

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

\_\_\_\_\_  
In the Matter of the Interest Arbitration )  
Between: )  
 )  
TOWNSHIP OF DENVILLE, )  
 )  
PUBLIC EMPLOYER )  
 )  
AND )  
 )  
PBA LOCAL 142, )  
 )  
EMPLOYEE ORGANIZATION )  
\_\_\_\_\_

**INTEREST ARBITRATION  
OPINION AND  
AWARD**

DOCKET NO.: IA-2006-030

**BEFORE  
GERARD G. RESTAINO  
INTEREST ARBITRATOR**

APPEARANCES:

FOR THE EMPLOYER  
FREDRIC KNAPP, ESQ.

COUNSEL FOR EMPLOYER

FOR THE EMPLOYEE ORGANIZATION  
BRUCE LEDER, ESQ.

COUNSEL FOR PBA

## **PROCEDURAL BACKGROUND**

The parties in this dispute, the Township of Denville and PBA Local 142, are signatories to a collective bargaining agreement dated January 1, 2002, through December 31, 2005. They engaged in negotiations for a successor agreement but could not agree to all of the terms of that successor agreement. Subsequently, on December 27, 2005, the PBA filed a Petition to Initiate Compulsory Interest Arbitration. The parties complied with the provisions of N.J.S.C. 19:16-5.6 in the selection of an arbitrator. That selection process resulted in my mutual selection by the parties and my subsequent appointment on March 10, 2006 by PERC from its Special Panel of Interest Arbitrators.

I held voluntary mediation sessions with the parties in the hopes of reaching a successor agreement. It became apparent that a voluntary agreement could not be reached and formal interest arbitration followed the last mediation session.

Hearings were held on July 12, 2006, and August 17, 2006. At the hearings each party had a full and complete opportunity to present evidence and testimony on their behalf, to examine and cross-examine witnesses under oath and to argue their respective positions. A briefing schedule had been agreed upon and both parties requested an extension of that schedule. The Township's brief was received in December of 2006, and the PBA's brief was received in the first week of January 2007.

The parties did not agree upon an alternative terminal procedure. Accordingly, the procedure in the instant matter is conventional arbitration. I am required by N.J.S.A. 34:13A-16d(2) to separately determine "whether the total annual economic changes for

each year of the Agreement are reasonable under the eight statutory criteria in subsection g of this section”.

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by P.A. 1976, c. 68 (C.40A:4-45.1, et. seq.).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with wages, hours and conditions of employment of other employees performing the same or similar services and with other employees generally:
  - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
  - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, c. 425 (C.34:13A-16.2) provided; however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.
- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976, c. 68 (C.40A:4-45.1 et seq.).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or municipality, the arbitrator or panel of arbitrators shall take into account the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the

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

(7) The cost of living.

(8) The continuity and stability of employment including seniority rights and 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 public service and in private employment.

## **FINAL OFFERS**

### **FOR THE PBA**

1. The PBA seeks a four (4) year contract covering the period of January 1, 2006 through December 31, 2009.

2. Salaries – PBA seeks the following increases:

Effective January 1, 2006 - 4.25% plus \$675

Effective January 1, 2007 - 4.25% plus \$50

Effective January 1, 2008 - 4.50% plus \$50

Effective January 1, 2009 – 4.50% plus \$50

3. Longevity – Effective January 1, 2006, Eliminate Schedule A. Modify the amounts in Schedule B as follows:

12-15 years \$3,362.00

16-20 years \$3,921.00

21-24 years \$4,221.00

25 and over \$4,487.00

The steps for 4-7 years and 8-11 years remain unchanged.

4. Educational Benefits – Effective January 1, 2006, modify the ninth step only from current amount of \$2,710.00 to \$3,500.00.

5. Eliminate Uniform Maintenance Allowance. (Article 7, Paragraph (C)).

6. Vacation – Add a new provision as follows:

All employees covered by this Agreement shall be entitled to carry over one (1) year vacation (example: a Police officer who has been employed two (2) years is entitled to ten (10) vacation days. On the next January 1<sup>st</sup>, he is permitted to carry over ten (10) vacation days plus he is allotted ten (10) new vacation days. That Police Officer would have the twenty (20) days to use in that calendar year).

### **FOR THE TOWNSHIP**

1. Denville seeks a four (4) year contract commencing January 1, 2006 to December 31, 2009.

2. Salaries - Effective January 1, 2006, 3.75%  
Effective January 1, 2007, 3.75%  
Effective January 1, 2008, 3.75%  
Effective January 1, 2009, 3.75%

3. Restructure and add steps to the salary guide.

Denville Township seeks to add one step to the current six step guide. It also seeks to lower starting salaries by over \$11,000.00.

4. Longevity – Eliminate effective January 2006 for new hires.

5. Educational Benefits – Effective January 2007, educational benefit for Officers holding undergraduate degrees to be eliminated prospectively.

6. Uniform Maintenance Allowance – Pro-rate the uniform maintenance allowance from date of hire.

7. Dental Benefits – Effective January 1, 2007, all employees shall share on the cost of dental insurance premium in an amount equal to ten percent (10%) of the total premium.

8. Medical Benefits – Effective January 1, 2007, all employees shall share in the cost of premium for dependent coverage in the amount equal to ten percent (10%) of the total premium for dependent coverage.

9. Prescription Plan – Effective January 1, 2007, co-payments for prescriptions shall be increased to \$10.00 for generic and \$15.00 for brand name.

10. Medical Benefits – Effective upon the execution of this Agreement, or as soon thereafter as possible, employees who decline coverage under the Township's medical benefits and health insurance plans will be eligible to receive a cash payment equal to thirty percent (30%) of the cost of the premiums. In order to be eligible for this benefit, the employee must have proof of alternate coverage.

**ITEMS TENTATIVELY AGREED TO  
(PBA Exhibit M)**

1. Section 7 Additional Compensation (A): add after \$1900 the words, each year.
2. Section 7 Additional Compensation (B): add after \$675 the words, each year.
3. Section 8 Work Period and Schedule (B): Memorialize the work schedule.
4. Section 9 Holidays: Add after 48 hours for, the words, each year.
5. Section 9 Holidays: New hires that are hired with less than 12 months remaining in the calendar year of the year shall have Holiday Time

calculated as follows: Eight (8) hours per month effective date of hire prior to January 1<sup>st</sup> for the first full year of employment.

7. Section 11 Vacation and Eligibility Schedule: Convert Vacation time to hours instead of days.
8. Section 12 Funeral, Personal Leave and Convention (A): add after "3 days off" the following words: due to death and after the words "grandparents": spouse's grandparents.
9. Section 12 Funeral, Personal Leave and Convention (B): add after the first sentence the following sentence: New hires that are hired with less than 12 months remaining in the calendar year of the year of hire shall have Personal Time calculated as follows: Two (2) hours per month effective date of hire prior to January 1 of the first full year of employment.
10. Section 12 Funeral, Personal Leave and Convention (C): after the words "attending the conventions" add the following sentence: The delegate or designee shall be granted time off and shall suffer no loss of regular pay and shall be granted an even swap, "day for a day" to attend State PBA functions even if the delegate is not scheduled to work.

### **POSITIONS OF THE PARTIES**

#### **ARGUMENTS FOR THE PBA**

The PBA argues that the Police Department is composed of highly decorated and hard working police officers. More than fifty (50%) of the police officers live in the Township, which serves to provide a police presence on the streets and in the businesses in the Township and, more importantly, these officers are available for questions and aid to their neighbors and other members of the public even during their time off.

The current staffing includes a Police Chief, three (3) Lieutenants, four (4) Sergeants, plus one (1) Acting Sergeant and twenty-two (22) police officers. The PBA points to the fact the then Police Chief Steven Boepple has given credit to the entire staff for the organization's fine performance. In the

readers choice balloting of the November 3, 2002, Sunday edition of the Daily Record, Chief Boepple was quoted as saying:

*"Being a police officer is a difficult and complex job in that we have to be aggressive in combating crime, but we have to be sensitive and compassionate to people who need our help."*

The Department is comprised of an administrative division which includes the Animal Patrol Bureau, Record Bureau, Parking Enforcement Division, Traffic Division, Community Police Division, Community Police Division and an Investigation Division, which also has a Juvenile Bureau, as well as the Patrol Division.

The 2005 end of the year report by Chief Boepple indicated:

*"This ultra-busy Department responds to 30,000 or more calls for service for each year during the period of 2002 to 2005. Motor Vehicle summons exceeded 7,000 per year over the same period of time. The number of arrests has exceeded 800 in the last two (2) years."*

Sgt. Michael Little testified that the Patrol Division currently works four (4) days on followed by four (4) days off with a twelve-hour (12) work day. He indicated,

*"There are two (2) types of police work. The first is reactive when a police officer is responding to calls and the second is proactive when police officers perform motor vehicle enforcement, property checks and neighborhood checks."*

He further indicated,

*"With the current short staffing in the Department, it was very difficult to perform proactive duty and that the time of officers in the Patrol Division is spent mostly on reactive efforts."*

Sgt. Little also indicated that when he compared the 1996 manning of the Patrol Division to the current 2006 manning, he noted that there is one less

police officer. In 1996 there were twenty (20) police officers plus four (4) sergeants, and in 2006 there are still four (4) sergeants but only nineteen (19) police officers.

He further indicated that in addition to the training mandated by the Attorney General, *"All Denville police officers are required to maintain proficiency and/or certification in CPR and first aid. Additionally, all police officers are first responders. He also noted that although firearms qualifications are required twice yearly by the Attorney General, the Denville Police Department requires its police officers to qualify six (6) times per year."*

Sgt. Little also testified that Denville is the hub of Morris County. Routes 80, 46, 10 and 53 all converge and run through the Township. He also testified that Route 80 is designated as a high drug trafficking area. He further indicated that the psychiatric unit at St. Clare's Hospital is a special concern to the Township. That Hospital, which is located in the Township, often requires police officers to assist with unruly patients.

In 2006, the Community Policing/Traffic Bureau was renamed to the Community Service Bureau because the new name properly addresses the actual nature of the work done by the Bureau. By combining the two separate units, the Department was able to focus more energy and manpower on a single issue until it was resolved. In servicing the community, this Bureau investigates complaints, provides police officers in all seven (7) of the Denville schools and maintains a neighborhood watch program in nine neighborhoods. Police Officer Brian Donnelly testified that there are currently four (4) police officers and one sergeant assigned to the Bureau. The Bureau also conducts a junior police academy which enrolls seventy-five (75) children ages 11 through 14,

teaches D.A.R.E. at all of the elementary schools in the Township, conducts 911 visits to new residents, maintains a police biking unit and engages in neighborhood watch and participates in all special events.

Detective Keith Partin testified that the Detective Bureau is involved with Megan's Law, Alcohol and Beverage Commission, Internal Affairs and firearms background investigations. He further indicated that investigations begun by the Bureau are completed without the intervention of other police agencies.

Detective Frank Perna testified that concerning the activities of the Denville Police Athletic League (PAL). The PAL funds sports programs in basketball, cheerleading, field hockey, ice hockey, rugby, softball, wrestling and track and field. The PAL is staffed by police officers who coach many of the teams it sponsors.

The PBA argues that the community is extremely affluent as evidenced by the fact that the average price for the sale of a residential home has climbed from \$260,000 in 2000 to \$410,000 in 2005. That equates to a 53% increase. (See Ex. F).

More importantly, the PBA contends that Denville is not suffering from a lack of new construction. A total of 446 homes have been built between 2000 and 2005, and future developments also appear on the rise. As shown by Ex. F, there are plans for 175 future unit developments based on the Denville Township Construction and Zoning Board's records. The PBA contends that if one chooses to rent rather than own their own home, there are still no bargains in Denville. The rental prices range from above \$800 to a high of \$6,000 with the mean being approximately \$2,000 per month.

The PBA argues that between January and April of 2006, there were permits for another eighteen (18) single-family units to be built in Denville with the value exceeding

\$3,000,000.00. The PBA contends that there is no doubt that this rich community deserves a well-motivated police department and the members of that police department fill that bill and then some.

### **STATUTORY CRITERIA**

#### **CRITERIA NO. 1: THE INTERESTS AND WELFARE OF THE PUBLIC.**

The PBA contends that the interests and welfare of the public recognizes the unique position that police officers maintain in our society. The PBA references interest arbitration Statute N.J.S.A. 34:13A-14 which memorializes that unique nature as follows:

“Recognizing the unique and essential duties which law enforcement officers and firefighters perform for the benefit and protection of the people of this State, cognizant of the life-threatening dangers these public servants regularly confront in the daily pursuit of their public mission and fully conscious of the fact that these public employees, by legal and moral precept do not enjoy the right to strike; is a public policy of this State that is requisite to the high morale of such employees, the efficient operation of such departments and to the general well-being and benefit of the citizens of this State to afford alternative, expeditious, effective and binding procedures for the resolution of disputes.”

The PBA contends that the above-referenced passage clearly explains that the interests and welfare of the public are not satisfied simply by providing the cost of public services at the lowest possible level. To simply argue that the cost of public services increases the cost to the municipality and obviously to the taxpayers is missing the point. Furthermore, police officers cannot be measured solely by dollars and cents but rather, one must recognize the unique and essential role in our communities.

The PBA contends that with the exception of firefighters no other public employees face the same life-threatening dangers that police officers often confront in the daily pursuit of their employment. On that question alone the PBA contends that it is

near impossible to put a value on the life of any human being. To that extent the PBA asks, *"How much money would it take to cause anyone to risk their life at work on a daily basis."* That is the plight of the police officer.

The PBA argues that the other side of the debate over the interests and welfare of the public is the cost of providing public service. The PBA strongly argues that the service provided to the taxpaying public in Denville is outstanding as compared to other communities. As indicated above, the police officers are involved in a multitude of programs in the community for the residents to enjoy a more comfortable and stable lifestyle.

The PBA contends that the Arbitrator should not be fooled into believing that this is just another affluent sleepy community. *"Due to the four (4) major highways which pass through Denville, drug trafficking is a serious issue. Sleepy affluent communities deal with marijuana arrests of teenagers. In Denville the issue is heroin by drug trafficking criminals."*

The PBA argues that *"faced with the decision to save a dollar and risk damaging the morale of this highly motivated police force, one must err on the side of paying the extra dollar unless it is financially impossible. No such argument can be made in this case, nor does the cap law (as to be discussed infra) impose a limitation on the finding in favor of the final offer of the PBA."*

**CRITERIA NO. 2: COMPARISON OF WAGES, SALARIES, HOURS AND  
CONDITIONS OF EMPLOYMENT**

**a) IN PRIVATE EMPLOYMENT IN GENERAL**

The PBA argues that Ex. O represents a report of private sector wages compiled by the New Jersey Department of Labor. The report provided two tables of interest. The first table contains information regarding New Jersey Average Annual Wages for Jobs Covered by Unemployment Insurance which shows an average annual wage in the private sector of New Jersey in 2003 to be \$45,979.00. That figure increased to \$47,639.00 in 2004 or a 3.6 percent change. For the same two-year period, it found that all governmental employees wages increased from \$48,401.00 to \$50,521.00 or a 4.2% increase. The second table titled Private Sector Annual Wages by County revealed a very similar result. It clearly showed that the private sector wages during the two-year period of 2003-2004 saw the average County of Morris wage increase by 4.3% (\$56,173.00 to \$59,593.00).

