

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

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In the Matter of the Interest Arbitration Between:

**BOROUGH OF PARAMUS**

AND

**PARAMUS P.B.A. LOCAL NO. 186**

Docket No. IA-2008-060

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BEFORE: ERNEST WEISS,  
INTEREST ARBITRATOR

APPEARANCES:

FOR THE PBA:

RICHARD D. LOCCKE, ESQ.  
LOCCKE, CORREIA, CHLAGER,  
LIMSKY & BUKOSKY

FOR THE BOROUGH:

PATRICK PAPALIA ESQ.  
DANIEL C. RITSON, ESQ.  
HERTEN BURSTEIN, et al.

Pursuant to an appeal of the Borough of Paramus (Employer, Borough) from an interest arbitration award which I issued on May 15, 2009, the Public Employment Relations Commission (Commission) vacated and remanded the Award back to me for reconsideration and issuance of a new award.

On November 24, 2009 the Commission, issued the following ORDER.

**ORDER**

**The interest arbitration award is vacated and remanded to the arbitrator for reconsideration and issuance of a new award that must explain which of the statutory factors he deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. The arbitrator's new award is due within 30 days of this decision.**

**On December 23, 2009, the Commission granted an extension of the due date to be on or before February 24, 2010.**

In fashioning this "new" Award I am mindful of the reasoned sentiments expressed by the Commission that:

**"Arriving at an economic award is not a precise mathematical process. Given that the statute sets forth general criteria rather than a formula, the treatment of the parties' proposals involves judgment and discretion and an arbitrator will rarely be able to demonstrate that an award is the only "correct" one... Some of the evidence may be conflicting and an arbitrator's award is not necessarily flawed because some piece of the evidence standing alone, might point to a different result. Therefore,**

**within the parameters of our review standards, we will defer to the arbitrator's judgment, discretion and labor relations expertise."**

**PRELIMINARY STATEMENT (as per original award)**

The above parties have had a long-standing collective bargaining relationship. The negotiation units, Paramus PBA Local No. 186 in conjunction with the Borough of Paramus, are signatories to a Collective Bargaining Agreement which expired on December 31, 2007.

Prior to the filing of the Interest Arbitration Petition by the PBA, the parties engaged in negotiations for a successor agreement. However, although a number of issues were resolved, eventually the parties reached an impasse and the PBA filed a petition for interest arbitration with the Public Employment Relations Commission.

Thereafter, in accordance with the Act, the parties by mutual consent agreed to my appointment as interest arbitrator. Initially, I scheduled and conducted a number of mediation sessions in an attempt to facilitate further settlement of the outstanding issues. Eventually, after diligent effort on both sides, the parties were successful in reducing some of the outstanding issues. However, five (5) economic issues, as set forth below, remained and are now before me herein for final resolution. (The PBA claimed only four (4) outstanding issues since the duration of the Contract was combined with the wage increase proposal.)

During the two days of formal interest arbitration hearings, the parties were granted an opportunity to present evidence and argument in support of their respective positions. Both parties submitted written post-hearing arguments on behalf of their final positions.

### **REMAINING ISSUES TO BE DECIDED**

#### **PBA**

- 1. Duration of the agreement to be four (4) years commencing January 1, 2008.**
- 2. A five percent (5%) across the board wage increase effective each successive January 1. Also, a modification of the existing Article XXXIX, Wages, Section 3 of the Collective Bargaining Agreement (page 65) by modifying the promotional adjustment amount from four Hundred Dollars (\$400.00) to Two Thousand Dollars (\$2,000.00)**
- 3. Increase the current Compensatory Time Off Bank maximum from one hundred sixty (160) hours (twenty (20) days) to three hundred twenty (320) hours. All the rules with respect to the banking and utilization of compensatory time are not proposed for change.**
- 4. One additional holiday for a total of thirteen (13) holidays.**
- 5. Upon completion of an overtime period the Officer performing the overtime shall have the sole option of being compensated as paid compensation (at time and one-half (1 1/2) rate) to apply to all periods of overtime work for all bargaining unit employees.**

## **BOROUGH**

- 1. Duration: A three (3) year contract.**
- 2. Across the board wage increase of two (2%) each year of the contract.**
- 3. Increase the maximum allowable hours in the Compensatory Time Off bank to two hundred (200) hours from one hundred sixty (160) hours and from twenty (20) days to twenty five (25) days.**

Since the parties failed to agree upon an alternative form of submission, I am mandated by statute to decide the outstanding issues with conventional authority and in accordance with the revised statutory criteria, which is set forth below:

### **REVISED STATUTORY CRITERIA**

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

1. The interest and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.L. 1976, c. 68 (C.40A: 4-45.1 et seq.)
2. Comparison of the wages, salaries, salaries hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing the same or similar service 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 jurisdiction, 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 too 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 benefits received.
  4. Stipulations of the parties.
  5. The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering the 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 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 effect 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 employee' 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 taxpayer 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

© initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.

7. The cost of living.

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

9. Statutory restrictions imposed upon the Employer. Among the items the Arbitrator or panel of Arbitrators shall assess when considering this factor are the limitations imposed upon the Employer by Section 10 of P.L. 207, c.62 (C.40A:4-45.45) (N.J.S.A. 34:13A-16g)

## **POSITION OF THE PARTIES**

(reproduced from their post hearing briefs)

### **POSITION OF THE PBA**

(In his extensive post-hearing brief, Counsel for the PBA described the composition, work load and the existence of various departments of the bargaining unit involved as reproduced below.)

### **INTEREST AND WELFARE OF THE PUBLIC**

The Borough of Paramus is a Bergen County municipality lying almost in the exact center of the County. It is the crossroads of some of the busiest highways in the northeast and the home of the largest retail area in the country, measured by zip code. Due to its geographic location, crossroads of many highways and major thoroughfares within and near the Borough, and of course the attraction of large commercial/retail centers has made this municipality an extremely active and challenging law enforcement jurisdiction.

At hearing the PBA introduced, as part of its evidentiary presentation, a Power Point exhibit (P-9). The graphic presentation in this Power Point exhibit made clearly the essential points about the Borough of Paramus and its uniqueness as well as many specific items referencing the law enforcement challenges which have been successfully met over the years by the professionalism and productivity of the Paramus Police sworn personnel. The Arbitrator and Employer counsel were both supplied a copy of this Power Point Presentation and it was reviewed at hearing and subject to inquiry by the Arbitrator and Employer counsel. The following represents a brief overview of the Power Point Presentation.

The Borough of Paramus is a 10.57 square mile municipality with approximately twenty-seven thousand (27,000) residents. A key point of distinction here is that the residents represent people who call the Borough their home as distinguished from people who pass through the Borough or who come to the Borough for its many facilities and accommodations and attractions. One may consider the twenty-seven thousand (27,000) residents as otherwise defined as “night time population” versus the actual flow of persons through the Borough on a daily basis and who shop, come to educational facilities, or its health care and recreational facilities. For example, on just the highways Route 17 and Route 4 on a daily basis there are over two hundred eighty-six thousand (286,000) vehicles. If one were to assume that each vehicle only had one (1) passenger then this single statistic of vehicles using just those two (2) roads would represent a tenfold increase over the nighttime population. Part of this factor is, of course, the geographic location of the Borough which is only six (6) miles west of New York City and three (3) miles east of the City of Paterson. The crossroads of Route 4 and Route 17, otherwise referred to by the witness as “the intersection” was described as one of the busiest intersections in the country. The Borough was located in the densely populated northern New Jersey area with ready access to the southern counties of New York and, as mentioned, New York City. Also passing through the Borough or in close proximity are the Garden State Parkway, interstate Route 80 and Interstate Route 287. Whether Paramus is an end destination or just a place to pass through, the numbers of people for whom the Paramus Police Officers are responsible for their safety, safe passage and well-being is most substantial.



The Power Point illustrated the residential housing stock and highlighted many of the beautiful neighborhoods within the Borough. The Borough is noted to have a mixed use including:

- 8,500 Homes
- 2,465 Commercial Addresses
- Home of “Mom and Pop” to Multi-National Corporations
- Over 20 Schools
- Nine (9) Senior Living Facilities
- Two (2) Public Libraries
- Numerous Municipal and County Facilities
- Award Winning Shade Tree and Parks
- Eighteen (18) Borough Parks
- World Class Recreational Facilities
- Beautiful Municipal Pool and Surrounding Recreational Facilities

The educational system within the Borough includes a substantial Paramus Board of Education structure and numerous schools including five (5) elementary, two (2) middle schools and one (1) high school. The student population, many of whom arrive by automobile or who are dropped off in cars has a total population of four thousand five hundred eighty-nine (4,589). School employees number approximately seven hundred sixty-eight (768). Beyond the Paramus Public School system there is also a major presence of County and Private schools. Included are the following:

- Palisade Learning Center
- Alpine Learning Center
- Children’s Country Day School
- Rocco Montessano School
- Lincoln Technical School
- Berkeley College
- Bergen County Vocational High School

The population of these schools alone is close to thirteen hundred (1,300) students.

In addition there are numerous parochial schools within the Borough, once again involving many commuters or students who in some cases drive to school. This list of schools includes the following:

Visitation Academy

Yavneh Academy  
Frisch School  
Paramus Catholic High School  
Yeshivat Noam School

These schools, all parochial, accommodate approximately three thousand eight hundred ten (3,810) students.

The Borough of Paramus is also home to the largest Community College in New Jersey. The Bergen Community College has a student body in 2008 of fifteen thousand seven hundred eighty-one (15,781) students with a total staff of approximately eight hundred (800). Many of these students are commuters, once again, bringing more traffic to the highways.

All totaled there are over twenty-five thousand (25,000) total students attending school daily within the Borough of Paramus.

The Borough of Paramus has a significant recreation program, both on a municipal and county basis. The Power Point Presentation included photographs depicting the relatively new Cliff Gennarelli Paramus Sports Complex including, among its many facilities, Paramus' own new Municipal Miniature Golf Course. The Bergen County Park System also has a significant presence within the Borough.

The Bergen County Park System facilities within the Borough of Paramus include many varied types of attractions:

- Van Saun Park
- Eighteen (18) Acres of the Bergen County Zoo
- Dunkerhook Park

These combined County facilities, specifically the eighteen (18) acre zoo and the one hundred seventy-five (175) acres' park land bring in a very large number of visitors to the Borough of Paramus, almost all of whom arrive by car. The Zoo alone attracts approximately four hundred fifty thousand (450,000) annual visitors. The total visitors are approximately one million three hundred sixty-five thousand (1,365,000) on an annual basis. While it is acknowledged that the Bergen County Police Department technically has primary jurisdiction over the County Park facilities, witness testimony at hearing established the fact that in most cases the first Police presence on the scene of the accident or, for example, first aid need, is a Paramus Police Officer.

