

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between

BOROUGH OF RARITAN,

"Public Employer"

-and-

RARITAN PBA, LOCAL NO. 82

"Union."

**INTEREST ARBITRATION
DECISION
AND
AWARD**

Docket No. IA-2001-66

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the Employer:

Steven S. Glickman, Esq.
Ruderman & Glickman, P.C.

For the Union:

Richard D. Loccke, Esq.
Loccke & Correia, P.A.

I was appointed arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Raritan (the "Borough") and PBA, Local 82 (the "PBA"). Pre-arbitration mediation was held on July 16, 2001. Because the impasse was not resolved, a formal interest arbitration hearing was held on November 30, 2001. At the hearing, the Borough and the PBA presented documentary evidence and provided witnesses in support of their respective positions. Testimony was received from Patrolman David M. Malina and Daniel Jaxel, the Borough Administrator. Post-hearing briefs were submitted by January 21, 2002.

FINAL OFFERS OF THE PARTIES

PBA LOCAL 82

1. Salaries-- The PBA seeks across the board salary increases for each year of the agreement, as follows:

4.00% effective January 1, 2001
4.00% effective January 1, 2002
4.00% effective January 1, 2003

2. Holiday fold in-- The PBA seeks to have the current holiday benefit folded in and used for all calculation purposes

3. Clothing Allowance-- The PBA seeks a \$50.00 clothing allowance increase in the first year of the contract and another \$50.00 increase in the third year of the contract.

4. Senior Officer Differential-- The PBA seeks a new provision which would provide a \$500.00 annual benefit for employees who have completed 15 years of service, a \$750.00 annual benefit for employees who have completed 20 years of service, and a \$1000.00 annual benefit for employees who have completed 24 years of service. Service would be determined according to the New Jersey Police and Fire Pension statutes. This provision is intended to cover those employees who do not receive longevity pay. For employees with longevity, the current maximum formula cap would be increased to \$40,000 in the first year of the agreement, \$55,000 in the second year, and \$70,000 in the third year of the contract.

BOROUGH OF RARITAN

1. Salaries-- The Borough proposes the following salary increases for each year of the agreement:

3.50% effective January 1, 2001
3.25% effective January 1, 2002
3.25% effective January 1, 2003

2. Salary Guide-- The Borough proposes that effective January 1, 2001, (a) for all employees hired on or after January 1, 2001, that two steps be added to the salary guide between the probationary and the first year steps; and (b) for all employees hired on or after January 1, 2001, one step be added to the salary guide between the first and second year steps.

3. Clothing Allowance-- The Borough proposes a \$50.00 increase in the clothing allowance effective January 1, 2001, and a \$50.00 increase effective January 1, 2003.

The Borough and the PBA have submitted substantial documentary evidence into the record in support of their final offers. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

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

(2) Comparison of the wages, salaries, hours, and

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

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

element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.

(7) The cost of living.

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

BACKGROUND

Raritan is a community located in Somerset County. It is located near several major roads, including Interstates 287 and 78 and Routes 22, 202, and 206. The record indicates that there has been a substantial amount of police activity in the prior two to three years. (Exhibits P1a-P1c). The police force is involved in significant community policing efforts, including foot patrols, school posts and checks, a new bike patrol, and building checks. Raritan officers are also involved with county wide law enforcement efforts, such as the hostage team, dive team, accident investigation, and training at the police academy.

Officers have recently received additional equipment such as MBT units and computers in cars, new radios, and shot guns.

There are eighteen (18) members of the police department including the Chief, one (1) Captain, one (1) Lieutenant, four (4) Sergeants, two (2) Detectives and nine (9) Patrolmen. The size of the department has been substantially the same during the last ten years.

Although Somerset County generally reflects high per capita income, Raritan is one of the least wealthy communities in the County. It is ranked 20th out of 21 County municipalities in terms of per capita income. It is ranked 19th in terms of median family income and median household income. It also has one of the highest rates in the County of households receiving public assistance and social security. Notwithstanding these facts, the Borough's administration of its finances has been excellent as reflected in a very high and increasing tax collection rate, its ability to regenerate surplus and revenues, maintain a stable municipal tax rate and income on investments.

The issues in dispute are all economic in nature and were substantially narrowed during the pre-arbitration mediation process. Against this general backdrop, I set forth the parties positions and argument on the evidence submitted.

THE PBA'S POSITION AND ARGUMENT

The PBA's principle argument is that Raritan officers are poorly paid in comparison with officers in other municipalities. It asserts that the evidence presented by it and the Borough both support this contention. The Borough has shown (in Tab 2) that the top pay of Raritan officers ranks 14th out of 18 towns listed by the Borough. The PBA presented a chart illustrating the poor position of Raritan rank and file officers in comparison to other officers in terms of rank differential.

RANK DIFFERENTIAL COMPARISONS **(PATROL OFFICER TO SERGEANT)**

	Rank Differential in Percentage	Rank Differential in Dollars (2001)
Somerset Cty Corrections	10%	
Bernards Township	6.6%	\$4,317
Montgomery PBA	7.1%	\$4,673
Manville PBA	16.4%	\$11,382
Somerville	10%	\$6,384
Bound Brook	8.4%	\$5,359
Franklin	11.6%	\$7,040
Average	10.0%	\$6,526
Raritan Borough	6.9%	\$4,042
Raritan Rank Differential compared to average	(3.5%)	(\$2,484)

The PBA further points out that there are no special benefits which Raritan officers receive to make up for their lower than average base wage rates.

