

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Arbitration Between:

---

**TOWNSHIP OF MOORESTOWN**

"Township,"

- and -

**FOP LODGE 109 and  
FOP LODGE 109 SOA**

"Unions."

---

**INTEREST ARBITRATION  
DECISION AND  
AWARD**

Docket No. IA-2006-009

**Before  
James W. Mastriani  
Arbitrator**

Appearances:

**For the Township:**

Thomas Barron, Esq.  
Barron, Banker & Posternock

**For the Unions:**

Stephen C. Richman, Esq.  
Markowitz & Richman

I was appointed to serve as interest arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, pursuant to a petition filed by the Moorestown Fraternal Order of Police, Lodge 109 and Moorestown Fraternal Order of Police, Lodge 109 Superior Officers Association [the "Unions"] and the Township of Moorestown [the "Township"]. An impasse developed between the Township and the Unions resulting in the submission of the disputes to interest arbitration pursuant to the rules of the New Jersey Public Relations Employment Commission. The parties agreed to consolidate these impasses in a single proceeding. In accordance with the rules of PERC, I was designated to serve as interest arbitrator.

Pre-interest arbitration mediation sessions were held on October 24, 2005 and December 8, 2005. These efforts did not produce a voluntary agreement leading to the convening of a formal hearing that was held on March 1, 2006. At hearing, the parties argued orally, examined and cross-examined witnesses and submitted documentary evidence into the record. The record remained open for the receipt of additional exhibits which were received on April 3, 2006. Post-hearing briefs were filed by each party, the last of which was received on or about June 1, 2006. At that time, the hearing was deemed closed. Subsequently, additional submissions were received on or about August 1, 2006 concerning a Township resolution to change health insurance carriers.

The terminal procedure was conventional arbitration because the parties did not mutually agree to an alternative terminal procedure. Under this process the arbitrator has broad authority to fashion the terms of an award based upon the evidence without being constrained to select any aspect of a final offer submitted by either party.

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

### **Final Offer of the Unions**

#### **Proposals regarding both units**

1. A five year contract with annual salary increases to cover all those employed as of 11/26/04 (recent retirees), and those hired since that date (new hires)
  - i. 4% in 2005, retroactive to 11/26/04
  - ii. 4% in 2006, retroactive to 11/25/05
  - iii. 4% in 2007, retroactive to 11/24/06
  - iv. 4% in 2008, retroactive to 11/23/07
  - v. 4.4% in 2009, retroactive to 11/21/08
  
2. **Overtime Roll-In**
  - i. Beginning with the 2007 pay increase (i.e., 11/24/06), add the value of the "104 annual overtime hours" referred to in Article IV, Section A of the current patrol and SOA contracts into the base salary of all officers. This would be included in the salary guide as "creditable compensation."
  
  - ii. The hourly rate to be used for computing the roll-in would be the officer's time and one-half rate rather than the higher overtime rate presently used.

- iii. For purposes of calculating the overtime rate, the new base salary number assumes 2184 annual hours of work for officers on the 84-hour schedule and 2080 annual hours of work for detectives on the 80-hour schedule.
- iv. The 5% Detective Differential (Article XI) and the Detective Clothing Allowance (Article X) would be eliminated in exchange for acceptance of this proposal.
- v. Detectives would continue to cover "on-call," which is the present practice.

3. Holiday Pay Roll-In

- i. Add the value of Holiday Pay (150 hours of straight time), referenced in Article V of the current patrol and SOA contracts, into the base salary of all officers. This would be included in the salary guide as "creditable compensation."
- ii. Officers assigned to positions that presently do not work holidays or receive holiday pay (i.e., Detectives) would be switched from an 80-hour work schedule to an 84-hour work schedule in recognition of the additional compensation this roll-in would provide to them.
- iii. Officers working overtime on Holidays would continue to be compensated at the double-time rate, which is the current practice under Article V.
- iv. The Uniform Maintenance Stipend for Patrolmen and Sergeants of \$740 per officer (Article X) would be eliminated in exchange for acceptance of this proposal.

4. Accrued Sick Leave at Retirement

- i. Effective January 1, 2007, increase the CAP under Article VIII of each contract to \$20,000 and the merging of Steps (b) and (c). The new step (b) would read: "If the officer has 150-199 days remaining, he or his estate shall be compensated for 20% of the

days at the base rate of pay and 80% of the days at \$20 per day.”

5. Annual Sick Leave Sell Back

- i. Amend Article VIII, Section E of both contracts to allow officers working 10-hour days to sell 6 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year.
- ii. Officers working 8-hour days would be allowed to sell 7.5 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year.

6. Post-Retirement Health Insurance

- i. Provide post-retirement health benefits, pursuant to Article IX, to officers who have accumulated twenty-five (25) years of service in the PFRS retirement system, or have otherwise met the requirements for a pension with that system, and have served the Township of Moorestown for at least 20 years.

7. Ballistic Vests

- i. Increase the allowance for the purchase of ballistic/protective vests mentioned in Article X to \$1200 from the present \$750.

8. Miscellaneous

- i. Adjust caps for longevity (Article XII) and Detective Differential (Article XI) to highest attainable numbers in last year of each contract. Note: Detective Differential would be eliminated if FOP Proposal #2 were adopted.

9. Miscellaneous

- i. Township provides health insurance to the surviving spouse and dependants of any officer killed in the line of duty. Coverage would terminate for the spouse and/or dependants at Medicare eligibility age, as is presently the standard in Article IX of each contract.

## Proposal Regarding SOA only

1. Convert Lieutenants to an 84-hour work schedule, with the extra four hours to be paid at the straight time rate. Add the value of these four hours to base salary as "creditable compensation." Overtime rate to be calculated based upon 2184 annual hours. Eliminate the Uniform Maintenance stipend (\$740 per officer) for Lieutenants in exchange for adoption of this proposal.

## Final Offer of the Township

### FOP Lodge #109 (Patrolmen and Detectives)

1. Three Year Contract
2. Annual Salary Increases at 3.6% for 2005, 3.5% for 2006, and 3.5% for 2007.
3. "Built In" Overtime to be added to salary as 104 hours annually at straight time effective January 1, 2006. Overtime rate to be based on 2184 hour year.
4. Health Benefit Plan to be modified as follows:
  - a. \$15 co-pay for PPO-HMO visits beginning July 1, 2006.
  - b. \$200 deductible for prescription rider provided for PPO plan.
  - c. Traditional Plan will be available to those employees who have not chosen it currently. However, employees who choose the traditional plan will have to pay any difference in premiums from current program. This will apply to retirees.
  - d. Those employees with traditional plan will have deductibles of \$300/\$600 beginning on July 1, 2006.
  - e. All employees will pay 20% of any increase in health care, prescription premiums during the course of the contract.

5. Maintain current dollar caps on longevity. (8% of 2004 salary)
6. All compensation change dates will be January 1 of each succeeding year. Semi-annual increases or changes in benefits will be effective July 1 of each year and not on "26 week" basis.

FOP Lodge #109 Superior Officers

1. Three Year Contract
2. Annual Salary Increases at 3.6% for 2005, 3.5% for 2006, and 3.5% for 2007.
3. For Sergeants, "Built In" Overtime to be added to salary as 104 hours annually at straight time effective January 1, 2006. Overtime rate to be based on 2184 hour year. (Internal Sergeants will work 10.5 hours per day).
4. No 104 hour roll-in for Lieutenants who will remain on 2080 hour schedule.
5. Health Benefit Plan to be modified as follows:
  - a. \$15 co-pay for PPO-HMO visits beginning July 1, 2006.
  - b. \$200 deductible for prescription rider provided for PPO plan.
  - c. Traditional Plan will be available to those employees who have not chosen it currently. However, employees who choose the traditional plan will have to pay any difference in premiums from current program. This will apply to retirees.
  - d. Those employees with traditional plan will have deductibles of \$300/\$600 beginning on July 1, 2006.
  - e. All employees will pay 20% of any increase in health care, prescription premiums during the course of the contract.
6. Maintain current dollar caps on longevity. (8% of 2004 salary)

7. All compensation change dates will be January 1 of each succeeding year. Semi-annual increases or changes in benefits will be effective July 1 of each year and not on "26 week" basis.

## **BACKGROUND**

The Township of Moorestown [the "Township"] and the FOP Lodge 109 together with the FOP Lodge 109 SOA [the "Unions"] are parties to a collective bargaining agreement with effective dates of January 1, 2000 through December 31, 2004. At time of hearing, the Moorestown police force consisted of 28 police officers (with 2 about to be hired) including 4 detectives, 6 Sergeants, 2 Lieutenants and 1 Director of Police. The Sergeant and Lieutenant are recognized in the SOA unit.

