

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**  
**Case No: IA-2015-007**

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**In the Matter of the Interest Arbitration between:**

**TOWNSHIP OF ROCKAWAY,**

**PUBLIC EMPLOYER**

**and**

**ROCKAWAY TOWNSHIP FOP LODGE #31  
(Non-Supervisory Personnel) and  
ROCKAWAY TOWNSHIP FOP LODGE #31  
(Superior Officers)**

**EMPLOYEE ORGANIZATIONS**

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**BEFORE:** **Ira Cure, Esq.  
Interest Arbitrator**

**APPEARANCES**

For the Union:  
Richard D. Loccke, Esq.  
Loccke, Correia & Bukosky

For the Employer:  
Thomas N. Ryan  
Laddey, Clark & Ryan,LLP

**INTEREST ARBITRATION  
DECISION and AWARD**

## **PROCEDURAL BACKGROUND**

On January 29, 2015, Rockaway Township ("Township") filed a Petition to Initiate Compulsory Interest Arbitration ("Petition") with New Jersey's Public Employment Relations Commission ("PERC"). By filing the Petition, the Township asked PERC to appoint an Interest Arbitrator pursuant to *N.J.S.A. 34:13-16(e)(1)* to make an Award concerning successor collective negotiation agreements ("CNA") with Rockaway Township FOP Lodge #31 (non-supervisory personnel) (Joint Ex. 1) and Rockaway Township FOP Lodge #31 (superior officers) (Joint Ex. 2) (together the "Union"). On February 9, 2015, pursuant to PERC's random selection procedures, I was appointed to serve as Interest Arbitrator. The statute requires that an award be issued within 90 days of my appointment.

Pursuant to *N.J.S.A. 34:13-16(b)(3)*, on February 26, 2015, I conducted a mediation session with the parties in order to "effect a voluntary resolution of the impasse." At that session, it was determined that the impasse should proceed to Interest Arbitration. Both parties submitted their final offers by March 10, 2015. On April 2, 2015, I conducted an arbitration hearing at the Municipal Offices of the Township located at 65 Mount Hope Road, Rockaway, New Jersey. The Township and the Union submitted documentary evidence and testimony. Police Officer John Reilly ("Reilly"), a member of the Union's negotiating committee, was the primary witness for the Union. Business Administrator Gregory Poff was the primary witness for the Township.

Post hearing briefs were filed on April 14, 2015. Richard D. Loccke, Esq. of the firm of Loccke, Correia & Bukosky represented the Union. Thomas N. Ryan of the firm of Laddey, Clark & Ryan, LLP represented the Township.

Both parties were afforded a full opportunity to examine and cross-examine witnesses, submit evidence, and present arguments in support of their respective positions. The evidence adduced and the positions and arguments set forth by the parties have been fully considered in preparation and issuance of this Interest Arbitration Decision and Award.

### **STIPULATIONS OF THE PARTIES**

Immediately prior to the commencement of the hearing in this case, the Association and the Township stipulated and agreed to Union Proposal 4 which states:

Article VIII, Third Party Assignments - The Union proposes a deletion of the last sentence in paragraph 10 (page 19). This is a non-economic position and was set forth in the Union's Proposal Sheet at Proposal #2.

This proposal concerned administrative fees paid by third parties seeking to hire Township Police Officers for limited engagements. Article 8 § 10 (Joint Ex. 1) concerns the hourly rate of pay for officers assigned to work for third parties. The sentence that will be eliminated states: "[s]hould a third-party contractor honor an hourly rate less than this value [\$55.00], the Township will make up the difference."

In addition to entering into this stipulation, the Union and the Township agreed to the census for both bargaining units. The parties also agreed that all of the members of both bargaining units are at the top steps of their respective salary guides, and therefore step movement is not an issue in this proceeding.

Finally, a number of proposals put forth by the Township were made in direct response to proposals made by the Union. The Union subsequently withdrew some of these proposals or those proposals were the subject of a stipulation, and it will not be necessary to analyze those proposals in this Decision and Award.

Below are the final proposals of both the Union and the Township. Proposals not discussed in this Decision and Award because they were withdrawn by the Union are marked with an asterisk (\*).

## **FINAL OFFERS OF THE PARTIES**

### **I. THE FINAL OFFER OF THE UNION**

1. The Union proposes a three (3) year contract term (January 1, 2015 through December 31, 2017).
2. The Union proposes a 1.8% across-the-board wage increase for all ranks, steps and positions effective on each successive January 1 for the three (3) year contract term.
3. Uniforms - The Union proposes a modification of the current uniform allowance (\$750.00) by increasing the amount by Fifty Dollars (\$50.00) in each successive year over the three (3) year term (\$800.00, \$850.00, \$900.00).
4. Article VIII, Third Party Assignments - The Union proposes a deletion of the last sentence in paragraph 10 (page 19). This is a non-economic position and was set forth in the Union's Proposal Sheet at Proposal #2.\*

### **II. THE FINAL OFFER OF THE TOWNSHIP**

#### **1. WAGE INCREASE:**

- a. The Township proposes a wage increase of 1.0%, 1.0%, 1.25%, and 1.25% for four years without compounding.
- b. The Township proposes to eliminate any step referring to Detective.
- c. The Township proposes increasing the number of steps from six to eighteen.

#### **2. ARTICLE VIII, THIRD PARTY ASSIGNMENTS (FOP Contract, page 18/SOA Contract, page 17)**

The Township does not agree to delete the last sentence of paragraph 10. Should no officer accept third party work for the Township the Township may use Class II Special Officers for said work\*<sup>1</sup>.

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<sup>1</sup> As noted above where the Township's proposal is in direct response to a proposal withdrawn by the Union or has been subject to a stipulation, that proposal will be marked by an Asterisk (\*) and not discussed in the body of this Decision and Award.

**3. ARTICLE IX, LONGEVITY (FOP Contract, page 20/SOA Contract, page 19)**

- a. The Township does not agree to an additional longevity step\*.
- b. The Township proposes to eliminate longevity for officers hired after January 1, 2015.

**4. ARTICLE X, EDUCATIONAL BENEFITS (SOA Contract, Page 20)**

The Township does not agree to delete the exclusions set forth in Paragraph E and F of the Article\*.

**5. ARTICLE XIII, UNIFORM REPLACEMENT (FOP Contract, page 26/SOA Contract, page 26)**

The Township proposes to delete the uniform maintenance allowance.

**6. ARTICLE XV, SICK LEAVE (FOP Contract, page 31/SOA Contract, page 30)**

- a. SOA Contract – The Township proposes to modify paragraph F, subparagraph (b) to read, “Reimbursed sick/vacation time will be payable within ninety (90) days after the final budget approval by the Rockaway Township Council.”
- b. The Township proposes to amend Paragraph F to include, “Employees hired after January 1, 2015 shall not be paid for unused sick time upon cessation of employment with the Township of Rockaway.”

**7. ARTICLE XVI, VACATIONS (FOP Contract, page 34/SOA Contract, page 34).**

The Township proposes to add language that “Employees who do not use all of their vacation time allowance may add their unused days to their allowance for the following year. However, if these days are not used in the second year, they will be forfeited.”

**8. ARTICLE XVII, HOLIDAYS (FOP Contract, page 35/SOA Contract, page 35)**

The Township will enforce the clear and unambiguous language that holidays, “**shall be taken** as part of their vacation time **during the current year of the contract**” OR add language that “Employees who do not use all of their holiday time allowance may add their unused days to their allowance for the following year. However, if these days are not used in the second year, they will be forfeited.”

