

**STATE OF NEW JERSEY
PUBLIC EMPLOYMENT RELATIONS COMMISSION**

IN THE MATTER OF THE IMPASSE

Between

TOWNSHIP OF PISCATAWAY

-and-

PISCATAWAY P.B.A. LOCAL # 93

**COMPULSORY INTEREST ARBITRATION AWARD
LAWRENCE I. HAMMER, ARBITRATOR
PERC # IA 2000/010**

The Township of Piscataway, (hereinafter referred to as either the "Township" or the "Employer") and Piscataway PBA Local # 93 (hereinafter referred to as the "PBA"), are parties to a Collective Bargaining Agreement which covered the period between January 1, 1995 and December 31, 1997.

Said agreement called for a wage reopener for calendar year 1997. Wages for such year were ultimately imposed by an Interest Arbitration Award.

Under date of July 29, 1999, the undersigned was designated by the Public Employment Relations Commission of the State of New Jersey to serve as the Interest Arbitrator in an effort to resolve the continuing impasse involving the above indicated parties. Said appointment was made pursuant to the mutual

requests of C. Douglas Reina, Esq. on behalf of the Township and Marc Abramson on behalf of the PBA Local # 93.

The subject proceedings were to be conducted in accordance with the provisions of P.L. 1995, C.425.

APPEARANCES

FOR THE TOWNSHIP

Abrams, Gran, Hendricks,
Reina & Rosenberg, P.C.
(by) C. Douglas Reina, Esq.
Gregory Fehrenbach
Lori Majeski
James Hercek
Ernest H. Walton

Counsel

Administrator
Finance Director
Human Resources Coordinator
Director of Police

FOR THE PBA

Abramson & Liebeskind Associates
(by) Marc D. Abramson
Robert Zavistoski
Lance Williams
Donald Florek
Tom Mosier
Drew Pelligrino

Labor Consultants

President

Hearings under the instant impasse took place on September 16, October 13, November 22, December 8, December 10, 1999, January 11, March 7, March 9, and March 10, 2000 at the Township Municipal Complex located at 455 Hoes Lane, Piscataway, New Jersey. At these sessions both parties were afforded a full opportunity to present testimony, offer evidence and to advance arguments in

support of their respective positions. During each of these sessions, some effort was made to amicably resolve the differences between the parties, but without success.

Pursuant to the ground rules agreed upon at the inception of the formal hearings, the parties were able to revise the "Last Offer - Best Offer" (hereinafter referred to as the "LOBO") at the conclusion of the matter and before establishing a briefing schedule.

The LOBO's, as modified on March 10, 2000, will be set forth elsewhere in this document.

The briefing schedule established at the end of "closing statements" called for the brief of each party to be submitted to the undersigned postmarked prior to June 26, 2000, with replies to be transmitted by July 10, 2000. The briefs were timely postmarked and received, while replies from both parties' representatives were received on July 12, 2000 and the hearings declared to be closed.

The parties declined an opportunity to have the hearings transcribed by a Certified Court Reporter, and opted to rely upon the notes taken by the undersigned and exhibits presented. All of which have been extensively reviewed by the undersigned before and during the preparation of this Award.

The evidence has been considered and evaluated with a view towards the eight statutory criteria set forth in N.J.S.A. 34:13A-16(g).

The parties could not agree upon a terminal procedure. Therefore, as called for under N.J.S.A. 34:13A-(d)(2), this impasse will be resolved through a determination encompassing "conventional" arbitration.

The Statutes mandates that the arbitrator decide the dispute based upon a reasonable determination of the issues giving due weight "to those factors listed below that are judged to be relevant for the specific disputes, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor".

The **STATUTORY CRITERIA**, as set forth in N.J.S.A. 34:13A-16(g) provides (underlining for emphasis, added by the arbitrator) that:

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

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

(2) Comparison of wages, salaries, hours and condiditons 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, that 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) Stipulation 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 P.L. 1976, C 68(C.40A:4-45.1 et seq.).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or 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 of 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 a proposed local budget.

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and other such factors not confined to the forgoing which are ordinarily or traditionally considered in the determinations 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 AND DEMOGRAPHICS

The Township of Piscataway is an ethnically diverse community covering approximately 19 square miles and including a population of more than 52,000 residents, living in single family homes and apartment complexes. Piscataway, located within Middlesex County in the central portion of the State, is contiguous with Edison, Highland Park, Middlesex, New Brunswick and South Plainfield. The median household income exceeds \$50,000.00 per annum.

The Township is served by an approximate 84 person police department, some 100 volunteer firefighters, three first aid squads and an educational system consisting of six elementary schools, three middle schools and one high school.

It must be noted that during the last round of negotiations (negotiations for the 1997 wage reopener) the unit consisted not only of Patrolmen but also of Superior Officers from the rank of Sergeant on up. During the intervening time, the two units split apart, with the Superior Officers being covered under a separate and distinct Collective Bargaining Agreement.

FINAL OFFERS OF THE PARTIES

PBA's FINAL OFFER

1. Duration January 1, 1998 though December 31, 2002, a five year contract.

2. Wages 4.5% for each of calendar years 1998 - 2002.

3. Association Business Article 3, Sec. 4 seeks to have "reasonable time off" defined to mean "the full day for officers working afternoons and midnights".

Article 3, Sec. 5 proposal seeks to delete "time off" and insert "the day off and if working the afternoon or midnight shift they will have the choice of the day off before or after the event".

4. Grievance Procedures [a] seeks to have all grievances terminate in a "binding arbitration" step; [b] seeks to eliminate need to state the specific contractual provision alleged to have been violated; and [c] seeks right to go to arbitration after the hearing before the Mayor without first having to appeal to the Council.

5. Overtime To increase, under Article 8, Sec. 4, "on call" compensation to \$120.00 per day.

6. Holidays Increase paid holidays from current 14 to 15 days, and indicate when same shall be paid for during the year.

7. Uniform Allowance [a] Delete the current \$800.00 per year allowance, and replace same for the first year (1998) by a figure equal to \$800.00 plus 4.5% and then increase such sum by a percentage equal to the annual wage increase; [b] that the Township allocate \$5,000.00 annually towards the purchase of nine bulletproof vests.

8. Personal Days increase the current 2 days annually to 3 days.

9. Welfare and Pension Benefits seeks payment equal to 50% of the premiums if the employee waives any health insurance benefit. The contract now calls for specific lesser sums to be paid.

10. Probationer Supervisors Compensation at the Sergeant's rate of pay to those officers supervising probationers.

11. College Credit Payment of \$10.00 per college credit to be paid, added to base pay.

12. Lifting Patients That no officer be required to lift a patient on any Squad call.

THE TOWNSHIP'S FINAL OFFER

1. Duration January 1, 1998 through June 30, 2002, a 4-1/2 year contract (and to have the contract year correspond with the budgetary fiscal, July 1 - June 30, year).

2. Wages [1] A wage freeze for 15 months commencing April 1, 1998 and continuing through June 30, 1999;

[2] A one time \$300.00 payment;

[3] A 3.25% increase annually for fiscal years commencing July 1, 1999, 2000, and 2001;

[4] That the payroll be converted to semi-monthly (24 paychecks per year);

[5] That wage increases be due and payable only to those individuals who remain in the employ of the Township on the date the Interest Arbitration Award is issued.

3. Sick Leave (Termination Benefit) To set a \$15,000 maximum on benefits under Article 13.1.

4. Health Insurance [1] Amend Article 19.3 to indicate that the bonus resulting from a waiver of insurance benefits not apply to any employee having a spouse receiving health insurance from Township employment, where either is initially employed after September 1, 1999.

[2] Restricting the types of health insurance benefits persons hired after September 1, 1999 can be eligible for.

5. Long Term Disability That "long term disability" benefits which apply only to off duty injuries or illnesses be amended, so that after 90 days, benefits would equate to that of Workers' Compensation.

6. Agency Fee Replace the current provision set forth in Article 26 with a new provision.

7. Tuition Reimbursement To make three changes to the current provisions by specifically adding clauses stating:

[a] The Administration shall not approve a request for reimbursement if there are not sufficient funds in the sub-account dedicated for this purpose since an approval would be a violation of N.J.S.A. 40A:4-57.

[b] Cost of tuition (cost/credit hour) may not exceed the cost of attending a similar class at Rutgers University during the same semester.

[c] The third change would make the amount of reimbursement dependant upon the grade achieved.

8. Management's Rights Replace the current Article 2 provision and replace same with an entirely new article.

9. Grievance Procedure Seeks to replace those portions of Article 6 pertaining to "Definitions" and to "Purposes" with new language.

GENERAL COMMENTS

While the Statute controlling Compulsory Interest Arbitrations sets forth some eight guideline for the neutral arbitrator to examine, consider and weigh, the one heretofore usually given the greatest weight involved wage comparability.

This emphasis had resulted in judicial criticism. Criticism that far too much weight was being given to comparability, while not enough consideration, in fact far too little weight was being given to the ability of a Municipality and its citizens to pay the sums awarded through the Compulsory Interest Arbitration process.

Over a period of years patterns would develop. Each award would grant increases financially similar to those awarded in earlier cases or similar to those instances where no award was involved, but where the parties were able to amicably resolve their differences and agree upon wage increases.

For years, a Municipality offering an economic package much below that representing earlier settlements, defended its offering upon the financial restraints of its budget and the ability of its taxpayers to bear a bigger burden. It rarely was successful.

Often times when such argument was made by the employing Municipality, it may well have been a case of the governing body crying "wolf" needlessly. The 1980's evidenced an economic boom. Most governing bodies, in the form of

either local surpluses or in the form of ever increasing State aid, were able to fund the settlement awarded.

But times and conditions have changed. While unemployment is at a new low, and while the stock market is (in spite of recent slides) up, the question still remains. Does the Township have the financial ability to fund a settlement much in excess of what it has offered? Do the other Statutory criteria, cumulatively, while considering the ability to pay warrant recommending a proposal which in itself may be somewhat above what earlier settlements have produced?

It is important to now get down to a discussion on the proposals themselves, the positions and arguments pro and con offered, and then considering same while weighing each against the Statutory mandated criteria.

POSITIONS OF THE PARTIES

Before going into each of the proposals of the parties, and the arguments and evidence submitted to support such proposals, a preliminary position which repeated itself throughout the proceedings was the Township seeking to make much of the fact that the undersigned had previously served as the fact-finder in resolving the contractual impasse between the Township of Piscataway and its Public Works Employees (represented by USWA Local # 255) and in such capacity issued a fact-finder's Report and Recommendations on September 17, 1999 [PERC # FF 99/006].

The Township, as a result, argued that "... a number of the issues here under consideration were discussed. The Township respectfully adopts the reasoning of the fact-finder's PWEA report on those identical issues and submits that the same rationale should apply herein and similar results should be reached".

On point, the PBA rightfully and correctly contended that in fact-finding there are no statutory guidelines similar to N.J.S.A. 34:13A-16(g) governing the fact-finder's report and recommendations. As a result of there being no statutory criteria, the PBA argued, again correctly, that the fact-finder's report usually resembles what the individual fact-finder thinks both parties would accept and would result in an amicable settlement. The PBA further argued that "any reliance on a fact-finding decision from a unit that is not entitled to petition for binding Interest Arbitration must be suspect, at best ...".

The Township made much ado about the fact-finding report I issued involving the Public Works employees, wherein I recommended, amongst other things, wage increases of 3.25% retroactive to July 1, 1998 (for FY 1998/99) and like percentages for each of the following three fiscal years (FY 1999/2002). *It must be noted that the parties themselves stipulated in writing [1] that the Union would accept a 1997 wage freeze and [2] that my wage recommendations would have to be between 2.5% and 4.0%.* The freeze was not a fact-finder's recommendation. It was agreed upon by the Chief Negotiators. The wage restriction was not the fact-finder's doing. Limitations were agreed upon, again

by the Chief Negotiators. In making the recommendation, I was not constrained by any statutory criteria similar to N.J.S.A. 34:13A-16(g). The question was "what recommendation would result in a total package being acceptable to the parties".

Splitting the parameters agreed upon by adding $\frac{3}{4}$ of 1% to the minimum that could be awarded and deducting $\frac{3}{4}$ of 1% to the maximum, resulted in what produced the settlement.

