

In the Matter of Arbitration Between:

CITY OF ATLANTIC CITY

"City,"

- and -

PBA LOCAL 24

"Union."

Docket No. IA-2003-087

**INTEREST
ARBITRATION
AWARD**

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the City:

David F. Jasinski, Esq.
Peter J. Dugan, Esq.
Jasinski and Williams, PC

For the PBA:

Sidney H. Lehmann, Esq.
Robert F. Casey, Esq.
Szaferman, Lakind, Blumenstein,
Blader, & Lehmann, PC

Based upon the mutual request of the parties, I was appointed on July 10, 2003 by the New Jersey Public Employment Relations Commission as interest arbitrator in an impasse between the City of Atlantic City [the "City"] and Atlantic City PBA Local 24 [the "PBA"]. I was also appointed to serve as interest arbitrator in the impasse between the City and IAFF Local 198.

The City and the PBA are currently serving under terms of a collective negotiations agreement [the "Agreement"] which expired on December 31, 2002. The negotiations unit consists of employees in the title of patrolman, sergeant and lieutenant. The proceedings in this matter were deferred because the City and the PBA were engaged in direct negotiations and engaged in serious efforts to reach a voluntary agreement. I was advised on July 25, 2003 that further negotiations sessions were scheduled. These proceedings were held in abeyance pending those efforts. On February 24, 2004 I inquired as to whether the impasse had been resolved. The parties advised me on October 27, 2004 that the parties had reached impasse, that the City had new legal representation and that intervention was now appropriate.

The City and the PBA agreed to participate in a pre-interest arbitration mediation on February 25, 2005. One meeting was held with the PBA and one with the IAFF inasmuch as the parties had not mutually agreed to joined the impasses at that time. After these separate mediation efforts, the impasses remained. It was decided to proceed to formal interest arbitration hearings. It

was agreed that hearings would be conducted separately. However, because some evidence would be mutual to the PBA and the IAFF, in the interest of economy and efficiency, the parties agreed to incorporate some of the evidence into both records rather than having duplicative hearings.

Hearings were scheduled; July 20, 21 and 22 for one unit and July 26, 27 and 28 for the other. These hearings were adjourned at the request of the City but were promptly rescheduled on August 1, 2, 8, 11, and 12, 2005. In addition, all parties agreed to consolidate the hearings for the purposes of creating a record for both units. Despite the consolidation of the impasses to create a joint record, it was agreed that two separate awards would issue rather than a joint award. Interest arbitration hearings were conducted on August 1, 2 and 8, at which time the hearings were completed. A post-hearing briefing schedule was set and the hearing was closed upon receipt of post-hearing reply briefs on March 17, 2006.

As required by statute, the City and the PBA submitted their last offers to the arbitrator in advance of the arbitration hearing. I set forth the parties last offers as follows:

LAST OFFERS OF THE PARTIES

Last Offer of the City

1. All provisions of the January 1, 2000 through December 31, 2002 collective bargaining agreement that are not

specifically identified in this final offer shall form a part and be included in the new collective bargaining agreement.

2. **Duration:** January 1, 2003 through December 31, 2007.
3. **Article XXIX – B. Sick Leave**
4. **Wages:** Eligible Police Officers hired prior to January 1, 2003, shall be eligible for the following increases:

Effective:	January 1, 2003:	2%
	July 1, 2003:	2%
	January 1, 2004:	2%
	July 1, 2004:	2%
	January 1, 2005:	2%
	July 1, 2005:	2%
	January 1, 2006:	2%
	July 1, 2006:	2%
	January 1, 2007:	2%
	July 1, 2007:	2%

New Hire Rate: Police Officers hired after January 1, 2003, shall be hired and eligible for the following:

Title	
1	\$32,500
2	\$34,100
3	\$35,700
4	\$40,000
5	\$42,500
6	\$47,000

In addition to title changes provided Police Officer meets the requirements, Police Officers under the new scale shall also be entitled to the percentage increases on eligible dates.

5. **Health Benefits:** The major medical deductible under the City's self-insured indemnity plan shall be increased to \$150.00 per year for individual coverage, and to \$300.00 per year for family coverage. Additionally, the co-payment for non-generic drugs was increased to \$10.00 per prescription; and the co-payment for generic was to be \$5.00 per prescription.
6. **Health Insurance for Retirees:** The City of Atlantic City is prepared to offer Post-Retirement benefits to eligible Police

Officers provided the following changes are agreed to and form a part of the existing Collective Bargaining Agreement:

- (1) Reduce the number of hours of sick leave for each Police Officer by forty (40) hours per year retroactive January 1, 2003;
- (2) Eliminate the ability to accumulate sick leave from year to year;
- (3) All earned sick leave shall be valued at the present rate prior to the commencement of this Agreement; and
- (4) Police Officers shall be eligible for no more than 260 days of leave under Article XXIX of the Collective Bargaining Agreement during the length of their employment with the City. Police Officers are eligible for said leave only upon the exhaustion of all of their accumulated sick leave.

If these terms are accepted, the City is prepared to provide the following benefits to eligible Police Officers:

- (1) A new section will be added to the contract which will provide that the City shall provide health benefits in retirement, as set forth below, to all eligible Police Officers covered by this interest arbitration award, and their dependents, who retire on or after January 1, 2006. Dependents shall be defined as that term is currently used in the application of this agreement for receipt of benefits while employed by the City.
- (2) The health benefits to which retired Police Officers and their dependents shall be entitled are the same health benefits offered through the City's Blue Cross/Blue Shield HMO plan, known as "HMO Blue" as provided pursuant to Ordinance #61 of 2004 and its attachments. The level of health benefits provided to the retirees, and their dependents may be changed at any time by the City upon notice to the retiree.
- (3) The City shall pay seventy-five percent (75%) of the full cost of the premiums for the "HMO Blue" hospitalization – medical/surgical insurance plan for the eligible Police Officer and his/her dependents.

The Police Officer is required to pay the difference twenty-five (25%) percent for the cost of the premiums and any other costs.

- (4) Retired Police Officers who are eligible for this benefit as used in this Article is defined as any Police Officer covered by this interest arbitration award who retires from the Atlantic City Police Department after January 1, 2006 with twenty-five (25) years or more of service credit with the City of Atlantic City Police Department.

Last Offer of the PBA

1. All provisions of the January 1, 1996 through December 31, 2002 collective negotiations agreement which are not modified by agreement of the parties and/or this interest arbitration award, are to be carried forward and included in the new contract, with changes in the dates where appropriate.
2. **Duration** – The term of the new contract shall be from January 1, 2003 through December 31, 2007. Except where specifically provided in this offer, all terms of this offer are retroactive to January 1, 2003.
3. **Article I – Purpose** – “This agreement is entered into pursuant to the provisions of the New Jersey Employer/Employee Relations Act, N.J.S.A. 34:13A-1, et seq. ...” Underline designates the words to be changed. The balance of the sentence in the Article remains unchanged.
4. **Article XII – Shoe and Cleaning Maintenance Allowance** – Section A of this Article shall be changed to read as follows:
 1. Effective January 1, 2004, and each year thereafter, police officers at Step 1 of the salary guide shall receive an annual clothing maintenance allowance of eight hundred and fifty (\$850.00) dollars; police officers at Step 2 through 6 of the salary shall receive an annual clothing maintenance allowance of four hundred and fifty (\$450.00) dollars; police officers at Step 7 of the salary guide shall receive an annual clothing allowance of two hundred and seventy-five

(\$275.00) dollars; Sergeants shall receive an annual clothing allowance of one hundred (\$100.00) dollars; and Lieutenants shall receive no clothing maintenance allowance.

2. The clothing maintenance allowance shall be paid on the last pay day in November of each year.

Sections B through F of this Article shall remain unchanged.

This proposal by the PBA is part of the proposal to roll the holiday pay into the base salaries received by police officers as more fully set forth below; and is intended to offset any additional expense which may be incurred by the City for additional pension contributions, if any, which may result from having the credible compensation for pension purposes increased by the amount of the holiday pay.

The PBA further proposes that the City receive a credit for the clothing allowance utilizing the figures set forth above, which it may have previously paid in calendar years 2004 and 2005 pursuant to the provisions of the existing contract, when the calculation for the retroactive pay is made, assuming the proposal to roll the holiday pay into the base is accepted.

5. **Article XVI – Hospitalization and Health Insurance** – Section 5 of this Article shall be amended to provide that effective January 1, 2006, the major medical deductible under the City's self-insured indemnity plan shall be increased to one hundred and fifty (\$150.00) dollars per year for individual coverage, and three hundred (\$300.00) dollars per year for family coverage. In all other respects the hospitalization-medical/surgical plan shall remain the same.

6. **Article XXI – Holidays** – Effective January 1, 2003, holiday pay shall be eliminated as a separate stipend under this contract; and the monetary equivalent of the holiday pay shall be included within the base pay for all police officers, retroactive to January 1, 2003.

(a) This would be accomplished by taking the 2002 base pay for each step of the salary guide, including sergeants and lieutenants, and adding the amount of holiday pay (which equals 168 hours at the hourly rate appropriate for that step of the salary guide) to the base pay for 2002 as set

forth for that step of the guide for calendar year 2002. (One hundred sixty-eight (168) hours = time and ½ for the fourteen (14) eight (8) hour holidays, as set forth in the 1996-2002 contract. The holiday pay constitutes 8.08% of the prior base salary). The base pay for calendar year 2003 will then be calculated by adding the percentage rate increase effective January 1, 2003 to the sum of the 2002 base pay plus the holiday pay;

(b) Holiday pay will be eliminated as a separate stipend in the contract; however, for the purpose of determining the effect, if any, that a "holiday" might have on the terms and conditions of employment of officers covered by this agreement, the following fourteen (14) holidays shall be considered holidays for those purposes,

New Years Day	July 4 th
Martin Luther King	Labor Day
Lincoln's Birthday	Columbus Day
Washington's Birthday	Election Day
Good Friday	Veteran's Day
Easter	Thanksgiving Day
Memorial Day	Christmas Day

(c) The City shall receive a credit for the holiday pay which it previously paid in calendar years 2003, 2004 and 2005, (if holiday pay is paid in that year) pursuant to the provisions of the existing contract, when the calculations for the retroactive pay is made, assuming the proposal to roll the holiday pay into the base is accepted.

