

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between:

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**TOWNSHIP OF WYCKOFF**

“Employer,”

- and -

**WYCKOFF PBA LOCAL 261**

“Union.”

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**INTEREST ARBITRATION  
DECISION AND  
AWARD**

Docket No. IA-2003-040

**Before  
James W. Mastriani  
Arbitrator**

Appearances:

**For the Township:**

Raymond R. Wiss, Esq.

Wiss, Cooke & Santomauro, PC

**For the PBA:**

Richard D. Loccke, Esq.

Loccke & Correia

I was appointed interest arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in this impasse involving the Township of Wyckoff [the "Township"] and Wyckoff PBA Local No. 261 [the "PBA"]. The impasse was not resolved during a pre-interest arbitration mediation. Formal interest arbitration hearings were held on February 9 and 10, 2004<sup>1</sup>. Substantial documentary evidence was submitted by both parties. Testimony was received on behalf of the PBA from Police Officer John Carbone, Hawthorne Police Department, Sergeant Edward Kasper, Oakland Police Department, Police Officer Al Sanagorski, Wayne Police Department, Detective Kevin Kosch, Franklin Lakes Police Department, Police Officer Mark Butler, Ridgewood Police Department, Police Officer Al Vallese, Mahwah Police Department and Police Officer Peter Goodman, Wyckoff Police Department. Testimony was receive on behalf of the Township by Police Chief John Ydo and Township Committeeman Joseph Fiorenzo. Post-hearing briefs were filed and transmitted to each party on April 6, 2004.

### **FINAL OFFERS OF THE PARTIES**

As required by statute, the Township and the PBA submitted the following final offers prior to the commencement of formal hearings.

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<sup>1</sup> These proceedings were unintentionally delayed due to the illness and subsequent death of the Township's then labor counsel.

### **Final Offer of PBA Local 261**

1. Wage Increase – the PBA proposes a five (5) calendar year contract with a 5% increase effective each successive January 1<sup>st</sup>. The term of this contract would commence January 1, 2003.
2. Detective Overtime – The PBA proposes that the overtime program presently available to all other officers be extended to persons in the Detective Bureau.
3. Compensatory Time – The PBA proposes that officers working overtime be provided with the option of electing to receive compensation either in paid overtime as is done presently or to have the additional option of taking compensation in the form of compensatory time off (CTO). CTO would be calculated at 150% of actual time worked (for ex.: 1 ½ hours for each hour of extra duty worked).
4. Work Schedule – The PBA proposed a twelve (12) hour work schedule sequence, details of which were provided at hearing and made part of the record.

### **Final Offer of the Township**

1. Term: 5 years (1/1/03 – 12/31/07)
2. Wages: 3.5% per annum
3. Eliminate longevity for new hires
4. Increase salary steps from 8 to 10
5. Extend probationary period from 2 years to 5 years

### **BACKGROUND**

The Township of Wyckoff and PBA Local 261 are parties to a collective negotiations agreement which extended through December 31, 2002. The

bargaining unit consists of all Patrolmen, Sergeants, Lieutenants and Captains including officers assigned to the Detectives Bureau. The Chief of Police is excluded. At time of hearing, there were 2 Captains, no Lieutenants, 7 Sergeants and 16 Police Officers.

The Township of Wyckoff is located in Bergen County and is primarily a single family residential community. The Township is considered a Northwest Bergen County municipality, an unofficial designation for municipalities including Franklin Lakes, Mahwah, Waldwick, Upper Saddle River, Ramsey, Saddle River, Glen Rock, Allendale, Midland Park, Ridgewood, HoHoKus, Oakland and Wyckoff. The Township has 16,500 residents within an area of 6.7 square miles. Most of the Township is developed and there is only 1.5% of its land which is undeveloped. The Township's net valuation in 2003 was \$2,075,702,653. The tax rate per \$100 of assessed valuation in 2003 was \$2.31. 93% of taxes are paid by residential taxpayers. In 2003, the total municipal budget was \$11,538,337. The police costs in 2003 were \$2,814,997.60, representing 25% of the Township's budget. The main issues in dispute are salary and salary related issues as well as the PBA's proposal for a new work schedule. The positions of the parties on the disputed issues are as follows.

## **POSITIONS OF THE PARTIES**

### **THE PBA**

The PBA has proposed a change to the existing work schedule. Presently, police officers work 8 hour shifts on a 6/2, 6/3 schedule. This schedule was adopted in 1996 after joint discussion between the PBA and the Township. The Agreement is silent on the work schedule except for the following language set forth in Article 8.02:

The basic work week and basic work day shall be prescribed by the Chief of Police or his designee, and shall conform to accepted principles of Police scheduling. The work scheduled shall conform to applicable Federal and State laws.

The PBA proposes that the existing work schedule be changed to a modified Pitman 12 hour schedule wherein police officers work on a 14 day cycle of 2 on/2 off, 3 on/2 off and 2 on/3 off. Recognizing that a change to this schedule would significantly alter the number of hours worked on each shift, the number of days on and off and have impact on other day-to-day issues such as administrative and paid time off, the PBA has set forth a specific program detailing its proposed work schedule. The PBA argues that the program it has put forth is simply a model and not intended to fix operations. The specifics are set forth as follows:

#### **1. Work Schedule**

Modified Pitman 12 hour Schedule  
2 on / 2 off, 3 on / 2 off, 2 on / 3 off  
On – Monday, Tuesday

Off – Wednesday, Thursday

On – Friday, Saturday, Sunday

Off – Monday, Tuesday

On – Wednesday, Thursday

Off – Friday, Saturday, Sunday

Based on the contractual 2080 hours working any hours over 2080 will be banked with vacation days, holidays, personal days, shift-comp days, and family days. All converted into hours.

Every other weekend is off. (Friday, Saturday, Sunday)

Starting on a MONDAY

Unlike the current way that we work (the midnight shift starts at 11pm on the night before); with the new 12 Hour Schedule the CLANEDAR DAY/DATE is the actual day that you will be working

#### NOTE:

Your day of work is the actual calendar date. You are either coming in at 7am or at 7pm on the actual calendar date. It has nothing to do with the night before. If you are working "nights" on January 22, 2004 you will be reporting to work on January 22 at 7pm.

#### Shifts

There will be two (2) shifts dayshift and nightshift.

Dayshift will be 7am – 7pm.

Nightshift will be 7pm – 7am.

#### Rotation

Example: 2 weeks of days followed by two weeks of nights.

Each officer will work two (2) cycles of each shift then switch to the opposite shift. A cycle consists of 14 days, seven on/seven off.

#### 2. Sick Day

No change from an 8 hour sick day. A "sick day" is now 12 hours.

#### 3. Vacation and Holidays

Vacation and Holidays will be converted into hours as opposed to days.

All present time off (vacation, holiday, personal day, shift-comp day, family days) will be converted into hours as opposed to days.

Each officer will have an hourly bank where time will be conducted for holidays and vacation.

Example: A P.O. currently has 40 total days off per year.  $40 \times 8 = 320$  hours + 110 hours owed back = 430 hours off.

#### 4. Time Owed Back (110 hours)

This 110 hours will be added to each officer's vacation holiday time

Unused time must be used by January 15<sup>th</sup> of the next year as is current practice.

**5. Vacation and Holiday Weeks**

Vacation and Holiday weeks will be pick by seniority against other members of his ASSIGNED SQUAD. Picks will be based on seniority / time on the job, not based on rank.

**6. Shift Exchanges**

Will continue to be allowed as is current practice.

- 7. Number of concurrent hours allowed**  
Other than in emergent conditions.  
Chief's discretion.

**8. Academy and Other Scheduled Classes/Training**

Academy and other scheduled classes – Officers assigned to an academy or other “school” will report to class. At the end of the class whether it be a half day class or a full day class the officer can deduct the remainder of the time from his 12 hour day. For example: an officer is scheduled for a class from 9:00 am through 4:00 pm the officer would have to deduct 3 hours from his “time owed” account since his/her “normal shift” would have him on duty until 7:00 pm OR return to patrol for the remainder of the 12 hour shift.