**9. ARTICLE XVIII, HOSPITALIZATION AND MEDICAL BENEFITS (FOP Contract, page 36/SOA Contract, page 36)**

a) Effective the first full month following execution of this agreement the co-payment for the Prescription Plan is as follows:

- Retail pharmacy copayments for up to a 30-day supply are \$3.00 for generic drugs; \$10.00 for brand name prescription drugs without generic equivalents; and \$20.00 for brand name prescription drugs where a generic equivalent is available.

- Mail order copayments for up to a 90-day supply are \$5.00 for generic drugs; \$15.00 for brand name prescription drugs without generic equivalents; or \$30.00 for brand name prescription drugs where a generic equivalent is available.

b) The Township proposes that members shall co-pay a percentage in accordance with the provisions of Chapter 78 for ancillary medical package (vision and dental) through payroll deduction.

c) Employees hired after January 1, 2015, shall contribute the total premium cost in order to continue to receive health benefits upon retirement.

d) Surviving spouse and/or eligible dependent of an employee hired after January 1, 2015 shall contribute the total premium cost in order to continue to receive health benefits.

e) The Union is willing to reopen negotiations specific to Article XVIII, Hospitalization and Medical Benefits if the Township is subject to increased costs as a result of the implementation of the Affordable Care Act excise tax provisions.

**10. PERSONAL LEAVE**

The Township does not agree to provide two (2) annual personal days to each member\*.

**11. MEMORANDUM OF AGREEMENT (dated March 7, 1995)**

The Township proposes to amend the MOA allowing for alternative 12 hour schedules to be implemented by the Chief of Police. The negotiation, adoption, and/or implementation of any alternative 12 hour schedule do not render work schedules the subject of negotiations by and between the Township and the Union. Work schedules remain the prerogative of the Chief of Police.

**REVISED STATUTORY CRITERIA**

In rendering my award, I am bound to apply the criteria set forth at N.J.S.A. 34:13-

16(g) which provides:

The arbitrator shall decide the dispute based on a reasonable determination of the issues,

giving due weight to those factors listed below that are judged relevant for the resolution of the specific dispute. In the award, the arbitrator or panel of arbitrators shall indicate which of the factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor; provided, however, that in every interest arbitration proceeding, the parties shall introduce evidence regarding the factor set forth in paragraph (6) of this subsection and the arbitrator shall analyze and consider the factor set forth in paragraph (6) of this subsection in any award:

1. The interests and welfare of the public. Among the items the Arbitrator or panel of Arbitrators shall assess when considering this factor are the limitations imposed upon the Employer by *P.L. 1976, c.68 (C.40A:4-45.1 et seq.)*.
2. Comparison of the wages, salaries, compensation, hours, and conditions of employment of the Employees involved in the arbitration proceedings with the wages, salaries, compensation, 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., c. (C.)* (now pending before the Legislature as this bill); provided, however that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the Arbitrator's consideration.
  - (d) In comparative private employment.
  - (e) In public and private employment in general.
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 *P.L. 1976, c.68 (C.40A:4-45.1 et seq.)*.
6. The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the Public Employer is a county or a municipality, the Arbitrator or panel of Arbitrators shall take into account, to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax: a comparison of the percentage of the municipal purposes element or in the case of a county, the county purposes element required to fund the employees contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers of the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services (b) expand existing local programs and services for which public monies 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 the public service and in private employment.
9. Statutory restrictions imposed on the Employer. Among the items the Arbitrator or panel of Arbitrators shall assess when considering this factor are the limitations imposed upon the Employer by Section 10 of *P.L. 2007, c.62 (C.40A:4-45.45)*.



## **BACKGROUND**

The Township is located in northern Morris County and has a nighttime population of 24,156. The Township is approximately 45.55 square miles. (Township Ex. 45). Although the Township is predominantly a bedroom community, its population grows to over 200,000 during the day. This increase in population is a result of significant commercial activity within the Township's borders including Rockaway Market Place, a large mall. In addition, the Township is traversed by major roadways including Interstate 80 and Route 15. (Union Ex. 2).

The Township's police department presently employs 48 sworn officers. There has been a reduction in the number of sworn officers. In 2005, the Township employed 55 sworn officers. In 2010, the Township employed 57 sworn officers. (Union Ex. 2). All sworn officers are at the top of their respective pay grades and there are presently no plans to hire additional officers.

The Township recognizes two bargaining units for its police officers. Both units are represented by the Union. Both of the previous collectively negotiated agreements were in effect for the period January 1, 2010 to December 31, 2014. One bargaining unit comprises "all Uniformed and Non-Uniformed Police Officers and Sergeants, excluding all police personnel above the rank of Sergeant." (Township Ex. 13, Article II A). The second bargaining unit recognizes FOP Lodge 31 "as the exclusive collective negotiating agent for all Police personnel holding the rank of Lieutenant, Captain and Deputy Chief, excluding all police personnel below the rank of Lieutenant." (Township Ex. 14, Article II A). At present, there is an Acting Chief of Police. The Chief is excluded from the bargaining units.

In 2014, the Township's sworn officers responded to 36,126 calls for service. (Union Ex. 4). A call for service is defined as police activity in response to a call that is made to Headquarters requiring an officer to be dispatched. These calls included certain posts, such as the Speed Suppression Detail, which require continuous monitoring. In addition, during the course of a year there are a number of officer initiated stops which are not counted in the above statistic.

Officer Reilly characterized the Police Department as having a high degree of professionalism and productivity. He noted that the members of the Department had good relationships with the public and the officers had *esprit de corps*. This testimony was un rebutted by the Township.

### **THE TOWNSHIP'S FINANCES**

Both the Township and the Union presented testimony and documentary evidence concerning the Township's finances. The Township notes that property taxes are the primary source of the Township's operating revenue, and that the Township's reliance on property taxes as a percentage of total operating revenue has increased from 71.5% in 2009<sup>2</sup> to 77.95% in 2014. The Township also points out that revenues have been reduced since 2009 as a result of: the loss of \$1,700,000 in state aid; \$4,100,000 in tax refunds; and a \$781,000,000 decline in assessed property values. (Township Ex. 45 slides 7 and 9).

In contrast, the Union argues that the Township is on a very strong financial footing. The Union points out that the Township's February 10, 2015, *Annual Financial Statement* states that the Township's net value of taxable properties or the ratable base was

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<sup>2</sup> The Township selected 2009 as the point of comparison because that was the last budget year prior to the implementation of the current collectively negotiated agreements.

\$3,568,973,800. (Union Ex. 19). The Union notes that the Township's ability to collect taxes is well above the State average. The record shows that, since at least 2011, the Township received on time collections of taxes at a rate of over 98%. In 2014, the Township timely collected 98.78% of its taxes. (Union Ex. 19, Sheet 22, Line 13, Township Ex. 43, p.14). The Union points out that, in its 2015 Municipal Budget the Township only anticipates collecting 96.8% of its Tax Levy in 2015, and this difference (98.78% – 96.8%) on the total Tax Levy of \$ 107,215,628.00 equals \$ 2,144,312.00<sup>3</sup>. (Union Ex. 19, Sheet 22, Line 5).

The Union asserts that the amount of wages paid to its members is reasonable in relationship to the Township's Tax Levy. The Union notes that the amount of base wages paid to members of the bargaining units totals \$5,650,149.00 and that represents only 5.26% of the Tax Levy of \$107,215,628.00.

