offers to establish a Section 125 plan for employees to make contributions on a pre tax basis for anticipated health related expenses.

3. Education: Township proposes the Employer funding for the continuing education program be limited to a maximum total payment of \$7000 in each year of the Agreement.

#### NON-ECONOMIC ISSUES

1. Leaves of Absence: The changes to the provisions of the current Agreement include; leave under the Family Leave and/or Family and Medical Leave Act shall be subject to the Family Leave Policy adopted by the Township on January 28, 2002; provision that personal leave may be granted under exceptional circumstances for up to three months for eligible Employees and detailed maternity leave provisions are eliminated otherwise the essence of the article is unaltered except for language modifications.

2. Sick Leave: The use of sick leave would no longer be permitted for illness in the family; a limitation that the employee's condition makes it not possible to perform the duties of the position is added; the exposure to contagious disease as a reason for use of sick leave is modified to include the condition of a quarantine by a physician. Township proposal would also eliminate the Employer's responsibility to provide a limited cadre of doctors to examine employees claiming sick leave and the obligation to pay such designated physicians for the exam. The nine cumulative days of used sick leave triggering a need for doctors certificate for additional use in a year is extended to ten days and modified to include any days taken with or without a doctors certificate.

The current inclusion of a provision of up to one year's sick leave for injury or illness sustained in line of duty without charge to ordinary sick leave balances is deleted from the Article. The provision that an employee collecting worker's compensation benefits shall receive supplemental income so that he will continue to receive an amount equal to his regular base pay is also deleted. The section which provides for grant of sick leave at the discretion of the Township Manager, in excess of the time earned, is also eliminated.

Finally there is added a clause which incorporates by reference a Township Sick Leave Policy, alterable at the discretion of the Township, and provides that violations of same shall result in loss of sick day benefits, which become unpaid absences, and subject the individual involved to disciplinary action.

3. Hours of work; Township provision eliminates the acknowledgment that seniority will prevail when assigning shifts; it eliminates the standard shift hours and the concept of them being non-rotating now in the Agreement allowing the Chief to establish same without the limitation of Employees' now having the choice of assignment on a semi-annual basis. Township would provide not less than 60 days notice of shift change or transfer except in cases of emergency as determined by the Chief, compared to the current 14 day notice

period. The proposal incorporates the 40 hour work week but eliminates reference to 8 hour shifts now provided.

4. Investigation of Police Officers; Township proposal would impose the obligation to abide by NJSA 40A:14-149 as to investigations and 40A:14-147 as to discipline of Police Officers as well as to abide by any State regulatory agency having jurisdiction as to same. This reference shall replace the extensive and detailed contractual language now in effect which describes rights of the Employee, conditions of interrogation and associated conditions.

5. The Township proposes the elimination of the current contract article concerning awards and decorations.

#### **PROFILE OF THE TOWNSHIP AND ITS ECONOMIC CONDITION**

The Township of Vernon is located in the northwest sector of the state and borders on New York State to the north. It encompasses some 67.25 square miles and has a population of approximately 25000. Just over half of the territory is controlled by federal, state and local government in the form of forest, recreation and park lands. Additional plans call for more of the land to be purchased for green acres or added national forest preservation. About 20% of the land is in farmland. The Township notes that in spite of the relatively large geographic area making up the Township there is relatively little remaining for development of taxable use. This is partly a function of the presence of steep elevations, water and wetlands. Some tracts now privately owned contain substantial acreage devoted to sport and recreation use. The tax base is said to be 87.9% residential and although there have been significant attempts made by developers of residential and commercial facilities in recent years, these endeavors have met with limited success and in several cases bankruptcy. The Township has been hard hit by successful tax appeals and there is pending litigation which might, if successful, require up to several millions of dollars in tax refunds. Additionally the Township claims that the police function is made less efficient by elements of the current contract which tie the hands of the Chief as to making the best use of available personnel which has led to the abuses of leave time experienced in the past. These latter points are at the heart of some of the demands noted above.

The Township has employed between 27 and 29 police officers for many years and all but the Chief of Police are represented by PBA Local 285 in this negotiations unit. The Employer claims it would like to expand the size of this force but has been unable to do so due to the level of costs associated with the department. It is now in possession of a report prepared by the Division of Criminal Justice reflecting their examination of the Township Police function wherein there are many recommendations for changes. Among the most pertinent are the need for additional personnel in patrol and other specialized functions such as detective work and the County Task Force. Operating against the desire to satisfy those recommendations are the loss of grant monies and the anticipated renewal

of the Township's payments of State pension assessments which have been largely forgiven in recent years but which could amount to more than \$200000 annually.

The Township asserts there has been a weakening of its financial position which mandates a conservative approach to the adoption of any new costs related to employment. The 2002 budget includes State Watershed aid in the amount of \$442027 which was not included in the State budget and is not expected to be available. If not realized the Township will be forced to reconsider an increase in tax levy or other measures. In its exhibits the Township depicted the average annual increase in the yearly tax rate apportionment as being 5.96% from 1995 to 2002. My recalculation indicates this figure to be an overstatement as a compounded rate increase of 5.01% produces the actual % increase between the two base years.

Additional schedules indicate the relative increase of the tax levy apportionment for the 1995 through 2002 period. The Municipal portion has increased at a compound rate of 4%; the County rate at 3.7% and the Local School rate at 5.8%. The Municipal increase was 30%, County 29% and School 48% for the period and the total increase was 41.7%. During that period the student enrollment has increased by just 6.5%. In that same period the schedule of fund balances shows a decline in all but one year and a net decline of some \$564310 to a 2001 level of \$2182331. Township anticipates the 2002 figure to erode further and if it does the credit worthiness of the Township will be endangered resulting in potentially higher financing costs for municipal projects such as capital improvements and equipment. In its attempt to limit the impact of new budget requirements on tax rates there has been an increasing level of utilization of fund balances in each successive year of the period but those balances have lessened each year. The Township Auditor testified that the issue being faced by the Township is the determination to prevent of an increase in the tax rates. He noted that the surplus available to become a part of the succeeding year's budget has declined in each of the last several years, but its level has been a function of deliberately conservative management.

