

STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest Arbitration Between:

BOROUGH OF RIVER EDGE ,
(Employer)

AND

RIVER EDGE P.B.A. LOCAL NO. 201

Docket No. IA-99-60

BEFORE: ERNEST WEISS, INTEREST ARBITRATOR

APPEARANCES:

FOR THE PBA: RICHARD D. LOCCKE, ESQ.
LOCCKE & CORREIA

FOR THE BOROUGH: RICHARD M. SALSBERG
DeCOTIIS, FITZPATRICK &
GLUCK, LLP

PRELIMINARY STATEMENT

The above parties are signatories to a Collective Bargaining Agreement with a termination date of December 31, 1998. The bargaining Unit consists of all regular full time Police Officers employed by the Borough except for the superior officers and the Chief of Police.

Since the parties were unsuccessful in negotiating a successor agreement, I was designated to serve as Interest Arbitrator in accordance with the rules of the Public Employment Relations Commission. However, prior to my appointment the parties engaged in a series of collective bargaining sessions in late 1998, and were successful in resolving some outstanding issues.

At an initial session with the parties on May 19, 1999, I attempted to mediate the remaining disputes in order to help them resolve the outstanding issues voluntarily. All the remaining issues, except those set forth below, were eventually resolved by the parties.

I convened a formal Arbitration session on September 13, 1999.

During the formal hearing the parties were afforded the opportunity to present documents, testimony and argument in support of their respective position. The parties were also afforded the opportunity to submit post-hearing briefs and reply

briefs, which I thoroughly considered in making my decision herein, in conjunction with the numerous exhibits and testimony.

Since the parties failed to agree upon an alternative form of submission, I am mandated by statute to decide the outstanding issues with conventional authority and in accordance with the revised statutory criteria, which is set forth below:

STATUTORY CRITERIA

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

1. **The interest 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, 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 service 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 jurisdiction, as determined in accordance with section 5 of P.L.1995, c. 425 (C.34:13A-16.2); provided, however that each party shall have the right too 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 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 the factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A:4-45. 1 et seq.)
6. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in dispute in which the public employer is a count or a municipality, the arbitrator or panel of arbitrators shall take into account, to the extent that evidence is introduced, how the award will effect 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 employee' 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 taxpayer of 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 © initiate any new programs

and services for which public moneys have been designated by the governing body in a 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. (N.J.S.A. 34:13A-16g)

At the hearing before me, the PBA presented the following three (3) economic and three (3) non-economic positions for my consideration.

THE POSITION OF THE PBA

1. **Wage Increase** - The PBA proposed a 5% increase across the board at each rank, step and position covered by the contract in each of the three (3) calendar years proposed.
2. **Holiday Fold-In** - The PBA proposed that the current holiday benefit be modified in its form of payment. The PBA proposes that the value be folded in and paid along with regular pay in equal installments. Such revised compensation would be used for all calculation purposes.
3. **Longevity** - The PBA proposed that an additional 2% be added to the current longevity schedule which new additional amount would be effective on completion of 23 years of service.

In addition to the economic points listed above, the PBA also introduced at hearing three (3) non-economic points for my consideration. The non-economic points were as follows:

1. **Light Duty Definition** - The PBA proposes that the employer provide a definition for the existing Light duty policy maintained by the employer. The specifics of this proposal are set forth as item #7 (P_ 1).

2. **Discipline** - The PBA proposes the addition of certain language captioned "Departmental Investigations". The specific language proposed was referenced at paragraph #2 (P-1) of the original proposals and was set forth on said original proposals as sheets 3 and 4.

2. **Rules and Regulations Language** - The PBA proposes that written notice be provided to the PBA of any change in a rule or regulation or SOP. This further proposed that such notice shall be provided on not less than 90 days notice. This notice period shall apply in all circumstances except those unforeseeable emergencies in which the maximum possible notice shall be provided.

THE BOROUGH'S FINAL OFFER

1. **Duration:** 4 years; January 1, 1999 - December 31, 2002.

