

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

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In the Matter of the Interest Arbitration Between:

**BOROUGH OF PARAMUS**

AND

**AWARD AND  
OPINION**

**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, SCHLAGER,  
LIMSKY & BUKOSKY

FOR THE BOROUGH:

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

## **PRELIMINARY STATEMENT**

The above parties have had a long-standing collective bargaining relationship. The negotiation unit, 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 as a result the PBA filed a petition for interest arbitration with the Public Employment Relations Commission. The Petition was appropriately answered by the Borough.

Thereafter, in accordance with the Act, and by mutual consent, the parties agreed to my appointment to serve 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 for final resolution. (The PBA listed only four (4) outstanding issues since the duration of the Contract question 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. In addition to the presentation of voluminous documentary evidence at hearing, including an impressive power point presentation by the PBA, both parties also submitted extensive written post-hearing arguments in support of their final positions.

## **REMAINING ISSUES TO BE DECIDED**

### **PBA**

**Duration of the agreement to be four (4) years commencing January 1, 2008 through December 31, 2011.**

**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)**

**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.**

**One additional holiday for a total of thirteen (13) holidays.**

**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) or in compensatory time (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 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 to the Arbitrator, 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**

In his extensive post-hearing brief, Counsel for the PBA described the composition, the work load and the existence of various departments of the bargaining unit involved herein. Relevant segments are reproduced below.

### **PBA**

#### **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 norther 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 Alzheimers
- 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 EXH/B/T 4)**

	<b>1985</b>	<b>2007</b>	<b><u>Percentage of Change</u></b>
<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

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

#### **(B)Staffing Authorized By Ordinance(D)**

<b>Difference</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*.

CHART NO. 9 BASE PAY INCREASES BASED ON PBA  
EXHIBITS

	2008	2009	2010	2011
<b>Bergenfield</b>	<b>4.75(2/2.75)</b>			
<b>East Rutherford</b>	<b>5 (2/3)</b>	<b>5 (2/3)</b>		
<b>Elmwood Park</b>	<b>3.95</b>	<b>3.95</b>	<b>3.95</b>	<b>3.95</b>
<b>Haworth</b>	<b>4.4</b>	<b>4.4</b>	<b>4.4</b>	<b>4.4</b>
<b>Lyndhurst</b>	<b>3.9</b>	<b>3.9</b>		

<b>Mahwah</b>	<b>5.6</b>	<b>5.9</b>	<b>5.9</b>	
<b>North Arlington</b>		3.75	4 (2/2)	
<b>Northvale</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>Norwood</b>	<b>4</b>			
<b>Oakland</b>	<b>5.2</b>	<b>4.2</b>	<b>4.2</b>	
<b>Old Tappan</b>	4.25	4.25		
<b>Parsippany</b>	4	4		
<b>Ridgewood</b>	4.2 (2.1/2.1)	4.2 (2.1/2.1)	4.2(2.1/2.1)	4.2(2.1/2.1)
<b>River Edge</b>	4.25	4.25		
<b>Saddle Brook</b>	4	4	4	4
<b>Tenafly</b>	4			
<b>Wayne</b>	<b>4.5</b>	<b>4.45</b>	<b>4.2</b>	
<b>Wood-Ridge</b>	<b>4 (2/2)</b>	<b>4 (2/2)</b>	<b>4 (2/2)</b>	<b>4.5(2.25/2.25)</b>
<b>AVERAGES</b>	<b>4.3529%</b>	<b>4.2833%</b>	<b>4.285%</b>	<b>4.175%</b>

CHART NO. 10  
COMPARISON OF EMPLOYER ADDED EXHIBITS  
COMPARING BASE RATE INCREASES  
2008      2009      2010

<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>	

Park Ridge	4.2		
Point Pleasant Beach	4.25	4.25	
Franklin Lakes	3.75		
Harrington Park	4		
Hasbrouck Heights	4	4	
Hillsdale	3.75		
Midland Park	3.75		
Montvale	4	4.25	4.25
Maywood	4		
Fair Lawn	4.25		
Fairview	4	4	4
Edgewater	4	4	
Emerson	4.25		
Allendale	4		
Alpine			
<b>AVERAGE OF EMPLOYER SELECTED AND ADDED</b>	<b>4.024%</b>	<b>4.083%</b>	<b>4.125%</b>

## **POSITION OF THE BOROUGH**

### **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. Wielkottz 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. Wielkottz 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. Wielkotz 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.