One area of the Power Point Presentation established Paramus as perhaps the leading golf community in northeastern New Jersey. Referring only to private and County golf courses one finds the following within the Borough:

- Arcola Country Club of one hundred sixty (160) acres providing twelve thousand (12,000) rounds of golf annually.
- The Ridgewood Country Club which is entirely in Paramus has two hundred fifty-seven (257) acres and provides thirty-one thousand (31,000) rounds of golf annually.
- The Ridgewood Country Club was the host of the 2008 Barclays PGA Playoffs bringing in people from all parts of the country.
- The Orchard Hills County Golf Course has approximately thirty (30) acres and provides thirty-four (34) rounds of golf annually.

Each one of these golfers so accommodated is a person who relies upon the Paramus Police Department for their safe passage, health and safety while in the Borough.

Notwithstanding the substantial golfing facilities above noted, the Borough of Paramus maintains its own Municipal Golf Course. Numerous facts about the Paramus Borough Municipal Golf Course were included in the Power Point Presentation and were included in the testimony of the first PBA witness. Key facts about the Paramus Borough Municipal Golf Course include the following:

- One hundred fifteen (115) acres
- Two thousand nine hundred forty-eight (2,948) members
- Fifty thousand (50,000) rounds of golf per year
  - Includes a Miniature Golf Course facility which was built in 2008 at a cost exceeding Seven Hundred Fifty Thousand Dollars (\$750,000.00)

Clearly, when one considers the amount of rounds of golf at just the Municipal Golf Course annually compared to the number of actual residents in the Borough, every man, woman and child would have to play numerous rounds of golf if the golf was all

for municipal residents. Clearly it is not. Notably the gross income of the Paramus Municipal Golf Course was in the last year reflected in the proofs One Million Nine Hundred Forty-Six Thousand Six Hundred Two Dollars

(\$1,946,602.00). The revenue from the golf course seems more like the gross revenue of a small town.

In addition to the recreational facilities earlier noted, Paramus is also home to many substantial in size and diversity health care facilities. Some of these Borough of Paramus health care facilities include the following:

- The Bergen Regional Medical Center is the largest hospital in the State of New Jersey. It has one thousand one hundred eighty-five (1,185) beds and provides many specialties as well as unique facilities which include the Bergen County Sheriff's Department Infirmary/Jail Unit and the County Methadone Facility. There is also within the facility the Evergreen Addiction and Recovery Center and specialties in behavioral, acute and long term care.
- The Valley Hospital maintains the three (3) story, one hundred twenty-eight thousand four hundred twenty-two (128,422) square foot Robert and Audrey Luckow Pavilion on eight plus (8 +) acres. This highly specialized facility has a substantial number of persons seeking treatment and staff which account for its four hundred seventy-nine (479) parking spaces.
- Bergen County Blood Bank, within the Borough of Paramus, services northern New Jersey, New York City, Rockland and Westchester counties of New York.
- The New Jersey State Veterans Home is in the Borough with three hundred thirty-six (336) beds and three hundred seventy (370) employees in two (2) buildings comprising two hundred fourteen thousand (214,000) square feet.

There are many highly specialized facilities such as mental health services including the following:

- Care Plus
- Carrier Institute
- Bergen Regional Medical Center
- Psychiatric Emergency Screening Program
- Catholic Community Services

- High Focus

Other health care facilities include, but are not limited to, the following:

- Dorothy Kraft
- University Doctors
- Paramus Medical
- Bergen Medical Center
- Cupola, Pine Rest
- Dellridge
- Garden State Medical Center
- HUMC Institute for Child Development
- Potomac Home for Alzheimer's
- Sunrise Assisted Living
- Marriott Brighton Gardens

If there is one aspect of Paramus' Borough nature and perhaps what it is best known for, is its substantial retail facility. Paramus is rated number one in retail sales nationally by zip code in the country. There are over Five Billion Dollars (\$5,000,000,000.00) in annual retail sales within Paramus and there is a vacancy rate of only 6.2% as set forth in the proofs. Notably all of this is accomplished within the existence of the Bergen County "Sunday Blue Laws". In effect, Paramus, as compared to almost every other retail facility in other jurisdictions, maintains its first place national rating in six (6) business days per week. One can imagine how busy this municipality is based upon the retail use alone. Key shopping centers of major proportion within the municipality include the following:

- Garden State Plaza
- Bergen Town Center
- Paramus Park
- Paramus Towne Square
- Fashion Center
- Mall at IV
- IKEA

These major facilities are of course augmented by many smaller malls and plazas. There are also many small retail establishments, sometimes referred to as "Mom and Pops".

The Power Point covers information about each of the malls and the approximate annual shopper traffic. The Garden State Plaza for example, which is the largest mall in the State of New Jersey, draws over twenty million (20,000,000) shoppers per year. The Garden State Plaza has over 2.1 million square feet of area as well as additional stand alone structures such as Best Buy, On the Border and Chili's Restaurant. These total more than three hundred (300) stores with seven (7) major anchor stores including Macy's, Nordstrom, Neiman Marcus, Lord and Taylor, J.C. Penney, and Borders Books. The parking lot alone at this mall has ten thousand eight hundred (10,800) spaces, including two (2) four (4) story parking decks.

The Paramus Park Mall has over six million (6,000,000) visitors per year with one hundred seven (107) stores and seven hundred seventy thousand nine hundred forty-one (770,941) square feet of leasable retail space. Anchors at this mall include Macy's and Sears with a 2009 expansion described by the witness. The phase one portion of the Bergen Town Center (formerly Bergen Mall) was depicted and details were supplied establishing that this expansion will bring the mall up to 1.5 million square feet. Expansion of the Bergen Town Center property will cost over Three Hundred Million Dollars (\$300,000,000.00) and include close to two thousand nine hundred (2,900) new parking spaces. Clearly such a project of this magnitude will also have a positive impact on the ratables within the Borough. This aspect, however, will be covered later in this Brief.

The IKEA Complex within the Borough is the third largest IKEA in the world and has other anchor stores on the property.

In addition to the substantial retail presence within the Borough there are also a substantial number of corporate offices and headquarters. The Power Point depicted many of these corporations including, but not limited to, the following:

- Movado
- AT&T
- Greater Alliance Federal Credit Union
- Corporate and Channel
- US Cable
- Western Union
- Girl Scouts of America

- Hudson City Bank
- UPS
- Hanjin Shipping
- Playtex

Clearly, each of these facilities will bring in more traffic and more people which will be the ultimate obligation of the Paramus Police Department with respect to health and safety.

In addition, there are approximately one hundred ten (110) fast food restaurants and eateries and thirty-seven (37) full-time restaurants.

The Borough of Paramus has five (5) hotels including:

- Courtyard by Marriott - One hundred fifty-four (154) rooms
- Crowne Plaza Hotel - One hundred twenty (120) rooms
- Holiday Inn - Ninety-two (92) rooms
- La Quinta Inn - Eighty-one (81) rooms
- Comfort Inn and Suites - Seventy-six (76) rooms

The room total is five hundred twenty-three (523) and the accommodation is for up to two thousand seventy-four (2,074) persons. The Power Point stated the occupancy rate to be between eighty to one hundred percent (80% to 100%).

In addition to the municipal facilities and corporate presence as noted above, there are also numerous County facilities which include, but are not limited to the following:

- Bergen County Prosecutor's Office
- Bergen County Special Services School District
- Bergen Juvenile Detention Center
- Bergen County Medical Examiner's Office
- Bergen County Mosquito Commission
- EMS Training Center
- Community Services Building

As noted at the outset, this is an extremely busy community with a great variety of services and attractions bringing people in which far expand the "nighttime population". Each and every one of these people are the ultimate responsibility of the Paramus Police Department.

The ninety-five (95) Police Officers who are the sworn personnel of the Paramus Police Department, not only patrol their own jurisdiction, but also provide for regional services such as the 9-1-1 Center covering beyond Paramus the municipalities of Rochelle Park, Midland Park, Hillsdale, Tenafly, Palisades Park and Wyckoff.

The Paramus Police Department is described in the Power Point as having an extremely busy and varied work obligation. The most recent figures available for a full year, 2007, show the following statistics:

- Forty-seven thousand six hundred eighty-eight (47,688) calls for service
- One thousand nine hundred forty (1,940) adult arrests
- Five hundred forty-four (544) juvenile arrests
- First in Bergen County for decades in total crime index
- Projected fifty thousand (50,000) calls for service in 2008 based upon data available as of the time of the hearing
- The 2006 value reported stolen property was Three Million Two Hundred Eighteen Thousand Seven Hundred Ninety-Five Dollars (\$3,218,795.00). The 2006 total value of recovered stolen property within the Borough was One Million Three Hundred Two Thousand Five Hundred Eighteen Dollars (\$1,302,518.00).

In comparison to other Police jurisdictions Paramus is not only substantially higher in Uniform Crime Report figures but in addition is statistically far ahead of any other municipality. important facts illustrated in the Power Point include the following:

- Paramus is ranked number one in all of Bergen County seventy (70) communities for reported crimes.
- There are forty-two percent (42%) more reported crimes in Paramus than the second ranked city of Hackensack.
- Paramus is ranked number one in Bergen County in crimes per one thousand (1,000) population.
- There are one hundred forty percent (140%) more reported crime in Paramus than the second place ranked City of Hackensack.

Clearly these very substantial statistics and high relative positioning on the Reported Crimes Index prepared by the State of New Jersey, is largely the result of the geographic position of the Borough and its



many retail, corporate and recreational/medical facilities. Regardless of the reason however, the Paramus Police Department has a varied, significant and ever increasing workload.

The Paramus Police Department provides services at every level. The substantial patrol force, Detective Unit and numerous specialty services are among the most diverse. In addition to the traditional roles of patrol and investigative work such special services include, but are not limited to the following:

- Emergency Services Unit (ESU)
- Rapid Deployment Force (RDF)
- Anti-Crime Unit
- Intelligence Unit
- Gang Unit
- Computer Crime Unit
- Financial Crime Unit
- Community Service Unit
- Motorcycle Unit
- DARE Program
- School Resource Unit
- Ceremonial Honor Guard

The PBA testimony at hearing clearly established the enormous workload and ever increasing calls for service and challenges met by the Paramus Police Department. Each of these challenges have been met and successfully addressed over the years.

Perhaps one of the most significant pieces of evidence introduced at hearing is that all of these challenges, all of these demands for services, and all these increased demands were met by what is today a smaller Police Department than existed over twenty (20) years ago. The number of sworn Police personnel in Paramus today is less than the number of sworn Police personnel in 1985. Referring to **Exhibit P-4**, in 1985 there were ninety-six (96) sworn Police Officers of various ranks. In 2007 there were only ninety-three (93) sworn Police Officers. Calls for service however in these two (2) years identified went from twenty-four thousand three hundred eighty-nine (24,389) to forty-six thousand seven hundred eighty-eight (46,788). **Chart No. 1** below graphically depicts these changes.