In schedule C the Township illustrated the trend in net value taxable of properties in the Township. The 1994 total was \$1,395,744,120 and without exception that total value has been lower in every year since and in 2002 was set at \$1,394,407,567 for a decrease of \$6,227,839 over a period of eight years. Of course this decrease is noted without consideration of the true value which, according to the Final Equalization Table of the County for 2002, is placed at \$1,615,255,227 which represents an increase of some \$228,397,089 or 16.47%. The 1994 figure represented a revaluation of property and the true value is now set at 85.86% of true value. Thus the claim that actual values of property in the Township have declined is somewhat misleading. In addition the trend has been positive over the last six years where the stated net value taxable has risen from \$1,365,867,271 to the 2002 level above or an increase of \$28,540,206. \$23,371,139 of which has occurred during the last four years, illustrating a decidedly upward, if modest, trend leaving aside consideration of the published decline of the aggregate assessed value.

On the positive side there is much to say for the lifestyle available in Vernon. It appears to be a progressive municipality with a scenic setting and convenient access to the greater northern New Jersey and New York City areas. There are an abundance of park and recreational facilities and a good school system. Much of the infrastructure is relatively new and there are many choices of residential properties which are in good condition. The police report an unusually low level of criminal activity as compared to many more urban communities. The growth of tourism and recreational activity poses a signal for a healthy local economy.

## THE PERSPECTIVE OF THE PBA

The PBA presented only four issues at impasse being content to continue most terms of the prior Agreement. All of them are economic and are described as modest requests given the circumstances of the workplace and the relative overall compensation of its members both at the present time and looking to the future years of a new Agreement. The Township is seen as very well served by the police and it is underscored that there has been a continuing need to perform additional and more complex services for a rapidly growing population while the numbers of Officers employed has remained almost constant. During the recent past the Township has become home to many new residents and the destination of many more tourists and vacationers at all seasons. The PBA points out the performance of all required safety and security responsibilities has been accomplished with much credit from residents and surrounding police organizations. During this recent past the structure of the police department has been reorganized by eliminating the rank of captain and by reduction of the number of lieutenants from four to only two, resulting in much less opportunity for promotion and the shifting of significant responsibilities from higher ranks to those remaining in subordinate positions. It has also substantially reduced the cost of police services to the Township.

To demonstrate the range of demands placed on the police force PBA introduced evidence showing that compared to other surrounding communities the ratio of police to land area within jurisdiction was greater in Vernon than in all others. Likewise Vernon has the lowest ratio of officers to the population served of these communities; sometimes as few as half as many. PBA asserts even this figure is misleading in that Vernon grows by many visitors to its tourist attractions in all seasons and that influx adds substantially to demands placed on the police function generally experienced to a much lessor degree in most communities. Vernon officers have, in addition to the greater areas of responsibility, been required to absorb the advanced level of sophistication demanded by new equipment, weapons, communications systems and the need to assist and provide mutual aide to other law enforcement organizations in State and Federal land holdings as well as with adjacent communities' police and the State Police.

In spite of the exemplary service provided PBA asserts that the compensation received is well below average and should be sharply improved. To illustrate this PBA offered a chart showing the maximum salary for patrolman in a group of seven nearby communities. The rate paid in Vernon was next to the least of them and approximately \$8000 lower than the

average. It was noted that for Vernon to achieve an average position during the three year term proposed it would have to raise pay by something in excess of 25%. PBA seeks something less and would like to catch up but is anxious that compensation of Vernon officers does not fall further behind. Because these communities are providing a rate of improvement for 2002 and years beyond which exceeds the offer of the Township the PBA advocates that its proposal is fully justified and affordable as well. To expand on this theme PBA notes that even comparable rates of increase would not close the dollar gap in salaries because of the significantly higher base for that computation enjoyed by higher paying municipalities. Such a decline in terms of pay comparability is said to be clearly unwarranted based on performance as well as inconsistent with the Legislatively supported criteria for establishing pay rates.

PBA asserts that the Township has much unexercised flexibility under the CAP regulations to easily provide enough resources to comfortably pay the police at a level of comparability that is commensurate with their performance. The Township has elected to utilize only the 2.5% allowable budget increase for 2002 and refused to consider the opportunity to extend the budget to the 5% limit which could have been used. Even so an anticipated carry over of \$538476 in CAP bank resulted. It contrasts the dollars required to provide a 1 percentage point increase in base wages for the unit, calculated to be \$16403, with the available flexibility to pay more and concludes the Township certainly can afford the 5% sought. PBA supported this by submission of data from the Municipal Data Book for 2000 showing that Vernon has the greatest total property value of all communities in Sussex County and that the per capita tax was thirteenth of 24 County communities. In addition the N. J. Department of Taxation reported the general tax rate of Vernon to be 10th of those 24 communities in 2000 and of the 12 largest in property value it ranked 8th.

In the submission of the Township the Municipal portion of the total tax apportionment was 18.8% and according to testimony of the Township Auditor approximately 24% of that is dedicated to the police budget. Thus the operation of the police department represents about 4.5% of the taxes collected by the Township from property owners. The proposal of the Township would add approximately \$49500 to the payroll for base wages. The 5% sought would increase that to \$82000. The PBA contends the Township is saving more than that number by refusing to fill jobs and providing promotions.

Additionally the PBA is critical of the Township's efforts to further reduce the value of compensation by its demands for contribution to health care costs, elimination of medical examinations at Township expense, and withdrawal of the program providing paid leave for employees hurt in line of duty as well as reshaping the entire hours of work portion of the Agreement and eliminating many of the negotiated protections afforded during internal investigations without presenting any justification to do so.

In addition to the above concerns the PBA claims the refusal of Township to eliminate the grandfather clause which precludes persons hired after 1996 from receiving the longevity program benefits represents a threat to the morale and cohesiveness of the unit. This is

particularly so as the overall salary plan is seen as less than adequate and additions to base are magnified in importance. It claims the program ineligibility is a divisive element and will only become more indigestible as those persons hired after 1996 reach the point in service which would entitle them to be treated as others with greater seniority. The money involved will become more of an issue as these officers gain years of service and likely produce an adverse affect when loyalty and dedication are diluted. For these reasons PBA presses to have that clause eliminated from the Agreement.

## **DISCUSSION AS TO APPLICATION OF THE STATUTORY CRITERIA**

This impasse centers on financial considerations but encompasses some non-economic issues which the Township asserts are fundamental to its ability to provide the best services in the most efficient manner. There is no claim from the Township that it is incapable of providing the funds which would be involved if the demands of the PBA were met in full. However, the management plan, which is seen to be in the best interest of the Township, is to proceed with caution; to manage finances conservatively; to fairly reward all employees and to direct available funds for police activity to the employment of needed additional personnel while providing for a reasonable compensation level. There is no budget CAP restriction but Township is concerned that added expenditures will reduce surpluses and produce an unwarranted strain as to future needs to increase the tax rate. Additionally, the decline of surplus is seen as a threat to Township's credit rating with the consequence of increasing the interest cost of any borrowing. There was no documentation introduced which would demonstrate the estimate of what the incremental cost of higher interest rates might be. The recommendations of the Division of Criminal Justice to augment the police force reinforce the need for more personnel and more supervisory control of the use of leave time. With so large a Township area and with officers spread very thinly the Township would be ill advised to ignore these recommendations as the need for added officers will become increasingly obvious to the resident and visitor publics.