2. **Salaries:** (a) Four separate increases of 3%, effective on April 1, 1999, January 1, 2000, January 1, 2001 and January 1, 2002, plus step increases.

(b) One additional step to be added "Patrolman 6" midway between second Probationary Step and Patrolman 5.

(c) The Probationary Steps may be extended by the Borough until the employee completes the Academy/Departmental Training and rates may be frozen accordingly.

(d) Freeze Probationary Steps for employees hired after January 1, 1999.

3. **Holidays:** Delete paragraph (3) of Article 16 (i.e., that PBA employees will be granted any additional holiday that may be granted to any other group of employees not through collective negotiations).

4. **Longevity:** (a) Delete paragraph (4) of Article 17 (i.e., that PBA employees will be granted any additional longevity pay that may be granted to any other group of employees not through collective negotiations).

(b) Longevity for employees hired after January 1, 1999 shall be on a flat dollar basis, as follows:

5-8 years of employment: \$1,300.00; 9-12 years of employment: \$2,600.00;
13-16 years of employment: \$3,900.00; 17-20 years of employment: \$5,200.00;
21 or more years of employment: \$6,500.00.

5. **Vacations:** Delete paragraph (10) of Article 20 (i.e., that PBA employees will be granted any additional vacation benefits that may be granted to any other group of employees not through collective bargaining).

6. **Health Insurance:** (a) Delete paragraphs (1) and (2) of Article 25 (relating to changes to health benefits).

(b) All employees shall pay a 10% contribution towards premiums for the family portion of health coverage; to be effective as soon as legally permissible.

The parties failed to agree on the term of the successor agreement. The employer proposed a four year term whereas the PBA seeks a three year agreement.

As stated above, the parties also failed to agree on an alternative method of submission. Therefore, I am mandated to follow the conventional arbitration procedure wherein I may consider the position of either party on any proposed issue, or fashion an alternative position which I find to be more reasonable under the above statutory criteria.

THE POSITION OF THE PARTIES

THE INTEREST AND WELFARE OF THE PUBLIC

The PBA argued that the interest and welfare of the River Edge residents and taxpayers is well served by the members of this Police Department. It pointed out that the Department is an “aggressive, progressive and proficient law enforcement agency with different divisions and initiatives all geared to meet the needs of this suburban municipality”.

In support of this position the PBA introduced the testimony of Officer Richard Curran who testified to the many new initiatives within the Department to better serve the community and its residence. The PBA also introduced the year-end report of the Chief of Police wherein he praises the new and expanded initiatives of the members of his department and states, in relevant part that “...in many instances officers are assuming leadership roles in various community projects.”

The PBA pointed out that of the 23 member Department, the Bargaining Unit consists 17 non-supervisory patrol officers only. Also the PBA pointed out that since the commencement of the last Collective Bargaining Agreement on January 1, 1996 there have been 7 retirements of supervisors, five of which were replaced by senior level members of the Bargaining Unit who were then replaced by entry level officers. These changes resulted in increased productivity and at a substantial savings to the Employer and altered the career path opportunities of the remaining Officers. The PBA concluded that in view of the above it is clear that the interest and welfare of the public in River Edge has been well served by the members of this Bargaining Unit.

The Borough agreed that the interests of the public are served by a competent police force and that is achieved at least in part by offering competitive wages and benefits. However, it insisted that it already does exactly that since the members of this Bargaining Unit are already well compensated. The Borough further argued in relevant part that the reasonableness of the offers must be determined in terms of the interest and welfare of the public and the financial impact on the governing unit, its residents and taxpayers. It stressed however, that just because the Employer may be able to afford the wage demand of the PBA, does not mean that it should be awarded.