In addition to the Tax Levy, the Union notes that Township has other sources of income, including Municipal Court fines, which are anticipated to generate \$350,000.00 in fiscal year 2015. The Township has a contract with the Rockaway Town Mall ("Mall") to provide public safety services (including police and other emergency services). For the period July 1, 2014 to June 30, 2015 the Mall paid \$395,000.00. This amount is contractually reduced each year by five or ten thousand dollars. In the final year of the contract ending June 30, 2019, the Mall will pay the Township \$360,000.00<sup>4</sup>. (Union Ex. 22).

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<sup>3</sup> The Union also notes that the Township's contentions concerning its financial viability is undercut by the fact that the Township underwent a revaluation in 2013.

<sup>4</sup> The Union notes that originally the Police Department assigned officers permanently to the Mall, and now *police officers are taken from other assignments to answer calls at the Mall.*

The Union also contends that the Township has a very a conservative budgeting process. The Union maintains that the Township operates at a surplus, and consistently underestimates the size of its annual surplus. The Union points out that the 2015 Municipal Budget (Union Ex. 21, sheet 39) shows that the Township generated a surplus of \$5,511,210.71, as of December 31, 2014. In addition, the 2015 Municipal Budget anticipates a budget surplus of \$3,957,556 leaving a balance of \$1,553,664.71. The Union notes that Mr. Poff admitted on cross examination, that this was a cash surplus balance, and that the Township had consistently maintained such cash surplus balances. Mr. Poff conceded that there was over \$3.1 million in the Township's Reserve Bank.

The Union contends that the Township's debt is extremely manageable. Under *N.J.S.A. 40A:2-6*, municipalities have a statutory debt limit of 3.5 % of the ratable base of the municipality. The Union points out that the Township's net debt is .688 % or less than one fifth of the legal debt limit. (Union Ex. 20).

The Union submits that under New Jersey's Local Government Cap Law, *N.J.S.A. 40A:4-45.1 et. seq.*, (the Appropriation Cap), the Township's spending is under the appropriation cap. Under the statute, the Township is permitted to appropriate an additional 3.5% of its revenues for "Municipal Purposes" from one year to the next. The Union notes that the *Town's Budget Message* provides that the Township can spend a maximum of \$31,509,693.00 (Union Ex. 21, sheet 3b-1), and that for fiscal year 2015, the Township is spending \$30,517,787.00. (Union Ex. 21, sheet 3). Therefore, the Union asserts, the Township is \$991,906.00 under the appropriation cap. The Union also notes that the Township maintains a "Cap Bank" and that in 2014 that the Township was carrying forward \$859,170.00 in its Cap Bank.

Under the Tax Levy Cap, the Township is permitted to raise by taxation no more than \$29,386,197.00. In fact, in 2015 the Township will actually raise only \$28,920,729.00. (Union Ex. 21, sheet 3b-1a). Thus, according to the Union the Township will be under the Tax Levy Cap by \$ 465,468.00.

### **COMPARISON OF AREA CONTRACTS<sup>5</sup>**

As noted above, the statute requires Interest Arbitrators to make meaningful comparisons of economic conditions within a given a jurisdiction, among similarly comparable bargaining units and to members of the private sector. The statute provides at *N.J.S.A. 34:13a-16g*:

Comparison of the wages, salaries, compensation, hours, and conditions of employment of the Employees involved in the arbitration proceedings with the wages, salaries, compensation, hours, and conditions of employment of other Employees performing the same or similar services and with other Employees generally:

- (e) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the Arbitrator's consideration.
- (f) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the Arbitrator's consideration.
- (g) In public employment in the same or similar comparable jurisdictions as determined in accordance with section 5 of *P.L., c. (C.)* (now pending before the Legislature as this bill); provided, however that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the Arbitrator's consideration.

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<sup>5</sup> This section of the Award will consider only overall comparisons, and will largely concern salaries of comparable bargaining units. In the section of my Award concerning specific proposals, I will refer to other relevant comparisons.

- (h) In comparative private employment.
- (e) In public and private employment in general.

Neither the Union nor the Township consider the salaries of private sector employees to be relevant to the determination of the issues in this case<sup>6</sup>.

The Union maintains that comparisons to other Townships and to other municipalities support its contention that it is entitled to an almost 2% wage increase, and to an increase in the uniform allowance. The Union supports its position by referring to the documentary evidence submitted by the Township. The Union notes that Rockaway Township Ordinance No. 0-15-02 setting salary ranges for 2015 provided for a two percent increase in the maximum salaries of management personnel. (Township Ex. 21). In addition, the Union notes that the Township has entered into a collectively negotiated agreement ("CNA") with Morris Council VI, New Jersey Civil Service Association, International Federation of Professional and Technical Engineers which represents the Township's white and blue collar employees. The CNA provides for the following wage increases:

2014	2.00%
2015	2.00%
2016	1.75%
2017	1.75%

(Township Ex. 27). In addition, this CNA provides for bonuses for employees who meet performance expectations.

The Union cites a number of CNAs in comparable jurisdictions in support of its position that I should Award its wage proposal. The Union argues that the following CNAs

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<sup>6</sup> Interest Arbitrators, typically find that private sector wage rates are not germane to wage determinations for public safety employees.

support its position:

1. The Agreement between the Township of Byram and Sussex County PBA Local 138 which provides for a 2% wage increase in 2015. (Union Ex. 14).
2. The Agreement between the Township of Jefferson and Jefferson Township Patrolmen's Benevolent Association, Local 190 which provides for a 1.6% wage increase in 2015. (Union Ex. 12).
3. The Agreement between the Township of Randolph and Lodge 25, Fraternal Order of Police which provides for a 1.2% wage increase in 2015. (Township Ex. 15).
4. The Agreement between the Township of Mount Olive and the Mount Olive Fraternal Order of Police, Lodge 122 which provides for a 2% wage increase in 2016. (Union Ex. 9, Township Ex. 19).
5. The Agreement between the Township of Jefferson and the Jefferson Township Policemen's Benevolent Association, Local 190 which provides for a 2% wage increase in 2016. (Union Ex. 12).

The Township on the other hand, also compared the wages of comparable jurisdictions to that of Rockaway Township, and to other Township employees. The Township argues that there is a great salary discrepancy between Police Officers and other Township employees. The Township notes that in both 2010 and 2011, the salaries of Police Officers increased by 3.25% and 3.75% respectively while the salaries of white collar, blue collar and non-aligned employees experienced a net decrease in salary of 3.66% in 2010 and a decrease of 1.25% in 2011. The Township points out that in the period between January 1, 2009 and December 31, 2014 the overall salaries of Police Officers rose by 22.55% and the salaries of other employees rose by only 3.59%. The Township submitted the following chart in support of its position:

## FOP Salary Increases Compared To Other Township Employees 2009-2014

Employee Group	2009	2010 (1)	2011 (2)	2012 (3)	2013 (4)	2014
FOP	4.00%	3.95%	0.75%	0.75%	3.55%	3.95%
White Collar	3.50%	-3.66%	-1.25%	1.00%	2.00%	2.00%
Blue Collar	3.50%	-3.66%	-1.25%	1.00%	2.00%	2.00%
Non-Aligned	3.50%	-3.66%	-1.25%	1.00%	2.00%	2.00%

(1) White, blue and non-aligned employees negotiated salary increase was 1.0%. Mandatory furloughs resulted in net salary decrease.