On the other hand it is also true that the police officers who perform exceptionally well are entitled to be treated, in financial matters, no less well than in other communities unless there are underlying and persuasive considerations to the contrary. The most obvious area of contention in the proposal of the Township has to do with wages. The three percent offered is seen as simply out of step with what is being implemented on a local or even a statewide level. This will be discussed below in greater detail.

### **1. THE INTERESTS AND WELFARE OF THE PUBLIC**

A key element of the application of this criterion has been consideration of the effect of the CAP law as a guide to the annual growth of the Township budget. As pointed out above the Township has utilized the minimum level of increase prescribed under that regulation and has been able to carry forward substantial CAP bank in the 2002 budget of just over a half million dollars. There were substantial CAP bank funds in each of the prior two budget years as well. Thus should the Township deem it appropriate to expand



the budget the CAP law restrictions would allow great flexibility before becoming a limiting consideration. The Township has already built into the budget for 2002 funding sufficient for anticipated costs including the additions proposed in negotiations. Any reasonable enlargement of that funding requirement would pose no threat to the CAP law limitations or to the current level of taxation although such could reduce surplus especially that built into the police budget.

The interests and welfare of the public extend to the quality of the relationship between Employer and Employees. Each new Agreement encompasses the conditions of employment which strongly influence the preservation or decline of the level of morale and dedication of those employees to their performance.

There are several matters having to do with managerial flexibility and the delivery of optimal performance which are embraced by demands for contractual changes made by the Township. These elements of the overall Agreement certainly deserve this arbitrator's attention and evaluation as they clearly relate to the interests and welfare of the public and will be carefully considered as part of the new contract.

I believe this to be an important criterion and will weigh it carefully. I intend to try to create a balance between cost considerations as well as the efficiency of police operations as they affect taxpayers and a fair compensation package for the officers. I believe those considerations support an award of somewhat greater value than has been proposed and that departmental operational needs to achieve greater effectiveness should be incorporated as well.

## **2. COMPARISON OF SALARIES BOTH PUBLIC AND PRIVATE**

Other than to underscore the unlikely value of comparison of police salaries to employment in the private sector neither party has demonstrated much reliance on same in support of their positions. Many arbitrators have reached the conclusion that the role of police is not replicated in private employment for many reasons and on many elements of comparison. The most likely exception has been the comparison of the rate of police salary growth to the general increases which are found in private employment. Again neither party hereto has so much as mentioned any reliance on this element in the creation of their positions or in defense of same. I am in accord with other arbitrators who have largely predicated their analysis of police compensation changes on the public sector arena where comparable performance and responsibility indicia are present.

A second factor which affects the focus on private employment is that the data available is generally stale and does not shed much light as to future years, while data in the public sector can be tailored to carefully selected "comparable" situations and there is both historical information and abundantly complete future detail in Agreements which are inclusive of many of the terms and conditions peculiar to police employment.

The Township has agreed in this record to a base for comparison of the pay rates of the municipalities proposed by PBA as comparables, except the N. J. State Police and Mahwah. It was asserted that Vernon provides reasonable salaries and increases as are afforded in that group and that Vernon ranks first of ten as to the starting salary and fourth of ten in rate of patrolman after the fourth year of service. This rate was chosen for the comparison because it is Vernon's maximum salary for patrolman. Other comparisons as to higher ranked officers were provided with substantially smaller numbers of municipalities noted but I have chosen to ignore the pay rates of higher ranks because those pay rates are a contractual function of the patrolman's pay in Vernon.

Unfortunately the claim of Vernon patrolmen being ranked fourth in the group was based on comparison of its top pay rate for the rank with other municipalities which include an additional step or steps before reaching top pay. The consequence of this statistical portrayal is a presentation which distresses the underlying condition. The top pay of a patrolman is the most to be earned for possibly many years until promotion or retirement. To compare that level with another employer's rate below the maximum is both misleading and factually erroneous. Where other salary guides provide another step or two those levels of income are reached within one or two additional years whilst the Vernon officer remains at step four. These added steps can have a marked effect on the level of current income, the base on which increases are calculated and in the long run the level of retirement income to be received. By example Bloomingdale's top rate is \$6113 higher than its fourth step pay. In Little Falls the difference is \$17549; West Milford \$4591; in Totowa for 2002 the difference is \$7129; Ringwood has two schedules and the least difference is \$10001; Mahwah is \$16665. Clearly the refusal to consider these added opportunities for earnings is inappropriate at best and certainly misleading when offered as a comparison of the Vernon salary rates with others. Presuming a patrolman remains in that rank for many years, and Vernon has officers in that rank since date of hire as far back as 1980, it is obvious that the differentials mentioned above could amount to very substantial sums. There are 16 patrolmen employed by Vernon with more than 4 years service [the amount needed to move to maximum salary] and they have an average service of almost 12 years. For them an added step or more in the salary range would have been paid for two thirds of their past service time as well as in all future years at that rank and on into retirement. Clearly it is inappropriate to ignore the real maximum pay levels of the comparable group in assessing the standing of Vernon Township.

In a submission by the PBA the conclusion was advanced that Vernon officers were paid on average \$8045 less than in the group of municipalities advanced as comparable. Two of that group, Mahwah and the N. J. State Police were objected to by Township as inappropriate and Franklin was advocated as being included. Mahwah is distinctly out of the normal as its high level of pay is seen as an aberration and the State Police, though rather similarly paid to the majority of the comparable group, can be excluded because of State employment. It is also seen as appropriate to remove from consideration Sussex where the top salary is so low, at \$41474 in 2002, as also to be considered an aberration. However, even with these changes the maximum pay differential remains substantial at \$4728 and the rank of Vernon is between the 5th and 6th of the 7 comparables remaining.

This amounts to 7.76% lower than the average maximum pay rate. This equates to just about a years pay for 17 years of service and one and a quarter years pay for an officer retiring with 20 years service not promoted out of the patrolman rank.