## CHART NO. 1

### COMPARISON OF CALLS FOR SERVICE AND NUMBER OF SWORN POLICE PERSONNEL FROM 1985 TO 2007 (BASED ON PBA EXHIBIT 4)

	1985	2007	Percentage of Change
<b>Sworn Police</b>	<b>96</b>	<b>93</b>	<b>- 3%</b>
<b>Calls for Service</b>	<b>24,389</b>	<b>46,788</b>	<b>+ 192%</b>

In a time frame where personnel was reduced by three percent (3%), the calls for service increased one hundred ninety-two percent (192%). During these interim years many new challenges were met and many new services and facilities were provided by the Paramus Police Department as was testified to by a PBA witness. Perhaps there is no better example of increased professionalism and productivity than these statistics presented.

As a corollary to the staffing changes noted above in **Chart No. 1**, many of the sworn positions are subject to a reduction themselves. In effect, certain supervisory positions have been reduced and the number of lower ranked personnel have been affected. Per the testimony of the witness presented by the PBA and the Staffing Chart which was dated October 31, 2008 (P-3) there are substantial shortfalls at every specified position comparing the Ordinance authorized staffing and the actual staffing within the Borough. **Chart No. 2** below compares the staffing authorized by Paramus Borough Ordinance and the actual census in each rank as of October 31, 2008

## CHART NO. 2

### DIFFERENCE BETWEEN STAFFING AUTHORIZED BY PARAMUS BOROUGH ORDINANCE AND ACTUAL STAFFING (PBA EXHIBIT P-3)

	Authorized	Actual	
<b>Deputy Chief</b>	<b>1</b>	<b>0</b>	<b>- 1</b>
<b>Captain</b>	<b>4</b>	<b>3</b>	<b>- 1</b>
<b>Lieutenant</b>	<b>1</b>	<b>0</b>	<b>- 1</b>
<b>Patrol Lieutenant</b>	<b>8</b>	<b>6</b>	<b>- 2</b>
<b>Sergeant</b>	<b>11</b>	<b>9</b>	<b>- 2</b>
<b>Traffic Sergeant</b>	<b>1</b>	<b>0</b>	<b>- 1</b>
<b>Detective Sergeant</b>	<b>5</b>	<b>2</b>	<b>- 3</b>
<b>Detective</b>	<b>16</b>	<b>14</b>	<b>- 2</b>
<b>Patrol Officer</b>	<b>58</b>	<b>55</b>	<b>- 3</b>
<b>TOTAL</b>	<b>112</b>	<b>95</b>	<b>-17</b>

The shortfall at every position is clear in the **Chart** above. Additional conclusions may be reached from these numbers however. First, the upper echelon positions remaining unfilled have the work done by said positions in the past now “downloaded” to subordinate ranks. Whatever the Deputy Chief and the Captains did with their authorized number at one time is now downloaded to persons in lesser ranks. This increases the workload on those subordinate positions in volume and also provides less of a resource of supervision for those ranks. Responsibility is also increased for the subordinate positions. Further, and very significant, is the fact that Police Officers of various ranks within the Paramus Police Department now have a lesser opportunity to be promoted. The

possibility of being in a non-supervisory or primary supervisory position for virtually an entire career is increased. It is more likely today that a person will not see promotion to the open yet authorized positions than in the past. In addition to these facts, one must consider the importance of the Base Wage Proposal made by the PBA in this case as all the more relevant and important to the career earnings of an Officer as well as the ultimate pension available into retirement. The chances of reaching a higher rated position with a higher rate of compensation are reduced. This affects career earnings as well as career path potential. The ultimate result in such circumstances is an increased likelihood of a lower rated and compensated position at the point of retirement. This, obviously, has a post career lifetime impact negative to gross earnings. Additionally, the Borough of Paramus is getting an enormous amount of productivity from the higher work load being generated by a lesser paid and lesser numbered staff. The Borough is saving a lot of money by virtue of their decision not to hire and not to promote as is illustrated by *Exhibit P-3*.

## **COMPARISON OF COMPENSATION AND TERMS OF EMPLOYMENT**

The Paramus PBA has based its comparison on a peer group which was established through proofs at hearing. The comparisons, with the exception of the Wayne Police Department, are principally within Bergen County and essentially all regional Police Departments and County agencies are included within the PBA proofs. Wayne is notably added as a Police Department which was established in testimony as being most comparable to the Borough of Paramus due to its size, retail nature, and roadway access. The PBA's case essentially has created a "universe of comparison" which is unique to the proofs at hearing. The Employer's proofs are more far reaching and less focused on such a valid comparison.

The Paramus PBA will acknowledge at the outset that the base rate for Patrol Officer is competitive. The key fact however to consider is that the statute requires at subsection g of the Act that the compensation generally is to be compared. The Paramus Police Officer has among the poorest benefits in total among all proofs in evidence. The competitive Top Step Patrolman's base rate is more than offset by the total comparison picture. The PBA will

compare, pursuant to the statutory requirement, the total compensation program and establish its proofs based upon said comparison of exhibits in the record.

The Paramus Police Officer's work schedule of two thousand eighty (2,080) hours is the most hours any Police Department in the proofs has as its annual requirement. Many of the Departments work a four/two (4/2) schedule, five/two - five/two - five /three (5/2 - 5/2 - 5/3) , or a six/three (6/3) schedule. These schedules generate annually nineteen hundred forty-six (1,946) hours. This represents a substantial differential in lesser hours. Examples of the shorter work chart municipalities are included in **Chart No. 3** below.

### **CHART NO. 3**

#### **COMPARISON OF ANNUAL PATROL WORK SCHEDULES IN AREA POLICE DEPARTMENTS BASED ON PBA EXHIBITS**

<b>Bergenfield</b>	<b>2,021</b>
<b>East Rutherford</b>	<b>1,946</b>
<b>Lyndhurst</b>	<b>1,946</b>
<b>North Arlington</b>	<b>1,946</b>
<b>Old Tappan</b>	<b>1,946</b>
<b>Parsippany</b>	<b>1,946</b>
<b>Ridgewood</b>	<b>2,044</b>
<b>Rutherford</b>	<b>1,946</b>
<b>Saddle Brook</b>	<b>1,946</b>
<b>Wood-Ridge</b>	<b>1,946</b>
<b>PARAMUS PATROL ANNUAL HOURS</b>	<b>2,080</b>

No Police Officer in the proofs presented by either party works more hours per year than Paramus. The hourly rate must be considered in such computations. The base rate of the Paramus Police Officer may be somewhat higher than many of said Officer's peers however it takes ten (10) steps to get there. The average Police Patrol Officer's Steps Schedule has significantly less number of annual Steps. **Chart No. 4** below compares the number of Steps of various Police Departments in the proofs.

**CHART NO. 4**

**NUMBER OF STEPS TO REACH MAXIMUM PATROL OFFICER PAY BASED ON PBA EXHIBITS**

Bergenfield	5
East Rutherford	7
Elmwood Park	10
Haworth	8
Lyndhurst	5
Mahwah	7
North Arlington	7
Northvale	6
Oakland	9
Old Tappan	8
Parsippany	8
Ridgewood	8
River Edge	5
Saddle Brook	6
Tenafly	7
Wayne	6
Wood-Ridge	7
<b>Average Annual Steps To Reach Top Patrol Officer</b>	<b>7.5 Annual Steps to Maximum</b>

Paramus PBA Steps to Maximum	10
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If a Paramus Police Officer takes ten (10) years to reach the statutory minimum twenty-five (25) year

<b>Paramus PBA Patrol Officer Step Guide Compared to Average</b>	<b>+ 2.5 Steps 33% Over Average</b>
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career then the calculation is clear that a Police Officer is in the steps for forty percent (40%) of his career. Among all proofs in evidence only one (1) town has the same number of steps. All others have less. Clearly, how many hours one works for the money and how long it takes to reach the Top Step are most significant factors. One cannot simplistically look only at a base pay rate.

Other key benefits, commonly enjoyed by Police Officers enjoyed in the towns show that Paramus is in a poor relative position. All towns have a number of recognized holidays. Paramus has the lowest number of holidays of any town in the proofs. The shortfall is substantial. Once again Paramus ranks at the bottom of comparisons and well behind the average. Annual Personal Day benefits in other towns far exceed the Paramus one (1) day per annum in this category.

# CHART NO. 6

## ANNUAL PERSONAL DAY BENEFIT COMPARISON BASED ON PBA EXHIBITS

	Annual Personal Days
<b>Bergenfield</b>	<b>3</b>
<b>East Rutherford</b>	<b>4</b>
<b>Elmwood Park</b>	<b>1</b>
<b>Haworth</b>	<b>3</b>
<b>Lyndhurst</b>	<b>4</b>
<b>Mahwah</b>	<b>3</b>
<b>North Arlington</b>	<b>4</b>
<b>Northvale</b>	<b>3</b>
<b>Norwood</b>	<b>3</b>
<b>Oakland</b>	<b>3</b>
<b>Old Tappan</b>	<b>3</b>
<b>Parsippany</b>	<b>3</b>
<b>Ridgewood</b>	<b>3</b>
<b>Saddle Brook</b>	<b>4</b>
<b>Tenafly</b>	<b>5</b>
<b>Wood-Ridge</b>	<b>5</b>
<b>Average Annual</b>	<b>3.375 Annual Personal</b>
<b>PARAMUS PBA PERSONAL DAY</b>	<b>1 Personal Day</b>
<b>Paramus PBA Personal Days Compared to Average</b>	<b>(2.375)</b>



Each of these days can be given a value. It would take an additional two and one-third ( $2\frac{1}{3}$ ) personal days as well as one and one-half ( $1\frac{1}{2}$ ) holidays just to catch average. The numbers are mounting to illustrate an offset and shortfall in the Paramus total compensation program. In addition to this shortfall one may consider the comparison on annual hours.

Another common benefit enjoyed by Police Officers is a clothing allowance. Once again, Paramus compensation falls short. **Chart No. 7** on the following page illustrates this shortfall from average.

#### **CHART NO. 7**

#### **CLOTHING ALLOWANCE ANNUAL AMOUNT BASED ON PBA EXHIBITS**

##### **Annual Clothing Allowance**

Bergenfield	\$950
East Rutherford	\$1,350
Elmwood Park	\$775
Haworth	\$1,050
Lyndhurst	\$750
Mahwah	\$700
North Arlington	\$950
Northvale	\$625
Norwood	\$600
Oakland	\$1,200
Saddle Brook	\$1,200
Tenafly	\$850
Wayne	\$ 800

Average Annual Clothing Allowance	\$908 Annual Clothing Allowance
<b>PARAMUS PBA ANNUAL CLOTHING ALLOWANCE</b>	\$600
<b>Paramus PBA Clothing Allowance Compared to Average</b>	<b>(\$308) (51.33%)</b>

Once again, there is a significant shortfall from average in the Paramus compensation-plan. It would take over a fifty percent (50%) increase just to catch average.