The PBA continued in its attack against placing too much, if any, reliance on the fact-finder's report, by contending that the Township never provided any information, data, or evidence supporting its position vis-a-vis the statutory criteria required by law. Continuing, the PBA argued that "The Township had a statutory responsibility to support each and every proposal with evidence supporting its position and not to simply say: 'here Mr. Arbitrator is a fact-finding decision of a DPW unit and you must award the identical package '...".

In addition, the PBA contended that its final offer was the more reasonable, and presented arguments related to the statutory criteria in an effort to support such contention.

Each of the proposals, with the above arguments in mind, can now be delved into.

1. DURATION The real difference between the five years proposed by the PBA and the 4-1/2 years offered by the Township evolved around the Township seeking a Collective Bargaining Agreement coinciding with their July 1 to June 30 fiscal year, and the PBA's insistence on continuation of calendar year (January 1 to December 31) contracts.

The Township operates under a fiscal year. Its taxes are raised and its budget prepared upon a fiscal year, as opposed to a calendar bases.

Aside from a mid-calendar year contract ending, there should be no real difference to the PBA. Negotiations for a successor agreement will simply have to begin earlier.

2. WAGES

As set forth earlier herein, the PBA sought wage increases of 4.5% for each of calendar years 1998-2002, while the Township offered, quoting directly from Page 4 of their post-hearing brief (a) "a wage freeze for 15 months commencing April 1, 1998 and terminating on June 30, 1999 ..." and (b) "a one time \$300 payment as given to other employees who were subjected to the wage freeze", and (c) "a 3.25% increase annually for fiscal years commencing July 1, 1999, 2000, and 2001".

Two other proposals of the Township included one "that the payroll be converted to semi-monthly, and that wage increases only be due and payable to those individuals who remain in the Township's employment on the date of the Award".

When comparing the salary schedules that would result from the 3-1/4% proposed by the Township and the 4-1/2% sought by the PBA, it is necessary to have a starting or reference point, namely the 1997 scale, the rate that will ultimately be replaced as a result of these negotiations. Specifically:

Patrolman - Senior	\$61,176
Patrolman - 6 th year	\$58,123
Patrolman - 5 th year	\$52,955
Patrolman - 4 th year	\$42,403
Patrolman - 3 rd year	\$35,394
Patrolman - 2 nd year	\$30,430
Patrolman - 1 st year	\$28,257

As not all members of the Department become "Senior Patrolmen", the wage for a "Sixth year" officer will be considered as being the "benchmark", the highest salary for a patrolman.

During these negotiations, much was made by the Township pertaining to a "wage freeze" imposed upon all Township of Piscataway employees. All were subjected to an 18 month freeze, wherein all Township employees **EXCEPT** for the Police Department, were denied any wage increases for calendar year 1997 and half of 1998.

The Police, the PBA herein, would not willingly go along with the proposed freeze and under the same law that governs these proceedings, sought instead arbitration on the 1997 wage reopener. The arbitrator therein made 1997 wage increases effective on April 1, 1997, imposing what amounted to a three (3) month wage freeze.

By offering a raise to the PBA retroactive to July 1, 1999, as opposed to the start of the January 1, 1998 calendar year, the Township pointed to the undisputed and admitted fact that all other Township employees had had their wages frozen for all of 1997 and the first six months of 1998, a total of 18 months.

The time frames for wage increases proposed by the Township creates a problem so far as the effective date of the wage freeze proposed and the effective date for the initial wage increases.

The Township's brief proposed a fifteen month freeze commencing with April 1, 1998 and ending fifteen months later on July 1, 1999 when an initial increase would go into effect. This, according to the Township's computation would result in an eighteen month freeze (fifteen months plus the three month 1997 wage freeze) and equal to the same freeze time as all other Township employees went through.

Overlooked, however, is the fact that the most recently expired contract, the one that was determined under an Interest Arbitration began January 1997 and ran through December 31, 1997. Thus the Township's proposal for a successor agreement, as well as that of the PBA is for a new agreement to commence on January 1, 1998.

The PBA suffered a wage freeze between January 1, 1997 and March 30, 1997. Their 4.25% raise for 1997 went into effect on April 1, 1997. While their base pay increased by 4.25%, they only received a pro-rata portion (3.1875%) covering April 1 through December 31, 1997. If PBA wages were again to be frozen as proposed by the Township until June 30, 1999, the effect would be another eighteen month freeze (January 1, 1998 through June 30, 1999), subjecting the Police to a total of twenty-one months of wage freezes.

The Township proposal does not take into consideration how, or at what rate shall their Police Department be paid for the period of January 1, 1998 through March 31, 1998, except to infer 1997 rates.

The PBA sought to compare their wages with [1] all municipalities in Middlesex County, [2] all contiguous municipalities, and [3] Old Bridge, the only other area municipality having a similar to Piscataway's 50,000 - 60,000 population.

The contiguous communities include Edison, Highland Park, Middlesex, New Brunswick and South Plainfield. The only one encompassing a larger area and a larger population, though classified as "suburban", is Edison.

Seven Middlesex municipalities have a larger number of police officers. Piscataway ranks third amongst the contiguous departments, and is just about the same when compared to Old Bridge, though the latter covers more than twice the area. Amongst the 25 departments in the County, Piscataway's 637 person population average per police officers, is the third highest, exceeded only by Old Bridge and Monroe.

1997 wage comparisons for all Middlesex municipalities, establishes that the \$58,263 earned in Piscataway is exceeded only by the \$58,585.00 paid in East Brunswick. Old Bridge is far behind at \$54,107 with the County average being \$52,645.

During calendar year 1997, the then Interest Arbitrator awarded a wage increase of 4.25% when other settlements in the County ranged from a low of 3% in Perth Amboy to a high of 8.06% in Carteret. The County average, 4.11%.

Again for 1997, the sixth year Patrolman's actual average on guide wage increase of \$2,509.00, the third highest in the County, was above the County average of \$2,075.00. The resulting actual dollar increase received, because of

the April 1, 1997 implementation date, was approximately \$1,900.00, a bit below the County average.

Twenty-three departments reported 1998 settlements. The top wage is the \$60,782 earned in East Brunswick. Edison is second at \$59,027, and North Brunswick third at \$58,808. With settlements ranging between another 3% in Perth Amboy and 6% in Carteret, the average was again 4.11%.

If the PBA's 4.5% was to be awarded for 1998, the difference between Piscataways sixth year wages and the County average (\$54,361) would grow to \$6,524. If an entire years freeze was to be awarded, the difference between Piscataway and the County average would be \$3,902 (or \$1,716 less than the 1997 differential).

The 4.5% sought by the PBA would increase the 1998 wage by \$2,622 to \$60,885 and would result in Piscataway's officers earning the most in the County. If the Township's 0% increase for all of calendar year 1998 was to be awarded, it would leave Piscataway's wage at \$58,263 still the fourth highest in the County, exceeded only by East Brunswick's \$60,782, Edison's \$59,027 and North Brunswick's \$58,808.

A total of 23 departments have also settled for calendar year 1999. Average increase is 4.06%, with the average County wage increasing to \$56,353.

Again, if the freeze proposed by the Township was awarded, the Patrol Officers' \$58,263, would remain static until June 30, 1999 and leave the officer only \$1,919 above the average wage. Quite a comedown!

The PBA presented a vast amount of settlement data which indicated that so far as its comparison groups are concerned, their 4.5% annual proposal is much closer to, and more reasonable than is the Township's 3.25% raise but only after a year and a half freeze. While the PBA proposal salarywise totals 22.5% over the five years, based upon recent settlements, it has to be considered fairer and more reasonable than the Township's 9.75% offer over 4-1/2 years or 2.17% annually.

While there is no question but that an employer, any employer would like to be in a position to offer the same percentage pay raise to all of its employees, it simply is not feasible. The job and working conditions differ vastly between a police officer and a secretary, a street cleaner or an office worker. The police officers are responsible for enforcing the law whether on or off duty. When a crime is committed in a police officer's view, he cannot simply turn his back and say: "I'm off duty". He must act. He must respond.

During the period between January 1, 1999 and September 30, 1999, just days after the commencement of hearings herein, some 56 settlements, 22 as a result of an Interest Arbitration Award and 34 by voluntary settlements existed.

Increases under the Interest Arbitration process averaged 3.59% while voluntary settlements averaged 3.74%, not a big difference.

Interest Arbitration awards issued during calendar year 2000, as well as voluntary settlements entered into during such period, are more up-to-date reflections of the economy and the effect on police wage increases.

Fourteen multi-year Interest Arbitration Awards covering all or portions of 1998-2002 have been issued since January 1, 2000, while 27 voluntary agreements have been reached covering a similar period. The chart below sets forth the annual ranges in each category.

<u>YEAR</u>	<u>I.A. AWARDS</u>	<u>AVERAGE</u>	<u>VOL. CBA's</u>	<u>AVERAGE</u>
1998	3.5% - 4.0%	3.75%	2.5% - 4.56%	3.18%
1999	2.5% - 4.05%	3.64%	3.0% - 4.5%	3.85%
2000	2.0% - 4.0%	3.53%	2.5% - 4.6%	3.45%
2001	1.5% - 4.0%	3.57%	2.7% - 4.6%	3.52%
2002	3.0% - 4.0%	3.68%	2.25% - 4.5%	3.78%

The only settlement calling for a wage freeze involved the Town of Hammonton and FOP Lodge # 44 (IA # 2000/32) was a voluntary agreement wherein it was agreed in a contract covering 1999-2001 that "1999 salaries shall be the same as those in 1998".

A theme throughout the Township's presentation was the argument that except for an abbreviated three month wage freeze during the first quarter of 1997, the PBA did not contribute towards the Township's attempts to achieve an economic recovery, but instead enjoyed the benefit provided solely by the wage sacrifices of non-police employees.

It is interesting to note that the PBA used wages in Old Bridge, a community having a similar population as a department to be compared with. The Old Bridge Police Department was in a 1994 Interest Arbitration Award ordered to accept an 18 month wage freeze [PERC # IA 93/27]. It should be noted, however, that said award was rendered under the old "Last Offer vs. Last Offer" a choose one or the other.

So far as wages are concerned, the Township also sought to limit retroactivity to those employees still in the employ of the Township.

It must be noted at this point that the Interest Arbitrator who heard the matter involving the 1997 contract year considered the identical proposal of the Township and did not grant retroactivity to those seven (7) officers who had terminated their employment between January 1, 1997 and the issuance of his Award.

The undersigned, acting in his capacity as a fact-finder in the Public Works Employees' impasse, recommended the Township's proposal stating "as any retroactivity would inure under such proposal to any and all employees still on the Township's payroll, the Association raised no objection thereto ...". It must also be noted that no evidence in the proceedings therein was offered to indicate how many, if any, employees had left the Township's employ and would be affected. With the Association raising no objection to the Township's proposal, and for all practical purposes agreeing thereto, there was no reason not to recommend what the parties obviously agreed to.

The Township sought to avoid liability for 1998, 1999 and 2000 "back pay" for any Police Officer who retired between January 1, 1998 and the date this Award is issued.

Exhibit T - 23 indicates that retirements were very common over the past 2 to 2-1/2 years, with nine officers leaving the Department during 1998, five more during 1999 and one in 2000. They were replaced by 15 other officers between February 2, 1998 and July 12, 1999.

One of the 1998 retirements was as a result of a disability, and one certainly not voluntary, was as a result of death. As to the other 13 retirees, no data was presented as to their years of service to the Township. The only information given was that leaving the Department was a "service retirement".

Notwithstanding the indication of 14 departures from the Department during calendar years 1998 and 1999, only a half dozen individuals were listed on Supplemental Township Exhibit "S" (plus one who retired in 2000) indicating that retroactivity for these officers would total, based upon the PBA proposal \$50,697.00.

One cannot overlook or ignore the fact that the Township and the citizens of Piscataway received the benefits for the parts of 1998 and 1999 that certain retirees worked. One works, even without an employment contract (while a new one is being negotiated) in anticipation that sooner or later a new agreement will be reached, one that will establish his wage for the period involved leading up to and prior to his retirement. It would not be fair or reasonable for the Township or its citizens to expect a "free ride" and not pay for services rendered. Nor would it be fair to the retired Police Officer who spent years protecting the taxpayers, not to compensate him at the same rate for the period worked that his fellow officers are paid, merely because he retired or was unfortunate enough to die.