**9. Bereavement Days**

No change other than a bereavement day will now be 12 hours as opposed to an 8 hour day.  
Each officer still receives the same number of bereavement days.

**10. Court Time**

Municipal Court will only be scheduled when an officer is on the nightshift, which is 7:00 pm – 7:00 am to keep up with the current practice. County court will be handled the same is current practice.

**11. Compensatory Time Off**

Cannot be taken if it incurs overtime or causes a shift to fall below minimum staffing levels as is current practice.

**12. Meals and Breaks**

Each officer is entitled to 2 – 20 minute breaks, 1 – 45 meal period during a 12 hour shift.

**13. Banked Time**

Can be carried over to the 15<sup>th</sup> of January

**14. Concurrent Shifts**

Maximum number concurrent 12 hour shifts allowed to be worked by an officer shall be at the Chief's discretion.

**15. Compensatory Time**

Cannot be used if incurs overtime.

**16. Outside Employment**

There are rules governing an officer's outside employment already in place.

**17. PBA Delegates Days**

Continue with current practice. State/County Meetings, State Conventions etc. PBA Days.

**18. Start Times**

May vary between supervisors and patrol as they currently do.

**19. Paragraph allowing the Township to work out any problems WITH PBA Local 261 to improve the schedule.**

Any mutual changes to schedule must be reviewed by attorneys and any revisions should be attached to the current contract in the form of a "rider."

The PBA contends that its work schedule proposal would further the interest and welfare of the public. The PBA describes the current 8 hour work schedule as "a dated, inefficient anachronism". According to the testimony at



hearing, the Township is the only municipality in the State known to use the existing schedule. The PBA maintains that the proposed 12 hour schedule sequence will improve the delivery of police services in the following areas:

- Increased operational efficiency
- Increased operational flexibility
- Enhanced ability to place officers where they are most needed matching the changing requirements of the specific community
- The improved work schedule proposed acts as a “force expander” enhancing the ability of the department to provide services to meet the changing needs of the municipality, even on a short term basis, without incurring overtime.
- The proposed improved work schedule facilitates “proportional staffing”. Manpower is not only used where it is needed most, it may also be tailored from where it may be needed least. The element of scheduling flexibility is a key concept in this work chart as proposed.
- Overtime reduction
- Sick time reduction
- Increased productivity
- Less managerial hands on substitution and adjustment
- Facilitates training
- Improved employee morale

The PBA emphasizes that 7 of the 8 municipalities bordering the Township have changed to the 12 hour work shift. The PBA presented as witnesses several experienced police officers from several municipalities that utilize 12 hour shift schedules including Hawthorne, Oakland, Wayne, Franklin Lakes, Ridgewood and Mahwah. They elaborated upon the advantages of the schedule discussed above. All testified that their 12 hour schedules were

adopted voluntary after joint discussions between the PBAs and their individual municipalities.

The PBA points to a number of inefficiencies in the current schedule including, but not limited to, the need to continually adjust the staffing on the work schedule, and the added overtime expense not only from the rank and file but for the Captain responsible for adjusting the work schedule. The PBA also points to the benefits of having fewer days of work and less rotation, all of which will promote healthier working conditions. The PBA notes that the Captain responsible for staffing the work schedule earned more overtime than the entire Department combined. According to the PBA, its proposed schedule will reduce overtime, bolster morale, and avoid "change over" times and will not require new hires or promotions.

The PBA has proposed annual wage increases of 5%. With respect to its wage proposal, the PBA calculates the value of one (1) percentage point and the total base rate value for the bargaining unit:

**CHART NO. 6  
Bargaining Unit Base Pay**

| (A)<br>Rank | (B)<br>Census | (C)<br>Rate (per J-2) | (D)<br>Col. (B) X Col. (C) |
|-------------|---------------|-----------------------|----------------------------|
| Captain     | 2             | \$94,192              | \$188,384                  |
| Lieutenant  | 0             | \$90,168              | 0                          |
| Sergeant    | 6             | \$86,174              | \$516,864                  |
| Patrolman   | 17            | \$82,117              | \$1,395,989                |
| Totals      | 25            |                       | \$2,101,237                |
|             |               |                       | 1% = \$21,012              |

Based upon this chart, a 1% increase in base rate is calculated at \$21,012. According to the Association, the unit's cost represents 4.3% of the Township's total levy (\$2.1 million out of \$48.9 million).

With respect to wages and benefits, the PBA compares itself to the following law enforcement agencies: Allendale, Closter, Edgewater, Glen Rock, Franklin Lakes, Hawthorne, Mahwah, Midland Park, North Haledon, Oakland, Ridgewood, Saddle Brook, Saddle River, the State Troopers' Fraternal Association, Wayne, and West Milford. The PBA contends that its base wages are "below the area average" and have "no offsetting non-base wage benefits". The PBA presents the following chart comparing base wage increases for municipalities they believe are comparable:

**CHART NO. 1  
Average Rates of Base Wage Increase Based on PBA Exhibits**

|                | 2003       | 2004       | 2005       | 2006       | 2007 |
|----------------|------------|------------|------------|------------|------|
| Ridgewood      | 4.4(2/2.4) | 4.4(2/2.4) | 4.4(2/2.4) | 4.4(2/2.4) |      |
| Saddle River   | 4.75       | 4.75       | 4.75       |            |      |
| Hawthorne      | 4.         | 4.         | 4.         | 4.         |      |
| Oakland        | 11         | 4.3        | 4.25       | 4.5        |      |
| North Haledon  | 5.7        |            |            |            |      |
| Franklin Lakes | 3.75       |            |            |            |      |
| Allendale      | 4.         | 4.         |            |            |      |
| Closter        | 4.         | 4.         | 4.         | 4.         | 4.   |
| Edgewater      | 5.         | 5.         | 5.         |            |      |
| Glen Rock      | 4.         |            |            |            |      |
| Mahwah         | 4.         | 4.         | 4.         | 4.         |      |
| Midland Park   | 3.75       |            |            |            |      |
| Saddle Brook   | 4.5        |            |            |            |      |
| STFA           | 4.         | 4.         |            |            |      |
| Wayne          | 4.         | 4.25       |            |            |      |

|              |        |       |        |       |      |
|--------------|--------|-------|--------|-------|------|
| West Milford | 4.     |       |        |       |      |
| Averages     | 4.673% | 4.27% | 4.343% | 4.18% | 4.2% |

Based upon the comparison chart above, the PBA contends that its proposal is close to the comparable averages on the chart.

The PBA points out that the average base rate increases of the proposed comparables of the Township closely resembles those in the PBA's comparables. The PBA presents the following chart comparing base wage increases for municipalities chosen by the Township:

**CHART NO. 2**  
**Average Rates of Base Increase**  
**Using Only Employee Selected Comparables**

|                    | 2003       | 2004       | 2005       | 2006       | 2007 |
|--------------------|------------|------------|------------|------------|------|
| Mahwah             | 4.         | 4.         | 4.         | 4.         |      |
| Tenafly            | 4.         | 4.         |            |            |      |
| Upper Saddle River | 3.95       |            |            |            |      |
| Saddle River       | 4.75       | 4.75       | 4.75       |            |      |
| Westwood           | 4.         | 4.         |            |            |      |
| Woodcliff Lake     | 4.         | 4.         |            |            |      |
| Norwood            | 4.         |            |            |            |      |
| Oakland            | 11         | 4.3        | 4.25       | 4.5        |      |
| Old Tappan         | 3.75       | 3.75       | 3.75       |            |      |
| Paramus            | 3.9        |            |            |            |      |
| Park Ridge         | 4.         |            |            |            |      |
| Ridgewood          | 4.4(2/2.4) | 4.4(2/2.4) | 4.4(2/2.4) | 4.4(2/2.4) |      |
| River Vale         | 3.9        | 3.9        |            |            |      |
| Dumont             | 4.25       |            |            |            |      |
| Demarest           | 3.9        | 3.9        |            |            |      |
| Cresskill          | 3.9        |            |            |            |      |
| Closter            | 4.         | 4.         | 4.         | 4.         | 4.   |
| Bergenfield        | 4. (3/1)   | 4. (3/1)   |            |            |      |
| Allendale          | 4.         | 4.         |            |            |      |
| New Milford        | 4.         | 4.         |            |            |      |
| Northvale          | 3.5        |            |            |            |      |

|                 |        |        |        |       |      |
|-----------------|--------|--------|--------|-------|------|
| Harrington Park | 4.     |        |        |       |      |
| Hackensack      | 4.5    | 4.     |        |       |      |
| Glen Rock       | 4.     |        |        |       |      |
| Franklin Lakes  | 3.75   |        |        |       |      |
| Elmwood Park    | 4.     |        |        |       |      |
| Emerson         | 4.     |        |        |       |      |
| Montvale        | 4.     |        |        |       |      |
| Midland Park    | 3.75   |        |        |       |      |
| Hohokus         |        | 4.5    | 4.5    | 4.75  |      |
| Hillsdale       | 3.75   | 3.75   |        |       |      |
| Averages        | 4.232% | 4.069% | 4.236% | 4.33% | 4.2% |