7. **Article XXIII – Plain Clothes Assignment** – Section C increase the stipend for officers assigned to the Detective/ Plain Clothes Units from three percent (3%) to four percent (4%).

8. **Article XXIX – Sick and Injured** – The words "commencing January 1, 1973" shall be eliminated from the first sentence of this Article as moot, so that sentence shall read:

"Sick leave shall be one-hundred (120) hours per year, which time shall be cumulative from year to year."

Add a subparagraph (b) to Section 2 which would provide that with the commencement of the officer's fourth (4th) year of employment as a police officer the annual hours of sick

leave shall be increased from one hundred (100) to one hundred and twenty (120), with the additional twenty (20) hours pro rated for the balance of the calendar year, in which the officer commences his/her fourth year of employment.

9. **Article XXX – Vacations** – Section (b) shall be changed to provide that all police officers, regardless of date of hire, shall receive twenty-five (25) vacation days per year beginning with their sixth year of employment and thereafter.

Section (d) – The paragraph for vacations for sergeants shall be revised to read as follows:

“All sergeants shall be entitled to twenty-eight (28) days of vacation working eight (8) hour days (224 hours); or twenty-two (22) days of vacation if working ten (10) hour days (220 hours).”

This is a change in language only and not a change in the benefit level. Add a Section (e) entitled “Lieutenants:”

“All Lieutenants shall be entitled to twenty-nine (29) days of vacation if working eight (8) hour days (232 hours), or twenty-three (23) days of vacation if working ten (10) hour days (230 hours).”

10. **Article XXXII – Dental, Prescription and Optical** – Subparagraph (a) shall be changed to read as follows:

“Effective January 1, 2006, the co-payment for non-generic drugs shall be \$10.00 per prescription; the co-payment for generic drugs will be \$5.00 per prescription.” This proposal is consistent with the PBA’s understanding of an increase in the prescription co-pay agreed to by all other employees in other negotiation units.

11. Effective January 1, 2003, any officer who retires shall receive up to \$420.00 per year for reimbursement for dental and optical expenses, including the cost of purchasing insurance for such coverage.

12. **Article XXXIV – Schedule of Salaries**

Year	Increase
2003	8%
2004	8%

2005	5%
2006	0%
2007	5%

*Lieutenants are to receive a 1% command differential as part of their base salary in addition to the percentage raises set forth above.

13. **Health Benefits for Retirees**

- (1) A new Article will be added to the contract which will provide that the City shall provide health benefits in retirement, as set forth below, to all police officers covered by this interest arbitration award, and their dependents, who retire on or after January 1, 2003. This includes police officers who have already retired since January 1, 2003. Dependents shall be defined as that term is currently used in the application of Article XVI and XXXII for receipt of health benefits while employed by the City.
- (2) The health benefits to which retired police officers and their dependents shall be entitled are the same health benefits offered through the City's Blue Cross/Blue Shield HMO plan, known as "HMO Blue." In addition, health benefits for retirees shall also include the prescription drug insurance plan benefit. The level of health benefits provided to the retirees, and their dependents, shall be the same level of benefits which were in existence for police officers who participated in the HMO Blue plan, and the prescription drug plan on January 1, 2005, regardless of whether the City changes the health insurance carriers through which it receives such benefits.
- (3) The City shall pay ninety-five percent (95%) of the full cost of the premiums for the "HMO Blue" hospitalization – medical/surgical insurance plan for the retired police officer and his/her dependents; and one hundred percent (100%) of the full cost of the premiums for the prescription drug plan.
- (4) A retired police officer shall be permitted to participate in any more expensive plans maintained by the City, and thereby become covered by that plan for the police officer and his/her dependents; provided the

retired police officer shall pay the City the difference between the premium cost for the "HMO Blue" Plan and its more expensive plan;

- (5) Retired police officers as used in this Article means any police officer covered by this interest arbitration award (any police officer below the rank of Captain who has retired, or retires from the Atlantic City Police Department after January 1, 2003 with twenty-five (25) years or more of service credit in any other state administered retirement system, and who has at least ten (10) years of service with the City; or has retired on a disability pension, regardless of years of service with the City.
14. **Article XLIII – Shift Differential** – The PBA proposes changing the shift differential to a percentage. Officers regularly assigned to the 4 p.m. to 12 a.m. shift shall receive an additional 1% of their base pay (including stipends); and officers assigned to the 12 a.m. to 8 a.m. shift shall receive an additional 2% of their base pay (including stipends). Subsection B shall remain the same.

BACKGROUND

Atlantic City is unique among New Jersey's municipalities. It is the only town in which casino gambling is permitted. Its residential population is stable and approximates 40,000, a figure that has been level since 1980. Because of gaming, recreation and resorts, the City has more than 30 million visitors annually.

The City is located in Atlantic County, has approximately 12 square miles and borders the Atlantic Ocean. There are major transportation links to the City. The Atlantic City International Airport (located in Pomona, New Jersey) is nearby. The Atlantic City Expressway provides east/west access into the City. Leading

directly to Philadelphia, the City is accessible from the north and south by the Garden State Parkway providing access to North Jersey and New York City and also southward towards Cape May and the Cape May Lewes Ferry service. This transportation network facilitates access to the City by its many visitors.

The City is highly impacted by legalized casino gambling that was approved by a statewide constitutional referendum in 1976. The investments made by the casino gaming industry as well as capital investments from sources outside the casino industry have had a dramatic impact on Atlantic City and the surrounding regions. In 1976, the total assessed value of the City's real property was \$316.6 million. In 2003, the assessed valuation of the real property had risen to \$7.3 billion and the City's equalized valuation of real property was \$8.6 billion. The City has benefited from a special tax that the casino hotels to the Casino Reinvestment Development Authority (CRDA). The CRDA is implementing a master plan to promote City tourism. This includes a Boardwalk Revitalization Project, a retail and entertainment project known as The Walk, redevelopment of The Pier at Caesar's to offer shopping, dining and entertainment and The Quarter, one of many planned Entertainment Retail Districts.

The City's financial profile reflects the investments with the casino hotels that have made in the City. The casino hotels have the ten highest property assessments in the City. In 2004, they constituted approximately 81% of the

total assessed valuation of real estate in the City. The City had a total tax levy of \$251,260,938 in 2003 of which it collected 99.17%.

The financial documents in the record reflect that the casinos support an otherwise poor tax base. A significant portion of the City's residents are low income. The median annual capita income is significantly less than the average state resident. Twenty-four percent (24%) of the City's residents live below the poverty level - three times the statewide average. Approximately 70% of the City's housing units are occupied by renters; 55% of which are low-income units and 81% of these receive government subsidies.

The City has 1,435 employees as of December 31, 2004. There were 373 uniformed police officers below the rank of Captain represented by the PBA and 259 uniformed firefighters represented by the IAFF. The City has labor agreements with six (6) other employee organizations. There is a superior officer's association (SOA) representing twenty (20) Captains, the blue collar unit of 182 public works and maintenance employees represented by AFSCME, the white collar unit of 479 public works and maintenance employees represented by ACWCPA, thirteen (13) licensed inspectors represented by the IBEW, a supervisory unit of 134 employees and a beach patrol unit of 152 life guards represented by ACBPO.

The police department is very active. Comparisons of crime rates between the City and other municipalities in the County must be evaluated in the

context of the huge daily increases in the City's population due to tourists, transients and the tens of thousands of casino employees. The City's crime rate decreased in 2004 from 2003 but nevertheless shows a dramatically higher crime rate per thousand residents than any other municipality in the County. In 2004, the City's crime rate was 143.3 as reflected in 125.8 non-violent crimes and 17.5 violent crimes per thousand residents. There were 4,298 larcenies, 600 burglaries, 345 aggravated assaults, 321 robberies, 36 rapes and 5 murders.

The issues in dispute are primarily economic in nature and include health benefits, health insurance for retirees, salary, salary schedules, holidays, vacations and clothing allowance. The City and the PBA have each presented substantial evidence including but not limited to the City's finances, internal and external comparisons of terms and conditions of employment and the interests and welfare of the public.

Against this general backdrop, the City and the PBA offer their respective positions based upon the evidence and argument presented. I next summarize these positions.

POSITION OF THE PARTIES

The PBA

The PBA presented its arguments and evidence through the testimony of Police Captain John Mooney and Fire Captain Angelo DeMaio along with extensive exhibits. The PBA submits that while Atlantic City had been in decline

in the past it has witnessed a rebirth in recent years. The casino industry attracts over 30 million visitors annually, creating jobs and redevelopment for the City. The PBA contends that the contracts covering the years immediately preceding this dispute were reflective of the City's difficult economic times. As a result, wage increases were below average compared to increases in comparable towns. The wage increases negotiated in the preceding contract were as follows:

<u>Year</u>	<u>%</u>
1996	0
1997	0
1998	4
1999	5
2000	3.6
2001	3.5
2002	<u>3.4</u>
	19.5%

In this seven-year period the average annual increase of 2.79% was provided, a figure well below county and statewide averages. The PBA contends that because it bore the burden of the City's poor economic climate at that time it should now receive compensation that is reflective of the City's new economic growth and prosperity.

The PBA presented an analysis of the City's budget and finances prepared by its financial expert Vincent Foti, CPA. The PBA contends that "The City is clearly in very sound financial condition." To support this position the PBA points out that the City's fund balance or surplus has continued to grow:

<u>Year</u>	<u>Balance</u>
2004	\$11,305,712
2003	\$11,287,201
2002	\$10,110,991

In addition, the PBA points out that in the past five years, the City's property values have increase by over \$1 billion.

<u>Year</u>	<u>Amount</u>
2004	\$7,793,105,781
2003	\$7,378,211,814
2002	\$6,737,564,673
2001	\$6,626,570,759
2000	\$6,692,506,873

The PBA further points out that the tax collection rate of 99.81% is "perfect". It compares this rate with the statewide average of 93%.