(2) White, blue and non-aligned employees negotiated salary increase was 1.0%. Mandatory furloughs resulted in net salary decrease.

(3) White, blue negotiated salary increase was a flat \$600 and non-aligned was a flat \$1,100 representing 1.00% for the average employee.

(4) White, blue negotiated salary increase was a flat \$1,200 and non-aligned was a flat \$2,200 representing 2.00% for the average employee.

The Township also asserts that, the Township's Police Officers receive higher salaries than Police Officers in comparable jurisdictions. The top paid patrolmen in Rockaway Township earn \$107,275 compared to Randolph Township where the highest salaried patrol officer earns \$100,900 and compared to Mount Olive Township where the highest paid patrol officer is paid \$99,217.

### THE COST OF LIVING

In fashioning their Awards, Interest Arbitrators are required to take into account recent changes in the cost of living. The Employer provided a document prepared by the Federal Reserve Bank of Minneapolis showing that the overall change in the national cost of living for 2014 was 1.6%. (Document submitted without Exhibit number). The Union



submitted a press release from the Bureau of Labor Statistics showing that in 2014 the overall change in the cost of living in the New York-New Jersey Metropolitan Area was 1.7%. (Union Ex. 17).

### **THE PARTIES PROPOSALS**

In rendering my Award, I am required to make a reasonable determination of the issues in dispute. I am charged with examining the statutory criteria set forth above, and determining which criteria are or are not relevant for any given issue. *Borough of Hillsdale and PBA 137*, 137 N.J. 88 (1994). It is also recognized that no single one of the statutory criteria will be determinative. The party seeking to modify the existing terms of a collectively negotiated agreement has the burden of establishing that there is a basis for the proposed change, and there must be evidentiary support for such a change. In addition, each proposal must be viewed in the context of the entire agreement. While a proposal on its face may be reasonable, the proposal may not be reasonable when placed in the context of other proposals or the collectively negotiated agreement as a whole.

#### ***I. Proposals Concerning the Same Issues Made by Both Parties<sup>7</sup>***

##### **A. The Wage Proposals**

The Union's final proposal concerning wages is as follows:

The Union propose a 1.8% across-the-board wage increase for all ranks, steps and positions effective on each successive January 1 for the three (3) year contract term<sup>8</sup>.

The Township proposes the following wage package:

The Township proposes a wage increase of 1.0%, 1.0%, 1.25%, and 1.25% for four years without compounding.

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<sup>7</sup> The Proposals discussed in this section were made by both the Union and the Township concerning the same issues.

<sup>8</sup> The issue of contract term will be discussed below.

The total payroll for the Police Department as of December 31, 2014 was \$5,605,149.00<sup>9</sup>. Although each member of the bargaining unit is at the top step on the salary grade, certain employees will be eligible for longevity payments in 2015 and 2016. In 2015 three officers will be eligible for longevity payments; two officers will receive \$500.00 and one officer will receive a longevity payment of \$400.00 for a total of \$1400.00. In 2016, five officers will receive longevity payments of \$500.00 for a total of \$2,500.00. (Union Ex.6). With the changes in longevity payment, the Union contends that the total cost of its wage proposal is less than 1.9% in 2015, and less than 1.9% in 2016. There will be no changes in longevity in 2017.

The Union supports its proposal for a wage increase by making the following arguments:

- 1) The Union's Proposal is within the Hard Salary Cap of 2%. *N.J.S.A. 34:13A-16.7a*;
- 2) The work of the Police Department is substantial and there has been a reduction in the census of sworn police officers;
- 3) Members of the Police Department have good relations with the citizens of the Township and have exhibited *esprit de corps*;
- 4) The comparison with other Police Departments supports its position;
- 5) The Township would not run afoul of either the Appropriations Cap or the Tax Levy Cap if I were to Award the Union's proposal;

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<sup>9</sup> This sum is based on a census of fifty sworn officers as of December 31, 2014. There are at present only 48 sworn officers employed by the Township but I am required to base my Award on the census in effect on the last day of the CNA.

- 6) The Township engages in conservative budgeting and there are ample resources for Awarding the Union's wage proposal;
- 7) The Cost of Living justifies a wage increase;
- 8) An Award for the Union would be consistent with continuity and stability of employment; and
- 9) I should take arbitral notice that the present members of the bargaining unit will be paying \$10,782.00 or 35% of their health insurance premiums during the term of this CNA;

The Township supports its proposal for a more limited wage increase by making the following arguments:

- 1) The Township increasingly relies on property taxes for operating revenue;
- 2) The Township has experienced a loss of 1.7 million dollars in State aid since 2009;
- 3) The Township has had to pay 4.1 million dollars in tax refunds since 2009;
- 4) The Township has experienced a 781 million dollar decline in assessed property values since 2009;
- 5) The Township has been paying increasing public employee entitlements including 2.2 million dollars in accumulated time off benefits since 2009;
- 6) The Township pays almost 1.8 million dollars per year in health insurance premiums for 118 retirees;
- 7) In an effort to rein in costs, the Township has lowered minimum salaries for new hires, and has reduced its budget workforce by 13% since 2007;

- 8) The growth in police officer salaries is disproportionate to the growth of other Township employees; and
- 9) Police officers in the Township are the highest-paid police officers in comparable jurisdictions and their overall compensation includes longevity benefits; 100% reimbursement for college courses; \$750 in uniform allowances; sick leave (which may be cashed out); sixteen holidays per year (which may be cashed out); and comprehensive health insurance.

I Award the Union proposal without compounding. I make this Award having reviewed the statutory criteria, and having concluded that the Union's proposal concerning wages is consistent with the statute.

Under the statute, the first criteria to be examined is "the interests and welfare of the public." First it is un rebutted that the citizens of the Township and its Police Department have an excellent relationship. With each member of the Police Force at the maximum salary step, the Township has the benefit of a mature and experienced Police Force. In order to maintain this good relationship, the members of the Police Force should be appropriately compensated.

The statute's second criteria requires me to compare the compensation and conditions of employment of the members of the bargaining unit with other employees of the Township, with similarly situated employees in other jurisdictions and with employees in the private sector. Initially, as noted above, neither the Union nor the Township presented evidence on the issue of private sector wages and though I am cognizant of the statutory requirement, based on the record, I am unable to include this criteria in making my Award.

As to internal comparisons between the members of the bargaining unit and other Township employees, the Union and the Township have different interpretations of those comparisons. The Township notes that in 2010 and 2011 the salaries of the white collar, blue collar and non-aligned employees decreased 3.66% and 1.25%. Whereas during the same period, the salaries of members of the bargaining unit increased by 3.25% and 3.75%. In addition, the Township argues that it also had to furlough workers during 2010 and 2011. By statute, Police Officers are exempt from furlough.

In his testimony, Mr. Poff stated that some of the reduction in salaries in the non-police work force were the result of retirements, attrition and contracting out. In addition, on cross examination, Mr. Poff conceded that during the last contract cycle, the Union and the Township settled a grievance which would have been quite costly to the Township. As a result of this settlement bargaining unit members received a higher wage increase than they ordinarily would have received. The Union also notes that in 2014 and 2015 the blue and white collar work forces will receive wage increases of 2%, and increases of 1.75% in 2016 and 2017.