The PBA maintains that its overall benefits package is "slightly below" the comparable average. The Association presents a chart comparing holiday benefits:

**CHART NO. 3  
Wyckoff PBA Annual Holidays Benefit  
Compared to Average Based on PBA Exhibits**

| Annual Holidays                |                            |
|--------------------------------|----------------------------|
| Ridgewood                      | 13                         |
| Saddle River                   | 13                         |
| Hawthorne                      | 13                         |
| Oakland                        | 14                         |
| North Haledon                  | 14                         |
| Franklin Lakes                 | 13                         |
| Allendale                      | 12                         |
| Closter                        | 13                         |
| Edgewater                      | 13                         |
| Glen Rock                      | 13                         |
| Mahwah                         | 14                         |
| Midland Park                   | 12                         |
| Saddle Brook                   | 14                         |
| Wayne                          | 13                         |
| West Milford                   | 14                         |
| Waldwick                       | 13                         |
| Average                        | 13.19 Annual<br>Holidays   |
| Wyckoff                        | 12                         |
| Wyckoff compared<br>to average | (1.19 holidays)<br>(10.8%) |

The PBA compares longevity maximums on a percentage basis:

**CHART NO. 4  
Longevity Maximum Percentage  
Based on PBA Exhibits**

|   | Max Longevity<br>Percentage |
|---|-----------------------------|
| Ridgewood   | 10%                         |
| Saddle River  | 8%                          |
| Hawthorne   | 10%                         |
| Oakland   | 12%                         |
| North Hudson  | 12%                         |
| Allendale   | 10%                         |
| Closter   | No max                      |
| Edgewater   | 12%                         |
| Saddle Brook  | 10%                         |
| Wayne   | 12%                         |
| West Milford  | 10%                         |
| Waldwick  | 10%                         |
| Average Max Longevity                               | 10.55%                      |
| Wyckoff longevity max<br>for all hired after 1/1/98 | 8%                          |
| Wyckoff longevity max<br>compared to average        | (2.55%)<br>(31.8%)          |

The PBA also compares clothing allowance:

**CHART NO. 5  
Annual Clothing Allowance  
Benefits Based on PBA Exhibits**

|                | Annual Clothing<br>Allowance |
|----------------|------------------------------|
| Ridgewood      | \$800                        |
| Saddle River   | \$1600                       |
| North Haledon  | \$990                        |
| Franklin Lakes | \$1100                       |
| Allendale      | \$800                        |

|                                 |                    |
|---------------------------------|--------------------|
| Closter                         | \$750              |
| Edgewater                       | \$800              |
| Glen Rock                       | \$800              |
| Mahwah                          | \$700              |
| Midland Park                    | \$700              |
| Saddle Brook                    | \$1150             |
| Wayne                           | \$800              |
| West Milford                    | \$500              |
| Waldwick                        | \$550              |
| Average                         | \$860              |
| Wyckoff PBA Clothing Allowance  | \$575              |
| Wyckoff PBA compared to average | (\$285)<br>(49.6%) |

The PBA points out that its clothing allowance benefit would have to increase by 50% just to reach the comparable average.

The PBA seeks to have officers in the Detective Bureau be paid overtime in the same fashion as all other Township officers. The PBA indicates the following municipalities pay overtime to its detectives:

- Mahwah
- Oakland
- Franklin Lakes
- Pompton Lakes
- North Haledon
- Paterson
- Hawthorne
- Midland Park
- Waldwick
- Ramsey
- Suffern
- Upper Saddle River
- Ridgewood
- Fair Lawn
- Elmwood Park
- Hohokus

- Saddle Brook
- Montvale
- Park Ridge
- Westwood
- Emerson
- New Milford

The PBA also seeks the option of accepting compensatory time at time and one-half in lieu of overtime pay. Police officers now receive paid overtime for work in excess of their basic eight hour work day or work week but in payment of time and one-half rather than in time. Time would be banked and would be subject to prior Department approval before taking the time. The PBA points out that the following municipalities offer compensatory time:

- Ringwood
- Wanaque
- Oakland
- Franklin Lakes
- Pompton Lakes
- Wayne
- North Haledon
- Prospect Park
- Paterson
- Bergen County Police
- Mahwah
- West Milford
- Ramsey
- Midland Park
- Hawthorne
- Elmwood Park
- Glen Rock
- Ridgewood
- Suffern
- Upper Saddle River
- Saddle River
- Hohokus
- Oradell
- Fair Lawn



- Paramus
- Maywood
- Washington Township
- Woodcliff Lake
- Montvale
- Park Ridge
- Westwood
- Hillsdale
- Emerson
- New Milford

The PBA opposes the Township's proposal to eliminate longevity payments for new hires. It points out that longevity became two-tiered in 1998 thus the more recently hired officers have already accepted lower career and pension earnings. The PBA asserts that there is no precedent of awarding similar proposals in any interest arbitration proceedings within Bergen County. The PBA cites several interest arbitration awards in support of its position rejecting the elimination of longevity. The PBA emphasizes that "[w]hile 3 or 4 towns out of the 70 municipalities in the County of Bergen may have made longevity adjustments, there was a *quid pro quo*" for the elimination or modification of the benefit.

The PBA disputes the Township's claim that a comparison with other Township employees supports a package of less value than the PBA's proposal. The PBA points out that it has historically received higher salary increases than other Township employees. From 1997 to 2002, the PBA's annual increases averaged 4.4% compared to the DPW and Town Hall employees who received an average of 3.5%.

As for the Township's comparison of its officers to employment in the private sector, the PBA contends that private sector comparisons are not entitled to significant weight due to the unique qualifications, duties and responsibilities of a police officer and their obligation to act as law enforcement officer at all times and given the strict statutory regulations under which a police officer must perform.

Addressing N.J.S.A. 34:13A-16(g)4, the stipulations of the parties, the PBA indicates that the parties have agreed that statutory criteria g(5), the lawful authority of the employer, is not an issue in this matter. In addition statutory criteria g(6), the financial impact on the taxpayers and residents, "is limited and the public employer does not challenge or advance any argument as to ability to fund the PBA proposals." The PBA notes that all other stipulations were procedural in nature.

Addressing N.J.S.A. 34:13A-16g (6), the impact on taxpayers and residents, the Association emphasizes that the Township has no cap prohibition and is clearly able to fund the PBA's proposals. The PBA points out that two (2) of its proposals, the 12 hour work schedule system and compensatory time, will actually save the Township money rather than require additional expenditures.

The PBA notes the Township has been the recipient of annual cost savings as a result of legislation (S-1961) passed affecting pension cost abatement. Although a 20% phase-in formula has recently been implemented, the PBA points out that the Township benefited from enormous savings from not having to make pension contributions for many years.

The PBA reviews the Township's financial documents in evidence and asserts that the Township is in a strong financial condition as evidenced by an extremely high tax collection rate, a below average effective tax rate, and an expanding ratable base. The PBA emphasizes that the Township has no debt whatsoever.

Addressing the cost of living criterion, the PBA indicates that recent history evidences the fact that its average annual increase of 4.4% has exceeded the average CPI of 2.3% by 2.1% demonstrating that the CPI has not been and should not be a controlling factor in this wage determination.