Common benefits for Police personnel also include such benefits as Prescription and Eye Care Programs. **Chart No. 8** compares the Paramus position which does not have either of these benefits in the compensation program to other towns.

#### **CHART NO. 8**

#### **MISCELLANEOUS MEDICAL BENEFITS - BASED ON PBA EXHIBITS**

	<b>Prescription</b>	<b>Eye Care</b>
<b>Bergenfield</b>	Y	
<b>East</b>	Y	Y
<b>Elmwood Park</b>	Y	
<b>Lyndhurst</b>	Y	
<b>North</b>	Y	Y
<b>Norwood</b>	Y	Y

<b>Oakland</b>	<b>Y</b>	
<b>Old Tappan</b>	<b>Y</b>	<b>Y</b>
<b>Parsippany</b>	<b>Y</b>	<b>Y</b>
<b>Ridgewood</b>	<b>Y</b>	<b>Y</b>
<b>Saddle Brook</b>	<b>Y</b>	
<b>Wayne</b>	<b>Y</b>	<b>Y</b>
<b>Wood-Ridge</b>	<b>Y</b>	
<b>PARAMUS</b>	<b>NONE</b>	<b>NONE</b>

The Paramus shortfall continues to increase.

Of the many shortfalls, one additionally finds in Paramus compared to other Departments, the fact that the rank of Captain does not have overtime (J-1, *p. 19*); in Bergenfield there is a Senior Officer Differential at twenty (20) years of Two Thousand Five Hundred Dollars (\$2,500.00) (*T-1/p. 7*); Elmwood Park provides an increase in the form of a Senior Officer Differential of one-half (1/2 )the distance to the next step at eighteen (18) years of service (approximately Four Thousand Five Hundred Dollars (\$4,500.00)) as well as four (4) months of automatic terminal leave; East Rutherford has an eye care plan; Lyndhurst has a Four Hundred Twenty-Five Dollar (\$425.00) Patrol allowance; Mahwah provides a Two Thousand Dollar (\$2,000.00) Senior Officer Differential at twenty-three (23) years; Old Tappan has a five percent (5%) shift differential; Tenaflly has a maximum longevity of 12.5% and up to nine (9) months of terminal leave in addition to accumulated vested time; Wayne provides a Senior Officer Differential of one-half (1/2 )the distance to the next rank at sixteen (16) years of service as well as three (3) days of terminal leave per year of service in addition to earned and vested time and a twelve percent (12%) longevity maximum; Wood-Ridge has a 12.25% longevity maximum. The list goes on.

Cumulatively the Paramus base wage relative position must be offset by these extended work hours and numerous benefit shortfalls. If one counts all of the shortfalls together with the two thousand eighty (2,080) hour

work year, the Borough of Paramus is far from the top position in total compensation.

The most important and most dominant economic issue presented by the parties at hearing is the base wage position. This will affect most people in the greatest degree. The base wage position is ever changing in comparable municipalities. Once again, one may recognize in the greatest probative value to those towns presented by the PBA as part of its direct case wherein the appropriate universe of comparison was established. **Chart No. 9** below is based upon PBA exhibits and illustrates the movement among these various positions on the Base Wage category alone.

### CHART NO. 9

#### BASE PAY INCREASES BASED ON PBA EXHIBITS

Bergenfield	4.75(2/2.			
East	5 (2/3)	5 (2/3)		
Elmwood	3.95	3.95	3.95	3.95
Haworth	4.4	4.4	4.4	4.4
Lyndhurst	3.9	3.9		
Mahwah	5.6	5.9	5.9	
North		3.75	4 (2/2)	
Northvale	4	4	4	4
Norwood	4			
Oakland	5.2	4.2	4.2	
Old Tappan	4.25	4.25		
Parsippany	4	4		
Ridgewood	4.2	4.2	4.2(2.1/2.	4.2(2.1/2.1)
River Edge	4.25	4.25		
Saddle Brook	4	4	4	4
Tenafly	4			

Wayne	4.5	4.45	4.2	
Wood-Ridge	4 (2/2)	4 (2/2)	4 (2/2)	4.5(2.25/2.
<b>AVERAGES</b>	<b>4.3529%</b>	<b>4.2833%</b>	<b>4.285%</b>	<b>4.175%</b>

The numbers are not static. The base wages of comparable law enforcement agencies are increasing at the rates reflected at the bottom of **Chart No. 9**. These numbers are only slightly below, a less than one percent (1 %) difference, the base wage position of the PBA at hearing.

The Employer's own proofs do not support its position set forth at hearing and more closely support the PBA Position.

Chart No. 10 on the following page is based upon those towns selected by the Employer in the list of exhibits provided by the Employer at hearing in support of its case

#### **CHART NO. 10**

#### **COMPARISON OF EMPLOYER ADDED EXHIBITS COMPARING BASE RATE INCREASES**

<b>South Hackensack</b>	<b>4</b>	<b>4.25</b>		
<b>Waldwick</b>	<b>4.5 (2.5/2)</b>	<b>4.25</b>		
<b>Woodcliff Lake</b>	<b>3.75</b>	<b>3.75</b>		
<b>Rochelle Park</b>	<b>4</b>	<b>4</b>		
<b>Park Ridge</b>	<b>4.2</b>			
<b>Point Pleasant Beach</b>	<b>4.25</b>	<b>4.25</b>		
<b>Franklin Lakes</b>	<b>3.75</b>			
<b>Harrington Park</b>	<b>4</b>			
<b>Hasbrouck Heights</b>	<b>4</b>	<b>4</b>		
<b>Hillsdale</b>	<b>3.75</b>			
<b>Midland Park</b>	<b>3.75</b>			

<b>Montvale</b>	<b>4</b>	<b>4.25</b>	<b>4.25</b>	
<b>Maywood</b>	<b>4</b>			
<b>Fair Lawn</b>	<b>4.25</b>			
<b>Fairview</b>	<b>4</b>	<b>4</b>	<b>4</b>	
<b>Edgewater</b>	<b>4</b>	<b>4</b>		
<b>Emerson</b>	<b>4.25</b>			
<b>Allendale</b>	<b>4</b>			
<b>Alpine</b>				
<b>AVERAGE OF EMPLOYER SELECTED AND ADDED EXHIBITS</b>	<b>4.024%</b>	<b>4.083%</b>	<b>4.125%</b>	

Clearly established by the Employer's own proofs is support for the PBA Position. The Employer's Last Offer Position of two percent (2%) wage increase, if doubled, would still not reach average as established by the Employer's own proofs. As has been clearly established above, even if the Employer argues that there is some justification for a two percent (2%) increase, the total compensation statutorily required analysis shows Paramus to be well behind average in many key areas and certainly its decision in prior years to put whatever money was available on the base wage category as opposed to some benefit category should not be penalized. Both parties, Employer and the PBA, over the prior years have focused on the issue of base wage without increasing the other ancillary benefits as noted in the prior Charts. The Employer is now attempting to offer a grossly substandard base wage increase justified in some way by the prior mutual decision to put all the money on base that was available. If the Employer is to make such an argument then to give it validity the Employer would have to decrease the work hours, increase the clothing allowance, increase the annual personal days, increase the recognized annual holidays, and shorten the length of time to reach Top Step pay. This is, of course, only a starter. The Paramus total compensation program is at best marginally competitive if

one takes the total program as is most appropriate under the statute and compares total compensation.

Even the Employer's assertions as to internal comparisons are not supportive of its position. Employer *Exhibit B-7* attempts to establish some sort of basis for its low offer by using a recent Teamsters Local 97/Borough of Paramus settlement. In fact, however, Borough Administrator Anthony Iacone acknowledged on cross-examination that the actual percentages of increase ranged from 5.47% to 6.8% for those titles. It is understood that these other positions covered by said Memorandum of Agreement are lesser paid, however the percentages are clear and acknowledged by the Borough representative that was in negotiations with said Union. How can the same public employer who voluntarily agreed to increases from 5.47% to 6.8% for another bargaining unit of Employees now be heard to validly offer two percent (2%) to the PBA? The Employer has not only failed to provide a body of evidence to support its position but in addition the Borough of Paramus has not even been able to find a single bargaining unit anywhere in law enforcement or otherwise who accepted or was awarded a two percent (2%) increase across-the-board.

The Borough of Paramus has made certain overtures comparing private sector employment as a relevant consideration. The PBA asserts that the best comparisons are those between employees who perform like services. In effect, the best and most valid comparisons are with other law enforcement personnel. The PBA has so focused its proofs. There are significant differences between public law enforcement and all other job titles.

Due to the unique statutory obligation and treatment of Police Officers under New Jersey Law, any comparison of said law as it applies to private sector employees as compared to Police Officers must result in a strong justification for significantly higher compensation to be paid to police officers.

**POSITION OF THE BOROUGH** *(as presented in it's post-hearing brief)*

**The Interests and Welfare of the Public**

No one doubts that it is in the interest of the Borough's citizens to have a quality police force that can maintain a high level of morale based in part of the conditions of its employment. The PBA's presentation at interest arbitration emphasized the PBA's view that Paramus is currently reaping the benefits of a top-quality police force. As will be discussed herein, the PBA members enjoy conditions of employment that rival, and arguably exceed, those of every other police force in Bergen County. In the absence of any evidence that the quality of the police work being conducted in Paramus will decline in the absence of the above average wage increase sought by the PBA, a position which the PBA surely would not wish to take, the Arbitrator should not grant any substantial weight to this factor.

However, to the extent that this factor is considered, the Arbitrator should take note of the Borough's exhibit B-11, consisting of various newspaper articles indicating the public outcry in New Jersey with regard to PBA salaries. See in particular Paul Mulshine's piece for The Star-Ledger, noting the discrepancy between the State's alleged desire to curb property taxes and the decisions of Public Employment Relations Commission ("PERC") Arbitrators which force such benefits up by awarding increased benefits. Far more detailed is the "Runaway Pay" series that ran at NorthJersey.com, the website for the Bergen Record. According to the series' authors at p. 6 of the printout, "[s]tate officials have made sure that in the delicate balance of contract negotiations, the police... unions have a thumb on the scale." In support of that statement, the series, written in 2006, noted the limitation of a 2.5% increase in the size of a municipal budget, despite the skyrocketing cost of health benefits (there was a 13.3% increase in 2005). At p. 21 the series again references the cost of health care, stating that, "Free health care for these employees and their families, without even a small premium, is a luxury New Jersey taxpayers can no longer afford to provide. Unions across the country have begun accepting a two-tiered system that protects older workers but provides more realistic benefit packages to new hires – benefits far more in line with the private sector." To the contrary, the PBA in Paramus, which continues to receive free health benefits, seeks an above average wage increase on top of such benefits. Such an increase is not in the interest of the public.