<u>Year</u>	<u>Rate</u>
2004	99.81%
2003	99.19%
2002	99.28%
2001	98.55%
2000	97.92%
1999	99.17%

The PBA also points out that taxes have remained stable and have ever declined over the last four years. In addition, the PBA also presented the taxpayer report from Mayor Lorenzo Langford. In that report, the Mayor announced that the City's 2005 tax rate declined by \$0.068, from \$1.846 to \$1.778.

The PBA also refers to a report from Moody's Investor Services that it believes provides further evidence of the City's improved financial condition. Moody's upgraded the City's outlook from negative to stable making the following comments:

- a. The City has a well-managed debt.
- b. Our operating surplus has been increased from \$4,100,000.00 to \$11,300,000.00.
- c. We have an ample liquidity position brought about by our ability to accumulate significant dedicated reserves.
- d. The 2005 budget is likely to allow for a \$3,000,000.00 reduction in the property tax levy.
- e. Cash remains strong as \$47,000,000.00 reflecting an \$18,000,000.00 reserve created to fund tax appeals, as well as, a \$22,000,000 reserved receivable to fund terminal leave payments.

The PBA submits that Atlantic City has a unique tax base. Over 80% of its property taxes are paid by the casinos and that a significant portion of the City's residents do not pay taxes. The PBA points to data indicating that 71% of the residences in the City are occupied by renters, 55% of which are low income rentals with 81% of those renters receiving government subsidies for housing. Thus, the PBA argues, there will not be adverse financial impact upon the City's residents in order to fund its proposals.

The PBA contends that tax dollars are not the only financial contribution the casino industry makes to Atlantic City. It points out the casinos pay 1.25% of

their revenue to the Casino Reinvestment Development Authority devoted to investment in Atlantic City.

The PBA argues that CRDA along with investments from the private sector will keep Atlantic City's tax base expanding into the future. It points to the following projects to support its argument:

1. Expansion of Harrah's Casino and Hotel, \$458,000,000
2. Showboat Casino Expansion, \$24.5 million dollars
3. Pier at Caesars, \$175,000,000
4. The Walk, \$67,000,000
5. All Wars Memorial Building, \$12,000,000

Additional redevelopment proposals are being considered for the following sites:

1. South Inlet
2. Lower Chelsea
3. Pavilion at the north end
4. Garwood Mills
5. Northeast Inlet

The PBA also contends that the City has the ability to fund its proposals within its budgetary CAP. The PBA points to the 2004 and 2005 City budgets both of which indicate that the adopted budgets were \$8.5 million and \$8.9 million below the CAP. The PBA contends that the City's strong financial position is further evidenced by its creation of a fund devoted to paying future sick and vacation time at retirement obligations accrued by city employees. The monies

for this fund are the result of an investment that the City had made in 1992 which had been forgotten.

The PBA contends that the City's only witness, its auditor, Kenneth Moore, acknowledged during cross-examination that the City was in excellent financial condition and had sufficient revenues to pay the cost of PBA's proposal. The PBA also cited a City exhibit, a report prepared for the Casino Association of New Jersey by Mitchell & Titus, LLP. The Report proposed that health benefits at retirement should be granted as an incentive for older police officers and firefighters to retire. The PBA argues that the Mitchell & Titus Report used an average cost of health benefits at retirement to be \$12,000 a year and yet still estimated the cost savings to the City to be over \$18 million.

The PBA argues that police officers are essential to the City's continued growth and revitalization due to their responsibility to protect the health, safety and welfare of the City's residents, visitors and property. During the hearing, Police Captain John Mooney testified to the City's unique environment where high density public housing coexists with hotel-casino complexes at a beach resort. The high volume of visitors to Atlantic City is said to attract a large criminal element. The crime statistics indicate that rates have increased.

	<u>2003</u>	<u>2004</u>
Violent Crimes:	621	720
Non-violent Crimes:	5,403	N/A
Crime Rate Per 1,000:	150.0	N/A
Violent Crime Per 1,000:	15.5	N/A
Nonviolent Crime Rate:		
Per 1,000:	134.5	N/A
Murder:	5	5
Rape:	23	223
Robbery:	287	308
Aggravated Assault:	306	342

The PBA points out that during the same time period the crime rate was increasing, the number of police officers had actually declined from 412 in July 2000 to 376 at the end of July 2005.

The PBA contends that its proposals are supported by the fact that all the other bargaining units have received retiree health benefits and salary increases similar to those that it has proposed. The PBA points to a 1999 arbitration award involving the City in support of its position. The arbitrator wrote that the City "quotes numerous arbitration awards in support of the City's position that interest arbitrators in New Jersey must give great, if not dispositive weight to what other unions have agreed to with the same employer."

The PBA further presents into evidence City ordinances and contract settlements in other City units in which the City has provided health benefits at retirement for the following unions: Atlantic City Superior Officers Association (captains), Deputy Chiefs of Police, White Collar Professional Employees Association, AFSCME Local 2303, Atlantic City Supervisors Association Local

108, and Managerial Executive and Confidential Employees. The PBA contends that only the PBA and the IAFF are currently not being provided health benefits at retirement.

The PBA acknowledges that health benefits at retirement are costly. But the PBA argues that providing this benefit will provide continuity and stability of employment by encouraging police officers to remain employed by the City, provide officers with the same benefits other City employees are receiving and match benefits that exist in comparable municipalities. The PBA points to its willingness to accept certain concessions in the health insurance area.

The PBA submits the results of other unit employees who have negotiated contracts with the City containing the following salary increases:

Superior Officers Association (Captains)

<u>Date</u>	<u>% Increase</u>
1/1/03	4%
7/1/03	4%
1/1/04	4%
7/1/04	4%
1/1/05	5%
1/1/06	0%
1/1/07	0%

Atlantic City Supervisors Association Local No. 108 2003

<u>Year</u>	<u>January 1</u>	<u>July 1</u>
2003	2%	2%
2004	2%	2%
2005	2%	2%
2006	2%	2%
2007	4%	

The PBA points to the City's white collar employee contract that covers the period 2003-2006. Employees earning less than \$25,000 per year received an increase of \$800 annually. Employees earning between \$25,000 and \$50,000 per year received \$1,200 annually. Accordingly to the PBA's calculations, the increases amount to more than 4% per year.

The PBA further argues that voluntary interest arbitration settlements throughout New Jersey since January 2005 are consistent with its final offers. Specifically, the PBA points to settlements in the City of Orange, Norwood, Beach Haven Borough, Emerson Borough, Marlboro Township, Bernardsville, Burlington, Lakewood Township and Florham Park all of which reached settlements granting increases of at least 4% annually. Other settlements in Hopewell, Englewood, Montclair, Garfield, Elmwood Park, Bordentown Township, Hunterdon County, Madison, Atlantic County Prosecutor's Office, Colts Neck, Maplewood and Brigantine all exceed 4%.

The PBA argues that the municipalities most comparable to Atlantic City are those known as the "Urban 15". The PBA contends that on a per capita basis, the City's crime rate and the size of its police and fire department exceed all of the Urban 15. Consequently, police officers should receive benefits and salary increases that are consistent with those urban centers. In terms of actual salaries, the PBA argues that it is among the lowest when compared to these

municipalities. The PBA presented the following chart indicating that they have the lowest maximum salary (at six years of service) among the municipalities in the "Urban 15":

City	Pop	# Police Officers	Total Crime	Rate Per 1000	2002 Base Low/High (6 yr.)
Bayonne	60,905	233	1,297	21.1	\$36,817 / \$61,121
Camden	90,089	435	7,223	80.6	\$35,216 / \$60,826
Dover Twp	93,671	151	2,222	23.6	\$30,000 / \$60,000
Elizabeth	123,215	339	6,614	53.7	\$35,287 / \$59,840
Jersey City	239,097	806	11,915	49.6	\$37,881 / \$59,283
Passaic City	68,528	179	2,859	41.8	\$29,476 / \$62,409
Paterson City	125,782	376	6,433	42.7	\$21,644 / \$54,908
Union City	66,573	179	2,119	31.7	\$27,124 / \$64,805
Vineland City	57,057	139	3,457	61.4	\$30,422 / \$57,414
Woodbridge Twp	100,866	197	3,668	36.5	\$38,477 / \$70,755
Atlantic City	40,385	412	6,024	150.0	\$36,806 / \$52,425

The PBA also argues that even Atlantic City's officers are under paid when compared to less stressful municipalities such as the City of Long Branch (\$80,250), Eatontown Borough (\$83,104), Freehold Borough (\$81,701), Freehold Township (\$84,050), Monmouth County Prosecutor's Office (\$98,000), Sea Girt (\$82,181), Jackson Township (\$83,579), Lacy Township (\$79,919) Manchester Township (\$86,754) and Point Pleasant Borough (\$76,365).

The PBA presented limited comparison data for Sergeants and Lieutenants; however, it contends that Atlantic City Lieutenants and Sergeants also lag behind salaries paid other comparable municipalities in similar proportion.

Lieutenants

<u>City</u>	<u>2002 Base</u>	<u>2005 Base</u>
Passaic City	\$83,861.00	N/A
Paterson City	\$87,784.00	N/A
Vineland City	\$74,690.00	\$83,775.00
Woodbridge Twp.	\$87,176.00	\$98,297.00
Atlantic City	\$74,000.00	\$90,629.28 (with proposed salary increases)

Sergeants

<u>City</u>	<u>2002</u>
Passaic City	\$76,515
Paterson City	\$79,347
Woodbridge Twp.	\$78,537
Atlantic City	\$67,816

The PBA argues that the salary comparability data presented by the City for Brigantine, Ventnor, Pleasantville, Margate and Northfield should be given limited weight since these municipalities are said not to compare to Atlantic City in terms of size, workload, danger and responsibility.

