

PUBLIC EMPLOYMENT RELATIONS COMMISSION

XX

In the Matter of the Arbitration Between)

TOWNSHIP OF OLD BRIDGE,)

EMPLOYER)

AND)

PBA 127,)

UNION)

XX)

**INTEREST ARBITRATION
OPINION AND
AWARD**

DOCKET NO. IA-2009-026

**BEFORE
GERARD G. RESTAINO
INTEREST ARBITRATOR**

APPEARANCES:

FOR THE EMPLOYER
LOUIS RAINONE, ESQ.

COUNSEL FOR EMPLOYER

FOR THE UNION
ROBERT FAGELLA, ESQ.

COUNSEL FOR UNION

PROCEDURAL BACKGROUND

The parties in this dispute, the Township of Old Bridge and PBA Local 127, are signatories to a collective negotiations agreement that expired on June 30, 2008. The parties notified the New Jersey Public Employment Relations Commission (PERC) that they have selected the undersigned to be the Interest Arbitrator in the instant dispute. On December 15, 2008, I received formal notification from PERC that I was appointed Interest Arbitrator. I held informal sessions with the parties on March 16, May 19, June 17, 2009, and January 26, 2011, in the hopes of reaching a voluntary successor agreement. It became apparent that a voluntary successor agreement could not be reached and formal interest arbitration hearings were scheduled for August 9 and 10, 2010.

In the latter part of 2009 the parties reached a tentative agreement. Unfortunately, that tentative agreement was rejected by the PBA.

After the close of the hearing and before the parties agreed upon a briefing schedule, I met with the parties on numerous occasions to try to effectuate a voluntary settlement that both parties could recommend to their respective groups. Unfortunately, that did not occur and a briefing schedule had been agreed upon. The Employer asked for an extension of time to submit their brief and that extension was granted. The briefs were received on May 26, 2011.

On June 10, 2011, I received a letter from Robert Fagella, counsel for the Union, objecting to some of the information included in the Township's post-hearing brief. In his letter Mr. Fagella made a motion to suppress the Township's inclusion of and reliance upon post-arbitration evidence in this proceeding. He specifically challenged

the information submitted by Louis Rainone, counsel for the Township, concerning documents dated January 20, February 23, March 8, April 18 and May 19, 2011. His specific objection references the fact that,

“At no time did Mr. Rainone seek to supplement the record by motion. They reflect that he had received certain financial information several months ago, but failed to share them with you or me. The Township now attempts to include not merely counsel’s analysis of the record, but rather the actual reports of experts who were never subjected to cross-examination and whose reports were never something shared with or reviewed by experts of the PBA’s choosing.

Accordingly, I respectfully submit that the documents are improperly annexed to the brief may not be considered by the Arbitrator and not to be provided any weight whatsoever.”

The parties did not agree upon an alternative terminal procedure. Accordingly, conventional arbitration will be the procedure utilized in the instant matter. Conventional arbitration is a much more flexible process that allows the Arbitrator to review all of the facts and documents submitted, as well as to review the testimony in the record and make a determination away from the requirement of selecting any component of a final offer by either party.

I am required by N.J.S.A. 34:13(a)-16(g) to separately determine whether the total net annual economic changes for each year of the Agreement are reasonable under the non-statutory criteria set forth in subsection (g) of this section. These factors, which are commonly referred to as the statutory criteria, are set forth below:

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

- (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.40aA:4-45.1, et. sec .).
- (2) Comparison of the wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with 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:4-45.1 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 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; 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 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 a proposed local budget.

- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in public service and in private employment.
- (9) Statutory restrictions imposed on 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 section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

FINAL OFFERS OF THE PARTIES

Final Offer of the PBA (Modified)

- I. Term: 54 months (6/30/2008 – 12/31/2012)
- II. Salary: 1.25% effective July 1, 2008
(Article VI) 2.5% effective January 1, 2009
2.5% effective January 1, 2010
2.5% effective January 1, 2011
2.5% effective January 1, 2012
All raises retroactive to commencement of contract.
- III. Stipend: Amend Article VII to provide 5-2 Schedule Stipend of \$2750;
- IV. In-Service Training: Amend Article VII (I) to increase from 8 hours to 16 hours at straight time.
- V. Standby Time for Detectives: Amend Article VII (D) to provide:
 - a. Weekday Standby 4 hours of O.T.
 - b. Weekend Standby 6 hours of O.T.

- VI. Amend Article VII (H) to provide: Acting Supervisor to be paid at Senior Sergeant hourly rate.
- VII. Light Duty: Amend Article VII to provide:
 - a. Available to all officers, whether on or off duty, upon proof of physical limitations.
 - b. Medical appointments to be rescheduled during work shift.
- VIII. All raises retroactive to commencement of contract.
- IX. Stipends to be effective upon issuance of award.

TOWNSHIP OF OLD BRIDGE'S FINAL OFFER

The Township's final offer is in the best interests of the citizens of the Township and a realistic and necessary offer for the PBA members in light of the crushing restrictions on the Township's finances. The Township's final offer is as follows:

1) Salary:

July 1, 2008:	0%
January 1, 2009:	0%
January 1, 2010:	0%
January 1, 2011:	0%
January 1, 2012:	0%

- There shall be a freeze in salary step advances in the years 2011 and 2010.

2) Longevity:

- There shall be a cap of 10% on longevity payments. Any officer, who has exceeded the 10% cap, will have his/her longevity payments capped at the amount as of January 1, 2010.

3) Modified Duty Policy:

- The Township may in its discretion implement at "Light Duty or Modified Duty" policy officers injured "on duty" only.
- In the alternative, the Township will extend the "Light Duty or Modified Duty" policy to all officers upon the elimination of sick leave and disability insurance.

4) Working Hours:

- Officers assigned to a 4-4 schedule shall be required to work an additional 100 hours (10, 10 hour days) each year, to be assigned by the Chief at the beginning of the year.

5) Sick Bereavement Leaves:

- Bereavement leave for the immediate family shall be reduced one day for employees on the 4-4 shift.

6) Health and Disability Insurance:

- In addition to the statutorily mandated contribution of 1.5% of salary to health care premiums, officers shall pay all increases in the cost of health insurance premiums that are not permitted to be within the Township's statutorily limited spending cap.
- Amend agreement to permit the Township to switch to the State Health Benefits Plan at its discretion.
- For active and retired employees; change prescription co-pays and doctors visits as follows:

	<u>From</u>	<u>To</u>
Prescription co-pay:	\$5 and \$12	\$5/\$10/\$25
Doctor visits:	\$5 and \$10	\$20

- Replace paragraph (1) of (H) with the following:

For any retiree or spouse attaining the age of sixty-five (65), and qualified, Medicare shall become their primary insurance and the Township shall provide a supplemental policy only. The retiree or spouse shall enroll into Part A and Part B of Medicare. While the Township will continue to pay for an eligible retiree's medical benefits, the Township will not be responsible for a retiree's Medicare premium.

7) New Hires:

- No health insurance upon retirement
- Eliminate longevity
- No Life Insurance
- Work year shall be 2080 hours

8) Duration of Service:

- July 1, 2008 to December 31, 2012

POSITION OF THE PARTIES

For the Township

The Township lies within Middlesex County with a population of approximately 65,859 in an area of 38.8 square miles. (See Exh. T-1).¹ The Township maintains 203 miles of roadways. As of the date of the arbitration hearings, the Township employed 260 employees which include 102 sworn police officers representing 39% of the total workforce. The Township argues that the salaries for sworn police officers equal approximately 50% of the Township's total funds budgeted for salaries.

A Police Officer works 35 hours per week on a 4-4 work schedule. Based on the 4-4 work schedule at 10 hours per day, a police officer works 1825 hours per year (see Exh. T-2), less than Police Officers in Edison who work 1885 hours and Police Officers in Piscataway who work 1961 hours. (See Exh. T-23). The Township argues that Police Officers currently receive a higher hourly rate than larger municipalities in Middlesex County including Edison and Piscataway. In addition, the Township has an extraordinary high longevity rate which provides employees with an additional \$5,000 of salary as compared to other similarly situated Townships in Middlesex County. Another way of looking at this according to the Township is that Police Officers in Old Bridge enjoy a longevity rate of 15% whereas their counter-parts in Edison and Piscataway receive a 10% longevity rate.

In addition to enjoying higher compensation than their counterparts in comparable jurisdictions, Police Officers also receive significant higher pay increases

¹ T=Township exhibits
U=PBA exhibits

then their fellow Township employees. In fact from SFY 2005 to CY 2010,² budgeted salary for public safety employees, including PBA, Superior Officers, FOP, dispatch, clerical and crossing guards (have increased by 13.55) while all other Township-wide salaries have decreased by 6.1%. Moreover, other Unions have agreed to zero increases in hopes of delaying reporting the need for layoffs while the PBA has not.

The harsh numbers in the Township's budget speak for themselves. The Township will face a projected \$7 million over the tax levy CAP for budget year CY 2012, almost 13% of its total budget, if newer increased revenue sources are not identified. Pension costs have more than tripled in the last four (4) years while health insurance costs have risen by more than 40% from 2006 to 2010. While the Township's budget has grown since SFY 2005 from \$48.7 million to \$56.3 million, a modest 15.6% increase in spending, the Township's budgeted state aid has decreased dramatically by 27% and recurring local revenue have declined by more than 20%. (See Exh. T-24). As a result, the entire growth in spending since SFY 2005 has been funded exclusively by increased property taxes which have increased by 34.5% during this time.

The tax levy CAP law signed in 2007 and effective for SFY 2008 and CY 2008 was created to limit how much a municipality can raise local purpose property taxes from one budget cycle to the next. Due largely to the limitation of the tax levy CAP law and lack of additional non-tax revenues to offset declining local revenues and stagnated State aid, the Township faced a critical budgetary crisis at June 30, 2009. In order to avert the necessary cuts of programs and personnel the Township would otherwise be compelled to make, the Township reverted to a calendar year budget cycle using a six

² FSY = Fiscal Year
CY = Calendar Year

month transition period (July 1, 2009, through December 31, 2009). By utilizing this transition cycle, the Township was allowed to include over 90% of the full year's State aid while not including any pension payments. The Township had hoped that the added surplus generated during this six month transition period would provide it with the necessary time to downsize during attrition and adapt to the restrictions imposed by the tax levy CAP law.