The PBA contends that the conclusion to be drawn from this information is that the average annual wage increase over the two (2) year period is higher in Morris County than it is statewide. In addition, the average annual wage for all of New Jersey in 2004 was \$47,639.00. In Morris County (\$58,593.00), the average wages were 23% higher than the statewide average. That evidence alone clearly supports the PBA's final offer as contracted by the final offer of Denville. The PBA argues that there is no reasonable comparison of dates and salaries between Denville police officers in private sector employment. The PBA references that that particular lack of comparison was noted by Arbitrator William Weinberg when he wrote as follows:

*"Second of the comparison factors is comparable private employment. This is troublesome when applied to police. The police function is almost entirely allocated to the public sector, whether it is a municipality, county, state or to the national armed forces. Some private sector entities may have guards, but they rarely construct a police function. There is a vast difference between guards,*

*private or public, and police. This difference is apparent in standards for recruiting, physical qualifications, training and other responsibilities. The difficulties in attempting to construct direct comparison with the private sector may be seen in the testimony of the Employer's expert witness whose job evaluation techniques to identify engineers and computer programmers as occupations most closely resembling the police. They may be close in some general characteristics and in "Hay Associates points", but in broad day light they do seem quite different to most observers.*

*The weight given to the standard of comparable private employment is slight, primarily because of the lack of specific and obvious occupational categories that would enable comparisons to be made without forcing the data.*

*Third, the greatest weight is allocated to comparison of employees in this dispute with other employees performing the same or similar services and with other employees generally in public employment in the same or similar comparable jurisdictions.*

*Wage determination does not take place without a major consideration of comparison. In fact, a rational setting of wages cannot take place without comparison with like entities. Therefore, a very great weight must be allocated to this factor. For the purposes of clarity, the comparison of Section g(2), (a) of the Statute must be divided into (1) comparison within the same jurisdiction; (2) the direct employer in this case The Village; (3) comparison with comparable jurisdictions, primarily other municipalities with major emphasis on other police departments.*

*Police officers are a local labor market occupation. Engineers may be recruited nationally; secretaries, in contrast, are generally recruited within a convenient commute. The nearby market looms large in police comparisons. The farther from locality, the weaker the validity of comparison. Police comparisons are strongest when, in the local area, such as contiguous towns, a county and obvious geographic areas such as the shore or metropolitan area. Except for border areas, specific comparisons are non-existent between states. Ridgewood Arbitration Award, Docket No.: IA-94-141 at PP.25-31."*

The PBA contends that there is no reason to give this particular criterion any significant weight as Arbitrator Weinberg found a mockery to compare the duties of a police officer to any private sector employee. Moreover, police officers are subject to scrutiny and accountability which is unparalleled in public employment. Police officers carry loaded weapons and are licensed to use force with a great deal of discretion.

Additionally, police officers are required, before they begin working, to begin a 22 week vigorous training program established by the New Jersey Police Training Commission. No other public or private profession has such a vigorous requirement. The PBA argues that it must be found in the instant matter that a comparison of wages, salaries, hours and conditions of employment of Denville police officers with private employment in general supports a finding in favor of the PBA's last offer.

**b) PUBLIC EMPLOYMENT IN GENERAL**

The PBA argues that the appropriate comparison for comparing the terms and conditions of Denville police officers is a comparison of the terms and conditions of other employees of the Township. The Township currently has four (4) collective bargaining agreements with the following Unions: Denville Public Works Employees Association, Denville Public Works Supervisors Association, Denville Township Employees Association, and Denville Township Supervisory Employees Association. The PBA argues that those four contracts are incredibly similar, if not identical, in some regards to the PBA contract. The similarities are as follows:

1. All five (5) contracts provide for twelve (12) holidays.
2. All five (5) contracts provide for fifteen (15) sick days.
3. All five (5) contracts provide for twenty-five (25) vacation days after nineteen (19) years of service with the opportunity to obtain five (5) more vacation days based upon length of service.
4. They all provide the equivalent of twenty-four (24) hours of personal leave.

5. They all have identical provisions regarding medical insurance, prescription drug plan, dental insurance and employee-only vision insurance.

Only one contract, the Public Works Employees Association, has six (6) steps to maximum salary, as does the PBA contract. The Township has proposed a seventh step in the PBA contract. The other three contracts do not have any steps.

The PBA argues that after carefully reviewing the various provisions of the five (5) collective bargaining agreements, the Arbitrator will see that a pattern has developed that civilian and police employees in the Township enjoy the same (or similar) benefits. The PBA argues that the final offer by the Township seeks to destroy that pattern. It seeks it by requiring police officers to pay for their medical and dental insurance when civilian employees are not so required. The Township is also seeking to eliminate longevity to increase their prescription co-pay and to increase the steps of the Salary Guide, yet civilian employees are not subject to these regressive terms.

The terms and conditions of public employees in the Township of Denville are identical in most regards to the terms and conditions enjoyed by its police officers. Obviously, the salaries are different, but so are the salaries in the four (4) contracts. The PBA argues that to accept the final offer of the Township and with it destroy the pattern of similar, if not identical, terms and conditions of employment must be rejected. The PBA strongly argues that the Township has failed to justify why the terms and conditions of police officers should be different than those of its other employees.

**c) COMPARISON WITH OTHER POLICE OFFICERS**

The comparison of the terms and conditions of employment of police officers in any community is appropriately compared to other police officers in the State of New Jersey. The New Jersey Public Employment Relations Commission maintains records of Interest Arbitration Awards that are issued and voluntary settlements achieved. See PBA Exs. P and O and Township Exs. 27, 28 and 29. The data reveals the following information:

<u>Time Period</u>	<u>Total # of Awards Issued</u>	<u>Average Of Salary Increases All Awards</u>	<u>Number of Reported Voluntary Settlements</u>	<u>Average Salary Increase of Reported Vol. Settlements</u>
1/1/06 -5/25/06	4	3.98	15	4.05
1/1/05-12/31/05	11	3.96	54	3.94
1/1/04-12/31/04	27	4.05	55	3.91
1/1/03-12/31/03	23	3.82	40	4.01
1/1/02-12/31/02	16	3.83	45	4.05
1/1/01-12/31/01	17	3.75	35	3.91
1/1/00-12/31/00	24	3.64	60	3.87
1/1/99-12/31/99	25	3.69	45	3.71
1/1/98-12/31/98	41	3.87	42	3.77
1/1/97-12/31/97	37	3.63	62	3.95
1/1/96-12/31/96	21	4.24	35	4.19

The PBA contends that the above data overwhelmingly supports its final offer over that of the Township. The PBA contends that the recently expired agreement between the parties provided for a 4.5% increase which was the result of a voluntary

settlement between the parties. For that same four year period, a PERC survey indicates an annual average salary increase of 3.98%. For the partial year 2006, the average salary increase awarded in interest arbitration was 3.98% and voluntary settlements achieved a 4.05% increase.

The PBA argues that a careful review of four specific interest arbitration awards issued in 2006 will be most instructive in the instant matter. The PBA contends that in Park Ridge and PBA Local 206, the arbitrator awarded salary increases averaging 3.9% over five years and increased longevity. In Keyport Borough and Local 223, the awarded salary increases were 3.25% for each of the four years which included a requirement that all employees contribute \$20.00 per pay period for the cost of medical insurance. In Montgomery Township and PBA Local 355, the sole issue was placement on the Salary Guide. In Cinnaminson Township and the Cinnaminson Police Association, the interest arbitration award provided a 4.06% on average for each of the four years. The arbitrator also awarded an increase in the uniform allowance of \$50.00 per year. Concerning health insurance, there was no premium sharing. There was an increase in the cost for a primary care visit and prescription drugs. Co-pays rose to \$5.00 for generic and \$15.00 for brand name and \$0 for mail order. Additionally, the arbitrator in that case awarded longevity for new hires despite the proposal by the public employer to eliminate longevity.

The PBA argues that a review of the fifteen (15) voluntary settlements in 2006 supports its position. Of the salary increases reported, ten (10) equaled or exceeded 4%, two (2) averaged 4.5% per year. Of the others, three (3) had salary increases between 3.80% and 3.99% and one had 3.55% average salary increases. Of those

settlements, only one had any premium cost sharing by employees and in that particular matter, it only affected employees hired after January 1, 2006.

The PBA argues that reviewing the settlements throughout the State leads to the next appropriate comparison which would be with police officers in the County of Morris. The PBA argues that Ex. J shows that in 2005 Denville ranked fifth (5<sup>th</sup>) in base salary or approximately \$7,500.00 less than Lincoln Park which ranked first.

BASE				
	2005	rank	2006	rank
Lincoln Park	\$87,071	1	\$90,554	1
Harding Twp.	\$81,799	2	\$85,070	4
E. Hanover	\$81,793	3	\$85,514	3
Morris Twp.	\$79,556	4		
Denville	\$79,508	5		
Morris Plains	\$79,463	6	\$83,405	5
Mendham Twp.	\$79,375	7	\$82,947	6
Pequannock	\$78,403	8	\$88,447	2
Long Hill Twp.	\$77,571	9	\$80,635	9
Randolph	\$77,311	10	\$80,210	11
Parsippany	\$77,026	11		
Chatham Boro	\$76,910	12	\$80,831	7
Washington Twp.	\$76,401	13		
Roxbury	\$76,377	14	\$79,432	12
Hanover Twp.	\$75,981	15	\$79,173	13
Chester Twp.	\$74,417	16	\$77,393	14
Madison	\$73,639	17		
Rockaway Boro	\$73,077	18	\$76,000	15
Mt. Arlington	\$67,491	19	\$70,528	16
Montville			\$80,798	8
Chatham Twp.			\$80,623	10
Morristown				
Rockaway Twp.				
Boonton				
Boonton Twp.				

In 2006, if the Township's 3.75% is awarded, Denville will slip to seventh (7<sup>th</sup>) and be \$8,000.00 behind Lincoln Park.

The PBA states that assuming arguendo, its final offer of 4.25% is awarded; Denville will still slip to the number seven (7) spot but will only be \$7,667.00 behind Lincoln Park.

A review of the percentage increase in 2006 for the top ten (10) departments in Morris County reveals the following:

Lincoln Park	4%
Harding Township	4%
East Hanover	4.55%
Morris Plains	4.5%
Hanover	4.2%
Mendham Township	4.5%
Florham Park	4.0%
Mendham Borough	4.0%
Chatham Borough	6.0%

The PBA argues that the above-named Towns averaged an increase of 4.416% for 2006. Accordingly, it is simply unrealistic for Denville to offer only 3.75% per year.

The PBA argues that the base numbers for 2007 are more supportive for the final offer of the PBA. Those increases are as follows:

Lincoln Park	4%
Harding Township	4%
Morris Plains	4.95%
East Hanover	4.55%
Mendham Township	4.5%
Hanover	4.2%
Florham Park	5.2%
Chatham Borough	6.0%
Chatham Township	5.0%

The PBA argues that if the Township's final offer of 3.75% is awarded by the Arbitrator, Denville will slip to ninth (9<sup>th</sup>) in the County and drop three (3) places on the list of base salaries for 2006.

Only two (2) of the top ten (10) municipalities have settled for 2008. Harding Township police officers received a 4% increase and Chatham Township police officers received a 4.74% increase. (See Township Ex. 12).

In 2005 Denville ranked fifth (5<sup>th</sup>) in base salary in the County. Using total compensation and hourly wages (see Township Ex. 14), Denville's total compensation as of December 31, 2003, would place it sixteenth (16<sup>th</sup>) in the County. Lincoln Park police officers, instead of being approximately \$7,500.00 higher in base salary were, \$11,000.00 higher in total compensation than Denville police officers. The cost per hour worked, Denville ranked only twelfth (12<sup>th</sup>) in the County.

Concerning longevity, the PBA seeks an increase for those long-term employees. (See page 4 of PBA Ex. J). That chart outlines the amount of longevity pay for various departments. The top ten are listed which range from \$10,224.00 longevity pay in East Hanover to \$600.00 in Hanover Township. Denville ranks fourth (4<sup>th</sup>) at \$3,487.00. The PBA proposes to increase the top four steps beginning in the twelfth (12<sup>th</sup>) year by \$1,000.00, increasing the top longevity payment to \$4,487.00, which is approximately the amount paid to police officers of Rockaway Borough.

The PBA also seeks an increase in the amount awarded for a college degree. The current maximum is \$2,710.00, and the PBA seeks an increase of \$790.00 beyond the 2005 contract. The PBA argues that there can be no doubt that a better educated individual makes a better police officer.

Police officers must be aggressive to combat crime, yet sensitive and compassionate to people who need police assistance. The record reflects that seven police officers have obtained seven (7) credits towards a Bachelor's Degree and four (4)

police officers have returned to college for the purpose of securing a Master's Degree. (See Ex. H). The PBA argues that the economic incentive to pursue a degree is a laudable goal and should be enriched and encouraged with the modest increase sought by the PBA.

The PBA also seeks an increase in the clothing allowance. The current agreement provides two provisions with respect to clothing. There is a clothing allowance of \$675.00 per year and a uniform maintenance allowance of \$650.00 per year. The PBA seeks the elimination of the uniform maintenance allowance and the inclusion of that \$650.00 into base pay. It also seeks a \$25.00 increase in base pay in 2006 and a \$50.00 increase in base pay in 2007, 2008 and 2009. These new increases (a total of \$175.00) is sought to compensate police officers for the increase in the cost of clothing. As Ex. G shows, the clothing allowance has not been increased since 1997. That exhibit also shows that the cost of one set of clothing has increased 28% from 1999 to 2005.

The PBA asserts that the final significant issue involved in this interest arbitration is the premium co-share for dental and medical insurance. The PBA references Township Ex. 17, which is a chart outlining the employee contributions to health insurance for all police units in Morris County. Fourteen of the municipalities do not have any cost sharing premiums. Of the remaining twelve (12) there is no clear pattern. In seven (7) of the municipalities, police officers contribute toward dental in some fashion. In two (2) municipalities, Township of Mendham and Rockaway, police officers contribute \$15.00 toward co-benefits. The Mendham information does not indicate whether it is monthly or yearly. In Rockaway it is \$15.00 monthly or \$180.00 yearly.

Two (2) others, Morris Plains and Mount Olive, also have premium sharing. They both indicated payment toward the cost of benefits but failed to identify what the benefits are. In Morris Plains, the contributions reached a maximum of \$325.00 per calendar year in January of 2007, and in Mount Olive they reached a maximum of \$400.00 in 2008.

The PBA argues that the Arbitrator should compare what is being sought by the Township in the instant matter in comparison to what contributions exist in the County of Morris. The Township seeks a contribution of 10% of the medical insurance premium, or \$950.00 annually and seeks \$170.00 toward the dental premium. The total cost to each member is \$1,075.00 or more than two and one half (2 ½) times the maximum paid by any other police officer. The PBA strongly argues that the proposal of the Township is unprecedented. Of the thirty-four (34) communities in Morris County, only twelve (12) make any payment toward premium. The PBA argues that the *"only and sole justification to begin this new and regressive term and condition of employment is economic justification."*

The PBA argues that Denville has failed in this proceeding to establish this economic justification. A comparison to private sector employees in general, to public sector employees in general and to police employees both in the State and County leads to the conclusion that the final offer from the PBA is significantly more reasonable and fair than the offer of the Township.

**CRITERIA NO. 3: OVERALL COMPENSATION PRESENTLY  
RECEIVED BY THE EMPLOYEES**

The PBA argues that with respect to the overall compensation, it is similar in all regards to the terms and conditions of other police officers throughout the State. There are no benefits available to Denville police officers that are not generally seen by all other police officers in New Jersey.