In this regard the Borough also pointed out that its tax rate has increased every year since 1990, including a 7.3% increase in 1999, 10% of which was the municipal portion. Here the Borough stressed that the salaries, wages and other expenditures relating to the police force, was the largest single appropriation. In its post hearing brief the Borough stated in part that:

The Borough is by no means a community of great wealth (Exhibit B-50, Exhibit P-7), and, indeed, 2.3% of the Borough's population lives in poverty. (Exhibit B-45). With a tax rate escalating

steadily each year (Exhibit B-55), the municipal government is extremely hard-pressed to continually pass on increases in expenditures in the form of taxes. Due to the fact that the overwhelming majority of the Borough's tax base -- 84.86% -- consists of residential property, it is clear that any tax increases resulting from increased patrolmen's salaries will be borne by the Borough's homeowners. (See Exhibit B-46). There is little or no vacant land upon which to develop and expand tax ratables (see Exhibit B-47), and it is unlikely that the Borough can attract new ratables because of the escalating tax rate. In fact, if the tax rate on properties continues to escalate, the Borough will likely face increased "ratables flight."

The Borough's residents simply should not be asked to pay ever-increasing property taxes. The Borough has an obligation to keep tax rates at competitive, or at least viable, levels so as to attempt to attract new residents and development, while concurrently trying to stem the flight of ratables.

The Borough also argued that the inability of Borough's residents to meet their tax liability is clearly evidenced by Exhibit B-54, which reveals that the Borough's taxes increasingly come from residential taxpayers. Since 1995 such taxes increased by \$1,359,962, a 4 year increase of 24%. Given its fragile tax base, the Borough should not be forced to fund excessive labor costs which will result in even greater taxpayer dissatisfaction. The Borough also stressed that it will experience a loss of revenue since it will be forced to now collect garbage from apartment complexes as well. Also, any existing surpluses were intended for protection against unforeseen emergencies and should not be used to justify salary increases. The Borough argued that in light of these facts, the Borough's proposals should be found to be more reasonable and should be awarded.

COMPARISON OF WAGES HOURS AND CONDITIONS OF EMPLOYMENT

The PBA argued that the members of this Bargaining Unit are paid significantly below average base pay rate and there are no offsetting benefits to justify the low rates. The PBA pointed out that no matter which party's universe of community comparisons is used the result is the same. In support of its position the PBA compiled chart No. 1 containing 12 PBA-selected communities introduced into evidence, and showing the 1998 base pay for top patrol officers in each selected community. The average base wage of these communities is shown to be \$69,396. This compares to \$64,693 for the River Edge Patrol Officers which is shown to be \$4,700.00 or 7.27% below average of the communities in the PBA chart. The PBA pointed out that the Borough's Exhibit B35 also reveals that, according to the Borough's universe of comparable communities, the River Edge patrolmen are almost \$2,000.00 below the mean in 1998 base wage.

With respect to its longevity proposal, the PBA argued that the additional 2% after 23 years of service, would only affect a few individuals during the term of the three year Agreement. The cost of this improved benefit is calculated by the PBA to be less than one-tenth of 1%. In support of this position the PBA submitted Chart No. 2 depicting Longevity Benefits comparisons in 10 area towns. Only three of the communities had 10% maximums as does River Edge.

Chart No. 3 shows the clothing allowance comparisons of 16 communities. According to this chart the clothing allowance of the River Edge patrolmen is \$180.00 below average. Here again the PBA pointed out that the Borough's own Exhibit B30 supports the PBA position that the clothing allowance in River Edge is poor.

The Holiday Fold In proposal is very important to the PBA and its members because it enhances the base rate by virtue of “benefit shifting” without any significant additional cost to the Employer. The PBA requests that the existing holiday benefit be folded into the regular base wage and paid with the regular pay roll in equal installments. Here the PBA argued that this is also beneficial to the Employer since there would be a reduction of overtime when employees do not take time off for holidays. The PBA concluded that this proposal favors the public interest and carries a nominal financial cost to the Employer.

PBA Chart No. 4 illustrates base wage increases for police in 19 municipalities during a three year period. Here the PBA argued in part that, without compounding, the total average increases amounted to 12.35%. Since it established in chart No1 that it would take a 7.27% increase to catch average wage for River Edge, the result is 19.63% or 6.54% par year. The PBA pointed out that it has only requested 15%, not compounded, over the three year period of the contract. Here it further argued that this illustrates that the Employer’s position is regressive in nature, resulting in forfeiture of previously negotiated benefits.