I recognize that consistency among bargaining units is an important element of the Interest Arbitration statutory scheme. As the Commission has stated:

Pattern is an important labor relations concept that is relied upon by both labor and management . . . deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining morale in other units.

*County of Union*, P.E.R.C. No. 2003-33, 28 NJPER 459, 461 (¶33169, 2002). In this case, the pattern supports the Union's position. The percentage wage increases given to the white and blue collar bargaining units from 2014 to 2017 either exceed or are marginally

less than the wage increases sought by the Union. In addition, to the extent that the Township is arguing that in years prior to 2014, the white and blue collar bargaining units received smaller wage increases than the members of the bargaining unit, this argument is undercut by the fact that the Union was able to settle a significant grievance which assured the employees it represents a larger wage increase than employees in other bargaining units. At the time of the grievance settlement, any pattern that was in existence between the other bargaining units and the Union was altered, making internal comparisons less useful than would ordinarily be the case.

As to external comparisons between the Rockaway Township Police Department and other comparable bargaining units, these comparisons favor the Township. The members of the Township's Police Department, depending on the classification, receive higher salaries than those of comparable bargaining units in Morris County. The following chart shows the breakdown of salaries by rank among comparable police departments:

**2014 Year End Salary by Rank and Comparable Police Departments**

<b>Title</b>	<b>Rockaway Township</b>	<b>Randolph Township</b>	<b>Montville Township</b>	<b>Mount Olive Township</b>
<b>Captain</b>	<b>\$137,580</b>	<b>Not applicable</b>	<b>\$141,570</b>	<b>\$135,452</b>
<b>Lieutenant</b>	<b>\$129,712</b>	<b>\$126,399</b>	<b>\$128,704</b>	<b>\$124,116</b>
<b>Detective</b>	<b>\$122,644</b>	<b>+1,500 over</b>	<b>not applicable</b>	<b>+2% over</b>
<b>Sergeant</b>				<b>base salary</b>
<b>Sergeant</b>	<b>\$119,363</b>	<b>\$116,267</b>	<b>\$116,997</b>	<b>\$110,471</b>
<b>Detective</b>	<b>\$110,495</b>	<b>+1,500 over base salary</b>	<b>not applicable</b>	<b>2% over base salary</b>
<b>Police Officer</b>	<b>\$107,275</b>	<b>\$100,900</b>	<b>\$106,366</b>	<b>\$99,217</b>

(Township Ex. 45, slide 20).

This chart clearly shows that when compared to select other localities, members of the Rockaway Township Police Department are clearly making higher salaries than

members of other police departments in most classifications. It should be recognized that the hearing in this case did not analyze the financial stability of these other towns, and that the comparison only concerns police department salaries. Nevertheless, this factor favors the position of the Township. For this reason when making my Award, I will not Award compounding of the percentage increases.

Another factor to be considered is the lawful authority of the Township to provide the wage increases and whether or not there are statutory limitations on the Township which might preclude implementation of a particular wage increase. I will couple this analysis with the final factor which concerns the financial impact of a wage increase on the "governing unit, its residents and taxpayers." I conclude that awarding the Union's proposal would be consistent with the statutes governing wage increases. This Award will grant less than a 2% increase and, as such therefore will be within the statutory "Hard Cap" for each year of the agreement. In addition, because the Township has successfully conserved its resources, I do not believe that this Award will have a deleterious impact on the Township, its residents or its taxpayers. As noted above, the Township is well within the Appropriations Cap and the Tax Levy Cap. The Township also has experienced consistent budgetary surpluses. The Township is not overly leveraged and has utilized less than one-fifth of its legal borrowing capacity.

Finally, this Award will recognize that the members of the Police Department have been functioning with fewer officers over the last few years and that the department has a good relationship with the residents of the Township. This Award will contribute to the continuity and stability of the bargaining unit, and will hopefully enable the Township to maintain an experienced and mature police force.

Accordingly, I Award an increase of 1.8% across-the-board wage increase for all ranks, steps and positions effective on each successive January 1 retroactive to January 1, 2015, and including January 1, 2016 and January 1, 2017. This Award will increase the cost to the Township \$106,498 in the first year of the agreement ( $\$5,605,149.00 \times 1.09\%$ ); \$106,498 in the second year of the agreement ( $\$5,605,149.00 \times 1.09\%$ )<sup>10</sup>; \$100,892 in the last year of the agreement ( $\$5,605,149.00 \times 1.08\%$ ).

**B. Duration of the CNA**

The Union seeks a three year agreement for the period January 1, 2015 through December 31, 2017. The Township seeks a four year agreement terminating on December 31, 2018.

I Award the Union's proposal on duration of the CNA, and find that a December 31, 2017 termination date has a number of statutory and practical benefits. First, it should be noted that the 2% Hard Cap will expire on December 31, 2017. Thus, depending on the New Jersey State Legislature, the parties negotiating a successor CNA should know in 2017 whether or not the Legislature has extended the 2% Cap, eliminated the Cap or altered the Cap. Accordingly, after December 31, 2017 neither the Union nor the Township will be bound by my Award and will be free to negotiate a new agreement going forward commencing in 2018.

Another reason supporting a December 31, 2017 termination dates is that is the same date that the CNA with Morris Council VI, New Jersey Civil Service Association, International Federation of Professional and Technical Engineers terminates. (Township

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<sup>10</sup> The rate of increase in the first two years of the agreement is 1.09% based on the census as of December 31, 2014 because of longevity payments, and 1.08% in the last year of the agreement, because there will be no additional longevity payments.



Ex. 27). As the Township notes and as discussed above, internal comparisons which create a pattern of settlement are an important part of the statutory scheme. Having the CNAs of all of the Township's bargaining units expire on the same date will enable the parties to establish a more cohesive pattern of settlements among the different bargaining units.

Another reason for implementing a December 31, 2017 termination date is contained within the Township's own proposals. At this point in time, there is a great deal of uncertainty regarding the implementation of the Affordable Care Act ("ACA"), and whether the Township will be required to pay an excise tax under the so called "Cadillac" provisions of the ACA, 26 U.S.C. §49801<sup>11</sup>. Township proposal 9(e) states:

The Union is willing to reopen negotiations specific to Article XVIII, Hospitalization and Medical Benefits if the Township is subject to increased costs as a result of the implementation of the Affordable Care Act excise tax provisions.

It is hoped that by the time the next round of negotiations commences there will be more guidance concerning this issue. A termination date of December 31, 2017 provides the parties with the opportunity to have more information concerning the Cadillac Tax, and will enable the parties to engage in more informed negotiations. This will eliminate the need for a "reopener" limited to one issue as proposed by the Township.

Accordingly, I Award a contract duration period of January 1, 2015 through December 31, 2017.

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<sup>11</sup> An argument could be made that since Police Department Employees are paying a substantial percentage of their health insurance premiums pursuant to Chapter 78, the Township may be exempt from coverage; but that is unclear.

### **C. Uniform Allowance**

Article XIII (B) of the CNA for Police Officers and Article XIII (A) of the CNA for Superior Officers provides:

Members of the Department covered by this Agreement will receive clothing maintenance allowance in the amount of Seven Hundred and Fifty Dollars (\$750.00). Uniform maintenance will be paid for by the twelfth (12<sup>th</sup>) pay period.

(Township Exs. 13 & 14).

The Union proposes to increase this allowance by fifty dollars for each year of the Agreement, and the Township proposes to eliminate the allowance entirely.