Holidays is a standard benefit received by all police officers and the record reflects that Raritan officers receive holiday benefits at a level which is below average:

ANNUAL HOLIDAYS BENEFIT COMPARISON

Somerset Corrections	15
Manville	14
Somerset Sheriffs	15
Bernards Township	15
Montgomery	14
Somerville	13
Green Brook	11
Branchburg	14
Bridgewater	15
Bound Brook	12
Average	13.8
Raritan Holiday Benefit	12
Raritan Benefit Compared to average holiday benefit	(1.8) (15%)

The PBA also contends that its members lag by about \$315 or 52% in terms of the average clothing allowance provided to police officers in comparable municipalities:

CLOTHING ALLOWANCE BENEFIT COMPARISON

Somerset Corrections	\$970
Manville	\$650
Somerset Sheriffs	\$850
Bernards Township	\$1100
Montgomery	Total reimbursement without limit including all cleaning
Somerville	\$1100
Green Brook	All paid, including cleaning by town

Bridgewater	\$750
Bound Brook	\$990
Average clothing allow. Benefit paid	\$915
Raritan Clothing Benefit	\$600
Raritan Benefit compared to average	(\$315) (52%)

The PBA asserts that police officers in other Somerset County municipalities receive a variety of miscellaneous benefits which Raritan officers either do not receive or do not receive at the same rate. The PBA submits the following chart in support of this contention:

Somerset Corrections <ul style="list-style-type: none"> • Pager computation (\$250) • 4 hour minimum call in • \$1,200 max annual educational benefit
Somerset Sheriffs <ul style="list-style-type: none"> • Reduction of 2 steps on salary guide in most recent contract for 2001 • Meal reimbursement • Snow day premium • Shift differential • \$1,200 max annual educational benefit
Bernards Township PBA <ul style="list-style-type: none"> • Employer contribution match for employee's savings on a dollar for dollar basis to a maximum of 5% of employees annual salary • \$1,500 Detective on call pay • \$1,500 max annual educational program
Montgomery PBA <ul style="list-style-type: none"> • Prescription insurance, optical insurance • \$1,000 annual M.A. program

Manville PBA <ul style="list-style-type: none"> • Educational incentive \$900 annual max • Detective differential \$1,550
Somerville PBA <ul style="list-style-type: none"> • Educational credit reimbursement • Prescription plan
Green Brook PBA <ul style="list-style-type: none"> • Educational incentive to \$2,000 per annum maximum • Detective stipend \$2,500 per year
Bridgewater PBA <ul style="list-style-type: none"> • \$700 shift differential • Vision plan • Educational incentive benefit max \$2,250
Bound Brook PBA <ul style="list-style-type: none"> • 25% annual salary retirement benefit

The PBA also notes that Raritan officers do not receive longevity pay. This benefit was removed years ago and only applies to officers hired before January 1, 1983. There are only 3 in the unit who remain eligible for this benefit. Officers in many county jurisdictions receive this benefit including Somerville, Somerset Corrections, Manville, Somerset Sheriffs, Bernards Township and Bound Brook.

The PBA has proposed a senior officer differential benefit for employees who do not currently receive longevity pay. It contends that its proposal is modest, calling for the benefit to be provided to officers who reach 15, 20, and

24 years of service. The benefit, based on the appropriate plateau year, would be \$500, \$750, or \$1000.

The PBA argues that the longevity pay received by officers hired before 1983 is based on a formula which has limited the benefits provided to these officers. It proposes that the current lid be increased to \$40,000 in the first year, to \$55,000 the second year, and \$70,000 the third year.

The PBA points out that officers in other municipalities continue to receive wage increases well above that offered by the Borough. It has presented a chart showing the rate of base increases provided in other municipalities for the three year term which will be determined in this proceeding.

RATES OF BASE INCREASE

	2001	2002	2003
Bernards Twp.	4%		
Montgomery PBA	4%	4%	4%
Montgomery SOA	4%	4%	4%
Manville	4%		
Bridgewater	4%		
Somerset Corrections	4%	4%	4%
Somerville PBA	4%	4%	
Green Brook	5%	5%	5%
Franklin	7.4%	4%	4%
Somerset Sheriffs	3.75%		
Average Rate of Base Increase	4.42%	4.166%	4.2%

The PBA asserts that it has acted reasonably in this proceeding in that it has proposed an increase which is less than the average rate of increase granted to officers in these comparable municipalities. It states that it has done so in recognition of the economic value of other parts of the PBA offer, even though these other municipalities provide economic benefits to their officers in addition to base pay.

The PBA argues that in contrast, the Borough has not been able to support its wage proposal. It notes that in Tab 3 of the Borough's own presentation book it lists maximum salaries from other jurisdictions over the same contract term as will be established in this case. That documentation shows an average increase in excess of 4% per year.