With respect to the private sector wage comparisons the PBA insisted that given the unique statutory obligations of the police officers in New Jersey, comparison of private sector employees should not be considered controlling. The PBA presented extensive argument and examples of unique police responsibilities to demonstrate that there is no private sector job to compare with the police. A police officer has obligations both on and off duty, which is most unusual in the private sector. The hazards and risks associated with police work rarely exists in the private sector. Therefore, the police officer must be considered on a higher wage level than a private sector employee .

The Borough relied in part on the PERC survey of private sector salaries for 1996 and 1997. This data, according to the Borough, as presented in Exhibit B-39, demonstrates that the members of this Bargaining unit are well paid compared to private sector employees in Bergen County, the State of New Jersey as well as the nation as a whole. It pointed out that in 1997 a patrolman's salary was \$62,205 and in 1998 it was \$64,693. With the 3% increase in 1999 the salary of a top patrolman would increase to \$66,634. In the private sector the average wage in Bergen county in 1997 was \$40,100, in the state of New Jersey it was it was only \$37,032. Therefore, the Borough's patrolmen earned 55% more than private sector employees in the County and 68% more than the average private sector employees in the State of New Jersey. Moreover, the Borough further pointed out that the national statistics indicate that the average salary for the nation was only \$30,053 which is 107% less than the salary of the River Edge patrolmen. The Borough concluded that the 3% increases proposed would certainly maintain the superior wage relationship with the private sector whereas the PBA proposal of 5% would crate a greater divide in the wage gap between the wages of the PBA and the private sector employees.

With respect to public employment in general, the Borough referred to Exhibit B-39 indicating that the average salary of a public sector employee employed by the federal government in New Jersey, in 1997 was \$44,330, for the state government \$41,904 and for local government \$39,083. Additionally, the Borough pointed out that the wage increases for public employees averaged 3% for both 1998 and 1999 as indicated in Exhibit B-63. Therefore, the Borough concluded that its wage proposal

Of 3% for each year of the contract must be found to be more reasonable than the 5% proposal of the PBA.

With respect to comparisons of compensation of employees in the same of similar comparable jurisdictions, the Borough referred to Exhibits B-21, B-84, B-85 and B-86 in order to establish that members of this bargaining unit are paid more than any other Borough employee except the SOA. Additionally, with the 3% increase in 1999 the top step patrolman would also earn more than all other non-Union employees with the exception of three administrative positions such as the Borough Administrator. The Borough also pointed out that the recent salary increases negotiated with other bargaining units in the Borough ranged from 3.75% to 3.8% increases. However, the SOA accepted a 3.75% salary increase with the restoration of the 8% rank differential.

With respect to the comparison to employees from comparable jurisdictions, the Borough argued in relevant part that what is essential in such a comparison is the identification of the appropriate universe from which to draw such communities. In this instance the Borough elected to compare itself to fifteen municipalities in Bergen County which share demographically comparable characteristics with the Borough. Here the Borough concluded that after an extensive comparison of the wages and various benefits of the comparable municipalities, the Borough's 3% wage offer should be found to be far more reasonable than the 5% proposed by the PBA.

STIPULATIONS OF THE PARTIES

There were no substantive stipulations entered into by the parties that would impact the results of this arbitration. The parties even failed to agree upon the duration of the contract. The PBA is seeking a three year term whereas the Borough proposes a four year contract.

LAWFUL AUTHORITY OF THE EMPLOYER.

Under this statutory criteria the PBA discussed the "Cap Law" where municipalities are not permitted to increase their qualifying expenditures by more than 5% for a category in a given year. The PBA pointed out that River Edge adopted the 1.5% index rate the lowest formula calculation. The PBA argued that the Employer elected to forego the additional flexibility in spending that a 5% cap would have provided. The PBA pointed out that the flexibility not used, as is the case herein, can be carried forward for up to two years to be used in future budgets for additional flexibility.