The picture worsens when the offer of 3% per year is brought into focus. The group of comparables, where the data is known, granted increases in 2002 at an average rate of 3.96%. Translated into the situation described above it would mean that the percent increase offered by Vernon would produce an increase of \$1828 for 2002 while the average increase of the comparables on their higher maximum salaries would deliver \$2600 or \$772 greater improvement. Continued for a three year period this would add about \$2400 to the negative difference between Vernon and the average of comparable municipalities raising the dollar difference to over \$7100. The data available suggests that the rate of increases in 2003 and 2004 will exceed the 4% level. Although not all of the comparables have completed contracts for the entire period none has reported an increase of less than 4% and the average is 4.15% for 2003 and 4.2% for 2004.

PBA indicates it sees the relative earnings gap widening as an unwarranted and unfair result. The adoption of its 5% program would provide a substantially different picture. In the first place the 2002 salary would increase to \$63982, a dollar increase of \$3047 which compares favorably to the \$2600 achieved by the comparables. Again, presuming a consistent result for the three years, although evidence suggests a rise in the level of across the board increases for 2003 and 2004, the Vernon officers would gain about \$1350 and reduce the negative difference from average of the comparables from \$4728 to \$3378, something like - 4.5%.

In a related situation the teachers in Vernon Township renewed their Agreement for three years to include 2001-2002, 2002-2003 and 2003-2004 with increases of 4.1%, 4.4% and 4.5% respectively. While the teacher Agreement is hardly the persuasive basis for consideration of the police contract it is noteworthy that in the same community those levels of increase were considered appropriate even if only by an entity not under the controlling jurisdiction of the municipal government.

The PBA makes the case that Vernon's fringe benefits are among the lowest in value among the comparables. Noteworthy is the 7% limit on longevity which is lower than all others and that this issue is made more critical by the removal of longevity from employees hired after 1/1/1996. The sick leave at retirement limit of \$10000 is also among the lowest paid and the demands for shared premiums for the health care plan are certainly unwelcome to the PBA although such contributions are becoming the norm in public sector Agreements as municipalities make every effort to reduce the pace of increasing costs of medical insurance.

The concept of comparability as a very significant criterion is buttressed by the fact that such is the most universally accepted method of setting wages. This factor is included among those to be considered because it so fundamentally addresses the fairness of compensation of a particular employment activity. It is widely relied upon in the

resolution of police negotiations as this endeavor is unique in the field of employment. While not the only criterion to be considered it represents a focal point in these evaluations and will be given substantial weight in my endeavor to provide a fair and reasonable award.

### 3. CONSIDERATION OF OVERALL COMPENSATION

This criterion has largely been subsumed in the discussion of economic benefits above however there are several particular issues which directly relate to this criterion which should be specified here. The first is the demand of the Employer for a 5% share of medical insurance premiums to be paid by employees. This has been pressed because of the high and upward spiral of those costs and because the Employer feels that employees should begin to shoulder at least a small portion of that burden. The percent is not excessive and there is abundant evidence of this kind of sharing becoming part of other negotiated agreements. The resistance of the PBA has been predicated on what it perceives to be a below average overall compensation package. My analysis will deal with both perceptions. In addition there has been a demand by Township to overhaul the sick leave plan and to remove much of the language now incorporated therein. Without so much as mentioning a reason for this one of the provisions which would be excluded has to do with paid leave due to sickness or injury incurred as a matter of performance on duty. This, at least, is one of the issues raised which I intend to consider carefully as is the removal of a clause which permits extension of sick leave benefits at the option of the Township. Another matter introduced by the PBA having to do with the denial of the longevity benefit to recently hired, and future hires, presents an offset to the otherwise complete range of benefits made available. The last issue having to do with the overall compensation is the level of compensation for sick leave accumulated and cashed in at retirement. With these exceptions the Vernon compensation package is both complete and fair even as the PBA appears to see the situation.

These issues are of concern both as to the quality of the overall compensation package and as they compare to other benefits programs in the comparable municipalities. This then becomes a criterion which requires serious consideration and is considered highly relevant.

### 4. STIPULATIONS OF THE PARTIES

There were few stipulations except as to the acceptance of the terms of the prior Agreement except as modified by certain issues settled during the negotiations or this proceeding. All of those elements of accord are intended to be included as part of the contract from January 1, 2002 through December 31, 2004. Because this criterion does not involve an area of key problems I do not deem it an important consideration in this matter.

### 5. THE LAWFUL AUTHORITY OF THE EMPLOYER

The first element of consideration in this criterion is usually the matter of the impact of the CAP law on the municipalities budgeting plans and the impact of any award which might affect the need of the Employer to adhere to limitations involved. As pointed out above the Vernon Township situation is such that the CAP regulations would not come into consideration even if all of the demands of the Association were to be awarded.

There have been only two issues presented here which would involve the lawful authority of the Employer. The first having to do with the Township assertion that it has the right to promulgate rules concerning the use of sick leave without negotiations in order that the Township be assured that such use is warranted and not abused. A second area of consideration has to do with the question of the Chief of Police having the right to manipulate the conditions of shifts and hours assignments without having to negotiate same so long as the underlying reasons have to do with his responsibility to determine the most efficient deployment of police services. Here the issue appears to be drawn clearly as a matter of separating the exercise of such authority when responsive to coverage, supervision or disciplinary concerns as contrasted to issues related to costs which are negotiable.

It is my intent to deal with these matters within the authority vested in the interest arbitration process. This is a criterion which should be considered with care and it is my intention to give it the attention required as to those issues.

#### 6. THE COST OF LIVING

Neither party has relied on this concept in defense of a position taken in this matter. The post hearing briefs did not mention this as a consideration. Were the cost of living to be moving in some extreme measure it would be something to arouse concern, however where it has been quite benign as is the case for the past few years it is diminished in relation to other factors. At this time there is no indication that the COL is likely to take a dramatic turn in the near future. For these reasons I do not place emphasis on this criterion as a consideration in composing an award.

#### 7. THE CONTINUITY AND STABILITY OF EMPLOYMENT

There has been no evidence of instability of employment in this unit, the only departures from the unit having been due to retirements and a promotion to the position of Chief of Police. There does not appear to be any reason to be concerned as to the future either although certain of the PBA's demands have been predicated on the need for attention concerning decline in morale and possibly dedication. These have centered on the level of compensation and some of the issues involving the benefits program as well as the stated intent of the Township to eliminate seniority as a factor relating to shift assignments and the elimination of the current language expressly setting forth eight hours as the work day. While the Township has predicated its position on the premise that it has the managerial prerogative to make such changes I have the obligation to consider the proposals as presented and will do so. Hopefully my award will not conflict with the law as it relates to

these matters. My perception is that the Township has adopted a broader brush approach to this topic than can be substantiated. As these are sensitive issues I recognize this criterion as being of considerable consequence and of substantial weight in the determination of my award.