**CRITERIA NO. 4 AND 5: THE LAWFUL AUTHORITY OF THE  
EMPLOYER AND THE FINANCIAL IMPACT OF THE GOVERNING  
UNIT, ITS RESIDENT AND TAXPAYERS**

The PBA argues that these two criteria concern the financial status of the public employer and the applicability of CAP law, N.J.S.A. 48:4-4.5, et. seq. The analysis by the PBA involved a review of the documents supplied by the Township. These documents are found at Ex. PBA-R through PBA-BB. They include the 2004 through 2005 annual financial statements, the 2005 report of audit, the 2004, 2005, and 2006 municipal budgets, the 2004-2005 Abstract of Rateables, the 2004-2005 County equalization tables, and the 2005 statement of annual debt.

The first area of review was the result of operations. The PBA argues that the result of operations is simply the ability to regenerate surplus. If it were a business, it would be the net profit or bottom line in the private sector. As the Arbitrator is well aware, the municipal budget is a road map for the following twelve (12) month period. It anticipates revenues and expenditures. It is expected that when these two are netted against each other, the result is zero.

The PBA argues that when one subtracts expenses from revenues and a positive result occurs, that is known as surplus. It is non-dedicated revenue which can be used

by the municipality for any lawful purpose. At the conclusion of 2004, the bottom line or the result of operation was that Denville had a surplus of \$2,608,000.00. For 2005, that number increased by almost \$400,000.00 to \$2,992,000.00. (See Annual Financial Statement Sheet 19).

The PBA contends that Denville is required to anticipate its revenues, and obviously the last two years have been very good, if not excellent, fiscal years as measured by the result of operations.

Denville had a positive experience the last two years. In 2004, the excess revenues were \$2,072,000.00. In 2005, Denville successfully realized excess budget revenues of \$2,284,000.00. These two measures clearly indicate that there is no financial crisis in Denville.

The PBA argues that the result of Denville's operation and its ability to generate excess revenues leads to the conclusion that Denville has achieved a positive result of operations resulting in an outstanding fiscal record.

The PBA argues that another component of fiscal health is the amount of unexpended appropriation reserves. Such reserves were budgeted appropriations that remained unspent in that first year, as well as the following budget year. These unexpended appropriations at the end of the second year automatically canceled the surplus. (N.J.S.A. 40(a):4.60). Once put in surplus, those funds are no longer dedicated and can be used to buy budgetary flexibility. In 2004, almost \$300,000.00 was added to surplus. In 2005, more than \$350,000.00 was added to surplus. (See Annual Financial Statement Sheet 19).

The PBA argues that another source of fiscal strength is the positive fund balances. A fund balance is excess funds available for use as revenue in the budget to permit the reduction of the tax levy. The fund balance obviously has a direct impact on the tax levy. If the fund balance is sufficient to provide its use as revenue in the budget, the tax levy goes down. In 2004, the fund balance was \$4,309,000.00, and in the budget \$2,400,000.00 was used as revenue in the budget. In 2005, the fund balance grew to \$4,649,000.00, an increase of over \$340,000.00. Denville was able to utilize \$2,650,000.00 as revenue in the budget for that year. (See 2005 Report of Audit).

The PBA contends that this positive news clearly shows that Denville for this two year period used between 56% to 57% of the fund balance as revenue and was able to maintain over \$2,000,000.00 in the fund balance after this amount was used as a revenue. While using the fund balance to lessen the total tax levy, it would all be for naught if Denville experienced difficulties in collecting taxes. For the three year period of 2003 through 2005, the tax collection rates were 97.89%, 98.42% and 98.71% respectively. (See 2005 Report of Audit).

The PBA argues that this tax collection rate is almost perfect as compared to the State tax collection average which is only 93%. The PBA argues that the total tax levy needed to fund the budget is assessed against property values. Denville has a spectacular record in this regard. The property values in Denville have increased \$70 million dollars over the three year period of 2003 to 2005. The PBA strongly contends that the property values are likely to continue to rise as the number of permits for new single-family homes has risen in Denville.

The PBA argues that the final issue with regard to taxes is the actual tax rate which is composed of municipal, county and school assessments. The PBA contends that the municipal tax rate is as good as it gets. In 2003 it was \$.39. The municipal rate for the next two years is \$.40 each year. The County rate increased from \$.25 in 2003 to \$.31 in 2004 and \$.32 in 2005. During the same time period, the school taxes increased from \$1.33 to \$1.52 in 2005. The municipal rate has shown great stability as a result of Denville's excellent fiscal status. None of the factors involved could lead anyone to conclude that there is a need for fiscal restraint in Denville.

The debt service is another factor to look at but it is supportive of the PBA's position. A municipality which is overextended by maximizing its debt may be headed for fiscal instability. In the State of New Jersey, a municipality can borrow up to 3.5% of its equalized valuation. For Denville, that amount is \$89,000,000.00. Currently, Denville is \$5,000,000.00 in debt, which means that its remaining borrowing power exceeds \$84,000,000.00. (See 2005 Annual Debt Statement).

Additionally, the PBA indicates that cash flow can lead to fiscal problems. However, the annual financial statement as of December 31, 2005, shows that the cash balance in the current fund was approximately \$7.8 million dollars, and the capital fund had a balance of \$2.5 million dollars. The cash flow is supported by the interest received on investments and deposits, and according to the 2006 Budget Sheet 4, the amount of interest earned in 2005 was \$425,000.00.

The PBA also argues that the impact of the cap must be reviewed by the Arbitrator. The cap for 2006 limits appropriations to a maximum of 3.5% (see Employer Exhibit 38). That cap may be utilized by the governing body to increase its

appropriation so long as it passes an ordinance to use a 3.5% limit. Denville has done so. The law permits cap bank balances for 2004 and 2005 to be available for use in 2006. For 2006, Denville's 2.5% cap is equivalent to \$277,574.00. Witnesses at the hearing testified that a cap balance of \$248,865.00 existed from 2004, and there was a cap balance of \$213,896.00 for 2005. The PBA argues that its final offer position is clear and supported by the fiscal stability of the municipality.

#### **CRITERIA NO. 6: STIPULATION OF THE PARTIES**

There are no stipulations by the parties.

#### **CRITERIA NO. 7: COST OF LIVING**

In a perfect world, the cost of living would supply a reliable barometer for appropriate wage increases. The PBA argues that many collective bargaining agreements at one time had wage increases which were tied to the cost of living. The impact of that meant that when the cost of living was high, employers did not want to pay that wage increase. The PBA argues that if the employees are not entitled to increases while the cost of living is high, then the same employees should not be saddled with low wages while the cost of living is low. The cost of living from 2002 through 2005 averaged 3.5%. However, for that period of time the parties voluntarily negotiated a wage increase with a slightly higher average of 4.1% for four years.

There is no rule or requirement that the cost of living limits raises to employees. The PBA argues that pursuant to the interest arbitration statute, police officers are entitled to improve their standard of living. That statute does not seek to limit raises to the actual cost of living. If police officers must spend their entire increases on maintaining what they did prior to the wage increase, then their standard of living will

never change. The interest arbitration statute does not support that result. The PBA argues that its final offer does not provide for increases which substantially exceed the cost of living. Moreover, the cost of living for the first five months of 2006 was 5.2% seasonally adjusted. (See Employer Ex. 51, News from the Bureau of Labor Statistics). The PBA argues that the compounded annual rate for the three months ending May 2006 was 6.3%. Accordingly, these cost of living increases dramatically support the fairness and more reliable final offer of the PBA.

**CRITERIA NO. 8: THE CONTINUITY AND STABILITY OF EMPLOYMENT INCLUDING SENIORITY RIGHTS AND SUCH OTHER FACTORS NOT CONFINED TO THE FOREGOING WHICH ORDINARILY OR TRADITIONALLY IS 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 PRIVATE EMPLOYMENT**

The PBA argues that this particular factor is often viewed by arbitrators as the "kitchen sink". The PBA contends that to encourage employment opportunities in the Township, there is obviously the base salary and the other package of benefits received by police officers in Denville, as well as police officers in other communities.

The PBA argues that the testimony in the record clearly establishes that there is an incredible commitment by police officers in Denville with respect to the police work and with respect to the community in which they serve.

Additionally, while the PBA argues that there is no current history of police officers leaving their employment in Denville, that is not to say that such an event could not occur in the future.

The PBA contends that an arbitration award which imposes new terms and conditions of employment such as cost sharing premiums for employees for medical

and dental insurance is the type of imposition would could affect the continuity and stability of labor relations. A major change in terms and conditions of employment such as premium sharing is a subject which should be left to the parties to resolve voluntarily and should not be imposed as part of an Interest Arbitration Award. The PBA argues that only the parties should assess the value of such a change.

The PBA argues that the side that seeks the imposition of such a serious change must decide its value and offer to compromise on another issue to achieve its goal. In the Interest Arbitration process, a party need not make that assessment and simply hope that the arbitrator will give it to them.

The PBA argues that a review of the Township exhibits shows that there is a list of communities which have some limited premium sharing, mostly regarding dental insurance. The PBA argues that it appears that none of these were the result of an Interest Arbitration Award. If not as a result of the Interest Arbitration Award, then the parties voluntarily agree that the police officers would accept a giveback of paying for their benefits. The obvious question is what was received in return?

The PBA argues that those police officers in those municipalities referenced by the Township voluntarily accepted the premium share. What they received in return was of value to them. In this particular Interest Arbitration, if the Award directs premium sharing, then what value did the police officers receive for this major change in terms and conditions? The PBA argues that the answer is that they would have received no value as it was not a voluntary settlement.

The imposition of a change rather than a voluntary agreement causes disharmony. For that very reason, the continuity and stability of employment criteria

favors the PBA's final offer over the Township's final offer as the Township seeks the imposition of this new giveback without the voluntary process of negotiations for that item.

**COST ANALYSIS:**

The PBA offers a cost analysis with regard to salary and longevity. They took the base salary number from the Township's proposal and recalculated the remaining numbers.

**JANUARY 1, 2006 BASE SALARY = \$2,501,049**

		2006	2007	2008	2009
PBA	<b>Salary</b> 4.25/4.25/4.50/4.50 \$675/50/50/50	2,628,943	2,742,273	2,867,275	2,997,902
	<b>Longevity</b> (new – 18 PO)	18,000	18,000	18,000	18,000
TWP	<b>Salary</b> 3/75/3.75/3.75/23.75	2,594,838	2,692,144	2,793,100	2,897,841
	<b>Clothing</b> (650 x 32)	20,800	20,800	20,800	20,800
	<b>Difference</b>	31,305	47,329	71,735	97,261

The PBA argues that over the first two years its offer exceeds the Township's offer by \$78,000.00. The Township's calculation is that the PBA's offer exceeds its offer by \$115,000.00. In the last two years, the PBA's calculation is an additional cost of \$168,000.00 versus the Township's calculation of \$89,000.00. Over the four years, the difference as calculated by the PBA is approximately \$246,000.00, while that of the Township's is \$205,000.00. While at first glance this may seem like a large sum of money, the cap bank for 2004 was \$248,865.00 and the cap bank for 2005 was \$213,896.00. Both of those amounts could be used in 2006. The difference in the two offers is approximately the same amount as the cap bank for one of those two years. The four year calculated amount is what is needed to fund the PBA offer. The cap bank of one (1) year will fund a four (4) year term, 2006 through 2009. Clearly, the cap flexibility provides the Township with sufficient resources to fund the award in this case.

The PBA argues that premium sharing is a major concern with respect to the impact of premium sharing toward wages. Since the Township seeks an annual contribution from each employee in the amount of \$1,075.00, the Township's wage increase for a top patrolman is 3.75% or \$2,981.00. If the \$1,075.00 premium share is deducted, the result would mean that the net increase for a top step patrolman would be 2.4%. It would obviously be less for a police officer earning less than the top step. That is simply not acceptable, and the only conclusion that the Arbitrator must find is that the PBA's offer is more reasonable and fair as a result of the evidence in this matter.

The PBA's final proposal is to permit police officers to carry over one year's vacation into the following year. As such, this will have no impact economically and will

also relieve the scheduling problems which occur at the end of the year when police officers scramble to schedule their final vacation days.

### AVERAGE RESIDENTIAL SALES PRICE

<u>Year</u>	<u>Avg. Price</u>	<u>Rank in County</u>	<u>% Change</u>	<u># of Sales</u>
2000	\$268,172	18		125
2001	\$308,501	16	15.0%	115
2002	\$340,057	17	10.2%	111
2003	\$332,021	21	-2.4%	123
2004	\$394,820	17	18.9%	110
2005	\$410,637	22	4.0%	115

Source: [www.nj.com](http://www.nj.com)

### NEW RESIDENTIAL CONSTRUCTION

#### Number of New Residential Units

<u>Year</u>	
2001	101
2002	29
2003	99
2004	157
2005	60
2006 (January thru April)	19
<b>Total</b>	<b>465</b>

### FUTURE DEVELOPMENT

Palmar (Old Boonton Road)	29 Units
Franklin Road	90 units, plus strip mall
Dolce Property	4 units
Diamond Spring Road	8 or 9 units
Meola (Mt. Pleasant Turnpike)	4 units
Toll Brothers (Franklin Avenue)	40 units
Franklin Ave., next to Morris Knolls	Still in planning stages

Source: Denville Construction and Zoning Office.

## **CONCLUSION**

Based upon the statutory criteria, the testimony in the record and proofs at hearing, the PBA requests that it award its last offer

## **ARGUMENT FOR THE TOWNSHIP**

The Township's arguments on the eight statutory criteria are set forth below:

### **STATUTORY CRITERIA**

#### **CRITERIA NO. 1: THE INTEREST AND WELFARE OF THE PUBLIC**

The Township argues that the economic package it has proposed represents an equitable compensation plan and in contrast with the PBA's proposal provides a coherent, fair and stable labor relations program for the employees of Denville. The Township contends that this is in the best interests of the public and, indeed, furthers the general welfare.

The Township asserts that the testimony of Mayor Eugene Feyl and Financial Officer Marie Goble, clearly sets forth that the Township's proposal is in fact in the best interests of the public.

The salary increases proposed by the Employer for 2006 through 2009 are consistent and, in fact, exceed the cost of living increases over the past years. The proposed wages provide a real increase. The Township contends that its economic package will result in salaries consistent with, if not higher than that enjoyed by many other municipal police officers in Morris County. (See Exhs. T-11 and T-12). In fact, the Township strongly contends that the salaries of the Township's police officers exceed those of all public employers in the County with the exception of only five of the 34 other departments. (See Exhs. T-11 and T-12).

The Township references specific Interest Arbitration Awards in support of its position. Furthermore, the Township argues that the New Jersey Supreme Court determination in Hillsdale and Washington Township reiterated the need of the Arbitrator to consider the statutory cap on total municipal spending in determining an employer's financial capacity. Therefore, it is important for the Arbitrator to consider the extent to which financial constraints and budget caps will impact upon the municipal budget when an Award is rendered to police or fire departments. In support of this argument, the Township references the testimony by Financial Officer Marie Goble who testified that several items were already cut from the Township's 2006 capital budget because the Township did not want to overburden the tax payers. (See Ex. T-4).