However, since reverting to a calendar year, the Township has been hit with a \$1.6 million reduction in State aid (18%) and a 20% increase in its Horizon Blue Cross/Blue Shield medical coverage.

Governor Chris Christie signed into law P.L. 2010(c).44 on July 13, 2010, which lowered the permitted annual increase of local purpose property taxes from 4% to 2%. This new amendment places the Township in a more difficult position as it restricts the manner in which it can fund budget growth with taxes as it has historically been able to do so. Additionally, the Township's predicament is even more serious since it has suffered a severe decline in non-tax revenues over the past few years. To put it in perspective, the projected decline of surplus available for use in the CY 2011 budget is more than ten times greater than the additional tax levy that is permitted to be raised, in part, to replace it.

The reality is that the local purpose tax included in the Township's adopted CY 2010 budget is \$31,362,937 representing slightly less than 56% of the total budget. (See Exh. T-24). However, the new levy tax CAP law allows the Township to increase its tax levy by \$627,258 or 1.1% of the total budget. If one were to assume that the Township used the existing 4% exclusion threshold for pension and health benefits and

the six year average increase in energy costs, the Township would have to set aside \$582,000 of the increase for CY 2011, leaving approximately \$45,000 for all of the salary and expense increases. However, the new 2% threshold of approximately \$285,000 would be available in CY 2011 for all other increases. These figures are based on the assumption that the Township's governing body would take advantage of all the available exemptions and raise taxes to the maximum allowed.

All of the above results in one simple fact; the Township will face a \$7.3 million structural deficit as a result of the levy CAP problem. The inevitable reality is that all departments will undergo downsizing as a result.

<u>Department</u>	<u>Number of Layoffs</u>	<u>Share of Township Budgetary Problem</u>
Dispatchers	4 positions	\$260,175.00
Public Works	8 positions	\$448,266.00
Public Works Supervisors	2 positions	\$172,379.00
Teamsters (non-prof.)	15 positions	\$903,503.00
Teamsters (professional)	5 positions	\$458,507.00
Non-union employees		\$1,374,225.00
FOP Captains	1 demotion	\$154,597.00
FOP Lt. & Sgt.	7 demotions	\$1,012,238.00
PBA	23 positions	\$2,461,689.00

The Township had taken steps to insure that its 2010 budget came in under the spending and levy tax CAPs. In addition to laying off eight (8) full-time employees and four (4) part-time employees in early 2010, the Township saved money through attrition and the successful negotiation of 0% salary increases for all unions except the PBA. As a result, the Township was able to save the jobs of countless other union employees for one simple reason; these employees accepted wage freezes for 2008, 2009, 2010, and 2011.³

³ Non-union employees have not received any salary increases as well.

Therefore, the Township continues to take the position that should the PBA receive any award in this matter, the cost of said award will be borne by the PBA members. Put another way, no other employees/unions will be laid off or otherwise affected in order to cover the cost of any salary increase that may be awarded to Police Officers. Any and all costs related to any raises for Police Officers will therefore inevitably result in the layoff of more PBA members.

Accordingly, for the welfare of the Township, the PBA and the resident taxpayers, the Township's offer should be accepted and the PBA's offer rejected.

In support of its position, the Township submitted a series of documents that underscored the dire circumstances the Township faces. Those documents referenced as Exhs. A-E is the source of the motion to suppress made by the PBA attorney, Mr. Fagella, on June 10, 2011.

The Township contends that an explanation by the Arbitrator determining what factors are judged relevant would satisfy the requirement that the Arbitrator gave due weight to each factor. Anything less would contravene the acts provision for vacating an award for failure to apply the factors specified in the statute.

The Township strongly argues, *“As a result of the levy CAP law, the Township of Old Bridge cannot legally raise funds to pay an award and, therefore, the PBA proposal must be rejected in its entirety.”*

The Township argues that the statutory criterion that Interest Arbitrator's must adhere to was recently amended and that amendment applies to this arbitration. The amendments were added to the statute by P.L. 2010, Ch. 105. While the CAP in interest arbitration awards contained in Section 2 of P.L. 2010 Ch. 105 was not applied

to these proceedings, the amendments to the statutory criteria contained in N.J.S.A. 34:13A-16(g) do apply. Those specific amendments demonstrate the clear public policy of this State that an arbitrator must, before all else, determine that a public employer would be legally capable, under the levy CAP law of raising sufficient revenue to fund the award. The Township referenced the additional language, which states,

“Provided, however, that, in every interest arbitration proceedings, the parties shall introduce evidence regarding the factors set forth paragraph 6 of this subsection and the arbitrator shall analyze and consider the factors set forth in paragraph 6 of this subsection in any award.”

(Paragraph 6) The financial impact on the governing unit, its residents, the limitations imposed upon the local units property tax levy pursuant to Section 10 of P.L. 2007, c.62(C40)A:4-45.45.

The Township argues that P.L. 2010(c).44 reduces the current 4% limit on property tax increases to 2% and cuts the number of exemptions to four (4) namely the ability to cover bond payment, higher health insurance or pension costs and natural disasters. Most importantly, the new law strips a municipality’s ability to apply for a waiver that would allow it to exceed the 2% CAP. Instead, a municipality wishing to exceed the 2% CAP for reasons other than the listed exemption must put it up for a vote of its residents.

The Township relies upon the report submitted, the information supplied by Mr. Morrison, as well as two documents received from Thomas Neff, the Director of the Division of Local Government Services, show that Old Bridge, typical in many ways, responded in a series of budget and financial decisions to protect to the greatest extent possible, the delivery of municipal service and most importantly, to maintain jobs in the municipal workforce, including PBA union jobs.

The Township's financial condition, which was addressed within the testimony of Michael Jacobs, then Business Administrator and Mr. Morrison, specifically stated that unless new or increases (and recurring) revenue sources are identified between this date and the close of the year (see Exh. T-24), Old Bridge Township will face an immediate and massive budgetary crisis in CY 2011. As indicated on document 1, the Township is conservatively projected to be almost \$7.36 million over the tax levy CAP for budget year CY 2011. This amounts to almost 13% of the total budget and almost 34% of the projected (in CAP) salary appropriations. Moreover, since SFY 2005, the Township's budget has grown from a total of \$48.7 million to \$56.3 million, a relatively modest 15.6% increase in spending over 6.5 years. During this same time period, budgeted State aid has declined by 27% and recurring revenues have declined by more than 22%. Therefore, the Township argues the entire growth of spending for this period has been funded exclusively by increased property taxes, which have increased by 34.5% over this time frame, whereas the cost of living in this same time frame has increased by 16.3%. The property tax increase is more than double the cumulative increase in inflation of 16.3%.

Surplus Balance 6/30/2005	\$9.3 million
Less: Used in SFY 2006 budget	(7.6) million
Plus: SFY 2005 Regenerated	<u>7.8 million</u>
Surplus Balance 6/30/2006	\$9.5 million
Less: Used in SFY 2007 budget	(7.9) million
Plus: SFY 2007 Regenerated	<u>8.1 million</u>
Surplus Balance 6/20/2007	\$9.7 million
Less: Used in SFY 2008 budget	(8.1) million
Plus: SFY 2007 Regenerated	<u>7.7 million</u>
Surplus Balance 6/30/2008	\$9.3 million
Less: Used in SFY 2009 budget	(7.8) million
Plus: SFY 2009 Regenerated	<u>4.8 million</u>

Surplus Balance 6/30/2009	\$6.3 million
Less: Used in TY 2009 budget	(0.3) million
Plus: TY 2009 Regenerated	<u>\$4.9 million</u>
Surplus Balance 12/31/2009	\$10.9 million
Less: Used in CY 2010 budget	(10.1) million
Balance Remaining	<u>0.8 million</u>

The Township did not regenerate \$9.3 million of surplus when there was no levy CAP law and during times when construction was adding new rateables. Current projections suggest that the Township will not regenerate half of the amount of surplus used in 2011. Since taxes cannot be raised to offset this loss, spending will have to be reduced unless other revenue sources are identified.

The conversion to a calendar year budget in 2009 resulted in a \$10 million surplus at the end of the 2009 transition budget, which \$10 million was used to balance the 2010 calendar year budget. The Township argues that the 2011 CY budget has a deficit of \$7.3 million. Some of the major factors driving the Township's position are the following:

(1) the levy CAP law allows for an increase of \$620,000 to pay for budget increases;

(2) of the \$620,000 approximately \$70,000 must be utilized towards the 2% of the increase in premiums for health insurance that must be absorbed and \$170,000 will be utilized toward the 2% increase in pension costs that must be absorbed;

(3) that leaves a balance of \$380,000 of allowable tax increases to cover all increases in costs, such as energy costs, utilities, supplies, and most importantly salary guide steps and longevity;

(4) the same \$380,000 must also cover any decreases in non-tax revenue;

(5) there are no reserves for the payment of retroactive salary increases or budgeted salary increases for 2011.

The Township sold land to the Old Bridge Municipal Utilities Authority for \$5.6 million. The Division of Local Government Services, through Mr. Neff, has counseled the Township against the use of this money in the 2011 CY budget and its impact on the 2012 CY budget. However, the Division of Local Government Services has permitted the Township to use \$5.3 million in the 2011 CY budget. Moreover, as a result of the additional receipts for 2010, the line item for revenue in the municipal court increased by \$146,000. Nevertheless, the 2011 CY budget accounts for these two items of revenue and provides no money for PBA increases. It cuts spending and is still \$50,000 over the levy CAP.

The PBA's revised Final Offer will result in a net economic impact of \$1,374,701, all of which would need to be received in CY 2012.

The Township argues that the experts provided by the PBA did not dispute the fact that the levy CAP is an impenetrable prohibition of the Township's ability to raise money. Clearly, this legal impediment is the beginning and the end of the analysis of the contract proposals made by the PBA. In this context, the Township's Final Offer is both reasonable, and dictated by the current state of law. To find otherwise would violate the Arbitrator's obligations under the Interest Arbitration Act.