Addressing N.J.S.A. 34:13A-16g (8), the continuity and stability of employment, the PBA contends the private sector concepts of "area standards" and "going rate" support an award of its offer. The PBA refers to the comparability data and proofs presented at hearing and discussed above under criteria g (2) and g (3).

Based upon the above summary of its position, the PBA urges that its final offer be accepted in its totality.

### **TOWNSHIP OF WYCKOFF**

Addressing its economic proposals, the Township contends its comparison group composed of forty-four (44) Bergen County municipalities located north of Route 4/Route 17 is entitled to "greater weight" than the PBA's because they possess characteristics similar to Wyckoff. The Township also uses another subset of comparables, the thirteen Northwest Bergen County municipalities. All of these comparables are said to reflect wage increases less than those proposed by the PBA.

The Township maintains there is substantial support for its proposed annual wage increases of 3.5%. The Township indicates that its proposal exceeds the current municipal CAP rate of 2.5% and also the New York-Northeastern New Jersey CPI of 1.68% for 2001, 3.1% for 2002, and 3.26% for 2003. The Township points out that since 1997 the unit's wage increases have exceeded the CPI while actually doubling the CPI.

Comparing top step salaries in 2002, the Township indicates the unit ranks ninth (9<sup>th</sup>) in its comparable group of 44 municipalities. In addition, assuming its wage proposal of 3.5% is awarded, the unit would rank seventh (7<sup>th</sup>) out of 39 in 2003 and sixth (6<sup>th</sup>) out of 22 in 2004 in municipalities where salary

evidence was obtainable. The Township indicates its comparison of top step salaries for 2002 of the thirteen (13) municipalities located in Northwest Bergen County places Wyckoff fourth (4<sup>th</sup>) out of 13 in 2002:

**Top Step Base Pay**

| <b>Town</b>        | <b>2002</b>   |
|--------------------|---------------|
| Franklin Lakes     | 88,200        |
| Mahwah             | 84,226        |
| Waldwick           | 83,879        |
| <b>Wyckoff</b>     | <b>82,117</b> |
| Upper Saddle River | 81,520        |
| Ramsey             | 81,500        |
| Saddle River       | 81,076        |
| Glen Rock          | 79,613        |
| Allendale          | 78,273        |
| Midland Park       | 77,765        |
| Ridgewood          | 77,514        |
| HoHoKus            | 77,426        |
| Oakland            | 77,000        |

The Township emphasizes the reasonableness of its wage proposal by pointing out that it is consistent with the 3.5% across the board increases blue collar DPW employees and Town Hall employees recently received in 2003. The Township's proposal would provide officers with the same percentage increases but stresses that it yields larger dollar amounts given the fact that police officers have significantly higher salaries. The Township points out that the officers' salaries from 1997 to 2002 have exceeded other Township employees by a total of 6.3% as reflected in the following chart:

## Township of Wyckoff Comparative Salary Increase Analysis

| Year | PBA | DPW  | Town Hall |
|------|-----|------|-----------|
| 1997 | 5.0 | 3.5% | 3.5%      |
| 1998 | 3.9 | 3.5% | 3.5%      |
| 1999 | 4.3 | 3.5% | 3.5%      |
| 2000 | 4.3 | 3.5% | 3.5%      |
| 2001 | 4.4 | 3.5% | 3.5%      |
| 2002 | 4.5 | 3.5% | 3.5%      |
| 2003 | NA  | 3.5% | 3.5%      |

The Township proposes to eliminate longevity for new employees. The Township contends that the longevity system was once needed because police salaries lagged behind the private sector, a fact it no longer believes is operative. According to the Township, the system is now antiquated and presents a "major financial undertaking by municipal employers...." The Township emphasizes that its proposal has no effect on current employees and cites several interest arbitration awards in favor of eliminating longevity. The Township indicates that at least 12 of the 70 Bergen County municipalities have either eliminated or adopted a two-tiered system for longevity. Moreover, the Township emphasizes that longevity was eliminated for Wyckoff's new blue and white collar employees in 1994. The Township points out that the cost of police longevity to the Township was \$104,692 in 2002, \$108,356 in 2003, and \$119,951 in 2004. This cost represented approximately 4% of the total police budget in 2003. The Township anticipates longevity to cost \$138,192 in 2005, \$144,832 in 2006, and \$161,689 in 2007.

The Township seeks to modify existing salary schedules by increasing the number of salary steps from eight (8) to ten (10) for all new hires. According to the Township, this added delay to the top step will only provide it with "minor" financial relief but that it is reasonable to extend the time period from date of hire to top step pay.

The Township opposes the PBA's compensatory time proposal. It contends that the current practice of an hour of compensatory time for an hour of overtime worked is sufficient and should remain within the Township's discretion.

The Township contends the PBA's proposal to increase the overtime rate for officers regularly assigned to the Detective Bureau from an annual stipend of \$1,200 to an hourly rate of one and one-half times regular pay lacks evidentiary support and must be rejected.

The Township vigorously opposes the PBA's work schedule proposal. At the outset, the Township acknowledges the dismissal of a scope petition it filed with PERC on timeliness but refers to language in PERC's scope decision that it deems significant:

The arbitrator should consider the parties' evidence and arguments on the PBA's work schedule proposed, including the Township's staffing and supervision arguments. Should the arbitrator issue an award that the Township believes would impermissibly compromise its ability to set staffing

levels, the Township may appeal pursuant to N.J.S.A. 34:13A-16f(5)(a).

According to the Township, the PBA's proposal not only lacks evidentiary support, but it is also unlawful because it violates the Township's managerial prerogative. It points out that the Township has utilized eight (8) hour work schedules for at least thirty (30) years. In fact, in 1996, the Township changed the work schedule to a 6/2 6/3 schedule in part to address PBA scheduling concerns. The Township maintains the PBA's proposal "seeks to directly set staffing levels by requiring that four patrolmen and one sergeant serve on each twelve hour shift." The Township acknowledges that while the PBA now argues that it did not specifically mandate staffing levels at four patrolmen and one sergeant per 12 hour shift "there simply is no practical alternative" given the size of the Department. This was acknowledged, it asserts by the testimony of Chief Ydo and Police Officer Peter Goodman. According to Chief Ydo, "the effect on staffing levels would be so great that captains and detectives would be required to fill patrol slots." The Township notes that the PBA's proposal interferes with its managerial prerogative as it includes the number of squads and officers needed to man the shifts and seeks equal staffing for each shift and asserts that the 12 hour shifts would eliminate the flexibility now existing in the 8 hour shifts. In addition, the PBA's proposal fails to address how supervisory positions will be filled during sickness, vacation, etc. According to the Township, supervisor absences would sometimes result in no patrol supervision at all. The Township



indicates that gaps in supervisory coverage would be "further exacerbated by the PBA's proposal because it requires 110 hours of "give back time":

The PBA's proposal calls for a 12 hour shift under a 2 days on, 2 off, 3 on, 2 off, 2 on, 3 off cycle. Under the current CBA, an officer is obligated to work 2,080 hours per year (Article 8.04). The PBA acknowledged that a 12 hour schedule provides for 2,190 - - - 110 hours more than required under the current CBA. Therefore, each officer would have to immediately be credited with 110 hours off (see Exhibit "D" at p. 11). This, in turn, will result in each officer working 9.1 (12 hour) days less than what the current master schedule provides.

The Township also points out that the PBA's proposal for a 12 hour day fails to consider other responsibilities such as the DARE program and bicycle patrol which are now handled more easily during an 8 hour shift. The Township contends that the current schedule provides the Department with necessary flexibility and that it should not be changed.

The Township contends there are other problems with the PBA's work schedule proposal. For instance, the schedule could result in officers working 24 consecutive hours, "forced" staffing, and increased overtime expense in order to meet minimum staffing levels and court appearance requirements. The Chief also believes "fatigue of officers is a common and consistent problem" with the 12 hour shift schedule especially when overtime is required during three consecutive shifts.

The Township addresses the interests and welfare of the public. The Township asserts that the need to limit the cost of the police department is necessary for maintaining a low tax rate, a measure inconsistent with meeting the PBA's demands for 5% annual increases. The Township maintains that its wage proposal is reasonable and its proposal to eliminate longevity is equally supported by the evidence. The Township also seeks rejection of the proposed 12 hour work schedule because its alleged interference with its prerogative and increased costs will not serve the interests and welfare of the public.