The Township of Moorestown is located in southwest Burlington County approximately ten miles northeast of Philadelphia. Moorestown borders with Cinnaminson and Delran Townships on the west, Willingboro Township to the north, Mount Laurel Township on the east and Maple Shade Township on the south. Moorestown covers 15.1 square miles and has a population of 19,017. Although the Township is predominantly residential in character, major highways pass through the Township, including routes 38, 73 and 295. The Township houses a major shopping mall with over 100 retail stores and major employers such as Lockheed-Martin, PNC Bank, PSE&G and the Computer Sciences Corporation.



Substantial additional information concerning the Township's demographics and socio-economic profile was received into the record including per capita income, revenues, tax rates and official budget documents. Included in this data was in an article by Money Magazine in which Moorestown had just been ranked as the "Best Place to Live in America." The article highlighted Moorestown's excellent schools and safe streets, which Mayor Aberant attributed, in part, to the dedication of the Township's public employees.

The Township's real estate values are the highest in Burlington County. The average selling price of a single family home was \$501,710 in 2004. The tax base has grown as reflected in an assessed valuation of \$1,918,047,214 in 2005.

The Township's finances are well managed. It has a low debt ratio, an Aa3 rating from Moody's on all outstanding financial obligations and a tax collection rate exceeding 98%, the municipal tax rate. The Township's tax ratio is the lowest in the County with its property assessed at approximately 67% of fair market value. The total tax rate in 2005 was 4.02 of which only 16.2% of the total tax levy went to support the municipal budget. The school portion of the total tax levy is approximately 64%. The Township's expenditures for municipal purposes are considered low in comparison with other municipalities within the County and the State. The Township has shown an ability to regenerate surplus although this figure has fallen from \$5,236,491 in 2003 to \$4,714,251 in 2004

and to \$3,087,226 in 2005. This trend appears to be linked to the Township's desire to maintain tax rates at reasonable levels.

The police department is active with the level of offenses reported at 546 in 2003, 515 in 2004 and 602 in 2005. During those years, there were 747 arrests in 2003, 660 in 2004 and 605 in 2005. The crime index reflects a total of 25 violent crimes and 436 non-violent crimes reported in 2004, a decrease from 30 and 470 respectively in 2003.

The Township and the Unions acknowledge that the police department does an excellent job, is well trained and meets the demand of the residents in the entire community. Despite their agreement on the quality of services that are provided, they have significant disagreements over issues that are primarily economic in nature. Some issues were potentially resolvable but remained in dispute mainly because they had linkage with other issues at impasse. Because of this, the parties have advocated for the awarding of their proposed total package. Their arguments have emphasized the overall financial impact of the economic issues, internal and external comparability and the financial posture of the Township. The Unions assert the need to have and maintain competitive wages and benefits and that the Township's financial ability allows for an adoption of its last offer on all of the outstanding issues. The Township contends that negative financial impact on the governing body, the taxpayers and the

residents will result from awarding the Union's positions rather than an award confirming the Township's last offer.

Against this general backdrop, the Unions and the Township submit evidence and argument in support of their respective positions. I summarize these positions as follows.

## **POSITIONS OF THE PARTIES**

### **The Unions**

The Unions assert that the employees they represent have common interests with the Township. They point out that by paying police officers a wage comparable with similarly situated municipalities, the Township will be able to attract and sustain the same highly qualified police force that helped Moorestown to achieve its first place ranking in Money Magazine. They point to a need to protect the Township's residents, its schools and businesses. The Unions contend that Moorestown Police Officers continue to face difficult challenges in their day to day operations. As an example the Unions point to the 17% increase in officer responses to reported offenses from 2004 (515 reported offenses) to 2005 (602 reported offenses). Further, they point to the fact that Moorestown's crime index is in the top 25% of comparable municipalities within and outside of Burlington County and that a well compensated police department is needed to protect the public, the many business and corporate interests that are housed in the Township and its excellent school system.

The Unions submit that their compensation proposals would maintain the Township's competitiveness with other jurisdictions while keeping police morale high. They contend that under the Township's proposed wage increase, salaries will fall competitively behind those of comparable jurisdictions. This could result in an increase in officer turnover. The Township would have to spend more money training less experienced officers and the public and its safety interests would be harmed by the loss of more experienced officers. By accepting the Unions' proposed wage increases, the Township would remain competitive with comparable jurisdictions that otherwise may lure Moorestown police away with more attractive salaries. The Unions also support their wage proposals with comparisons between the wage increases offered to other Moorestown public employees as well as those of other comparable law enforcement jurisdictions.

In its post-hearing brief, the Unions offer the following arguments on comparability based upon exhibits offered at hearing:

#### Patrol Officers

Appendix #1 (Attached) looks at the comparison of police officer wages for Moorestown and the comparable jurisdictions discussed above. In 2004, the top patrol salary for Moorestown police officers was \$66,275 (TX3-Amended), slightly below the average salary of \$66,473 for all comparable jurisdictions reflected in Appendix #1. In 2005, the average base salary for the comparable jurisdictions listed in Appendix #1 is \$69,783. Under the Township's proposed increase of 3.6%, Moorestown police officers would be paid \$68,661, or \$1,122 less than the average in 2005. With regard to pay increases among the comparable municipalities listed in Appendix #1 was 4.1 and 4.0 for 2005 and 2006, respectively – equal to the proposal offered by the FOP and far above the proposal offered by the Township. The pay gaps between Moorestown patrol officers and these comparable jurisdictions will only expand as a result of the meager increases proposed by the Township in the subsequent

years. In order to maintain its competitiveness with these comparable jurisdictions, the FOP proposal of a 4% increase must be adopted.

The differential described above is exacerbated when Moorestown is compared to specific jurisdictions that are comparable in population (Burlington Twp., Delran Twp., Maple Shade Twp., Pemberton Twp., Princeton Twp., and Voorhees Twp. all have populations of approximately 20,000). See FX 16. The average top patrol salary for these jurisdictions is \$68,333, \$73,448 and \$76,007 for 2004, 2005 and 2006, respectively. Using the Township's proposed wage increases (see TX 3 – Amended), the top patrol salary for Moorestown officers lags behind these other jurisdictions by 3% in 2004, 7% in 2005, and 7% in 2006. Even under the FOP proposals, Moorestown would trail behind these other jurisdictions, but not by nearly as much as under the Township's proposals. In addition, to raw dollars, it should be noted that the average salary increase for these townships was 3.81% and 3.95% for 2005 and 2006, respectively. Based on this information, the gap between Moorestown officers and their colleagues in similar jurisdictions would be expanded under the Township's proposals.

In yet another comparison, one with other "mall jurisdictions" (i.e., Cherry Hill, Pennsauken, Princeton and Voorhees), Moorestown officers trail far behind their law enforcement colleagues with regard to wages and proposed wage increases. With regard to these "mall jurisdictions," the average top patrol salary is \$76,217 in 2005, \$79,215 in 2006 and \$82,416 in 2007. Under the Township proposal, Moorestown would trail this average by 11% in 2005, 12% in 2006 and 12% in 2007. These salaries reflect an average salary increase of approximately 4.0% in year 2005, 2006 and 2007 for each respective jurisdiction. Again, the FOP proposal in the present matter will not close the gap with these jurisdictions, but it will certainly ensure that Moorestown remains competitive with these comparable jurisdictions.

#### Sergeants

Appendix #2 (Attached) looks at the comparison of sergeants' wages for Moorestown and the same comparable jurisdictions discussed above, in 2004, the top sergeant salary for Moorestown was \$76,201 (TX 3-Amended), slightly above the average salary of \$74,346 for all comparable jurisdictions reflected in Appendix #2. In 2005, the average salary for the comparable jurisdictions listed in Appendix #2 is \$79,515. Under the Township's proposed increase of 3.6%, Moorestown sergeants would be paid \$77,022, over \$2,000 less than the 2005 average. With regard to pay increases, the average pay increase amongst the comparable municipalities listed in Appendix #2 is 4.16% and 3.9% for 2005 and 2006, respectively – equal to the proposal offered by the FOP and far above the proposal offered by the Township. Again, these gaps will only broaden as a result of the meager increases proposed by the Township in the subsequent years. In order to maintain its competitiveness with these comparable jurisdictions, the FOP proposal of a 4% increase must be adopted.

As with the patrol officers, the differential described above is exacerbated when Moorestown sergeants are compared to specific jurisdictions that are comparable in population (Burlington Twp., Delran Twp., Maple Shade Twp., Pemberton Twp., Princeton Twp., and Voorhees Twp. all have populations of approximately 20,000). See FX 16. The average sergeant salary for these jurisdictions is \$76,729, \$81,447 and \$85,146 for 2004, 2005 and 2006, respectively. Using the Township's proposed wage increases (see TX 3 – Amended), the top sergeant salary for Moorestown lags behind these other jurisdictions by 1% in 2004, 3% in 2005 and 4% in 2006. In addition to raw dollars, it should be noted that the average salary increase for these townships was 3.81% and 3.95% for 2005 and 2006, respectively. The gap between Moorestown sergeants and their colleagues in similar jurisdictions would be expanded drastically under the Township's proposals.