Any salary increase awarded here would have a severe and debilitating effect on the municipality as a whole. It is clear that mass layoffs are already required as a result of the Township's current debt, including an astounding 31 layoffs in the Police Department. In the event that the Police Officers are awarded a raise in this matter, the

Township will have no choice but to layoff additional Officers in order to save the cost of such an Award. Such action will undoubtedly place the Township and its residents in a precarious position.

The Township argues that all of these budget projections have taken into account retirements in reduction by attrition in the Police Department. Based on all of the information submitted by Mr. Morrison, and his analysis of the PBA's revised proposals, the Township strenuously argues that there is no money set aside in the 2011 budget for any increase in PBA compensation. Even taking into account attrition over the course of 2009 and 2010 or the land sale or increased revenue that may have occurred as a result of the municipal court, there still is no money available to fund the PBA's revised position.

The Township argues that they have complied with the standards set forth in an interest arbitration hearing and have clearly shown that the Township does not have the ability to pay with respect to the PBA's Final Modified Offer. The Township repeats that if the PBA is awarded any increase at all, it must come from the PBA membership itself and the Township has been trying to avoid that for a long period of time. If, however, the Arbitrator ignores the stark realities set forth by the Township and does award an increase in compensation for 2009 to 2012, roughly 20 Police Officers will need to be laid off.

For the PBA

The PBA argues that a significant delay in submission of their briefs was occasioned by repeated requests for extensions by the Townships. These delays are

an important consideration in the final analysis of this matter because the Township may rely upon them to avoid payment of obligations simply through the passage of time.

For the reasons set forth below and set forth during the arbitration hearing in this matter, the PBA argues that a fair review of the evidence demonstrates that its Final Offer is most consistent with the statutory criteria. To the contrary, Old Bridge's Offer is inconsistent with the statutory criteria. Therefore, the PBA respectfully submits that the Old Bridge offer should be rejected and the PBA's offer should be awarded in its entirety.

The PBA believes that an introduction to Old Bridge is appropriate in the instant matter. Old Bridge is the third largest municipality in Middlesex County⁴. According to the U.S. Census, Old Bridge Township was ranked as the third largest municipality in Middlesex County with a population of \$60,456 persons.⁵ According to the U.S. Census Population Bureau estimate, Old Bridge's population increased to \$65,942.⁶ As of 2000, median household value in Old Bridge was \$162,800. The median household income was \$64,707 and total rateables were \$3,063,667,800.⁷ The 2009 estimate shows that the median household income increased to \$87,375.⁸

Old Bridge is served by a superb road system, with access to the Garden State Parkway, State Routes 9, 18, 34, 34 and County Routes 516 and 527.⁹ Furthermore, Old Bridge is served by an excellent rail transportation system, which provides quick access to New York, Philadelphia, Newark, Boston and Washington, DC.¹⁰

⁴ www.oldbridge.com

⁵ <http://comiddlesex.nj.us>

⁶ Id.

⁷ See footnote 1, supra.

⁸ U.S. Census Bureau 2009 American Community Survey, Old Bridge Township, Middlesex, New Jersey.

⁹ Id.

¹⁰ Id.

Old Bridge residents have access to excellent medical care with five major hospitals, including JFK Medical Center, Robert Wood Johnson University Hospital, Raritan Bay Medical Center and St. Peter's Hospital. Old Bridge in particular is home to the Raritan Bay Medical Center.¹¹

The Township's public school system with a student population of \$10,047 ranks as one of the largest suburban school districts in the State of New Jersey.¹²

The PBA contends that Old Bridge Township is a prosperous, well-situated and desirous place to live. Accordingly, the PBA's proposal in this matter takes these economic and social realities into consideration and, as a result, constitutes a fair, reasonable and comprehensive proposal.

At the time of the submission of this brief, the bargaining unit was comprised of 68 Officers down from 76 at the start of these proceedings. That is a 10% reduction of the force. The goal of the Police Department is to protect and serve the citizens of Old Bridge and specifically the mission of the Old Bride Police Department.¹³

The PBA argues that there is no dispute that a career as a Police Officer is an extremely dangerous and challenging endeavor. In 2009 there were 41 incidents of violent crime, 863 incidents of non-violent crime in Old Bridge resulting in a total crime rate of 13.7 incidents per 1,000 persons.¹⁴ Furthermore, in 2009, 86 Police Officers in Middlesex County were assaulted in the line of duty, resulting in an assault rate of 5.4% of all Officers in the County.¹⁵

¹¹ Id.
¹² Id.
¹³ Id.
¹⁴ Id.
¹⁵ Id.

In every regard, the proposals of the PBA are surely modest in nature and clearly cognizant of current economical and fiscal realities. The salary proposal is spread over a 54 month period. The total increase over the 4.5 year period is 11.25% - an average of 2.5% per year. Thus, even assuming that the Arbitrator is swayed by the presumed arguments of the Township that the new (but inapplicable) statutory limits of 2% should be factored into the mix of retroactive or future salary increases, the ultimate proposal of the PBA clearly mirrors a new statutory framework.

Stipend:

The PBA seeks a very modest increase in the stipend for those on the 5-2 schedule to \$2750. This stipend has been frozen for many years and clearly does not reflect the growing the disparity between the value at the time it was adopted and its current status many years later. The PBA argues that this modest increase is warranted.

In-Service Training:

The PBA seeks a modest increase in Article VII, to provide that in-service training will increase from 8 hours to 16 hours. The PBA acknowledges that the increase will be at straight time rather than at the current situation in which a portion may be paid in overtime.

Stand-by Time for Detectives:

The PBA seeks to amend Article VII (D) to provide that weekday stand-by time will increase to four hours of overtime. Similarly, on the weekends when many Officers are required to put their personal lives on hold, they would increase their stand-by time of overtime to six hours of overtime. As in other proposals, the current provisions have not changed for many years, and simply provides some modest reflection of current work

rules required by the Township. This is particularly true, moreover, in light of the fact that there is a reduction in the number of officers who are available to be on stand-by time in the first place.

Acting Supervisor:

The PBA seeks to amend Article VII (H) to provide that the Officers assigned to act as Acting Supervisors, will be paid at Senior Sergeant hourly rates. Currently, the payment that the Acting Supervisor receives, depending upon the status of the Officer on the Salary Guide, often does not reflect any payment whatsoever for the increased responsibilities associated with supervisory obligations. By at least providing that Officer will be paid at the Senior Sergeant salary rate, rather than a junior or new Sergeant, the Officer will receive economic recognition for additional command responsibilities imposed by the Acting Supervisor status.

Light Duty:

The PBA seeks to amend Article VII to provide that light duty will be available to all Officers who are unable to perform their regular tasks, whether the injury occurred on-duty or off-duty, upon proof of their limitations. This would avoid the current problem, in which the location or timing of an injury, rather than its scope or severity, determines the availability of light duty work. This Arbitrator is familiar with the problem having previously addressed it in an arbitration award. The PBA simply seeks to contractually ensure that when an Officer is injured off-duty, he/she will be treated the same as someone whose injury occurs on the job.

Under this proposal, the PBA recognizes that there may not be enough light duty to go around for all injured Officers. However there is no reason to prioritize the assignments depending on the source of injury rather than its nature.

For the same reasons, the PBA has requested that medical appointments related to injury be rescheduled during their assigned duty hours. If the Officer is to be provided with light duty, he/she shall not be penalized by being required to not perform a full days service with the Township, but also have to schedule medical appointments on their own time because the Officer is not yet at full strength. The PBA concedes that it generally appears that the Township does follow this procedure, however a contractual codification will ensure that it is not abused depending on the whim of new administrators.

Miscellaneous Provisions:

The PBA has proposed two different approaches to economic issues which strike a reasonable balance between the interests of Officers and interests of the Township. Obviously, with references to raises, all are retroactive to the commencement of the contract on July 1, 2008. With reference to stipends and all ancillary increases which are suggested herein, they would only become effective upon the issuance of the Award.

Rather than setting forth in total all of the PBA's arguments against the Township's proposal, it is more appropriate to simply reference some of the PBA's objections. The PBA strongly argues that it would be an understatement to indicate that acceptance of the Township's proposals, or even a portion of them, would be a giant step backwards for Officers who have labored for decades for the Township. Under the

Township proposal, Officers will not receive raises for almost five years. In effect, that says it all. Officers would literally watch every single other law enforcement agency receive salary increases, even if modestly, while they remain static. In addition, Officers will be losing 1.5% of their pay by virtue of the medical contribution required by law and with even modest increase in the cost of living; the result will be that, at the end of the contract, Officers will have a net loss in compensation well over 15%.

In summary, the PBA argues that the Township's proposal is demeaning, insulting, indefensible and inexcusable, even in the most difficult economic times. As noted herein, however, there is no reason that the Township's finances are quite so dire and absolutely no reason to believe that they will remain constricted on a going forward basis.

The Township's proposal is unrealistic, punitive, regressive and should be summarily rejected. Indeed, it is important that the Arbitrator not be misled into believing that rejection of this absurd proposal warrants treating it as a mere difference of opinion between the parties or is a reasonable starting point for crafting an award, and any more than the proposal by the PBA for raises of 10% annually would be taken seriously. The Township proposal is so repressive and punitive that it must be rejected outright as any basis for an award.

Concomitant with the statutory criteria, the PBA argues that various factors outlined below support their final offer. The evidence demonstrates that Police Officers in Old Bridge are not now, and historically have not been, overpaid relative to their peers. However, it is clear that the bargaining unit members will fall significantly behind other counties of the PBA's proposal is rejected or the Township's proposal is awarded

in whole or in part. In support of this position, the PBA references maximum salaries in 2005, 2006, 2007 and 2008. In 2005 the total maximum wages of Old Bridge Police Officers were \$73,126, while those in Edison Township earned \$6,987 more than Old Bridge Police Officers. Additionally, Police Officers in Freehold Township, a jurisdiction comparable in size, demographics and location to Old Bridge, earn \$10,924 more than Old Bridge Police Officers.