The Township argues that the uniform allowance is a salary windfall for members of the Police Department and is no longer necessary. The Township notes that in 2012, the Township changed its basic uniform from a formal style requiring dry cleaning to a less formal "wash and wear" type of uniform. The Township characterizes the expense of maintaining the uniforms as "negligible." The Township also notes that police officers in Randolph Township do not receive a uniform allowance. (Township Ex. 45, slide 32).

In response, the Union argues that after receiving their original uniforms, police officers are required to replace worn or damaged uniform clothing and gear. The cost of clothing and gear totals \$2,098.75. (Union Ex. 7). In addition, the Union notes that, even with the new uniforms officers are still required to keep a neat and clean appearance. The Union characterizes the uniform allowance not as compensation, but as "reimbursement for actual expenses incurred."

I Award neither the Union proposal nor the Township proposal, and Award the maintenance of the \$750 uniform allowance through the life of the new CNA. First, I note that while Randolph Township does not pay a uniform allowance, the Township of

Montville pays a “uniform and maintenance” allowance of \$1300.00. Second, I do not believe that an increase in the uniform allowance is needed, because the Township has established that by eliminating the need to dry clean uniforms, the cost of maintaining uniforms has been reduced. On the other hand, the Union has established that members of the Police Department have a continuing obligation to maintain their uniforms and to replace worn articles of clothing and gear. Accordingly, I conclude that the continuation of the \$750.00 uniform allowance remains a reasonable sum to compensate members of the police department for the expenses actually incurred.

## ***II. Township Proposals<sup>12</sup>***

### **A. Elimination of any step referring to Detective**

Under the CNA in 2014, officers designated as detectives earned a salary of \$110,495. Police officers at the top step of the salary guide earned a salary of \$107,275. The Township proposes eliminating this differential. It notes that Detective is not a rank, but a duty assignment. The Township also notes that “Montville Township does not provide its Detective assigned officers with any additional compensation.” (Township Exs. 17 and 45, slide 23).

The Union opposes this change in Detective compensation, noting that Mr. Poff only justified the Township’s proposal as merely a desire to save money. The Union notes that the Township has no intention of reducing the workload of detectives or of modifying their duties.

I do not Award the Township’s proposal. First, while it is true that Montville Township does not provide additional compensation to detectives, other comparable

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<sup>12</sup> This section will concern only proposals made by the Township.

jurisdictions do in fact provide additional compensation. Randolph Township provides a payment of \$1500 over base salary, and Mount Olive Township pays 2% over base salary. (Township Ex. 45 slide 23). Moreover, the Township has the burden of establishing why it is necessary to make such a significant change in the CNA.

I recognize that the Township's presentation was handicapped by the fact that, there is only an acting police chief who is ordinarily a captain, and therefore part of the bargaining unit. However, the Township still had an obligation to present evidence regarding why it was necessary to reduce the salaries of detectives. There should have been testimony regarding work load and the nature of the work. Without evidentiary support, beyond a desire to save money, I will not Award this proposal.

**B. Increasing the number of steps from 6 to 18**

The Township proposes increasing the number of steps in the salary guide from six to eighteen. This proposal would have no effect on the current bargaining unit since each police officer is currently at the top step of the salary grade. The Township notes that a salary step scale recognizes experience and skills gained from years of police work, and it maintains that having a salary scale end at six years does not appropriately capture and reward experience.

I do not Award the Township's proposal. Once again, this proposal calls into question fundamental choices made by the parties and set forth in the CNA. It is incumbent upon the Township to justify its decision to change its entire pay structure with more than just a reasonable proposal. Such a proposal requires a professional analysis as to why a 6<sup>th</sup> year police officer is fundamentally not as skilled or as talented as an 18

year police officer. Again the Township's failure to present evidence justifying this proposal precludes me from making an Award in its favor on this issue.

**C. Elimination of Longevity for Officers hired after January 1, 2015**

Under the CNA, sworn officers are entitled to longevity payments after five years of service. The Township proposes eliminating this benefit for all officers hired after January 1, 2015. The Township notes that this proposal is consistent with the existing agreement for its Blue and White collar workers. In addition, the Township points out that Randolph Township eliminated longevity benefits for officers hired after January 1, 2001 (Township Ex. 15, Art. XVI), and that Montville Township eliminated longevity benefits for officers hired after January 1, 2013. (Township Ex. 17, Article XVIII).

I Award the Township's proposal. Unlike the issue concerning the salary guide discussed above, there is less need for an expert opinion regarding longevity payments. This is clearly an economic issue, and Mr. Poff is more than qualified to testify concerning this matter. Mr. Poff established that comparable jurisdictions have eliminated longevity payments for recent hires, and that the Township itself has eliminated longevity payments for its other bargaining units.

**D. Modify the Superior Officers CNA to provide "Reimbursed sick/vacation time will be payable within 90 days after the final budget approval by the Rockaway Township Council"**

This proposal only concerns the Superior Officers CNA. (Township Ex. 14). The Township notes that the Blue and White Collar CNA's (Township Exs. 22-25), and indeed the Patrol Officers CNA (Township Ex. 13) contain this provision. At present, Superior Officers must be reimbursed for their sick vacation time within 35 days after the final budget approval by the Rockaway Township Council.

I Award this proposal. The Township has established that this proposal will create a level of consistency among the various bargaining units. This would be in line with the statutory scheme.

**E. Employees hired after January 1, 2015 shall not be paid for unused sick time upon cessation of employment with the Township of Rockaway**

In its presentation, the Township has emphasized that it is “facing a total of \$793,038 in accumulated sick time liability for all police officers.” (Township Ex. 45, slides 34 & 35). The Township points out that the other bargaining units and non-aligned employees have not had this benefit since January 1, 1999.

I Award this proposal. I base this Award on the evidence of the internal comparisons that will bring the CNA into alignment with the other categories of employees.

**F. Employees who do not use all of their vacation time allowance may add their unused allowance to the following year. However, if these days are not used in the second year they will be forfeited.**

At present, sworn officers are permitted to carryover up to 90 vacation days in their vacation bank. The Township contends that the current accumulated vacation time liability for all police officers is \$640,138, and that the Township’s most recent vacation reimbursement to police retirees was \$42,235. (Township Ex. 45, slide 37, Township Exs. 35 & 36). The Township contends that this proposal is in the interest and welfare of the public because it will eliminate a large obligation. The Township also maintains that this proposal is in line with vacation time allowance use and forfeiture applicable to other Township employees who are not already subject to these carry over rules. Finally, the Township maintains that the proposal is in line with comparable jurisdictions, and is

identical to the carry over provisions of Randolph Township (Township Ex. 15), and is more generous than Mount Olive Township where police officers may carry over a maximum of five vacation days (Township Ex. 18). According to the Township, this proposal is also more generous than the vacation provisions in Montville which only permit police officers to carry over half of their vacation days, and which require those days to be used by April 15<sup>th</sup> of the carryover year.

The Union vehemently opposes this proposal and particularly objects to the possibility that earned vacation days will be forfeited. The Union reasons that time off cannot be guaranteed by the Police Department and that police officers are required to co-operate with their superiors in order to assure proper staffing in a para-military organization.