The PBA also argues that its final offer is reasonable in light of continued escalation of certain costs. In particular, the cost of housing at the Jersey shore has witnessed significant increases. The PBA points to an increase in 2004 of 17.6% and 23.2% in the first quarter of 2005 (as reported by the Press of Atlantic City, Volume 3, Exhibit 94). Citing an FDIC Report for 2005, Atlantic City has been designated as one of 55 "boom" markets in the country. The PBA argues that its members are being priced out of the housing market in Atlantic City and

adjacent areas and must receive substantial salary increases in order to be allowed to reside in the area.

The PBA also presents exhibits regarding the increased cost of health care in support of its demand for retiree health benefits. It cites an AARP Report indicating that individuals 65 years of age and older are spending approximately 19% of their income or about \$2,430 per year on health care. The PBA also presented a US Department of Labor Report that indicated the CPI in the Philadelphia/Wilmington area increased by 3.4% in June 2004 to June 2005 as compared a nation-wide average of 2.5%.

The PBA submitted a handwritten document which it attributes to Karen Upshaw, Esq. the City's Director of Human Resources. It claims that the document represents a list of proposals or stipulations that have been agreed to by both parties, a claim that the City denies. The purported stipulations are as follows:

1. **Article I – Purpose** – “This agreement is entered into pursuant to the provisions of the New Jersey Employer/Employee Relations Act, N.J.S.A. 34:13A-1, et seq. ...” Underline designates the words to be changed. The balance of the sentence in the Article remains unchanged.
2. **Article XII – Shoe and Cleaning Maintenance Allowance** – Section A of this Article shall be changed to read as follows:
 1. Effective January 1, 2004, and each year thereafter, police officers at Step 1 of the salary guide shall

receive an annual clothing maintenance allowance of eight hundred and fifty (\$850.00) dollars; police officers at Step 2 through 6 of the salary shall receive an annual clothing maintenance allowance of four hundred and fifty (\$450.00) dollars; police officers at Step 7 of the salary guide shall receive an annual clothing allowance of two hundred and seventy-five (\$275.00) dollars; Sergeants shall receive an annual clothing allowance of one hundred (\$100.00) dollars; and Lieutenants shall receive no clothing maintenance allowance.

2. The clothing maintenance allowance shall be paid on the last pay day in November of each year.

Sections B through F of this Article shall remain unchanged.

This proposal by the PBA is part of the proposal to roll the holiday pay into the base salaries received by police officers as more fully set forth below; and is intended to offset any additional expense which may be incurred by the City for additional pension contributions, if any, which may result from having the credible compensation for pension purposes increased by the amount of the holiday pay.

The PBA further proposes that the City receive a credit for the clothing allowance utilizing the figures set forth above, which it may have previously paid in calendar years 2004 and 2005 pursuant to the provisions of the existing contract, when the calculation for the retroactive pay is made, assuming the proposal to roll the holiday pay into the base is accepted.

3. **Article XVI – Hospitalization and Health Insurance** – Section 5 of this Article shall be amended to provide that effective January 1, 2006, the major medical deductible under the City's self-insured indemnity plan shall be increased to one hundred and fifty (\$150.00) dollars per year for individual coverage, and three hundred (\$300.00) dollars per year for family coverage. In all other respects the hospitalization-medical/surgical plan shall remain the same.
4. **Article XXI – Holidays** – Effective January 1, 2003, holiday pay shall be eliminated as a separate stipend under this contract; and the monetary equivalent of the holiday pay

shall be included within the base pay for all police officers, retroactive to January 1, 2003.

(a) This would be accomplished by taking the 2002 base pay for each step of the salary guide, including sergeants and lieutenants, and adding the amount of holiday pay (which equals 168 hours at the hourly rate appropriate for that step of the salary guide) to the base pay for 2002 as set forth for that step of the guide for calendar year 2002. (One hundred sixty-eight (168) hours = time and ½ for the fourteen (14) eight (8) hour holidays, as set forth in the 1996-2002 contract. The holiday pay constitutes 8.08% of the prior base salary). The base pay for calendar year 2003 will then be calculated by adding the percentage rate increase effective January 1, 2003 to the sum of the 2002 base pay plus the holiday pay;

(b) Holiday pay will be eliminated as a separate stipend in the contract; however, for the purpose of determining the effect, if any, that a "holiday" might have on the terms and conditions of employment of officers covered by this agreement, the following fourteen (14) holidays shall be considered holidays for those purposes,

New Years Day	July 4 th
Martin Luther King	Labor Day
Lincoln's Birthday	Columbus Day
Washington's Birthday	Election Day
Good Friday	Veteran's Day
Easter	Thanksgiving Day
Memorial Day	Christmas Day

(c) The City shall receive a credit for the holiday pay which it previously paid in calendar years 2003, 2004 and 2005, (if holiday pay is paid in that year) pursuant to the provisions of the existing contract, when the calculations for the retroactive pay is made, assuming the proposal to roll the holiday pay into the base is accepted.

5. **Article XXIII – Plain Clothes Assignment** – Section C increase the stipend for officers assigned to the Detective/ Plain Clothes Units from three percent (3%) to four percent (4%).

6. **Article XXIX – Sick and Injured** – The words “commencing January 1, 1973” shall be eliminated from the first sentence of this Article as moot, so that sentence shall read:

“Sick leave shall be one-hundred (120) hours per year, which time shall be cumulative from year to year.”

Add a subparagraph (b) to Section 2 which would provide that with the commencement of the officer's fourth (4th) year of employment as a police officer the annual hours of sick leave shall be increased from one hundred (100) to one hundred and twenty (120), with the additional twenty (20) hours pro rated for the balance of the calendar year, in which the officer commences his/her fourth year of employment.

7. **Article XXX – Vacations** – Section (b) shall be changed to provide that all police officers, regardless of date of hire, shall receive twenty-five (25) vacation days per year beginning with their sixth year of employment and thereafter.

Section (d) – The paragraph for vacations for sergeants shall be revised to read as follows:

“All sergeants shall be entitled to twenty-eight (28) days of vacation working eight (8) hour days (224 hours); or twenty-two (22) days of vacation if working ten (10) hour days (220 hours).”

This is a change in language only and not a change in the benefit level. Add a Section (e) entitled “Lieutenants.”

“All Lieutenants shall be entitled to twenty-nine (29) days of vacation if working eight (8) hour days (232 hours), or twenty-three (23) days of vacation if working ten (10) hour days (230 hours).”

8. **Article XXXII – Dental, Prescription and Optical** – Subparagraph (a) shall be changed to read as follows:

“Effective January 1, 2006, the co-payment for non-generic drugs shall be \$10.00 per prescription; the co-payment for generic drugs will be \$5.00 per prescription.” This proposal is consistent with the PBA's understanding of an increase in the prescription co-pay agreed to by all other employees in other negotiation units.

9. Effective January 1, 2003, any officer who retires shall receive up to \$420.00 per year for reimbursement for dental and optical expenses, including the cost of purchasing insurance for such coverage.

10. **Article XXXIV – Schedule of Salaries**

Lieutenants are to receive a 1% command differential as part of their base salary in addition to the percentage raises set forth above.

City's Position

While acknowledging that the casinos and hotels comprise a significant portion of the City's tax base and therefore a large portion of its tax revenues, the City points out that twelve (12) of the casinos have pending tax appeals of enormous proportion. These appeals, if successful, could significantly reduce the City's tax base. The City presents an opinion letter from its tax counsel indicating that if the casinos were successful, the City would be required to repay \$333,000,000 in previously collected taxes. Financial expert Ken Moore testified that although the City has set aside \$20,000,000 to pay for any successful tax appeal, the City still has a significant potential liability which must be considered when reviewing the City's finances.

In addition, the City also submits that it cannot be assumed that the casino industry will continue to expand in Atlantic City. It points to recent developments in which legislatures in nearby states such as Connecticut, New York, Pennsylvania, and Maryland have already approved or are considering legalizing

slot machines and other form of gambling. These types of competition could, in the City's view, affect the casino industry in Atlantic City and the City's ratables.

The City responds to the PBA's claim that the City has established a fund to pay for its future employee sick and vacation leave at retirement. According to the City, despite the existence of the fund, it still has a liability of \$19 million because its current exposure is \$38 million.

The City submits into evidence a report prepared by Mitchell and Titus, LLP. The report was performed on behalf of the Casino Association of New Jersey. It points out that the consultants found "by virtually every measure the police department is overstaffed." In the report the City was compared to several benchmark cities such as Orlando, Florida. That City has 36 uniform police officers per 10,000 residents while Atlantic City has 100 officers per 10,000. The report went on to recommend a restructuring of the department and the replacement of sworn officers by civilians to perform non-essential tasks. The City notes that it has not proposed any layoffs and that it presented a "comprehensive package that includes wage increases and post retirement health benefits."

The City argues that the wage and benefits package it has proposed, including givebacks, is consistent with the proposal it has made to other City unions that have been accepted. The City contends that "there is no more

compelling factor for an arbitrator to evaluate ... "than the consistency each offer has with the various negotiated economic packages proposed and ratified by the other bargaining units that operate within any given municipality."

The City also disputes the PBA's argument that the prior contract settlement which provided zero increases in its first two years now entitles them to reap the benefits of the City's improved financial position. The City contends that since the police and firefighters salaries are among the highest in the surrounding municipalities there is no need to "make up" for prior year contracts. In any event, the City contends that the prior contract is not relevant to the issues in dispute in these proceedings. The City argues, "this pending interest arbitration is not the proper vehicle to make up for negotiated settlements and the Petitioners pervert the entire interest arbitration process by attempting to do so at this juncture."

The City argues that the PBA's reliance on comparables such as the "Urban 15" is misplaced. It notes that a previous arbitrator in a 1999 interest arbitration award rejected the union's argument on this point and instead based his award on an analysis of internal comparables and in comparable communities within Atlantic County. The City cites other Atlantic County municipalities that were mentioned in that award including Egg Harbor City, Egg Harbor Township, Longport, Northfield and Margate. The City also points out that the City once belonged to the "Urban 15" but is no longer included because

its demographics are no longer similar to the "Urban 15" municipalities. The City further points out that the PBA's reliance on external comparables involved the "cherry picking" of municipalities such as Montclair that are not comparable to Atlantic City.