The fourth and final salary proposal of the Township centered on payrolls being converted to a twice monthly method.

Under such proposal, the Township sought to convert current weekly pay periods (employees are being paid on Friday of each week, but always a week behind) to

a twice a month pay period, specifically pay days would be set for the fifteenth and last day of the month, 24 pay checks a year.

Aside from providing uniformity throughout the Township as all other employees are paid on a semi-monthly basis, (or have agreed to such change over), it would avoid the problem that arises every half dozen or so years when there are 53 instead of 52 Fridays. There is no question but during such a year, the employee would receive less income for that particular year, but not less that the annual wage bargained for and contractually called for.

When the Township last encountered a fifty-third payday (in 1998), it resulted in the Township paying, and the employees admittedly receiving 1.92% more than called for by the negotiated annual wage. A semi-monthly payroll will eliminate this problem and provide the employees with the precise annual wage negotiated and/or determined by the arbitrator.

A semi-monthly payroll, while it may take some getting used to, will not diminish one's annual wage. By the same token, not to be ignored, is the fact that it is less expensive annually for the Township to pay for the preparation of 24 checks per employee instead of 52 checks. The savings will allow for the freeing up some monies for wage increases.

There appears to be some dispute as to whether all other Township employees have agreed to, or are actually being paid weekly. If all others have agreed to semi-monthly paychecks, if and when the Police become subject to such pay periods, the Township proposal should be implemented. If the Township has agreed to continue paying others weekly, they may as well continue paying the PBA accordingly as well.

3. ASSOCIATION BUSINESS

Article 3, Sections 4 and 5 state:

4. The Employer agrees to grant necessary time off without loss of pay, including reasonable travel time to the members of the Association selected as Delegates to attend any State or National Conventions of the New Jersey State Policemen's Benevolent Association as provided under N.J.S.A. 11:36C-4 inclusive of State mini-conventions pursuant to past practice, but not more than three (3) including the delegate and two (2) alternates.

5. The Employer shall permit the PBA President and the appropriate Committee Chairmen or their designees, time off without loss of pay to attend the PBA Christmas Party, Halloween Party, PBA Ball, Easter Egg Hunt, Golf Tournament and Picnic.

Under Sec. 4, the PBA seeks to additionally define "reasonable time off" to mean "the full day for officers working on afternoon and midnights". This, the Township argued, would represent a great increase in benefits, as it would afford those involved with time off even though there was no conflict between their work schedules and convention attendance, and necessitate additional funding to pay overtime to replacements.

Under Sec. 5, the PBA sought to delete "time off" and insert "the day off and if working the afternoon or midnight shift they will have the choice of the day off before or after the event". This, the Township argued, would give PBA Officials an extra day off, at Township expense, so that they could "party".

Why should it become necessary for a Police Officer, who happens to be a PBA official, to receive the day before or the day after off, with pay, to attend a PBA function that does not interfere with his regular shift? If it interferes with his shift, he gets the necessary time off.

4. GRIEVANCE PROCEDURE

The current contractual Grievance Procedure (Article 4) covers some two typewritten pages, with both parties herein seeking changes. The proposed changes of the PBA involve Sections 1, 2B and 2F which sections, as per the current contract, follow:

SECTION 1. Grievance Defined - A Grievance shall be any claim, dispute, disagreement or difference arising between the Employer, Employee, Group of Employees or the Association provided such claim, dispute, disagreement or difference involves or relates to a term or condition of employment.

Any grievance defined above which alleges a violation of any term or condition of the Agreement will terminate in Binding Arbitration. All other grievances will terminate in Advisory Arbitration if not otherwise settled.

SECTION 2B. Complaints may be initiated by an individual, Employee, group of Employees or by the Association in writing stating the specific provisions of the Agreement alleged to have been violated and the

remedies sought, which complaints shall be lodged not more than thirty (30) calendar days from the happening of an event giving rise to a dispute, or from the time a grievant could reasonably have had knowledge of said event, with the Chief of Police or his designee. Notice of said complaint shall be given to all interested or affected persons including superior officers in the chain of command.

SECTION 2F. Upon compliance with the requirements of Paragraph E., the Mayor shall conduct a hearing, present at which shall be interested persons, the Chief of Police, and the Employee Grievance Committee. The Mayor shall make all reasonable attempts to arrive at a settlement satisfactory to all parties. If a dispute is settled upon agreement of the parties, said agreement shall be reduced to writing and signed by the Mayor, the Chief of Police, the Chairman of the Employee Grievance Committee and the aggrieved party(s). If the Mayor is unable to obtain an amicable settlement, he shall, within fourteen (14) calendar days render a written decision resolving the dispute which written decision shall be served upon the respective parties.

The PBA proposals sought to delete in its entirety the entire second paragraph of Section 1, and replace same with a statement that "all grievances defined above will terminate in binding arbitration"; to eliminate that portion of Section 2B that requires all grievances to be initiated by a writing stating: "the specific provisions of the Agreement alleged to have been violated and the remedies sought". Its Section 2F proposal would eliminate the need to appeal to the Township Council if settlement was not reached at the Mayors level, before proceeding to arbitration.

The Township sought to replace the current Grievance Procedure Article with one which would be identical to the procedure recommended by the undersigned fact finder in the impasse involving the Public Works employees.

It must be noted that the recommendations therein made, were made as a result of specific proposals made therein by the parties, proposals different than that involved here. What may apply in under one set of circumstances need not apply in another.

While it may be possible to amicably be able to adapt one procedure to another, same must be done by the parties, not the arbitrator.

A grievance procedure is a part of a contract so as to allow the parties to endeavor to quickly resolve alleged violations of the contract. There is absolutely no way that such result could be accomplished unless the grievance when filed in writing sets forth both the specific sections of the contract allegedly breached and indicates the remedy sought.

To permit any dispute, disagreement or difference arising between the parties, whether the matter involved had been the subject of negotiations between the parties, or not, could result in the Township having matters, obligations or liabilities imposed that have never been discussed or contemplated.

The present language of the Grievance Procedure mandates three attempts at settlement before arbitration. First, a meeting with the Chief of Police; second, an appeal to the Mayor; and third an appeal to the Township Council. It is the "third" step that the PBA wants to eliminate. Why? No data was presented that

indicated that the Township Council rubber stamped any and all decisions of the Mayor. A third endeavor to resolve a dispute cannot be harmful. The taxpayers of the Township deserve the "last chance" at settlement before proceeding to and involving the added costs of arbitration.

5. OVERTIME

The question of "overtime" so far as Detectives are concerned, is set forth in Section 4 of Article 8, specifically: **"Detectives shall be entitled to sixty (\$60) dollars per each weekend during which they are on call up to a maximum of six hundred sixth (\$660) dollars per year. Scheduling of actual assignment shall be on a uniform basis"**.

The PBA sought to increase the \$60.00 stipend to \$120.00 "and to include weekdays on call as well ...". The Township vehemently opposed any increase, based upon a 100% or more increase.

While no data was presented to indicate how Piscataway's Detectives fare when compared to their counterparts elsewhere, a 100% increase is out of the question. An increase equal to annual base wage increases is justified.

6. HOLIDAYS

Article 10 of the Collective Bargaining Agreement establishes fourteen specific paid holidays annually, ½ payable in May and November. The PBA sought to

increase their holidays to 15 annually by adding to the list "Police Officers' Memorial Day" and to have eight holidays paid for in May and seven in November. When does "Police Officers' Memorial Day" fall?

Holidays, when paid for by the Employer are a means of resulting in less work for the same annual pay. An increase in the number of annual paid holidays equates to increasing an Employee's sought after wage increase.

An examination of data presented on point indicates that holidays granted to other Middlesex County Police personnel range between 12 days in Perth Amboy and the 16 days in New Brunswick, with the average being 14 days. The only other Municipalities granting more than 14 days involve the Police Departments of Highland Park, Monroe, Plainsboro and Woodbridge.

Every paid holiday has the affect of increasing overtime in order to retain coverage, which, in turn, uses up monies that could be allocated to increases in base wages.

7. UNIFORM ALLOWANCE

Since January, 1996, the annual uniform allowance received by the Police under Article 11 has been set at \$800.00 payable on May 1.

The PBA proposal is twofold. First, the PBA seeks to have the \$800.00 annual allowance increased by the same percentage annually that the base wages are increased. Second, the PBA sought to have the Township contribute the sum of \$5,000 annually to a PBA fund earmarked towards the purchase of bulletproof vests.

Uniform allowances are not intended as a matter of compensation for Police Officers, but as a reimbursement. A percentage increase would have no effect other than to provide additional compensation to the Officers.

Is the \$800.00 sufficient, as contended by the Township? A careful examination of the data presented on point established that the Police in the Township received less than do most other Municipality Police where the average is \$979.00.

The \$800.00 in Piscataway is exceeded by all other Departments in Middlesex except South Amboy (\$575), Carteret and Woodbridge (\$700), and Spotswood (\$749). Seven Municipalities pay over \$1,000, specifically New Brunswick (\$1,010), South Brunswick (\$1,050), Milltown (\$1,200), Jamesburg (\$1,250), Middlesex (\$1,400), Monroe (\$1,500) and North Brunswick (\$1,750).

The \$800, under the PBA proposal would still leave the uniform allowance under \$1,000 (at \$996) by 2002, a figure only slightly (\$17.00) below the current County

average, an average which most likely will increase inasmuch as only nine of the figures involve contracts that cover 2001. An increase is warranted.

A bigger question arises so far as the second PBA proposal pertains to bulletproof vests. The Township objected to making any contribution to a PBA fund on a mandated basis, contending that it would have no control over the use to which such monies in the absence of a provision allowing it to audit such fund and its expenditures.

The Township argued that it has always provided bulletproof vests for Police use. The PBA responded thereto in its Reply Brief that "if the arbitrator wants to mandate that responsibility to the Township contractually since it is allegedly being done already, that would be fine ...".

No one can honestly argue against expending monies for the purchase of bulletproof vests which cost over \$500 each. \$500 to possibly save an Officer's life is a small price for the taxpayers of Piscataway to pay. The needs of both parties must be met on this point. Monies must be allocated for the purchase of bulletproof vests, and the allocated sum must be used for such purpose only, as needed.

8. PERSONAL DAYS

Article 14 establishes personal leave as follows: **"Each employee shall be allowed two (2) personal days in each calendar year of this Agreement. One (1) additional personal day is allowed in lieu of one-half (1/2) day off Christmas Eve and one-half (1/2) day off New Year's Eve ..."**.

The PBA proposal sought to increase the two day reference to three days. It is obvious that the Police in Piscataway already receive three personal leave days. One simply cannot ignore the two half day Christmas and New Year's Eve reference.

The County average is 3-1/2 days annually, with 9 departments receiving 4 or 5 such days, 8 departments receiving 3 as is received in Piscataway. Three departments receive less. There appears to be no justification for the taxpayers to fund a greater number of personal leave days.

9. COLLEGE CREDITS

The PBA proposed that each Officer receive a payment of \$10.00 per college credit earned. Piscataway is one of only eight Municipalities in the County that offers no incentive for Police Officers to take college courses or to improve themselves educationally.

While educational improvements of any kind probably would benefit the individual Police Officer, can same be true so far as the Department is concerned under the proposal? A Police Officer, whether it enhanced his abilities as a policeman or not, could choose to take any type of college course, whether or not it lead to a degree in Police Science, or was in any way connected to his police job. The citizenry of the Township deserve to have a well educated police department, and it has a very fair salary schedule. They should not, however, be expected to pay something, even a miniscule \$10.00 for their Police Officers to take perhaps courses totally unrelated to law enforcement.

The proposal as presented could allow salaries to sky-rocket without any Township control, and must be denied.

10. LIFTING PATIENTS

The PBA proposed a contractual prohibition against the Township requiring members of the Police Rescue Squad from being required or expected to lift any patient being the subject of the call. Any injury sustained in the course thereof would not entitle such officer to an "accidental disability retirement" argued the PBA.

A careful reading and examination of the N.J.S.A. 43:16A-7 which pertains to "retirements for accidental disability" does not appear to so indicate. Such section states in part "... any member may be retired on an accidental disability

retirement allowance; provided, that the medical board ... shall certify that the member is permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties and that such disability was not the result of the member's willful negligence and that such member is mentally or physically incapacitated for the performance of his usual duty and of any other available duty in the department which his employer is willing to assign to him ...".