The items removed and/or excluded from the budget include: (1) \$29,000.00 request for a Four Wheel Drive Vehicle for the Investigative Division of the Police Department; (2) \$162,000.00 requested for new bathrooms in the Pavilion Building for the Parks Department; (3) \$25,000.00 request for a pickup truck for the Fire Department; (4) \$115,000.00 budget request for the acquisition of two to three dump trucks with plows for streets and road department; (5) \$195,000.00 budget request for a truck sander for the streets and road department.

The Township strongly contends that in total, they have already chosen to cut over \$500,000.00 from the budget so as not to burden the taxpayers, absent the contractual increases requested by the PBA.

The Township argues that the cuts were made despite the fact that the Public Safety, Fire, Police and Court budget comprises the largest portion of the total budget at 26%. (See Ex. T-43). The Township asserts that given its financial circumstances,

longevity increases, educational benefit increases, and exorbitant salary increases of 4.25% in 2006 and 2007 and 4.50% in 2008 and 2009, as proposed by the PBA are simply unwarranted. The Township's proposal is clearly the more reasonable basis for an Award herein.

### **Cost Differential Between Wage Increases**

The Township argues that if they are required to fund a wage increase greater than its proposal (which wage increase costs 15% for the four year period of its term for all steps of Patrolman, Sergeants and Lieutenants (that is substantively in excess of the 2.5% permitted under the "CAP Law") for 2006, further cuts will be made for services for Township residents.<sup>1</sup>

The Township refers the Arbitrator to statutory requirements set forth in an Interest Arbitration Proceeding. The Township argues that the Arbitrator is required to consider the impact of the Award and the ability of the Employer to maintain existing programs or initiate new ones. The policy of the CAP Law is to hold increases in expenditures close to prior appropriations, and acceptance of the Employer's proposal would further this policy. However, the PBA's proposal does not. The Employer argues that its economic proposal (including a reasonable wage proposal and reasonable cost containment to employees' health insurance benefits) hopefully will not impact adversely upon the Township's tax rate. Moreover, the aggregate wage increase sought by the PBA is significantly higher (average 4.375% annually) than those in the private and public sector in New Jersey during the same time frame. (See Ex. T-25).

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<sup>1</sup> The Township argues that the PBA's wage proposal alone equals 17 ½ % over four (4) years before compounding. When compounded, the PBA's wage proposal alone equals 18%. This does not include the cost of the PBA's longevity proposal or other economic benefits.

The Township strenuously argues that the PBA's wage proposal alone, compounded at 18% over four (4) years, is not only unwarranted but outrageous. In support of this bold assertion the Township argues that "*nowhere in the State of New Jersey, in the public or private sector, have there been such wage increases over the last three years.*" (See Ex. T-25). The Township argues that the PBA has offered no justification whatsoever for this enormous wage increase which will have an overwhelming impact upon the taxpayers of the Township.

Ms. Goble testified extensively about the cost differences between the PBA's proposal and that of the Township. The Township sets forth the differences in the following exhibit, which, in their opinion, dramatically shows the difference between the parties.

The Township argues that the total difference between the PBA's wage proposal and the Township's wage proposal for the four (4) years is \$204,842.00.<sup>2</sup> The Township argues that the average annual cost difference for each year of the contract is, therefore, \$51,210.00 for four (4) years. Thus, there is no small difference between the PBA's proposal for wages and benefit increases to that of the Township. The Township's proposal is much more consistent with recent settlements in the public sector and in the private sector throughout New Jersey and indeed the United States. (See Ex. T-29). Again, the Township argues that there is no justification for the PBA's out of sync economic proposal based upon comparability and other statutory criteria. Such a disparity cannot possibly be justified under any of the statutory criteria, nor upon

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<sup>2</sup> Please note that this figure of \$204,842.00 includes the longevity and uniform maintenance allowance proposal but omits the PBA's educational benefit proposal.

the credible evidence in the record. The Township strongly argues that the PBA's economic package is incongruent and without any legitimate support whatsoever.

### **Long-Term Cost of PBA Proposal on Interest and Welfare**

The Township argues that it is improper to simply assert that the municipality should raise taxes to cover the cost of an arbitration award. Nor can it be assumed that the police officers are "*entitled to... priority in the overall budget vis-à-vis other functions, plans and concerns of residents and tax payers.*" (see Fox v. Morris County Policeman's Association, 266 N.J. Super 501, 516 (App Div. 1993, certif. den., N.J. 311 (1994))

The Township argues that the Arbitrator must also consider the long-term effects of his Award. Simply put, permanent increases in compensation levels – such as increases in salary, educational benefits and longevity – will become permanent costs faced by the Employer beyond the life of the Agreement. The financial impact that this Award will continue to have beyond the life of the proposed contract is significant. The Township argues that any award having more than a modest cost impact will force the Township to pay for the Award by reducing services in the future years as was testified to extensively by Mayor Feyl. The immediate cost difference exceeds \$200,000.00 for only wages and longevity.

The Township argues that there are significant differences between the economic proposal of the PBA and its proposal in terms of dollars and in concept. The Township contends that the PBA has given little, if any, indication of willingness to address the financial impact upon the taxpayers. The Township, on the other hand, has undertaken an approach which is in accordance with these goals. Thus, the Township's

proposal is clearly more consistent with the interest and welfare of the public and, therefore, is more reasonable and should be awarded.

The Township argues that if the PBA's economic proposals were awarded, it would create instability among workers in the Township because a disparity will exacerbate between the police officers and other Township employees. (See Exs. T-24B and T-22C).

### **Township Health Care Cost Containment Proposal**

The Township's proposal also furthers the interest and welfare of the public because it reflects the Township's effort to curb increased health insurance costs, as testified extensively to by Mayor Feyl. As such, the Township strongly urges the Arbitrator to deny the PBA's proposal as it does not even take into consideration these significantly increased health care costs.

For example, twenty-two (22) PBA members, a majority are currently in the New Jersey Plus Plan; four (4) are in the CIGNA plan; four (4) are in the AETNA plan; and three (3) are in the traditional plan. In Ex. T-33, the Township has provided the current premium rates for each of these plans as well as for the prescription and dental coverage.

By way of example, the cost to the Township for an employee in the New Jersey Plus Plan with full family coverage is \$918.59 per month. The annual cost of that is \$11,023.00. For an employee with full family coverage under the HMO, the cost is over \$16,000.00 per year for the Township, and for the same full family coverage under the traditional plan, the cost to the Township exceeds \$20,000.00 each year.

Interestingly enough, the Township asks the Arbitrator to be aware of the fact that it is not proposing the elimination of any of these Plans. Rather, the Township is simply asking that employees who decline coverage will be eligible to receive a cash payment equivalent to 30% of the cost of the premiums. In other words, as an incentive to decline coverage, employees would receive an additional 30% cash payout of the cost of the premium upon doing so.

The Township argues that Ex. T-37 shows the annual percentage increases between 2004 and 2005 for each of these benefits and the cost containment resulting from the Township's cost sharing plan for depending coverage.<sup>3</sup> The Township argues that the exhibit clearly shows that the New Jersey Plus Benefits cost increases are in excess of 9% between those two years. Prescription cost containment for all Township employees between 2006 and 2009 would have equaled approximately \$165,000.00, while dental cost containment between 2006 and 2009 would have been approximately \$67,523.00 per year if done for all Township employees. Furthermore, between the years of 2001 through 2006, the total cost of medical, prescription and dental insurance premiums have skyrocketed. The premiums for the Township police alone have increased from \$282,743.04 to \$509,559.88, an eighty percent (80%) increase in five years. (See Ex. T-44). Therefore, the Township proposal is an attempt to share a small and very reasonable portion of these significant health benefit increases and is in the interest of the public.

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<sup>3</sup> The Arbitrator should note that the Township will not save any money based on this Plan in 2006 because the money has already been paid for those health benefits without any cost sharing by employees.

The Township also proposes a modest increase for prescription plan co-pays to \$10.00 and \$15.00 respectively.

### **New Jersey Local Budget CAP Law**

The Township proposal adheres to the policy of the Local Budget CAP Law.(N.J.S.A. 40A:4-1, et. seq.). The Township argues that when the New Jersey Legislature passed the CAP Law, they sought to prevent fiscal instability and economic chaos by imposing on local governmental agencies certain fiscal procedures and limitations.

The Township argues that the New Jersey Supreme Court has repeatedly upheld the legislative intent:

*"The purpose of the law is to require local government to follow sound business principals in their budgetary practices. Its aim is to ensure that the anticipated revenues equal expenditures." State v. Boncelet, 107 N.J. Super., 444, 450-451*

Furthermore, the history of the process of municipal budgeting is expounded in City of Atlantic City v. Laezza, 80 N.J. 255, 270 (1979):

*"Prior to reaching the merits, we feel constrained to comment upon the procedural aspects of the present controversy. The Local Budget Law, N.J.S.A. 40A:4-1, et. seq. defines a Local Government Body's primary responsibility for allocating available resources among the various services which it chooses to provide to its inhabitants."*

The Township argues that the seriousness with which the legislature reviewed these local fiscal restraints can be inferred from the fact that any over expenditure by a Local Officer is made a crime of the fourth degree. Furthermore, N.J.S.A. 34:13A-16 (g) (6) requires that the Local CAP Law be taken into account by the Arbitrator among other factors.

The Township argues that based upon an analysis of the CAP Law constraints, it is inconceivable that the proposal of the PBA has any justification whatsoever. The Township has sought to negotiate wage and longevity benefits as close as possible to the CAP constraints for 2006 through 2007. This is reflected in other agreements between the Township and its other bargaining units. (See Exs. T-20, 21, 22 and 23). The Township argues that any Award or agreement which does not recognize the same is clearly no longer appropriate for comparison purposes. The interests and welfare of the public are clearly best served by the Employer's proposal because it provides a fair and equitable wage and economic benefit to bargaining unit members consistent with that negotiated for other adjacent Morris County municipal law enforcement officers. (See Ex. T-10, 11, 12, 13 and 14).

**Comparison of Township's Wage {Proposal to Morris County Overall}**

The following chart (see Ex T-10) shows the adjacent Morris County Municipal Salaries for Police Officers from 2000 through 2007.

**ADJACENT MORRIS COUNTY MUNICIPAL SALARIES**

Municipality	2000	2001	2002	2003	2004	2005	2006	2007
Boonton Twp	\$57,750	\$60,100	\$62,450	\$67,000	\$69,700	\$72,480	\$76,104	\$79,909
Denville	\$65,351	\$67,638	\$70,344	\$73,158	\$76,084	\$79,508	\$82,470*	\$85,563*
Mountain Lakes	\$60,257	\$63,270	\$65,800	\$68,433	\$71,171	\$74,018	\$76,979	
Parsippany	\$62,537	\$65,038	\$67,640	\$70,345	\$73,160	\$76,086		
Randolph	\$63,553	\$65,904	\$68,409	\$71,077	\$73,842	\$76,507	\$79,376	\$82,353
Rockaway Boro	\$60,939	\$62,920	\$65,437	\$67,891	\$70,267	\$76,000	\$79,040	
Rockaway Twp	\$61,890	\$64,366	\$66,940	\$69,618	\$72,403	\$75,299	\$79,221	\$82,390
Average	\$61,754	\$64,177	\$66,717	\$69,646	\$72,361	\$75,700	\$78,865	\$82,554

Dif. From Avg. and Denville	+3,597	+3,641	+3,627	+3,512	+3,797	+3,808	+3,605	+3,0009
Percent Denville Above	5.8%	5.4%	5.4%	5.0%	5.1%	5.0%	4.6%	3.6%

\* Township's Proposed Salary

The Township argues that the PBA's wage proposal is totally inconsistent with reality in Morris County and in the State of New Jersey. In support of this argument, the Township relies upon the data submitted by PERC and incorporated below.

**PUBLIC EMPLOYMENT RELATIONS COMMISSION  
SALARY INCREASE ANALYSIS  
INTEREST – ARBITRATION  
1/1/1996 – 5/25/2006**

<u>Time Period</u>	<u>Total # of Awards Issued</u>	<u>Average of Salary Increase All Awards</u>	<u>Number of Reported Voluntary Settlements</u>	<u>Average Salary Increase of Reported Vol. Settlements</u>
1/1/06-5/31/06	4	3.98	15	4.05
1/1/05-12/31/05	11	3.96	54	3.94
1/1/04-12/31/04	27	4.05	55	3.91
1/1/03-12/31/03	23	3.82	40	4.01
1/1/02-12/31/02	16	3.83	45	4.05
1/1/01-12/31/01	17	3.75	35	3.91
1/1/00-12/31/00	24	3.64	60	3.87
1/1/99-12/31/99	25	3.69	45	3.71
1/1/98-12/31/98	41	3.87	42	3.77
1/1/97-12/31/97	37	3.63	62	3.95
1/1/96-12/31/96	21	4.24	35	4.19

Additionally, the Township has prepared an analysis of salaries for Morris County Municipal Police Officers. (See Exs. T-10 through T-14). These documents clearly

indicate that the wage proposal of the Township is far more consistent with the interests and welfare of the public and that the PBA's annual increases are not. This becomes even more apparent when the Township includes the PBA's exorbitant proposal for increasing longevity benefits.

The Township argues that the data submitted by PERC shows that the salary increases for all Interest Arbitration Awards in 2005 was 3.96%. In 2006 (excluding the last quarter that is not yet compiled into the PERC data), that increased very slightly to 3.98%. The PBA's exorbitant proposal of 4.25% for 2006 and 2007 and 4.50% for 2008 and 2009 does not include the PBA's new proposals for increased longevity and greater education benefits which are costly and burdensome. Moreover, its does not include the cost of rolling a uniform maintenance allowance of \$675.00 into base salary for each officer.

Additionally, the Township argues that further data provided by PERC shows private and public sector wage changes as compiled by the New Jersey Department of Labor for 2003 and 2004. That data indicates (see Ex. T-25) that in 2004 the average percent change for local government employees in New Jersey was 3.2%. Accordingly, the Township's wage proposal is far more consistent with that which has been experienced in New Jersey's public sector over the last few years. However, the Township argues that the interest and the welfare of the public are not served by the extravagant proposal of the PBA. Standing alone, when compared to the Township's wage proposal, that represents an additional 2½% over the Township's wage proposal for a four-year comparable contract term.

The Township argues that the risk in awarding the package proposed by the PBA is apparent given the cost impact upon taxpayers of the municipality. If the Arbitrator were to award the PBA's package or any of the very significant benefits in part thereof, the Employer will be faced with an insurmountable economic burden over the terms of the Agreement. The inflated economic proposal of the PBA is simply outrageous and unjustified by even a scintilla of the credible evidence in the record.

**CRITERIA NO. 2: COMPARISON OF WAGES, SALARIES, HOURS AND  
CONDITIONS OF EMPLOYMENT OF OTHER EMPLOYEES  
PERFORMING THE SAME OR SIMILAR SERVICES AND WITH  
EMPLOYEES GENERALLY**

(a) **In Private Employment in General**

The Township agrees with the PBA that there are few, if any, jobs which are comparable to that of a Police Officer in the private sector. Nevertheless, the Township presented some evidence concerning recent private sector salary and wage data. While this evidence is not compelling, it is indicative that the Township's wage proposals were certainly closer to the norm than is the PBA's exorbitant proposal. In support of this argument, the Township asked the Arbitrator to look at Exs. T-25, 52, 53, and 54, which demonstrate private and public sector wage trends throughout New Jersey and the nation. The Township argues that these exhibits demonstrate that the private and public sector wage increases over the most recent time period are substantially below that proposed by the PBA in the instant matter. Ex. T-25 clearly establishes that local government workers' wages throughout New Jersey increased approximately 3.2% between 2003 and 2004.