The PBA rejects the Borough's reliance on selected private sector comparisons. It contends that these comparisons are of little value given the unique nature of a police officer's duties. In fact, in the PBA's view, a comparison of duties of these employees supports only higher compensation for police officers. These considerations include the high standards police officers must meet, special training, obligations on and off duty, and they are subject to hazards and risks which private sector employees do not experience. Police officers may be armed at all times and can act anywhere within the state. They are subject to numerous statutory provisions and they are treated differently from

private sector employees under the law in many areas, such as the Fair Labor Standards Act, the state Wage and Hour law, hiring and retirement restrictions, residency requirements, and many other regulations. Police officers are also limited in their ability to move. Officers do not have portability of their pensions after age 35. They must live locally and cannot simply get up and move to another part of the country like any private sector employee. The PBA argues that given the inability of officers to move or live far from the town in which they serve, a comparison of local police wages is particularly appropriate.

Turning to financial and budgetary considerations, the PBA asserts that the record contains no evidence that the New Jersey "Cap Law" would preclude an award in its favor. The Cap is a statutory formula created by the Legislature to limit increases in municipal expenses. The PBA notes that the Borough chose to use a 4% cap formula in its budget, although it was authorized to go up to 5%. In applying this lower cap rate, the Borough had \$4,675,073 in cap flexibility according to its municipal budget (sheet 3c). It used only \$4,372,516, leaving \$302,557 unused for the year 2001. The PBA notes that this unused cap flexibility is carried on to the following year's budget. This "banked cap" flexibility is in addition to whatever cap flexibility is created for the 2002 budget. The PBA notes that the Borough had \$241,469 in "banked cap" from the year 2000 budget.

The PBA acknowledges that the arbitrator must consider the financial impact of its proposals. The PBA submits a chart calculating the base wage of the bargaining unit:

BARGAINING UNIT BASE WAGE

(A) Rank	(B) Census	(C) Base Rate Per J-1	(D) Col. (B) X Col. (C)
Police Officer	11	\$58,562	\$644,182
Sergeant	4	\$62,604	\$250,416
Lieutenant	1	\$66,685	\$66,685
Captain	1	\$71,106	\$71,106
Total			\$1,032,389
1% =			\$10,323

It notes that this chart demonstrates that a single percentage increase in wages for the unit is \$10,323 (assuming all employees are at the maximum rate). The amount of cap flexibility waived and banked by Raritan was \$302,557. Thus, the PBA claims that the Borough could easily afford its wage offer calculated at just over \$40,000 annually. The PBA asserts, based on the above facts, that its proposal would not force the Borough to exceed its cap.

The PBA addressed the issue of the impact of its offer on the taxpayers and residents of Raritan. It contends that there would be no significant impact on these groups of an award in the PBA's favor. It notes that for the first year of the contract, the PBA proposes a 4% increase while the Borough has offered a

3.5% increase. This amounts to an impact of \$5,161 or .0007% if funded from outside of the police budget. The PBA's remaining economic proposals of holiday fold in and senior officer differential would have a minor impact on the budget while addressing the relatively poor comparables for the police officers. It notes that the parties have made the same clothing allowance proposal.

The PBA asserts that the cost of its holiday fold in proposal, which it terms modest, should be considered in connection with the poor standing of Raritan officers in comparison to officers in other municipalities who receive greater holiday benefits. The PBA claims that Raritan officers, on average, receive nearly two less holidays annually than officers in other communities. The fold in is a pension cost only, the impact of the holiday fold in is calculated by the PBA at .05%. It argues that given the fewer holidays received by Raritan officers, the Borough will still be providing a less costly holiday benefit than that provided in comparable municipalities.

The PBA further asserts that the Borough has received cost savings from recent legislation giving pension payment relief to municipalities. (P-23, P-24). The PBA claims that the Borough has saved \$81,967 in police pension payments as a result of these legislative changes.

The PBA asserts that its senior officer differential proposal will also have a

minimal impact on the Borough. It claims that the cost of its proposal will be \$1500 for the entire unit, with an additional \$500 during the second or third year when another officer reaches 15 years of seniority. The PBA states that this amounts to a little over 1/10th of one percent of the cost of the entire unit.

The PBA notes that the total tax levy for Raritan is \$14,015,325. (Annual Financial Statement of 2001, sheet 22, line 5). The bargaining unit's base wage cost is 7.3% of the total levy (Chart 7). This corresponds to a cost of \$294.64 to a hypothetical taxpayer who has an annual property tax bill of \$4,000. According to the PBA, this is a very small impact and shows that police services are provided on a cost effective and efficient basis.

The PBA contends that the tax burden on Raritan residents is not heavy. It notes that tax collection rates are very high and have been increasing. Specifically, the rate of collection was 97.94% in 1998; 98.17% in 1999; and 98.71% in 2000 (sheet 21 of Report of Audit, Borough of Raritan). The PBA points out that the municipal portion of the tax paid by residents is 28%, while the school tax portion is 53%. The PBA states that only 15.2% of persons eligible to vote voted on the school budget, an indication of the lack of stress on tax payers. The PBA notes that the tax rate has remained stable in Raritan, rising only 3 cents from 1999 to 2000; assessed valuations have increased from \$547,525,617.00 in 1998 to \$558,550,387.00 in 2000. It also maintains that the debt per capita is much below the average for Somerset County. (P-18).