Addressing N.J.S.A. 34:13A-16g (2) and (3), the Township refers to its comparability analysis discussed above. It points out that its proposal will place its officers "near the top" of the comparables. The Township also emphasizes that longevity has been eliminated for other newly hired Township employees and should be eliminated as well for police officers. The Township contends there is no evidence that the elimination of longevity will affect its ability to attract qualified applicants or interfere with the continuity and stability of employment. The Township maintains that the criteria also support the awarding of its proposal to increase the salary steps and rejecting the PBA's detective overtime and compensatory time proposals.

With respect to the stipulations of the parties and the lawful authority of the Township, the Township indicates the parties have agreed to a five (5) year term agreement and that the Cap law is not a prohibiting factor in this matter.

Addressing the financial impact criterion, the Township indicates the police department represented 25% of the Township's entire 2003 municipal budget (\$2.8 million out of \$11.5 million). The Township emphasizes that \$2.287 million of the \$2.8 million pays for police salaries and benefits. The Township points out that the health insurance premium costs for the benefits it provides has increased 20% in 2002, 22.5% in 2003, and 13.1% in 2004 – a total increase of over \$100,000. The Township asserts that its need to remain fiscally conservative is supported by the fact that Township residents have rejected the proposed 2003-2004 school budget as well as a school construction project referendum.

Addressing the cost of living, the Township points out that the CPI for New York-Northeastern New Jersey increased 3.1% for 2002 and 3.26% for the first 11 months of 2003. The Township indicates its wage proposal is consistent with the CPI while the PBA's proposal exceeds the CPI by almost 50%.

Based upon all of the above, the Township urges that its proposals be accepted in their totality.

### **DISCUSSION**

I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Township and the PBA have fully and expertly articulated

their positions on the issues and have submitted testimony and considerable documentary evidence and argument on each statutory criterion in support of their respective positions. I have carefully reviewed, considered and weighed the evidence and arguments.

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

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

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

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

(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.

After applying the criteria to the record developed at hearing, I have concluded, for the reasons set forth below, that a reasonable determination of the

disputed issues includes a new contract term extending through December 31, 2007, annual wage increases of 4% effective January 1, 2003, 4% effective January 1, 2004, 4% effective January 1, 2005, 4% effective January 1, 2006, and 4% effective January 1, 2007 and increases in the detective overtime allowance for officers to \$1,500 effective January 1, 2003 and for the officer in charge of the Detective Bureau to \$1,750 effective January 1, 2003. In fashioning the Award along these terms, I have denied the Township's proposals to eliminate longevity for new hires, add two steps to the salary schedule and extend the probationary period from 2 years to 5 years as well as the PBA's proposals to change the work schedule and to allow compensatory time at time and one-half for each hour of overtime in lieu of paid overtime.

I commence this analysis with the issues of salary and salary related items.

The Township has proposed annual increases of 3.5% while the PBA has proposed annual increases of 5.0%. Based upon a base line salary total of \$2,101,237, a 1% difference in positions represents \$21,012. The annual difference in the two salary proposals amounts to \$31,518. The parties agree that this difference does not implicate N.J.S.A. 34:13A-16g(5), the lawful authority of the employer, inasmuch as an award based upon either proposal would not compel the Township to exceed its lawful spending limitations commonly referred to as the CAP law. The Township also acknowledges that it

does not have an inability to fund an award based upon either proposal although it does not concede, for other reasons, that an award at the level proposed by the PBA would be appropriate or is supported by the overall statutory criteria. I note that the term "inability to pay" is not a statutory criterion and is merely reflective of an understanding that the Township does not contend that there is a basis for it to claim that it could not perform if required to fund an award at the level proposed by the PBA.

The Township's opposition to the PBA's proposed increases of 5% include cost of living data, N.J.S.A. 34:13A-16g(7), which is well below the PBA proposal, internal comparisons with the Township's non-law enforcement employees which reflect increases of 3.5%, N.J.S.A. 34:13A-16g(2)(c), and comparable increases granted to the law enforcement personnel within the municipalities of Bergen County and, in particular, the Northwest Bergen County Municipalities, N.J.S.A. 34:13A-16g(2)(c) which, on average, are less than the 5% proposed by the PBA.

The PBA's opposition to the Township's proposed increases of 3.5% include comparisons to increases granted to the law enforcement personnel within the municipalities of Bergen County including the Northwest Bergen County Municipalities which reflect higher increases than those proposed by the Township, N.J.S.A. 34:13A-16g(2)(c). The PBA also rejects the internal comparisons pointing out that the PBA has received average increases of 4.4% over the last several years compared to the 3.5% received by the Township's

non-law enforcement personnel. The PBA also rejects reliance on the cost of living data given the fact that the recent increases it has received have been above cost of living, the fact that the Township's proposal is also in excess of the cost of living data as well as the average salary increases within Bergen County, all of which reflect increases above the consumer price index.

There is merit to the Township's opposition to the PBA's proposed annual increases of 5%. Increases of 5% are well in excess of all of the comparability evidence in the record when that evidence is considered on the whole regardless of which comparison group is accepted for purposes of analysis. It is reasonable to accept the subsets of the 13 Northwest Bergen County Municipalities and the 44 Bergen County communities above the Route 4/Route 17 borders for comparison purposes. The Township points out that the Northwest Bergen County designation is more than just a geographic connotation because it also provides a basis for affiliations in such groups as the Northwest Bergen County Mayor's Association, the Northwest Bergen County Mutual Aid Association, Northwest Bergen Shared Services Consortium, and the informal Northwest Bergen County Police Chiefs' Association. Significantly, most, if not all, of the comparables offered by the PBA include the municipalities in both of the subsets of comparables. The PBA data reflects higher percentages than the Township's but it appears that the PBA data is skewed somewhat by the inclusion of an 11% increase in Oakland in 2003 resulting from fold-ins of already received compensation into the salary base. The comparability data overwhelmingly



reflects annual adjustments of 4% as the norm. This is especially true with municipalities who have extended their agreements through 2006 and 2007. For example, Hawthorne received 4% adjustments in years 2003 through 2006, Closter received 4% adjustments in years 2003 through 2007, and Mahwah received 4% adjustments in years 2003 through 2006. This comparability data must be accorded substantial weight.

There is also merit to the PBA's opposition to the Township's proposed annual increases of 3.5%.

I conclude that a reasonable determination of the salary issue is to award annual increases of 4% in Wyckoff in each of the years through 2007. The fact that these increases are 0.5% above those received by the Township's non-law enforcement employees does not render these increases inappropriate in light of the data which reflects that there have been similar differences in annual adjustments between these two sets of employees over the last several years. For this reason, and in the absence of adverse financial impact, I give less weight to this internal comparable. The cost of living data is clearly lower than what I have awarded but there is no evidence that exclusive reliance should be placed on the cost of living data. Exclusive reliance on the CPI is absent among the comparables in evidence and in the Township's proposal as well as in the adjustments the Township has provided for its non-law enforcement personnel. The cost of living data is not irrelevant because it weighs heavily against an

award of the PBA's proposal as well as an award geared towards the higher end of the increases reflected in a few of the Bergen County communities, including Saddle Brook, Saddle River and Ridgewood.

An additional consideration is the overall compensation presently received by unit employees, N.J.S.A. 34:13A-16g(3), considered independently as well as when compared to other police departments in Bergen County. Top step patrolmen now earn \$82,117 as of January 1, 2002. A comparison with the subset of 44 comparable municipalities shows that Township police officers rank 9<sup>th</sup> out of 44 and a comparison with the subset of 13 municipalities in Northwest Bergen County shows that Township police officers rank 4<sup>th</sup> out of 13 with respect to top step police officer salaries. The Township's police officers are well compensated and the terms of this award will not cause change in their relative level of compensation by increasing top step patrol officer pay, exclusive of longevity, to \$99,908 effective January 1, 2007. The continuity and stability of employment will be furthered and not diminished in any respect by the wage adjustments, N.J.S.A. 34:13A-16g(8) or the remaining terms of the Award.