In 2006, Old Bridge Police Officers' total maximum wages were \$77,855 while Officers in Freehold Township earn \$9,560 more and Officers in Edison Township earn \$5,382 more.

In 2007, the total maximum wages of Old Bridge Police Officers were \$80,912, while in that same year Officers in Freehold Township earned \$9,998 more than Officers in Highland Park Township and other comparable jurisdictions earned \$6,096 more than Old Bridge Police Officers.

In 2008, the total maximum wages for Old Bridge Officers were \$84,089, which resulted in their being; once again, the lowest paid Officers out of eight comparable jurisdictions. In that same year, Officers in Highland Park earned \$6,052 more than Officers in Old Bridge and Officers in Edison Township earned \$5,594 more than Officers in Old Bridge Township.

The PBA argues that based upon the CPI,¹⁶ the maximum base salary for Old Bridge Police Officers increased by only 9.3%. That resulted in an actual maximum

¹⁶ The Bureau of Labor Statistics, CPI – all urban consumers – New York – Northern New Jersey – Long Island – NY – NJ – CT – PA

base salary increase of 1.1%. From 2007 to 2008, the CPI increased by 3.90%¹⁷ while the maximum base salary for Old Bridge Police Officers increased by a mere 3.93%.

Unlike Officers in other comparable jurisdictions, Old Bridge Officers do not receive seniority pay, regardless of the number of years they have served the Township. Therefore, Old Bridge's ranking with respect to Police Officer compensation is not significantly improved when seniority and longevity pay are added to maximum base salaries.

In 2005, Old Bridge Officers could earn a maximum base salary plus maximum longevity of \$84,094.90, which resulted in their being fourth lowest paid jurisdiction out of eight comparable jurisdictions. (See PBA Exhs. 3 and 4). Additionally, Old Bridge Police Officers, unlike all of their municipal counterparts, do not receive a clothing allowance, which is generally \$1500 to \$2000 per year in comparable municipalities.

The foregoing salary analysis does not take into consideration other salary reductions already implemented for the Officers. Pursuant to Senate #3, P.L. 2010, the Township has initiated the deduction of 1.5% of each Officer's total salary as a contribution to the cost of their healthcare. However characterized, this contribution effectively constitutes a net decrease of 1.5% of Officer income. On average, this costs Officers approximately \$100 per month, or \$1200 per year. As a result, even a salary increase of 3% for any of the years since the contract expired will only result in a net salary increase of 1.5% before inflation and other costs. This new deduction must be taken into account to determine a fair and final Award in this matter.

The PBA argues that the Township has refused to acknowledge the bargaining unit's revenue generation. The testimony at the arbitration hearing by the Township's

¹⁷ Id.

own officials indicated that members of the bargaining unit have been generating significant and unexpected revenues for the Township which must either be taken into consideration in evaluating Township finances, or utilizing some of it to subsidize the modest economic increase sought by the PBA. According to the records most recently provided, almost \$500,000 was generated in additional revenues in less than a year through fines and penalties solely as a result of Police Officers in the Township making heroic efforts to target aggressive driving and consequently increase revenue through the municipal court.

While the Township does not deny these figures, they simply are saying that based upon a narrow reading of the budgetary materials, they are unsure whether these funds could continue in future years and that only the excess revenues generated relative to the projection for 2010 are available for distribution. The PBA argues that this is a recalcitrant if not obstinate position taken by the Township.

The PBA also argues that there is attrition within the ranks and that the Township is doing more with less. The PBA argues that in 2007, there was one Officer per 855 Township residents, but that has been increased to one Officer for 955 residents as of January 1, 2011. Put differently, what should be obvious is that while Officers are working more and harder and generating more and more revenues, the Township seeks to pay them significantly less. Once again, the PBA contends that the Township cannot have it both ways. It cannot decrease the force, increase the workload, delay these proceedings, cry poverty, and expect the Police to absorb the brunt of these policies.

The PBA argues that the testimony of Joseph DeBella, Vice President of Conner Strong Agency, further illustrated the Township's failure to take advantage of saving

opportunities while asking this unit to bear the impact of its incompetent approach. (See PBA Exh. 20). Mr. DeBella pointed out repeatedly during his testimony that the Township failed to take advantage of premium reductions over the years which are available to it, as well as competitive bidding which would ultimately have reduced the cost. The Town's pattern of dealing with health insurance was consistent. It grossly overpaid its premiums at the commencement of each year, only to receive significant rebates at the end which not only increased Township coffers, but which significantly skewed the analysis of available revenues.

The PBA also argues that while some bargaining units in the Township did not receive salary increases in past years (see Township Exhibits 3 and 4), no unit has been frozen for the extent sought by the Township in these proceedings.

The PBA argues that the Township is in a sound financial condition and can fund the existing PBA proposal. The PBA rejects the Township's argument that it does not have the available funds to even meet the modest demands of the PBA. An objective analysis of the fiscal status of the Township simply belies any such claim.

The parties are almost three years out of contract. Concededly, negotiations produced a tentative deal sometime ago which ultimately did not materialize. However, for much of this period, the Township was well aware that a new Agreement would be required and yet deliberately failed to hold and reserve any funding for even modest salary increases, or at least refuses to describe what earmark reserves it does have. Indeed it actually depleted funds it was admittedly holding in reserve at the time of these hearings to ensure funds would be available when new contract terms were struck. Instead, it is now apparent it may have surreptitiously spent down the funds like the

child who murders his parents and seeks mercy as an offering, now loudly claims it is broke and cannot meet its obligations. Moreover, the Township admittedly had reserve funds to pay salary increases, had reduced those budgetary records for the PBA, then without notice claims to have spent the funds on the eve of the hearings. If an arbitration award requires a Township to make future choices as to what serves it intends to provide, it has only itself to blame for fiscal irresponsibility.

The Township has continually been able to generate fund balances over the years. In 2009, the Fund balance at the year’s commencement was \$9,373,389. \$7.8 million was utilized as surplus revenue for the following year’s budget. Old Bridge ended the year with a fund balance of \$6,335,081 on June 30, 2009. For the 2009 transition year, the Township utilized \$271,251 as surplus leaving a remaining balance of \$9.7 million as of the end of calendar year 2009. That entire surplus is available for 2010.

TOWNSHIP USE OF SURPLUS

	CY 12/31/2010	TY 12/31/2009	SFY 6/30/2009	SFY 6/30/2008	SFY 6/30/2007	SFY 6/30/2006
Surplus Utilized in Budget Excess from Operations/Revenue Fund Balance as of January 1/July 1 Fund Balance as of December 31/June 30	\$(10,083,605.00)	\$(271,251.00.00)	\$(7,800,00.00)	\$(8,087,000.00)	\$(7,875,000.00)	\$(7,875,000.00)
		\$3,617,546.53	\$4,761,691.64	\$7,690,790.10	\$8,111,647.77	\$7,877,919.98
	\$9,681,376.72		\$9,373,389.55	\$9,769,599.45	\$9,532,951.68	\$9,275,031.70
		\$9,681,376.72	\$6,335,081.19	\$9,373,389.55	\$9,769,599.45	\$9,532,951.68

The above chart illustrates that since 2005 the Township has continually been able to generate surplus for future fund balances. In 2009, the fund balance at the beginning of the year was \$9,373,389.55, of which the Township utilized \$7,800,000 as surplus revenue in the 2009 budget. This enabled the Township to stabilize the tax levy while complying with the Chapter 62 laws of the 2007 tax levy cap. After utilizing

\$7,800,000 of surplus revenue, the Township ended the year with a fund balance of \$6,335,081 on June 30, 2009. The fund balance of \$9,681,376 was available for the 2010 budget to hold down taxes and to fund the request of police salaries and wages based on the annual financial statements.

The 2010 budget shows a \$10,297,567 surplus balance of which \$10,083,605 is being utilized in the December 31, 2010 calendar budget leaving a \$213,000 balance.

The Township concededly has a low debt percentage totaling approximately .75% in comparison to its total available borrowing power of 3.5%. In effect, the Township has conservatively budgeted and bonded for the future, and clearly is not financially extended.

YEAR	Estimated Revenue to be Raised by Taxation	Actual Revenue Collected from Taxation	Excess (Deficit)
2010 CY	\$31,362,937.00	\$	\$
2009 TY	\$15,687,652.00	\$15,652,890.20	-\$34,761.80
2009 SFY	\$28,598,075.89	\$30,029,379.78	\$1,431,303.89
2008 SFY	\$26,897,844.59	\$31,603,840.94	\$4,705,996.35
2007 SFY	\$26,013,788.00	\$30,256,137.58	\$4,242,349.58
2006 SFY	\$24,674,343.00	\$27,085,411.91	<u>\$2,411,068.91</u> <u>\$12,790,718.73</u>

The above schedule indicates that the Township has exceeded its revenue estimates by an average of \$3,197,679.00 ($\$12,790,710 / 4$) per year for the period dating from 2006 through 2009, prior to the conversion to a calendar year.

The Township has increased the revenue as raised by taxation by \$3,923,732.00 or 15.9% ($\$3,923,732 / \$24,674,343$). This increases over the 2006 levels based on budgetary estimates through June 30, 2009. The Township has increased its actual

collected revenue raised through taxation by \$2,943,967 or 10.86%. This increase is without the December 31, 2010 numbers and is based on the actual collection of those budgeted revenues.

UNEXPECTED BALANCE OF APPROPRIATION RESERVES

Year	Appropriation Reserves Unexpended	
2009 TY	\$1,046,781.25	Sheet 3a from December 21, 2009 Unaudited Financial Statement
2009 SFY	\$1,093,422.56	Sheet A from June 30, 2009 Audited Financial Statement
2008 SFY	\$1,232,645.31	Sheet A from June 30, 2009 Audited Financial Statement
2007 SFY	\$769,157.61	Sheet A from June 20, 2008 Audited Financial Statement
2006 SFY	\$1,667,876.12	Sheet A from June 30, 2007 Audited Financial Statement

The above chart indicates that the Township has continually spent less than budgeted. The unexpended appropriation reserves indicated in the chart allow the Township to apply these unexpended budget appropriation reserves to future budget periods.