**CHART NO. 9 BASE PAY INCREASES BASED ON PBA EXHIBITS**

	2008	2009	2010	2011
<b>Bergenfield</b>	<b>4.75(2/2.75)</b>			
<b>East Rutherford</b>	<b>5 (2/3)</b>	<b>5 (2/3)</b>		
<b>Elmwood Park</b>	<b>3.95</b>	<b>3.95</b>	<b>3.95</b>	<b>3.95</b>
<b>Haworth</b>	<b>4.4</b>	<b>4.4</b>	<b>4.4</b>	<b>4.4</b>
<b>Lyndhurst</b>	<b>3.9</b>	<b>3.9</b>		
<b>Mahwah</b>	<b>5.6</b>	<b>5.9</b>	<b>5.9</b>	
<b>North Arlington</b>		<b>3.75</b>	<b>4 (2/2)</b>	
<b>Northvale</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>Norwood</b>	<b>4</b>			
<b>Oakland</b>	<b>5.2</b>	<b>4.2</b>	<b>4.2</b>	
<b>Old Tappan</b>	<b>4.25</b>	<b>4.25</b>		
<b>Parsippany</b>	<b>4</b>	<b>4</b>		
<b>Ridgewood</b>	<b>4.2 (2.1/2.1)</b>	<b>4.2 (2.1/2.1)</b>	<b>4.2(2.1/2.1)</b>	<b>4.2(2.1/2.1)</b>
<b>River Edge</b>	<b>4.25</b>	<b>4.25</b>		
<b>Saddle Brook</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>

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

CHART NO. 10  
COMPARISON OF EMPLOYER ADDED EXHIBITS  
COMPARING BASE RATE INCREASES  
2008      2009      2010

South Hackensack	4	4.25	
Waldwick	4.5 (2.5/2)	4.25	
Woodcliff Lake	3.75	3.75	
Rochelle Park	4	4	
Park Ridge	4.2		
Point Pleasant Beach	4.25	4.25	
Franklin Lakes	3.75		
Harrington Park	4		
Hasbrouck Heights	4	4	
Hillsdale	3.75		
Midland Park	3.75		
Montvale	4	4.25	4.25
Maywood	4		
Fair Lawn	4.25		
Fairview	4	4	4

Edgewater	4	4	
Emerson	4.25		
Allendale	4		
Alpine			
AVERAGE OF EMPLOYER SELECTED AND ADDED	4.024%	4.083%	4.125%

## DISCUSSION AND OPINION

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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.

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 wage increase proposed by the PBA was somewhat excessive and the two percent (2%) proposed by the Borough was significantly below the going rate of increases in the state New Jersey.

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

With respect to the duration of the new 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.

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 Charts 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 **Comparison of Wages and Terms and Conditions of Employment**.

In this regard, both parties were able to submit into evidence extensive amount of documents and statistics favoring their respective positions. The PBA produced Chart No. 9 and 10 showing that base-wage in Paramus is

somewhat bellow average of the contracts compared by both the PBA as well as the Employer.

Due to several unusually high settlements the average settlement appears somewhat above 4%. Although a number of settlements reached 5%, the Chart actually reveals the majority of the settlements to be closer to 4% then the 5% proposed by the PBA. I also note that the list of comparable settlements submitted by the Employer also reveal an average settlement somewhat above 4%.

However, I also note that although averages can be useful as a comparison tool, they can sometime be deceiving and are therefore not always controlling. Consequently, the other statutory factors and the total existing compensation in the compared settlements were also thoroughly considered in reaching the annual base wage increase herein.

Additionally, while the comparison of jobs 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 then the 2% proposed by the Borough herein, in light of all the statutory criteria.

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 were not shown to have had a dramatic increase in productivity and responsibilities, as did the PBA. 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 excessive.

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 contract changes, which may be necessary to conclude the instant contract.

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 actual cash availability for expenditure by the Borough. Here I agree that there was no cap pressure on the Borough. However, as noted this additional Cap availability 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.

Additionally, I considered the existing debt load and the rising cost of providing health care by 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 as proposed.

In this regard 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 submitted by both parties. The record made before me in this case does not justify a wage increase of such magnitude. However, as stated above, the 4% in each of the four years of the contract falls slightly short of the average base pay increases depicted in Chart 9 submitted by the PBA as well as the comparison of the municipalities submitted by the Employer as illustrated by Chart No.10 above.

**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. As stated above, when all the statutory factors are taken into consideration the 4% wage increase in each year in a four-year contract appears, in this case, to be most reasonable.

In **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 of 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 would be excessive.

**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 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 PBA 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. 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 5% wage increase in the PBA proposal.

With respect to the proposal of expanding the existing Compensatory Time Off Bank, the PBA persuasively 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 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, and 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:

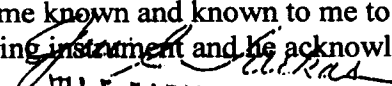
### **AWARD**

- 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 his regular rate or taking compensatory time at time and one-half within the existing scheduling procedure.**

  
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ERNEST WEISS, ARBITRATOR

STATE OF: NEW JERSEY  
COUNTY OF: SOMERSET

On this 15<sup>th</sup> day of May, 2009, 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.

  
JULIE E. FARKAS  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires May 5, 2009