Additionally, the Borough will receive a pension abatement for the Police and Fire Pension Fund of \$81,967.00 in annual savings. (P-24). The budget revenues for the year 2000 showed an excess of \$318,980 (AFS Sheet 17). The Borough has nearly doubled its surplus balance for the past 5 years to \$1,346,568.00 as of December 31, 2000, and only utilized \$670,000 of that surplus in its budget. (Report of Audit, 2000).

The PBA asserts that the Borough is significantly below its borrowing power under the law. The permissive debt limit under state law of 3.5% of equalized valuation amounts to \$20,671,126. Raritan's current debt is \$4,038,511. (Report of Audit, 2000). The Borough has a Moody's credit rating of A. The Borough had a cash flow of about \$3.2 million in the year 2000, based on its cash balance, capital fund, and cash earned on investments and deposits. The Borough's equalized value of property was about average for Somerset County. (NJ Municipal Data Book, 2001). The Borough has a significant reserve for uncollected taxes. Additionally, it anticipates a surplus of \$590,000 for 2000 and an increase to \$670,000 for 2001. The PBA finds it significant that the reserved money account for salaries and wages listed at sheet 17 of the municipal budget carried \$102,165 forward from 2000 to 2001.

Based on all of the above, the PBA argues that Raritan has the financial ability to pay the cost of the PBA proposals without adverse impact on the

governing body, its taxpayers and residents.

The PBA notes that PERC and the New Jersey Department of Labor publish statistics regarding private sector wage increases. The PBA notes that the increase for the period of 1999-2000 was 6.9%. The PBA asserts that the most appropriate comparison, however, is with police salaries in comparable jurisdictions, which it has outlined above.

The PBA addressed the continuity and stability of employment factor. It states that this element of consideration is focused on the area wages which offer potential for its members to find higher wages in other jurisdictions. It notes that based on the data set forth above, the Raritan officers are relatively underpaid. Based upon all of the above, the PBA urges acceptance of its last offer in its entirety.

THE BOROUGH'S POSITION AND ARGUMENT

The Borough asserts that its economic proposal supports the public interest because it has considered the interest of the taxpayers while also providing the unit employees with a reasonable salary increase. It points out that the residents of the Borough have a low per capita income, median family income, and median household income. Despite this low rate of income, they

are faced with a high effective tax rate and additional tax problems arising from tax appeals and sewerage authority overage.

In particular, the Borough notes that it is rated 20th out of 21 Somerset County municipalities in terms of per capita income, and 19th in terms of median family and household income. The Borough has the second highest percentage of persons receiving social security and public assistance within the County. The Borough has the 7th highest tax rate out of the 21 municipalities within the County.

The Borough opposes the PBA's proposal to fold holiday pay into base salary. It claims that this would "artificially inflate" employees' pension and overtime rates, resulting in an unreasonable increase in municipal expenses. The Borough also contends that it is unreasonable to increase the base salary used for longevity calculations for the few employees eligible for overtime. The Borough additionally argues that the PBA's proposal to create a Senior Officer Differential would create an additional financial burden for the Borough which is not warranted.

The Borough reviewed the factor of comparability and overall compensation. It states that in 1999 and 2000, the Borough's officers ranked 14th out of 19 Somerset County municipalities with police departments. (Borough

Exhibit Book, Tab 3). It states that its officers receive salaries which are approximately 98% of the average Somerset County officer, despite the low ranking that the Borough receives regarding per capita and family income.

The Borough argues that the PBA is attempting to introduce longevity payments by proposing a Senior Officer Differential for those unit members who do not receive longevity. The Borough notes that only 4 municipalities in the County receive this benefit. Moreover, longevity payments in general have been reduced as the salaries paid to officers have risen over the years. The Borough notes that of officers employed after January 1, 1999, in Somerset County, only 6 municipalities provide for longevity pay, whereas 11 municipalities provide for longevity for officers hired before January 1, 1990.

The Borough supports its argument that additional steps should be added to the salary guide by noting that only one municipality within the County has fewer steps. It points out that 13 of the 19 municipalities have more steps. The average number of steps in those municipalities is 7, which is 2 more than the current contract contains. (Borough Exhibit Book, Tab 3). The Borough asserts that its proposal would have no impact on current unit members.

The Borough claims that the bargaining unit members receive salaries far in excess of other Borough employees. It points out that the only other municipal

employees who receive a higher base salary than the unit employees are the police superior officers and the Borough Administrator. Unlike the Borough Administrator, the unit employees also receive holiday pay and overtime. The Borough notes that its offer to the PBA will result in dollar increases which exceed the dollar increases received by other Borough employees. On the other hand, the PBA seeks an increase in percentage greater than the percentage increase received by other employees.

The Borough states that in October, 2001, the Social Security Administration announced that recipients would receive a 2.6% cost of living increase, lower than the Borough's proposed increase. (Borough Exhibit, Tab 4). It was reported in July, 2001, that the average salary for a New Jersey police officer was \$61,082, which is less than \$500 more than the Borough's proposal and \$12,000 more than the national average. (Borough Exhibit Book, Tab 4). The Borough states that while the PBA cites percentage increases published by the New Jersey Department of Labor for 1999 and 2000, the average private sector salary for 2000 was \$13,000 less than the 1999 salary received by Borough officers. Moreover, unlike the private sector, Borough officers receive fully paid health insurance during their employment and during retirement.