Moreover, private sector average annual wages rose only 3.6% from 2003 to 2004 in New Jersey. (See Ex. T-25). Thus, the Township argues the statewide data concerning employees performing the same or similar services throughout New Jersey shows that the Township's employees are paid comparably higher than other such workers.

(b) **Public Employment in General**

The Township argues that its documentary evidence clearly establishes that the average annual salary paid to Denville police officers is greater than that paid to other comparably employed persons in the public sector. None of this evidence was refuted by the PBA. An examination of Ex. T-11 establishes that police officers in Denville earn substantially more, on average, on an annual basis, than their counterparts in most other Morris County municipalities from 2003 to the present.

The Township argues that the average salary for all Morris County police officers for 2006 was \$79,366.00 compared with \$82,490.00 that the Township proposed. This represents a difference of \$3,124.00 for Denville police officers over the County average. (See Ex. T-11).

The Employer's proposed salary increases of 3.75% would result in salaries considerably higher than that of other municipalities within Morris County. Therefore, the Township's proposal is the more reasonable and should be awarded. The Township's modest revision to the Salary Guide for new hires is also appropriate as discussed below.

(c) **In Public Employment in the Same or Similar Comparable Jurisdictions**

The Township argues that they have presented substantial credible evidence concerning recent wage settlements in arbitration awards throughout New Jersey. Additionally, the Township presented into evidence many exhibits concerning comparability of police salaries. These exhibits clearly demonstrate that the Township's proposal is consistent with the statutory criteria and, therefore, is the more reasonable.

The chart previously introduced for Adjacent Morris County Municipal Salaries clearly establishes that from 2000 through the year 2007, there are few, if any, municipalities with salaries for police officers approaching those proposed by the PBA herein. Furthermore, the average rate of increase in Morris County, as set forth previously, is significantly below that proposed by the PBA and, is in fact, more consistent with that proposed by the Township herein.

The Township contends that if the Arbitrator were to award its final offer of 3.75% for police officers, the officers would still fare extremely well compared with all of their brethren in Morris County. It is certainly clear that Denville's police officers will fare well and will not suffer by having a resulting final salary of \$82,490.00 as of January 1, 2006. Such proposal will certainly maintain and probably exceed Denville's police officers' relative position as compared with other Morris County towns and with neighboring municipalities.

The Township has also submitted exhibits which compared wages for Denville police officers with those officers in other municipalities adjacent to Denville by maximum salary. The relative position of the Denville police officers will not decline in comparison with neighboring departments by awarding the Township's wage proposal. The Adjacent Morris County Municipal Salaries chart cited above shows that under the

Township's proposal, its officers will be paid significantly more than the salaries paid to all adjacent municipalities in Morris County. The chart clearly establishes that the salaries for the police officers in Denville rank first out of seven adjacent municipalities. Accordingly, the Township argues that its police officers are paid far better than police officers in its neighboring municipalities with its greatest difference being \$6,366.00 in 2006 with the neighboring Municipality of Boonton Township.

The Township contends that the Arbitrator should keep in mind, unlike their brethren in some neighboring municipalities, Denville's police officers serve in a suburban environment minus the higher crime rates experienced in other Morris County municipalities such as Dover and Morristown. The jobs are much more comparable to those of adjacent municipalities such as Randolph or Boonton Township. The officers in each of those adjacent municipalities have substantially lower salaries.

When the demographics for adjacent Morris County municipalities are examined, it is apparent that the crime rate of 12.7 per thousand in Denville is the lowest of all adjacent towns. (See Ex. T-7). Of those adjacent municipalities, Rockaway Township is the next highest at 14.3 per thousand followed by Parsippany at 17.7.

The Township argues that it is not their intent and/or purpose to denigrate the police officers in Denville. However, it should be noted that the job is simply not as dangerous as that of other municipalities in the same County. Therefore, there is still no justification for further widening the salary differential that Denville's police officers enjoy above those in other Morris County municipalities.

**CRITERIA NO. 3: THE OVERALL COMPENSATION PRESENTLY RECEIVED BY THE EMPLOYEES INCLUSIVE OF DIRECT WAGES, SALARY, VACATIONS, HOLIDAYS, EXCUSED LEAVE, INSURANCE AND PENSIONS, MEDICAL AND HOSPITALIZATION BENEFITS AND OTHER ECONOMIC BENEFITS RECEIVED**

The Township argues that the overall compensation being provided to members of this bargaining unit by the Township are extremely favorable. The benefits that Denville police officers received are generous and the Township has not sought significant concession in these negotiations, notwithstanding budget cuts, increasing payments to pension funds and increasing taxes, among other economic problems. The Township argues that its total economic package for Denville's police officers is certainly comparable to that of other police officers in most, if not all, Morris County municipalities.

**The Township's Health Benefits Proposal**

The Township argues that it currently offers its police officers health insurance in the State Health Benefits Program, an extremely lucrative longevity plan and other usual benefits. The Township submits that the proposal minimal cost-sharing for the Township's police officers electing dependent coverage participation in the Township's dental benefits program is fair and equitable to both parties.

In support of this argument, the Township references Ex. T-33 which shows a summary of PBA members who are currently enrolled in the Township's health benefits program. This exhibit further shows that the monthly premium rate for each of the health plans. As stated earlier, the exhibit shows the cost share difference between the various plans that would need to be expended by the Township per month.

When compared with comparable Morris County police contracts, the Township's health benefits plan is most in line with those contracts. (See Ex. T-17). Many of the surrounding municipalities have contracts under which there is significant sharing of health care costs by the employees, whereas the Township's proposed health care plan has no cost sharing for employee coverage and a modest 10% cost sharing for dependent coverage.

Furthermore, some of the other municipalities in Morris County do have employee contributions to health insurance or have employee contributions for the difference between the standard plan and a plan with better benefits being provided by that municipality. The Township argues that an analysis of the various municipalities in Morris County that require some type of premium co-sharing clearly establishes that its position is modest in comparison with what is being paid throughout the County. In citing some specific examples, the Township argues that in Morris Township, each employee shares 50% in the annual premium increase for medical, dental and prescription coverage. In the Borough of Florham Park, the employees pay monthly for both medical and dental coverage which equals \$1,808.76 per year for family coverage. (See Ex. T-17). In addition, Ex. T-18, produced by the Morris County Office of Labor Relations, shows that the 2006 payroll deduction for medical insurance for all Morris County law enforcement units increased substantially for those enrolled in the Medallion Plan from \$453.00 to \$1,201.20 and the wrap-around plan from \$253.50 to \$670.28 and the HMO Blue plan from \$193.96 to \$532.48. (Annual employee cost). Thus, the Township argues that its modest cost sharing proposal of only 10% for dependent

coverage is both reasonable and generous in comparison to other plans offered in Morris County.

The Township argues that its proposal is also in line with the benefits awarded by other arbitrators in the past two years. In support of this argument, the Township references the fact that in the Borough of Leonia and PBA Local 381, Arbitrator Robert Glasson issued an Award that modified the health care plan by requiring all employees to make a contribution toward the cost of dependent health care premiums at 10% of the dependent health care cost. The Township argues that Award mirrors its health insurance proposal.

The Township argues that Ex. T-50(b) graphically depicts the Consumer Price Index (CPI-U) versus the Township's health care premium increases for the years of 2001 through 2006. That chart shows that the salary increases alone are 3.1% above the CPI-U, while the traditional health plan cost increase is 47% above CPI-U and the HMO was 32.5% above the CPI-U. New Jersey Plus, the plan chosen by the majority of the unit members, has increased 40.4% above the CPI-U.

The Township presented a survey conducted by the International City/County Management Association of National Local Government Employees. That survey shows that out of 3,101 responding municipalities, 82.7% responded that co-payments are required under those Union employees' various medical benefits. More significantly, 55.3% require premium contributions.

The Township argues that its health benefits package proposal is also comparable to that offer to private sector employees. As referenced by Ex. T-26(a), one of the major findings was that most employees covered by medical plans in the private

sector require employee contributions averaging \$273.03 per month for family coverage, or \$3,276.36 per year. For single coverage it was \$68.96 per month or \$827.52 per year.

The statistics presented by the Township establish that the Township's proposal requiring 10% cost sharing for dependent coverage is modest compared to the private sector.

### **Longevity Benefit**

The Township argues that Ex. T-24(b) demonstrates that the Denville police officers enjoy substantially greater longevity benefits than any of the other unionized Township employees. They have achieved a maximum payment which is over \$3,487.00 per year. The highest figure for any other Township employees is a mere \$1,545.00 paid to Denville Public Works and Supervisors. Moreover, as set forth in Ex. T-24(c), police officers enjoy salaries plus longevity benefits that are approximately \$20,000.00 more than the Township Employees' Association, the Public Works Employees' Association, or in the Public Works Supervisors Association. Only the Township's Supervisors Association, of all unionized White Collar employees, approached a level close to the police officers salaries.

The Township argues that the average salary for Morris County police officers demonstrates that when longevity is added, Denville police officers additional compensation above that of their brethren in neighboring municipalities is even greater. By way of example, the Township references Ex. T-13 which shows Morris County police officers' longevity after ten (10) years recorded as an average payment of \$1,312.00. Denville police officers were ranked fourth with \$2,082 longevity after ten

(10) years of service. This exhibit shows that Denville is \$770.00 above the County average for longevity alone. The Township argues that an analysis, including both salary and longevity for top patrolman's pay after ten (10) years for the years 2005, 2006, 2007 and 2008, shows that the Denville officers' salaries are substantially above the County average.

The Township argues that the exhibits presented, which show the salary and longevity for top patrolman's pay after ten (10) years for the years 2005, 2006, 2007 and 2008, dramatically show that Denville's officers are substantially above the County average, second only to Harding Township in 2008. The difference between Denville's officers in the County average as set forth in Ex. T-13 is \$3,678.00 in 2005 without longevity. If longevity is included, the differential grows to \$4,406.00. In 2006, the difference is \$3,877.00 and remains a very healthy \$4,855.00 in 2008. At that point, even under the Township's wage proposal of 3.75%, Denville's officers would be receiving a salary of \$88,793.00 at top pay with longevity of \$5,780.00 for a total of \$90,875.00.

The Township argues that contrast that with the fact that the average salary for Morris County officers in 2008 is \$86,020.00. Accordingly, the Township's proposal would maintain the PBA's high ranking compared to other law enforcement officers in Morris County throughout the terms of the contract.

The PBA has also proposed to eliminate the longevity Schedule A and modify Schedule B so that each step of the longevity schedule after 12-15 years would be increased by \$1,000.00. The Township has determined that the cost of this enhanced

longevity plan over the four year period totals an additional \$74,695.00 to the Township. This evidence was unrefuted by the PBA.

### **Revised Salary Guide**

The Township argues that as part of their economic proposal, they are offering a new Salary Guide for new hires. That proposed guide does not alter the existing salaries for incumbent officers. Moreover, it slightly modifies salaries for new current hires from the current guide. The proposed 2006 salary for officers at the top step in the Township are currently the highest in Morris County at \$82,470.00. (See Ex. T-10). The Township is proposing a slight decrease in starting salaries for new hires than has been historically in the Township from \$54,480.00 in 2005 to a proposed \$45,000.00 in 2006. (See Appendix B, Exs. T-3 and T-4). Additionally, the Township proposes an entry level step for the first 24 months of employment to be applied prospectively only. Thus, this proposal will not affect any existing officers' salaries at all. Further, the Township's proposal still provides the new hires handsome compensation compared to their Morris County counterparts at 4.6% above the average salary in Morris County in 2006.

Appendix A and Appendix B below represent the Township's Salary Guide for employees hired on or prior to December 31, 2005, and employees hired on or after January 1, 2006, respectively.

### **APPENDIX A**

For employees hired on or prior to December 31, 2005, the following salary guide shall apply:

Months, Time In Grade		2006	2007	2008	2009
Patrol Officer		3.75%	3.75%	3.75%	3.75%
	0-12	\$56,523	\$58,643	\$60,842	\$63,124
	13-24	\$65,574	\$68,033	\$70,584	\$73,231
	25-36	\$69,737	\$72,352	\$75,065	\$77,880
	37-48	\$74,333	\$77,120	\$80,012	\$83,012
	49-60	\$78,853	\$81,810	\$84,878	\$88,061
	Over 60	\$82,490	\$85,583	\$88,792	\$91,122
Sergeant	0-12	\$86,577	\$89,824	\$91,192	\$96,687
	13-24	\$90,694	\$94,095	\$97,624	\$101,285
	25-36	\$94,725	\$98,277	\$101,962	\$105,786
Lieutenant	0-12	\$98,838	\$102,545	\$106,390	\$110,380
	13-24	\$102,925	\$106,785	\$110,789	\$114,944
	25-36	\$107,095	\$111,111	\$115,278	\$119,601

### APPENDIX B

For employees hired on or after January 1, 2006, the following salary guide shall apply:

Months, Time In Grade		2006	2007	2008	2009
Patrol Officer		3.75%	3.75%	3.75%	3.75%
	0-12	\$45,000	\$46,688	\$48,438	\$50,255
	13-24	\$51,250	\$53,172	\$55,166	\$57,235
	25-36	\$57,500	\$59,656	\$61,893	\$64,214
	37-48	\$63,750	\$66,141	\$68,621	\$71,194
	49-60	\$70,000	\$72,625	\$75,348	\$78,174
	Over 60	\$76,250	\$79,109	\$82,076	\$85,154
	Over 72	\$82,490	\$85,538	\$88,792	\$92,122
Sergeant	0-12	\$86,577	\$89,824	\$93,192	\$96,687
	13-24	\$90,694	\$94,095	\$97,624	\$101,285
	25-36	\$94,725	\$98,277	\$101,962	\$105,786
Lieutenant	0-12	\$98,838	\$102,545	\$106,390	\$110,380
	13-24	\$102,925	\$106,785	\$110,789	\$114,944
	25-36	\$107,095	\$111,111	\$115,278	\$119,601

### Educational Benefit

The Township argues that the PBA's proposal of enhanced educational benefits represents an increase of \$3,160.00 over four years of the contract for each officer.

The Township argues that Ex. T-32 shows the numbers of Masters Degrees and Bachelors Degrees held by newly recruited members in the police department. There are only four (4) officers with Masters Degrees and twenty-one (21) with Bachelors Degrees that will be eligible for the educational benefit equaling a total increase in cost to the Town of \$16,590.00 for all twenty-one (21) members with Bachelors Degrees. The Township suggests that proposal is not in the best interests and welfare of the community.

#### **CRITERIA NO. 4: STIPULATIONS OF THE PARTIES**

There are no stipulations of the parties.

#### **CRITERIA NO. 5: THE LAWFUL AUTHORITY OF THE EMPLOYER**

The Township argues that the lawful authority of the Employer criteria mandates rejection of the PBA's proposal. The Arbitrator cannot award a proposal that is not lawfully before him or that is unlawful for the Township to implement. The Township respectfully submits that the PBA's exorbitant 19.5% wage increase and maintenance of the current costly health insurance plan should not be awarded.

The Township submits that the lawful authority of the Employer is statutory and that the fiscal constraints set forth in the local government CAP Law, N.J.S.A. 40A:4-1, et. seq. applies to the Township as a public employer. The Township is constrained by the limitations of the CAP Law so that the increases do not exceed 2.5%, or if action is taken by the governing body to increase the final appropriation subject to the CAP to the statutorily permitted 3.5%, for each year of the contract.