The PBA also noted that the total bargaining unit base pay is \$1,099,781 or approximately \$10,997 representing 1% of base pay for the bargaining unit. But it pointed out that some of the members of the Unit are not yet at top step therefore the above numbers may be somewhat overstated. The PBA concludes that the 5% wage proposal on the basis of the above numbers is merely \$54,985. It further points out that the 2% difference between the respective wage positions is merely \$21,994

which is about 1/5th of the “cap bank” carried over into the next two years. Therefore, the PBA concludes that Criteria g.5 supports the PBA position.

THE IMPACT ON THE TAXPAYERS AND RESIDENTS

Here the PBA argued that the Borough can easily afford the entire final proposal of the PBA. First the PBA argued that the Borough did not make an argument that it did not have the ability to fund the entire PBA economic proposal. It further argued that the Borough has an assessed value far above that of most of its neighbors and among the highest in Bergen County. The tax levy is well below average in the County of Bergen and the per capita income is above average. Moreover, the PBA argued that the base pay of the entire bargaining unit is a only .052% of the tax levy. Stated another way, the PBA suggests that it would cost the hypothetical taxpayer \$17.33 per month to fund the entire base wage cost of the bargaining unit. This, argued the PBA, is less than the cost of taxpayer’s cable bill.

The PBA also observed that the fiscal picture of the Borough demonstrates substantial fiscal flexibility. The amount of actual revenue realized for 1998 was \$140,987 over the amount anticipated. This according to the PBA was not due to new taxes but to additional ratables. The PBA further noted that the Borough’s Annual Financial Statement for 1998 revealed about five million dollars in cash which yielded \$306,261.00 in interest income.

With respect to the 2% longevity increase proposed, the PBA argued that this would have a de minimus impact since it would affect only two employees during the term of this contract and would cease to exist upon their retirement.

The holiday fold in proposal, according to the PBA also has a very small financial impact. It is not a new benefit cost to the Borough since the holidays are now in place as a negotiated benefit. The PBA calculates the value of one holiday to be \$248.81 by dividing the annual base pay by 260 days. It points out that the only additional cost of \$34.83 per day of additional pension contribution is also a de minimus impact. Such costs, according to the PBA, are reduced however by saving on overtime payments when an officer is scheduled to be off on a holiday. In this regard the PBA concluded that its position in total has no perceptible economic impact on the residents and taxpayers and should be awarded.

The Borough argued that any increase above the 3% proposed by the Borough would have a serious adverse financial impact and result in further tax increases which have risen every year since 1990. In 1999 the property tax increased 7.39% which included a 10% increase in the Municipal tax portion. This increase was mandated in part to support the salary increases relating to the Police Department. Here the Borough again stressed that 84.86% of the tax base consists of residential property. Therefore, any increase in wages and benefits which mandates higher taxes is destructive to the Borough and its residents. The borough stressed that any

existing surplus should not be used to fund salary increases since over utilization of surplus would certainly have a negative effect on the Borough's bond rating.

The Borough concluded that its proposal must be viewed as the more reasonable and should be awarded.

THE COST OF LIVING

With respect to this criteria the PBA referred to Exhibit P-40, a recent report issued by PERC dated December 1998. Specifically, the PBA referred to sheet No. 2 of P-40 wherein it shows the total private sector change to be 4.76% and the Bergen County component to be to be 5%

The average wage increases in New Jersey are shown to have been 4.5% total and the private sector to be 4.8%. In this regard the PBA argued that although the cost of living increase data is slightly below the PBA proposal, it is only one of eight criteria to be considered. It should be regarded as an indicator only and should not be controlling.

The Borough argued in part that the Cost of Living criteria favors its proposed 3% wage increase. It urged that the CPI as issued monthly by the BLS (Exhibit B-64) should be the index considered. It argued that according this index it is apparent that inflation is extremely low. According to the CPI inflation rose 2.3% in 1997, 1.4% in 1998 and 1.4% through the first half of 1999. At the same time the wage increases since 1990 have averaged at 5.25% annually which far exceeded the CPI in

each year. The Borough concluded that it has been more than fair with regard to salary increases in the past and the 3% wage increase is more than double the 1.4% CPI for 1999. At the same time the Officers are not being asked to do more work than what they have been doing and since the crime rate had decreased their productivity has also decreased. Therefore the 3% proposal of the Borough should be found to be reasonable and awarded.