MISCELLANEOUS REVENUES NOT ANTICIPATED

Year	Miscellaneous Revenue Not Anticipated
2009 TY	\$624,745.53
2009 SFY	\$1,143,415.08
2008 SFY	\$2,079,631.54
2007 SFY	\$1,505,566.56
2006 SFY	\$1,643,591.94

The above chart indicates that the Township has consistently received additional revenue from sources not anticipated in the budget or raised by taxation. This revenue is available for budget appropriation in future years.

EXCESS RESULTS FROM OPERATION*

Year	Amount from Excess Operation
2010 CY	Current Budget Year
2009 TY	\$3,617,546.53
2000 SFY	\$4,761,691.64
2008 SFY	\$7,690,790.10
2007 SFY	\$8,111,647.77
2006 SFY	\$7,877,919.98

* Supporting Documents: 2010, 2009 and 2007 Budget Sheets 39
2009 Annual Financial Statement Sheet

The Township has historically generated excess results from operations. This means that there was more revenue being collected than budgeted and/or less appropriations being spent than budgeted. But the ultimate point is the historical availability for Township use.

COMPARISON OF TAX REVENUES OR BUDGETED REVENUE TO TOTAL BUDGET ANALYSIS

	CY 12/31/2010 Budgeted	AY 12/31/2009 Actual	SFY 6/30/2009 Actual	SFY 6/30/2008 Actual	SFY 6/30/2007 Actual	SFY 6/30/2006 Actual
Total Budget or Collected	\$56,331,243.00	\$29,054,897.48	\$57,524,748.15	\$63,317,975.11	\$58,269,899.28	\$54,828,898.25
Amount Raised Through Taxation	\$31,362,937.00	\$15,652,890.20	\$30,029,379.78	\$31,603,840.94	\$30,256,137.58	\$27,085,411.91
Percentage Amount Raised through Taxation	55.7%	53.9%	52.2%	49.9%	51.9%	49.4%

Documentation Supports: SFY 2007 & CY 2010 Budget Document, Sheets 11 and 11a
TY 2009, Sheet 17
SFY 2009, 2008 and 2007 Audited Financial Statements, Exh. A-2

The above chart shows that for the year ending June 30, 2009, the Township's municipal operations were funded through taxation at a rate of 52.20%. The 2010

projected funding for municipal operations will be 55.70% through taxation. For the 4.5 year period dated July 1, 2005 through December 31, 2009, the municipal operations have been funded through taxation at an average of 51.46% per year. This indicates that, on average, more than half of the municipal operations are funded by taxation.

The Township has enjoyed significant savings through attrition of Officers in the bargaining unit. Over the course of the last year alone, several Officers have departed the bargaining unit. The following chart shows the savings from those Officers leaving the Township. As a result, a reasonable recognition of savings and salary from reduction of Officers alone is projected at \$775,000 per year. Coupled with the concomitant elimination of their benefit package, these savings are actually significantly greater. Utilizing salary alone, these personnel reductions result in an off-set to any raises which would be provided to the remainder of the bargaining unit. Since any increments have already been paid to keep those Officers out of the top Step for 2008, 2009, 2010 and parts of 2011, the only dollar increase to be raised is on the base salary for the entire bargaining unit. At 2.5% across-the-board increases, it would cost approximately \$650,000 over the life of this Agreement. These are salary figures inclusive of step increases, longevity, college contributions, special duty pay and holiday pay. Put differently, therefore, even 2.5% across-the-board increases would barely increase the overall budget of the bargaining unit by virtue of the attrition of higher paid Officers and the 1.5% premium sharing.

SAVINGS FROM ATTRITION IN BARGAINING UNIT

Name	Promotion/Retirement Date	Salary
Jarusiewicz	12/9	\$97,682
Piense	6/10	\$95,343
Krupa	6/10	\$98,852

Calvosa	8/10	\$93,751
Lopresti	8/10	\$97,045
Smalley	2/11	\$97,045
Korygoski	2/11	\$100,521
Palumbo	4/11	\$98,215
Total		\$772,454

As indicated in the above chart, the cost of the PBA proposal is extremely reasonable viewed from the perspective of either absolute cost, percentage increases, or comparison to Townships unfair, unrealistic proposals.

The PBA argues that the cost of its proposals are offset by significant savings afforded the Township because retired or promoted Officers in the bargaining unit have not been replaced. Six Superior Officers retired between late 2009 and early 2011. They were replaced by six unit member who were promoted. In addition, two unit members have retired. Thus, eight Officers have left the bargaining unit in the last two years that have not been replaced. Their salaries totaled \$752,000 annually and with benefits the savings to the Township are significantly greater. This is a real savings to the Township for this bargaining unit and will continue in the future since the Township concedes it has no plans to replace these eight Officers.

The PBA argues that in analyzing the Township's financial circumstance, there were items that must be addressed that the Township refuses to acknowledge. There is a trust account reserve for off-duty police work which has a \$201,021 balance as of December 31, 2010 that may be fully available as revenue to offset the cost of Police. The Township has a tax collection rate of 99.87%. The municipal budget represents only 21% of the tax bill and the Police Department and all related services account for roughly 6.13% of the tax bill or an estimated \$384 a year based on the average tax bill.

That is roughly \$32.04 a month for round-the-clock coverage, 365 days a year for police services based on the average tax bill.

The Township collected \$33,114,472 and budgeted \$31,362,937 which is in the excess of the budgeted revenue amounts by \$1,751,535. The PBA argues that the Township historically collects more than it budgets. The Township has excess results from operations in 2010 of \$5,780,651 and a fund balance (surplus) of \$6,662,330 according to the December 31, 2010 Annual Unaudited Financial Statement. Excess results means the Township received additional revenues or spent less than budgeted.

The Township has an additional \$1,159,398 of non-budgeted revenue, which included an additional \$29,926 for police reports. The Township has consistently received additional revenue from sources not anticipated in the budget or raised by taxation. Moreover, this revenue is available for budget appropriations in future years.

STATUTORY CRITERIA:

A. THE INTEREST AND WELFARE OF THE PUBLIC

The PBA argues that while this is an amorphous concept, this criteria must reflect not only cost to the public, but also the assurance that the public will receive the quality services it needs and desires. The PBA respectfully submits that the public inches further by the PBA's final offer, while the Township's final offer or any portion of its, would ultimately be detrimental of the well-being of Old Bridge residents.

Old Bridge Police Officers not only deserve to be paid in accordance with the difficulty and importance of their jobs and the sound financial condition of the Township, but doing so also creates better morale among employees, which in turn results in

better services for Old Bridge citizens. These factors justify the conclusion that the PBA's final offer must be awarded in its entirety.

In considering what is in the best interests and welfare of the public, an arbitrator must consider the impact on the members of the bargaining unit, as well as the cost to the public when rendering an Award. More importantly, the current staffing levels make clear that the Department and the Township are doing more with less. The current compliment of Officers in the Department is 68. In the last two years eight Officers have left the bargaining unit, either through attrition, retirements or promotion. While that saves money for the Township, it results in an increased workload for the remaining Officers. The fact of the matter is that Officers are provided the same or better level of service as Township residents with fewer available personnel. That productivity needs and deserves to be recognized and compensated.

B. COMPARISON OF WAGES, SALARIES, HOURS AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES INVOLVED WITH THOSE OF SIMILARLY SITUATED EMPLOYEES IN COMPARABLE JURISDICTIONS

An Arbitrator must consider the duties required of unit members, the training they received, the job related hazards the endure and the overall working conditions under which they labor. A fair analysis of the evidence should lead the Arbitrator to conclude that the PBA's offer is the more reasonable one.

1. Comparison to Private Employment in General

Comparability to Private Sector Employees

The PBA argues that this particular criterion is quite difficult to apply in the context of Police Officers. Career Police Officers, unlike virtually any other occupation

work exclusively in the public sector. They are controlled by a myriad of rules and regulations which are not easily translatable to the private sector. These include significant contributions to the pension (8.5% of salary), training requirements, maximum hiring agents, mandatory retirement agents, and other obligations related to all aspects of employment, which simply are not present in private employment.

In addition, Police Officers are considered to be on duty 24 hours a day, 7 days a week. There is virtually no other profession which fits into that category and is an expectation which weighs heavily on any member of this profession. Their suicide rate is significantly higher than the general population as is their mortality rate. In short, it is very difficult to locate a private sector counterpart to the work of Police Officers, particularly when one considers the training and expertise these individuals bring to the job, as well as the job's unique risks and hazards.

Private sector employment wages compiled by the New Jersey Department of Labor and Workforce Development demonstrates that from 2007 to 2007 annual income for the private sector in New Jersey increased by 2.5%.¹⁸ The total increases for State government employees in New Jersey from 2007 to 2008 were 5.8% and for local government it was 3.4%.¹⁹

While there are few comparative groups to utilize and analyze in the equity of Police Officers' pay, at least when considering the training, expertise and professionalism these Officers bring to their profession. The PBA references a particular paper published on July 30, 2010 by the Economic Policy Institute, which was written by Jeffrey H. Keefe, an Associate Professor of Labor and Employment Relations

¹⁸ N.J. Department of Labor and Workforce Development, Private Sector Wage Survey – 2009.

¹⁹ Id.

at the School of Management and Labor Relations at Rutgers University entitled “*Are New Jersey Public Employees Overpaid?*”. Mr. Keefe’s analysis compared the wages of private sector employees in New Jersey with those of public sector employees. The data analyzed in this paper have established that New Jersey public employees, both at the State and local government levels, are not overpaid. There is no statistically significant difference between the private and public sectors in employee compensation costs per hour when factoring in variables such as a level of education, hours of work, and organizational structure.²⁰

The PBA argues that a decent and fair compensation package, especially for an expensive state to live in like New Jersey, is a critical component of a stable and reasonably satisfied workforce.

2. ***Comparison to Public Employment in the Same or Similar Jurisdictions***

The evidence demonstrates that Old Bridge Police Officers have not been over compensated when compared with similar Police Officer groups in terms of salary and benefits and if the Township’s offer were accepted, it falls significantly behind similarly situated groups. The PBA offers the following information to illustrate the outcome of the Township’s zero percentages accepted.