The terms of the award will not cause adverse financial impact on the governing body, its residents or taxpayers, N.J.S.A. 34:13A-16g(6). It is not in dispute that the Township will not be compelled to exceed its budget cap and that it does not have an inability to fund the award. These facts, as pointed out by the Township, do not render consideration of financial impact irrelevant. I have

reviewed the issue of financial impact and conclude that the impact will not be adverse. Exclusive of roll-up costs, the financial difference between the terms of this award and the Township's offer is between \$10,000 and \$11,000 annually. Based upon all of the testimony and the official financial documents of the Township in evidence, it is readily apparent that the Township is in sound financial condition. The Township's municipal tax rate is comparatively moderate and the municipal portion of the tax rate in 2003 was lower than it was in 2000. Its effective tax rate in 2003 of 1.66, is a figure lower than the surrounding communities of Allendale, Ridgewood, Oakland, Midland Park and Waldwick. The Township's ratable base has grown by over \$157 million between 1998 and 2002. The Township has no debt and has an average tax collection rate of 99%. The Township is fiscally strong and is in a position to fund the terms of the award without adverse financial impact.

In addition to salary there are a few salary related issues. I have considered these issues both independently and in conjunction with the salary increases awarded. The Township has proposed to eliminate longevity for new hires. The PBA opposes this proposal. Although the Township has forcefully articulated its reasons in support of this proposal, I am not persuaded that the Township has met its burden on this issue. The Township accurately points out that several municipalities in Bergen County have eliminated this benefit but the vast majority have not. The Township also points out that several municipalities in Bergen County have also adopted a second tier for their longevity programs.

Significantly, the Township of Wyckoff is one of them. Effective January 1, 1998, the Township and the PBA modified the then existing longevity program for police officers hired after January 1, 1998. There are presently two longevity schemes in effect depending on date of hire. The most significant aspect of the revised longevity program is the reduction in the maximum longevity percentage from 10% to 8%. Although the presence of the revised longevity program does not preclude further revisions in the longevity program in the future, I cannot conclude that the inclusion of a third longevity tier for unit employees within such a short period of time is appropriate or reasonable. Thus, I deny the Township's proposal.

The Township has also proposed that there be two additional steps to the salary schedule for newly hired police officers. The PBA objects to this proposal. The agreement contains two salary schedules, one (Appendix A-1) for employees hired before January 1, 1998 and one (Appendix A-2) for employees hired after January 1, 1998. Appendix A-2 increased the number of steps from 5 to 7 excluding the two six-month steps prior to Step 1. Thus, the revised schedule has eight steps. The Township's proposal is similar to its longevity proposal in that on January 1, 1998 a second tier of salary schedule was adopted. I deny the Township's proposal on this issue for similar reasons cited in support of the denial of the Township's longevity proposal.

The PBA has proposed that police officers have the option of taking compensatory time at time and one-half instead of receiving overtime pay. The Township opposes this proposal. Article 8.01 requires that work in excess of the employee's basic work day or work week shall be paid as overtime at the rate of time and one-half. The PBA proposes that compensatory time be allowed to accumulate in a bank to be utilized upon the request of an officer which would be subject to the prior approval of the department. The PBA cites many area municipalities which permit compensatory time accumulation at time and one-half including several surrounding communities. The Township opposes this proposal and contends that the PBA has offered insufficient evidence as to why its proposal should be accepted. The existing overtime pay requirement is liberal in that overtime is required in excess of an 8 hour day. I am reluctant to award this proposal given the absence of record evidence as to what impact, if any, the accumulated banking of time at time and one-half may have on the department's staffing requirements. Thus, this proposal is denied.

The PBA has also proposed that the overtime program presently available to all other police officers be extended to persons in the Detective Bureau. Currently, Article 9.03 provides that "all employees regularly assigned to the Detective Bureau shall be compensated at the overtime rate (time and one-half (1 ½)) for all investigative work in excess of one hundred and seventy-one (171) hours in a twenty-eight (28) day work cycle." The PBA's proposal would require that these Detectives receive paid overtime at time and one-half whenever they

work in excess of the basic 8 hour work day or work week without having to first work 171 hours in a 28 day period before being eligible for paid overtime on a premium basis. Currently, Article 9.01 and 9.02 requires that officers regularly assigned to the Detective Bureau receive a payment of \$1,200 and that the officer in charge receive \$1,450. The Township suggests that this payment is in lieu of overtime worked up to the 171 hour requirement although there is nothing in Article 9.02 which so states. I conclude that there is insufficient evidence to warrant an alteration in the longstanding overtime arrangement for employees regularly assigned to the Detective Bureau. However, because of the apparent linkage between the Detective stipend or payment and the 171 hour requirement, it is reasonable to adjust the amount of that stipend or payment due to the increases provided herein in the hourly rates and annual salaries for all police officers. Accordingly, the payment set forth in Article 9.02 should be adjusted to \$1,500 effective January 1, 2003 for officers regularly assigned to the Detective Bureau and \$1,750 effective January 1, 2003 for the officer in charge.

The Township has proposed to extend the probationary period for a police officer from 2 years to 5 years. The PBA opposes this demand. Insufficient justification has been provided in support of this proposal. Accordingly, this proposal is denied.

The remaining issue in dispute is the PBA's proposal to change the work schedule. The existing Agreement does not contain any language setting forth

the current work schedule. Instead, it states that "the basic work week and basic work day shall be prescribed by the Chief of Police or his designee, and shall conform to accepted principles of Police scheduling" and that "the work schedule shall conform to applicable Federal and State Laws." The patrol division is staffed by five Sergeants and fifteen police officers. At the present time, police officers work on three rotating 8 hour shifts. 8 hour shifts have been in place for approximately 30 years. Article 8.03 states that during the normal 8 hour work day tour, the employer shall provide forty-five (45) minutes of meal time together with two (2) ten (10) minute rest periods. The first 8 hour shift is 7 a.m. to 3 p.m., the second shift is 3 p.m. to 11 p.m. and the third shift is 11 p.m. to 7 a.m. The 8 hour days are worked on a 6/2, 6/3 schedule. That is, an officer now works six days on with two days off followed by six days on with three days off. This schedule was adopted in 1996 with the input of the PBA to address concerns about the then existing 8 hour schedule. The PBA acknowledges that this schedule improved the schedule which preceded it but that it has now become antiquated and in need of the changes that it has proposed. The PBA proposes twelve (12) hour shifts during a fourteen (14) day cycle with two days on, two days off, three days on, two days off, two days on, three days off. Because the proposed schedule provides for 2,190 hours, 110 hours more than presently required, the PBA proposes to have each officer credited with 110 hours off, the equivalent of 9.1 twelve hour shifts, to compensate for the increase in work hours.

The Township opposes the PBA's work schedule proposal. During this proceeding, the Township filed a scope of negotiations petition seeking a restraint of the PBA's proposal alleging that it significantly interfered with its managerial prerogatives and was, therefore, non-negotiable and improperly before the arbitrator for consideration. On March 26, 2004, PERC entered an order. It did not consider the merits of the petition but instead dismissed the petition as untimely. In so ruling, PERC directed that:

The arbitrator should consider the parties' evidence and arguments on the PBA's work schedule proposed, including the Township's staffing and supervision arguments. Should the arbitrator issue an award that the Township believes would impermissibly compromise its ability to set staffing levels, the Township may appeal pursuant to N.J.S.A. 34:13A-16f(5)(a).

I have very closely considered and evaluated the main areas of evidence submitted and the arguments advocated by each party on this disputed issue. The PBA asserts that its proposed work schedule provides greater flexibility in the deliver of public services than does the existing work schedule and would also reduce the costs of operating the police department. Pointing to work charts, the PBA contends that the existing schedule does not work as reflected by the enormous amount of personnel changes simply to meet staffing requirements. For example, there were more than 60 such staffing changes during the first two months of 2004. According to the PBA, the master schedule for the 12 hour shifts can be accomplished much easier, would fill the supervisory "holes" in the current schedule and eliminate the number of "pay back days" now



required to adjust each officer's schedule to conform with the 2,080 hours annual requirement. The PBA finds troubling the fact that the Captain responsible for staffing devotes full time to the scheduling task and personally garners as much overtime as does the entire department combined and at the highest cost due to the level of his Captain's pay.