The parties have both advanced economic proposals which are in excess of that figure. Nevertheless, by taking the more reasonable wage position, attempting to at

least in part control increasing health benefits, the Employer's proposal is more in line with the CAP than is the proposal of the PBA.

Accordingly, for the reasons set forth above, the Township proposal is more reasonable and should be awarded.

**CRITERIA NO. 6: THE FINANCIAL IMPACT ON THE GOVERNING UNIT,  
ITS RESIDENTS AND TAX PAYERS**

The Township has presented numerous exhibits and the testimony of Goble detailing the dire economic conditions it has endured. First, the Township has presented as Ex. T-40 a trend analysis for years 1999 through 2005. The exhibit demonstrates trends pertaining to fund balance, tax collection information, average homeowners' tax burden, and police department expenses through the years 1999 through 2005. The total tax burden for the average home in 1999 was \$3,835.00. By 2005, it had increased to \$5,625.00, representing an increase of 46% in six years.

Additionally, the tax rate per \$100 of valuation for the Township's school district increased from .692 in 2002 to .921 in 2005, representing an increase of 33%. The Township contends that the PBA's economic proposal will only add to the residents increasing tax burden. Ms. Goble testified that the current tax rate for the Township is \$ 2.32. (See Ex. T-46)

The total police department expenses for 2005 exceeded \$4.3 million dollars which represented an increase of \$317,716.00 from the 2004 level of approximately \$3.9 million dollars. The Township argues that in 1999, police department expenses were \$2.8 million dollars. Accordingly, over a six year period police department expenses have increased by \$1.5 million dollars. There has been no concurrent rise in

the crime rate in the Township of Denville to justify such an exorbitant additional cost. The Township argues that the burden of this cost has been borne entirely on the backs of the Denville Township taxpayers which are predominantly homeowners. In fact, the number of residential units in Denville has increased by 465 units between the years of 2001 through 2006. (See Ex. T-47). Accordingly, the Township is spending more and more on its police force even though less money is available out of the fund balance.

Furthermore, as testified to by Mayor Feyl and Ms. Goble, the situation is further worsened for Denville by the amount of Pension Fund liabilities that have been reinstated by the State of New Jersey and which the Township is required to pay. (See Ex. T-41).

For the Police and Firemen's Retirement System alone, since 2004, the Township has already paid almost \$500,000.00 to the Pension Fund through the end of 2006 and will have to pay an additional \$439,302.00 in 2007. Similarly, the Township has already paid over \$120,000.00 for the Public Employees Retirement System (PERS) and will have to pay an additional \$171,536.00 in 2007. (See Ex. T-41).

The Township argues that the cascading costs of any increase over the Township's proposal will be compounded into future increases and, will therefore exacerbate the Township's financial burdens. Accordingly, these increased costs, as proposed by the PBA, are simply unreasonable and should not be awarded.

#### **CRITERIA NO. 7: COST OF LIVING**

The relatively low rate of inflation provides strong support for the Township's economic proposal. It will also provide police officers with a real increase in their earnings.

The Township argues that the Arbitrator is required to consider the cost of living. An Arbitration Award that does not address the cost of living is subject to being vacated. The Township argues that the Arbitrator must consider the historic trend and rate of inflation, and how previous salaries have compared to the rate of inflation. Additionally, the Arbitrator is required to determine how the parties' respective offers compare to the current anticipated future rate of inflation.

The Township argues that for the year of 2005, the rate of inflation was 3.4% for the New York-Northern New Jersey-Long Island area. (See Ex. T-51(a)). That analysis demonstrates that the Township's police officers have been receiving wage increases that far exceed the rate of inflation. For the time period from 1996 to 2005, police officers at top pay receive \$64,447.00 more than they would have received had the rate of wage increase been tied to the CPI. The total resulting wage for a Denville municipal police officer for those years was \$754,068.00. If the wages were tied to the CPI, the total wages paid over the same time period would be \$689,621.00. Thus, it certainly shows that the difference of 9.3% more than the CPI or \$64,447.00 was paid in real dollars to the Township police officers.

The Township argues that their proposal will continue the historic trend of allowing police officers to keep up with the rate of inflation because its proposal of 3.75% for a police officer in 2006 roughly equals the rate of inflation for the same time period.

**CRITERIA NO. 8: THE CONTINUITY AND STABILITY OF EMPLOYMENT CRITERIA SUPPORTS THE TOWNSHIP'S PROPOSAL, ESPECIALLY WITH UNEMPLOYMENT IN THE AREA IN THE EXTREME LOW LEVEL OF TURNOVER**

This particular criterion requires the Arbitrator to consider such factors as the Employer's overall salary structure, the general unemployment level in the area, the level of turnover among the employees in question and the history of layoffs or other reductions in force in the subject bargaining unit. The criterion also requires the Arbitrator to consider the likelihood of layoffs or elimination of position that may result from his Award. It should be noted that other than retirements, there have been no officers leaving the Township for other employment. In fact, unlike any other Township, many police officers have left other municipalities to come work in Denville. The PBA presented testimony that eleven (11) officers specifically left other towns throughout the County and beyond in order to work in Denville because of the high wages and benefits and excellent working conditions. The following charts dramatically support the Township's economic proposals:

**TOP PAY OF TOWNSHIP OF DENVILLE BARGAINING UNITS IN 2003**

BARGAINING UNIT	TOP PAY FOR HIGHEST PAID JOB IN BARGAINING UNIT IN 2003	LONGEVITY AT 10 YEARS	TOTAL BASE PAY AND LONGEVITY AT 10 YEARS
PBA Local 142	\$73,158	\$2,082	\$75,240
Public Works Employees' Association*	\$55,931	\$972	\$56,903
Public Works Supervisors Association**	\$59,155	\$972	\$60,127
Denville Township Employees' Association+	\$56,000	\$0	\$56,000
Denville Township Supervisory Employees Association**	\$89,064	\$0	\$89,064

- \* Head Mechanic "A"
- \*\* Supervisor and Department of Public Works Safety Administrator/Emergency Response First Responder
- + Sub-Code Official/Plumbing/Heating

++ Engineer

**TOP PAY OF TOWNSHIP OF DENVILLE BARGAINING UNITS IN 2004**

BARGAINING UNIT	TOP PAY FOR HIGHEST PAID JOB IN BARGAINING UNIT IN 2004	LONGEVITY AT 10 YEARS	TOTAL BASE PAY AND LONGEVITY AT 10 YEARS
PBA Local 142	\$76,084	\$2,082	\$78,166
Public Works Employees' Association*	\$58,178	\$972	\$59,150
Public Works Supervisors Association**	\$61,526	\$972	\$62,498
Denville Township Employees' Association+	\$56,000	\$0	\$56,000
Denville Township Supervisory Employees Association++	\$92,628	\$0	\$99,628

- \* Head Mechanic "A"
- \*\* Supervisor and Department of Public Works Safety Administrator/Emergency Response First Responder
- + Sub-Code Official/Plumbing/Heating
- ++ Engineer

**TOP PAY OF TOWNSHIP OF DENVILLE BARGAINING UNITS IN 2005**

BARGAINING UNIT	TOP PAY FOR HIGHEST PAID JOB IN BARGAINING UNIT IN 2005	LONGEVITY AT 10 YEARS	TOTAL BASE PAY AND LONGEVITY AT 10 YEARS
PBA Local 142	\$79,508	\$2,082	\$81,590
Public Works Employees' Association*	\$60,798	\$972	\$61,770
Public Works Supervisors Association**	\$64,293	\$972	\$62,265
Denville Township Employees' Association+	\$56,000	\$0	\$56,000
Denville Township Supervisory Employees Association++	\$96,565	\$0	\$96,565

- \* Head Mechanic "A"
- \*\* Supervisor and Department of Public Works Safety Administrator/Emergency Response First Responder

- + Sub-Code Official/Plumbing/Heating
- ++ Engineer

## **CONCLUSION**

The Township asks that the Arbitrator balance the PBA's interest in obtaining economic improvements for its members against the Township's limited financial means, the level of compensation already currently enjoyed by Township police officers and the actual trend of settlements among police and fire contracts, the public sector generally and the private sector generally. The Township requests, that based upon the credible evidence in the record I award its last offer.

## **DISCUSSION AND OPINION**

The Arbitrator by statute is required to separately determine whether the total net annual economic changes for each year of the Agreement are reasonable under the eight statutory criteria set forth on pages 2/3 of this Award. Each criterion must be considered and those deemed relevant must be explained. The Arbitrator is also required to provide explanation as why any criterion is deemed not to be relevant.

I have carefully considered the evidence which has been presented, as well as the arguments of the parties. I have considered the evidence and arguments in light of the statutory criteria as discussed below. I have considered each criterion and have found each to be relevant, although the weight to be given to the factors varies as discussed. I have determined the total net economic annual change for each year of the Agreement in concluding that those changes are reasonable under the criteria.

It is appropriate to set forth the terms of the Award at this time which will allow anyone reviewing this Award to follow the analysis which led to the Award.

The parties, by necessity, base their arguments upon and correlated the evidence they presented to the offers of the other party. I have the authority and responsibility to fashion the terms of the award in this conventional arbitration proceeding.

It is axiomatic in Interest Arbitration and/or in collective bargaining/negotiations that in consideration of wages, hours and conditions of employment, requires that the parties seeking a change in an existing term and condition of employment bear the burden of showing a need for such change. That guiding principle has been followed throughout this award.

I shall award a four (4) year Agreement. The duration of the Agreement shall be January 1, 2006, through December 31, 2009.

I shall award the following salary increases:

- (A) Effective January 1, 2006, 3.95% across-the-board plus \$20,800.00 (32x\$650), uniform maintenance allowance rolled into base pay.
- (B) Effective January 1, 2007, 4% across-the-board salary increase plus \$1,600.00 (32x\$50), increase in uniform maintenance allowance.
- (C) Effective January 1, 2008, 4% across-the-board plus \$1,600.00 (32x\$50), increase in uniform maintenance allowance.
- (D) Effective January 1, 2009, 4% across-the-board plus \$1,600.00 (32x\$50.00), increase in uniform maintenance allowance.

I shall award a new Salary Guide which will establish a reduced hiring step, and a new seventh (7<sup>th</sup>) step for police officers hired after January 1, 2006.

### Longevity

The PBA's proposal to eliminate Schedule A and increase Schedule B by \$1,000.00 for each level is denied.

The Township's proposal to eliminate longevity for new hires effective January 2006 is denied.

### Educational Benefits

The PBA's proposal to increase the ninth step from \$2,710.00 to \$3,500.00 is denied.

The Township's proposal to prospectively eliminate educational benefits for officers holding under-graduate degrees is denied.

### Uniform Maintenance Allowance

Section 7 (c) of the Agreement shall be eliminated and the current \$650.00 which totals \$20,800.00 shall be added to base pay.

### Vacation

I shall award the PBA's proposal to add a new provision to Article XI – Vacation as follows:

*"All employees covered by this Agreement shall be entitled to carry over one (1) year vacation (example: a police officer who has been employed two (2) years is entitled to ten (10) vacation days. On the next January 1<sup>st</sup>, he is permitted to carry over ten (10) vacation days plus he is allotted ten (10) new vacation days. That police officer would have the twenty (20) days to use in that calendar year."*

### Medical Benefits

The Township's proposal to require all employees to pay 10% toward the premium of dental insurance is denied.

The Township's proposal to require all employees to pay 10% of the premium for dependent medical coverage is denied.

I shall award effective thirty (30) days from the date of this Award the Township's proposal to change the co-payments for prescriptions which presently is \$5.00 for generic, \$6.00 for brand and \$0 for mail in to \$10.00 for generic and \$15.00 for brand and \$0 for mail in.

I shall award effective thirty (30) days from the date of this Award the Township's proposal wherein an employee waives medical coverage and provides proof that there is alternative coverage. The Township shall pay that employee 30% of the total cost of medical benefits. That amount shall be pro-rated for 2007.

#### **COST OF SALARY PROPOSALS**

The current base as of December 31, 2005, is **\$2,613,028.00** for a 32 member unit. (See Township Ex. 31). Longevity for this unit as of December 31, 2005, is \$64,674.00 and excludes Chief Sturgis and Sgt. Nametko, who retired on August 1, 2006. (See Township Ex. 31). The base excludes step increases, overtime, longevity and holiday pay.

Any changes that have occurred in the bargaining unit since the close of the hearing are not relevant to the instant matter because the parties' salary proposals are based upon the same compliment of officers. The calculations for 2006 through 2009 do not include the cost of increments.

#### **2006**

The PBA proposed to increase the uniform maintenance allowance from \$650.00 to \$675.00 and add that amount to base pay. With a 32 person bargaining unit, it

generates \$21,600.00 added to the base. Effective January 1, 2006, the PBA proposed a 4.25% increase with the clothing allowance which is an increase of \$133,584.00 or a new base of \$2,746,912.00.

The Township proposed a 3.75% across-the-board plus a proration of the uniform maintenance allowance from the date of hiring, effective January 1, 2006. The cost of that 3.75% increase is \$98,000.00 or a new base of \$2,711,328.00.

I awarded the current uniform maintenance allowance of \$20,800.00 for a 32 person bargaining unit plus 3.95%, which is a \$124,848.00 increase over the prior base of \$2,613,328.00. The cost of my awarded salary increase for 2006 is \$2,738,176.00.

#### 2007

The PBA proposed effective January 1, 2007, a 4.25% across-the-board salary increase plus a \$1,600.00 clothing maintenance allowance (32x\$50). The cost of that 4.25% plus \$1,600.00 salary increase for 2007 is \$118,412.00 which creates a new base of \$2,865,324.00.

The Township proposed effective January 1, 2007, a 3.75% across-the-board salary increase. The cost of that increase is \$101,674.00 which creates a new base of \$2,813,002.00.

I awarded a 4% across-the-board salary increase plus a \$1,600.00 increase in the clothing maintenance allowance effective January 1, 2007. The cost of that increase is \$111,191.00, which generates a new base of \$2,849,367.00.

## 2008

Effective January 1, 2008, the PBA proposed a 4.5% across-the-board salary increase plus \$1,600.00 (32x\$50). The cost of that proposal is \$130,612.00, which creates a new base of \$2,995,935.00.

The Township proposed, effective January 1, 2008, a 3.75% across-the-board salary increase. The cost of the salary increase is \$105,488.00 which creates a new base of \$2,918,490.00.

I awarded a 4% across-the-board salary increase plus \$1,600.00 (32x\$50), effective January 1, 2008. The cost of the awarded salary increases in 2008 is \$115,639.00, which generates a new base of \$2,965,006.00.

## 2009

The PBA proposed, effective January 1, 2009, a 4.5% salary plus \$1600.00 (32x\$50). The cost of the PBA proposal is \$136,489.00, which generates a new base of \$3,132,424.00.

The Township proposed a 3.75% across-the-board salary increase effective January 1, 2009. The cost of that proposal is \$109,443.00, which generates a new base of \$3,027,933.00.

I awarded a 4% across-the-board salary increase plus \$1,600.00 (32x\$50) effective January 1, 2009. The cost of the awarded salary increases in 2009 is \$120,263.00, which generates a new base of \$3,085,269.00.

Over the four year period, my recommended salary increases on the base of \$2,613,328 are \$57,336.00 over the Township's proposal and \$47,105.00 under the PBA's proposal.