²⁰ Jeffrey H. Keefe, “Are New Jersey Public Employees Overpaid?”, July 2010.

2009 Maximum Base Salaries

Highland Park:	\$93,566.00
East Brunswick:	\$92, 537.00
Piscataway:	\$91,110.00
New Brunswick:	\$89,516.00
Monroe Twp.:	\$89,233.00
North Brunswick:	\$89,055.00
Woodbridge:	\$88,169.00
Old Bridge:	\$84,089.00

2009 Maximum Base Salaries Plus Seniority & Longevity

Piscataway:	\$105,232.05
East Brunswick:	\$103,641.44
Woodbridge:	\$101,855.04
North Brunswick:	\$100,186.88
Highland Park:	\$100,115.62
Monroe Twp.:	\$99,486.63
New Brunswick:	\$98,467.60
Old Bridge:	\$96,702.35

2010 Maximum Base Salaries

Highland Park:	\$97,215.00
East Brunswick:	\$96,146.00
Piscataway:	\$94,708.00
Monroe Twp.:	\$93,025.00
North Brunswick:	\$91,172.00
Woodbridge:	\$91,034.00
Old Bridge:	\$84,089.00

2010 Maximum Base Salaries Plus Seniority & Longevity

Piscataway:	\$109,387.74
East Brunswick:	\$107,683.52
Woodbridge:	\$104,164.75
Highland Park:	\$104,020.05
Monroe Twp.:	\$103,257.75
North Brunswick:	\$103,693.50
Old Bridge:	\$96,702.35

2011 Maximum Base Salaries

Highland Park:	\$101,006.00
North Brunswick:	\$95,398.00
Woodbridge:	\$94,220.00
Old Bridge:	\$84,089.00

<u>2011 Maximum Base Salaries Plus Seniority & Longevity</u>	
Woodbridge:	\$108,845.30
Highland Park:	\$108,076.42
North Brunswick:	\$107,322.75
Old Bridge:	\$96,702.35

Even the raises sought by the PBA would not move the bargaining unit to any significant degree. Raises of 2.5% would not move the unit from its current trailing position compared to Officers in other similar municipalities. It would simply reduce the amount by which they will lag the others.

3. **Comparison of Public Sector Settlements and Interest Arbitration Awards**

The PBA's proposal is well within the mainstream of public sector law enforcement settlements and interest arbitration awards in the last few years. In contrast, the Township's proposal is simply out of touch with the Awards and settlements afforded in sister jurisdictions. Analyzing the below Salary Increase Analysis for Interest Arbitration from NJ PERC for the period of 1/1/05 – 12/31/10, supports the PBA's position with respect to comparable awards issued over the past few years. In 2009, when the Township offered zero percent, other similarly situated bargaining units in the State, either through settlement or awards have averaged 3.68%. The PBA's demand of 2009 is 2.5% - well below the State-wide average of 3.6% going forward. The same thing applies for 2010 when the Township offered 0%, other similarly situated bargaining units in the State, either through settlements or awards

have averaged 2.50%. The PBA's demand in 2010 is 2.50% - well below the State-wide average going forward, especially since that amount is offset to a significant degree by the 1.5% of salary that bargaining unit members begin to pay toward health insurance.

Salary Increase Analysis

**Interest Arbitration
1/1/05-12/31/10**

Time Period	Total # of Awards Issued	Substantive Appeals Filed/PERC	Average of Salary Increase All Awards	Number of Reported Voluntary Settlements	Average Salary Increase of Reported Vol. Settlements
1/1/10-12/31/10	16	9	2.88%	45	2.65%
1/1/09-12/31/09	16	5	3.75%	45	3.60%
1/1/08 – 12/31/08	15	2	3.73%	60	2.92%
1/1/07 – 12/31/07	16	1	3.77%	45	3.97%
1/1/06 – 12/31/06	13	3	3.95%	55	4.09%
1/1/05 – 12/31/05	11	0	3.96%	54	3.94%

These figures, aggregating awards over a five year period, demonstrate that both average awards and settlements, even as recently as last year, are all higher than the awards sought by the PBA, and vastly higher than the offer of Old Bridge – an offer with no precedent whatsoever in either awards or settlements.

C. THE OVERALL COMPENSATION PRESENTLY RECEIVED BY BARGAINING UNIT MEMBERS

PBA members, pursuant to the Salary Guide from 2008, currently earn between \$41,000 and \$84,000 depending upon years of service. It takes a new recruit at least

ten years to reach top pay. These salaries, at any period of experience, are well within the range of reasonableness and less than many comparable bargaining units receive. As referenced in PBA Exh. 2, Old Bridge Officers receive benefits that are also in the mainstream of similarly situated Officers. Their current uniform allowance is comparable to other similarly situated groups, and vacation days, holiday entitlements, sick days, and bereavement days are no different than other similarly situated employees. No increases have been sought in these benefits. However, these Officers no longer receive a clothing allowance, which was eliminated in the last Agreement. As indicated in PBA Exh. 3, comparable police units receive between \$1,200 and \$2,000 annually for clothing. These are additional dollars paid to other Officers throughout the State, but unavailable to these Officers.

Simply put, this particular bargaining unit of Police Officers is below or at best in the mainstream of salary and benefits when compared with other Officers throughout the State and especially when one considers the economic health of the Township and the cost of living there. The PBA concedes that its proposal will not significantly change the standing in any material way; however, it must be stressed that the bargaining unit is not overpaid nor will it incur a windfall. At most, the bargaining unit will hope to keep pace with inflation and not fall further behind other groups if its proposal is accepted.

The PBA submits that the Township's proposal is not only unwarranted, it is counter-productive and will result in an exodus of Officers and a bitter morale problem for those who stay.

D. THE LAWFUL AUTHORITY OF THE EMPLOYER

State Imposed Limits on Increases in Tax Levies

The PBA strongly contends that the Township does not suffer from any statutory prohibition regarding proposed salary increases. In preparation of its budget, a Township is by law subject to a spending CAP limitation and tax levy CAP limitation. Typically, a Township may increase either the spending appropriations by 2.5% or the cost of living (whichever is less). This is however subject to various exceptions. The Township may also, with a resolution approved by a majority vote of the full membership of governing body, increase the spending appropriations by 3.5% over the previous year's appropriations. Due to the Township electing to convert to a calendar year, the Township can utilize a 4.75% CAP increase coming out of a transition year budget. This is also subject to various exceptions. The Township must prepare the two CAP calculations and choose to the lesser of the two amounts. The 4% levy CAP is considered if it is less than the spending CAP. The increase in valuation with the Township, based solely on application of the preceding year's Township tax rate to the apportionment valuation of new construction or improvements within the Township (new ratable) was \$274,040 in 2010 and \$508,821 in 2009. This increase in the tax base resulted in an increase to the Township CAP limitation calculation and allowed the Township to increase the overall tax levy. The Township presently has no issue with the CAP limits.

E. FINANCIAL IMPACT ON THE GOVERNING UNIT, ITS RESIDENTS AND TAXPAYERS

When considering this factor, the Arbitrator must take into account the extent of the evidence as introduced, how the Award will affect the Township's purposes and the impact of the Township's ability to (a) maintain existing programs and services; (b)

expand existing programs and services for which public monies have been designated by the governing body; and (c) initiate any new programs and services.

The record clearly establishes that the Township has the financial wherewithal, but lacks the necessary political will. As previously noted, the Township budget for Patrol Officers under the PBA proposal will only increase by \$121,000 from 2009 to 2012. The PBA proposal is reasonable and balanced and is actually below the mainstream of settlements. The total projected cost of \$677,000 over 4.5 years is a tiny fraction of the \$28 million budget over that period, an infinitesimal percentage of the entire municipal budget. Accordingly, the Arbitrator must grant the PBA's Final Offer in its entirety.

F. COST OF LIVING

For the years 2008 through 2010, the PBA seeks a very modest salary increase when the cost of living, as well as the mandatory 1.5% contribution in healthcare benefits is taken into account. This 2.5% average annual increase is also justified when one compares the status of compensation these Officers receive relative to other Police units. Indeed, this statutory criterion cannot be viewed in the abstract. It requires a comparison of cost of living relative to the cost incurred by unit members.

The PBA argues that between 2007 and 2008, the CPI increased by 3.86%.²¹ Between 2008 and 2009, the CPI increased by 0.442%.²² Between 2009 and 2010, the CPI increased by 1.71%.²³ Over the last three years, the increase in CPI has exceeded 6%. Obviously, this will fluctuate from year to year, but certainly the bargaining unit is entitled to at least remain even with inflation. Of course, while no one

²¹ Reference on page 16 of PBA brief

²² Id.

²³ Id.

can be sure of the CPI for 2011 and 2012, this much is clear; it would take an increase pushing double digits in 2011 to put the unit members back where they stood in 2008 in terms of the purchasing power of the employees. The PBA's proposal in this regard can hardly be considered unreasonable or excessive.

G. CONTINUITY AND STABILITY OF EMPLOYMENT

There is no evidence that implementation of the PBA's proposal will have a detrimental effect on the continuity of employment of PBA unit members. Many veteran officers staff the ranks, and some modest increases are needed to ensure retention and morale. However, the Township's proposals, if adopted, will have a negative impact on both continuity and stability within the bargaining unit. While the bargaining unit has been fairly stable over the years, retirements and transfers will undoubtedly accelerate if a fair wage increase is not awarded. It will encourage younger Officers (both actual and potential) to look for employment in better paying jurisdictions and in better paying positions.

In contrast to the Township's final offer, the PBA's final offer will encourage younger Officers to continue with applying for career employment with the Township. An award that at the very least allows this group of employees to remain on par with increases in the cost of living, will not fall behind other comparable employees, is critical to ensure employment stability and continuity.

Awarding the Township's final offer, however, will create an incentive for younger Officers to move on as quickly as possible. A 0% raise in 2008, 2009, 2010 and 2011 is not an effective means to maintain morale or continuity and stability of employment. It is a prescription for disaster and destruction of bargaining unit morale.