## 8. THE FINANCIAL IMPACT ON THE GOVERNING BODY

While this criterion has been incorporated in much of the argument of both parties the actual effects of an award are not likely to have a severe direct financial impact. The Township Auditor acknowledged that the issue presented by the demands of the PBA is really related to the managerial determination to avoid budgetary increases which could influence the tax level. At no time has it been asserted that the impact of this matter could precipitate such a consequence. There is plenty of flexibility built into the budget to offset any reasonable award. And the award of the PBA's total demands would not have a large impact on the anticipated surplus for 2002. However anything required to be spent beyond what the Township has offered represents an erosion of that cushion and there are several elements of income which may not be forthcoming which could tighten the flexibility to some extent or even require consideration of change in the tax rate especially if the Township wants to produce a surplus of in excess of \$2.3 million, as it has indicated it would like to, while the budget remains under \$9 million. Another factor which may pose a significant financial problem is the cost of debt service which approaches one fourth of the annual municipal budget.

Additionally the level of settlement of this unit's Agreement may influence the demands for better than previously proposed salary adjustments with other negotiations units; something the Township would prefer to avoid. Further, the Township is faced with the Criminal Justice recommendations to enlarge the police department's personnel and such additions do have a substantial price tag. To meet those needs the Township's plan is to adhere to a conservative spending policy especially where it has the flexibility to control such expenditures.

In support of its economic position the Township provided a great deal of data and much analysis as to its fiscal condition and the financial impact of an award. Some of the information provided appears to incorporate unrelated information and inadvertent miscalculation. The compounded rate of tax increase noted above is one of those items. In its demonstration chart concerning the cost of settlement there is included the cost of adding three officers in 2002. This decision has nothing to do with the issues before me other than as a consideration of the managerial alternatives being considered. However the chart would seem to suggest that the potential cost of this negotiation process should include those added salaries as if they were part of the demands of the PBA.

Beyond that I note the fact that they were cost out as if those new persons were on the payroll for the entire year which they certainly could not be as they were not yet hired in May. The contrast of costs between the then offer of 2.5% and the 5% PBA demand was said to be \$74184. Given that the base payroll cost for 2001 was \$1,605,505 the 2%

added impact of the 5% would have been under \$44000 even if the three new employees were hired and at levels beyond the probationary rate and on the payroll for the full year. Without the additional staff the cost would have been just about \$40000, but not \$74000.

In another instance the Township presented charts and conclusions concerning the extension of the longevity plan as demanded by the PBA. In its computations the Township determined that ten employees would be involved--including the three not yet on the payroll. It valued the amount to be paid to each at 4% of the top pay rate to produce the conclusion that the 2002 cost would be \$24374 or if the PBA demand for 5% were incorporated it would rise to \$25593 for 2002, \$26872 for 2003 and \$28216 for 2004. My examination of the data presented to me suggests that no employee with less than 4 years of completed service is entitled to longevity. This would eliminate all of the three yet to be employed. Township Exhibit J indicates there are 6 employees who have been hired since January 1, 1996 who would become eligible for longevity at some time. However one individual wouldn't be eligible until 2006, two not until 2005 and the remaining three in 2004 at mid year. Clearly the \$80681 as the cost of incorporating this change during the term of the Agreement is fundamentally flawed. The actual cost during the proposed three years would be for three individuals in 2004 beginning at anniversary in July. If I extrapolate the effect of annual 5% increases to the maximum salary rate and calculate the amount of longevity which would be payable to the three who would qualify in 2004 for half of the year the result is a cost of \$4232 for the entire contract period. This represents an overstatement of more than \$75000 in Township's submitted data.

In the testimony of Township Auditor he explained that the actual payments in the salary account for police in 2001 resulted in a reserve of \$144664 from the appropriation which could have been moved to surplus or otherwise used by 3/31/02. The Budget figure for 2002 is cast within less than a thousand dollars of the 2001. Thus there is a built in \$143000 provision for additional expenditures. This amount could be rapidly absorbed by additions to the staff although it appears that new additions if made will serve for not longer than half the year. If hired at entry level this could amount to approximately \$65000. Thus there would remain \$78000 in the salary account. At the cost of 1% of 2001 base salary, established in Township submitted chart, which amounts to \$16055, the 5% demand of PBA would cost \$80275 in base salary alone and something more when the additions to staff are factored in. However the Township budget for 2002 includes a separate appropriation for salary increases in the amount of \$208428 which should have anticipated at least the offer of the Township here which at 3% would amount to \$48165 and it should have included the added salaries for new hires although that point was not explained in testimony presented. In summary there appears to be more than sufficient funds to accommodate a fair and reasonable settlement of this dispute without precipitating an immediate tax problem. Certainly there is adequate flexibility to absorb an added 2% at the cost of \$32110 if it were awarded.

The longer term may pose another question. However the 2002 budget incorporates capital improvements costing \$981828 which is in sharp contrast to the \$38748 dedicated to that account in 2001 and which may not have to be duplicated in 2003 or later.

Township did not offer explanation as to this expenditure or its need to be continued. Of course the current tax rate is programmed to produce the revenue needed in the 2002 budget with an anticipated surplus of over \$2 million. A reduction in capital expense for 2003 would make the surplus target of \$ 2.3 million readily achievable as the need is no more than \$300000 to provide that cushion.

My conclusion is that the financial impact on the taxpayers will not be great and that the current tax rate may well be stabilized by further conservative management techniques even if this award calls for somewhat more money than has been proposed. The offset is that there is a need for continued excellence in police services and expansion of the force which is overdue. Such things cost money and with a healthy economy Vernon can afford these things. Certainly the salary settlements of the School system at 4.4% for 2002 and 4.5% for 2003, on a much greater budget for 600 employees, suggest a community willing to adequately reward key sectors of public services. A Board of Education member is quoted as saying , "...we were able to bring the contract to an end." She apparently felt satisfied with the Agreement and added that the 521 for and 61 votes against it suggested the members favored the Agreement. I note parenthetically that if the Township's final offer to the police unit were to be awarded the likelihood of an overwhelming vote in favor by the PBA members would be zero. Such a result may very well be contrary to the interests of the public.

The bottom line is that I view this criterion as very significant and deserving of substantial consideration. I also conclude it must be meshed with the interests and welfare criterion to fully evaluate the final result.