The Township did not dispute, however, that there existed a limitless number of instances where an Officer could be injured in the line of duty and not be eligible for an accidental disability retirement, but argued, correctly, that such denial would have no adverse effect on the Officer's entitlement to Workers' Compensation benefits or to a disability retirement.

The taxpayers of the Township pay a most respectable wage to its Police and have the right to expect the Police Officer to be there and willing to perform expected duties to assist him in his time of need. If one is injured and must be lifted by one or two or more Officers, so be it. What should the injured citizen expect? Be allowed to lie there and perhaps die, because the person whose salary he pays is contractually not required to lift him or even attempt to lift him?

11. SICK LEAVE (TERMINATION BENEFITS)

Article 13, Section 1 pertains to sick leave and the accrued accumulation, at the time of retirement. Said provisions allow an Employee to accumulate five of his twelve annual sick day, if unused for use at time of retirement as a salary extension, or that he "may request a cash payment ... for the accumulated days".

The Township proposed setting a CAP on the total amount that could be accumulated and turned into cash at retirement, at \$15,000, (a sum identical to the CAP imposed on the Public Works employees) for post September, 1999 hires. It must be pointed out that the Public Works employees earn about \$25.00 per hour while the Police wage, if broken down to an hourly rate, far exceeds that sum.

While it is not clear precisely how many days the Police will work in view of their March 10, 2000 Agreement on a new "four days on and four days off" work schedule (43 hours), their hourly rate is much greater than the highest paid Public Works employee.

Based upon a \$60,000 wage, a figure the 6th year Office will surpass in the first year of this Agreement, to say nothing of the subsequent wage increases that will be negotiated in the years before a post 1999 hire can retire, the CAP is absolutely meaningless. There is no reason for the PBA to resist. When the CAP becomes a reality (25 years from now) an increase certainly can, and will be

negotiated. Nor is there any reason for the Township to seek the CAP, except for attaining a uniform provision on all Township contracts.

12. LONG TERM DISABILITY

Article 19, Sec. 6 covers this benefit so far as the PBA is concerned, by making reference to Policy Directives. This benefit applies only to off duty injuries or illnesses. Police Officers affected currently are required to use their own time for the first thirty working days involved, after which they continue to receive full pay for up to one year.

It must be noted that at no time was the full language of the Policy Directive submitted into evidence, as a result, the benefit had to be ascertained by means of Township Exhibit # 21 which compared Piscataway's benefits with those offered by other Police Departments.

The Township proposed that the benefit be "amended in accordance with the recommendations of the fact-finder's Public Works Report" which, in effect, recommended that [1] 100% of salary continue to be paid for the first three months of absences; [2] 90% of wages be paid for the next three months of absences; [3] 80% of wages be paid for the next three months and [4] that 70% of wages be paid for three more months of absences. Further, no benefits would accrue while one was receiving Long Term Disability benefits.

Data was presented on eight other Middlesex County municipalities whose benefits differ amongst each other and so far as Piscataway is concerned, i.e. Edison pays full wages for one year after the first five days of absences which are covered by sick leave; Franklin pays 60% of wages after thirty days of absence (which is not covered by normal sick leave accumulation); New Brunswick pays 100% of wages for a full year; Woodbridge pays 100% for only thirty days; Old Bridge pays 2/3 of wages for ninety days after the first thirty days; Plainfield pays 50% of wages for between six months and twelve months, depending upon one's years of service.

One cannot dispute that a difference exists between a "Long Term Disability" that results from an illness or a non-work related injury, and one resulting from a job related injury which would entitle the injured employee to Workers' Compensation, which pays employees 70% of wages and is NOT subject to income tax and/or other withholdings. The IRS does not normally exclude when computing an individual's income tax liability, the monies received while one is out on an illness or non-job related injury, as it does for a Workers' Compensation recipient.

The only time the IRS will exempt disability income from income taxation is when the payments are made by a third party, not an agent of the employer. Thus, the 100% currently paid by the Township to one out of work because of a long term illness or other disability, is subject to all income tax and other mandated

withholdings. The same would hold true if the Township's proposal to reduce the 100% to 70% was instituted. The 70% would be taxable.

Can the tax on the benefit, be it the present 100% of wages, or the Township's proposed 70% of wages, be avoided? Such benefit is tax exempt only in those instances where the employee (not the employer) himself buys and pays the entire premium covering a Disability Insurance policy. If the employer furnishes the benefit, as currently the case in Piscataway, or pays the premium for a Disability Insurance policy with the benefits running to the employee's benefit, such benefit is taxable and cannot be avoided. There exists no valid rationale for treating a personal illness or non-job related injury more favorably than one treats a job related injury.

13. HEALTH INSURANCE

Proposals herein were made by both parties, neither being willing to allow the current contractual provision to continue in its present form.

Article 19 covers the sundry health insurance benefits enjoyed by the PBA. Sec. 3 thereof allows employees to opt out of different health insurance benefits and to receive a partial cash payment in lieu thereof. The cash payment depends upon the particular benefit being waived and the type of coverage eligible (full family, husband and wife, parent and child) for. The specific allowances involved are:

<u>BENEFIT</u>	<u>FULL FAMILY -and- HUSBAND & WIFE</u>	<u>PARENT & CHILD</u>
Health	\$2,250	\$1,500
Dental	\$ 450	\$ 300
Prescription	<u>\$ 300</u>	<u>\$ 200</u>
	\$3,000	\$2,000

The PBA proposal was to modify this portion of the current contract so as to substitute for a specific sum being received for their member waiving coverage, a percentage, specifically 50%, of any premium dollars saved by the Township as a result of such waiver.

The Township opposed such change arguing that the parties are not partners in some profit making venture, that the municipality has an obligation to provide health insurance coverage at a certain level for members of the PBA, but that it should not be burdened with sharing reduced costs at the expense of the taxpayer.

The Township had its own proposal on point. Specifically that "the bonus resulting from the insurance waiver benefit not apply to any employee having a spouse receiving health insurance benefits from the Township, so far as new hires (hired after September 1, 1999) are concerned".

The Township sought to justify this proposal by pointing to the undisputed fact that more than fifteen current employees (but how many in the Police

Department?) are married to each other, resulting in the "payout" benefit costing in excess of \$40,000 - \$45,000 annually.

The Township's brief best sums up its arguments and rationale for their proposal. Same, at page 19 states: "...the Township is confronted with a situation when there are two employees who are spouses working; that its payment for the one includes coverage for the other. Therefore, a payment to only one spouse would not be a waiver of insurance coverage. That coverage would already exist through the other spouse but would merely reduce the amount of duplicate financial outlay incurred by the Township. For example, if the husband decline insurance, the Township would still have to pay for his coverage through the wife. He would be receiving the benefit in lieu of payment, but also receiving the health coverage for which the Township would have paid. If he were to accept the bonus, the employee in this situation would effectively be double dipping and receiving a windfall for no justifiable reason".

The PBA countered with the argument that where "double coverage" exists, the deductible is paid by the second coverage, thereby creating a specific monetary benefit, the "coordination" of benefits. This benefit must continue.

Employers usually offer a "buy-out" for employees declining insurance coverage, when and only when, the employee opting out of coverage, saves the employer a fairly considerable sum. The "buy-out" is then usually a portion of the premium

saved. Where there exists no total premium savings, there is no justification to the "buy-out" bonus to those not currently enjoying same, namely those who are not currently in the employ of the Township and already entitled thereto.

Rather than eliminating new hires from receiving the benefit, such future employees should at least be in a position to have the Township cover whatever deductibles are incurred. At least the Township still saves some portion of the premium, while the individual unit member receives the same coverage as if there was a duplication.

The Township further contended that the very topic was a non-negotiable matter and not properly before the arbitrator. Dispositive of the issue, is the statutory prohibition against the waiver of insurance coverage and the consideration to be paid therefor being the subject of collective bargaining. The Final sentence of N.J.S.A. 40A:10-17.1, provides, "The decision of a municipality to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process. Thus the arbitrator lacks jurisdiction to make the award ...".

The Township cannot have it both ways. They have already agreed to pay in return for a waiver of coverage so far as current employees are concerned. They cannot now unilaterally invoke the Statute so far as future hires are concerned. It

certainly appears that it behooves both parties to reach an amicable resolution on this single point.

In the hope of making health insurance benefits for all Township employees the same, the Township sought to limit any one hired after September 1, 1999 to "either HMO, POS or PPO coverage in lieu of hospitalization, medical and major medical benefits".

Unfortunately, with all of the data presented, no study was made as to how common a practice it was to restrict health insurance benefits to HMO's, POS's or PPO's elsewhere. That such restricted benefits are less expensive goes without saying, but so are the ultimate coverage and benefits. If persons not already employed by the Township deem all other benefits sufficient to warrant their accepting an offer of employment, so be it.

The key to the Township's proposal is to save money, specifically the difference between current benefits and the less expensive HMO's, POS's and PPO's.

Such endeavor can, and will be recognized by limiting the Township's costs to the HMO, POS or PPO premium (covering the full family) or by allowing such new hire to opt for "employee only" full benefits as are being received by existing current employees. If the new hire selects the latter "employee only" coverage, he should be allowed to opt to pay any and all additional premiums so as to

obtain the same coverage for his family. Once such new hire has shown his intention to devote his career to Piscataway (after he has completed his Academy time and three additional full years in the Department), his obligation for premium contribution should end.

This, in turn, will ease the financial burden of escalating health insurance costs at least until the new hire has established himself and indicated an intention to spend his career in the Township's service.

14. TUITION REIMBURSEMENT

This item really represents three Township proposals and one PBA proposal. The latter has been discussed separately under "#9 - College Credits" earlier herein.

Though not spelled out in the Collective Bargaining Agreement, the question of Tuition Reimbursement appears in Policy as a Tuition Assistance Program (TAP). Currently, Police Officers who attend college are reimbursed for 50% of the cost of tuition plus 100% of costs incurred for book and other student fees.

The Township's proposal evolves around [1] being able to reject a request for reimbursement if there are insufficient funds in the particular account [2] to make the amount of reimbursement dependent upon the grade achieved, and [3]

establish reimbursement rates at the rate then being charged at Rutgers, the State University.

The benefit offered by other municipalities differ amongst the thirteen or so that offer their police such a benefit. Some pay "X" dollars per course, some pay an annual maximum, some pay only for courses leading to a degree in Police Sciences. Right now the obligation of the Township to pay 50% of the cost of tuition is tantamount to an agreement to pay "whatever" the college demands, be it attendance at a "Harvard" or a Community College. The tuition rates are vastly different.

The Township specifically proposed the addition of the following language so as to accomplish the first of their three proposals: **"The Administration shall not approve a request for reimbursement if there are not sufficient funds in the sub-account dedicated for this purpose since an approval would be a violation of N.J.S.A. 40A:4-57."** The said Statute provides in part that: **"No officer, board, body or commission shall, during any fiscal year, expend any money (except to pay notes, bonds or interest thereon), incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purpose for which no appropriation is provided, or in excess of the amount appropriated for such purpose."**

The Statute when tested in Court in the Matter of Murphy vs. Town of West New York [132 N.J.L. 595] resulted in the Court saying that the Statute: renders null and void ... a contract made in violation of its terms ...".

Another Court case, State vs. Boncelet [107 N.J. Super 444] held it to be "a crime for a public official to authorize ... a payment in excess of the budgeted amount."

Its second proposal would continue the same reimbursement schedule if an "A" grade was achieved; cut book and registration fee reimbursement to 50% if the grade was a "B" and to cut out book and registration reimbursement if the achieved grade was a "C". If the grade was below a "C", the Township sought to eliminate any and all reimbursements, including tuition.

Their third proposal, namely the proposal to continue paying 50% of the cost of tuition, but at the Rutgers, State University, rate is understandable. If every member of the Department attended school and took, say, three credits, the Township could calculate and allocate the necessary funds, predicated upon 84 officers taking three credits, multiplied by $\frac{1}{2}$ of a specific rate, their maximum exposure could be calculated.

The arbitrator herein does not intend to second guess the Courts. However, in view of the Statute and the Court decisions, it becomes almost absolutely necessary for the Township to be able to calculate in advance precisely what their maximum "tuition assistance" exposure could be and to budget same. That can be accomplished only by knowing at what rate their tuition assistance fund can be tapped.