In comparison with other "mall jurisdictions" (i.e., Cherry Hill, Pennsauken, Princeton and Voorhees), Moorestown sergeants trail far behind their law enforcement colleagues with regard to wages and proposed wage increases. With regard to these "mall jurisdictions," the average top sergeant salary is \$90,128 in 2005, \$93,453 in 2006, and \$97,191 in 2007. Under the Township's proposal, Moorestown would trail this average by 14% in 2005, 14% in 2006 and 15% in 2007. These salary figures reflect an average salary increase approximately 3.9% in year 2005, 4.0% in 2006 and 4.0% in 2007 for each respective jurisdiction. Again, the FOP proposal in the present matter will not close the gap with these jurisdictions, but it will certainly ensure that Moorestown remains competitive with these comparable jurisdictions. The Township proposal, on the other hand, will ensure that Moorestown sergeants are paid far below what their colleagues in these other jurisdictions earn.

The FOP acknowledges that Lieutenants, on balance, are paid more favorable salary rates in comparison to other municipalities in the County than are the Patrol Officers and Sergeants but are nevertheless entitled to the same adjustments in order to maintain existing differentials within the department.

The Unions also propose to maintain the same retroactive date policy that has existed in the past. The current policy of the Township is to pay employees in bi-weekly periods twenty-six times annually. The Unions point out that

employees would lose a month or more of their earned pay increase if the current policy is eliminated in favor of the Township's proposed biannual policy.

The Unions submit that the overtime and holiday roll-in proposals are needed to improve base pay and pensionable income while at the same time not overburdening the Township with their cost. Under the current holiday pay system, the officers receive between 12 days (144 hours) and 14 days (168 hours) of straight time holiday pay per year but this pay is not included in base pay. The Unions propose adding 150 hours of this straight time compensation to the base salary while eliminating the existing holiday pay provision. Under the Unions' proposal, these hours would be included as "credible compensation for the calculation of pension benefits by the Police and Fire Retirement System." The Unions point to fourteen (14) of twenty-two (22) comparable jurisdictions that have a provision that places holiday pay into base salary for patrol and superior officers. Recognizing that costs arise from this proposal, the Unions propose, as a cost offset, to eliminate the Uniform Maintenance Stipend, a benefit that is presently valued at \$740 per officer (patrol and SOA). They submit that any additional pension and longevity contributions resulting from its proposed roll-in, when accompanied by the offset, would cause the Township little financial hardship. They calculate the additional pension cost to the Township per officer after subtracting the \$740 Uniform Maintenance stipend at \$113 per person (patrol) and \$241 per person (SOA). The total increase in longevity costs to the Township would be \$191 per person (patrol) and \$380 per person (SOA). The

Unions contend that these increases are minimal percentages of the each officer's salary and would not amount to a substantial burden on the Township.

The Unions contend that their overtime proposal is a reasonable compromise between the current overtime rate and the proposed straight time rate. The Unions propose adding the value of the 104 overtime hours (4 extra hours per pay cycle x 26 pay cycles) to the base salary at time and one-half rate, which is lower than the current overtime rate. The Unions also point out that the new proposal uses 2184 hours, instead of the present 2080 hours worked per year, as the dividing factor when calculating future hourly rates. The increase in hours is a concession accompanying the use of the time and one-half rate rather than the existing overtime rate when calculating the value of roll-in, thereby minimizing cost to the Township. The FOP acknowledges that the prior method of calculating credible compensation was disallowed by the Division of Pensions in a June 15, 2005 opinion but that its proposal captures the essence of its previous agreement with the Township to compensate for this time at time and one-half while also complying with the Division's opinion by decreasing the overtime rate.

The Unions recognize that Detectives and Lieutenants currently work an 80 hour rather than an 84 hour schedule and that inequities in base pay between them and Police Officers and Sergeants will result from the increase in base pay caused by the overtime roll-in proposals of either the FOP or the Township. To



remedy these inequities, the Unions propose that the Detectives and Lieutenants be placed on the 84 hour schedule. The Detectives would receive the adjusted base pay received by Police Officers and, in exchange, would have their 5% Detective differential (see Article XI) and the Detective clothing allowance (see Article X) eliminated. The present practice of covering "on call" would continue.

As mentioned above, the FOP proposes that the Lieutenants work schedule be converted from an 80 to an 84 hour work schedule. The extra four hours would be paid at the straight time rate. The Unions again refer to their proposed elimination of the Uniform Maintenance Stipend to balance the added costs to the Township associated with this proposal. Their rationale for the proposal is to create equality on the force. The Unions contend that 95% of the force (patrol and sergeants) work an 84 hour schedule and that the responsibility of a Lieutenant is similar to that of an inside sergeant. The Unions submit that in Moorestown, the job responsibilities of a lieutenant and an inside sergeant are very similar and, thus, they should be compensated using the same criteria.

The Unions cite financial evidence in the record to support their contention that the Township is in excellent financial condition and can fund their proposals within its statutory spending limitations and without adverse financial impact on its residents or taxpayers. The Unions draw their conclusions from Report of Audits, Annual Financial Statements, County Tax Rate Certifications and Annual Debt Statements. The Unions point to the absence of testimony by the

Township's financial expert that the Unions proposals would compel the Township to exceed its Cap. The Unions note that the Township's budget was \$274,363 below cap for 2005 and \$117,260 below in 2006. The Unions point to an extraordinary growth in the Township's total assessed valuation which grew to \$1,918,047,214 in 2005. The Unions further contend that the Township's finances support the adoption of the Unions proposals without placing the Township in an adverse financial condition. From the financial data, the Unions argue that:

... [T]he Township generated an average of almost \$2 million per year in excess revenues each year from 2003-2005. Additionally, the Township consistently has unspent budget appropriations over \$500,000. Only 16.2% of the Total Tax levy is for support of the Municipal Budget and only 50% of the total Municipal Budget is supported from local taxes; the balance being from outside sources. Further, financial analysis shows that the Township has consistently generated an average of almost \$4 million per year in excess revenues; the tax collection rate is almost perfect at 98%-99% - approximately 5% better than the state average; and the Township is well below the statutory debt limit. All of this evidence points to an extraordinarily healthy economic picture for the Township, and a strong promise for future growth.

The Unions also propose increasing the cap for accrued sick leave payments from \$18,000 to \$20,000. They contend that this proposal will benefit both parties. While employees are compensated for sick days that they have not used, the benefit is said to provide an incentive for employees to not use their sick days and to encourage earlier retirement.

The Unions' post-retirement health insurance proposal requests a reduction in the present requirement that employees work for the Township for the minimum 25 year period as well as having 25 years with the PFRS before becoming eligible for medical insurance coverage during retirement. They propose lowering the 25 year minimum service requirement for service to the Township to a 20 year minimum. The rationale for the lowered period is to address lateral hires that currently work for the Township or those who would be interested in transferring into the Township as a result of the lower requirement. These officers would come in with more experience and require less training. Further, the new proposal would allow employees to retire earlier instead of necessitating an extended career prompted by the extra five year requirement for the receipt of retiree health insurance. The Unions point out that earlier retirement dates cut down the added costs attached to senior officers by allowing for the hire of less expensive new employees. The Unions submit a chart reflecting that the Township has hired many public officers with prior expenses and that some would have to work 30 to 34 years in order to attain the existing benefit.

The Unions have also proposed an adjustment for the longevity and detective differentials<sup>1</sup>. These caps reflect 8% of the top salaries for each position at 2004 levels of pay. They calculate the current longevity caps to be \$5,302 for patrol officers, \$6,096 for sergeants and \$7,578 for lieutenants. The

---

<sup>1</sup> The FOP recognizes that it, in another proposal, proposed to eliminate the Detective Differential if they are placed on an 84 hour work schedule.

Detective differential cap is listed at \$3,314 which is 5% of the top patrol salary. The Unions argue that by not matching the cap with the adjusted salary rates, the tiered incentive system loses its meaning. They propose to adjust the caps to the highest attainable numbers in the last year of each contract.

Based upon the above, the Unions argue for acceptance of their proposals in their totality.

### **The Township of Moorestown**

The Township contends that the Unions have not presented sufficient credible reasons to justify many of their proposals. The Township urges denial of the proposal that adds the value of the Holiday Pay benefit set forth in Article V of the CBA into the base salary of all officers as well as the fold in of 104 hours of overtime into base pay at the rate of time and one-half. The Township states several reasons why the Unions' proposals on these issues would be detrimental to the Township if granted. First, the Township argues that the proposals would cause damage to the State's public pension system as evidenced in the June 15, 2004 ruling of the Division of Pensions finding illegal an agreement to roll overtime pay into base pay at time and one-half. The Township also believes that the proposals may be illegal by violating the pension statute and the PRFS regulation N.J.A.C 17:4-4.1, which states that "[t]he compensation of a member subject to pension contributions and creditable for

retirement and death benefits in the system shall be limited to base salary and shall not include extra compensation.”