The City argues that it is already paying police officers the highest salaries within the surrounding areas and therefore the front end loaded salary increases that have been proposed by the unions should not be awarded. The City also points out that police and firefighter salaries represent 50% of the amount budgeted for salaries by the City each year and that there is substantially greater financial impact for terms that are awarded to these employees.

The City acknowledges that the public does benefit from a cohesive and dedicated police department whose officers are well paid. However, it notes that the interest and welfare of the public is also affected by the tax burden its citizens must bear. Therefore, the City argues that its proposed schedule of salary increases will have less adverse impact on the public because it is less costly than the front end loaded schedule proposed by the PBA. The City contends that awarding its salary proposal will make police officers the highest paid in Atlantic County by an average of \$1,100.

The City also proposes to establish a new salary guide for police officers hired after January 1, 2003. The City presents the existing salary schedule and compares its proposed guide for new hires:

Title	Existing 1/1/2002	Proposed 1/1/2003
1	\$36,806	\$32,500
2	\$38,259	\$34,100
3	\$39,712	\$35,700
4	\$43,950	\$40,000
5	\$48,187	\$42,500
6	\$52,425	\$47,000
7	\$59,527	

The City contends that it cannot determine the potential savings, if any, since the number of new hires is unknown. In fact, the City points out that if the recommendations of the Mitchell & Titus report are implemented, the City may not immediately have to add to its present staffing levels due to overstaffing.

The City argues that the PBA's claim that it has the "ability to pay" for the proposals submitted by the PBA is irrelevant to these proceedings. It points to the New Jersey Supreme Court decision in Hillsdale in which the court stated, "for purposes of compulsory interest arbitration the statutory factor financial impact on the governing unit, its residents and taxpayers does not equate with the municipality's ability to pay".

The City objects to the PBA's references to the financial report prepared by Foti dated November 26, 2005. Its objection is based upon the following:

- a. The report is dated four months after the hearings were closed.
- b. The report was not served on the City prior to the filing of its brief in January 2006.
- c. Mr. Foti was present at the hearing and the information to complete his report was available to him. However, he never testified nor was the report submitted into evidence at that time.

In support of their arguments that the Foti report should not be considered by the arbitrator, the City cites the Appellate Division in the Township of Aberdeen vs. PBA Local 163, 286 NJ Super. 372 (1996) in which the court ruled that an arbitrator could not consider information he had learned during the mediation process but which had not been presented in an arbitration hearing.

The City also contends that there was never an agreement between it and the PBA on any of the proposals that the PBA has submitted. The City argues that the hand written document submitted by the PBA was not signed and therefore cannot be considered as stipulations.

The City argues that the final offers that it made to the PBA are entirely consistent with the contracts that the City entered into with other units and should be accepted in their entirety. The City disputes the PBA's contention that it is conditioning its final offer, especially the one on retiree health benefits, on numerous concessions that were not requested of any other employee. The City references agreements with respect to increases in the major medical deductibles and prescription copays. These issues were agreed to by other City

units and additional concessions were obtained from the Superior Officer Association to reduce the number of hours of sick leave and to eliminate the ability to accumulate sick leave. The City further argues that a lower hire rate for new police officers is commonplace.

DISCUSSION

The parties did not agree upon an alternative terminal procedure and accordingly, pursuant to statute, the arbitration was conducted under the procedure of conventional arbitration. That procedure authorizes the arbitrator to fashion an award without being required to adopt an aspect of the final offers made by either party.

The PBA and the City have offered testimony and substantial documentary evidence in support of their final offers. Each submission was expert and comprehensive containing voluminous data on the characteristics of Atlantic City. The entire record of the proceedings must be considered in light of the statutory criteria. I am required to make a reasonable determination of the issues giving due weight to those factors set forth in N.J.S.A. 34:13a 16g (1-8) which I find relevant to the resolution of these negotiations. There factors which are commonly called the statutory criteria are as follows:

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

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

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

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

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

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

(4) Stipulations of the parties.

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

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

taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.

(7) The cost of living.

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

It is traditional in interest arbitration proceedings for the party that proposes changes to bear the burden of proof for the modifications to the agreement that it has proposed. I apply that principle as part of my analysis to each issue in this dispute. While I must consider the merits of the various proposals individually, I refer to criterion N.J.S.A. 34:13a -16g(a), a criterion which directs the consideration of factors ordinarily considered when making determinations on wages and benefits. One such element requires that consideration be given to the totality of the changes to be made to the existing agreement. This is especially appropriate in this case due to the linkage among the many economic issues. Thus any decision to award or deny any individual issue will include consideration as to the reasonableness of that individual decision in relation to the reasonableness of the total terms of the entire award.

I first address the evidentiary issue raised by the City with respect to the Foti report. The City has argued that this report should not be considered because it was not presented into evidence at the hearing. After considering the City's arguments, I concur that any opinions contained in the report are not admissible in the absence of hearing testimony at which time those opinions could have been cross-examined. The City was not given the opportunity to question Mr. Foti concerning any opinions he may have expressed in his report or on the veracity of any of the conclusions he may have reached based upon the information contained therein. However, any reference in the report to financial information contained in the City's budgets, audits, financial statements, or other official documents that were introduced into evidence will be admitted and considered. Those aspects of the report containing such evidence are admissible and can form an appropriate basis upon which the PBA may present argument. I also note that other reports and consultants studies were submitted by the City. They are also in the record and cannot be cross-examined, although Auditor Moore did present some direct testimony and offered opinions that were subject to examination. The City's reports will also be considered to the extent that they point to evidence contained in official documents that are in the record and the City may properly present argument that flows from that evidence.

The PBA has submitted a list of alleged stipulations on which it contends that the parties have reached prior agreement. However, the handwritten document it submitted was not signed by any City official and there is no written

evidence of mutual agreement. In addition, the City asserts that a tentative agreement had not been reached on any of the outstanding issues. Therefore, it argues that it has not agreed to the stipulations offered by the PBA. While the "proposed stipulations" do appear to be a product of the parties' negotiations process, there is insufficient evidence that they represent agreed upon binding stipulations. The City did however indicate that it will stipulate to the proposed changed to Article 1 of the Agreement. This would add the following language into the Agreement:

This agreement is entered into pursuant to the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13a-1 et seq.

This stipulation will be incorporated into the Award.

All other issues are outstanding and I will review each in turn. I first address the issues of Duration, Plain Clothes Assignment, Vacations and Shift Differential.

Duration

Both parties have proposed an agreement period of January 1, 2003, through December 31, 2007. I accept the parties' positions as a stipulation to be incorporated into the Award.

Article XXII - Plain Clothes Assignment

The PBA has proposed increasing the stipend for assignment as a detective or to the plainclothes unit from 3% to 4% of salary. Currently, there are 76 patrolmen assigned as detectives receiving a stipend of \$1,785 for a total of \$135,660. This proposal would increase the stipend by \$595 or 33%, for an additional cost of \$45,220. Lieutenants and Sergeants also receive the same stipend of 3%.

No rationale or justification has been provided in support of this proposal other than an increase is sought. In light of the fact that the current value of this stipend, as expressed as a percentage, will increase as a result of the increases in base pay set forth in this Award, the proposal is denied.

Article XXX – Vacations

The PBA has proposed a modification to the current vacation schedule. That schedule contains a two-tiered system providing a reduced level of days off for those hired after January 1, 1999. The PBA seeks to increase the number of vacations days granted at the sixth year of employment from 24 to 25 days to conform the benefit to that received by officers hired after January 1, 1985 but before January 1, 1999. The PBA has also proposed modifying paragraph D under this Article. The change sought is to replace current language that states a formula for calculating the number of days for sergeants to a paragraph that

reflects the same schedule but in sentence form. The PBA also seeks to add a new section specifying the number of vacation days for lieutenants, again in accordance with the current schedule.

With respect to paragraph D, the language proposed for sergeants and lieutenants does not affect the existing level of benefits but merely provide language to more clearly express what is currently being provided. These proposals are awarded.

I deny the PBA's proposal to delete the "two tier" vacation schedule for officers hired after January 1, 1999 after their sixth year of employment. This provision became effective only recently and no justifiable basis was presented to warrant its removal.

Article XLIII – Shift Differential

The PBA has proposed to modify the current shift differential payment from a flat dollar amount to a percentage of salary. The current schedule provides as follows: 4 p.m. to 12 a.m. \$350; 12 a.m. to 8 a.m. \$450. The stipend is to be paid once per year. The PBA proposes to eliminate the stipends and replace them with a stipend of 1% of base salary for the 4 p.m. to 12 a.m. shift and 2% of base salary for the 12 a.m. to 8 a.m. shift. Under this proposal, an officer at maximum would receive shift differentials of \$595 and \$1,195 at the salary rate in effect during 2003. Thus, the stipends would reflect increases of

\$245 and \$740 respectively, or 70% and 164% from existing levels in 2003 and would actually increase these levels due to the increases in base salaries that follow 2003. The PBA presented no rationale for the need to increase the existing benefit nor a cost estimate of its impact, if awarded. The proposals are denied.

MAJOR ECONOMIC ISSUES

**Hospitalization and Health Insurance,
Retiree Health Insurance,
Shoe and Clothing Allowance,
Holidays and Sick Leave/Accumulation**

I next address the unresolved issues concerning salary, hospitalization and health insurance, dental – prescription – optical, retiree health insurance, shoe and clothing allowance, holidays and sick leave/accumulation. These issues cannot be considered independently from one another despite the fact that the merits of each must be examined individually. I reach this conclusion for several reasons.

Initially, I note that all of these issues relate to the core of the economic impacts of the parties' negotiations proposals and the net annual economic changes of this award. Secondly, the parties' respective arguments on their proposals center mainly on the "packaging" of the economic issues. In other words, they may appear to agree on a single economic issue but have disagreement over its linkage to others. A third point is that the parties have argued over how these main economic issues interrelate with terms that were set

by collective negotiations agreements in other City units and/or by City Resolution for non-unit personnel.