The PBA also points to seven of Wyckoff's neighboring communities who use the 12 hour work schedule including Mahwah, Allendale, Midland Park, Ridgewood, Hawthorne, North Haledon and Franklin Lakes. The PBA cites the testimony in this proceeding from police officers from Mahwah, Hawthorne, Ridgewood, Oakland, Wayne and Franklin Lakes, all of whom testified to the effectiveness of the 12 hour schedule in their respective municipalities. Acknowledging that there would still be shift rotation and weekend work on the twelve hour shifts, the PBA argues that its proposed schedule requires less rotation than the existing shift, less days of work and more weekends off, all of which contribute to the welfare of the police officers and their overall morale.

In opposing this proposal, the Township starts with a reference to its current authority under the Agreement. It seeks to retain the existing work schedule but does not propose language to include it into the Agreement, favoring the discretionary authority it believes is contained in Article 8.02 to prescribe "the basic work week and basic work day." The Township does not concede the negotiability of the PBA's proposal and joins its opposition to that

proposal on its merits along with its claim that the proposal is non-negotiable because it allegedly would significantly interfere with its prerogatives to set staffing levels, supervisory responsibilities and operational requirements.

The Township disputes the relevance of the testimony from police officers regarding the effectiveness of the 12 hour shifts in Hawthorne, Oakland, Wayne, Franklin Lakes, Mahwah and Ridgewood. The Township contends that each of these police departments have a greater number of police officers which can be deployed on the 12 hour shifts when compared to the small number of police officers who are employed in Wyckoff. For this reason, the outside departments are said to have a greater ability to alter staffing levels, and to create power squads or power shifts which are either impossible or impractical to implement in Wyckoff. According to the Township, the larger number of supervisors in those Townships also enable police administrators to have greater supervisory coverage in the event of supervisor absences. The Township also cites the testimony of the PBA witnesses from the outside municipalities that the work schedule changes in their municipalities were arrived at through mutual study and agreement between the PBA locals and their governing bodies rather than by imposition by an arbitrator over the objection of their governing bodies and managerial personnel.

The Township also disputes the PBA's arguments that personnel changes now required under the existing schedule render the schedule inefficient. The Township cites Chief Ydo's testimony that such modifications are simple and

attributed to the normal scheduling changes that are required by virtue of paid time off taken for vacation, sick and personal days and to other work and training responsibilities that are unrelated to whether the original schedule was an 8 hour or 12 hour shift. The Township also disputes that the “pay back days” are problematic since they only total zero to four days or between one and five days per year and are necessary to accommodate the 2,080 hour contractual requirement. The Township points out that the PBA’s proposed work schedule would require it to “give back” the equivalent of 9.1 twelve hour days, a figure well in excess of the current “pay back” obligation. These “give back” days are asserted to create the potential for overtime to fill the vacancies caused by the “give back” days.

The Township’s main objections to the PBA proposal center on its impact on supervision and staffing levels and flexibility. Currently, the Township attempts to minimally staff the department on the basis of a minimum of three patrol officers and one supervising officer on each shift. The master schedule is prepared each year that fully staffs each of the three shifts as follows:

| <b>Shift 1</b> | <b>Shift 2</b> | <b>Shift 3</b> |
|----------------|----------------|----------------|
| Sergeant       | Sergeant       | Sergeant       |
| Sergeant       | Sergeant       | –              |
| Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         |

In contrast, the Township asserts that the PBA's proposal would establish four shifts and squads and deploy the five Sergeants and fifteen patrol officers as follows:

| <b>Squad 1</b> | <b>Squad 2</b> | <b>Squad 3</b> | <b>Squad 4</b> |
|----------------|----------------|----------------|----------------|
| Sergeant       | Sergeant       | Sergeant       | Sergeant       |
| Sergeant       | --             | --             | --             |
| Patrol         | Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         | Patrol         |
| Patrol         | Patrol         | Patrol         | Patrol         |

The Township believes that the staffing level of 5 officers per shift (the PBA proposal) versus the 6 to 7 officers per shift (the existing schedule) would create a greater potential for shifts to fall below minimum staffing levels of one Sergeant and three police officers due to the many and various types of paid time off or when training, meetings or other work related responsibilities occur preventing an officer from being on duty as scheduled. This effect is asserted to be especially acute for supervisory staffing. The Township points out that only one of the four squads would have two Sergeants. The Township acknowledges that it currently staffs the third shift with one Sergeant rather than two but that this only occurs once during the three shifts rather than occurring during three of the four shifts proposed by the PBA. The Township asserts that it desires to minimize the number of shifts that have no supervisors and that its ability to do so would be very difficult under the PBA proposal. The Township contends that the consequences of the PBA proposal are fewer Sergeants and Patrol Officers available per shift, greater potential for an inability to meet minimum staffing

levels, more "forced" staffing of shifts, greater overtime expenses and less flexibility to fill a partial or full 12 hour shift than when there are, as now, 8 hour shifts.

In reviewing the merits of the PBA proposal I first note that its main positive points are the significantly fewer shifts a police officer would be required to work increasing the number of days off, more weekends off, and fewer rotations on the two shifts. Despite a 50% increase in work hours on the shifts they do work, the vast increase in days off appear to compensate for the longer work hours and, when viewed in its entirety, the work and welfare of the police officers would be enhanced by the adoption of the 12 hour schedule. But this analysis cannot end with this conclusion because the PBA's burden is far more substantial than establishing that these benefits would result from the work schedule change. This evidence must be balanced with the well established authority of the governing body to have "broad discretion to determine how to deploy its police force."<sup>2</sup> On this point, the record reflects the existence of several factors which, despite the PBA's excellent presentation, weigh against awarding the PBA's proposal for a major work schedule change.

The size of the police department in the Township of Wyckoff is small by most standards. The Township has established that the substantial proposed change to the longstanding work schedule has the potential to impact upon the

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<sup>2</sup> The Township cites numerous PERC and court decisions which it asserts favor the governing body's discretionary authority to staff and deploy its police personnel.

staffing levels and supervisory requirements set by the Township. There is no question that the work schedule proposed by the PBA, in the abstract, is a fundamentally sound work schedule. Seven of the eight surrounding communities have adopted the schedule by mutual agreement and some additional but not a majority of police departments in Bergen County have also adopted the schedule by mutual agreement. However, in the absence of mutual agreement, it simply has not been established that the proposed work schedule should be substituted for the existing work schedule under the conditions that are now present in the Township of Wyckoff. Although PERC dismissed the Township's Scope Petition on grounds of timeliness, PERC directed this process to consider the Township's staffing and supervision arguments and to not impermissibly compromise the Township's ability to set staffing levels. Given the current rank structure within the department, the limited number of superior officers and police officers devoted to patrol and the existing minimum staffing requirements, I am compelled to conclude that the proposed work schedule cannot be awarded over the objection of the Township without compromising the broad managerial discretion the Township has chosen to exercise with respect to these administrative and operational issues.

During these proceedings, the PBA has submitted a comprehensive proposal representing an example of how the Modified Pitman 12 Hour Schedule could be implemented in Wyckoff. The Township has countered this proposal with evidence establishing that there is potential that the proposal would interfere

with its ability to administer existing minimum staffing levels and supervisory requirements. The PBA responds that its proposal is merely an example of only one way in which the 12 hour schedule could work and that the details of the proposal were not intended to restrict the Township in the manner in which it could implement the proposal. The PBA's point is well taken, namely, that if it did not submit such a detailed proposal, the Township could admonish it for not providing the details of how such a work schedule proposal could be implemented. The PBA should not be prejudiced by submitting a detailed proposal for review which sets staffing levels, the number of shifts or one which mandates equal staffing as an example of how a 12 hour shift could work. If it could not do so, it would be difficult to square any proposed work schedule proposal with the interests and welfare of the public. However, there is a significant burden on the PBA to establish how its proposed work schedule could harmonize with the policy requirements set by the Township under circumstances now present rather than requiring the Township to adopt modified conditions tailored to meet the requirements of the proposed work schedule.