CONTINUITY AND STABILITY OF EMPLOYMENT

Under this criteria the PBA discusses the concept of “area standards” and “prevailing rate”. Both of these private sector wage concepts, according to the PBA, support an award of the PBA position. It pointed out once again the poor relative standing in wage rates with respect to other municipalities in evidence.

The PBA also discussed the non-economic proposals herein. It seeks a Light Duty definition. It stressed that that it is not seeking to dictated to the Borough its light duty policy, but it is merely seeking know what the governing rules are when someone is placed on light duty. It insisted that employees are entitled to know what is expected of them when placed on Light Duty. The PBA merely asks that the employer disclose its Light Duty Policy.

The second non-economic proposal involves the discipline clause captioned “Departmental Investigations” as set forth in Paragraph No. 2 of P-1. The PBA argued that this is a standard form of police officer’s rights clause that is found in

virtually every Collective Bargaining Agreement in evidence. These are merely some basic essential rights not presently included in the contract.

The third non-economic proposal involves the “Rules and Regulations Language”. Here again, as above in the Light Duty proposal, the PBA is merely seeking that the Rules and Regulations be supplied to the PBA 90 days in advance of implementation, when possible.

The PBA concluded that based upon the evidence in the record, and upon the arguments set forth in its post-hearing brief, the Arbitrator should rule in favor of the last offer position of the PBA.

Regarding this criteria, the Borough argued in relevant part that “there have been no layoffs or quits related to the patrolmen since at least 1990” the only patrolmen who left the Borough in the past 10 years were the eight who voluntarily retired. Additionally, the Borough noted the extraordinary job security advantages by law enforcement employees. This job security component, argued the Borough, should be another factor in favor of the Borough’s 3% salary offer.

DISCUSSION AND OPINION

As already stated above, since the parties failed to agree on an alternate method of resolution of their respective final proposals, I am mandated by the amended Interest Arbitration statute to decide the issues presented under the

conventional method of arbitration, giving appropriate weight, where relevant, to the eight statutory criteria.

The interest and welfare of the public is the first factor in the amended statute. It is axiomatic and somewhat contradictory that a well paid police force and a low tax rate are both in the interest and welfare of the public. Therefore, it is desirable to maintain a balance between these seemingly contradictory interests of the public.

It is obvious that the residence and taxpayers of River Edge benefit substantially by having a competent and efficient Police department. This of course requires among other things, the maintenance of a competitive wage rate in order to reduce turnover and preserve a reasonable continuity of experienced and well-trained officers.

I agree with the sentiment of both parties that the interest and welfare of the public is best served by providing fair wages and conditions of employment to the officers who serve and protect the citizens of the community. However, differences exist in the definition of what and how much is fair. That, obviously is the essence of this or any other Interest Arbitration.

I further recognize that increased productivity in a police department is not necessarily a reason, by itself, to increase wages. In this instance however, with the promotion of senior officers who were by necessity replaced with new recruits, the productivity of the remaining senior officers certainly increased. The additional productivity and the list of special projects cited by the PBA was significant although by itself not controlling. There is no question that even a minor increase in productivity is beneficial to the Borough and results in some meaningful savings to help fund the economic package awarded herein.

It is also generally accepted in interest arbitration that the criteria of Interest and Welfare of the Public can relate to a number of elements in the collective bargaining process in the public sector. While the PBA argues the effectiveness, productivity and professionalism of the force and the necessity to fund salary increases to guarantee the sustainability of those qualities, the Borough reasonably argues that the interests and welfare of the citizens of River Edge are best served by providing fair wages while insuring the economic viability of the community.

Clearly, police officers operate in a critical people contact, public safety position. Obviously they must be given recognition for their assumption of a career with such inherent risks. It is also obvious however, that any governmental entity must be prudent not to price itself out of its economic stability by granting inordinate raises, as argued by the Borough. This balance must be considered when awarding compensation and benefits funded by the taxpayers of the Borough.