The Township chose to utilize a budget of \$31,362,937 as the amount to be raised by taxation. In short, it has an additional \$523,885 that could be raised by taxation if it so chose for the 2010 proposed budget. Once again, the record demonstrates that the Township had ample available revenues to fund modest salary increases for this bargaining unit.

The PBA argues that the impact of premium sharing upon the bargaining unit is catastrophic. In real dollars, based upon a budget in excess, the Township effectuates a savings of approximately \$180,000 per year. Like attrition and breakage referenced above, that is a significant offset to the modest cost of salary increases.

The Township has increased its budget for police and salary wages by \$1,598,443 since 2006 or 14.2% over the budgeted spending levels. This is an average of 3.56%. On a going forward basis, the 2009 budget is virtually the same even after the requested raises by virtue of attrition.

The PBA argues that the Township has strong revenue growth and tax collections and based on budget estimations, the average revenue increase was 3.97% or \$980,933.00 over the period dated from July 1, 2006 through June 30, 2009.

The PBA continues to argue that the Township is well below the statutory debt limit and has more than sufficient borrowing power remaining. More importantly, this clearly indicates that the Township is not financially extended and also gives the Township the ability to fund tax appeals that they were not previously reserved for.

The foregoing makes clear the fairness of the PBA proposal in every respect. Rather than adopt the draconian approach proffered by the Township – obviously in a

hope that the Arbitrator might split the difference in some fashion, the PBA submitted a realistic proposal with little basis for further reduction by the Arbitrator.

For all of the foregoing reasons, the PBA respectfully requests that the Arbitrator select its proposals on each of the issues in dispute and that he reject the Township's proposals in their entirety.

DISCUSSION AND OPINION:

The Arbitrator, by statute, is required to separately determine whether the total annual economic changes for each year of the Agreement are reasonable under the nine statutory criteria set forth on pages 2-3. Each criterion must be considered, and those deemed relevant must be explained. The Arbitrator is also required to provide an explanation as to why any criterion is deemed not to be relevant.

I have carefully considered the evidence that has been presented, as well as the arguments of the parties. I have considered the evidence and arguments in light of the statutory criterion as discussed below. I have considered each criterion and have found each to be relevant, although the weight to be given to their factors varies as discussed. I have determined the net total economic annual change for each year of the Agreement and concluded that those changes are reasonable under the criteria.

It is appropriate to set forth the terms of the Award at this time, which will allow anyone reviewing this Award to follow the analysis which led to the Award.

The parties, by necessity, based their arguments upon and correlated the evidence they presented to the office of the other party. I have the authority and responsibility to fashion the terms of the award in this conventional arbitration proceeding. Conventional arbitration is a much more pliant process which grants the

Arbitrator more comprehensive authority to fashion the terms of an award based upon the facts in evidence and without the limitation of addressing any component of a final offer submitted by the parties.

It is axiomatic in Interest Arbitration and/or in collective bargaining/negotiations that in consideration of wages, hours and conditions of employment, the party seeking to change any existing term and condition of employment bears the burden of showing the need for such a change. That guiding principle has been followed throughout this Award.

I shall award an agreement for the duration of July 1, 2008, through December 31, 2013. I shall award the following salary increases:

- A. July 1, 2008, through December 31, 2009 – No salary increase. However, those within the salary guide shall advance to the next step in the guide.
- B. January 1, 2010 – 1.5% across the board.
- C. January 1, 2011 – 2% on top step of the guide. All others will progress through the guide.
- D. January 1, 2012 – 2% on top step of the guide. All others will progress through the guide.
- E. January 1, 2013 – 2% on top step of the guide. All others will progress through the guide.

LIGHT DUTY – ARTICLE VII (G):

Effective January 1, 2012, modify Article VII G to eliminate injury off duty. The only injuries that will be eligible for light duty assignment are injuries on the job. The current practice of employees attending doctor's appointments during their scheduled shift shall be maintained.

IN-SERVING TRAINING – ARTICLE VII (I):

Effective January 1, 2013, increase the number of training days to 12. All training days will be compensated at straight-time pay.

LONGEVITY – ARTICLE VIII:

The Township's proposal was to cap longevity at the amount an officer would receive as of January 1, 2010. Additionally, new hires would not be eligible for longevity. I am awarding a reduction in the percentages that appear on page 21 of the Agreement concerning Longevity. I am reducing the percentage for all new hires effective March 1, 2012, as follows:

CURRENT:		JANUARY 1, 2013:	
5	years of service..... 2.5%		1.25%
10	years of service..... 5.0%		2.5%
15	years of service..... 7.5%		3.75%
20	years of service..... 10.0%		5.0%
24	years of service..... 12.5%		6.25%
29	years of service..... 15.0%		7.5%

All other proposals of the parties are rejected.

COST OF THE WAGE INCREASE

2010:

The base, as of January 1, 2009, was \$5,833,094.00 with 75 members in the bargaining unit. The top step consists of 55 members or 73% of the unit. The average salary was \$77,775.00. Since I have frozen the Salary Guide step for 18 months, the first increase will occur in 2010. However, I did not freeze movement through the guide in 2009 for those Officers eligible to do so.

The 2009 base was increased by 1.5% effective January 1, 2010. That new base is \$5,920,590.00. The top salary in 2009 was \$84,089.00 and increasing that by 1.5% equals \$85,350.00. Multiplying that number by 55 equals \$4,694,268.00. Deducting that amount of money from the \$5,920,590.00 shows a step cost of \$1,226,322.00.

2011:

Increase \$85,350.00 by 2%, which equals $\$87,057.00 \times 55 = \$4,788,135.00$. I am using the 2010 step movement as a constant throughout the remainder of the Agreement. That creates a new base of \$6,014,455.00 for 2011.

2012:

Increase \$87,057.00 by 2%, which equals $\$88,798.00 \times 55 = \$4,883,890.00$. The new base for 2012 is \$6,110,219.00.

2013:

Increase \$87,057.00 by 2%, which equals $\$90,574.00 \times 55 = \$4,981,568.00$. The new base for 2013 is \$6,207,889.00.

The current Salary Guide has two components; employees hired before May 1, 2005, and employees after May 1, 2005. Those hired prior to May 1, 2005, have a six step Salary Guide starting at \$48,076.00 to \$84,089.00. Those hired after May 1, 2005, have a ten step Salary Guide starting at \$41,606.00 to \$84,089.00. The maximum salaries are the same, but the payout to the employer is less with more steps added to the Salary Guide. I did not change that Salary Guide structure. The across-the-board raises for 2010 are for all employees, irrelevant of when they were hired. The top step

of \$84,089.00 is increased for 2011 through 2013 and all other officers move through the Salary Guide as is normal.

My analysis and salary increases are based on the base salary alone and has nothing to do with longevity or any other amounts of money the employees are entitled to receive.

My Award increases the base salary by \$374,795.00 over the 2009 base salary. That amount is slightly more than 6%, (July 1, 2008, through December 31, 2013) and generates a \$4,997.00 average increase.

Various statutory mechanisms have a major impact upon an Interest Arbitration Award. In 1976 there was an expenditure CAP (See 40A:4-45.1, *et. seq.*). In 2007 there was a tax levy CAP (See 40A:4-45-45), which allowed the tax levy to be increased by 4%. P.L. 2010 c.44 reduced that 4% to 2%. It was not an increase on salaries; it was an increase on the levy CAP for a budget.

In 2010, P.L. 2010, c.2 established that all public employees must pay 1.5% of their base salary for health insurance. That law was amended in 2011 with the passage of P.L. 2011, c.78, which establishes the 1.5% as a minimum and is higher based on an employee's base salary.

The 1.5% payment for health insurance was effective in May of 2010. With a 2010 base of \$5,920,572.00, 1.5% of that generates \$88,808.00. Dividing that by 12 equals \$7,401.00 per month. From June 1, 2010 through December 31, 2010, \$44,406.00 was deducted from bargaining unit members' base salary for health insurance. I am not addressing c.78 because this Interest Arbitration started before that statute was enacted. Nevertheless, for 2011, 2012 and 2013, the following shows the

amount of money that has been or will be deducted from this bargaining unit to pay for health insurance contributions:

2010: $\$5,920,572.00 \times 1.5\% = \$88,808.00 \div 12 = \$7,401.00$ each month
From June 1, 2010 through December 31, 2010, \$44,406.00 was deducted from bargaining unit members for the 1.5% health insurance contribution.

2011: $\$6,014,457.00 \times 1.5\% = \$90,217.00$

2012: $\$6,110,219.00 \times 1.5\% = \$91,653.00$

2013: $\$6,207,889.00 \times 1.5\% = \$93,118.00$

That generates \$319,404.00 that this bargaining unit will contribute for health insurance during the term of the Agreement.

My Award generates \$374,795.00 over the 2009 base. Bear in mind that my Award only references the base salary and has nothing to do with longevity or any other additional compensation that PBA members receive. The total employee cost for the health insurance as required by statute is \$319,404.00. Deducting that from my Award generates $\$55,391.00 \div 4$ or \$13,847.00 as a cost to the Township per year (2010-2013). The cost to the Township for the period of July 1, 2008, through December 31, 2009 was not calculated because I was not sure how many employees were on each step of the guide. Nevertheless, all those moving through the guide were paid for that step movement.

P.L. 2010, Ch.2, which requires all public employees to pay 1.5% of their base salary, basically indicates that public employees will be funding their own salary increases. The days of 4, 5, 6, 7 and 8% salary increases are way beyond us. P.L. 2011, Ch. 78, which requires at least 1.5% for the health insurance, is not being addressed by me because I am simply carrying the 1.5% from P.L. 2010, Ch. 2 forward

into 2013. There may very well be some police officers who would pay more than the 1.5%, but that has not been factored into my analysis. If that were to occur, that is a higher savings to the Township.