## The PBA's Conditions of Employment as Compared to Other Employees

The Arbitrator should give substantial weight to the fact that the PBA's conditions of employment are far superior to those of any other Borough employees. In 2007, the average salary paid by the Borough to a PBA member was \$106,259.82. The next highest paid group of employees, the Borough's Supervisory Employees, were paid an average of \$87,908.62 for the year. At the bottom of the totem poll were the members of Teamsters Local 97 ("Local 97"), who received an average salary of \$39,909.35. (Please refer to exhibit B-3, the Affidavit of Joseph Citro (hereinafter Citro Aff.) at ¶2.)

Despite their comparatively low compensation, Local 97 members agreed, pursuant to a Memorandum of Agreement, that new hires after January 1, 2009 would contribute 1% of their base pay to the cost of their health care. (Please see exhibit B-7, the Memorandum of Agreement.) At interest arbitration, the PBA attempted to make much of the fact that the Borough and Local 97, the Borough's second largest bargaining unit following the PBA, have not yet finalized a CBA. However, Anthony Iacono, the Borough's Administrator, testified that the only obstacle concerned payment for partial work days. For purposes of the subject interest arbitration, the Arbitrator should note only that Local 97 did in fact agree to contribute to the cost of its health care, despite the comparatively low compensation received by its members. The Arbitrator should also note that the Borough has passed a resolution requiring unrepresented employees to contribute 2% of their base pay to the cost of health care. (Please refer to exhibit B-6.)

It is absurd for the PBA, with its grossly disproportionate salaries in comparison to the Borough's other employees and its refusal to contribute to the cost of its health care, to demand an above average wage increase along with other increased benefits. Such increases cannot be justified generally; they certainly cannot be justified to, for example, the average member of Local 97 who has indicated a willingness to contribute to his health care despite a salary nearly three times less than that of a member of the PBA. An award granting the employment conditions sought by the PBA would work substantial harm on labor relations within the Borough.

A comparison with the benefits enjoyed by represented police officers in other Bergen County municipalities further demonstrates how well compensated the PBA members are. Of twenty-nine (29) municipalities for which information is available through PERC, a top-step patrolman in the

PBA in Paramus is more highly compensated than any other top-step patrolman in Bergen County. (Please refer to exhibit B-4.) While the PBA will undoubtedly argue that particular municipalities may allow for an officer to reach the top pay grade in less steps or make other arguments seeking to offset the extraordinarily generous base salary offered to its members, the fact remains that no patrolman in Bergen County is capable of receiving higher compensation than a patrolman in Paramus.

In Paramus, the 2007 top step salary was \$110,002. This was \$6,869 higher than Waldwick, one of only two other municipalities to offer base wages over \$100,000 and the municipality offering the second highest top step salary. Notably, with the 2% increase proposed by the Borough, the PBA members in Paramus would ensure that they remain the highest paid officers in Bergen County. (With regard to the preceding, please refer to exhibit J-2.) Furthermore, the Arbitrator should note that, of thirty-one (31) other municipalities for which information is available from PERC, only two (2) will provide their police officers with wage increases of 5% or more per year during the years 2007 through 2012. One of those municipalities is Wood-Ridge, which will provide such raises only in 2011 and 2012, and whose officers are paid far less than the PBA members in Paramus (over \$14,000 less in 2007). The other is Mahwah, whose officers have agreed to contribute to the cost of their healthcare. As stated previously, the PBA members in Paramus have refused to make such a contribution.

In addition to their exceptional compensation, the PBA members also receive numerous other benefits in line with those received by police officers in other municipalities. Most relevant to the subject interest arbitration, PBA members can accrue up to 20 days in their CTO banks. Of thirty-two (32) other municipalities for which information is available from PERC, it appears that seventeen (17) do not offer CTO to their police officers at all. Despite that fact, the Borough has offered to increase the maximum CTO bank to 25 days, well over the maximum allowed by each municipality for which a limit is specified. No municipality that the Borough is aware of offers a CTO maximum of even close to the unjustifiable 40 days sought by the PBA. (With regard to the preceding, please refer to exhibit B-8.)

PBA members also receive further compensation in the form of longevity pay. Officers can receive up to (10% of their base salary for twenty-five (25)

years of service. This longevity benefit is generally in line with that received by officers in other Bergen County Municipalities.

Finally, the Arbitrator should take note of perhaps the most important benefit received by the PBA members: free health care. In their receipt of this extraordinary benefit, the PBA members are effectively bucking the trend in New Jersey and in Bergen County. At least five (5) PBAs in Bergen County currently contribute to the cost of their health care: those in Hillsdale, Leonia, Mahwah, North Arlington, and River Edge. The officers in two of these municipalities, Leonia and North Arlington, contribute pursuant to the awards of Interest Arbitrators. The Arbitrator should take particular note of the Leonia award of August 15, 2005, included in exhibit B-10, which begins its discussion of the health benefits issue at p. 50. The award noted that substantial premium increases seen in the two health plans at issue in the matter (9.9% and 10%, respectively) and the considerable difference between those increases and the increase in the cost of living, and stated that, "Unquestionably, health insurance premium increases are a serious problem for both the Borough and the business community in general." The award further noted the importance of certain surveys and findings concerning the rising costs of health care. (All referenced CBA's are included in exhibit B-10.)

Several other Bergen county municipalities have taken steps outside of base salary contributions by employees to help offset the cost of health care. In Alpine, retired PBA members bear any premium increases; Dumont and Midland Park have both capped dental benefits; Harrington Park PBA members contribute thirty percent (38%) of the dental premium; Maywood PBA members pay a deductible, as do those in Old Tappan; Montvale employees pay co-pays up to a certain level and contribute thirty percent (30%) of dental co-pays. None of the preceding take place in Paramus, where medical benefits, dental coverage, and retiree health coverage are all fully paid for by the Borough. (All referenced CBA's are included in exhibit B-10.)

A number of such surveys and findings were submitted by the Borough in the subject Interest Arbitration, as exhibit B-11. Within these documents, the Arbitrator should note the following:

- According to a 2008 survey of the New Jersey Business and Industry Association, health insurance costs have doubled over the last six (6)

years, and fifty-two percent (52%) of private companies require their employees to share the cost in one way or another.

- According to national data report of Mercer Human Resource Consulting, countrywide health care costs went up six and one-tenth percent (6.1%) in 2007, more than twice the rate of inflation, and that cost-shifting to employees is the only reason that the rise was not even worse.
- A 2007 Summary of Findings by the Kaiser Family Foundation and Health Research and Educational Trust found that eighty percent (80%) of U.S. workers with single health coverage and ninety-four percent (94%) of workers with family coverage contribute to the total premiums for their coverage.
- According to a 2006 survey of police and fire personnel salaries, the International City/County Management Association found, in municipalities with over ten thousand (10,000) residents, that the average minimum salary was \$38,569, with a maximum of \$53,811. In Paramus, the minimum salary of a PBA member in 2006 was \$51,742, with a maximum was \$105,771, nearly double the national average. The average municipality contributed \$403,056 to employee benefits. In Paramus, health benefits for the PBA cost the Borough approximately \$1,450,000 in 2008. (Citro Aff. at ¶4.)
- According to a February 6, 2008 report of global consulting firm Watson Wyatt, increases in medical costs for employers are expected to accelerate over the next five (5) years.

In addition to the numerous findings referenced above regarding the costs of health care and employee contributions, as well as the Bergen County contracts now containing such contributions, the Arbitrator should take note of the Decision and Award in Borough of Point Pleasant Beach and PBA Local 106 (contained in exhibit B-10). The Decision and Award provides for an employee contribution to health care by police officers who are paid nearly thirty thousand dollars (\$30,000) less annually than the officers in Paramus. Arbitrator Glasson noted at p. 65 that “[t]he increased cost of providing [health insurance] benefits cannot be considered only as an employer obligation but also must be viewed as a continuing fringe benefit to an employee that is more costly to provide.” Beginning at p. 66, arbitral notice was taken of thirty (30)

New Jersey police and firemen's contracts containing employee contributions to healthcare.

Recent changes to the law in New Jersey also demonstrate the trend toward employee contributions to health care. Exhibit B-15 is a copy of N.J.S.A. 52:14-17-28b. That statute mandates that, as of July 1, 2007, unrepresented state employees partaking in the State Health Benefits Program ("SHBP") contribute 1.5% of their base salaries to the cost of such program. Furthermore, the statute allows local employers to negotiate employee contributions to the SHBP. Exhibit B-14 is a memorandum of the Division of Pension and Benefits explaining the provisions of the statute.

In summary, the PBA members are exceptionally well-compensated and enjoy a generous benefits package that includes free health care, an extraordinary benefit that is clearly being phased out for public employees in the State of New Jersey. The PBA's compensation package rivals that of any PBA in Bergen County, and is far superior to that offered to any other employees in the Borough. The Arbitrator should give substantial weight to this statutory factor.

### **The Overall Compensation Package Presently Received by the PBA**

The Arbitrator should give substantial weight to this factor as well. As previously discussed, the overall compensation package presently received by the PBA is extraordinary, and the increases to both base wages and the CTO Bank proposed by the Borough will enable it to remain so.

### **Stipulations of the Parties**

There were no stipulations in this matter relevant to the Arbitrator's determination of the Award. However, with regard to the CTO bank issue, the Arbitrator should take note of exhibit B-9. Said exhibit is email correspondence of then Deputy Chief (now Chief) Richard Cary to Mr. Iacono stating, with regard to the CTO bank, that "perhaps it would be best not to exceed 25 days." As has been stated, that amount is the amount being offered by the Borough.

### **The Financial Impact on the Borough, its Residents, and its Taxpayers**

The ultimate award in this matter will have a significant financial impact on the Borough. As testified to by both Anthony Iacono, the Borough Administrator, and Steven Wielkottz, the Borough's appointed Auditor, the Borough is in dire financial condition. Mr. Iacono, who has twenty-three (23) years of experience in local government and is a state certified municipal finance officer, testified that the Borough is facing \$12 million in tax appeals due to the fact that, subsequent to a revaluation in 2004, nearly every commercial land owner filed an appeal. The Borough requested an additional five (5) years to repay the loans taken to cover the cost of the appeals, but was granted only three (3) by the Local Finance Board. Mr. Wielkottz added that no funds were held in reserve to cover the extraordinary cost of the tax appeals. He noted that very few municipalities hold such reserves, as a dollar held in such a reserve is another dollar that will have to be raised by the municipality in a given year.