In sum, the Borough argues that the criteria of comparability and overall compensation must be considered in light of the specific demographics of the

community, along with the other statutory criteria.

The Borough considered the lawful authority of the employer. It notes that the New Jersey CAP law limits overall budget increases of municipalities. The Borough points out that it has a declining surplus which was increased only through "one shot deals". In the immediate future, it foresees only stable or decreasing state aid because of the State's budget crisis and will receive no additional one shot deals. It states that this leaves municipal taxes as the only remaining revenue source to fund any increases in the budget and it already has a high general and effective tax rate.

According to the Borough, it drafted a tight budget in recognition of these issues and the relatively low incomes of its residents. Thus, the 2001 surplus was only \$71,278. The Borough contends that any increase granted to the PBA above the Borough's offer will have a negative impact on the Borough's ability to provide municipal services without further increasing the tax rate.

The Borough notes that the financial impact on the governing unit, the residents and the taxpayers must be considered in arbitration. It argues that its economic proposal has considered these factors along with the general economic slowdown taking place in New Jersey and the nation. It has presented numerous articles which demonstrate that an economic slow down is taking

place. The Borough argues that this slowdown impacts on its ability to raise taxes. Because of this economic condition, along with the Borough's own limitations given the high tax rate and limited incomes of residents, the PBA's demands, if accepted, would have a negative effect on the financial situation of the Borough and its residents. Therefore, the Borough's offer should be accepted as the most reasonable one presented.

The Borough notes that the statute also requires the consideration of the Consumer Price Index or cost of living. The CPI for the first eight months of 2001 was 2.5% and that the projected increase for 2002 is 1.5%. According to the Borough, this factor demonstrates that its offer is more reasonable than the PBA's proposals.

The Borough also addresses the factor of continuity and stability of employment. It claims that its proposal will permit the work force to continue at its present level. It suggests that the PBA's proposal would hinder the Borough's ability to maintain the present level of employment because of the negative economic impacts associated with its costs.

In sum, the Borough argues that there is a national recession which has been exacerbated by the events of September 11. It points out that New Jersey has an unprecedented shortfall in its budget. It argues that in such

circumstances, new benefits such as Senior Officer Differential and increases in such benefits as longevity should not be granted. It states that given the economic uncertainties, the reasonable salary increases it has offered should be granted, along with the steps to contain costs such as modifying the salary guide.

Based upon all of the above, the Borough urges acceptance of its last offer in its entirety.

DISCUSSION

As stated above, I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Borough and the PBA have vigorously and expertly articulated their positions on the issues and have submitted substantial evidence and argument on each statutory criterion to support their respective positions. The evidence and arguments have been carefully reviewed, considered and weighed.

Several issues remain in dispute. All issues are clearly economic in nature within the meaning of the statute. One principle which is ordinarily and traditionally considered in the determination of wages, hours and conditions of

employment through the bargaining process is that a party seeking such change bears the burden of showing the need for such modification. I apply that principle to the analysis of each issue in dispute as well as the statutory mandate that total net economic change be calculated. This latter point strongly suggests that any award be constructed giving meaning to the overall impacts of the entire package of the award while considering the merits of each individual component.

In assessing the merits of the parties' last offers, I conclude that all of the statutory criteria are relevant but certain factors are entitled to more weight than others. The relevant factors which I conclude are due the most weight, after review of the entire record of this proceeding, are the current and future financial impacts of the award on the Borough and its residents, comparisons with law enforcement employees in contiguous municipalities and in Somerset County generally, the overall compensation and benefit package currently received by Raritan police officers and the relationship of the economic value of additions and/or reductions in that compensation package to the wage increases and total net economic changes awarded herein.

The Borough and the PBA agree on the duration of the new agreement. Each proposes that the effective dates of the new agreement commence January 1, 2001 and extend through December 31, 2003. Consistent with the parties' agreement, I award an agreement with a three-year duration.

The Borough and the PBA have also proposed that the clothing allowance be increased by \$50 in 2001 and by another \$50 in year 2003 as one of the elements in each party's last offer. Because the parties are already in agreement with respect to the clothing allowance issue and because the record reflects that an adjustment in the level of the clothing allowance benefit is warranted, I award an increase in the clothing allowance of \$50 in contract year 2001 and an additional \$50 in contract year 2003, representing a total increase in the clothing allowance benefit of \$100 per employee during the contract term. Based upon a total base wage payroll of \$1,032,389 the net increased cost of this benefit is calculated at \$850 (or 0.08%) in contract year 2001 and an additional \$850 (or 0.08%) in contract year 2003.