The City and the PBA rely heavily upon the factor of internal comparability but they dramatically disagree on which internal comparables are to be given the most weight and influence on how these economic issues should be resolved.

The City proposes a retiree health insurance package but only in conjunction with its salary proposal and concessions on sick leave and sick leave accumulation. The City's proposals are substantially similar to the non-law enforcement salary increases that approximate a 4% average and the concessions made by the Superior Officer Association (Captains) on sick leave and sick leave accumulation that were allegedly made in exchange for retiree health insurance. In addition, the City seeks a two-tier salary structure with sharply reduced salaries for new hires. On the other hand, the PBA seeks retiree health insurance but seeks that it be packaged with the higher salary increases given to the Superior Officer Association (8, 8, 5, 0, 0) and to certain managerial employees in the police department that exceeded 20% over the first two years rather than the 4% (2%-2%) splits given to non-law enforcement salary increases. With respect to concessions, the PBA submits that all City employees received retiree health insurance without concessions except for the Superior Officers Association. But the PBA discounts the concessions made in that instance because they are asserted to have had minimal impact upon a small bargaining unit where a large

number of unit members were eligible to retire. The PBA also seeks a holiday roll-in paid for in part by reductions in the clothing allowance. The PBA points to this arrangement having been made in 2002 for the IAFF and the Superior Officers Association only after the PBA had concluded negotiations in 2002 without achieving a roll-in of holiday pay. The PBA also points to very substantial increases received by the Atlantic City Council, the Council President, Department Directors and Business Administrator and City Solicitor in 2006. In short, the City and the PBA agree on emphasizing the factor of internal comparability and the concept of consistency of terms but have sharply divergent views on which internal agreements are comparable and which components of any of those agreements are applicable to the PBA unit.

I agree with the parties' emphasis on internal comparability. External comparability arguments have also been made by the City and PBA as each has selected municipalities for comparison purposes. External comparability is not irrelevant but reliance upon labor agreements beyond the jurisdiction of Atlantic City are not as persuasive in this instance as are the internal settlements. Internal comparability and patterns of settlement where there are numerous bargaining units have long been recognized as falling squarely within the parameters of the statutory criteria, including the interests and welfare of the public, continuity and stability of employment, salary and benefit comparisons within the employer's scope and principles that are ordinarily and traditionally considered in the determination of salaries and benefits through collective negotiations.

The record that has been developed on internal comparability reflects consistencies of approach but within a broader context that contains some variations depending on each bargaining unit. The one main theme throughout the agreements, and also the unilaterally adopted terms for non-bargaining unit personnel, is the inclusion of the retiree health benefit. Retiree health benefits were provided to Deputy Chiefs of Police in accordance with Resolution No. 1972. This benefit was provided to eligible employees covered by labor agreements (other than the Superior Officers Association) by Ordinance No. 61 during June of 2004. This ordinance covered all city employees (except Police Officers and Firefighters covered by labor agreements) as well as the City's managerial and confidential employees. Shortly thereafter, the City adopted Ordinance No. 85 providing retiree health insurance for the Superior Officers Association (Captains).

The PBA's proposal for retiree health benefits differs substantially from the City's. The PBA's proposal essentially patterns Ordinance No. 85. The PBA proposals differ in that Ordinance No. 85 requires 25% of benefit costs to be borne by the retiree (75% to be paid by the City) for those retiring on or after January 1, 2007 but the PBA has proposed that the City pay 95%. The City's proposal differs from the programs that it has already adopted under all of its resolutions. The main differences between the parties are as follows. The City has tied its proposal to certain givebacks and seeks application of Ordinance No. 61 for the PBA. In addition, the two proposals differ in that the PBA's would be implemented effective

January 1, 2003, while the City's would not take effect until January 1, 2006. In addition, the PBA proposes that the City pay 95% of the cost of the HMO Blue program and 100% of the cost for a drug prescription program, while the City would pay 75% under its proposal with the retired officer paying 25%. The City does not reference any payment for the drug prescription program. The City would also require that the retiring officer have at least 25 years of service with Atlantic City while the PBA would provide this benefit to individuals retiring with 25 years of service in a state or locally administered retirement system with at least 10 years of service with the City or if an officer has retired on a disability pension regardless of years of service with the City. The City also proposes language stating that the level of health benefits provided to the retirees, and their dependents, may be changed at any time by the City upon notice to the retiree. This authority is not present in either Ordinance No. 61 or No. 85.

After thorough review and consideration of the respective retiree health insurance proposals, I am persuaded that the program to be awarded for this unit should, with modifications set forth below that are appropriate due to cost considerations and the passage of time, be consistent with the terms that were contained in Atlantic City Ordinance No. 85. That document is in the record and need not be reproduced here.

There are differences between the programs provided by Ordinance No. 61 and Ordinance No. 85. The reasons for awarding a program similar to Ordinance

No. 85 rather than No. 61 and denying the City's proposal containing requirements that are less than both are several. The City's position that it be allowed to change the level of health benefits at any time upon notice to the retiree is inconsistent with the commitments it has made to retirees in all of its other agreements and/or unilateral adoptions. Another inconsistency is the requirement that the PBA have 25 years or more of service credit with the City of Atlantic City Police Department compared to the eligibility terms set forth in Ordinance No. 61 and No. 85 that provide eligibility upon having 25 years of creditable service with at least 10 years of such service within the City. The City's reasoning for these and other differences are outweighed by considerations that focus on uniformity and consistency. The City has, by its own actions, provided for differentiation between its non-public safety employees and its public safety employees and an extension of the program it has adopted for its public safety employees prior to this date with certain modifications is warranted for this bargaining unit.

The City has proposed that any retiree health benefit program that may be awarded be effective January 1, 2006 while the PBA proposes that the effective date be January 1, 2003 similar to Ordinance No. 61 and No. 85. The PBA seeks that there be consistent application of the effective date, asserting that to deny this benefit to those who have retired after January 1, 2003 but prior to January 1, 2006 would unfairly penalize its members for the extended delay caused by the negotiations process. The City's position is based primarily upon the costs of retroactivity and having the financial impact of the benefit on its budget offset by

concessions. After weighing these considerations, I award retroactivity with respect to eligibility for the program back to the date of January 1, 2003 but with an effective date for the payment and the receipt of retiree health benefits effective on January 1, 2007. The City's payment levels, similar to Ordinance No. 85, shall be 95% for employees who have retired after January 1, 2003 but prior to January 1, 2007 and 75% for employees who retire January 1, 2007 or thereafter.

The awarding of the retiree health insurance program is a significant cost item to the City. Its inclusion requires consideration as to its impact upon the other economic issues in dispute. This consideration was present in the determination made above to implement the retiree health insurance benefits on January 1, 2007.

The City proposes two areas of cost containments in the health insurance area. One is to increase the major medical deductible under the City's self-insured indemnity health insurance plan to \$150 per individual and \$300 per family per year. The current deductibles are \$100 and \$200 respectively as set forth in Article XVI. These concessions were made by other employee organizations who received retire health insurance. The PBA has made an identical proposal concerning the major medical deductible. This issue addresses the increased cost for providing health insurance. The proposed increase in deductibles will result in savings of premium costs to the City while maintaining comprehensive health insurance coverage. The proposal is

therefore awarded. The effective date for this modification shall be January 1, 2007.

A second area addresses the cost of drug prescription copays. The City has proposed to increase the co-pay for drug prescriptions to \$10 for non-generic drugs and \$5 for generic drugs. Currently both types of prescriptions are \$3. These concessions were made by other employee organizations who received retire health insurance. The PBA has addressed this issue in similar fashion. The cost of the existing benefit has increased and the parties have addressed this increase by proposing increases in the co-pays. Since both parties have proposed the same change to the drug prescription co-pays, the proposals are awarded. They too shall be effective on January 1, 2007.

The PBA has also proposed that effective January 1, 2003 each retired officer will receive up to \$420 per year for reimbursement for dental and optical expenses including the cost of purchasing insurance for such coverage. A review of other city contracts indicates that the SOA and IAFF have the same benefits. The other employee groups do not. The City does not agree with the proposal but raised no specific objections. In addition, consideration should be given to the unique nature of public safety employees and that there should be some consistency in health insurance benefit levels among that particular group of a municipality's employees. Therefore, I award the PBA's proposal to be effective January 1, 2007.

Both parties have submitted proposals involving sick leave and sick leave accumulation. The PBA proposes to eliminate the current two-tiered system that provides that employees hired prior to March 22, 1999 receive 120 hours of sick time per year while employees hired after that date receive 100 hours. The City, on the other hand, has submitted several proposals it has considered "givebacks" in exchange for providing the health benefits at retirement issue. Specifically, the City proposes the following:

- (1) Reduce the number of hours of sick leave for each Police Officer by forty (40) hours per year retroactive January 1, 2003;
- (2) Eliminate the ability to accumulate sick leave from year to year;
- (3) All earned sick leave shall be valued at the present rate prior to the commencement of this Agreement; and
- (4) Police Officers shall be eligible for no more than 260 days Leave under Article XXIX of the Collective Bargaining Agreement during the length of their employment with the City. Police Officers are eligible for said leave only upon the exhaustion of all their accumulated sick leave.

The City sees the issue of health benefits upon retirement for the employees covered by this Agreement as connected to the PBA's acceptance of certain givebacks, among them the four items listed above. The City argues that all other unions have accepted givebacks in return for the implementation of a health benefits program for retirees. In particular, they point to the Agreement

with the SOA (Captains) who agreed to a similar proposal the City has made in this proceeding.

The PBA, in opposition to the proposal, argues that the only other negotiating unit within Atlantic City to accept "givebacks" in the area of sick leave was the SOA. The PBA contends that the Captains should be distinguished from the City's treatment of police officers due to the composition the SOA unit. The SOA represents only Captains. The PBA points out that most of the Captains have 25 years of service over which time they have already accumulated a significant amount of sick leave. The PBA asserts that twenty (20) of the twenty-five (25) captains will be eligible for retirement during the life of their contract and will most likely retire. The PBA also speculates that the rank of Captains may not be used in the future because the City has created and filled the position of Lieutenant rather than filling the rank of Captain. The PBA also points out that if the City promotes anyone to Captain they get paid the full value of their accumulated sick leave at the time and then are awarded unlimited sick leave. Thus, the PBA asserts that the concessions or the savings the City claims for Captains as a result of the SOA concession as a mere "illusion."