## DISCUSSION AND CONCLUSIONS

The salary improvement issue is of paramount importance to both parties and perhaps the most complex as well. Township's proposal of a 3% annual increase is clearly well below the actual increases which have been put into effect for all of the municipalities determined to be a reasonable group of comparables. The Township used its top step of the guide to make comparisons with these communities and reduced the level of comparison in their guides to the fourth step. At this point the Vernon wages for patrolman are reasonably compatible with the average of the group. However the maximum paid in the group is fundamentally the more proper figure to use for comparison and when this is done Vernon falls sharply behind. To avoid this truth is equivalent to placing blinders over ones eyes when making the comparison of wage rates for it is the maximum step in the guide which controls the pay of most police employees for most of their careers, frequently to retirement, which can be more than 20 years, or until promoted. The trend at Vernon has been to reduce the opportunities for promotion by elimination of positions at higher rank. Thus the viewable future for those at the rank of patrolman is increasingly the fourth step or maximum for many years. All prior steps are occupied for only one year in Vernon and elsewhere. Therefore employees of other municipalities brush past the fourth step in a single year and move on toward maximum pay. The real comparison must be made with those maximum rates. As noted above the Vernon top pay lags the adjusted average by



\$4728 in 2001. The average will advance by \$2600 for 2002. Simply providing the same percent increase to Vernon officers will not prevent the dollar gap from widening in each year. The 3% proposed creates an added \$772 to the difference compared to the group average. If this were continued for three years the Vernon maximum salary would slide to \$7100 behind the group average.

It is my conclusion, when all factors discussed above are considered, that such a result should not be awarded. Vernon has a highly efficient police force and is receiving excellent returns on the costs of provision of police services. It is a community which has the resources to treat its employees not less well than the other communities which were accepted as appropriate comparables. The salary deficit is not offset by benefits of greater value than are provided elsewhere. In fact its benefit program is in some ways not as competitive. A less generous sick leave retirement allowance and longevity plan which lags well behind are examples. Proposed sharing of health benefits costs and elimination of on the job injury benefits do not improve the situation.

It is acknowledged that the conservative approach embarked upon by Township management may also serve the tax payers well. There are a number of issues which make the future finances of the Township less dependable. These include the likely possibility of having to make pension contributions and not receiving certain grants and aide as have been forthcoming in prior years. However on any logical basis for consideration I am persuaded the salary advancements awarded should be considerably higher than what has been offered by the Township and doing so will not seriously disturb the current fiscal circumstance of the Township. The Township Vision for Vernon Committee has published a Manifesto in which it speaks of the anticipation of having one million visitors annually and the need for providing the atmosphere and infrastructure which will assist the Township to take advantage of its many natural assets. I believe one of those assets to be the capacity to provide security and safety to residents and visitors alike. A police force that is rewarded appropriately and motivated in its performance will enhance the opportunity to achieve those goals.

In creating an award of salary increases I will compromise the need for achievement of a more comparable maximum pay rate by splitting the 2002 increase in order to place as little strain on the 2002 budget as possible. However, I am persuaded the earnings represented by the pay increases granted should not be reduced in every year. The award for 2002 will incorporate a 3% increase retroactive to January 1, 2002 and an additional 2% increase based on the 2001 pay rates, to be effective on July 1, 2002. This split of delivery will mean a saving in the 2002 year of 1% to the Township and thus minimize the need for additional funds in the current budget. However, while not providing the same cash flow as an up front increase would it does raise the base rates for officers for the future. I see this as a fair way to begin to contain the dollar gap between Vernon's pay and that of the comparable group. The award of 4.5% in 2003 and in 2004 will provide a base pay which will continue to trail the projected average by \$4200 but which will have lessened the gap to a small degree from the current \$4728. I believe this to be a

reasonable and affordable result and one which both parties can recognize as a fair compromise.

The additional demands of PBA have to do with the longevity plan exclusion, the lower than average payout of sick leave balances at retirement and modification of the senior officer differential so that it would be paid with less years of service. It is my general conclusion that elements of a former Agreement should not be disturbed unless there is convincing evidence to warrant such changes. There were none offered as to the need for reduction of the service requirement for the senior officer differential. Admittedly there are other programs known to me to be somewhat more generous but nothing has been done in these proceedings to convince me that this is anything more than an attempt to provide a closing of the gap between the Vernon pay scale and the selected group of comparables. Given the limits inherent in the position of the Township as it tries to prepare for an uncertain financial future I am persuaded that the most equitable way to deal with limited resources is to set up a plan which most fairly distributes whatever new funds are justified. While this suggested demand has merit I believe it does not loom as critical as some of the changes which are included in this award. This demand must therefore be rejected.

There are good reasons to support the PBA's request for elimination of the 1996 barrier to eligibility for longevity payments. A two tiered system is fraught with the probability of being a divisive issue and one which may impact on morale as well as performance. Given the current fiscal circumstance I find a repair of the problem to be another expense which would add a burden during a time when the Township is apprehensive about its future financial stability. None of the officers employed since 1996 are anticipating this benefit but when their eligibility under the current plan would have begun the lack of its application to them will emerge.

PBA poses that Vernon has a poor longevity plan and that conclusion is based on a comparison of the maximum benefit provided. However many other plans provide substantially less benefit or greater years of service requirements than does Vernon's. Bloomington's plan is less at each plateau and maximum is achieved only at 25 years service. Little Falls entitlement is half of Vernon's until ten years service and exceeds Vernon's only at the 20 year level. Totowa provides much lower benefits until 12 years service but expands the benefit to 12% at 24 years. West Milford plan starts at half the Vernon benefit and exceeds it after 12 years with a maximum of 10% compared to Vernon's 7% at 20 years. Ringwood's plan is likewise more restrictive during early service years but tops out at 10% and Byram's plan is even more restrictive both as to rate paid and time of eligibility but it tops out at 8%. Without an extensive series of calculations one can determine these facts; there is a wide variety of this benefit; the Vernon plan is very competitive, even generous in early years; Vernon's plan does not top out at the level of the comparables and it is a common benefit in police compensation plans in the area. Finally, the extension of the longevity program represents another way to provide more uniform total compensation to all of Vernon's officers who are otherwise quite substantially behind the average total income. As pointed out above the base salary falls

short by a substantial measure and will continue to do so in spite of this award. If longevity pay is denied for a growing portion of the unit, as would be the case with post 1996 employees, for them there will be an even wider gap. Therefore the entitlement to the longevity pay looms as a more important issue.

There was an inference made that the PBA gave up this plan for future employees in 1996 for some alternative it sought. However no specific trade off was demonstrated. As there will be continuing pressure to alleviate this disparate treatment in Vernon I will fashion a remedy which I construe as proper but with consideration for the financial impact. Employees hired after January 1, 1996 will be entitled to longevity at the rate of 2% at five years service and thereafter at the rates and times provided in the current Agreement.