The PBA has proposed increases in the "formula lid" on longevity benefits. The Agreement [at Article VII (B) and (C)] provides that employees hired after January 1, 1983 are not entitled to receive longevity benefits. Employees hired before January 1, 1983 (of which there are three) receive longevity benefits up to 8% of base salary but an agreed upon "lid" exists wherein longevity payments cannot be made on any portion of base salary in excess of \$25,000 per year except for the Captain whose "lid" is \$35,000. The PBA proposes to increase the "lid" to \$40,000 in 2001, \$55,000 in 2002 and \$70,000 in 2003. For those employees hired after January 1, 1983 and who do not receive any longevity

benefits, the PBA proposes a senior officer differential of \$500 after 15 years of service, \$750 after 20 years of service and \$1,000 after 24 years of service. In response, the Borough urges rejection of these proposals because they seek to re-institute benefits previously negotiated away and because they indirectly attempt to introduce concepts similar to longevity in the face of evidence that municipalities in the county are narrowing this benefit, especially for new employees. The Borough also urges rejection on the basis of the present and future additional costs of these proposals.

The record reflects that the compensation package for Borough police officers does not compare favorably with other similarly situated within the County on compensation benefits issues related to length of service which are above and beyond the regular salary schedule. However, the PBA's proposals on these issues must be considered in relation to the remaining economic issues in dispute which include across-the-board wage increases and the fold in of holiday pay. Although the economic impact of the PBA's proposals may not be substantial when viewed in isolation, the awarding of these proposals, in light of the total economic package awarded herein would dictate annual economic changes and total economic changes unsupportable in light of the budgetary data presented by the Borough as well as the economic demographics of the community. For example, the raising of the longevity lid in year 2003 would yield over an additional \$3,000 for officers qualifying for the eight (8%) percent step.

Based principally on these reasons, I do not award the senior officer differential or the longevity proposals of the PBA.

The issue of salary increases is a core issue and one in which the Borough and the PBA are in disagreement. The relative costs of the last offers are as follows. Based upon a total annualized base salary figure of \$1,032,389 on December 31, 2000, the amount of the Borough's proposed increase of 3.5% effective January 1, 2001, is \$36,163 for the first year; based on 3.25% effective January 1, 2002, yields an additional \$34,727 for the second year; and based on 3.25% effective January 1, 2003, yields an additional \$35,855 for the third year. Using the same total annualized base salary figure, I will compute the cost of the PBA's proposal based upon the proposed annual percentage increases of 4.0% for each year of the three year agreement. The amounts of the PBA's proposed increase of 4% effective January 1, 2001, the increased cost is \$41,295 for the first year. Based on an additional 4% effective January 1, 2002, the increased cost is \$42,947 over the prior annual cost. Based on an additional 4% effective January 1, 2003, the increased cost is 44,666 over the prior annual cost. Based upon each party's proposal, base payroll cost for the bargaining unit effective January 1, 2003 would be \$1,161,279 under the PBA's proposal and \$1,139,105 under the Borough's proposal, representing a difference of \$22,192.

The PBA stresses that the data on comparability in law enforcement units within Somerset County reflect increases averaging 4% or above annually. The PBA also points out that its data, as well as the Borough's, reflects that a comparison of Borough police officers salaries with those employed by other municipalities in Somerset County indicates that Raritan officers rank 14th lowest out of 18 towns.

The Borough's main contention is that its offer should be accepted because it recognizes the Borough's financial limitations while providing a reasonable increase to the officers. In support of this contention, it relies in particular on data reflecting that Raritan is one of the least prosperous communities in Somerset County. It points out that it is at the top of the ratings which consider the number of residents receiving social security or public assistance and that it ranks low in the measurements of personal and family income as well as having a high effective tax rate.

In consideration of all of the statutory criteria, and in particular, the financial posture of the Borough and the relative economic standing of unit employees in comparison to other municipal employees and other law enforcement employees in neighboring municipalities, I award salary increases of 3.95% effective January 1, 2001; 3.95% effective January 1, 2002; and 3.95% effective January 1, 2003.

The annual net change of this aspect of this award is \$1,073,168 effective January 1, 2001, \$1,115,558 effective January 1, 2002, and \$1,159,622 effective January 1, 2003. The award represents an approximate additional cost over the Borough's salary proposal of \$4,616 effective January 1, 2001, an additional \$12,279 effective January 1, 2002, and \$20,488 effective January 1, 2003 on a cumulative basis.

The award yields the following salary guides for each contract year:

	2001	2002	2003
Probationary Patrolmen	\$31,185	\$32,417	\$33,697
Commencing 1 st Year Patrolmen	\$46,220	\$48,046	\$49,944
Commencing 2 nd Year Patrolmen	\$51,518	\$53,553	\$55,668
Commencing 3 rd Year Patrolmen	\$55,378	\$57,566	\$59,840
Commencing 4 th Year Patrolmen	\$60,875	\$63,280	\$65,780
Detective	\$64,246	\$66,784	\$69,422
Sergeant/Dect. Sergeant	\$65,077	\$67,647	\$70,319
Lieutenant	\$69,319	\$72,057	\$74,903
Captain	\$73,915	\$76,834	\$79,869

I next turn to the PBA's proposal to place holiday pay into base pay. The PBA currently receives 12 holidays annually. The holiday pay is received towards the end of each calendar year by individual check. The PBA proposes that the holiday pay be included in regular base pay and therefore be received on a regular basis incrementally during the year in each paycheck. In support of its proposal the PBA points out that the police officers currently receive a number of holidays (12) which is below the county average, that the fold in would enhance

each officer's pensionable salary base and that the financial impact of its proposal is de minimus in nature. The Borough argues against the award of the PBA's proposal. In its post hearing brief, the Borough states that "the Association's demand to fold holiday pay into base salary is unreasonable and unwarranted, and should not be awarded in that it will "artificially inflate" both the employee's pension and overtime rate, creating an additional, unreasonable and unwarranted municipal expenditure ..."