Rutger's rates represent the rates charged by the State University. There exists the possibility that courses one wishes to take are not offered at Rutgers; or that the individual, relying upon presently existing language, has enrolled towards a degree elsewhere. Limiting reimbursement to 50% of the State rates could create an unexpected hardship.

In fairness to both the Township and its citizens and to the individual employees, the reimbursement limitation should be set at the State rate for those who have never taken courses previously at other than a State College; or at the average per course rate between Rutgers and Seton Hall (a private New Jersey college) for those who, in the past, have taken courses at other than a State college.

15. AGENCY SHOP

Article 26 sets forth the Agency Shop provision under which the parties currently operate. Same encompasses a page and a quarter of type. The Township

sought a new article which would replicate the fact-finder's Public Works Employees' report, and proposed a new three page document.

The proposal of the Township indicates many, many changes, and it is basically impossible to ascertain what changes, if any, are substantive and/or even meaningful. One item, however, does stand out and that involves a minimum number of dues paying members must exist before a "dues checkoff" or true Agency/Representation fee can come into play.

Unless there exists at least 50% of the department joining the PBA, it is neither fair nor reasonable to mandate that Union dues be paid. At least half of the department should want to be represented by the Union and be willing to voluntarily join and pay dues. If such minimum number exists, then requiring the remainder of the department to pay an Agency Fee (though they needn't join the Union) to help pay for benefits the Union negotiates, benefits which all members of the department enjoy. As 100% of the department are now dues payment members, this modification should have absolutely no ill effect or Township benefit.

16. MANAGEMENT RIGHTS

This topic is covered within the nine [9] brief paragraphs set forth in Article 2 of the Collective Bargaining Agreement. The Township proposed a totally new article.

The only argument advanced by the Township was that "this clause would replicate the recommendations of the fact-finder's ... report... This would provide uniformity amongst Collective Bargaining units...". When awarded in the Public Works Employees' matter, the Union therein had only a single problem, namely that the proposal would eliminate any and all existing practices. The award specifically protected the benefits of any existing past practices.

With the vast number of "window dressing" items involved herein, the parties never discussed or verbalized precisely what their objections to either the present provision, or the proposed provisions were. Thus, I can see absolutely no reason, in fairness to both parties, or in fairness to the public, to award a change.

Some comments relating to each of the Statutory criteria are worth noting:

1. INTEREST & WELFARE OF THE PUBLIC

The interest and welfare of the public demands a high caliber of police protection which must be considered along with the needs of those making up the police department.

While members of the department evidence their interest and support of the community it serves by putting forth its best efforts to protect the citizenry, the Township and its taxpayers have only a single way of exhibiting their support and

appreciation of their police, namely, by granting each and every one of them an equitable and reasonable salary increase.

A very simplistic view of this "interest and welfare" of the public" criteria of the Statute might well be that the public is always best served by the governmental body spending less. This is not, and should not be inferred by the Statute or the intentions expressed by the Legislature. The public is best served by a professional and well functioning police department. Productive and well motivated employees best serve the public and their interests, not employees who work for the cheapest rate possible. This notwithstanding, that too many contracts are awarded to the lowest bidder.

A public employer best serves the public interest and public welfare by striking a balance between satisfying its employees, thereby avoiding labor strife, and maintaining a stable level of governmental services. While a municipality, the Township herein, may have difficulty balancing these competing interests with budgetary financial restrains, it should not sacrifice fairness to its employees. By the same token, a municipality should not reduce essential governmental services merely to satisfy the economic demands of its employees. There can be absolutely no doubt that the Township of Piscataway police department has been serving the people of the Township in a most commendable manner.

The undersigned, as the fact-finder in the DPW impasse, is aware that it, and all other employee units have negotiated multi-year contracts which encompassed an 18 month wage freeze and then only 3.25% increases in each of three fiscal years. This contract and the contracts entered into with all other employees cover sundry health insurance benefits (with the Township fully paying the premiums) and other costly benefits. Can, or should the PBA and the other units be compared? Typically, a white collar unit does not provide a meaningful comparison to its public safety brethren. Same cannot, however, be totally ignored. Such contracts must be given some measure of consideration.

The PBA argued that too many of its members are required to work multiple jobs and/or that their households require multiple incomes and thus create a stress level that could likely affect productivity and performance. That households today, be they police families or not, require multiple wage earners, is common. No matter what the salary earned is, most families are made up of multiple wage earners. The police are not unique in this respect.

In analyzing the welfare of the public, one must look to the Uniform Crime Reports issued annually. All aspects of the 1998 report, the first year involved in these negotiation, were discussed during the hearings. The Total Crime Index reveals that the reported index for the last two years is at its lowest since 1990. The number of Crimes per Officer is also at its lowest two year level since 1990. Violent crimes, while up a bit for 1998, are still down some 88% since 1990, while

Non-Violent crime for the same period has shown a 45% decrease over the same period.

The "New York Times" in 1997, listed Piscataway as one of the ten safest towns in New Jersey, a report which prompted the Mayor to state: "... Piscataway is fortunate because the Mayor and Council have always strongly supported the efforts of the Police Department, particularly when it involves community policing programs. Many of our officers stay involved in programs even when they are off duty".

The interest and welfare of the public involves more than economics and how it affects the citizenry, but with police productivity, productivity which assists and benefits the people, must be paid for.

2. COMPARISON OF WAGES AND OVERALL COMPENSATION AND CONDITIONS OF EMPLOYMENT

This portion of the Statute requires that the interest arbitrator consider a comparison of wages, salaries, hours and conditions of employment involved herein with wages, salaries, hours and conditions of employment of other persons performing the same or similar services in public employment in comparable jurisdictions, in comparable private employment, and in public and private employment in general.

The salary of a sixth year patrolman, the benchmark salary, has been discussed earlier under the "wage" presentation. The 1997 \$58, 263 was second only to East Brunswick, and even then, only some \$322, while being \$5,618 above the County average.

The 1997 starting wage was \$28,257 and under either party's 1998-2002 proposals, the sum will increase and enable the Township to recruit as needed.

While not all municipalities have settled their 2000 - 2002 PBA contracts, a sufficient number have been concluded so as to allow a fair comparison, even against Piscataway's 1997 rate. While the differences between County average and Piscataway's figures would decrease, the Piscataway wage under either party's position would remain above the County average, though their ranking would drop, probably down to seventh. There are not too many jobs in private industry that have a starting wage at just under \$30,000 and within five years more than double.

While unemployment had been escalating for quite awhile, the current New Jersey rate is at the lowest it has been in years. As will be pointed out under criteria # 8, hereafter discussed, job security is not a question or concern within the Township's Police Department, whose salaries are amongst the highest in the Township and the County. As repeatedly discussed earlier herein, the other employees who have settled their 1998 and beyond contracts, all settled after

accepting an 18 month wage freeze (January 1, 1997 through June 30, 1998) for a 3.25% annual increase.

Settlements in New Jersey in private industry between 1997 and 1998 (the first year involved in these proceedings, averaged 5.3% [N.J. Department of Labor, ES-202], while in Middlesex County, such increases came to 5.7%. Can anyone really dispute the contentions that there exists no comparable private employment that is a proper comparison to police work? After all, police departments work 'round the clock, seven days a week, 365 days a year. They work under the eye of the public where every aspect of their work is "under the microscope". Private sector employees generally work a regular five day work week with weekends and holidays off. They rarely are confronted by the type of physical dangers inherent in police work.

There is another group of public employees in Piscataway and in Middlesex County. Middlesex teachers, paid by the same taxpayers who pay police wages, received in negotiations an average 1998/99 increase of 4% including a 1% increment and 3.93%, again including increment, for 1999/2000. A wage freeze? No! They, the teachers, some of whom reside in Piscataway, didn't contribute to the Township's efforts towards financial recovery either.

3. COMPENSATION AND FRINGES

A contract does not involve compensation alone. A contract covers many other benefits as well including longevity, holidays, clothing allowances, personal leave, sick leave, bereavement leave, detective differentials, vacations, medical (including hospitalization and dental) and overtime. The police in Piscataway do not fare badly.

Police in Piscataway receive as a **Longevity Stipend** 2% of wages (after 5 years in the Department) and 4% (after 10 years) up to 10% after 24 years of Department service. Using the 10 year - 4% figure as an average based upon the benchmark (\$58,263) wage for 1997, same represents a \$2,330 sum over base wages. Elsewhere in the County, longevity ranges between 3% in Milltown, Helmetta and Highland Park (averaging \$1,430) and 6% in East Brunswick (\$3,647).

As to **Holidays**, the 14 in Piscataway is right on point between the other departments where the range is between 13 and 15.75 days. The dollar value of each holiday depends upon one's base wage. The higher the wage, and Piscataway is near the top, the higher the daily value.

The **\$800 Uniform Allowance** received in Piscataway pales when compared elsewhere, and discussed earlier in this document.

As to **Detective Differentials**, those holding the rank in Piscataway receive a stipend of \$1,000, a sum equaled in only two other municipalities and exceeded in only two (Plainsboro and Jamesburg).

While the Piscataway Police receive 12 **Sick Leave Days** annually, the County average computes to 14 with none getting less than 12 and no more than 18.

Vacations depend upon the length of employment. While limited to 11 days annually until 5 years of service has been completed, the Officer receives 18 days annually after 5 years, 20 days after 10 years, 24 days after 15 years. The ranges and averages being 11 - 23 days with a 16.8 day average after 5 years; 15 - 28 days with a 20.1 day average after 10 years; 20 - 30 days with a 24.6 day average after 15 years and 20 - 35 days with a 27.4 day average after 20 years.

The three **Personal Leave** days enjoyed by the PBA discussed previously, is right on point compared to the 3.5 day County average.

As to **Bereavement Leave**, the contractual three days in Piscataway falls below the 4.1 day County average.

As to **Medical Benefits**, the PBA herein receive what most other departments receive, hospitalization, medical - dental. A few, including Piscataway, receive optical as well.

Based upon the data presented, there is no way to explore each and every contract and determine the precise nature of each and every offered medical benefit. With all the different plans afloat, the benefit probably differs department to department.

The Piscataway Police, like those in most other Middlesex departments, have in addition, contractual benefits **covering overtime, minimum call-in time and minimum Court time.**

The only **Terminal Leave** enjoyed in the Department depends upon the individual's use of his allocated annual sick leave. Unused days, to a maximum of 240 can be accumulated and be used as leave time at retirement or turned into cash at retirement. While the Township seeks a CAP for new hires, none exists or is proposed for current personnel.

Piscataway is one of the eight County departments that do not receive an **Educational Incentive**, but they do enjoy a tuition assistance plan whereby the costs of tuition are partially paid.

Of course, if the proposals of the Township were to be awarded herein, the overall favorable position of the Piscataway PBA would suffer, especially so far as wage comparison and overall benefits are concerned.

4. STIPULATIONS

On March 10, 2000, the parties executed a stipulation covering all of the items on which a mutually acceptable agreement had been reached. Rather than set forth each of the items verbatim herein, a photocopy of the Stipulation with all 15 pages of attachments will be set forth **as an addendum to this award**. Said attachments include 9 pages pertaining to the "Current 4 x 4 shift schedule.

5. THE TOWNSHIP'S AUTHORITY TO GOVERN, RAISE TAXES, PASS ORDINANCES AND TO ENTER INTO CONTRACTS

The Township's lawful authority so far as the budget is concerned was and is restricted by the New Jersey CAP Law. The neutral Interest Arbitrator is statutorily and constitutionally required to consider CAP restraints imposed upon the governing body. The CAP Law has been in existence for close to twenty years in one form or another. Said law is aimed at limiting local governmental costs and at the same time limiting the tax burdens on the homeowner.

The New Jersey Local Government CAP Law [N.J.S.A. 40A:4-45.1 et seq.] restrains the lawful authority of the employer by limiting overall budget increases. By limiting such budget increases, the ability of the Township to grant unlimited wage increases to its employees is restricted. The 1990 amendments to the

CAP Law were intended to slow down the rate of increase in local property taxes. These amendments eliminated certain heavy expenditures from heretofore exceptions when computing the possible tax increase.