Mr. Iacono also noted that the Borough was forced to utilize \$1.7 million worth of surplus funds just to balance the 2008 municipal budget. Mr. Iacono concluded that, based on the Borough's current financial picture, layoffs have not been ruled out in 2009. The alternative, he testified, may be the largest tax increase seen by the Borough residents in ten (10) years, and perhaps twenty-five (25) years.

In addition to the above, Mr. Wielkottz provided a detailed view of the Borough's deteriorating financial picture. Mr. Wielkottz is in his thirtieth year performing services for municipalities, and has spent between eight and nine years serving the Borough. He clearly stated that the Borough cannot afford even the two percent (2%) across the board wage increase that it has offered the PBA.

Specifically, Mr. Wielkottz testified to the fact that, in 2008, budgeted appropriations were increased by \$3.9 million. At the same time, a number of revenues came in under budget. Such revenues include the interest on investments (\$500,000), construction code fees (\$321,000), ambulance fees (\$100,000), and business license fees (\$65,000). In total, the Borough experienced a shortfall of approximately \$986,000. Mr. Wielkottz testified that

every municipality he serves is currently facing shortfalls in these and similar areas.

Based on preliminary figures, Mr. Wielkotz testified that the Borough can raise approximately \$4 million in 2009 for appropriations. In addition to the aforementioned shortfall, the Borough's cash surplus in 2009 will be down by approximately \$1 million. Of the approximately \$2 million remaining in the 2009 budget, approximately \$500,000 will cover the salary increases for all employees outside of the PBA members and another \$750,000 will be expended on health care for all Borough employees. With an additional \$140,000 for police pensions and a \$350,000 expense due to tax refunding, approximately \$175,000 of the Borough's \$4 million budget will remain. A two percent (2%) increase in the PBA salaries from 2007 alone will exceed \$175,000, even without considering overtime, step-ups in rank, and other expenses related to the PBA's generous compensation. Mr. Wielkotz therefore concluded that the Borough may very well find itself "in the red" in 2009. He stated that, to avoid such a scenario, cuts will more than likely have to be made from other areas of the budget, approximately twenty-five percent (25%) of which is constituted by PBA salaries and benefits.

Police salaries and health benefits constitute an extremely large expense to the Borough. According to Joseph Citro, the Borough's Chief Financial Officer, the difference between a 5% across the board wage increase and a 3.5% percent across the board wage increase, over the life of a 3-year contract, would exceed five hundred thousand dollars (\$500,000). Due to the PBA's refusal to contribute to the cost of its health care, the Borough's final offer was a 2% across the board wage increase. Accordingly, the difference between the PBA's demand and the Borough's offer exceeds one million dollars (\$1,000,000) over a 3-year agreement. The Arbitrator should note that this difference in costs is exclusive of further Borough expenditures for police compensation with regard to overtime pay, step-ups in rank, longevity pay, and other benefits enjoyed by the PBA members. (Citro Aff. at ¶3.)

Mr. Citro also noted that the cost of health benefits for the PBA members increased by more than twenty percent (20%) from 2004 to 2008, from approximately \$1,200,000 to approximately \$1,450,000. The Division of Pension and Benefits has officially advised that such cost will rise by an additional three percent (3%) in 2009. Mr. Iacono testified to the fact that the

State Treasurer has stated that, in reality, the increase will likely be four percent (4%).

In summary, the Borough simply cannot afford to provide substantial increases in compensation to the PBA members, who are already very well compensated by any standard. The above average increase sought by the PBA is absolutely out of the question.

### **The Cost of Living**

Neither the PBA nor the Borough presented evidence regarding the cost of living. However, the Arbitrator should take arbitral notice of the fact that the CPI for the year ended December, 2008, was 1.6%, as such is public information which can be obtained at any time from the Bureau of Labor Statistics' website. Needless to say, the wage increase demanded by the PBA is grossly disproportionate to the CPI, as is the rising cost of health care.

### **The Continuity and Stability of Employment**

As has been stated, the Borough's offer to the PBA will assure that the PBA remains one of, if not the, highest compensated police forces in Bergen County and the State of New Jersey. On the other hand, an award of the PBA's unreasonable offer will quite possibly lead to layoffs. Mr. Iacono specifically testified that layoffs could not be ruled out based on the Borough's current financial condition, and Mr. Wielkottz concurred that a substantial increase in the PBA's already more than generous compensation will necessitate budget cuts. Such cuts could of course be accomplished via personnel layoffs.

The final two factors to be considered by the Arbitrator pursuant to N.J.S.A. 34:13A-16(g) concern the lawful authority of the Borough and any statutory restrictions imposed on the Borough. Pursuant to the statute, among the items to be considered with regard to these factors is the Borough's ability to comply with New Jersey's Local Budget Law. As was discussed above, it will be very difficult, if not impossible, for the Borough to remain within its budget should the PBA's unreasonable offer be awarded. Furthermore, as was recognized in PBA Local 107 v. Hillsdale, 137 N.J. 71, 85-86 (1994), a consideration of the financial impact on a municipality and its residents does not merely equate to an "ability to pay." Similarly, whether or not the Borough can manage to work within the Local Budget Law is not a consideration that should be given any substantial weight by the Arbitrator. Rather, the focus should be on the



financial impact to the Borough and the potential detrimental effects on the stability of employment that will result from an award of the unjustified PBA offer.

As all the foregoing indicates, the Borough is in no position to fund the award sought by the PBA, nor can such an award be justified based on the exceptional compensation received by the PBA members, including free health care, in comparison to other employees in the Borough and other PBAs in Bergen County. Rather, the Arbitrator should award the entirety of the Borough's reasonable last offer, which will allow the PBA to remain among the most handsomely compensated police unions in the state while also allowing the Borough to exercise the financial responsibility expected of it by its resident taxpayers.

## **DISCUSSION AND OPINION**

**Pursuant to the above order, the instant arbitration award is hereby issued to better explain which of the statutory factors were deemed to be relevant and explain why other factors were not relevant and provide an analysis of the evidence on each relevant factor.**

**My original award is incorporated herein by reference. In this section the original award is in italics. The Times New Roman portions are new and added herein pursuant to the order of the Commission on remand.**

**Criteria 1.** *I agree with the general sentiment of both parties that **the interest and welfare of the public** is best served by providing fair wages and conditions of employment to the officers who serve and protect the citizens of Paramus. Both parties expressed a similar sincere desire in this regard. However, differences exist in the perception of what and how much is fair. Obviously, it is the difference in this perception that is the essence of this Interest Arbitration.*

*I recognize that increased productivity in a police department is not necessarily a reason, by itself, to increase wages. However, an increase in pay for increased effort as depicted in PBA Chart No.1 above, coupled with additional responsibility, is generally a persuasive argument for a wage increase. In this instance, the additional productivity combined with the addition of specialty units, as listed above, was one of the factors driving my conclusion regarding the four percent (4%) across the board wage increase in each year of the four-year duration of the contract. In reaching this conclusion, I also thoroughly considered the other statutory factors including...*

*The PBA is seeking, in part, a four-year (4) contract with a base wage increase of 5% across the board in each year, whereas the Borough's last offer was for a three (3) year contract with wage increases of two (2%) across the board in each of the three years of the proposed contract.*

*I instinctively resist the temptation of splitting the difference in the final wage position of the parties, although at times such an approach may be appropriate. In this instance, for the reasons stated below, I concluded on the basis of the extensive record made before me that, the five percent (5%) across the board proposed by the PBA was somewhat excessive and the two percent (2%) proposed by the Borough was somewhat to low.*

*Therefore, after through consideration of the arguments and allegations of both parties and for the reasons sated below, I concluded that four percent (4%) wage increase across the board is appropriate. This amount appears to be somewhat less than the documented State average and is therefore found to be more reasonable under the circumstances.*

*With respect to the duration of the contract I note that a substantial time has passed since the expiration of the previous contract and therefore I became persuaded that a four-year contract is more appropriate at this time.*

*I recognize that increased productivity in a police department is not necessarily a reason, by itself, to increase wages. However, an increase in pay for increased effort as depicted in PBA Chart No.1 above, coupled with additional responsibility, is generally a persuasive argument for a wage increase. In this instance, the additional productivity combined with the addition of specialty units, as listed above, was one of the factors driving my conclusion regarding the four percent (4%) across the board wage increase in each year of the four-year duration of the contract. In reaching this conclusion, I also thoroughly considered the other statutory factors including the*

**Criteria 1.** (added on remand) **Interest and Welfare of the Public.** I have given significant weight to the first statutory criteria. I note that the legislature also gives this factor great weight in its revised title 34:13A-15 where it states in part: "This act shall be known and may be cited as the-- **Police and Fire Public Interest Arbitration Reform Act.**" (Emphasis added)

In this regard the PBA made an extensive PowerPoint presentation (P9) in evidence. Other exhibits were also reviewed by me and discussed in my original award herein above and incorporated by reference. In amplifying my original award some repetition will inevitably occur. In the power point presentation Paramus was clearly shown to require greater

police services then merely the 27,000 night-time population might ordinarily require.

The evidence and testimony revealed that, on a daily basis, an exceptionally high number of vehicles pass through the various highways and expressways that bring traffic to and through the Borough to the entire metropolitan area as well as the Borough's unusually large commercial and educational destinations. Clearly the demands for maintaining public safety were shown to include 7 major shopping centers with many dining places attracting visitors from the entire metropolitan area. The evidence further established that in Paramus the ratable commercial vacancy rate was exceptionally low and generated more than 5 billion dollars in sales.

Significantly, Paramus ranked No.1 of all the 70 Bergen County municipalities in reported crimes and nearly doubled the amount of the second place town. Additionally, PBA Exhibit 4. demonstrates that, since 1985, the calls for police services in Paramus nearly doubled, while the number of sworn personnel was actually reduced during the period.

Therefore, given the exceptional increase in productivity and professionalism on the part of the Paramus police officers, I concluded that the Interest and Welfare of the Public is well served and efficiently delivered.

Finally, I found that the evidence in the record before me reveals that the change in the structure of the Department reduced the total sworn police personnel contrary to its own staffing ordinance. (P3) Obviously, such reduction also generates savings to the Borough. Of course, such reductions in personnel also diminish the promotional opportunities,

generate more work for the lower ranks but at the same time create greater value to the community.

In this regard I also note that the Employer provided no significant or convincing argument in opposition to the PBA on this statutory criteria. Therefore, I find that in Paramus the Interest and Welfare of the Public is well served by a properly compensated Police Department which efficiently and economically provides the vital police services and meets the increasing work load in the Department. Therefore, on balance, greater weight is granted to the members of PBA Local 186 as a result their extremely high productivity while saving taxpayer dollars through attritional losses in the workforce.