The Township contends that the Unions have not presented adequate justification to amend Article IV, §A. by rolling in the 104 annual overtime hours at time and one half into base salary so as to denote that it is creditable compensation in order to calculate pension benefits. The Township submits that the 104 hours should be added to base salary at the regular hourly rate and further that the overtime rate should be calculated based upon the 2184 hour work week. The Township points to the existing contract language in Article IV that triggered the current dispute:

Effective January 1, 2001, officers working the 84 hour schedule shall have the extra 4 hours at overtime rate (104 hours annually) included in their annual compensation (credible compensation as defined by New Jersey Division of Pensions). This work schedule differential shall be paid throughout the year as a component of base compensation; however, such differential shall not be included in the base salary rate for purposes of computing overtime pay rates, or for computing annual longevity compensation, or computing annual detective differential compensation.”

According to the Township, the Unions’ overtime proposal directly violates the prior ruling of the Division of Pensions. The Township believes that the Unions have requested a transformation of “extra compensation” into base salary thus creating substantial pension benefits for the Union at unjustified expense to the public employer. The Township contends that its obligations in supplying the additional increases in pension costs are too substantial to justify the Unions’

proposal. The Township contends that the overtime burden would be mitigated if the base hourly rate is calculated using 2184 hours per year, a figure that is legally consistent with the work year while also maintaining the limitation on using new money for calculating longevity.

The Township contends that the best interests and welfare of the public are not being served by funding these proposals at such substantial cost. The Township submits the projected results of transforming Holiday Pay into an element of base pay and adding the 104 Hour Roll in at the time and one half level proposed by the Unions:

<b>Rank</b>	<b>\$ Increase</b>	<b>Pension Increase</b>	<b>Projected Value</b>
Patrolman (top)	\$11,310 (\$5,504 + 5,806)	\$7,351	\$213,193
Detective (top)	\$10,743 (\$5,504 + 5,239)	\$6,982	\$202,505
Sgt. (top)	\$13,005 (\$6,329 + 6,676)	\$8,453	\$245,114

The Township contends that the Unions' proposals impose substantial financial burdens on the employer that extend far beyond an increase in the Employer's mandated pension contributions. These burdens include the increase in the overtime rate and the actual costs arising from increases to base pay. The Township submits the following table highlighting the increases that would result in the overtime rate arising from the Unions' proposals:

<b>Rank</b>	<b>2004 Rate</b>	<b>2009 Rate</b>	<b>Increase</b>
Patrolman (top)	\$51.62	\$68.98	\$17.36
Detective (top)	\$54.01	\$68.98	\$14.97
Sgt. (top)	\$59.35	\$79.31	\$28.96

The Township argues that the Unions' annual salary proposals appear to total 20.40% over five years represent actual costs far in excess of 20%. Under the Unions' proposed changes, the Township calculates that base salary would experience a 33.63% increase over the term of the contract for patrolmen and sergeants and 27.72% for detectives. The increase would elevate the Township's overtime costs from \$798,514 to \$928,153 if the proposals are adopted.

The Township claims that another substantial burden imposed on it is the increase in longevity payments because longevity is based upon a percentage of "base salary." These increases would be mitigated by maintaining current longevity caps at their existing levels (8% of top rate in 2004) as the Township has proposed. Further, the Township contends that its obligations to pay additional increases in pension costs too substantial to justify the Unions' proposals. The Township estimates that its obligation will rise to 15.5% of base salary.

Another reason the Township offers as to why the Unions' proposals, if granted, would be detrimental to the Township is the change made to the detective work week. The Township believes that the increase in the detective work week simply to cover their lack of holiday pay is illegal and impermissible. The Township asserts that the increase from an 80 hour work schedule to an 84 hour work schedule creates a \$5,000 plus increase in compensation without any benefit to the Township. Additionally, the Township feels that the increase from 2080 hour years to the proposed 2184 hour years, resulting from extending each work day by one half hour, is unnecessary. The Township relies on precedent stating that the scope of discretion accorded to the public entities to administer police departments is necessarily broad and that an increase in work hours would significantly interfere with its prerogatives.<sup>2</sup>

The Township recognizes that work hours are mandatorily negotiable but argues that a particular work schedule proposal will be held not mandatorily negotiable if it would significantly interfere with a government policy determination. Nevertheless, the Township points to cases that have held, under their particular circumstances, that proposals to change work hours or shifts were not mandatorily negotiable. The Township concludes that the Unions' desire to create an economic justification for uniform treatment of the members of the bargaining unit does not create sufficient justification to make the Unions' proposal either negotiable or reasonable.

---

<sup>2</sup> Jersey City v. Police Officers, 154 N.J. 555, 572 (1998).



Turning to the issue of general rate increases, the Township contends that its proposal is more realistic than those proposed by the Unions. The Township believes that its offer of 3.6% for 2007 and 3.5% for 2008 and 2009 is more appropriate than the Unions' proposal of 4% for four years and 4.4% for 2009. The Township also claims that its proposal is more consistent with the salary increases implemented for all other Township of Moorestown employees. These increases were all 3.6% or less except in the Public Works Department. The Township compares the potential total compensation packages based on the Township proposal and Unions' proposal.

Projected Wages Under Union Proposal:

<b>Rank</b>	<b>Total S &amp; W</b>	<b>Total Comp w/ Fringe</b>
Lieutenant	\$172,456	\$223,997
Sgt.	\$150,904	\$202,005
Patrolman	\$131,248	\$178,827

Projected Wages Under Township Proposal:

<b>Rank</b>	<b>Total S &amp; W</b>	<b>Total Comp w/ Fringe</b>
Lieutenant	\$159,653	\$207,729
Sgt.	\$139,653	\$186,107
Patrolman	\$121,560	\$164,922

The Township contends that its salary proposals are reasonable pointing to the existing level of police salaries. The Township points out that, under the Unions' proposal, Moorestown's Lieutenants would be earning a higher yearly salary than

the Township's Manager or it's Public Safety Director. The Township stresses the need for property tax relief, a problem that cannot be properly addressed if the Unions' salary proposals are adopted. The Township notes that it is facing tax increases during a period of stabilized property values.

The Township's rationale turns to other compensation issues. It asserts that the current longevity dollar cap at 8% of 2004 wages is reasonable given the projected increases in base salary. Furthermore, the Township also believes that confusion would arise if the annual and semi annual change dates were moved back earlier in the year. The Township believes that retroactivity for recent retirees or new hires is unfair in that it rewards employees who have not recently contributed to the public good.

The Township rejects the proposal to increase the Lieutenant's workweek. It offers similar reasoning related to the exercise of management prerogatives that it provided in opposition to the Union's proposal to increase the workweek for Detectives.

The Township also addresses the Unions' health care insurance proposals. The Township contends that its 25 year eligibility requirement for payment of post retirement health insurance premiums is a non-negotiable item. The Township acknowledges that the Public Employment Relations Commission (PERC) held that an interest arbitrator has the authority to make awards in an

individual bargaining unit so long as the post-retirement health benefit is uniformly applied within the unit.<sup>3</sup> However, the Township respectfully submits that the PERC decision is flawed and should not control in this situation because it is inconsistent with statutory language in N.J.S.A. 40A:10-23 that the Township believes contains language granting discretion to a municipality when dealing with the permissive nature of insurance costs.<sup>4</sup>

The Township seeks the adoption of its health insurance benefit proposals urging that employees must share in the increasing cost of providing such benefits. The Township seeks increases in co-pays and deductibles in the Traditional Plan and an increase in office co-pays to \$15 for those in the PPO-HMO plans. The Township has proposed to increase the deductibles from \$200/400 to \$300/600 in the Traditional Plan noting that only one employee is in the Traditional Plan. The Township seeks a \$200 deductible for the prescription rider in its PPO plan. Lastly, the Township requests that the police, the best compensated group of Township employees, share the burden of these costs by engaging in 20% premium sharing in order for the Township to convince its other unions to follow the same route.

For all of the above stated reasons the Township submits that its proposals should be awarded in their entirety.

---

<sup>3</sup> Borough of Emerson and Emerson PBA Local 206, P.E.R.C. No. 2005-68, 31 NJPER, 125 (\$53 2005).

## DISCUSSION

I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Township and the Unions have forcefully articulated their positions on the issues and have offered testimony and considerable documentary evidence and argument on each statutory criterion in support of their respective positions. I have carefully reviewed, considered and weighed all of the evidence and arguments.

As stated, I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g (1) through (8) which I find relevant to the resolution of these negotiations. These factors, commonly called the statutory criteria, are as follows:

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

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

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

---

<sup>4</sup> Essex County Div. of Welfare, 108 N.J. 140, 149 (1987).

- (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
- (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq ).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.

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

Initially, I observe that the majority of the issues in dispute are economic in nature. These include hours of work, wage increases, holiday and overtime roll-in, longevity percentages, pension benefits and health care deductibles. The record reflects that all of the enumerated criteria are relevant to a disposition of these issues although not all are entitled to equal weight.