While the CAP Law does not impose a line by line item limitation, it places a limit on the overall budget to the extent that it is subject to the CAP Law. Because salary expenditures fall within the CAP, the Legislature in a not so round about way has attempted to limit the maximum amount the Township or any municipality may increase taxes for the purpose of covering salary expenditures. Costs incurred to fund a possible adverse Interest Arbitration award must be taken into account by the municipality in determining whether overall budgetary appropriations exceed the ceiling imposed by the CAP.

The legal CAP increase limit is 4.5% based on a formula detailed in the law and based upon a government cost inflation index. In certain circumstances, the budget may be increased up to 5% by ordinance prior to the introduction of the budget.

As could be anticipated, the principal focus of the presentations of both the Township and the PBA involved economics. The Township contended that any award in excess of its offer would require a diminution in other governmental services in addition to placing an unwarranted burden upon its taxpayers.

6. THE FINANCIAL IMPACT ON THE MUNICIPALITY AND TAXPAYERS

The Township in its brief stated "... certainly, the Municipality has the legal ability to fund the PBA requests. But such funding would mean discontinuance of significant programs, termination of employment of other employees, etc., and/or raising of taxes to an intolerable level. This, the Township could do. However, the deprivation of needed services in other areas and an excessive imposition upon the pocketbook of taxpayers is beyond the ability of the Township to endure...".

The Township pointed, at page 11 of its post-hearing brief, that the PBA package through December 31, 2002 would cost \$1,978,220 more than its (the Township's) proposal would cost. Admittedly, by not giving non-safety employees the increases sought by the PBA, the Township has been able to achieve some financial stability.

Any costs incurred by the Township as a result of the instant Interest Arbitration for the period of January 1, 1998 through June 30, 1998 would have to be funded through an emergency appropriation in the FY 2000 or FY 2001 budget, as it is alleged that neither appropriations nor reserves exist for this time period. Likewise, any costs incurred covering July 1, 1998 and June 30, 1999 would also have to be funded through such an emergency appropriation since no uncommitted reserves remain. In preparing the FY 2000 budget, increases of

only 3.25% were budgeted, which represented a Township hope that all unresolved wages could be settled as such a rate.

The Township in its reply brief summarized the effect on the tax levy and the effect on the budget CAP on the PBA proposal as follows: "**Effect on Tax Levy-** Approximately, \$200,000 exists in the FY 2000 budget to fund salary increases for both PBA 93 and PBA 93A. Therefore, \$2,777,887 would have to be raised either as an Emergency Appropriation or as a new appropriation in the FY 2001 budget. This would increase the Township tax levy by \$2,777,887 or 16.2%.

Effect on Budgetary CAP - The Township's available CAP bank is \$673,664. An award of this magnitude would not only exhaust the CAP bank, but cause the Township to exceed the authorized CAP by \$2,104,223. This would create tremendous adverse consequences for the remainder of the Township budget."

It must be noted that the figures do not jibe with the Township's Exhibit 36-F Revised which indicates that the PBA proposal would cost \$2,605,551 more than the Township's proposal. Any wage increase, be it by awarding 3.25% offered by the Township or the 4.5% sought by the PBA, coupled with other proposals involving the expenditure of monies, must, of necessity, have a direct impact on the budget and the resulting tax rate.

The PBA figures differed. Calculations thereon set forth in the PBA brief dispute such contentions and compare item by item the costs of each proposal. The five year PBA wage proposal would allegedly cost \$834,348 over the five years, while the Township's 18 month freeze and 3 years at a 3.25% increase would cost out at \$345,382, a difference of \$488,966 or an average difference of \$97,793 representing about 3 cents on the tax rate.

There will be less of an impact, as this Interest Arbitrator will not recommend either an Award of 4-1/2% or 3-1/4% with an 18 month freeze.

Worthy of comment herein, while considering the impact upon the taxpaying public, is the fact that the PBA in negotiating its 1995/1997 Collective Bargaining Agreement voluntary (without imposition by an interest arbitrator) added two steps to the salary guide which produced, and continues to produce, a considerable monetary savings to the Township. These projected savings, undisputed by the Township, exceeds \$300,000 in each of the years involved herein. In essence, the savings the Township extracted during their last negotiations appears to almost offset this contract's sought after wage increase. The taxpayers cannot ignore recurring tax savings benefits.

The taxpayers of the Township, based on the 1998 figures, pay \$3.60/\$100 AV, (a sum as close to the County average \$3.61/\$100 AV as is possible). The Piscataway rate exceeds that of 14 other communities, but less than the other

10, all of whom pay rates in excess of \$4.00/\$100 AV, with Dunellen \$6.87/\$100 AV being the highest. (The 1999 tax rate in Piscataway was \$3.66/\$100 AV). When one examines the contiguous municipalities, Piscataway is the third highest taxed, behind only Middlesex and Highland Park. The average? \$3.53/\$100 AV.

The tax rate, corresponding with the taxpayers desire to maintain and perhaps improve services, while recognizing the need to increase wages of employees, has risen during the 1990's. Risen from \$2.64/\$100 AV in 1990, with the biggest increases falling in the years just prior to the time the Township sought a wage freeze for all employees. In 1996, the tax rate was \$3.16/\$100 AV and rose to \$3.44/\$100 AV in 1997. Thus, even without any wage increases for 1998, the tax rate still increased by 16 cents to the 1998 \$3.60/\$100 AV.

The taxpayer has been trying. The tax monies have not been foolishly frittered away. The taxpayers current problems probably result from the efforts of previous administrations to keep annual tax increases to an absolute bare minimum. Increases for 1991 over the 1990 rate was only 2 cents and dropped to "zero" for 1992 and up by 7 cents for 1993. Thus, a 9 cent increase in the tax rate between 1990 and 1993 set the foundation for the fiscal problems leading to the current impasse, especially when almost 81% of necessary revenues are derived from real estate taxation.

In early 1997, the Chief Financial Officer (not Gregory C. Fehrenbach, the present CFO) advised the Council that projected lost revenues in FY 1998 (July 1, 1997 - June 30, 1998) of almost 2.5 million dollars existed and a tax increase of 11.3 points, so far as the municipal budget alone was concerned, was needed. In order to contain the tax increase to only 9 points or 11%, the Township sought to impose a hiring freeze and, the reason for current problems and this arbitration, a salary freeze.

The economies bore fruit. By the end of FY 1998, there existed a cash surplus of \$2,728,135 of which all but \$3,135 was used to contain the FY 1999 budget. If not so utilized, taxes would have had to be increased by more than 12 cents over what the actual raise was. A one penny increase in the tax rate produces an additional \$221,800 in revenue. As the average home in the Township has a \$125,000 AV, the aforesaid 1 cent raise in taxes would cost each residence approximately an additional \$12.50 annually.

Did State aid ease the burden on taxpayers or not? A clear picture cannot be achieved, as the PBA exhibits indicate that State aid had quadrupled between 1990 (\$957,000) and 1994 (\$3,831,000). Township Exhibit # 32 indicates a drop from 1994 (\$7,854,000) to 1999 (\$7,452,000) to 2000 (\$7,377,000).

Based upon 1994 figures, *the last year for which certain figures were offered*, the citizenry of Piscataway expended more monies for all municipal functions than

did all but 7 other municipalities and almost 25% more than the County average. The \$20,683,000 expended, however, represented only 25.02% of total municipal expenditures, a percentage exceeded by all but three others, and well below the 30.32% County average. The total tax per capita in 1994 amounted to \$1,374, far less than the County average of \$1,475.

There aren't too many "deadbeats" in the Township. 97.46% of all taxes are collected annually, a percentage above the County average. There is no point in comparing the incomes of Piscataway taxpayers with others as the last figures offered into evidence covered calendar year 1989, which indicated a per capita income of only \$17,047, and a family income of \$56,142, a figure which then was exceeded by all but 6 other municipalities

Based on 1998 figures, the net valuation of taxable real property in Piscataway, the value of properties which foot the bill for the operation of the government was \$2,195,617,769 (\$43,105 behind each of the 50,936 persons comprising the population).

20.82% of the total tax paid goes for local costs, a percentage which is below 17 other municipalities in the County and below the 23.42% County average.

While the PBA contended that there existed some \$700,000 unexpended from the budget in the salary account, same is not 100% accurate, as \$463,000 went

to fund the 1997 Interest Arbitration Award for the PBA and to pay retirees' benefits. The balance went into surplus and was used to reduce the next years budget. Agreed by the parties, this is not an additional amount of available money.

7. THE COST OF LIVING

The Cost of Living Index or the Consumer Price Index has, for many years, been used in order to justify rather large wage increases. The effect of changes in the Cost of Living on one's purchasing power is of prime importance to any worker. Will his wage increase keep pace with the increase in the Cost of Living so that he can continue to maintain the same standard of living? Accordingly, the Statute mandates that the arbitrator, when rendering his award consider the cost of living. There are actually two CPI's issued. One covers "All Urban Consumers". This is the CPI- U. The other covers "Urban Wage Earners & Clerical Workers". This is the CPI -W.

For calendar year 1997, the CPI -U went up by 2.3% and by 1.6% in 1998. For the same period, the CPI -W went up 2.3% and 1.4% respectively. The increase through mid-1999, the last period for which data was presented by the parties, showed an increase of just under 1%. If projected to the end of the year, a shade under 2%.

The Police in Piscataway, just like the Police elsewhere, have had their wages, not only keep pace with the CPI, but exceeded it. Between 1991 and 1997 (the last year in which raises to the PBA occurred) the CPI increased by 4.3, 3.4, 2.9, 2.3, 2.5, 3.0 and 2.3%, for a total of 16.69%. Wages on the other hand increased for the same period by 6.5, 6.5, 6.0, 4.0, 4.0 and 4.25% for a total of 31.25%. This figure can be reduced by 1.07% so as to offset the January - March, 1997 wage freeze, which reduced the 4-1/4% by one quarter, leaving a 3.18% payout. In short, wage increases since 1992 have outpaced the CPI increases almost two to one.

Even if the freeze proposed by the Township, a freeze though June 30, 1999 was awarded, the wage increases for January 1, 1992 through June 30, 1999 would exceed the CPI for the same period. In computing the CPI, one cannot overlook the fact that it includes medical expenses, expenses which the PBA does not pay, as premiums for medical insurance are fully paid by the Township.

It should be noted that the offer of the Township is more than a full point above the increases in the Consumer Price Index. Thus, even under the Township's offer, the increase will again represent real gain to the members of the Police Department.

8. THE CONTINUITY & STABILITY OF EMPLOYMENT

There is absolutely no question but that the continued employment of members of the Township's Police Department is secure and will continue. One could, in fact, almost state that such continuation is guaranteed. The only departures from the Department were 9 in 1998, 5 in 1999 and one this year. One represented a retirement for reasons of disability and one because of death. The remainder were all retirements because of their years of service and reaching the age of retirement. Police Officers in Piscataway do not leave merely to better themselves salary and/or benefitwise, nor are they terminated because of any "reduction in force".

XXXXXX

Collective bargaining is essentially a conservative process. Interest Arbitration is an extension of collective bargaining and must be much more conservative as it is compulsory, the parties unable to reach a voluntary agreement must submit to the compulsory process and each are bound by the decision of the interest arbitrator.

I am most disturbed by the fact that the parties were unable to reach an amicable voluntary resolution. However, when a wage freeze is being insisted upon, the chances of a voluntary settlement is nil, especially when the implementation of

same, or not, is no longer on the shoulders of the parties, but on the back of the neutral interest arbitrator.

It is unfortunate that the Township initially "drew the line in the sand" for a wage freeze with the Public Works employees. Their last contract, before the fact-finding report relied upon by the Township ran out in December, 1996. The employees went through 1997, 1998 and half of 1999 before the employees therein surrendered and accepted a freeze for all of 1997 and half of 1998. Living in 1999 on 1996 wages, even with a low rise in the Consumer Price Index created a financial hardship necessitating their giving in.

One must remember that neither the 3.25% wage increases, nor the 18 month wage freeze was derived initially as a result of direct negotiations between the Mayor or Council and any of its employees, be they unionized or not. On November 10, 1998, at a point in time where 22-1/2 months had elapsed since any Township employee received a wage increase the Mayor and Town Council unilaterally granted a salary increase to its non-union employees of 3.25% retroactive to June 1, 1998 and unilaterally imposed a retroactive (January 1, 1997 - June 30, 1998) 18 month freeze.