### **Criteria 2 and 3    *Comparison of Wages and Terms and Conditions of***

***Employment.*** *In this statutory criterion, both parties were able to put forth statistics favoring their respective positions. The PBA produced Chart No. 9 showing base-wage increases of eighteen (18) municipalities with an average annual wage settlement somewhat above 4%. However, the Chart does not support the 5% wage increase proposed by the PBA.*

*The PBA relies in part on computation of averages of the compared contracts. However, averages can sometime be deceiving. In this regard I am reminded of a remark by former Secretary of Labor Robert Reich who stands about 5 feet tall and who remarked, something to the effect that, on average, he and Kareem Abdul Jabar are about 6 foot tall. Although averages can be useful as a comparison tool, they can be deceiving.*

*Additionally, while the comparison of occupations and wages in the private sector is always difficult for many of the obvious reasons, I must consider that the taxpayers of this community are predominantly employed in the private sector and therefore the average wage increases in that sector necessarily effect the community's economic ability to shoulder the increases herein. Consequently I believe, for the reasons stated above, that the 4% per year across-the-board wage increase in each of the four years of the contract is more reasonable than the 2% proposed by the Borough herein, in light of all the statutory criteria.*

Criteria 2, on remand, I again gave significant weight to the comparison of the Paramus PBA contract, their hours of work, wages, and conditions of employment with other employee contracts performing the same or similar services and with other employees generally. Both criteria 2 and 3 form the basis for establishing a universe of comparison as statutorily required.

At the formal arbitration hearing in this matter both parties submitted numerous collective bargaining agreements negotiated in the various municipalities throughout Bergen County. I gave weight to the contracts which were identified through documents and testimony. This comparison significantly revealed that Paramus has an above average work structure of 2080 hours of work per year, as indicated in PBA chart No. 3 above.

The evidence reveals that in Paramus a number of other economic benefits lag behind the compared municipalities. In Paramus a patrolman takes ten (10) years to reach the top pay scale, forty 40% of the statutory

career. Similar wage guide differences exist with the supervisory ranks in Paramus as well. The unusual long time to reach top step on the salary guide obviously reduces the total compensation as compared to other contacts in the County.

Even though I ruled against the PBA in their request for an additional holiday, I note that Paramus has fewer than the average number of such holidays. Additionally, the clothing allowance is also far below the average comparable contracts and significantly, as above stated, the existing contractual work schedule results in more annual work hours than the comparable contracts in evidence. Therefore, while the Employer correctly pointed out that the Paramus PBA leads the comparable municipalities in top step salaries, it takes longer to get there and lags in other economic benefits as outlined above when comparing the total compensation. The evidence is also clear that in Paramus there are significantly less police officers performing significantly more work. Consequently, I continue to be persuaded that awarding the 4% per annum across the board wage increase was appropriate.

The Employer correctly argued that the medical plan in existence in Paramus is an excellent benefit and a costly one to the town. Although I note that eye care benefits and prescription drug costs are unavailable in Paramus as they exist in a number of other towns in evidence.

However, I am unable to provide a more comprehensive analysis of the individual medical plans in the various towns in the County. The Employer provided some information on the Paramus medical plan but no analysis of the medical plans of the comparable towns in the record.

Additionally, although the evidence reveals that some contracts require a modest medical premium contribution from the members of the Police, it does not appear to be the norm in Bergen County.

In its post hearing brief, above reproduced, the Employer argued in part:

Finally, the Arbitrator should take note of perhaps the most important benefit received by the PBA members: free health care. In their receipt of this extraordinary benefit, the PBA members are effectively bucking the trend in New Jersey and in Bergen County. At least five (5) PBAs in Bergen County currently contribute to the cost of their health care: those in Hillsdale, Leonia, Mahwah, North Arlington, and River Edge. The officers in two of these municipalities, Leonia and North Arlington, contribute pursuant to the awards of Interest Arbitrators.

I was not convinced that out of some seventy (70) municipalities in Bergen County five (5) PBAs constitute a "trend" in insurance premium contributions. I was also not convinced that the existing health plan in Paramus is "extraordinary" as suggested by the Employer above, or that the plan is superior to that provided by other comparable municipalities in evidence.

In this instance the Employer has not met its burden of proving that because the officers of the Paramus Police continue to receive an existing noncontributory medical plan, they should receive a significantly lower wage adjustment. Although there are several contracts in Bergen County where the officers make a health premium contribution, there was no



support in the record that such contributions are prevalent in the compared municipalities herein.

I also note that, during the formal arbitration proceedings I ruled in favor of the PBA that health insurance premium contributions was not an appropriate issue in the instant formal arbitration before me. That ruling was appealed by the Employer and decided by PERC in favor of the PBA. However, in its post hearing brief, reproduced above, the Employer argues extensively in favor of premium contributions and how they relate to across the board wage increases.

Police salaries and health benefits constitute an extremely large expense to the Borough. According to Joseph Citro, the Borough's Chief Financial Officer, the difference between a 5% across the board wage increase and a 3.5% percent across the board wage increase, over the life of a 3-year contract, would exceed five hundred thousand dollars (\$500,000). Due to the PBA's refusal to contribute to the cost of its health care, the Borough's final offer was a 2% across the board wage increase. (Citro Aff. at ¶3.) (emphasis added)

Here again I emphasize that health care contributions was not an issue considered in the formal arbitration process herein and was not proposed as an issue in the final offer submitted by the Employer herein.

Finally, while I obviously acknowledge that medical costs are increasing and constitute a significant part of the municipal budget, given the insufficiency of the record in this regard, I am unable to place a dollar value on the cost of future health benefits. Doing so would be speculative.

Also, in its post hearing brief, the Employer identified base wage comparisons with other selected municipalities. However, the differentials cited are not reflective of the total overall compensation involving a number of significant economic benefits not found in Paramus such as, the annual work hours obligations cited above, the existence of an unusual two-tier longevity benefit, years of service required to reach top step, clothing allowance, all economic and are lagging in Paramus when compared to the contracts in evidence by both parties.

I also found that the average rate of wage increase among comparable municipalities in evidence, even those comparisons submitted by the Employer, exceed the awarded 4% per annum. This finding is based on the proofs in the record made before me by both parties at the formal arbitration hearing in this matter.

The Employer's 2% wage increase position for each year was not sustained on the basis of the proofs in evidence. In fact the Employer's proposed 2% wage increase position is without precedent in the record and is substantially lower than any wage settlement introduced in evidence by either party.

Significantly, as stated above, the contracts submitted in evidence by the Employer reveal a per annum average wage increase of slightly more than the 4% awarded herein. As revealed in Chart No. 9 above, the Employer added exhibits show an average base rate increase of 4.02% in 2008, 4.083% in 2009 and 4.125% in 2010. My award of 4% wage

increase per annum is clearly supported even by the Employer added exhibits to which I gave significant weight.

Actually, the awarded 4% is in between the final wage positions of both parties. It is less than the 5% sought by the PBA and more than the 2% offered by the Employer and therefore, I continue to find it to be appropriate under statutory criteria **2** and **3**.

However, I found in favor of the Employer position on compensatory time off and denied the PBA request for an additional holiday.

As statutorily required, I also considered the three Sub Criteria.

**2(a) In private employment in general, 2(b) In public employment in general and 2(c) In public employment in the same or similar comparable jurisdiction.**

However, for reasons stated below I found **2a** and **2b** only marginally relevant and **2c** somewhat more relevant since other public employees in the same jurisdiction are compensated from a common budget and serving the interest and welfare of the residents and taxpayers of the same Employer.

Sub Criteria **2(a), employment in the private sector**, is generally held to be non comparable since there are no private sector jobs that compare to the job of a police officer who is statutorily required to protect the public in various emergent circumstances on and off duty. I give this comparison only minimal weight.

As other arbitrators have noted, it is difficult to compare the working conditions of public sector police officers with the working conditions of private sector employees performing the same or similar services because of the lack of specific private sector occupational categories with whom a meaningful comparison may be made. The standards for recruiting public sector police officers, the requisite physical qualifications for public sector police and their training and the unique responsibilities which require public sector police to be available and competent to protect the public in different emergent circumstances sets public sector police officers apart from private sector employees doing somewhat similar work. Accordingly, this comparison merits minimal weight. ( Borough of River Edge and PBA Local 201 PERC IA-97-20, pg. 30)

The same is true of Sub Criteria **2(b) public employment in general**. There is simply no resemblance between public employees in general and the unique duties of a sworn police officer. Therefore, here again I found such comparisons not to be relevant.

With reference to **Sub Criteria 2c**, the Administrator of Paramus Anthony Iocona testified at the hearing before me regarding the recent labor contract negotiations between Paramus and its Teamsters Local 97. He acknowledged that the percentage wage increases ranged from 5.7% to 6.8% but he pointed out that the tentative Memorandum of Agreement contained a 1% health premium cost contribution by the members of

Teamster Local 97. However, the PBA pointed out that, at the time of the instant formal arbitration hearing, the Agreement had not been ratified or signed. I have nothing in the record to indicate that the 1% health premium contribution was eventually accepted and ratified by the Teamster 97 membership.

While it must be acknowledged that such significant wage increases were clearly offered on a substantially lower salary base than are enjoyed by the members of the Police Department, the contrast of offering a 2% wage increase to the PBA and 5% to 6.8% increase to another bargaining unit in the same jurisdiction, is obvious.

Finally, I again emphasize that of the many comparable contracts submitted by both parties, I have nothing in the record to show that any other bargaining unit in a Bergen County contract in evidence negotiated or was awarded an across the board 2% wage increase. The Employer provided no evidence to support its 2% wage position. Therefore, I must give significant weight to the contracts in evidence as submitted by both parties which reveal an average annual wage increase of slightly more than the herein awarded 4% per annum. Therefore, there is no basis for me to modify the 4% across the board wage increase and Sub Criteria 2c favors the position of the PBA.

*Criteria 3 I also considered the overall compensation presently received by other employees of the Borough of Paramus. This sub-criterion supports the Borough's position that the 5% wage increase sought by the PBA was somewhat excessive in the existing difficult economic*

*climate. However, I note that the other Units of the Borough were not shown to have had a dramatic increase in productivity and responsibilities, as did the PBA. Therefore, for reasons more thoroughly discussed below, the Borough's wage increases of 2% per year was found to be inadequate but the 5% proposed by the PBA was found to be somewhat excessive.*

In considering **Criteria 3, on remand**, I gave considerable weight to **"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."** I found that while the top salaries of the Paramus PBA were better than average, the above listed benefits such as holidays, clothing allowance, the number of years to reach top step on the salary guide, were noticeably below average with the result of showing a lagging total compensation in Paramus.