While I must assess the merits of the disputed proposals individually, I refer to criterion N.J.S.A. 34:13A-16g (8), a criterion that directs the consideration of factors ordinarily or traditionally considered in the determination of wages and benefits. One such element requires that consideration be given to the totality of the changes to be made to an existing agreement. This is especially appropriate in this case due to the linkage among the many economic issues and the fact that many of the proposals have potential to impact upon base pay including roll-ins for overtime, holiday pay and work schedule. This consideration is consistent with the statutory requirement that the arbitrator determine whether the total net annual economic changes for each year of the agreement are reasonable under all of the criteria. Thus, any decision herein to award or to deny any individual issue in dispute will include consideration as to the reasonableness of that

individual decision in relation to the reasonableness of the totality of the terms of the entire award.

I will next decide each individual issue in dispute.

### **DURATION & EFFECTIVE DATES**

The first issue in dispute is contract duration. The Township proposes a three (3) year Agreement while the FMBA has proposed a five (5) year Agreement. Under the circumstances present here, I conclude that a four (4) year rather than a three (3) year contract or five (5) year contract would better serve the interests and welfare of the public and the parties. The prior agreement expired on December 31, 2004. Lengthy direct negotiations between the parties did not result in settlement. After direct negotiations were unsuccessful, this proceeding was initiated and the record did not close until late July 2006. At this point, a three year agreement would expire shortly. An agreement extending beyond December 31, 2007 for a period of one additional year would promote stability and economy for these two units by not having to return to direct negotiations for at least one full year. On the other hand, an Agreement extending through December 31, 2009 would require the application of statutory criteria to a time period that contains some economic and fiscal uncertainties and recent revisions in relevant statutes. Accordingly, I award a contract duration of four (4) years.

The parties also disagree on the effective dates for salary increases. In the past, the parties have agreed upon a retroactive date policy wherein employees are paid in bi-weekly periods, twenty-six (26) times annually. The record reflects that the current policy was set up to ensure uniform distribution of each yearly wage increase percentage. The Township has not presented sufficient evidence that warrants termination of this policy. Accordingly, the retroactive dates shall be as proposed by the Unions. I also do not adopt the Township's argument that the award not be retroactive for recent retirees or new hires. The effective dates for each individual determination shall govern retroactivity and eligibility shall be extended to employees who are or were employed at the time of the effective dates including those who have retired or may have retired on ordinary or disability pension. Employees who have resigned or did not have a separation in good standing shall not be covered by retroactivity.

#### **ANNUAL SICK LEAVE SELL BACK**

The Unions have proposed an annual sick leave sell back. The proposal would amend Article VIII, Section E of both contracts to allow officers working 10-hour days to sell 6 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year. Officers working 8-hour days would be allowed to sell 7.5 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year. The Township has consented to this proposal at hearing and it is awarded effective January 1, 2007.



### **BALLISTIC VESTS**

The Unions have proposed to increase the allowance for the purchase of ballistic/protective vests mentioned in Article X to \$1200 from the present \$750. The Township has consented this proposal at hearing and it is awarded effective January 1, 2007.

### **MISCELLANEOUS (Surviving Spouse and Dependents)**

The Township now provides health insurance to the surviving spouse and dependents of any officer killed in the line of duty. The Unions propose that coverage would terminate for the spouse and/or dependants at Medicare eligibility age, as is presently the standard in Article IX of each contract. The Township has consented to this proposal at hearing and it is awarded effective as soon as practicable upon fourteen (14) days notice to the Unions.

### **OVERTIME ROLL-IN**

The Township and the Unions each offer a proposal that is related to compensation for hours worked in excess of forty (40) hours per week. Police Officers now work either an eighty (80) hour schedule or an eighty-four (84) hour schedule. Depending on the work schedule, their annual hours of work are either 2080 or 2184.

There is a history to this issue. Prior to January 1, 2001, hours worked in excess of eighty (80) for those on the eighty-four (84) hour schedule were paid at the overtime rate, a rate calculated as somewhat in excess of time and one-half. This compensation was not part of base pay. Effective January 1, 2001, the Agreement changed this compensation impact of the eighty-four (84) hour schedule at Article IV, Section A. In pertinent part, Section A stated:

Effective January 1, 2001, officers working the 84 hour schedule shall have the extra 4 hours at overtime rate (104 hours annually) included in their annual compensation (creditable compensation as defined by New Jersey Division of Pensions). This work schedule differential shall be paid throughout the year as a component of base compensation; however, said differential shall not be included in the base salary rate for purposes of computing overtime pay rates, or for computing annual longevity compensation, or computing annual detective differential compensation. Temporary assignments to Patrol of less than 2 consecutive pay periods shall not qualify for this base pay adjustment.

On June 15, 2004, the Board of Trustees of the Police and Firemen's Retirement System, upon an appeal of an administrative decision by the Division of Pensions, disallowed Article IV, Section A's method of calculating creditable compensation. The Board found that "any salary that is paid at an overtime rate should not be considered part of base salary for pension purposes." The Board did note, however, that "salary attributable to changing your base work hours from 80 to 84 at straight time is creditable in the PFRS."

The Township and the Unions seek to address the issue by offering these respective proposals. The Union proposes:

- i. Beginning with the 2007 pay increase (i.e., 11/24/06), add the value of the "104 annual overtime hours" referred to in Article IV, Section A of the current patrol and SOA contracts into the base salary of all officers. This would be included in the salary guide as "creditable compensation."
- ii. The hourly rate to be used for computing the roll-in would be the officer's time and one-half rate rather than the higher overtime rate presently used.
- iii. For purposes of calculating the overtime rate, the new base salary number assumes 2184 annual hours of work for officers on the 84-hour schedule and 2080 annual hours of work for detectives on the 80-hour schedule.
- iv. The 5% Detective Differential (Article XI) and the Detective Clothing Allowance (Article X) would be eliminated in exchange for acceptance of this proposal.
- v. Detectives would continue to cover "on-call," which is the present practice.

The Township proposes for Patrolmen and Detectives:

"Built In" Overtime to be added to salary as 104 hours annually at straight time effective January 1, 2006. Overtime rate to be based on 2184 hour year.

The Township proposes for Sergeants:

"Built In" Overtime to be added to salary as 104 hours annually at straight time effective January 1, 2006. Overtime rate to be based on 2184 hour year. (Internal Sergeants will work 10.5 hours per day).

The Township proposes for Lieutenants:

No 104 hour roll-in for Lieutenants who will remain on 2080 hour schedule.

The Township asserts that the Union "proposes to hide the fact that this money has been treated as "extra compensation" through the white wash of an arbitrator's award" while the Unions contend that their proposal "complies with the Division of Pensions criteria for rolling-in certain payments to base salary", thus increasing creditable compensation for pension purposes. The Township has agreed to roll-in overtime, but proposes doing so at the straight time rate instead of the Unions' proposal that it be at time and one-half. The FOP asserts that its proposal is not only a reasonable compromise between what the Township agreed to in the current contract (the overtime rate) and what it proposes now (straight time) because it decreases the overtime rate and will also result in a "less drastic loss for the officers." The Unions make an extensive cost analysis that shows that its election to use a time and one-half rate (2,184 hours) rather than the existing overtime rate (2,080 hours) to calculate the value of the overtime roll-in would result in a savings of over \$5,000 to the Township.

In my evaluation of the merits of this proposal, weight must be given to the prior determination of the Division of Pensions and Benefits. Absent that determination, there would be some logic to evaluate the relationship between salary and hours of work in a manner that would allow for the totality of all eighty-four (84) hours of compensation, including those paid at time and one half, to be considered as base pay, especially in light of the fact that under Section 207(k) of

the Fair Labor Standards Act (FLSA) the four additional hours are not "overtime" for which time and one-half is required. The Unions also point out that the parties' prior agreement gave value to the time worked at a similar rate that the Unions now seek.

Nevertheless, the issue in this proceeding is substantially similar to the issue previously decided by the administrative agency that had the jurisdiction and authority to decide the issue of what is creditable compensation. Given the prior ruling, I conclude that the interests and welfare of the public will not be served by an adoption of the Union's proposal. A proper balance must be struck by folding in the 104 hours at the straight time rate as proposed by the Township and assessing the impact of that determination on the other major economic issues that are in dispute. I award the fold in of the 104 hours at the rate of straight time. I also conclude that the overtime rate shall be calculated by using the base hourly rate caused by working 2184 hours per year at straight time, a figure that is consistent with the actual work year. For the purposes of calculating longevity, all 2184 hours of the normal work year shall be considered base pay upon which to calculate longevity amounts. The effective date shall be as soon as is practicable but no later than July 1, 2007.

### **MISCELLANEOUS (LONGEVITY)**

The FOP has proposed to adjust the caps for longevity (Article XII) and Detective Differential to highest attainable numbers in the last year of each contract. The Township disagrees citing additional costs.