Although I do not award the City's proposal in the form that it has advanced, I do find merit to that portion of the City's proposal that it receive some relief in its long-term financial obligations in the terminal leave area caused by sick leave accumulation as an additional consideration towards the awarding of

retiree health benefits. I note that Article XXIX of the prior Agreement, at Section 2, did provide for a two-tier system reducing the amount of sick leave hours per year to 100 for police officers hired after March 22, 1999. In addition, the Agreement, at Article XIX, Section D, provided for a reduction in the amount of terminal leave that could be accumulated. Employees hired in 1984 were limited to a maximum of 16 months, a figure that was reduced to a maximum of 14 months for those hired in 1985. There was a further reduction to a maximum of 12 months for those hired in 1986. In the twenty (20) years that have passed since the last modification in the terminal leave program, the salaries for police officers have risen substantially and will rise to more attractive levels as a result of the terms of this award. A further reduction in the maximum amount of time that can be accumulated for the purpose of terminal leave is warranted. I award a reduction in the City's terminal leave obligation to a maximum of six (6) months for any police officer hired on or after October 16, 2006.

I find no merit to the PBA's proposal to eliminate the two-tiered sick time accumulation system that was previously created. No data was placed on the record as to the need to increase the amount of sick time for this group of employees and to do so would impose additional costs upon the City.

The PBA has proposed eliminating the separate stipend for holiday pay effective January 1, 2003 and including holiday pay within the officers' base salary as of that date. This system is similar to the one contained in the IAFF

and SOA agreements. Under the previous PBA agreement, holiday pay value is based on fourteen (14) eight (8) hour holidays at time and one half. This equates to 8.08% of each officer's base pay. Based upon the PBA's total payroll of \$20,881,942, the amount of holiday pay being currently received amounts to \$1,687,260. There would be no direct additional costs to the City as a result of rolling holiday pay into the base salary. However, there would be some indirect costs and additional pension contributions from both the employee and the City. Employee contributions would increase as that rate is applied to their individual holiday payments which would become part of base salary. In addition, the City would be required to make additional pension payments on the amount of the holiday payments it now makes. The City has recently been paying into the pension fund at a reduced rate but will resume 100% payment in the near future.

The PBA has offered a savings to offset the additional costs to the City for the pension contributions in the form of a reduction in clothing allowance. The PBA has proposed, effective January 1, 2004, that there be a reduction in the clothing allowance from a flat \$850 per officer, to \$850 for those officers at Step 1 of the salary guide, \$450 for those on Steps 2 through 6, and \$275 for officers at Step 7, \$100 per Sergeants and no allowance for Lieutenants. As stated, the PBA connects this proposal in conjunction with its proposal to incorporate holiday pay into base salary. The purpose of the connection is "to offset additional expense which may be incurred by the City for additional pension contributions." The PBA calculates that the new clothing allowance schedule would provide for a

savings of \$180,350 per year based on the current roster. The PBA further proposes that the City receive a credit for the clothing allowance previously paid for calendar year 2004 and 2005 if its proposal to implement the holiday roll in effective January 1, 2003 is accepted. In addition, the clothing allowance schedule would be consistent with the schedule for firefighters and superior officers both of whom already have holiday pay included in their base salaries. The City does not agree with the holiday pay or clothing allowance reductions but raises no objections. The PBA's proposal would also place police officers on the same footing as firefighters and police superiors on this issue. Each has received base pay that has included holiday pay for several years accompanied by reductions in clothing allowance. In light of all of the above, the PBA's proposal is awarded with an effective date of January 1, 2004 rather than January 1, 2003 due to the fact that the date of the clothing allowance reduction and credit also commence on that date.

Salary

I next turn to the issue of salary. The PBA has proposed salary increases as follows:

<u>Year</u>	<u>Increase</u>
2003	8%
2004	8%
2005	5%
2006	0%
2007	5%

The City has proposed salary increases of:

Effective: January 1, 2003: 2%
 July 1, 2003: 2%
 January 1, 2004: 2%
 July 1, 2004: 2%
 January 1, 2005: 2%
 July 1, 2005: 2%
 January 1, 2006: 2%
 July 1, 2006: 2%
 January 1, 2007: 2%
 July 1, 2007: 2%

The parties' proposals, if adopted, would result in the following salary schedules:

PBA's Proposal

Step	2003 8%	2004 8%	2005 5%	2006 0%	2007 5%
1	\$39,750	\$42,931	\$45,077	\$45,077	\$47,331
2	\$41,320	\$44,625	\$46,857	\$46,857	\$49,199
3	\$42,889	\$46,320	\$48,636	\$48,636	\$51,068
4	\$47,466	\$51,263	\$53,826	\$53,826	\$56,518
5	\$52,042	\$56,205	\$59,016	\$59,016	\$61,966
6	\$56,619	\$61,149	\$64,206	\$64,206	\$67,416
7	\$64,289	\$69,432	\$72,904	\$72,904	\$76,549

City's Proposal

	1/1/03	7/1/03	1/1/04	7/1/04	1/1/05	7/1/05	1/1/06	7/1/06	1/1/07	7/1/07
1	\$37,542	\$38,293	\$39,059	\$39,840	\$40,637	\$41,450	\$42,279	\$43,124	\$43,987	\$44,866
2	\$39,024	\$39,805	\$40,601	\$41,413	\$42,241	\$43,086	\$43,948	\$44,827	\$45,723	\$46,638
3	\$40,506	\$41,316	\$42,143	\$42,986	\$43,845	\$44,722	\$45,617	\$46,529	\$47,460	\$48,409
4	\$44,829	\$45,726	\$46,640	\$47,573	\$48,524	\$49,495	\$50,485	\$51,494	\$52,524	\$53,575
5	\$49,151	\$50,134	\$51,136	\$52,159	\$53,202	\$54,266	\$55,352	\$56,459	\$57,588	\$58,740
6	\$53,474	\$54,543	\$55,634	\$56,747	\$57,881	\$59,039	\$60,220	\$61,424	\$62,653	\$63,906
7	\$60,718	\$61,932	\$63,171	\$64,434	\$65,723	\$67,037	\$68,378	\$69,745	\$71,140	\$72,563

The parties have proposed the same schedule of increases for Sergeants and Lieutenants.

The City has also proposed a new salary schedule for police officers hired after January 1, 2003:

Title	1/1/2002 (Old Schedule)	Proposed (New Hire Schedule 1/1/03)
1	\$36,806	\$32,500
2	\$38,259	\$34,100
3	\$39,712	\$35,700
4	\$43,950	\$40,000
5	\$48,187	\$42,500
6	\$52,425	\$47,000
7	\$59,527	

New hires would receive the new schedule followed by the same increases the City has proposed for existing employees. When the percentage increases are applied to the proposed new hire salary schedule, the new hire salary schedule as proposed by the City would read as follows:

	7/1/03	1/1/04	7/1/04	1/1/05	7/1/05	1/1/06	7/1/06	1/1/07	7/1/07
1	\$33,150	\$33,813	\$34,489	\$35,179	\$35,883	\$36,600	\$37,332	\$38,079	\$38,841
2	\$34,782	\$35,478	\$36,187	\$36,911	\$37,649	\$38,402	\$39,170	\$39,954	\$40,753
3	\$36,414	\$37,142	\$37,885	\$38,643	\$39,416	\$40,204	\$41,008	\$41,828	\$42,665
4	\$40,800	\$41,616	\$42,448	\$43,297	\$44,163	\$45,046	\$45,947	\$46,866	\$47,804
5	\$43,350	\$44,217	\$45,101	\$46,003	\$46,923	\$47,862	\$48,819	\$49,796	\$50,791
6	\$47,940	\$48,899	\$49,877	\$50,874	\$51,892	\$52,930	\$53,988	\$55,068	\$56,169

Because the award is retroactive to January 1, 2003, costs must be calculated from the 2002 base. I use the patrolman's max level for purposes of calculation. Payroll at that time reflected the following costs for unit employees.

2002			
Patrolman	302	\$59,527	\$17,977,154
Sgts.	48	\$67,816	\$3,255,168
Lts.	9	\$74,000	\$666,000
			\$21,898,322

In terms of percentage increases, the PBA's proposal totals 26% over the five year period while the City's totals 20% for that period. However, the total cost difference in dollars for both proposals far exceeds 6% because of the severely front end loaded nature of the PBA's proposal. One percent (1%) calculates to \$218,983.

An evaluation of the salary issue centers mainly upon comparability and costs. Absent deviations that may be justified, there is a presumption in this proceeding that the evidence on internal comparisons be given the most weight. The comparisons show varied treatment. The PBA understandably seeks the higher and heavily front loaded settlements for the SOA [8% in 2003, 8% in 2004, 5% in 2005, 0% in 2006, 0% in 2007] but with a 5% increase in 2007. The City has proposed a 2% increase effective January 1, 2003 followed by 2% increases every six months thereafter. These increases more closely parallel increases for the non-law enforcement units.

The cost differences between the parties' proposals can be calculated in different ways¹. One such calculation reflects the following:

	PBA	
January 2003	8%	\$1,751,866
January 2004	8%	\$1,892,015
January 2005	5%	\$1,277,110

¹ Precise calculations must give way to reasonable projections because of changes in staffing levels due to turnover, promotions and/or retirements.