While one generally tries to treat all employees alike, an interest arbitrator, with Statutory guidelines or criteria to follow, cannot blindly endorse for all employees what an employer unilaterally may have imposed on a particular class of

employees having little or no bargaining power. A different result herein may very well have occurred were the initial freeze and the initial percentage increase have been the result of direct negotiations as opposed to one side (the Township) having drawn a one-sided edict.

The Interest Arbitration on the PBA's 1997 wage reopener, notwithstanding other Township employees not having received a raise, nevertheless awarded a 4.25% increase effective four months into the year, resulting in the PBA receiving, as indicated earlier herein, with a raise in base of 4.25%, but with only $\frac{3}{4}$ thereof being received by the PBA as actual wages during 1997. They began receiving the full benefits of the 4.25% award (their contractual 1997 rate) in 1998. Thus, even under a like interest arbitration process, the then Interest Arbitrator could not justify and deem it reasonable for the PBA to suffer a then 12 month wage freeze, nor a necessity for the Township to achieve same. The unilateral imposition of both a 3.25% wage increase coupled with a wage freeze does not change the picture.

It is most unusual to have as many items unresolved in an interest arbitration as existed in this proceeding. Merely because another group of unionized employees have one thing in their contract is not, in itself, reason enough to change numerous existing portions of the PBA contract so that all employees will have uniform contracts.

If the PBA had agreed thereon voluntarily, fine. I do not feel it incumbent upon me to award the Township's positions, item for item, merely because [1] non-union employees had same unilaterally imposed and/or [2] because another union, in order to get a wage increase, agreed thereto.

In conclusion, the most reasonable resolution of the myriad of issues in dispute herein is set forth below in the award. Each and every issue presented has been considered in light of the voluminous and extensive record, through an application and consideration of each of the eight statutory criteria set forth in the N.J.A. 34:13A-16(g).

AWARD

For the foregoing reasons, I **hereby direct and order** that each and every item and issue in dispute in this Interest Arbitration be resolved as follows:

1. DURATION - That calendar year Collective Bargaining Agreements between the Township and the PBA shall continue through the period retroactively from January 1, 1998 through June 30, 2001.

That as of July 1, 2001, the Township - PBA contracts shall encompass a fiscal year covering the period

of July 1, 2001 through June 30, 2002.

2. SALARY -

That retroactive to January 1, 1998 and continuing through December 30, 1999, all persons entitled to advance a step or more on the guide receive the increment designated for each step.

That the following "across the board" wage increases shall go into effect (retroactively, where necessary) the following calendar year or fiscal year periods:

Effective April 15, 1998	4.25%
Effective January 1, 1999	2.0%
Effective July 1, 1999	2.0%
Effective January 1, 2000	3.25%
Effective January 1, 2001	3.25%
Effective July 1, 2001	no additional increase
Effective January 1, 2002	3.55%

That any PBA member who retired subsequent to December 31, 1997 will be entitled to any retroactivity that would be due under the above recommendations.

3. OVERTIME - That effective September 1, 2000, detective stipends for "on calls" under Article 8.4 be increased by the same annual percentages base wages are being increased for CY 2000 through June 30, 2002.

4. CLOTHING ALLOWANCE - That clothing allowances, under Article 11, be increased to \$900 retroactive to January 1, 2000; \$1,000 on July 1, 2001; and \$1,050 on January 1, 2002.

5. BULLET PROOF VESTS - That the Township allocate the sum of \$5000 annually, commencing with CY 2000 towards the purchase of bullet proof vests. Said purchase shall be on "an as needed" basis.

Any allocated sums not utilized in any year shall be carried forward and shall be available towards the purchase of bullet proof vests not covered by that year's \$5000 allocation.

6. SICK LEAVE - TERMINAL LEAVE - That the Township's proposal to place a \$15,000 CAP on Article 13.1 for those initially hired on or after September 1, 2000 be implemented.

7. LONG TERM DISABILITY - That the Township's proposal to modify Article 19.6 for those persons initially hired after September 1, 2000, shall be implemented as follows:

Salary benefits of 100% of regular salary continue for the first 3 months.

The next 3 months (months 4-6) be paid at 90% of regular salary.

The next 3 months (months 7-9) be paid at 80% of regular salary.

The next 3 months (months 10-12) be paid at 70% of regular salary.

The maximum amount of authorized leave shall not exceed 12 months.

Employees shall not accrue leave time, holiday pay, clothing allowance, shift differential, etc, while collecting LTD.

8. PAY CHECKS - That effective January 1, 2001, (or as soon thereafter as possible) pay checks shall be issued on the 15th and last day of each month - 24 pay checks annually provided all

other Township employees are contractually so obligated or have agreed thereto.

9. TUITION REIMBURSEMENT - That effective January 1, 2001, the amount of tuition reimbursed by the Township shall depend upon the final grade received by the employee as follows:

<u>GRADE</u>	<u>AMOUNT REIMBURSED</u>
A	50% Tuition Refund 100% Registration Fees 100% Required Books
B	50% Tuition Refund 50% Registration Fees 50% Required Books
C	50% Tuition Refund No Registration Fees No Payment for Books
Below C	No Reimbursement

Any course on which only a "Pass or Fail" Grade shall be reimbursed as though the course grade was an "A".

Cost of tuition (cost/credit hour) may not exceed the average cost per credit of attending a similar class at Rutgers University or Seton Hall during the same semester.

10. AGENCY FEE - That the existing contract Article (Article 26) be immediately amended to indicate: "that the continuation of the agency fee

program is predicated on more than 50% of the eligible employees in the negotiating unit being voluntary dues paying members of the Union".

11. HEALTH INSURANCE - That new hires, those initially hired after

September 1, 2000, be excluded from the benefits outlined in Article 19.3 (cash bonus for waiving certain health insurance benefits).

Where husband and wife are both employees of the Township, only one, either husband or wife, shall be entitled to the sundry health related insurances. However, the Township shall reimburse the employee not receiving the insurance (be it the husband or the wife) for any "deductibles" as same would be covered if the second spouse was also insured i.e. that "coordination of benefits" that would have existed if both spouses had separate coverage shall not be affected.

That new hires, those initially hired after September 1, 2000, shall have the **option** of receiving for himself/herself **only**, the same health insurance benefits (hospitalization, medical

and major medical) now received by other unit members, or accepting either HMO, POS, or PPO coverage in lieu of hospitalization, medical and major medical benefits.

Should the new hire elect to accept individual coverage, said individual be offered full family coverage provided the difference in premium is paid by the employee.

That when the new hire completes his Academy time and three more full years in the Department, he shall receive the same health insurance benefits as current members receive.

12. ALL OTHER PROPOSALS - All proposals and counter proposals of either the Township or PBA including, but not limited to those relating to **Association Business, Grievance Procedures, Holidays, Personal Days, Lifting Patients and Management Rights** are hereby determined NOT to warrant an order or directive to change the contract language that existed under the most recently expired contract.

ADDENDUM RE: STIPULATIONS (see page 61)

It is hereby requested and agreed
that the modification of the PBA
and SOA proposals made today, and
its necessity, the Township to
recalculate its benefit and costs
of the employees economic package,
shall not be grounds for either
party to seek to set aside the
Undertaken Order and Arbitration Award.

Twp.

By _____

PBA

_____ Admin
3/10/00

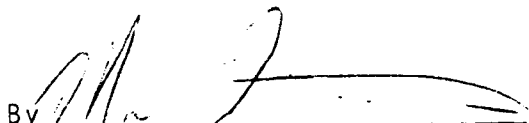
STIPULATION

The parties stipulate that they have reached agreement on the subject matter attached hereto and made a part hereof in designated Memorandum of Agreement and Agreement.

~~It is further stipulated that any items covered in the attachments are hereby withdrawn from arbitration and shall not be subject to any decision by the Arbitrator.~~

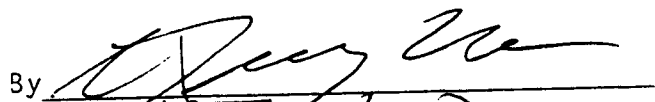
The parties will incorporate all the terms of the attachments into the text of the next collective bargaining agreement.

PISCATAWAY PBA LOCAL 93

By 
Marc Abramson

3/1/00

TOWNSHIP OF PISCAWAY

By 
~~Howard Gran~~
Douglas Reink

Dated: _____, 2000

THE FOLLOWING BARGAINING AGREEMENT
BETWEEN PBA 93 AND TROSP OF
PISCATAWAY SHALL PROVIDE THAT
~~POLICE~~ OFFICERS, WORKING A 4 AND 3
SCHEDULE SHALL RECEIVE 24 HOURS
OF COMPENSATORY TIME EACH YEAR.
THE PHRASEOLOGY "HOLIDAY COMPENSATORY
TIME" WILL NOT BE UTILIZED IN THE
AGREEMENT.

THE SCHEDULES AND CHANGES CONTAINED
IN THE MEMORANDUM OF AGREEMENT
ANNEXED HERETO AND THE AGREEMENT
ANNEXED HERETO AND THE SCHEDULE
DESIGNATED "SCHEDULE ONE", ^{ANNEXED HERETO} SHALL BE
INCORPORATED IN THE NEW COLLECTIVE
BARGAINING AGREEMENT IN THE
APPROPRIATE ARTICLES SET FORTH HEREIN.

3/10/00

PBA

Robert Zalkin

PRESIDENT PBA #93

Trop

Joseph J. ...

4
93

Rec'd 11/22/99

TO: Dir. Walton
FROM: R. Zavistoski
RE: Contract Language
Date: 22NOV99

ATTACHED
11/22/99
P.S

The PBA proposes that the following language be adopted, specifically that the last sentence to the "OFF DUTY CALL-IN METHOD" read as follows.....

This method of call-in shall be adhered to unless the officer called in to work on the day shift is completing their midnight tour that same morning. In that instance they could only work 5.25 hours in addition to their just completed tour. The other midnight shift would then be called to fill the remaining portion of that day shift tour.

600 R3


Schedule 1

The following constitutes the agreement concerning the 4 & 3 work schedule;

1. General Investigations, Vice, Juvenile (excluding the school officer), ID Officer, Community Policing and Traffic will work the 4 & 3 schedule.
2. Leave time for personal days and sick time will be day for day regardless of what schedule an officer is working.
3. Sick time taken will be deducted at a maximum of 8 hours per day regardless of the schedule.
4. The normal workweek will be Monday through Friday.
5. The normal workday will be 10 hours.
6. Each officer will have one day of the 5 days of work scheduled (Mon – Fri) off. This day will be given on a rotating basis.
7. The officers day off may be exchanged with another officer with the approval of that officers supervisor.
8. The officers day off can be scheduled for a different day with the approval of that officers supervisor.
9. Vacation time will be granted in the following manner;

0 – 5 years	8.8 Days (88 hours)
6-10 years	14.4 Days (144 hours)
11-15 years	16 Days (160 hours)
16-24 years	19.2 Days (192 hours)
25 + years	20 Days (200 hours)

10. All officers working a 4 & 3 schedule will receive 24 hours of comp time.

 R3

Pool time, compensation (whether monetary or otherwise) for off-duty court time worked, and the 4 x 4 work schedule shall not be negotiable except by mutual consent of the parties in connection with the next collective bargaining agreement.

Nothing herein shall be construed as a waiver of any managerial prerogative provided by law.

Nothing herein shall be construed as terminating any benefit enjoyed by the PBA not inconsistent with the provisions hereof.

Dated:

PBA LOCAL 93

By: Robert Zaitli President

By: _____

TOWNSHIP OF PISCATAWAY

By: Alex Merolla
Ann Nolan, Clerk

[Handwritten initials] 123

MEMORANDUM OF AGREEMENT

BETWEEN

PISCATAWAY PBA LOCAL 93 and TOWNSHIP OF PISCATAWAY

The current 4 x 4 shift schedule shall continue to be the normal work schedule for Patrolmen in the patrol division. Any provision of the existing "Sidebar Agreement" between the parties dated August 25, 1995, providing for termination or modification of the 4 x 4 work schedule and reversion to the prior five and two (5-2) work schedule and any other provision thereof inconsistent with the terms hereof shall be null and void. (See Attached)

Effective with the execution of a new collective bargaining agreement or January 1, 2000, whichever shall first occur, pool hours will be eliminated in their entirety. Effective simultaneously with the elimination of pool hours, the current method of compensating Patrolmen, scheduled on the 4 x 4 plan, for off-duty court time will be terminated. Instead, patrolmen will be compensated for off-duty civil and criminal court time, municipal, state, and federal courts, on a straight time hour for hour basis with a minimum payment for one hour. Actual hours of court time worked beyond the minimum one hour will be rounded in accordance with the existing practice.