The existing caps, \$5,302 for longevity for patrol officers and \$3,314 for the Detective Differential, are calculated based upon the application of the 8% maximum longevity step to the patrol maximum in effect during contract year 2004. It is reasonable that a cap figure be maintained in the Agreement but the cap number shall be modified by applying the same formula as currently exists (8%) effective in the contract year 2008 for the top rates dictated by the salary adjustments. Thus, the existing longevity cap shall remain until 2008 when it shall be adjusted to the top rate set forth in the salary schedules of the patrolman maximum. For reasons stated below the cap on the Detective Differential shall be removed effective January 1, 2008.

### **HOLIDAY PAY**

The Unions propose to eliminate Holiday Pay and adjust base pay in a like amount. Recognizing that Holiday Pay results in compensation between 144 and 168 hours of straight time in a given year, the Unions propose to eliminate Holiday Pay and adjust base pay at the value of 150 additional straight time hours. The Township opposes the proposal citing additional costs due to the enhanced base pay.

The FOP proposes the following:

- i. Add the value of Holiday Pay (150 hours of straight time), referenced in Article V of the current patrol and SOA contracts, into the base salary of all officers. This would be included in the salary guide as "creditable compensation."
- ii. Officers assigned to positions that presently do not work holidays or receive holiday pay (i.e., Detectives) would be switched from an 80-hour work schedule to an 84-hour work schedule in recognition of the additional compensation this roll-in would provide to them.
- iii. Officers working overtime on Holidays would continue to be compensated at the double-time rate, which is the current practice under Article V.
- iv. The Uniform Maintenance Stipend for Patrolmen and Sergeants of \$740 per officer (Article X) would be eliminated in exchange for acceptance of this proposal.

After weighing and balancing the positions in favor of, or in opposition to, this proposal, I grant the proposal in part and deny the proposal in part for the below stated reasons. The Township is currently paying holiday pay pursuant to Article V. The elimination of holiday pay with an adjustment to base pay in a similar amount in the manner proposed by the FOP can be achieved at reasonable cost. The cost would be the additional pension contributions made by the Township due to the increase in base pay and the additional longevity payments that also arise from the increase in base pay.

The FOP proposes to offset these additional costs by eliminating the existing uniform maintenance stipend of \$740 per officer in Article X, Section D of the Agreements. The Unions have calculated these costs, for non-superior officers, at \$853 per officer for pension and \$191 for longevity. These costs would be offset by the elimination of the \$740 benefit. After these calculations, the cost would be \$304 per officer amounting to 0.38%. For Sergeants, the cost after deducting the offset is calculated to be 0.69%.

These costs must be evaluated in the context of the disposition of all of the economic issues and the costs of the overall award. The fold in of overtime at straight time rather than the current payment of time and one-half, while increasing pensionable base pay earnings, will result in cost savings to the Township that serves as an offset to the cost of this proposal. The record also reflects that this type of salary adjustment has been accomplished in many comparable jurisdictions including Cinnaminson, Delran, Easthampton, Evesham, Florence, Maple Shade, Medford, Mt. Holly and Palmyra. This comparability data is not controlling in and of itself but it is persuasive in showing that the Unions' proposal is not a unique or novel benefit to be accorded to police officers. It is also a factor to be considered when evaluating base pay salary comparisons among these municipalities and Moorestown.

Based upon the above, I award the Unions' proposals but only to the extent that the fold in be provided for those positions and ranks who already are



eligible for holiday pay under the existing Agreement. The Township rejects the Unions' proposals to increase the existing 80 hour work schedule to an 84 hour work schedule for Detectives as a quid pro quo for adding 150 hours of salary into their base pay. The Township contends that an increase in work hours solely to provide Detectives with greater base pay in an improper invasion into its managerial prerogatives. This argument is persuasive. To increase work hours for employees solely because they are now not eligible for holiday pay under the existing agreement is denied.

Because Detectives do not receive holiday pay this result does create an unintended inequity for Detectives that should be eased. One method of doing so, without increasing their workweek, is to include the existing 5% detective differential into their base pay. The Agreement now provides a detective differential equal to five (5%) percent of base pay but the differential is paid in a manner that is now not considered to be part of base pay (See Article XI, B). An incorporation of the differential into the detectives' base pay would ease the above described inequities at a reasonable cost to the Township. Its inclusion in base pay is clearly justified by the Agreement's stated intention to add the differential to the detective's biweekly compensation and the implied intention to grant consideration to Detectives because of their work week and lack of paid holidays. Thus, effective with the elimination of holiday pay and the adjustment of base salary on January 1, 2008 for those who now receive holiday pay, the Detective differential shall remain as 5% but shall be calculated and applied as a

base pay payment for all calculation purposes. Detectives shall continue to cover "on call", as is the present practice. I award no other changes to the existing provision as it concerns the method of payment for those who work holidays except to note that there be no double payment for the calculation of one (1) days pay for the holiday once the fold in has become effective.

### **ACCRUED SICK LEAVE AT RETIREMENT**

Article VIII(F) provides for accrued sick leave at retirement to be paid in a lump-sum payment according to the following formula:

1. An employee leaving the Department in good standing by either death or retirement shall be compensated for unused accumulated sick leave in a lump-sum payment at the base rate of pay then in effect in accordance with the following formula:
  - a. If the officer has 149 days or less, he or his estate shall be compensated at the rate of \$20.00/day.
  - b. If the officer has 150-174 days remaining, he or his estate shall be compensated for 15% of them at the base rate of pay and 85% at the rate of \$20.00/day.
  - c. If the officer has 175-199 days remaining, he or his estate shall be compensated for 20% of them at the base rate of pay and 80% at the rate of \$20.00/day.
  - d. If the officer has 200-224 days remaining he or his estate shall be compensated for 25% of them at the base rate of pay and 75% at the rate of \$20.00/day.
  - e. If the officer has 225 days or more remaining then he or his estate shall be compensated for 30% of them at

the base rate of pay and for 70% shall receive \$20.00/day.

The maximum benefit payable under this provision shall be sixteen thousand dollars (\$16,000), until January 1, 2001, when it shall increase to eighteen thousand dollars (\$18,000).

The term "retirement" shall mean service retirement, special retirement, ordinary disability retirement, or accidental disability retirement, as the foregoing phrases are defined by the statutes and regulations governing the New Jersey Police and Fireman's Retirement System.

Article VIII further provides for a maximum benefit payable (or "cap") of \$18,000.

Prior to January 1, 2001, the cap was \$16,000.

The Unions propose the following changes to Article VIII:

Effective January 1, 2007, increase the CAP under Article VIII of each contract to \$20,000 and the merging of Steps (b) and (c). The new step (b) would read: "If the officer has 150-199 days remaining, he or his estate shall be compensated for 20% of the days at the base rate of pay and 80% of the days at \$20 per day."

I award the Unions' proposal in part and deny it in part. The Unions have provided insufficient justification to merge steps B and C into a new step B. The existing formula appears to have been carefully constructed in increments of twenty-five (25) days to provide increasing amounts upon achieving the next incremental step. The proposal would alter the consistency of the incremental pattern. This aspect of the proposal is denied.

I do award an increase in the cap to \$20,000 effective January 1, 2007.

The record reflects that the cap has, on occasion, increased in the past as the

value of a sick day has increased due to salary adjustments. The increase proposal is reasonable and would be the first such adjustment in six years. This aspect of the proposal is awarded.

### **POST-RETIREMENT HEALTH INSURANCE**

The Unions have proposed to modify the existing post-retirement health benefits provision at Article IX with respect to eligibility. Currently, the provision, in pertinent part, states:

**Coverage After Retirement** – The Township will continue to provide medical insurance coverage to an eligible retiring employee and his family at no cost to the employee, provided that the employee has served the Township at least twenty-five (25) years. This coverage and the rules concerning the eligibility shall be only as allowed under N.J.S.A. 40A: 10-23 as supplemented and amended.

Said coverage shall be provided up to age 65 or medicare eligibility age (if later) providing those eligible annually certify in writing to the satisfaction of the Township Manager that they have no other medical coverage.

The proposal would modify the provision in this manner:

Provide post-retirement health benefits, pursuant to Article IX, to officers who have accumulated twenty-five (25) years of service in the PFRS retirement system, or have otherwise met the requirements for a pension with that system, and have served the Township of Moorestown for at least 20 years.

The record reflects that the Township has employed many officers with prior law enforcement experience. These include:

**Moorestown Police with Prior Pension Service**

Name	Date of Hire	Time of Pension Plan as of March 1, 2006
Braukmann, Donald	4/2/2004	12 Years
Burk, Jason	9/21/2001	11 Years 1 Month
Hare, William	12/6/1991	17 Years 10 Months
Melia, Robert	1/28/2000	16 Years 3 Months
Naff, Richard	9/22/2000	15 Years 9 Months
O'Donnell, Richard	12/6/1991	21 Years 2 Months
Pascal, Daniel	5/1/2004	7 Years 6 Months
Rogers, Eric	2/18/2005	13 Years 9 Months
Viggiano, Charles	2/18/1993	23 Years 8 Months
Walczak, Walter	7/30/1999	9 Years
Walsh, Joseph	1/7/1994	21 Years

By doing so, the Township has not had an obligation to initially train its new hires and the public has benefited by being protected by police officers with extensive law enforcement experience. The ability to realize the benefit stated in Article IX is diminished by disallowing prior law enforcement experience. The proposal would allow for crediting up to five years of prior experience but it would still require twenty (20) years of service with the Township.