In this instance it is my considered opinion, after reviewing the extensive record produced by both parties, that it is in the best interest and welfare of the public that an award issue at the rates set forth below, which while they exceed the average of the recent CPI's, are less than the average settlements the PBA counsel attributes to his list of comparable municipalities but are also more than the Borough's proposal.

The Borough convincingly argued that the 5% per-year wage proposal of the PBA would be excessive, but the 3% proposal of the Borough, is in my opinion likewise somewhat inadequate. Therefore, neither side totally prevails under this criteria.

Specifically, the difference in the wage positions of the parties is essentially 2% in each year of the proposed contract. For all the statutory reasons stated below and after reviewing the evidence in the record, I found that 4% in each year of the

four year contract is the appropriate increase. This is essentially 1% greater than the Borough's wage proposal and 1% lower than the PBA's wage proposal.

COMPARABILITY

PBA counsel's contention that the private sector comparisons suggested by the employer are not appropriate comparisons, while containing some truth, does not suggest that all private sector comparisons are entirely worthless. The statute requires that the private sector be compared. As much as one can distinguish public sector police work from private sector, what does remain at the least is a comparison of percentage wage increases paid in the private sector. Borough counsel's suggestions that private sector increases are closer to the Borough's final offer than they are to the PBA's final demand is accurate but not entirely controlling.

Moving to the next statutory areas of public employment, i.e., public employment in general and public employment in the same or similar jurisdictions, the same result attains. Specifically the evidence produced substantiates the Borough's claim that its final offer is closer to the wage increase being paid in the public sector in general. Consideration was also given to the settlements of the blue collar and white collar bargaining units within the Borough, represented by labor organizations and in contract with the Borough. As an example, even discounting the salaries paid within the units, the fact exists that over the recent past the blue collar units have averaged less of an increase in salaries than the police department. While it will always be true that these public and private sector employees will never equate directly with police officers for all of the obvious reasons of job safety, professional responsibility, exercise of discretion and shift work, the question must be asked whether this annual additional increase must continue in perpetuity as Union Counsel suggests when he argues that it can be considered to constitute a pattern or practice

which should continue. The fallacy of that argument appears to be obvious. Accordingly, this arbitrator does not accept the PBA's suggestion that such a difference in the ratios belong to the police forever. The conclusion one reaches after reviewing this statutory criteria is that the offer of the Borough is somewhat the more reasonable since it is closer to the average increase in the private sector and in the public sector in general.

We now turn to the discussion of the comparability of compensation police officers receive in similar jurisdictions. In support of its position the PBA submitted Chart NO.1 consisting of top step rates for Patrol Officers of 12 municipalities, showing that the River Edge bargaining unit is \$4,703 or 7.27% below average of the communities in the chart.

While the PBA arguments are convincing that a 3%, wage offer is not reasonable, so also did the PBA fail to justify three 5% increases – which is above even their selection of comparable communities as depicted in Chart No. 4. A careful examination of this subpart of the criteria including Borough Exhibit B-35, leads to the inescapable conclusion that the most reasonable award, as stated above, must be deemed to be somewhere between the two final offers of the parties or 4% per year, which is awarded herein. Although the ability to pay and financial impact will be dealt with separately, it is not inappropriate to site it when dealing with comparability. If one attempts to assess winner or loser under this criteria it has to be concluded that there are none.

STIPULATION OF THE PARTIES

As already stated above, the parties have not agreed to any substantive issues before the arbitrator, not even on the term of the contract. In this regard, I was convinced by the Borough's argument in favor of a four year contract given the recent four year settlements with other bargaining units in the Borough and the fact that almost a year and a half has already past since the termination of the prior agreement. Consequently, I have concluded that the four year duration as proposed by the Borough, is more appropriate and is hereby awarded.