I do not Award the Township's proposal. Unlike sick leave, the Union negotiated this benefit, and the sworn officers have a vested entitlement to vacation time. It would be unjust to have the sworn officers forfeit this benefit. I recognize that both the internal comparisons with other Township employees and external comparisons with some other jurisdictions lend support to the Township's proposal. However, I make my decision not to Award this benefit for two reasons. First, it is incumbent upon the Township to explain how an individual police officer would be treated, if that police officer requested a particular vacation period, but the officer's request was denied because of operational needs. The Township's failure to identify a mechanism where a police officer would be guaranteed the right to take a vacation after making an appropriate request, leads me to conclude that the Township has not met its burden for justifying a change in the CNA.

I also conclude that granting this proposal would not be consistent with statutory factor 8. This factor requires Interest Arbitrators to take into account:

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

Requiring sworn officers to forfeit their vacations because of operational needs would simply not be consistent with "continuity and stability" of employment. Therefore, I do not Award this proposal.

- G. **The Township will enforce the clear and unambiguous language that holidays, "shall be taken as part of their vacation time during the current year of the contract" OR add language that "Employees who do not use all of their holiday time allowance may add their unused days to their allowance for the following year. However, if these days are not used in the second year, they will be forfeited."** (Emphasis in the original).

Article XVII of both CNAs provide:

[t]he members of the Department will be granted sixteen (16) holidays which shall be taken as part of their vacation time during the current year of the contract. Holiday time will be granted with the approval of the Police Chief.

There are two issues to be considered with respect to this proposal. The first issue inherent in the Township's proposal is whether I can make an Award permitting the Township to "enforce the clear and unambiguous language of Article XVII." If the Township believes that it has not been properly enforcing a provision of the CNA, it should take steps to apply the provision as it understands the provision to be written. This might provoke a grievance from the bargaining unit requiring an Arbitrator to interpret the CNA.



That is not my function in this proceeding, and is more appropriately submitted to a grievance arbitrator.

The second issue with respect to the Township's proposal, is like its proposal governing vacations, the Township asks me to Award a provision which would have the effect of requiring the sworn officers to forfeit their Holidays if they are not used within two years of accruing those Holidays.

Obviously, the Holiday proposal is intricately bound up with the Township's vacation proposal, and in fact the Holiday proposal high-lights the problems that the sworn officers have in obtaining time off. Because the Police Department runs as a 24 hour a day, seven day a week operation, the CNAs prevent the sworn officers from taking Holidays that many other employees typically receive such as Thanksgiving, Christmas and the Fourth of July. Instead, the CNAs require the officers to take this time off when they schedule vacations. For the reasons set forth above concerning vacations, I do not Award this proposal because it would constitute an unfair forfeiture of earned time off.

#### **H. Changes in Co-payments**

There are several aspects to the Township's proposals regarding co-payments for Hospitalization and Medical Benefits. The first change seeks:

a) Effective the first full month following execution of this agreement the co-payment for the Prescription Plan is as follows:

- Retail pharmacy copayments for up to a 30-day supply are \$3.00 for generic drugs; \$10.00 for brand name prescription drugs without generic equivalents; and \$20.00 for brand name prescription drugs where a generic equivalent is available.
- Mail order copayments for up to a 90-day supply are \$5.00 for generic drugs; \$15.00 for brand name prescription drugs without generic equivalents; or \$30.00 for brand name prescription drugs where a generic equivalent is available.
- The Township proposes that members shall co-pay a percentage in accordance with the provisions of Chapter 78 for ancillary medical

package (vision and dental) through payroll deduction.

The Township's first two bullet points contained in its proposal concern the Prescription Plan and would require co-payments for prescription drugs, and would distinguish between generic and non-generic drugs. The Township justifies this change by noting that other Township employees pay identical co-pays, and that the Township's plan is also consistent with the plan offered by Mount Olive Township. (Township Exs. 18 & 45, slide 40). The Township states that in 2014, it paid \$398,720 for the officer's prescription drug plan. The Township also states that it would save \$68,587 while the prescription costs would rise for officers by \$5,742.

The Third bullet point contained in its proposal concerns payments for so-called "ancillary medical benefits" including vision and dental services. The Township notes that in 2014, the Township paid \$81,113 for these benefits. The Township contends that under its proposal the cost to the officers would increase to \$6,875. The Township contends that other Township employees already bear these costs. (Township Ex. 37). In addition, Randolph Township requires its officers to contribute to their dental insurance in accordance with Ch. 78, P.L. 2011. (Township Ex. 15).

The Union vehemently opposes these proposals. The Union notes that during the life of this agreement, bargaining unit employees will, pursuant to Ch. 78, P.L. 2011, be required to pay 35% of their medical premiums. At present, the family medical plan costs \$30,306.00 (Union Ex. 8), and the cost to officers covered by the plan will be \$10,782.00. The Union recognizes that I have no authority to modify payments due under Chapter 78, but asks me to recognize that the salaries of members of the bargaining unit will be

reduced as a result of these forced payments. Therefore, the Union opposes any additional non-mandatory payments regarding health insurance.

I will Award the Township's proposal regarding the changes in co-pays for prescription drugs commencing January 1, 2016, but I will not Award the Township's proposal regarding ancillary medical benefits. I make this distinction because the Township demonstrated that it would save over \$68,000 by changing the prescription drug co-payments while imposing a small essentially *de minimus* cost upon members of the bargaining unit. This Award is made commencing January 1, 2016 to permit a more orderly roll out of this change. On the other hand, the Township did not establish how much it would save by changing the co-payments for the ancillary benefits.

Although the Township has established that other Township employees have agreed to these proposals, it has not established that similar jurisdictions have uniformly changed the co-payments for both prescription drugs and ancillary benefits. The Union has also demonstrated that the members of the bargaining unit will be making substantial payments to maintain their basic health insurance, and that, even with the wage increase members of the bargaining unit will receive under this Award, the employees will still have a reduction in their pay as a result of Chapter 78.

- I. **Employees hired after January 1, 2015 will be required to contribute the full cost of their premium costs in order to continue to receive health benefits upon retirement; their surviving spouses and/or eligible dependents shall contribute the total premium cost in order to continue to receive health benefits**

The Township is seeking to eliminate its obligation to pay retiree medical benefits. The Township notes that it currently pays medical benefits for 41 retired officers and this costs the Township \$1,250,644.53 annually. (Township Ex. 38). It notes that the medical

benefits of these 41 retirees comprises 3% of the Township's total budget of \$39 million dollars. (Township Ex. 8). The Township notes that a number of jurisdictions do not provide medical benefits for retirees. Denville Township does not provide retired officers with medical benefits. (Union Ex. 11). The Town of Dover does not provide medical benefits for officers hired after February 1, 2009. (Union Ex. 13). Jefferson Township only provides retiree benefits to officers injured in the line of duty.

Article XIX(C) of both CNAs provides that a surviving spouse of a retired police officer shall receive health insurance until the spouse remarries, becomes eligible for other health insurance or becomes eligible for Medicare. Dependents of a deceased active or retired employee receive health insurance benefits in accordance with the terms of the plan.

I Award this proposal except with regard to surviving spouses and dependents. The Township has demonstrated that this proposal is consistent with that of other jurisdictions, and will enable the Township to control costs in the future. However the Township's proposal does not make clear if "surviving spouses and dependents" refers to the spouses and dependents of retirees or active duty police officers. To the extent that phrase refers to retirees, I Award that proposal regarding spouses only. However, to the extent that the phrase "surviving spouse and dependents" refers to the spouses and dependents of police officers who die while on active duty, I do not Award that proposal.