After due consideration of the respective positions, I am persuaded that there is merit in the PBA's proposal to fold holiday pay into base pay and be used for all computation purposes. The payment of holidays is not a new benefit. The fold in does not cause the duplicate payment of holiday pay. The base salary for Borough police officers is below average within the County and this benefit would enhance that base salary for pension purposes. As the Borough has pointed out, there are costs directly tied to the inclusion of holiday pay into base pay. The police officer's base pay will be increased for pension purposes and the Borough must assume an increase in its portion of pension contributions in the amount of the difference of the worth of a working day and it will also modestly increase the hourly rate of pay when calculating overtime rates. Although the Borough has been relieved of these costs due to state subsidy during the last two years, this "pass" cannot be expected to continue.

It is not possible to engage in a precise calculation of the cost of this

proposal. However, such cost is commonly estimated by dividing base salary by the average annual work hours. In this instance, the current salary maximum for a police officer at \$58,562, divided by the average annual work hours of 2080 cause an hourly rate of \$28.15. A current holiday calculated in an eight hour block yields a total value of \$225.23 multiplied by 12 holidays for a total cost of \$2,702. That is the amount which the Borough currently pays. The main cost impact to the Borough is its pension contribution on this amount. As mentioned above, this obligation has been waived the last couple of years but is anticipated to resume. Based upon an average public employer rate of 12%, that cost calculates at \$325 annually. The percentage cost is calculated by dividing the amount of pension contribution by the base pay of the police officer. Such calculation results in a cost impact of one-half of one percent or slightly above \$5,000 annually based upon existing payroll costs. Because the hourly rate for the purposes of calculating overtime is increased, there is an additional cost tied to this benefit although this amount is not significant. The last annual data on police overtime is for calendar year 2000. That amount was \$34,834 annually. [Borough Exhibit Tab 5-17, sheet 1]. The additional pension cost to the Borough above and beyond the normal pension cost associated with contributions on its overtime costs is insubstantial and calculations on the overtime now paid reflect it would have little financial impact. Based on the above, I award the PBA's proposal effective January 1, 2003.

Because there are costs associated with the inclusion of the fold in, consideration must be given to terms which assist the Borough in the cost impact of its inclusion.

The Borough's proposal for additional salary steps must be considered in the totality of the economic package which includes the across-the-board increases, modest adjustments to clothing allowance and the inclusion of the fold in of holiday pay into base salary. A majority of Somerset County municipalities have more salary steps and the Borough currently has a five step salary guide with the last step commencing after four (4) years of employment. This is well below average in the County. A two salary step increase for new employees will, over a reasonable course of time, serve to ameliorate the costs of the fold in of holiday pay and also the across-the-board salary increases which have been awarded and thus, is consistent with the Borough's longer term budgetary objectives. I do not award a change in steps for current employees. This will result in a new salary guide for employees hired after the date of this award. That guide is as follows:

EMPLOYEES HIRED AFTER JULY 15, 2002

	2002	2003
Probationary Patrolmen	\$32,417	\$33,697
Commencing 1 st Year Patrolmen	\$37,561	\$39,044
Commencing 2 nd Year Patrolmen	\$42,705	\$44,391
Commencing 3 rd Year Patrolmen	\$47,849	\$49,738
Commencing 4 th Year Patrolmen	\$52,993	\$55,085
Commencing 5 th Year Patrolmen	\$58,137	\$60,432

Commencing 6 th Year Patrolmen	\$63,280	\$65,780
Detective	\$66,784	\$69,422
Sergeant/Dect. Sergeant	\$67,647	\$70,319
Lieutenant	\$72,057	\$74,903
Captain	\$76,834	\$79,869

The record reflects that the financial impacts of the award are clearly within the spending limitations imposed by law and can be implemented without adverse financial impact on the governing body, its residents and taxpayers. The fact that the terms of this award will not compel the Borough to exceed its statutory spending limitations does not necessarily equate to a finding that the Borough's ability to pay is unlimited up to the spending limitation. The Borough has strongly urged that a distinction be drawn between these two factors. As the Borough has pointed out, its financial considerations go beyond the mere ability to appropriate monies for additional expenditures and must also extend to long-term budget strategies, necessary capital improvements, debt services and revenues. This distinction does have merit and has been considered.