LAWFUL AUTHORITY OF THE EMPLOYER

There is no doubt that the Borough of River Edge could, within its cap limitation, expend additional sums needed to fund the PBA's final offer. I view this criteria as representing an instance where both parties have co-equal burden of proof. The PBA clearly demonstrated that its offer could be funded within the applicable cap limitation. Conversely, the City failed to establish even that such a funding requirement would produce a cap hardship. The Borough adopted a 1999 budget using the lowest available formula of the 1.5% index rate and actually used almost \$100,000.00 less than was allowed even under the lowest index. Accordingly, it can only be concluded that the PBA prevailed under this statutory criteria. I must add however, that prevailing under this criteria should not be viewed as a complete victory for the PBA. Having the legal right to fund the proposal, or even that the funds are available, does not necessarily mean that the PBA is entitled to such an amount. Here, the real test will come under the criteria of financial impact, comparability, cost of living, interest and welfare of the public and to a lesser degree the continuity and stability of employment.

THE COST OF LIVING

The Cost of Living criteria favors the Borough position since the CPI increases have not been significant in recent years and inflation has been mostly under control. The Borough argued convincingly here that since the CPI has been decreasing recently the wage increases should also reflect this factor.

CONTINUITY AND STABILITY OF EMPLOYMENT

I must note that there was no hard evidence in the record that the Continuity and Stability of Employment would be negatively affected by the Borough's proposal or enhanced by the PBA proposal. However, I recognize that such evidence is difficult to gather and most often it is merely speculation. The best evidence of course, in this regard, is the turnover of employees, where officers give up their seniority in order to seek a position elsewhere for greater compensation. In this instance, I have nothing in the record to indicate that such a condition exists in River Edge on a significant level.

Nevertheless, both sides agreed that maintaining a competitive and fair compensation program in the police department is desirable and is in the best interest of the citizens and taxpayers. With this in mind and considering all the above revised statutory criteria, I have concluded, for the reasons stated above, that the PBA wage proposal was somewhat high and the Borough proposal was found to be somewhat low.

However, the PBA proposal and argument for a three year contract was not persuasive. The recent pattern in the Municipality has been four year contracts terminating December 31, 2002. Borough Exhibits B-84 and B-85 reveal that the SOA, in the same police department, and the DPW, both signed a four year

agreement with the Borough, terminating December 31, 2002. Under such circumstances I concluded that a four year contract is more appropriate, as argued by the Borough.

While I did not consider the holiday fold-in proposal of the PBA totally as a “win win” situation as suggested by the PBA, I did conclude that it is somewhat mutually beneficial. There may in fact be a potential reduction of overtime expenditures for the Borough if holiday absences are not replaced on overtime basis. Although the members of the PBA will no doubt benefit in future increases on a larger base rate, the Borough also benefits by paying the value of the existing benefit on a regular predictable basis and by a potential reduction of overtime for holiday replacements. However, in order not to inflate the wage compounding effect during this contract, I awarded the holiday fold-in commencing January 1, 2002, the final year of the four year agreement.

A number of arguments and additional proposals were raised by both side which were relevant to the statutory criteria but which may not have been cited in the position of the parties or if they were, were not specifically addressed in my discussion and opinion section herein. However, all such arguments were considered and thoroughly evaluated and the mere written omission of them herein should not be interpreted to the contrary.

All the other remaining proposals of both parties including the delayed start of the wage increase for 1999, were thoroughly considered but not granted herein. Other than the question of wage increases, the term of the contract and the holiday fold-in, there was insufficient credible evidence or justification for me to seriously consider awarding any other proposals of both parties, economic and non-economic.

Therefore, after thoroughly considering all the evidence in light of the revised statutory criteria as required, and after reviewing the respective positions, the post hearing written arguments and replies of the parties, I make the following:

AWARD

- 1. Duration of contract for four years, from 1/1/99 through 12/31/02**
- 2. 4% base wage increase across the board, effective January 1st of each of the four years of the agreement.**
- 3. The value of the existing holiday benefits shall be folded in to the base wage effective January 1, 2002 as proposed in PBA Exhibit P1 item # 4.**
- 4. All other proposals of both parties are hereby not granted**



ERNEST WEISS, ARBITRATOR

STATE OF : NEW JERSEY)
COUNTY OF: MONMOUTH)

On this 21st day of April, 2000, before me personally came and appeared ERNEST WEISS, 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



JILL E. FARKAS
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 5, 2000