This proposal is reasonable. It would also assist the Township in attracting experienced police officers and eliminate the incentive for a police officer to remain on the force for an extra five years after they become eligible for full pension benefits for the sole purpose of qualifying for this contractual benefit.

Accordingly, this proposal is awarded effective January 1, 2007.

## **PROPOSAL REGARDING SOA**

The Unions have proposed to change the work schedule of Lieutenants from an eighty (80) hour work schedule to an eighty-four (84) hour work schedule. The additional four hours would be paid at the straight time rate as part of base salary for "creditable compensation." The overtime rate would then be calculated on 2,184 annual hours. The Unions would eliminate the uniform maintenance allowance of \$740 per Lieutenant in exchange for the adoption of this proposal. I do not award this proposal based upon similar reasoning in support of a similar proposal to increase the hours of work for detectives, a proposal that has been denied.

## **HEALTH AND WELFARE**

The Township has proposed to modify the medical insurance portion of the existing Health Benefit Plan. That plan, at Article IX currently provides:

1. **Medical** – the Township shall contribute a monthly amount equal to 100% of the monthly premiums of the New Jersey Health Benefits Program for all permanent and provisional full-time employees covered by this Agreement and their dependents.

Employees covered under the traditional indemnity plan shall have their individual deductible limit established at \$200 per year, and their family deductible limit established at \$400 per year. Employees covered by Aetna/U.S. Healthcare-HMO or PPO plans shall pay a \$10.00 per visit co-pay.

The modifications sought by the Township are as follows:

- a. \$15 co-pay for PPO-HMO visits beginning July 1, 2006.
- b. \$200 deductible for prescription rider provided for PPO plan.
- c. Traditional Plan will be available to those employees who have not chosen it currently. However, employees who choose the traditional plan will have to pay any difference in premiums from current program. This will apply to retirees.
- d. Those employees with traditional plan will have deductibles of \$300/\$600 beginning on July 1, 2006.
- e. All employees will pay 20% of any increase in health care, prescription premiums during the course of the contract.

The Township offers fully paid medical insurance with employee options for HMO, PPO or Traditional coverage. At the time of hearing twenty-eight (28) of the Township's twenty-nine (29) patrol officers patrol officers and detectives elected PPO coverage with one officer opting for an HMO. Five (5) of the Township's six (6) sergeants elected PPO coverage with one sergeant opting for Traditional. Both Lieutenants have chosen PPO coverage. Under the PPO coverage the Township paid \$1,396 monthly for Family coverage; \$1,197 monthly for Husband and Wife; \$802 monthly for Parent and Child and \$545 monthly for single coverage. The one officer who opted for Traditional Family coverage cost the Township \$1,769 monthly for an annual rate of \$21,228.

Supplemental exhibits were presented by the FOP on July 17, 2006 and by the Township on July 25, 2006 reflecting that the Township passed a

resolution changing its health carrier from Grinspec to Oxford as it had a right to do under the Agreement "so long as, substantially, the same benefits are provided." The change is estimated to produce a savings of \$92,000 in FOP health premiums over a fifteen (15) month period.

The Township contends that its multi-point health insurance proposal is necessary because its overall compensation costs have, in substantial part, been driven by increased health care costs. The record reflects that 10% of the municipal budget is spent on health insurance premiums for all of its employees. Pointing to the over \$4,000 difference in annual premiums between the Traditional and PPO plans, and the fact that only one officer has elected to participate in Traditional coverage, the Township has proposed that employees who choose the Traditional plan would have to pay the difference in premiums from the current program. The Township has also proposed that the deductibles for those in the Traditional plan would have their Individual deductibles increased from \$200 to \$300 and the Family deductible would be increased from \$400 to \$600. In addition, all employees would have to pay 20% of any increase in health care and prescription premiums during the course of the contract as well as a \$200 deductible for the prescription rider that is provided for in the PPO plan. As a final point, the \$10.00 co-pay for PPO-HMO visits would increase to \$15.00. According to the Township it is also trying to achieve health care benefits, parity and uniformity among its different bargaining units.



The FOP terms the Township's proposed changes as "drastic" and not comparable to health insurance plans either within Burlington County or within "mall townships" such as Cherry Hill and Princeton. The FOP further contends that the Township's proposals are unreasonable given the Township's wage proposals which it terms as "meager."

Based upon the record on the health insurance issue, I am persuaded that the Township has met its burden for reasonable changes in its health insurance program. The terms and benefits of the PPO and HMO plans are broad and comprehensive and have been deemed acceptable based upon the almost unanimous selection of these plans by the employees. Family coverage in the PPO is approaching \$17,000 annually but Traditional coverage exceeds that amount by more than \$4,000. It is not unreasonable for the Township to encourage unanimous participation in the PPO and HMO plans, especially in light of the fact that only one (1) employee has chosen the Traditional Plan. Accordingly, I award the following changes. Employees who choose the Traditional Plan shall pay 33% of the difference in premiums between the Traditional Plan and the PPO Plan.<sup>5</sup> The individual deductible shall be \$250 and the family deductible shall be \$500. The office visit co-pay for the PPO-HMO plans shall be maintained at \$10 until July 1, 2007 at which time it shall be increased to \$15. I do not award the Township's proposal for a \$200 deductible

---

<sup>5</sup> The Township has proposed that retirees be subject to the changes it has sought in the Traditional Plan coverage. Because it is not clear that I have the authority to decide health insurance coverage issues for employees who have already retired, I limit this portion of the award to current employees.

for the prescription rider provided for in the PPO Plan, nor the proposal for 20% participation for increases in health care and prescription premiums during the course of this Agreement. The effective date for implementation of these changes shall be upon the date after the issuance of this award.

### SALARY

The Township and the Unions disagree on the amounts to which the salary schedule should be adjusted. The Unions have proposed salary increases according to the following formula:

1. A five year contract with annual salary increases to cover all those employed as of 11/26/04 (recent retirees), and those hired since that date (new hires)
  - i. 4% in 2005, retroactive to 11/26/04
  - ii. 4% in 2006, retroactive to 11/25/05
  - iii. 4% in 2007, retroactive to 11/24/06
  - iv. 4% in 2008, retroactive to 11/23/07
  - v. 4.4% in 2009, retroactive to 11/21/08

The Township has proposed salary increases at:

3.6%	-	2005
3.5%	-	2006
3.5%	-	2007

The Unions support their wage proposal with evidence relating to several of the statutory criteria. The Unions contend that there are discrepancies in wages and benefits between Moorestown police officers and those employed in surrounding jurisdictions and that the interests and welfare of the public will suffer

by an expansion of those differences if the Township's offer was adopted. While recognizing that Moorestown has been granted status as a "best place to live in America," the Unions point out that Moorestown has a crime index that is comparable with many of the surrounding municipalities and that reported offenses have increased from 515 in 2004 to 602 in 2005.

The Unions submit that over the last nine years, they have received average increases of 3.92% as reflected in the following chart:

**Moorestown, New Jersey Police  
Historical Salary Increases**

	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
<b>Moorestown Police Officers</b>	4.4%	4.0%	4.4%	4.0%	3.5%	3.6%	3.75%	3.75%	3.9%	-
<b>Moorestown Superior Officers</b>	4.4%	4.0%	4.4%	4.0%	3.5%	3.6%	3.75%	3.75%	3.9%	-

The Unions also point out that their wage proposals are compatible with increases the Township has provided internally pointing to increases provided for in the Department of Public Works reflecting wage increases of 4.1%, 4.25% for years 2003-2004 and 2004-2005. The Unions submit the following chart reflecting internal wage comparisons:

**Public Employee Salary Increases for  
Moorestown, New Jersey**

	2001-2002	2002-2003	2003-2004	2004-2005
Moorestown Police Officers	3.75%	3.75%	3.9%	-

Moorestown Superior Officers	3.75%	3.75%	3.9%	-
Moorestown Dept Public Works Employees	3.75%	4.0%	4.1%	4.25%
Moorestown Dept Public Works Supervisors	-	3.5%	3.5%	3.5%
Moorestown Township Manager	4.9%	3.9%	3.6%	3.6%
Moorestown Police Director	4.9%	3.9%	3.6%	3.6%
Moorestown Town Council	3.75%	3.9%	3.6%	3.6%

The Unions offer evidence on law enforcement comparability. The basis for its comparability analysis are contracts from Burlington County municipalities and some jurisdictions outside the County that are asserted to have commonalties with Moorestown such as Cherry Hill, Pennsauken, Voorhees and Princeton. According to this data, Moorestown, in 2004, ranked below Burlington Township, Cherry Hill, Evesham, Medford, Mount Holly, Mount Laurel, Pennsauken, Princeton and Voorhees. The average increases in these communities in 2004 was 3.875%.