The further request of PBA that longevity payments be made applicable to computation of other elements of the pay plan as contrasted to the current limitation to pension has not been supported sufficiently for me to conclude the added burden should be imposed on the Township and is denied. This is a condition agreed upon by the parties as part of the plan. There has been no demonstrated rationale to compel a decision to change it.

The sick leave proposal of PBA is that the payment at retirement for unused sick days should be increased from the \$10000 limit now in the Agreement. Evidence demonstrates this to be a very low payment level as compared to other municipalities. This is a once in a lifetime career payment and is not a major cost element in the near term. This also happens to be an issue which was the subject of the State Legislature's attention a number of years ago. A \$15000 maximum was included in a bill which was aimed at State workers. Those dollars have become less valuable over the years but remain a recognized public policy. It appears to be the logical adjustment to make in this instance and will appear in my award. This should assist in making the Township's overall compensation more equivalent to that of the comparison group of municipalities and reasonably satisfy the complaint of PBA as to the paucity of this significant benefit.

The Township has asked to include a limit of \$7000 to be the maximum amount it can be held responsible for in the section E element of the article concerning education and training where it provides that the Employer will pay the costs of tuition and related items for employees who pursue a degree in the law enforcement field. There is a need to budget for such expenses and Township wants to be certain of its outside obligation. The recent history is that there have not been reimbursements exceeding an amount substantially less than \$7000 in the past several years. The need for certainty is readily understood. Should there be submissions which exceed the \$7000 payments would be pro rata to those whose course of studies have been approved. Under the circumstances and condition outlined above this award will contain that limiting provision.

The Township has made a demand for employees to share in the costs of medical and dental benefits. The amount sought is 5% of the annual premium. This kind of shared cost has been adopted in many jurisdictions. The underlying reason is to defray the sharply rising cost of providing this benefit and ancillary to that to make employees more

conscious of the value of such plans. The actual cost to employees is nominal considering the value of the benefit. I can see no reason not to include the Township request in this award and will do so.

The Township has demanded changes in the sick leave program based on its perception of employee abuse and the need for more control of such expenditures. In support of this it was noted that the average number of sick days used last year was 16 which in itself would raise questions as to the necessity for same. Testimony and evidence demonstrate the need to impose more stringent controls of the sick leave program. The Township has a right to employ adequate procedures to assure that plan use is justified. This has been confirmed in litigation and is acknowledged. In the exercise of this right the Township has produced a general order concerning sick leave. It seeks to have that order accepted, subject to change without negotiation, by reference to it in the abbreviated sick leave article presented as a replacement for that which is in the current Agreement. Although described as a means to control unwarranted use of sick leave it has the added effect of eliminating many of the provisions of the Agreement. While I disagree with both the tone of the order and some of its specific provisions, such as mandating that no one other than the employee may communicate with the Township as to need for leave; the requirement that a person on sick leave or workers' compensation will be required to remain at the place of confinement unless the officer shall have the approval of a supervisor even to attend a doctor's appointment or hospital and to report the time of leaving and of return; to be required to file a written request and to receive a written answer before leaving place of confinement for reasons other than religious services, voting or emergency and to be available to personally receive personal visits or phone calls from supervisory personnel to confirm the condition and whereabouts from 6 a. m. until 11 p. m., my observation is these elements, if adopted, will be seen as overkill, are likely to prove unworkable as well as unmanageable and damaging to morale. The posed specific limiting definition of conditions requisite to the use of workers' compensation for purposes of the grant or denial of leave in Section 7. of the order is inconsistent with the specifications of that program and will not be awarded. The elimination of the supplemental income provision, also found in Section H. of the Agreement, to employees receiving worker's compensation has not been substantiated. Therefore the entire text of Section H. will remain in the Agreement. Section 6. of the proposed order is modified so that the time of verification calls to sick personnel will be made only between the hours of 0800 and 2000.

My added concerns include the deletion of certain elements of the current Agreement without negotiation and with the presumption that such would be incorporated in an award by this arbitrator. These include use of sick leave to attend an illness in the family and elimination of the separate paid leave program provided for sickness or injury incurred in line of duty. As stated before I am loathe to change the terms of an Agreement without substantive reasons. Thus Section B. of the Agreement will continue to define the uses of sick leave and remain in the Agreement.

As to this issue I will award those changes necessary to the control of abuse of sick leave but will continue provisions not in conflict with exercise of that managerial responsibility.

The Township has also entered a demand which would have the effect of eliminating the exercise of seniority in the area of shift assignments. This is again an area wherein the prerogative of management has been underscored through litigation. The reasons proffered and direct testimony meet the standards having to do with the provision of effective services and training. However the substitute article intended to replace that in the Agreement goes somewhat beyond that area of reserved managerial prerogative. The hours of work section of any Agreement is fundamentally negotiable. The current contract prescribes the hours for shifts and the number of hours and shifts in each work day. These provisions will have been eliminated without negotiations or convincing evidence of need should the article changes requested be awarded. An endorsement of such removal by an arbitration award would presuppose that all actions thereafter taken with reference to these matters is done so within the limited managerial prerogative established as being founded on reasons not having to do with economic aspects of such changes. Very little testimony or evidence was provided to me which would provide a foundation for my making such a determination. Claims that this area of the Agreement is not now negotiable or enforceable should not be a part of the presentation at arbitration. In this process the arbitrator is expected to deal with demands on the basis of proofs and evidence as to appropriateness of contractual changes sought. Hypothetical concerns about language of the Agreement potentially and substantively limiting the managerial authority of the Chief of Police are beyond the scope of my responsibility.

The intent of management was explained as satisfying the need to balance experienced personnel on every shift thus providing training and/or guidance and assistance to less experienced officers so that they might gain knowledge and perform better. I do not quarrel with that intent. Based on the testimony at hearing my conclusion is that the language of the current Agreement, as it involves the application of seniority, effectively precludes the Chief from making shift assignments which would provide the most effective utilization of the officers under his command. The sweeping demands to eliminate other provisions of the hours of work article in the Agreement have not been so justified. To accept and order the Township proposal without a sufficiency of proofs as to justification would be beyond the authority contemplated by this process.

The demands for alteration of the Leaves of Absence article appear to be an overhaul to achieve a more concise picture. Sections A and B are continued, however there is incorporated the reliance on a new policy pertaining to Family and related leave. If the policy reduces the current contractual allowances specified with relation to maternity leave to that extent the demand is denied. The current Agreement includes a provision for personal leave up to three months. This language has been deleted and will be required to be included under this award.