## INTEREST AND WELFARE OF THE PUBLIC

The New Jersey Supreme Court determined in the Hillsdale matter (citations omitted) that the interest and welfare of the public must always be considered in the rendering of an interest arbitration award. Moreover, the Court determined that an award which failed to consider this criterion might be considered deficient.

There are numerous elements to the public interest factor, but I believe and have determined that this initial criteria is always worthy of substantial weight in determining the most reasonable resolution of the parties' dispute. A major component of public interest is fiscal responsibility. Additionally, the public interest elements of the CAP Law must also be considered when an arbitrator is rendering an award in an interest arbitration matter.

The interest and welfare of the public obviously require that an Arbitrator balance many considerations such as, but not limited to, the Employer's desire to provide the most efficient and appropriate level of governmental services in the most cost effective manner.

The Employer takes into account the impact of those costs on the tax rate. Moreover, the interest and welfare of the public certainly require fairness to employees in order to maintain high morale and harmony within the labor force. I believe that reasonable levels of compensation and good working conditions certainly contribute to a productive and efficient police force and that leads to labor instability.

No one can deny that the work of a police officer is demanding, sometimes traumatic and dangerous. There is no question that the public is well-served by providing a structure of compensation and benefits that keeps morale high and retains

experienced officers, as well as attracts new recruits of the caliber the Township is seeking.

An integral part of the public interest criteria is the implication of the CAP Law and that will be analyzed at greater length under the lawful authority of the employer criteria. I do not believe the CAP Law presents a problem to the Township in terms of resolution of the dispute at hand because the Township's financial data certainly supports my awarded salary increases.

An arbitrator must be careful that the determinations made do not create an undue financial burden upon the Township. More importantly, an award should not detract from other important municipal services to provide compensation and benefits to police employees.

I agree with Arbitrator Jeffrey B. Tener's analysis in his Interest Arbitration Award in Cliffside Park<sup>4</sup>, wherein he stated:

*"The Arbitrator is required to strike an appropriate balance among these competing interests. This concept has been included in the policy statement of the amended Interest Arbitration statute. N.J.S.A. 34:13A-14 refers to the unique and essential duties which law enforcement officers... perform for the benefit and protection of the people of this state and the life threatening dangers which they confront regularly. The arbitration process is intended to take account of the need for high morale, as well as for the efficient operation of the Department and general well-being and benefit of the citizens. The procedure is to give due respect to the interests of the tax paying public and to promote labor, peace and harmony."*

I shall discuss the open items with respect to the interest and welfare of the public criteria.

### **TERM OF AGREEMENT**

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<sup>4</sup> In the matter of the Borough of Cliffside Park and PBA Local 96, PERC Docket No. IA-98-91-14, page 45.

Both parties proposed a four-year agreement, and I awarded a four-year agreement. The parties have been without an agreement since January 1, 2006. A four-year agreement commencing on January 1, 2006, and concluding on December 31, 2009, provides continued stability for the Township in its financial and operational management. It also promotes a much more harmonious bargaining relationship.

The parties need to be free from the stress and pressures of negotiating a comprehensive agreement. By the time this Award is implemented at least sixteen (16) months of a forty-eight (48) month Agreement will have passed.

### **SALARY**

Both parties submitted an in-depth analysis of salary data that was supportive of their relative positions. Additionally, both parties relied upon settlements as reported by PERC to give a barometer of statewide salary data. The Township relied upon the impact of its salary offer in comparison to adjacent communities in Morris County and settlements for the County of Morris law enforcement bargaining units.

The PERC<sup>5</sup> data shows that for 2005 the average of all Awards was 3.95% and the average salary increase of reported voluntary settlements was 3.94%. For 2006, with a total of twelve (12) Awards issued, the PERC data shows that the average salary increase for all Awards was 3.98% and with 55 voluntary settlements, the average salary increase of those settlements was 4.09%. That data does not support the PBA's last offer nor is it supportive of the Borough's last offer. The PERC salary data is more consistent with my Award providing for an annual salary increase of 3.95% for 2006 and 4% for 2007 through 2009. I find that the public interest criterion requires the Arbitrator

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<sup>5</sup> The PERC data is an analysis of Interest Arbitration settlements from 1/1/96 – 12/31/06

to balance many components giving significant weight to each party's proposals. My awarded salary increases serve to address these competing elements and to maintain a stable workforce and harmonious labor relations. I find that the Borough's ability to recruit and retain qualified police officers will be maintained by my award.

**COMPARISON OF THE WAGES, SALARIES, HOURS AND CONDITIONS OF EMPLOYMENT**

The Borough submitted extensive documentation in supports of its arguments on salary increases. The following exhibit shows the Borough's analysis of the top patrolman's salary in 2008.

**MORRIS COUNTY  
TOP PATROLMAN SALARY IN 2008**

RANK	MUNICIPALITY	2008 SALARY
1	Harding Twp (4%)	92,012
2	Denville *	88,793
3	Chatham Twp (4.7%)	88,263
4	Long Hill	87,383
5	Rockaway Twp	85,686
6	Boonton Twp	83,904
7	Rockaway Borough	82,202
8	Mt. Olive	81,916
9	Chester Borough	77,022
10	Boonton	76,744
Average		84,393

Difference between Average and Township	+4,400
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\* Township Proposal  
(See Township Ex. 12)

This exhibit represents settlements for nine (9) municipalities plus the proposed Township's 3.75% increase. That 3.75% increase over the Township's proposed 2007 top salary of \$85,583.00 equates to an increase of \$3,210.00.

Township Ex. 12 for 2007 and 2008 reveals that when one compares the 2007 salaries of the municipalities addressed in the above 2008 chart, the average percentage increase is 4.1%. That average ranges from a low of 3.3% in Long Hill to a high of 4.7% in Chatham Township. The Township's 3.75 % proposal is less than the average of the reported settlements for 2008, while the PBA's 4.5% proposal is above that average.

In support of its salary increases the PBA offers the following selected settlements:

<u>2006</u>	
Lincoln Park	4%
Harding Township	4%
East Hanover	4.55%
Morris Plains	4.5%
Hanover	4.2%
Mendham Township	4.5%
Florham Park	4.0%
Mendham Borough	4.0%
Chatham Borough	6.0%

The average settlement of these municipalities is 4.41% which is higher than the Township's 3.75% proposal. It must be stressed that neither party submitted any data concerning percentage increases for all police settlements in 2006 through 2009 for all Morris County municipalities.

<u>2007</u>	
Lincoln Park	4%
Harding Township	4%
Morris Plains	4.95%
East Hanover	4.55%
Mendham Township	4.5%
Hanover	4.2%
Florham Park	5.2%
Chatham Borough	6.0%
Chatham Township	5.0%

The selected settlements the PBA references in 2006 and 2007 are only a portion of the total number of reported settlements for those years. I used Township Ex. 11, which is an analysis of all top patrolmen salaries for the time period of 2000-2009 to demonstrate top patrolmen selected salary increases for 2005-2009.

**INCREASE IN TOP PATROLMEN SALARY FROM PRIOR YEAR WITHOUT LONGEVITY**

Municipality	2006	2007	2008	2009
Lincoln Park	\$3483	\$3683		
Harding Twp*	\$3271	\$3403	\$3539	
Chatham Twp	\$4400	\$4000	\$4000	\$4000
Rockaway Twp	\$3922	\$3169	\$3296	\$3425
Denville Twp+	\$2981	\$3093	\$3210	\$3330
PBA++	\$4082	\$3609	\$3977	\$4155
<b>Award</b>	<b>\$3816</b>	<b>\$3384</b>	<b>\$3520</b>	<b>\$3661</b>

- \* holiday pay rolled into base 2005
- + 3.75% each year
- ++ \$675. (uniform maintenance allowance) @ 4.25% (2006, 2007), @ 4.5% (2008, 2009) plus \$50.00 2007-2009

Over the term of the Agreement the Township proposed to increase the top patrolmen salary by \$12,614.00, while the PBA proposed a \$15,523.00 increase for the same time period. I awarded \$14,381.00 for the top patrolmen salary for 2006-2009

The Township also introduced a document labeled as Ex. 24(b) that shows the settlement rate for all 2003-2005 Agreements

**TOWNSHIP OF DENVILLE BARGAINING UNITS  
PERCENT SALARY INCREASES FOR 2003-2005**

BARGAINING UNIT	2003	2004	2005
PBA Local 1412, 2002-2005	4%	4%	4.5%
Public Works Employees' Association, 2002-2005	4.0%	4.0%	4.5%
Public Works Supervisors Association, 2002-2005	4.0%	4.0%	4.5%
Denville Township Employees' Association, 2002-2005	3.75%	3.75%	4.0%
Denville Township Supervisory Employees' Association	3.75%	3.75%	4.0%

As Arbitrator William Weinberg stated supra, (see pages 12/13 of this Award):

*The weight given to the standard of comparable private employment is slight, primarily because of the lack of specific and obvious occupational categories that would enable comparisons to be made without forcing the data.*

*... the greatest weight is allocated to comparison of employees in this dispute with other employees performing the same or similar services and with other employees generally in public employment in the same or similar comparable jurisdictions.*

Thus, any comparisons or analysis of private sector settlements are really not comparable, and I shall not give any weight to that sub-criteria.

A review of the current United States Department of Labor, Bureau of Labor Statistics current data shows that the CPI increased 3.3% for all of 2006 and that the employment for the northeast region of the United States increased 0.8% for the fourth quarter of 2006.

The 3.3% rise in the Consumer Price Index for all urban consumers (CPI-U) for the greater New York area compared with a 3.6% rise in 2005. The area's inflation rate for 2006 reflected an easing in the pace of increase in energy prices which rose a double-digit rate in both 2004 and 2005. Core inflation as measured by all of the items, less the food and energy index, rose 3.7% for the twelve months ending in December 2006, up from 2.5% in 2005, marking the largest year-end increase in 13 years. Most of the acceleration in the core index in 2006 reflected sharper increases in the shelter sector, which rose 6.5% in the year ending December 2006 as compared with a 3.4% advance in the prior year.

The data submitted by the Township shows that for 2004 (see Twp Ex 24(b), the settlement with the PBA unit and two other public employee units in Denville was 4%, while the average salary increase from the PERC data for 27 awards was 4.05% and with 55 reported voluntary settlements, the average salary increase was 3.91%. In 2005, the Township settled for 4.5% with the PBA unit and two other public employee units in Denville. During the calendar year of 2005, the PERC data shows that 11 awards were issued with an average salary increase of 3.96% and 54 voluntary settlements which resulted in a 3.94% percentage increase for those voluntary settlements. That data does show that the Township settles either at close to or above the PERC settlement rates.

The Township has submitted data to show that in 2005, out of 34 municipalities Denville ranked sixth for top patrolman salary. In 2006, with 25 of 34 reported settlements Denville ranked seventh (7<sup>th</sup>) with the Township's proposal of 3.75%.

In 2007, with 22 of 34 reported settlements, the Township's proposal of 3.75% would rank Denville ninth (9<sup>th</sup>). For 2008, Denville would rank second (2<sup>nd</sup>) with the Township's 3.75% proposal with only 9 out of 34 reported settlements. In that year, Harding Township settled for 4% and Chatham Township settled for 4.7%.

Private sector settlements in general show that the PBA's proposal substantially exceeds the average salary increase in the private sector. The Township's proposal, while more in line than the PBA, is not at the same level as the private sector settlements. I have determined that my award, while somewhat higher than the private sector settlements in general, is acceptable when viewed in totality of my award and, in particular, with the new Salary Guide that I have awarded. That new Salary Guide is a substantial savings to the Employer.

The Township's settlement rate with the other public employee units shows a pattern that they have adhered to during the last agreement time period of 2003 through 2005.

Both parties submitted data on public sector wage increases and, in particular, for police officers. Both parties presented comparisons with other police officers in contiguous/adjacent communities. When those types of comparisons are used, the parties approach those comparisons with a different goal in mind. The PBA presented what the percentage increases would be, while the Township presented what the salary increases would be. The municipalities which are unsettled definitely will have an

impact upon what the average settlements will be. However, my award is consistent with the types of settlements that are occurring in the surrounding communities. My award also does not have a detrimental financial impact upon the Township.

Accordingly, I find that the increases which I have awarded are higher than what the Township had proposed and lower than what the PBA had proposed, but that my award is in line with the financial base of the Township. Moreover, my award is consistent with the sub-factor requiring comparisons of wages, hours and conditions of employment of employees performing the same services in comparable jurisdictions.

### **OVERALL COMPENSATION**

#### **Health Insurance**

The Township is enrolled in the New Jersey State Health Benefits Plan (N.J.S.H.B.P.). The data submitted by the Township for health insurance shows that Netcong and Washington Township are also in the New Jersey State Health Benefits Plan. In support of its proposal the Township relies upon the Arbitration Award of Robert Glasson in the Borough of Leonia, Docket No.: IA-2004-053. . Arbitrator Glasson awarded a 10% premium sharing for dependent coverage provided the uniformity provisions of the N.J.S.H.B.P. are adhered to. That simply means that where the Employer does not pay 100% of dependent coverage, all employees must pay the same percentage for dependent coverage.

The Township proposed that employees pay 10% of the total premium for dental and 10% of the dependent coverage for medical benefits. The Township also proposed that the prescription co-pay be increased from \$5.00 generic and \$6.00 brand to \$10.00

generic and \$15.00 brand. The PBA rejects any change in the prescription co-pays and rejects any premium co-sharing.

The data submitted by the Township shows that employees employed by the County of Morris (there are five bargaining units) of January 1, 2003, would pay 5% of the total premium and that amount would increase to 20% annually thereafter. Of the other two communities enrolled in the N.J.S.H.B.P., Netcong Borough provides insurance without cost to the employees in the least expensive plan. If an employee opts for a higher paying plan, the employee pays 100% of the difference. In Washington Township, employees shall pay contributions to the N.J.S.H.B.P. if and when permitted by law. Washington Township is on the same page as the Leonia Award from Arbitrator Glasson.

The data submitted by the Township shows that in Mt. Olive, effective January 1, 2006, employees contribute \$350.00 per year toward the cost of premiums. Effective January 1, 2008, the amount increases to \$400.00 per year. In Rockaway Township, effective January 1, 1998, employees contribute \$15.00 per month toward health insurance coverage.

In the Borough of Florham Park, employees hired on or after January 1, 1999 pay for medical and dental at the rate of \$67.57 per month for employee to \$150.73 for family coverage. The data does not break down the medical and dental costs.

After reviewing all of the documents in evidence, I have determined that the Township's proposal to require employees to pay 10% of dependent coverage for medical benefit is not justified based upon the data submitted. With respect to dental coverage, I don't find that the Township's proposal that police officers pay 10% of the

total cost of the premium of this coverage should be awarded. I do not find that the data submitted is supportive of the position advanced by the Township. I agree with the Township's position on the prescription co-pay. I shall award, effective thirty (30) days from the date of the issuance of this Award, that the prescription co-pay be increased to \$10.00 for generic and \$15.00 for brand with a \$0 mail order component.

Township Ex. 37 shows the savings to the municipality for all employees if this proposal were to be awarded. Using Township Exs. 33-36, I have determined that there are 135 employees in the Township. The cost of the prescription coverage for the PBA bargaining is \$9,191.26 per month or \$110,295.12 per year.