It does not necessarily follow, however, that the terms of an award which are in excess of the Borough's proposal would cause adverse financial impacts. The Borough's financial abilities clearly extend to an ability to fund the terms of this award. The Borough has been able to consistently regenerate surplus (\$902,369 in 1999 and \$786,205 in 2000) and budget revenues were realized in 2000 by \$318,980 over what the Borough anticipated. From 1997 through 2000, the Borough has been able to experience annual increases in the Schedule of

Fund Balances while also using an additional amount from those fund balances in each succeeding budget year. Its tax collection rate is excellent and well above what the Borough anticipates annually. The Borough has been successful in maintaining a municipal tax rate which has remained basically flat from 1998 through 2000. The additional costs of the award, when considered in relation to the overall budget posture of the Borough, will not adversely affect the municipal tax rate, even assuming that the Borough does not choose to fund this contract from existing revenues. The award has also considered the Borough's long-term budget goals by awarding two additional salary steps. This will substantially reduce the cumulative salary costs of each new police officer between the probationary salary rate and the achievement of maximum salary. The longer term savings of awarding the Borough's proposal will serve as a meaningful offset to future salary costs when contrasting the salary terms under the new schedule with the old schedule.

As previously addressed, the terms of the award are compatible with salary increases in comparable municipalities in Somerset County. Approximately 75% of municipalities in the County have salary maximums exceeding those in Raritan Borough. Salary increases in those municipalities are greater than proposed by the Borough. An award consistent with this data will help maintain the relative rank of this department which is a result consistent with the interests and welfare of the public as long as the cost impacts of the

award are compatible with the Borough's financial posture. I have also considered and given weight to the salary increases which have been given to all Borough non-law enforcement employees. In 2001 those employees received 3.75% salary increase while a few Borough employees received a 5.75% salary adjustment. The latter figure was deemed justified by the Borough because their salaries were unreasonably low compared to surrounding municipalities. I have also considered and given weight to the private sector wage data submitted into the record. The report of private sector wage changes compiled by the New Jersey Department of Labor for the year 2000 reflects an annual change of 5.2% in Somerset County. The terms of the award are clearly within the range of all of the above data and none of this data requires a direct result of parity with any of the comparison groupings offered by either party.

The cost of living data, standing alone, tends to support the Borough's last offer over that of the PBA's but is not dispositive of each element of this Award which must consider other factors as well. That data reflects an annualized rise in the CPI of 2.5% for the first eight months of 2001, a decrease from the 3.4% increase in 2000. This factor supports the Borough's arguments to reject the PBA's proposals for longevity and senior officer differentials and weighs towards the Borough's proposal to offset increased costs by the inclusion of two additional salary steps.

The continuity and stability of employment of the Borough's law enforcement personnel will be maintained by the terms of the Award. Those terms will allow for a maintenance of terms and conditions of employment at comparable terms with other law enforcement personnel within the County, enhancing base salary payments for pension purposes while providing cost savings to the Borough for new personnel.

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

AWARD

All proposals by the Borough and the PBA not awarded herein shall be denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award.

1. **Duration** - There shall be a three-year agreement effective January 1, 2001 through December 31, 2003.
2. **Salary** - All steps shall be increased as follows and retroactive to their effective dates:

3.95% effective January 1, 2001
3.95% effective January 1, 2002
3.95% effective January 1, 2003

	2001	2002	2003
Probationary Patrolmen	\$31,185	\$32,417	\$33,697
Commencing 1 st Year Patrolmen	\$46,220	\$48,046	\$49,944
Commencing 2 nd Year Patrolmen	\$51,518	\$53,553	\$55,668
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Commencing 4 th Year Patrolmen	\$60,875	\$63,280	\$65,780
Detective	\$64,246	\$66,784	\$69,422
Sergeant/Dect. Sergeant	\$65,077	\$67,647	\$70,319
Lieutenant	\$69,319	\$72,057	\$74,903
Captain	\$73,915	\$76,834	\$79,869

The Agreement shall provide a new salary schedule for new employees hired after the date of this Award containing two additional salary steps. The salary schedule for new hires shall be as follows:

EMPLOYEES HIRED AFTER JULY 15, 2002

	2002	2003
Probationary Patrolmen	\$32,417	\$33,697
Commencing 1 st Year Patrolmen	\$37,561	\$39,044
Commencing 2 nd Year Patrolmen	\$42,705	\$44,391
Commencing 3 rd Year Patrolmen	\$47,849	\$49,738
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Commencing 5 th Year Patrolmen	\$58,137	\$60,432
Commencing 6 th Year Patrolmen	\$63,280	\$65,780
Detective	\$66,784	\$69,422
Sergeant/Dect. Sergeant	\$67,647	\$70,319
Lieutenant	\$72,057	\$74,903
Captain	\$76,834	\$79,869

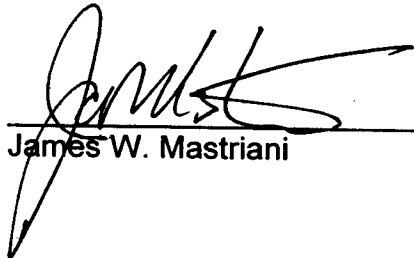
3. Clothing Allowance

The Clothing Allowance shall be increased by \$50.00 effective January 1, 2001 and by an additional \$50.00 effective January 1, 2003.

4. **Holiday Fold In**

Effective January 1, 2003, holiday pay shall be folded into all bargaining unit members' base salary and be used for all calculation purposes.

Dated: July 15, 2002
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 15th day of July, 2002, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.


Gretchen L. Boone

GRETCHEN L. BOONE
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/13/2003