The Township seeks to replace the current terms of the Agreement as they involve the investigation of police officers. As stated above the offer is to act within the boundaries of the law in such matters. Township argues that some of the current provisions affect and/or seriously limit or impair its obligation to properly investigate such matters and

consider proper determinations. Where there may be an incident which should be pursued and where the current contract language could result in inadequate time to do so the Township may be placed in an untenable position as to the interests of the public which would outweigh the individual officer's concerns about prolonging the process or being excused from it because of a time limit.

The 72 hour outside limit as to notification of the officer of a complaint has apparently proven insufficient. The elimination of any time frame for such seems unfair or unjust as to the protection of the officer involved. My distillation of the reasons offered as to why the 72 hours is insufficient suggest an extension of that time frame to be appropriate. I conclude that a period of ten days should be very sufficient for that notification to be made. The Township also suggested elimination of the 30 day period during which the investigation should be completed. However, my reading of that provision suggests the limit is susceptible of change providing the officer involved is informed. That obligation does not appear to diminish the Township's opportunity to do a thorough investigation and I conclude the current provision should be continued. Likewise I do not see the 5 day period in which the officer should be notified of the result of the investigation to pose a significant burden on the Township. However as there may be reasons which make the obligation problematic I will extend that time limit to 10 days.

As most of the provisions of Article XXI, Investigation of Police Officers are useful for the understanding of the process I do not agree the article should be reduced to the reference to statutes as proposed by the Township. Thus my award is that the article be continued in the Agreement as it now exists with the changes noted above and with the addition of the Township's references to the statutes.

Township has also proposed elimination of the article which concerns awards and decorations. This article takes up more than 6 pages of the Agreement and establishes many details which are to be considered in making awards to employees. While I do not believe this to be a core element in the Agreement it apparently did occupy the attention of both parties at some point in time. It also involved the Township in elements of costs which might be incurred. While it seems to be overly detailed and possibly cumbersome in application it must have satisfied some need when negotiated. The Township has failed to show a substantive need for its removal or that it has become problematic in its operation. I therefore conclude it is not an issue for me to change and the demand to eliminate same is rejected.

#### **AWARD**

1. The salary increases shall be:

January 1, 2002, 3%

July 1, 2002, 2%

January 1, 2003, 4.5%

January 1, 2004, 4.5%

2. The provision of the current Agreement which eliminated post January 1, 1996 employees from eligibility for the longevity benefits shall be eliminated. Employees hired after January 1, 1996 shall be entitled to longevity at the 5 year service level at 2% of salary and thereafter as provided in the contract article.
3. The Maximum value of payment for unused sick leave at retirement shall be extended to \$15000 under the conditions incorporated in the contract.
4. The proposal for employee participation in the payment of health insurance premiums at the rate of 5% is awarded.
5. The funding for the continuing education plan by Township shall be capped at a maximum of \$7000 annually. If approved requests result in an oversubscription for subsidy payments those approved shall be limited to a pro rata share of the \$7000 maximum based on the amounts approved for each officer.
6. The leave of absence article modifications to incorporate specific reference to the New Jersey Family Leave Act and/or the Family and Medical Leave Act to be subject to the policy adopted by the Township is awarded subject to the caveat that such policy shall not reduce or alter, unless beneficially, any of the provisions therein. Section C, 2.&3. of the current Agreement which are eliminated in the Township's demanded replacement article shall remain in the new Agreement unless the benefits included therein are more beneficially treated in the statutes cited above. Otherwise the new article submitted by the Township is awarded.
7. The revised article concerning sick leave submitted by Township is acceptable with those modifications as well as the reservations expressed above. No evidence has been submitted to support the changes in the section which addresses the basis for utilization of sick leave, Section B. of current Agreement, and that section shall be continued without change. Section H. in the current Agreement, intended to be eliminated in the proposed article, shall be included in the Agreement. Township made no showing to warrant the benefits therein being removed or otherwise reduced. In addition Section R., which provides that additional sick leave may be allowed at the discretion of the Township Manager, shall be included. Again, this was not an issue supported by the Township case. The hours for calling to verify sick leave shall be 0800 to 2000. Finally the value of sick leave at retirement is modified from \$10000 to \$15000 for reasons set forth above.
8. The Township's requests for changes in the article involving Investigation of Police Officers are accepted as to the time for the notification to an employee in Section A. 9., which shall be extended to 10 days from the present 72 hours and the time within which the employee involved must be notified of the result in 9. [a], is extended to 10 days. The

Township acknowledgment that all legislated or Department of Personnel regulations will be followed and should suffice so that all other elements of the current Agreement should be discarded I find to be unacceptable. There is much detail in the Current Agreement on this matter and the Township has not provided sufficient rationale to suggest it be removed. The current article shall be continued with the modifications above.

9. The hours of work article submitted to replace the current contract provision is denied. However the current Agreement provisions are modified as follows: Section A.1 shall read: "The Chief of Police shall make assignments or transfers of officers as are deemed necessary to ensure proper training, to enhance discipline and career development and to provide the optimum community service." A.2 shall read: "There shall be semi-annual windows when officers may file applications for transfers to specific assignments. Such requests shall be maintained on file and shall not be arbitrarily or capriciously denied but the Chief shall be under no obligation to approve such transfers." Section A.3 shall be deleted. Section B. shall be continued. Section C. shall be replaced by the Section C. offered by the Township.

10. The requested deletion of the article concerning Awards and Decorations is denied as noted above.

#### SUMMARY

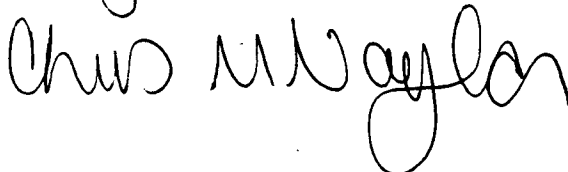
The elements of this award are intended to provide a fair and just determination of the issues which were at impasse and to be consistent with the applicable and carefully evaluated statutory criteria. I believe the balance of improvements and adjustments reasonably represents the best Agreement under the circumstances of this Employer and the economic conditions which face both parties.

  
Frank A. Mason

Pennington, Mercer County, New Jersey

On this date before me personally came and appeared Frank A. Mason, to me known and known to be the individual described in and who executed the foregoing opinion and award and he acknowledged to me that he executed the same.

August 10<sup>th</sup>, 2002



CHRIS M. NAYLOR  
NOTARY PUBLIC - NEW JERSEY  
My Commission Expires 2/25/2006