Effective January 1, 2000, patrolmen assigned to Identification Officer, Community Policing (excluding School Liaison Officer), General Investigation, Juvenile and Vice Detective shall work a 4 x 3 schedule, subject to the same terms and conditions that apply in 1999.

Non-4 x 4 scheduled patrolmen will be compensated in accordance with the terms and conditions of the existing contract.

Handwritten notes: 5 AND 2, SCHEDULE 3, 24 HOURS OF HOLIDAY COMP TIME EACH YEAR, ALL OTHER STAFF REMAIN IN EFFECT, NO LATER THAN 11-24-99 POLICE DIRECTOR AND PBA PRESIDENT WILL MEET TO COMMIT TO WORKING THE

The provisions hereof and the document attached hereto will be incorporated in the next collective bargaining agreement between the parties.

Handwritten note: TERMS AND CONDITIONS OF THE 4 AND 3 SCHEDULE TO WHICH REFERENCE HAS BEEN MADE.

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This Agreement, made this _____ day of _____, 1999, between the Township of Piscataway and the Piscataway P.B.A. Local No. 93, pertaining to the work schedule for the Patrol Section of the Piscataway Township Police Department. This Agreement constitutes the complete Agreement reached by the parties regarding work schedule changes. Each party acknowledges that it had full opportunity to negotiate on all matters properly subject to collective bargaining regarding work schedules. This Agreement shall become part of the existing and future collective bargaining agreements.

STRUCTURE OF THE PATROL SECTION

The Patrol Section of the Piscataway Police Department shall be based on a two-platoon system designated as Platoon One and Platoon Two. Each Platoon shall initially consist of six (6) supervisors and twenty-one (21) patrolmen.

Each platoon shall be constructed with three (3) squads, totaling six (6) squads designated as Squad "A" "B" "C" "D" "E", and "F" respectively. Each squad shall initially consist of two (2) supervisors and seven (7) patrolmen.

The two-platoon system shall be based on the four (4) days and four (4) days off duty schedule. Each squad shall have steady tours of duty.

The three (3) squads of each platoon shall be assigned to one of three (3) scheduled tours of duty which shall be designed as Shift One, Shift Two, and Shift Three.

DESIGNATED TOURS OF DUTY*

Shift One	0645 Hours	To	1730 Hours
Shift Two	1530 Hours	To	0215 Hours
Shift Three	2030 Hours	To	0715 Hours

Designation of the above tours of duty shall not be construed as an abrogation of management's authority to revise said tours of duty.

It is further understood that any adjustment in allocating resources through adjustment of shift hours shall not include any increase in the totality of hours worked which shall be left unchanged.

SQUAD ASSIGNMENTS

Platoon One shall consist of squad "A" "C" and "E".
Platoon Two shall consist of squad "B" "D" and "F".

SHIFT TOURS OF DUTY

Each member of the designated squads shall be required to be on duty for a period of ten point seven-five (10.75) hours per shift, totaling a forty-three (43) hour work week (4 days).

Each member of the designated squad shall be entitled to a minimum of three (3) breaks during his or her tour of duty, commonly designated as coffee breaks. Said breaks are to be approved at the discretion of the Shift Supervisor. Each member shall be allowed a reasonable period of time during his break, pursuant to department rules and regulations.

MAN-POWER REQUIREMENTS

The following Man-Power Requirement shall be in effect for all squads assigned to the Patrol Section. On those occasions when there is insufficient man-power, the Shift Supervisor shall make all efforts possible to request or hire additional man-power to fulfill this requirement:

Each squad shall have a minimum of five (5) Patrolmen on duty.

Provided, however, on no more than fifty (50) full shifts in any calendar year the Shift Commander need not call in additional manpower to meet then existing minimum requirements. Provided, further, if the Shift Commander permits leave to a scheduled patrolman, thereby reducing the shift below the minimum manning requirements, the Shift Commander need not call in additional manpower and such shift shall not be counted within the fifty (50) full non-noticed reduced shifts. The PBA president shall be informed of each such occurrence.

IN ALT. SEC. OR OTHER THAN A SHORTAGE OF MANAGE-
THE COMMERCE IN THE LAST 2 HOURS OF A SHIFT,

SENIORITY BID SYSTEM

In connection with the utilization of the four and four (4 & 4) schedule with steady shift designation, assignment to said shift shall primarily be based on a seniority bid system.

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The following are the areas to be defined in instituting the Bid System:

SENIORITY

The individual officer's seniority shall be based on the length of time officer has held his or her present rank (Commonly known as "Time in Grade"). On those occasions where two or more officers shall have the same rank and hiring date Seniority shall be based on initial ranking by badge number.

SENIORITY BID

Initially, all members of the Piscataway Township Police Department shall have the opportunity to bid (sign up for a specific shift). The amount of seniority shall be the primary determination as to placement of officers to their requested shift as long as all minimum requirements are met with the understanding that the administration could deviate from seniority for good cause.

YEARLY BID SYSTEM

Within the patrol section, a "Bid List" shall be offered for those officers requesting reassignment. Said list shall be posted annually on or about October 1st for a period of two weeks, finalized and posted annually on or about December 10th, and enacted on or about January 1st of the following calendar year. Said reassignment shall be primarily based on seniority as long as all minimum requirements are met. The Administration can deviate from seniority for good cause.

INTRA-PLATOON TRANSFERS

If two officers within the same platoon agree to be switched from their respective squads, said officers must be of the same rank and submit a request to the patrol captain indicating the two members

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requesting the switch, and that said request has been forwarded, either approved or disapproved, by their respective supervisors. Upon receiving this request, the patrol captain may consider to accommodate same as long as all other requirements are met.

A. Said intra-platoon transfers shall only be allowed as long as they do not incur additional expense to the administration in the form of overtime to facilitate the request to switch.

B. Said intra-platoon transfers shall be subject to the yearly bid system.

INTRA-DIVISIONAL TRANSFERS

Management reserves the authority consistent with law to reassign officers from an established squad or shift to another section within the division of police for the purpose of efficiency of the policing operation.

SPECIAL DUTY PAY

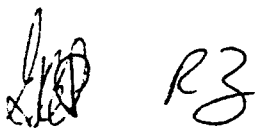
In accordance with the parties' collective bargaining agreement, the special duty pay allowance shall be administered to the Patrol Section as follows:

A. Officers serving on a steady day shift shall receive a total of five hundred (\$500.00) dollars additional per year.

B. Officers serving on a steady afternoon shift shall receive a total of one thousand fifty (\$1050.00) dollars additional per year.

C. Officers serving on a steady midnight shift shall receive a total of one thousand five hundred (\$1500.00) dollars additional per year.

This agreement as to special duty pay shall not be construed to increase the Township's exposure under this benefit beyond the cost of this benefit to the Township during 1987 on a per employee basis. In the event the special duty pay provision is modified or eliminated in the collective bargaining agreement, that agreement shall control.

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SICK DAYS

The members of the Patrol Section utilizing the four and four (4 & 4) work schedule shall continue to be entitled to accumulate their unused sick time in accordance with the parties collective bargaining agreement; the ninety-six (96) unused sick hours from the previous year shall be awarded to each member of the Patrol Section.

A. A member of the Patrol Section shall only be able to accumulate a total of fifty-six (56) hours toward additional comp-sick days and a total of forty (40) hours toward accumulated sick leave which may be used for early retirement.

B. On those occasions when only a portion of a sick day is used, the sick time shall be deducted on an hour of hour basis, not to exceed eight (8) hours. The current (1999) practice of posting sick leave based on an eight (8) hour day shall continue.

EXTENDED TOURS OF DUTY

Those member of the Patrol section utilizing the four and four (4 & 4) work schedule shall only receive overtime compensation for extended tours of duty in excess of ten point seven five (10.75) hours during a scheduled work day.

OVERTIME HIRING

On those occasions where it becomes necessary to hire additional manpower to fulfill squad requirement, said additional manpower shall be drawn from the off-duty platoon first.

OFF-DUTY PLATOON CALL-IN METHOD

When off-duty personnel are needed, the first squad to be called shall be the off-duty squad working the same designated tour of duty as the squad requiring additional manpower. If no member of the off-duty squad volunteers, the next squad shall be called in the order of their designated tours. ~~The method of call-in shall be adhered to unless it creates a situation in which the officer would be compelled to work in excess of sixteen (16) consecutive hours.~~ *SEE ATTACHMENT*

EXAMPLES

If Shift One is in need of additional manpower, the Squad Supervisor would call the off-duty Shift One: if no men are available, he would then call the off-duty Shift Two, and then the off-duty Shift Three. If Shift Two is in need of additional manpower, the Squad Supervisor would call the off-duty Shift Two: if no men are available, he would then call the off-duty Shift Three, and then the off-duty Shift One. If Shift Three is in need of additional manpower, the Squad Supervisor would call the off-duty Shift Three: if no men are available, he would then call the off-duty Shift One, and then the off-duty Shift Two.

ADDITIONAL MANPOWER

On those occasions when additional manpower is required and the squad supervisor has followed the set procedure for hiring additional men and is unable to do so, said supervisor shall contact members of the other sections and of equal rank that are off-duty in an attempt to fulfill the squad requirement.

MANPOWER ALTERNATIVE

On those occasions when a member of any squad shall request time off which cannot be approved due to manpower requirement, said member may be allowed to have another member of equal rank work in said member's place. However, the member requesting the time off must obtain written agreement from the alternate employee and approval from his or her squad supervisor prior to that date, indicating which member shall be reporting for duty.

Any member who shall agree to work another member's tour of duty shall be held responsible for all duties and departmental regulations as if he had been normally scheduled to work on that date.

TIME OFF COMPENSATION

Each squad supervisor shall be responsible for the scheduling of time off for the members of that squad. However, said supervisor

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shall attempt to fulfill all members requests as long as minimum manpower requirements are adhered to.

Time off shall be allotted using the following priority order:

1. Vacation Days
2. Personal Days
3. Compensatory - Sick Days
4. Comp Time

No officer shall be allowed to supersede another officer's approved request for time solely based on the priority order schedule of time off compensation.

VACATION SCHEDULE

The following shall be the vacation day conversion schedule for those officers assigned to the Patrol Section utilizing the four and four (4 & 4) work schedule:

<u>5x2 SCHEDULE @ 8 HOURS/DAY</u>	<u>4X4 SCHEDULE @ 10.75 HOURS/DAY</u>
25 Days - - - - -	20 Days - (215.00 Hours)
24 Days - - - - -	19 Days - (204.25 Hours)
23 Days - - - - -	18 Days - (193.50 Hours)
22 Days - - - - -	17 Days - (182.75 Hours)
20 Days - - - - -	16 Days - (172.00 Hours)
19 Days - - - - -	15 Days - (161.25 Hours)
18 Days - - - - -	14 Days - (150.50 Hours)
17 Days - - - - -	13 Days - (139.75 Hours)
11 Days - - - - -	9 Days - (96.75 Hours)

TRAINING

A. Any member may be required to attend a training course on an off-duty day, but shall be given a minimum of twenty-four (24) hours advanced notice of said training date.

B. Any member scheduled to attend a training course may volunteer to attend said course when insufficient time is available for advance notice. However, said officer shall not be entitled to any additional compensation as established in the parties collective bargaining agreement with regard to change of schedule.

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C. Any member may attend police training given by an outside agency if approved by the Director or his designee prior to the scheduled training.

D. Annual training for the following subject areas shall be scheduled for officers on a 4 and 4 schedule on off duty hours on an overtime basis:

Firearms	4 Hours
PR-24	4 Hours
CPR	2 Hours
Use of Force	1 Hours
Veh. pursuit	2 Hours

IN WITNESS WHEREOF, the parties set their hands the day, month and year first above written.

PBA LOCAL 93

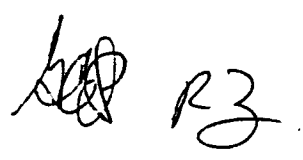
By: Robert Zaitli President

By: _____

TOWNSHIP OF PISCATAWAY

By: Helen Merolla

By: Alex Nolan - Clerk

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