Drawing from the Township's official budget documents, the Unions contend that their wage proposal can be met within the cap and without adverse financial impact on the governing body, and the Township's residents and taxpayers. The Unions disagree with the manner in which the Township has calculated the cost differences between the two positions asserting that those differences have been greatly exaggerated.

The Township contends that its salary proposals are more reasonable than the Unions' for many reasons. Pointing to internal comparisons, the Township contends that its employees have all received less than 4% in 2002 except for the Public Works Department. The Township cites a Bureau of Labor Statistics Report reflecting salaries for state and local government workers in the United States rose only 3.1% in 2005. The Township also disagrees with the FOP's comparability analysis and asserts that its overall compensation package is comparable with Mount Laurel and Medford Townships and better than Evesham Township and Maple Shade.

The Township has offered a comprehensive analysis of the costs of its proposals compared with the FOP. Cost projections through 2009, according to this analysis, reflect that the FOP's total compensation, with fringe benefits, would exceed the Township's by \$16,000 for each Lieutenant and Sergeant and by \$14,000 for each Police Officer.

The Township's cost analysis charges the FOP with the fold in of overtime into base pay at time and one-half, a factor that causes its analysis to include an additional 52 hours of straight time into base salary that flows through each contract year.

After thorough analysis of the extensive record on the salary issue, including the Township's finances and comparability data, and after due regard for all of the statutory criteria, I conclude that a reasonable determination of the salary issue in the context of the totality of the Award, is 3.75% for 2005, 3.75% for 2006, 4.0% for 2007 and 3.5% for 2008.

The interests and welfare of the public will be served by an award that is within the Township's financial means and statutory authority but also addresses the FOP's desire to maintain comparability with other law enforcement jurisdiction. An award that addresses these factors fairly and reasonably will promote the continuity and stability of employment for the police officers and maintain the high level of efficiency and productivity that exists within the department. These factors are the ones that I have given the greatest weight to. The cost of living is relevant. It diminishes the claimed reasonableness of the FOP's final offer but it is noted that the resolutions present in comparable jurisdictions, as here, somewhat exceed the CPI data in the Philadelphia –South Jersey area.

The net annual economic changes caused by the award are consistent with the statutory criteria and flow from fashioning a reasonable determination of the disputed issues. In broad terms, the salary increases awarded, when compared to the parties' positions reflects:

	<b>FOP</b>	<b>Award</b>	<b>Township</b>
2005	4.0	3.75	3.6
2006	4.0	4.0	3.5
2007	4.0	3.75	3.5
2008	4.0	3.5	--
Average	4.0	3.75	3.53

The cost differences can be borne without adverse financial impact on the governing body, its taxpayers and residents and within the Township's statutory spending limitations.<sup>6</sup> Based upon a reasonable estimate of one percentage point worth approximately \$27,000, the cost of the award is approximately \$3,000 in 2005, an additional \$14,000 in 2006, and an additional \$6,000 in 2007 above the Township's final offer. The cost for 2008 is the equivalent of the Township's average offer during the preceding three years except for costs due to the holiday fold in. The holiday fold in for 2008 generates an additional cost that approximates \$15,000.

Remaining issues have been decided that impact on total cost and cause economic change actual and/or potential, to both the Township and the FOP in a manner that each party may consider favorable or unfavorable depending on the issue. The Township, at some point in the reasonably near future, will save costs by paying for overtime, previously defined as hours between 80 and 84 over two weeks, on a straight time rather than a time and one-half basis. In addition, the calculation of the overtime rate at that point will be based on 2,184, the actual

---

<sup>6</sup> These conclusions are drawn from the extensive record developed at hearing that concern the Township's finances. The record has not been expanded to include any new data resulting from recent statutory revisions.

number of hours worked, rather than 2,080, thus allowing for a lower overtime rate. The pensionable base salary will increase by 5% causing additional costs to the Township for the increase in each officer's base pay by the adding of the 104 hours of creditable compensation. The costs are connected to higher longevity payments and pension contributions but have offsets due to the straight time fold in and the more favorable calculation of the overtime rate. In consideration of the additional costs, the Township must note that the Division of Pension ruling in 2004 relieved it of a mutual agreement it previously made to increase base pay by the full time and one-half amount.

There are additional costs associated with the elimination of holiday pay and the like amount adjustment to base pay. These costs are difficult to pinpoint to the exact dollar amount but appear to be between \$14,000 and \$15,000. These figures are based upon calculating additional pension and longevity costs, after deducting cost offsets by eliminating the uniform maintenance allowance of \$740 for those officers who currently receive holiday pay.

The raising of the cap on longevity represents increased costs to the Township but not until 2008 when the caps will be calculated upon the 2008 top rates instead of the 2004 top rates. The increase in the top rate will be 15.86% over the 2004 top rate and the increase in costs will be the difference between 8% of the 2008 top rate and 8% of the 2004 top rate only for those officers who



have over 20 years of service. The Detective differential cap will be removed due to the placement of the differential into base pay.

Less major economic items include the additional \$2,000 maximum benefit payable for accrued sick leave at retirement and the cost of post-retirement health insurance for those who retire with twenty (20) years of service to Moorestown and who have twenty-five (25) years of service in the PFRS. These costs are not quantifiable because they are dependent on the number of retirements that occur and are limited to those who are eligible. The Township will realize some cost offsets for the changes that have been awarded in the health insurance program including the increase in office co-pays and the premium contributions for those who remain in, the Traditional health insurance plan or choose that plan in the future. Accordingly, I respectfully enter the terms of the Award as follows:

### **AWARD**

1. All proposals by the Township and the Unions not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this award.
2. **Duration**  
The Agreement shall have effective dates of January 1, 2005 through December 31, 2008.
3. **Annual Sick Leave Sell Back**  
Effective January 1, 2007, Article VIII, Section E of both contracts shall be amended to allow officers working 10-hour days to sell 6 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year.

Officers working 8-hour days shall be allowed to sell 7.5 days per year (60 hours) if they use three (3) or fewer sick days in the calendar year.

4. **Ballistic Vests**

Article X shall be amended to increase the allowance for the purchase of ballistic/protective vests to \$1,200 effective January 1, 2007.

5. **Surviving Spouse & Dependents**

Health insurance to the surviving spouse and dependents of any officer killed in the line of duty shall terminate at Medicare eligibility.

6. **Overtime Roll-In**

Effective as soon as is practicable, but no later than July 1, 2007, officers working the 84 hour schedule shall have the extra 4 hours at straight time included in their annual compensation and paid throughout the year as a component of base compensation for all calculation purposes. The overtime rate shall be calculated based upon 2,184 hours.

7. **Longevity**

The caps for longevity shall be adjusted to their highest attainable number in contract year 2008.

8. **Holiday Pay**

Effective January 1, 2008, Holiday Pay shall be eliminated and 150 hours of straight time shall be added to the base pay for all police and superior officers who currently receive holiday pay. At that time, the uniform maintenance allowance of \$740 per officer shall be eliminated for all officers who are eligible for the aforementioned adjustment in base pay and retained for those who are not eligible. Effective January 1, 2008, the Detective Differential of 5% shall be considered as base pay and creditable compensation for all calculation purposes.

9. **Accrued Sick Leave at Retirement**

The maximum benefit payable under Article VIII(F) shall be increased to \$20,000 effective January 1, 2007.

10. **Post Retirement Health Insurance**

Effective January 1, 2007 Article IX shall be amended to provide post-retirement health benefits for officers who have accumulated twenty-five (25) years of service in the PFRS, or have otherwise met the requirements of that system, and have served the Township of Moorestown for at least twenty (20) years.

11. **Health & Welfare**

Upon the date of issuance of this Award, the Township shall have the authority to make the following changes to the existing Health Benefit Plan:

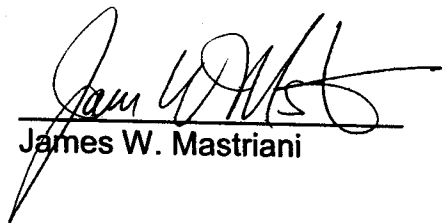
1. The Township shall continue to fully fund the PPO-HMO plans. Employees who have chosen the Traditional Plan shall pay 33% of the difference in premiums from the next costly health insurance plan option. The deductibles shall increase to \$250 individual and \$500 family.
2. Effective July 1, 2007, the office co-pays under the PPO-HMO plans shall increase to \$15 per visit.

12. **Salary**

Each step of the salary schedule for police officers and ranks shall be increased as follows:

- 3.75% in 2005 retroactive to 11/26/04
- 4.0% in 2006 retroactive to 11/25/05
- 3.75% in 2007 retroactive to 11/24/06
- 3.5% in 2008 retroactive to 11/23/07


Dated: April 15, 2007  
Sea Girt, New Jersey



James W. Mastriani

State of New Jersey        }  
County of Monmouth       }ss:

On this 15<sup>th</sup> day of April, 2007, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



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