The Wyckoff police department has a very limited number of superior officers and police officers devoted to patrol. There are five patrol sergeants and fifteen patrol officers. Notwithstanding PBA testimony that it does not seek to set specific staffing levels, that testimony, as well as the Chief's, acknowledges no proposed alternative to the four shifts the PBA has proposed to be comprised of one Sergeant and four Patrolmen. This represents a substantial change from the

number of shifts and staffing levels under the existing schedule. Only one of the proposed four shifts would have two Sergeants compared to the fact that two of the existing three shifts now have two Sergeants. Given paid time off requirements and other work responsibilities including training, court time and specialized assignments that prevent normal shift work presence, the potential for "holes" in supervision pointed to by the PBA under the existing work schedule would, in fact, be greater under its proposal than what now exists under the current work schedule. This is not to say that the additional "holes" could not be filled. However, Chief Ydo's testimony must be credited that there would be a greater potential for the requirement that superior officers and detectives fill vacant patrol slots compared to present and a greater potential for Captains to fill in for vacant Sergeant positions. The Township objects to these possibilities as an interference with its discretion and authority to determine these issues of supervision and staffing.

The Township has also established that the potential for meeting staffing levels under the existing schedule is greater than the proposed schedule because the staffing levels of the present three shifts includes seven officers (including 2 Sergeants) for two of the shifts and six officers (including 1 Sergeant) for one of the shifts. More likely than not, the Township's ability to meet the minimum staffing requirements it has set by having each of three shifts minimally staffed by one Sergeant and three patrol officers under current staffing levels is greater than its ability would be to meet its minimum staffing requirements on



four shifts with staffing levels of four patrol officers (including one Sergeant). Given the small number of police officers devoted to patrol, the flexibility afforded to the Township to staff shift vacancies would be diminished because of the length of the work day. Superior officers and patrol officers (who could be reassigned or given overtime assignments) might already have worked a 12 hour shift or be scheduled to work a 12 hour shift prior to the projected overtime assignment. The inability to make these assignments because they could be impermissibly lengthy would reduce the Township's flexibility in the assignment of overtime. Further, shift vacancies could occur in greater numbers because fewer officers are regularly scheduled on the 12 hour shift and many foreseeable reasons for absence normally occur due to training, court time and specialized assignments. While speculative, it appears that the potential for increased overtime costs is greater under the proposed work schedule proposal. The PBA has also pointed out that the Captain in charge of scheduling has received far more overtime hours than the remainder of the department. This is borne out by the charts in evidence. The Chief testified that this fact is based upon the rejection of overtime by certain officers or by the unavailability of others. In any event, disputes over overtime distribution or allocation are not a sufficient basis to change a work schedule.

Based upon all of the above, I am compelled to deny the work schedule proposal and conclude that the interests and welfare of the public are best served by the governing body's decision to maintain the existing work schedule under all of the conditions which are now present.

I am not persuaded that the PBA and the Township have fully explored and exhausted alternatives to the present work schedule under conditions which could be mutually acceptable. These conditions could include a work day longer than what presently exists (8 hours) and shorter than what has been proposed (12 hours) or considering trading off interests in order to achieve one sought after term and condition of employment in exchange for another. There is nothing which precludes voluntary discussions and/or the modification of contractual issues during the existence of an Agreement.

Based upon all of the above, I respectfully issue the terms of this Award.

### **AWARD**

1. All proposals by the Township and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been voluntarily agreed to and/or modified by the terms of this Award.

2. **Duration**

The term of the existing agreement shall be modified to extend through December 31, 2007.

3. **Salary**

The existing salary schedules shall be adjusted by the following percentages at each step effective and retroactive to the effective dates set forth below:

4.0% effective January 1, 2003  
 4.0% effective January 1, 2004  
 4.0% effective January 1, 2005  
 4.0% effective January 1, 2006  
 4.0% effective January 1, 2007

**Appendix A-1**  
 (Employees hired before 1/1/98)

| Patrolmen | Effective<br>1/1/03 | Effective<br>1/1/04 | Effective<br>1/1/05 | Effective<br>1/1/06 | Effective<br>1/1/07 |
|-----------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Academy   | \$35,376            | \$36,791            | \$38,262            | \$39,793            | \$41,384            |
| Starting  | \$40,107            | \$41,711            | \$43,379            | \$45,114            | \$46,919            |
| Step 1    | \$50,033            | \$52,035            | \$54,116            | \$56,281            | \$58,532            |
| Step 2    | \$59,005            | \$61,366            | \$63,820            | \$66,373            | \$69,028            |
| Step 3    | \$69,027            | \$71,788            | \$74,659            | \$77,646            | \$80,752            |
| Step 4    | \$77,217            | \$80,306            | \$83,518            | \$86,858            | \$90,333            |
| Step 5    | \$85,402            | \$88,818            | \$92,370            | \$96,065            | \$99,908            |

|            |          |           |           |           |           |
|------------|----------|-----------|-----------|-----------|-----------|
| Sergeant   | \$89,590 | \$93,173  | \$96,900  | \$100,776 | \$104,807 |
| Lieutenant | \$93,775 | \$97,526  | \$101,427 | \$105,484 | \$109,703 |
| Captain    | \$97,960 | \$101,878 | \$105,953 | \$110,191 | \$114,599 |

**Appendix A-2**  
 (Employees hired after 1/1/98)

| Patrolmen | Effective<br>1/1/03 | Effective<br>1/1/04 | Effective<br>1/1/05 | Effective<br>1/1/06 | Effective<br>1/1/07 |
|-----------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Academy   | \$35,376            | \$36,791            | \$38,262            | \$39,793            | \$41,384            |
| Starting  | \$40,107            | \$41,711            | \$43,379            | \$45,114            | \$46,919            |
| Step 1    | \$46,577            | \$48,441            | \$50,378            | \$52,393            | \$54,489            |
| Step 2    | \$53,047            | \$55,169            | \$57,376            | \$59,671            | \$62,058            |
| Step 3    | \$59,518            | \$61,899            | \$64,375            | \$66,950            | \$69,628            |
| Step 4    | \$65,990            | \$68,630            | \$71,375            | \$74,230            | \$77,199            |
| Step 5    | \$72,461            | \$75,359            | \$78,374            | \$81,509            | \$84,769            |
| Step 6    | \$78,931            | \$82,088            | \$85,372            | \$88,786            | \$92,338            |
| Step 7    | \$85,402            | \$88,818            | \$92,370            | \$96,065            | \$99,908            |

|            |          |           |           |           |           |
|------------|----------|-----------|-----------|-----------|-----------|
| Sergeant   | \$89,590 | \$93,173  | \$96,900  | \$100,776 | \$104,807 |
| Lieutenant | \$93,775 | \$97,526  | \$101,427 | \$105,484 | \$109,703 |
| Captain    | \$97,960 | \$101,878 | \$105,953 | \$110,191 | \$114,599 |

4. **Detective Bureau**

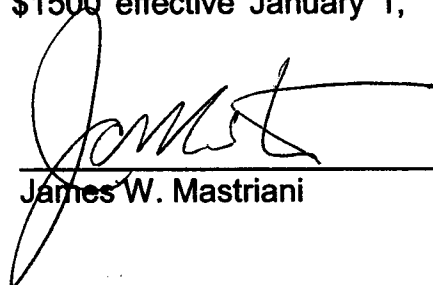
Articles 9.01 and 9.02 shall be carried forward except for the following modifications.

9.01 The annual sum paid to the Officer in charge of the Bureau shall be adjusted to \$1750 effective January 1, 2003.

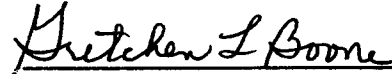
9.02 The annual sum paid to Officers regularly assigned to the Detective Bureau shall be adjusted to \$1500 effective January 1, 2003.

Dated: November 22, 2004  
Sea Girt, New Jersey

State of New Jersey        }  
County of Monmouth        }ss:

  
\_\_\_\_\_  
James W. Mastriani

On this 22<sup>nd</sup> day of November, 2004, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

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