The Township also receives a benefit with the so-called "breakage" funding. During 2010 through 2011, six Superior Officers retired and six Officers from the PBA bargaining unit were promoted into those Superior Officer positions. Additionally, two PBA members retired, for a total of eight during that period of time.²⁴ That generates \$772,454.00 of savings to the municipality. I have not received any information which indicates that the Township has replaced any of the eight PBA bargaining unit members. The following chart shows the savings to the municipality if those eight Police Officers are to be replaced. I am using the top salary versus the starting salary whether or not one started before or after May 1, 2005.

SALARY	NUMBER	TOTAL	SAVINGS
\$84,089.00	8	\$672,217.00	
\$41,046.00	8	\$332,832.00	\$339,385.00
\$48,076.00	8	\$384,608.00	\$287,609.00

There was nothing presented to show that any new hire is placed on the top step of the Salary Guide. Therefore, the savings to the municipality continues to grow as more and more police officers retire. In fact, based on the January 1, 2009, list of salaries for Police Officers, including their date of hire, 14 Officers or 18% were hired in 1993/1994. That certainly shows the Arbitrator that there is a potential of retirees at the end of this contract and going into the beginning of the successor agreement.

²⁴ See Page 34 of PBA brief.

The Township does receive the benefit of Police Officers retiring with savings that may be utilized for the Township in other areas. I am simply showing that the Township does have funding available to fund my Award and that there is no problem for the Township to fund my Award.

At the August 2010 hearings, then Business Administrator Michael Jacobs presented a very comprehensive chart for all Township employees and the impact the budget would have on Township employees. The dire predictions he was making clearly showed that at least 31 Police Officers or 41.3% of the Police Department would be laid off. To the date of this Award, I am not aware of any Police Officer in Old Bridge being laid off. Therefore, the Township's ability to fund this settlement has been completely taken out of context when the Township insisted they had no money to fund any type of settlement. My analysis of the budget, as well as the documents submitted to me, clearly shows that the Township can afford my Award.

Additionally, at the August 2010 hearings, information was presented to show that the Township did not budget up to its CAP. That amount of money was over \$500,000.00. I certainly understand the Township's desire not to burden the taxpayers, but the Township did have available means in which to fund the settlement going back to 2010, but the Township indicated with their arguments and documentation that they had serious financial problems and that those problems were being recognized by the State of New Jersey.

I fully recognize that the Township has financial concerns. However, those financial concerns do not prevent the Township from paying the amount in my Award. Moreover, after the PBA rejected the tentative Agreement in 2009, the money the

Township set aside for that tentative Agreement was put back into the budget. At the hearing, the Township indicated that was done to balance the budget, as well as not budget to CAP so that there would not be a higher tax increase. The Township should be commended for trying to keep the tax increase down; nevertheless, there was funding available to reach a settlement.

My Award increases the 2009 base by \$374,795.00 for 66 months, 6.04% over the 2009 base, or 1.51% each year (2010-2103). I am not convinced that that will create a catastrophe for the Township. Nothing has been presented to me to show that the Township cannot fund my Award.

I have carefully considered the evidence and arguments of the parties in relationship to the statutory criterion. My Award does not interfere with the lawful authority of the Employer and, in fact, does not infringe upon, impede or set aside that lawful authority. The interests of the public are a major factor in an Interest Arbitration award. Here, the bargaining unit has been without a contract since July 1, 2008. That certainly is not in the best interests of the public nor of the members of the Police Department. Nevertheless, while there were attempts made to reach closure, I have to state without equivocation that contributory negligence was a major factor in the parties not coming to terms with a successor agreement. Numerous attempts were made by the Arbitrator to broker some type of voluntary settlement, only to have it set aside. The PBA's rejection of the Agreement set forth an uncomfortable situation for the parties.

Every attempt I made to suggest different alternatives to reaching a settlement was not mutually acceptable. However, the PBA did ultimately agree to one of my recommendations, but that recommendation was not acceptable to the Township. The

Township had specific problems inherent within its budgetary mechanism, as well as with elected officials concerning the impact of any salary increase on the PBA bargaining unit.

While the negotiations and mediation sessions were occurring, the public was not being properly served because there was no agreement. This is not an attack upon either party, it is just a reality based upon the facts I was presented with. My Award will not have a deleterious impact on the governing unit or its residents and taxpayers. More importantly, the municipality will not have a CAP problem. In the future round of bargaining, P.L. 2010, c. 105 mandates that the salary base cannot exceed 2%, which includes longevity and increments. While that law is effective January 1, 2011, and even though it is not controlling in the instant matter, my Award shows deference to that statute.

My Award also protects the continuity and stability of employment and offers a competitive salary for all police officers. My Award does not impact upon the ability of the Township to function.

It is interesting to note that the Township indicated at the hearings in August of 2010 that without the layoffs they could not function. It is my understanding that there were no layoffs in this particular bargaining unit and, the Township did in fact pay its bills, and meet its obligations, even though there were horrible predictions as to what would occur if the Township did not get its position of a zero salary increase for the term of the Agreement.

The PBA proposed an increase of in-service training from 8 hours to 16 hours. I increased those days to twelve (12). Using the 2009 average salary of \$77,775.00,

dividing by 1,825 hours of work per year generates \$42.62/hour, multiplying that by 8 equals \$340.96 per day, times that by 4 equals \$1,363.84, and multiplying that by 75 employees equals \$102,288.00. While that is an average salary from 2009 bear in mind that the Township will begin to receive the savings on the longevity for all new hires. The goal of the Township was to eliminate longevity for the new hires and CAP the current longevity schedule at whatever the employee was receiving as of January 1, 2010. My Award is a compromise between that position and what the PBA was looking for with respect to in-service training. Again, there is no deleterious impact upon the Township for what I have awarded, because the money is available within the budget based upon the documentation submitted to me by both parties.

Additionally, when breakage money is applied to this particular bargaining unit, the Township does generate enough money to fund this proposal.

I recognize that the Township will argue the impact of this Award into the future will be devastating to the Township. That may be true if the salary increases continue to escalate. However, the maximum salary increase for public employees effective January 1, 2011, is 2% of the base and that 2% includes longevity and increments. While that statute is not operative here because this Agreement expired prior January 1, 2011, it is indicative of salary increases for successor settlements. Therefore, the Township is not in an uncomfortable position to fund this settlement, and the increase in the in-service days starts January 1, 2013, which gives the Township ample time to plan its budget for that expense, as well as to address how much money the Township will be saving with health insurance and breakage just to name two of the variables that are components of the Township's budget.

Exhibits from the PBA, and particularly page 6 of its financial data, clearly establish that the Township has continually spent less than budgeted. Moreover, the unexpended appropriation reserves allow the Township to apply these unexpended appropriation reserves to future budget periods. The Township has also consistently received additional revenue not anticipated in the budget or raised by taxation. This revenue is also available for budget appropriation in future years. More importantly, the Township has historically generated excess results from operations. This means that there was more revenue being collected than budgeted, and/or less appropriations being spent on budgeting (unexpended appropriations).

The financial data submitted by both parties clearly establishes the positions set forth by both parties. However, at the end of the day, the Township does have a funding mechanism to support my Award and, in fact, the Township, as it reviews my Award, will have a savings when health insurance and breakage money are factored into the equation as to the total cost for the Township. Moreover, bargaining unit members will now pay 10% of pensionable base salaries towards their pensions. That is another savings to the Township

Again, I must reiterate the fact that my Award has nothing to do with longevity, clothing, overtime, or any other compensation that the employees receive. It is strictly on the base salary and nothing else. Historically, that is what interest arbitration awards have done, and I am continuing with that historical trend.

I respectfully enter the terms of the Award as a reasonable determination of the issues in dispute based upon the facts in evidence. Accordingly, I hereby issue the following Award.

AWARD

1. DURATION: July 1, 2008, through December 31, 2013
2. WAGES: July 1, 2008, through December 31, 2009 – 0 increase
January 1, 2010 – 1.5% across-the-board
January 1, 2011 – 2% on top step
January 1, 2012 – 2% on top step
January 1, 2013 – 2% on top step
3. ARTICLE VII, Subsection G – LIGHT DUTY: Currently, employees who are injured on or off duty are eligible for light duty assignments. The language further indicates that employee's assigned light duty as result of an on-duty injury will be permitted to attend doctor's appointments during their scheduled shift, if such appointments cannot be scheduled during non-working hours.

Effective January 1, 2012, I am eliminating off-duty. I was the Arbitrator in grievance arbitration with that exact same subject matter, and I had sustained the grievance. However, in these economic times in it makes no sense for an employer to give somebody a light duty assignment for an injury that occurred while they were possibly working for someone else, playing football, vacationing, etc. The language of the Agreement establishes that the discretion of the Police Chief is necessary to determine a light duty assignment. I am not changing that nor am I changing doctor's appointments for on-duty injury.

4. ARTICLE VII, Subsection I- IN-SERVICE TRAINING: Effective January 1, 2013, Change the language to read, *"Each employee will be compensated at the straight-time*


rate for the first twelve (12) hours of in-service training during the calendar year. In-service training in excess of twelve (12) hours shall be compensated at the rate of time and one-half.”

5. LONGEVITY: The Township’s proposal was to CAP longevity at the amount an officer would receive as of January 1, 2010. Additionally, new hires would not be eligible for longevity. I am awarding a reduction in the percentages that appear on page 21 of the Agreement concerning Article VIII – Longevity. I am reducing the percentage for all new hires effective March 1, 2012 as follows:

CURRENT:		MARCH 1, 2012:
5	years of service..... 2.5%	1.25%
10	years of service..... 5.0%	2.5%
15	years of service..... 7.5%	3.75%
20	years of service..... 10.0%	5.0%
24	years of service..... 12.5%	6.25%
29	years of service..... 15.0%	7.5%

- 6. All other proposals of the parties are rejected.
- 7. All wage adjustments/step movement is retroactive to July 1, 2008.

Dated: February 7, 2012



Gerard G. Restaino, Arbitrator

State of Pennsylvania)

County of Wayne) ss:

On this 7th day of February, 2012, before me personally came and appeared GERARD G. RESTAINO to me known to be the person who executed the foregoing document and he duly acknowledged to me that he executed the same.



Notary Public
Lake Twp., Wayne County
My commission expires on November 10, 2013.