Township Ex. 37 shows that the savings to the municipality by changing the prescription co-pay to \$10/\$15/\$0 as of 2007 would be \$50,371.52. With 135 employees the Township's savings for that prescription change would be \$373.00 per employee. For the PBA unit, that would be approximately \$11,936.00. In 2008, the Township would save \$55,016.40. The cost containment per employee would increase to \$408.00, and the annual savings for the PBA unit would be \$13,056.00. In 2009, the Township would save \$60,518.04. The cost containment per employee would increase to \$448.00 and the annual savings for the PBA unit would be \$14,336. The total cost containment to the Township for the period of January 1, 2007, through December 31, 2009, is approximately \$165,905.96. The \$39,328.00 for PBA unit represents approximately 24% for that time period.

The Township has also proposed that employees who decline coverage will be eligible to receive a cash payment equivalent to 30% of the cost of the premiums. This is a cost savings device for the Employer with the caveat that an employee must show

that they have alternative coverage. I shall award the Township's proposal to grant a 30% cash payment of the total cost of health insurance premiums. Township Ex. 33 shows that the monthly cost to the Township for a family plan with Traditional coverage is \$1,998.82 or an annual cost of \$23,985. If any PBA unit member with the Traditional Plan opted for this provision, they would receive \$7,194.00. In this case, the Township would save \$16,791.00. For an employee with NJ Plus family coverage the monthly cost for the Township is \$1,480.08 or an annual cost of \$17,770.56. If any PBA unit member with the NJ Plus Plan opted for this provision, they would receive \$5,331.00. The savings to the Township would be \$12,439.56. This is a realistic method for the Township to further reduce its health care costs. The savings to the Township can be increased if dental and prescription coverage are factored into this provision. The effective date shall be thirty (30) days from the date of this Award.

**Longevity**

The Township seeks to eliminate longevity prospectively for employees hired as of January 1, 2006. Conversely, the PBA seeks to eliminate Schedule A and incorporate all of Schedule A into Schedule B and increase Schedule A by \$1,000.00 at four different increment levels of longevity. The current longevity provision for other Township employees with 25 years of service is as follows:

Public Works Employees Association    \$1,545.00

Public Works Supervisors Association    \$1,545.00

The other two municipal employee groups do not have longevity increments.

The PBA's current longevity increment is more than double that of any other Township employee. While I recognize that the top amount of \$3,487.00 has not been

increased since January 1, 2002, there is no justification for increasing that rate at the present time.

Township Ex. 13 shows that in 2005 a top of the guide patrolman after ten (10) years in Denville receives a \$2,082.00 longevity increment. For 2005, the County average was \$1,312.00 and Denville is \$770.00 above that average. In fact, in 2005 there are five municipalities with a \$2,000+ longevity increment; three with a \$3,000+ longevity increment and one with a \$4,000+ longevity increment. If that \$2,082.00 longevity increment remains constant through 2008 for a top of the guide patrolman after ten (10) years, that increment is still \$412.00 above the County average of \$1,670.00.

Moreover, the Township's proposal will eliminate stability in the work force and will be in opposition to Criteria #8 – Continuity and Stability of Employment.

The Township's proposal is not justified in light of the impact it will have on continuity and stability of employment, and I shall not award that proposal. The PBA's proposal is substantially higher than what the average would be in Morris County, and I do not find any justification for awarding that proposal.

Accordingly, both proposals are rejected and the status quo shall remain in effect.

### **Educational Benefits**

The PBA proposes to change the ninth (9<sup>th</sup>) year rate of \$2,710.00 to \$3,500.00, which is an increase of \$790.00 per year or \$3,160.00 over the life of the Agreement. That represents an additional cost to the Township that I do not believe is justified at this time. Currently, there are four officers with Masters Degrees and 21 with Bachelors

Degrees. The PBA proposal would increase the cost to the Township for all twenty-five (25) who have advanced degrees by \$19,750.00 annually or \$79,000.00 over the duration of the Agreement. The Township proposes to prospectively eliminate payment for undergraduate degrees. I don't find support for either proposal. The Township's proposal would establish a two-tier system for educational benefits. The parties agreed to educational benefits as part of the terms and conditions of employment and the financial package. To change that now to say that any newly hired police officer should not take courses to receive either a BA or an MA is simply not justified. Accordingly, both proposals are rejected and the status quo shall remain in effect.

### **Vacations**

I shall award the PBA's proposal that employees covered by this Agreement shall be entitled to carry over one year of vacation. However, the current Agreement which states:

*"After 19<sup>th</sup> year – 25 days plus one day per year for each year in excess of 19 years, up to a maximum of 30 days".*

I am not awarding any modification in that provision and it shall remain at the status quo.

### **Uniform Maintenance Allowance**

I shall award the elimination of the uniform maintenance allowance from the Agreement and roll it into the base pay as I have previously done within the salary section in my award.

### **Salary Guide**

The new Salary Guide attached herein as Appendix A produces a significant savings for the Township. The overall compensation package received by the PBA is appropriate for the unit. Comparisons with other units throughout the County clearly establish that clothing, holiday pay and vacation pay are all part of those particular bargaining units as evidenced by Township and PBA exhibits. Nothing was presented to suggest that the current economic package was unduly rich requiring me to make adjustments to that current package. The new salary guide, increased prescription co-pays and the opt out medical coverage incentive provides cost containment for the Township.

### **STIPULATIONS**

There were no stipulations between the parties.

### **LAWFUL AUTHORITY OF THE EMPLOYER**

This criterion requires the Arbitrator to consider the limitations imposed by the CAP Law as well as any limitations on the authority of the Employer. The Township argues that its lawful authority is statutory and that it is constrained by the limitations of the CAP Law so that increases do not exceed 2.5%. If action is taken by the governing body to increase the final appropriation subject to the CAP Law, the maximum increase cannot exceed 3.5% for each year of the contract. The Township readily admits that both parties have advanced economic proposals which are in excess of that figure. However, the Township argues that its proposal is the more reasonable one and should be awarded because of the impact the PBA's proposal will have upon the Township.

The PBA argues that an analysis of the Township's documents shows that at the conclusion of 2004, the result of operations was that Denville had a surplus of

\$2,608,000.00. For 2005, that number increased by almost \$400,000.00 to \$2,992,000.00. (See Annual Financial Statement, Sheet 19).

The PBA argues that Denville has had a positive experience the last two years. In 2004, the excess revenues were \$2,072,000.00. In 2005, Denville successfully realized excess budget revenues of \$2,284,000.00.

In analyzing the municipal budget, when one subtracts expenses from revenues and a positive result occurs, that is known as surplus. It is non-dedicated revenue which can be used by the municipality for any lawful purpose.

The data submitted clearly establishes that Denville has no financial limitations on its ability to fund my Award. As evidence by the 2005 report of audit, the Township has a positive fund balance. A fund balance is excess funds available for use as revenue in the budget to permit the reduction of the tax levy. That fund balance has a significant impact on the tax levy. If that fund balance is sufficient to provide its use as revenue in the budget, the tax levy goes down.

The data submitted shows that Denville, for the period of 2004 through 2005, used 56% to 57% of the fund balance as revenue and was able to maintain over \$2,000,000.00 in the fund balance after this amount was used as revenue. Additionally, and very significantly, for the three year period of 2003-2005, the tax collection rates were 97.89%, 98.42%, and 98.71% respectively. The State tax collection rate is 93% and Denville is above that tax collection rate.

Employer Ex. 38 establishes that the CAP cannot exceed a maximum of 3.5%, which I believe the Township has complied with. My understanding of municipal finance law is that CAP bank balances for 2004 and 2005 may be available for use in 2006.

Denville's 2.5% CAP for 2006 is equivalent to \$277,574.00. Accordingly, I do not find that there is any CAP limitation which would affect my Award. There was nothing presented to suggest that the Township faces limits on its lawful authority or that it will face such limits as a result of this Award.

**THE FINANCIAL IMPACT ON THE GOVERNING UNIT,  
ITS RESIDENTS, AND TAXPAYERS**

The data submitted supports my award in the instant matter. By establishing a new salary schedule for newly hired police officers effective January 1, 2006, the Borough has a significant savings that will only compound itself throughout the course of this Agreement and into future Agreements. Additionally, the change in prescription co-pay reduces the Employer's health insurance costs. There was no evidence presented that the terms of my Award will require the Township to exceed its lawful authority or impose any financial constraints upon the residents. The data submitted shows that from 2001 through April of 2006, there were 465 new residential units in the Township. The average residential sales price for 2005 was \$410,637.00. (See [www.nj.com](http://www.nj.com)). As previously indicated under Lawful Authority of the Employer, the tax collection rate in Denville is higher than the statewide average. Denville has a solid financial base for funding my Award and I do not see any financial impact/impediment to funding this Award. The data submitted shows that the Township has a very sound, well thought out financial management program and has created and maintained appropriate reserves. This is attributed to the conservative and responsible financial management in the Township.

Based on the evidence in the record, I conclude that the award's financial impact will not adversely affect the governing unit, its residents and its taxpayers.

### COST OF LIVING

Arbitrators must analyze increases in the cost of living as they relate to the proposals submitted by both parties. The increase in the Consumer Price Index (CPI), as published by the United States Department of Labor, Bureau of Labor Statistics for the New York/Northern New Jersey Area shows the CPI-U increased by 3.6% in 2005. The CPI-U rose 3.3% for 2006. The Township Ex 24 (b) shows that while the CPI-U was at 3.6%, the parties agreed to a 4.5% salary increase.

In fact, for the three year period from January 1, 2002, through December 31, 2005, the CPI rose at the following level:

Year	CPI-U	Settlement	Difference
2003	3.1%	4.0%	0.9%
2004	3.2%	4.0%	0.8%
2005	3.6%	4.5%	1.2%

Moreover, Township Ex. 24(b) reveals that for 2005, the Public Works Employees' Association and the Public Works Supervisors' Association also received a 4.5% increase.

I conclude that the awarded base salary increases, while marginally higher than the increase in the cost of living in 2006, actually provides for an increase in real earnings that must be measured against the continued delivery of quality service by the Township's police officers.

## **CONTINUITY AND STABILITY OF EMPLOYMENT**

I do not believe that this Award will cause police officers to leave the Township because of their salary or overall compensation nor do I believe that this award will cause the Township to reduce the level of police or other municipal employees. Nothing has been presented to challenge those two positions. Therefore, I am convinced that the continuity and stability of employment will not be jeopardized by this award.

### **SUMMARY**

I have carefully considered the evidence and arguments of the parties in relation to the statutory criteria. I am mindful that the award does not interfere with the lawful authority of the Employer and furthermore, the award is consistent with the public interest and will not have any deleterious impact on the governing unit or its residents and taxpayers.

Accordingly, I hereby issue the following award:

## **AWARD**

### **1. Term of the Agreement:**

There shall be a four (4) year agreement effective January 1, 2006 through December 31, 2009.

### **2. Salary:**

A new salary schedule is attached herein as Appendix A.

- a. All steps and ranks on the 2005 salary schedule shall be increased by 3.95% plus the \$650.00 uniform maintenance allowance shall be rolled into the base pay, effective January 1, 2006.
- b. All steps and ranks in the 2006 salary schedule shall be increased by 4% plus \$50.00 effective January 1, 2007.
- c. All steps and ranks in the 2007 salary schedule shall be increased by 4% plus \$50.00 effective January 1, 2008.
- d. All steps and ranks in the 2008 salary schedule shall be increased by 4% plus \$50.00 effective January 1, 2009.
- e. All salary increases are fully retroactive to January 1, 2006.

### **3. Uniform Maintenance Allowance:**

Eliminate the uniform maintenance allowance from Section 7(c) of the Agreement and incorporate the \$650.00 into base pay for 2006.

4. **Prescription Co-Pay:**

Within thirty (30) days from the date of this award, increase the prescription co-pays to \$10.00 for generic, \$15.00 for brand with a zero mail order component.

5. **Medical Insurance Opt Out**

Within thirty (30) days from the date of this award, employees who decline medical coverage would receive 30% of the cost of medical premiums. Any employee who participates in this opt out must show proof of alternate medical coverage on an annual basis. The parties may include dental and prescription coverage in this opt out provision.

6. **Vacation:**

Add the following to Section 11. All employees covered by this Agreement shall be entitled to carry over one (1) year of vacation.

This provision does not modify the current language that allows an employee to receive twenty (20) days plus one day per year for each year in excess of nineteen (19) years up to a maximum of thirty (30) days.

7. **Salary Guides**

The issue of the salary structure as presented in Appendix A is remanded back to the parties if they wish to modify any aspect of said guides. I shall not retain jurisdiction on the matter of the salary schedule.

## CURRENT GUIDE

Months, Time In Grade		2005
Patrol Officer	0-12	\$54,480
	13-24	\$63,204
	25-36	\$67,216
	37-48	\$71,646
	49-60	\$76,003
	Over 60	\$79,508
Sergeant	0-12	\$83,448
	13-24	\$87,416
	25-36	\$91,301
Lieutenant	0-12	\$95,266
	13-24	\$99,205
	25-36	\$103,224

*"Effective January 1, 1993, there shall be established an "Academy" rate equivalent to ninety (90%) percent of Step 1 of the probationary patrolmen rate (indicated as 0-12 month rate in Schedule A). This rate shall apply to newly hired officers while the officer is attending a police academy at municipal expense and shall in no event extend beyond six months from the date of hiring. The academy rate shall not apply to a newly hired officer who is not required to attend a police academy.*

*The application of the Academy rate shall not result in a deferral of the movement to the second step (13 to 24 months) upon the 13<sup>th</sup> month from the date of hiring." This language remains in effect during the term of the 2006-2009 Agreement.*

## APPENDIX A

Column A is for employees hired prior to January 1, 2006, and B is for those hired after  
January 1, 2006.

<u>2006</u>	<u>A</u>	<u>B</u>	<u>Difference</u>
0-12	57308	47500	9808
13-24	60376	55182	11194
25-36	70547	62865	7592
37-48	75152	70547	4605
49-60	79681	75152	4529
61-72	83324	79681	3463
Over 72		83324	
 <u>2007</u>			
0-12	59652	49844	9808
13-24	69083	57890	11194
25-36	73420	65827	7592
37-48	78210	73605	4605
49-60	82920	78391	4592
61-72	86708	83245	3463
Over 72		86708	
 <u>2008</u>			
0-12	62090	52282	9808
13-24	71898	60704	11194
25-36	76408	68816	7592
37-48	81390	76785	4605
49-60	86289	81760	4529
61-72	90228	86765	3463
Over 72		90228	
 <u>2009</u>			
0-12	64626	54816	9808
13-24	74825	63632	11194
25-36	79516	71924	7592
37-48	84698	80091	4605
49-60	89793	85264	4529
61-72	93889	90426	3463
Over 72		93889	

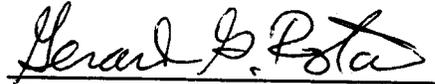
Sergeant:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
0-12	87420	90969	94660	98499
13-24	91545	95258	99121	103138
25-36	95583	99456	103487	107678

Lieutenant:

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
0-12	99705	103745	107947	112317
13-24	103799	108002	112375	116922
25-36	107977	112348	116894	121622

Dated: March 15, 2007

  
Gerard G. Restaino, Arbitrator

State of Pennsylvania )

County of Wayne) ss:

On this 15<sup>th</sup> day of March, 2007, before me personally came and appeared GERARD G. RESTAINO to me known to be the person who executed the foregoing document and he duly acknowledged to me that he executed the same.



COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Judith K. Restaino, Notary Public  
Lake Twp., Wayne County  
My Commission Expires Nov. 10, 2009

Member, Pennsylvania Association of Notaries