First, as previously stated I found that the PBA's 5% wage position is somewhat high but found in a few contracts in evidence. However, the 2% wage position of the Employer cannot be found in any of the proofs in the record made before me. While the awarded 4% per annum was found to be most prevalent in the numerous contracts submitted in evidence by both parties, that fact standing alone would not have been enough. One additional element given significant weight was the consideration of the overall compensation in Paramus as compared to the above listed economic benefits when compared to the contracts in evidence.

Consequently, when the above list of economic benefits, other than wages, is compared to the contracts in evidence, the overall compensation of the Paramus PBA supports the awarded 4% across the board wage increase. As a result, I found Criteria 3 to favor the PBA position herein.

Criteria 4 *There were no significant **Stipulations of the Parties** herein. However, this does not foreclose any other agreements of the parties, that may have been reached prior to my arrival as Interest Arbitrator and the procedural changes, which may be necessary to conclude the instant contract.*

Criteria 5 *Under the **Lawful Authority of the Employer**, the PBA essentially argued that the Borough has the legal authority and sufficient Cap flexibility in accordance with criteria g.5 of the Act. However, the PBA agreed that such flexibility does not necessarily mean cash availability for expenditure by the Borough. Here I agree that there was no cap pressure on the Borough. However, this additional Cap is obviously not extra money actually available but merely the amount by which the Township could legally exceed its budget if it became necessary. I must also note in this regard, that the ability to pay was not a central issue herein. Such ability does not by itself indicate an entitlement to a wage increase.*

*Additionally, I considered the existing debt load and the rising cost of health care for the Borough as it is for most municipalities particularly during the current national economic downturn. However, in this regard I must note that*

*even if there was a comfortable and substantial ability to fund the entire PBA proposal, it would not necessarily mean that the entire proposal is reasonable.*

*Here I agree with the Borough argument that under the existing circumstances, a 5% wage increase would be somewhat excessive as indicated by recent settlements in comparable communities. The record made before me in this case does not justify a wage increase of such magnitude. However, as stated above, the 4% wage increase in each of the four years of the contract falls slightly short of the average base pay increases depicted in Chart 9 of the PBA exhibits.*

Criteria **g5** and **g9, added on remand**, require the Arbitrator's consideration of the limitations imposed upon the Employer by PL 1976, c. 68 (C.40A:4-45. 1et seq.) In the case of **g5** and Section 10 of PL 2007,c. 62 C. 40A:4-45.45) for Criteria **g9**.

With respect to "Cap" limitations as may be imposed and considered under **g5**, an examination of the 2008 Municipal Data Sheet, Exhibit P17 in evidence, the most recent Municipal Budget at the time of the hearing herein reveals, on Sheet 3b-1, that Paramus is almost 1.2 million dollars under appropriation "Cap".

Additionally, on Sheet 4 of P17, the 2008 Municipal Data Sheet under the heading General Revenues, Total Surplus Anticipated for 2008 is \$1,675,000.00. The Tax levy cap according to Sheet 3b-2 shows that the budget is more than 300,000.00 under the levy cap. Therefore, I found that there is no cap limitation problem indicated in P17. A consideration of any future Cap problems would be speculative. However, I note that there is some cap banking indicated for the future years but it would be speculative



to consider what cap issues may exist in future years. Also, it must be noted that the Municipal Court revenues approach the 1 million dollar level annually. Therefore, given the existence of fiscal flexibility, no significant negative weight is granted to Criteria g5 and g9.

**Criteria g6. *The Financial Impact on the Governing Unit, its Residents and Taxpayers, would not be immediately devastated even if the entire PBA proposal were to be awarded. However, as stated above, being able to afford the increase is not necessarily the controlling factor in determining its reasonableness. When all the statutory factors are taken into consideration the 4% wage increase each year in a four-year contract appears, in this case, to be most reasonable.***

**Criteria g6, added on remand. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in 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 effect 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 employee' 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 taxpayer 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 © initiate any new programs and services for which public moneys have been designated by the governing body in a proposed local budget.**

For obvious reasons I gave this Criteria significant weight. In considering the financial impact on the governing unit, I again studied the 2008 Municipal Data Sheet Exhibit P17 in evidence, the most recent document on the 2008 budget available at the time of the arbitration hearing. This official document reveals that the police salaries and wage appropriations for 2008, as indicated on Sheet 15, is \$10,305,933.00. This amount may include some non bargaining unit employees. On the basis this salary appropriation of \$10,305,933.00 I calculated that the awarded 4% increase results in \$412,237 for 2008, \$428,726 for 2009, \$445,876 for 2010 and 462,405 for 2011. However, I note that when the 2% Employer wage offer is made part of the calculation, the impact of the wage award herein is actually about half.

I further note that the total levy for the Borough is indicated to be over \$112,500,000.00 per year. Therefore, the total police compensation of \$10,305,000.00 results in about a 9% impact on the taxpayers. Also the record before me does not contain the total accurate salary of only the PBA members. Obviously, the above cost calculations of the PBA members alone would be somewhat but not significantly smaller.

Consequently, on an average household tax of \$8,000.00 per year, 9% is about \$720.00 per year per household. This is \$60.00 per month per household attributable to police salaries. A 4% increase would result in a theoretical increase of about \$2.50 per month per household attributable to the increase in police salaries.

The proofs in the record before me suggest that Paramus is likely to continue to be a very desirable commercial location with further ratable growth. However, I have restricted my findings in this regard only to the facts in evidence.

I find that, based upon all the proofs in evidence, the Borough can meet these wage increase costs and continue to maintain existing local programs and services. However, being able to do so, as I have said in the past, is not the sole controlling factor. I awarded the annual wage increases herein in part, on the basis of the evidence, testimony and the above arguments of both parties, in accordance with the required statutory criteria, giving significant weight to the wage increases by other Bergen County municipalities as submitted by both parties.

I gave additional weight to those contracts of Bergen County municipalities submitted by the Employer, as provided in Chart No. 9 above, since those wage increases also averaged slightly more than the 4% per annum awarded therein. As a result, I concluded that Criterion g6. favors the PBA position.

Additionally, as previously stated I take arbitral notice of the rising health care costs generally in all communities. However, I note that according to Data Sheet P17, Sheet no.14 indicates that "Group Insurance for Employees" was \$5,719,854.00 for 2007 and \$5,600,000.00 for 2008. However, I have no evidence that such reductions would continue in future years or that the reduction was health insurance related.

Criteria 7 **The Cost of Living** portion of the revised statutory criteria the Borough argued that the cost of living index as published by the Bureau of labor Statistic was only 1.6% for the year ended December 2008. However, the PBA introduced Public Employment Relations Commission annual report as compiled by the New Jersey Department of Labor and Workforce Development on the subject wage increases by county dated September 15, 2008. The document indicates a total percentage change of 4.3% for 2007. Although silent on the CPI, the document further indicates that the calculation for Bergen County was 4.9% wage increase for jobs covered by unemployment insurance. (P28) The PBA argued that the statistics favor the wage position of the PBA. However, the Borough argued convincingly here that since the CPI has been only slightly rising in recent years, the wage increases in the PBA proposal should be found to be disproportionate to the CPI and the rising cost of health care. Although wages in Bergen County rose by 4.9% on average, the mild CPI during this period further convinces me that the 5% wage proposal of the PBA was excessive.

Criteria 7 On remand **The Cost of Living**, criteria favors the Borough, as stated above in the original award, that the 5% wage increases sought by PBA was found to be excessive but for all the above stated reasons the 4% annual awarded increases are in my considered opinion appropriate.

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

*employment. Here the PBA again emphasized that existing wages alone should not be the only element considered. It asks the Arbitrator to consider the total compensation which places the PBA in a more competitive position with the compared bargaining units in the record. It points out that the proofs in the record, including the Employer selected comparisons, support the PBA position in this regard. However, a consideration of the total compensation of the members of the bargaining unit relative to its compared municipalities in the record before me, was still not persuasive enough to grant the full 5% wage increase in the PBA proposal.*

*With respect to the proposal of expanding the existing Compensatory Time Off Bank, the PBA argued that this proposal actually benefits both parties. It reasoned that the Borough can reduce cash overtime payment and the Employees can elect to take compensatory time in the future under the existing rules. Pre arranged approval for time off continue to be granted in accordance with the existing Departmental rules. In this regard I note that the Department schedules the overtime and approves the compensatory time off requested in advance. This existing arrangement will not be disturbed. However, the increase to the Compensatory Time Bank from the existing 160 hours or 20 days, to 200 hours and 25 days as proposed by the Borough is hereby granted. The increase to 320 hours as proposed by the PBA is hereby denied.*

*Additionally, I considered the PBA proposal that an additional holiday would bring the PBA employees to the same number of holidays received by other Paramus municipal employees. However, after granting the foregoing PBA wage increases, a four (4) year duration of the contract and*

*compensatory time bank increases, I was not convinced that the additional holiday was warranted at this time.*

*With respect to the final statutory criteria, the Borough correctly pointed out that there was no hard evidence that the **Continuity and Stability of Employment** would be negatively affected by the Borough's proposal or that it would be enhanced by the PBA proposal. However, such evidence is difficult to gather accurately and most often it is speculative. The best evidence of course in this regard is the turnover of employees, when officers give up their seniority in order to seek a position elsewhere for greater compensation. I have nothing in the record to indicate that such a condition exists in Paramus.*

*As stated above, both sides agreed that maintaining a competitive and fair compensation program in the police department is desirable and is in the best interest of the citizens and taxpayers. Therefore, after thoroughly considering all the evidence in the record made before me, in light of all the factors of the revised statutory criteria as required, and after reviewing the respective positions and the extensive post hearing arguments of the parties, I make the following:*

After an extensive review of my original award and the evidence in the record and after giving great consideration to the findings and conclusions in the instant remand by the Public Employment Relations Commission herein, and after correcting the outlined deficiencies, I have not found it necessary to modify the Award.

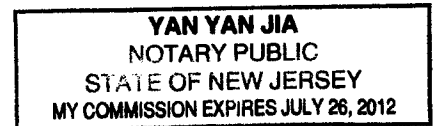
### AWARD

1. Duration of the contract shall be four years. January 1, 2008 through December 31, 2011
2. A four percent (4%) annual across the board wage increase as of January 1, 2008 and in each year on January 1, of the four-year contract, retroactive to January 1, 2008.
3. The Compensatory Time Off Bank maximum shall be increase from the existing one hundred sixty (160) hours twenty (20) days to two hundred (200) hours twenty five (25) days.
4. Any member of the bargaining unit who performs overtime shall have the option of being compensated at time and one-half the regular rate of pay or taking compensatory time at time and one-half in the future.



ERNEST WEISS, INTEREST ARBITRATOR.

STATE OF: NEW JERSEY  
COUNTY OF: SOMERSET



On this 24<sup>th</sup> day of February 200 before me personally came and appeared Ernest Weiss, to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged that he executed same.