January 2006	0%	\$1,277,110
January 2007	5%	\$1,340,966
Total		\$6,261,957

City

January 2003	2%	\$437,966
July 2003	2%	\$446,726*
January 2004	2%	\$455,660
July 2004	2%	\$464,773*
January 2005	2%	\$474,069
July 2005	2%	\$483,550*
January 2006	2%	\$493,221
July 2006	2%	\$503,086*
January 2007	2%	\$513,147
July 2007	2%	\$523,410*
Total		\$4,795,610

Because of the nature of the City's split raises in January and July, the second (or asterisked) increase in each year that occurs in July results in one-half of the actual expenditure of the second (2%) increase for that year. However, the full effect of both 2% increases in each year carryover into the next year thus adding some one-half of the 2% back into the annual cost for the succeeding year. The overall impact of this scheme results in a deduction of payout of 1% off of the overall 20% total of the City's offer. Without accounting for this deduction, the difference of each year's increase, as expressed in dollars for each year then added to a total, reflects a difference between \$6,261,957 (the City) and \$4,795,610 (the PBA), or \$1,466,347 over the five years or 6.7%.

If the differences in the parties' positions were to be calculated based upon actual annual payroll expenditures, the additional costs that the City would have to

assume over the five years would be far more substantial due mainly to the PBA's front loaded proposal. The difference would total \$4,786,555 as reflected in the following chart:

	2003	2004	2005	2006	2007
PBA	\$23,650,187	\$25,542,201	\$26,819,311	\$26,819,311	\$28,160,276
City	1/1 \$22,336,288	1/1 \$23,238,673	1/1 \$24,177,514	1/1 \$25,154,285	1/1 \$26,170,517
	7/1 \$22,783,013	7/1 \$23,703,446	7/1 \$24,661,106	7/1 \$25,657,370	7/1 \$26,693,927
Difference	\$867,174	\$1,838,755	\$2,158,205	\$1,162,001	\$1,466,349
					(\$4,786,555)

A salary determination cannot be made by isolating this issue from the others. The City's proposal was linked to a specific set of concessions including a reduction in sick leave and in sick leave accumulation for existing employees; a deep two tiered salary structure for new hires, a retiree health insurance program containing elements that differ from others the City adopted; and without the inclusion of the holiday pay fold-in sought by the PBA. The PBA seeks salary increases at a higher level than the SOA, a retiree health insurance program that exceeds all others with more limited concessions. The context of the wage issue is one which the holiday fold-in has been awarded. The retiree health insurance issue has been awarded effective January 1, 2007 with eligibility retroactive to January 1, 2003. The deep two tier salary proposal of the City has been denied as well as its proposal to reduce sick leave and eliminate its accumulation. A fifty percent (50%) reduction in terminal leave has been awarded for new hires as well as increases in prescription co-pays and major medical deductibles.

The PBA has sought linkage with the SOA agreement but with an additional 5%. In this instance, less weight must be accorded to the SOA agreement. Initially, it must be noted that its terms applied to 25 employees rather than the 360 at issue in this proceeding. The PBA itself asserts that at least 80% of that unit was retirement eligible and that their overall package was designed to motivate retirement. The PBA unit, in conjunction with the IAFF, represent 50% of the costs of the City's payroll and the costs associated with the front load package approaches a \$5,000,000 difference in payroll costs for the PBA alone over the life of the Agreement. The PBA's proposal would not only cause adverse financial impact on the City but would also represent a significant deviation from the terms of settlement that have prevailed within the City's non-law enforcement units. To the extent that adjustments were made to the City's non-law enforcement units, such as raising the minimum starting salary of blue collar employees to \$19,865 per year, such adjustments must be viewed as beyond the scope of percentage increases that would apply to the PBA unit. The wage issue must be considered as part of the totality of the economic changes that have awarded with due weight given to the other salary agreements. After doing so, I conclude that annual increases of 4% commencing January 1 of each of the five years, without the split raises sought by the City, represents a reasonable determination of the wage issue and one that clearly comports with an application of the statutory criteria. They are, on average, also comparable to those within Atlantic County, within the State of New Jersey and within the "Urban 15."

Accordingly, I award increases of 4% annually to each step of the salary schedule and to the rank of Sergeant and Lieutenant retroactive to each January 1 effective date². I do not award a second tier to the salary schedule. To do so would, more than likely, diminish the continuity and stability of the police department by creating unfavorable salary comparisons with police departments elsewhere who work in less demanding environments.

Based upon the record before me, I am persuaded that the interests and welfare of the public will be furthered by the terms of the Award. They are reasonably consistent with the City's treatment of the remainder of its workforce, represented and unrepresented and address issues unique to the PBA. The deviations sought by the City fall outside of the reasonably consistent standard and could decrease the continuity and stability of employment of the City's police officers as well as the morale of the police officers who protect the health, welfare and safety of residential, commercial and entertainment sectors of the City. The City has witnessed a significant expansion of its tax base -- almost \$1 billion over the past five years which has allowed it to stabilize its tax rate, reduce taxes in 2004 and maintain funds to offset longer term financial obligations under its labor agreements and tax appeals. The City has the ability to fund an award that is reasonably consistent with its other labor agreements without adverse financial

² All increases are retroactive to their effective dates. Those eligible for retroactivity are those presently employed and those who have retired including those who may have retired on ordinary or disability pension.

impact and within its statutory spending limitations due to its maintenance of a significant cap bank.

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

AWARD

1. All proposals by the City and the PBA 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 effective date of this Agreement shall be January 1, 2003 through December 31, 2007

3. **Article 1 - Purpose**

This following language shall be added to Article 1:

This agreement is entered into pursuant to the provisions of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13a-1 et seq.

4. **Article XXX – Vacations**

Section (d) – The paragraph for vacations for sergeants shall be revised to read as follows:

“All sergeants shall be entitled to twenty-eight (28) days of vacation working eight (8) hour days (224 hours); or twenty-two (22) days of vacation if working ten (10) hour days (220 hours).”

Add a Section (e) entitled “Lieutenants:”

“All Lieutenants shall be entitled to twenty-nine (29) days of vacation if working eight (8) hour days (232 hours), or twenty-three (23) days of vacation if working ten (10) hour days (230 hours).”

5. **Health Insurance**

Effective January 1, 2007, The major medical deductible under the City's self-insured indemnity plan shall be increased to \$150.00 per year for individual coverage, and to \$300.00 per year for family coverage. Additionally, the co-payment for non-generic drugs was increased to \$10.00 per prescription; and the co-payment for generic was to be \$5.00 per prescription.

Effective January 1, 2007 each retired officer will receive up to \$420 per year for reimbursement for dental and optical expenses including the cost of purchasing insurance for such coverage.

6. **Article XIX – Terminal Leave**

Section D shall add “employees hired after October 16, 2006 shall have maximum accumulation time of six (6) months.

7. **Retiree Health Benefits**

Unit employees shall be provided retiree health benefits to correspond with Ordinance No. 85 that was adopted by the Council of the City of Atlantic City on August 11, 2004 and approved by the Mayor on August 13, 2004 with the following modification. Those eligible for this benefit shall be police officers who retired after January 1, 2003. Implementation and payment of the program by the City for eligible police officers shall commence on January 1, 2007.

8. **Article XII – Shoe and Cleaning Maintenance Allowance**

Section A of this Article shall be changed to read as follows:

1. Effective January 1, 2004, and each year thereafter, police officers at Step 1 of the salary guide shall receive an annual clothing maintenance allowance of eight hundred and fifty (\$850.00) dollars; police officers at Step 2 through 6 of the salary shall receive an annual clothing maintenance allowance of four hundred and fifty (\$450.00) dollars; police officers at Step 7 of the salary guide shall receive an annual clothing allowance of two hundred and seventy-five (\$275.00) dollars; Sergeants shall receive an annual clothing allowance of one hundred (\$100.00) dollars; and Lieutenants shall receive no clothing maintenance allowance.
2. The clothing maintenance allowance shall be paid on the last pay day in November of each year.

Sections B through F of this Article shall remain unchanged.

The City shall receive a credit for the clothing allowance utilizing the figures set forth above, which it may have previously paid in calendar years 2004, 2005 and 2006 pursuant to the provisions of the existing contract, when the calculation for the retroactive pay is made.

9. **Article XXI – Holidays**

Effective January 1, 2004, holiday pay shall be eliminated as a separate stipend under this contract; and the monetary equivalent of the holiday pay shall be included within the base pay for all police officers, retroactive to January 1, 2004.

The amount of holiday pay shall be that as calculated in the 1996-2002 agreement as to the number of holidays, the computation of pay and rate of pay by rank per the new base pay in effect January 1, 2004.

The City shall receive a credit for the holiday pay which it previously paid in calendar years 2004 and 2005 pursuant to the provisions of the existing contract, when the calculations for the retroactive pay is made.

10. **Salaries**

The salary schedule shall be increased at each step of the salary schedule by 4.0% effective January 1, 2003, 4.0% effective January 1, 2004, 4.0% effective January 1, 2005, 4% effective January 1, 2006 and 4.0% effective January 1, 2007 and be retroactive to their effective dates. The salary schedules for patrol officers, sergeants and lieutenants shall be modified to read as follows based upon the salary adjustments that have been awarded:

	2003	2004	2005	2006	2007
Step 1	\$38,278	\$39,809	\$41,402	\$43,058	\$44,780
Step 2	\$39,789	\$41,381	\$43,036	\$44,758	\$46,548
Step 3	\$41,300	\$42,952	\$44,671	\$46,457	\$48,316
Step 4	\$45,708	\$47,536	\$49,438	\$51,415	\$53,472
Step 5	\$50,114	\$52,119	\$54,204	\$56,372	\$58,627
Step 6	\$54,522	\$56,703	\$58,971	\$61,330	\$63,783
Step 7	\$61,908	\$64,384	\$66,960	\$69,638	\$72,424

	2003	2004	2005	2006	2007
Sergeants	\$70,529	\$73,350	\$76,284	\$79,335	\$82,509
Lieutenants	\$76,960	\$80,038	\$83,240	\$86,570	\$90,032

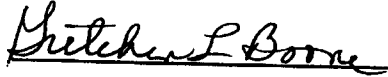
The City and the PBA shall determine if they wish to incorporate the addition of holiday pay into base pay portion of the Award, effective January 1, 2004, into the salary schedules set forth above.

Dated: October 16, 2006
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 16th day of October, 2006, 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