I make this distinction between spouses and dependents because dependents will not be able to replace their health insurance while still in the minority. In addition, the death of a police officer who is still active on the force will have devastating consequences

for his or her family, and I believe that it would be unfair to burden that family with additional health insurance costs, except as set forth in the CNA.

**J. The Union is willing to reopen negotiations specific to Article XVIII, Hospitalization and Medical Benefits if the Township is subject to increased costs as a result of the implementation of the Affordable Care Act excise tax provisions.**

I do not Award this proposal. As noted above, I am Awarding a CNA which will expire on December 31, 2017. The excise tax under the Affordable Care Act will not go into effect until 2018. Accordingly, the parties will be able to negotiate about the effects of such a tax prior to the negotiation of a new CNA.

**K. MEMORANDUM OF AGREEMENT (dated March 7, 1995) – The Township proposes to amend the MOA allowing for alternative 12 hour schedules to be implemented by the Chief of Police. The negotiation, adoption, and/or implementation of any alternative 12 hour schedule do not render work schedules the subject of negotiations by and between the Township and the Union. Work schedules remain the prerogative of the Chief of Police.**

In his testimony, Mr. Poff asked me to change an Agreement made between the parties regarding scheduling. Mr. Poff said the change was needed to give the Chief of Police more flexibility. The Union opposes this change and contends that the Township has not met its evidentiary burden because the proposal was not supported by someone on the Command Staff of the Police Department.

I do not Award this proposal. I conclude that the Township has not met its burden of establishing why a 20 year old contractual provision must be changed. At a minimum, there should have been testimony about the purported problems with the current scheduling system, what the system was designed to achieve, and how it would achieve

the Township's goals. The absence of this testimony precludes an Award in favor of the Township.

### **SUMMARY OF AWARD**

#### **A. Wages**

- 1) There will be a 1.8% across-the-board wage increase for all ranks, steps and positions retroactive to January 1, 2015;
- 2) There will be a 1.8% (not-compounded) across-the-board wage increase for all ranks, steps and positions on January 1, 2016;
- 3) There will be a 1.8% (not-compounded) across-the-board wage increase for all ranks, steps and positions on January 1, 2017.

The following salary guide will be in effect for all classifications in the bargaining units:

	2014	2015	2016	2017
Academy	\$49,402	\$50,291	\$51,180	\$52,069
Step 1	\$53,841	\$54,810	\$55,779	\$56,748
Step 2	\$63,447	\$64,539	\$65,731	\$66,700
Step 3	\$80,021	\$81,461	\$82,901	\$84,341
Step 4	\$93,469	\$95,151	\$96,833	\$98,515
Step 5	\$107,275	\$109,206	\$111,136	\$113,067
Detective	\$110,495	\$112,483	\$114,472	\$116,462
Sergeant	\$119,363	\$121,511	\$123,659	\$125,807
Detective/Sgt	\$122,644	\$124,851	\$127,058	\$129,265
Lieutenant	\$129,712	\$132,046	\$134,382	\$136,716
Captain	\$137,580	\$140,056	\$142,532	\$145,008
Detective/Cap	\$142,338	\$144,900	\$147,462	\$150,024
Deputy Chief	\$147,521	\$150,076	\$152,831	\$155,486

#### **B. Duration of CNA**

The contracts term will be from January 1, 2015 to December 31, 2017.

#### **C. Uniform Allowance**

The uniform allowance will remain at \$750/year

**D. Longevity**

Officers hired after January 1, 2015 will not be eligible to earn longevity payments.

**E. Superior Officers Reimbursed Sick/Vacation Time**

Reimbursed sick/vacation time will be payable within 90 days after the final budget approval of the Rockaway Township Council.

**F. Unused Sick Time**

Officers hired after January 1, 2015 will not be paid for unused sick time upon cessation of employment with the Township of Rockaway.

**G. Pharmacy Co-payments**

Commencing January 1, 2016 the co-payment for the Prescription Plan is as follows:

- Retail pharmacy copayments for up to a 30-day supply are \$3.00 for generic drugs; \$10.00 for brand name prescription drugs without generic equivalents; and \$20.00 for brand name prescription drugs where a generic equivalent is available.
- Mail order copayments for up to a 90-day supply are \$5.00 for generic drugs; \$15.00 for brand name prescription drugs without generic equivalents; or \$30.00 for brand name prescription drugs where a generic equivalent is available.

**H. Retiree Health Insurance**

Officers hired after January 1, 2015 will be required to contribute the full cost of their premium costs in order to continue health benefits upon retirement. The Surviving

spouses of Officers hired after January 1, 2015 and who reach retirement age shall contribute the total premium cost in order to receive health benefits. There will be no change regarding the obligations to pay health insurance in the CNA for the surviving spouses and eligible dependents of active police officers or of the eligible dependents of retired police officers..

#### **I. Stipulation**

Article VIII, Third Party Assignments now reads:

The rate for third-party work for the Senior Patrol Officer over time rate in accordance with the Collective Bargaining Agreement. The administrative fee shall be Five Dollars (\$5.00) per hour.

#### **J. Other Proposals**

All proposals by the Township of Rockaway and Rockaway Township FOP Lodge #31 (Non-Supervisory Personnel) and Rockaway Township FOP Lodge #31 (Superior Officers) not awarded herein are denied and dismissed. All provisions of the existing Collectively Negotiated Agreements shall be carried forward except for those which have been modified by the terms of this Award and any prior agreements between the parties.



**CERTIFICATION**

Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local Tax Levy Cap into account in making this Award. My Award also explains how the statutory criteria factored into my final determinations.

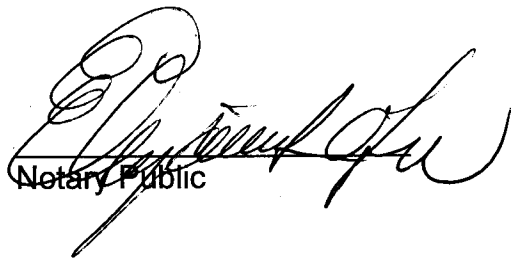
Dated: Brooklyn, New York  
May 6, 2015

  
Ira Cure  
Interest Arbitrator

Dated: Brooklyn, New York  
May 6, 2015

State of New York)  
County of Kings)

On this 6th day of May, 2015, before me personally came and appeared Ira Cure to known and known to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.

  
Notary Public

**ELIZABETH ORFAN**  
Notary Public, State of New York  
No. 02OR4976601  
Qualified in Kings County  
Commission Expires April 23, 2019

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION  
Case No: IA-2015-007

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In the Matter of the Interest Arbitration between:

TOWNSHIP OF ROCKAWAY,

PUBLIC EMPLOYER

and

ROCKAWAY TOWNSHIP FOP LODGE #31  
(Non-Supervisory Personnel) and  
ROCKAWAY TOWNSHIP FOP LODGE #31  
(Superior Officers)

EMPLOYEE ORGANIZATIONS

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BEFORE:

Ira Cure, Esq.  
Interest Arbitrator

**ERRATA SHEET**

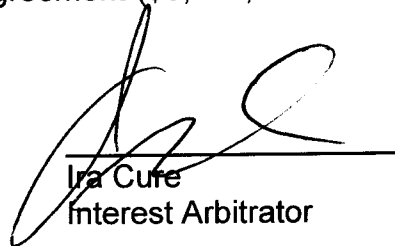
(Page 24)

On May 6, 2015, I issued my Interest Arbitration Decision and Award in the above captioned matter. Upon further review, I realized that under the section denoted **The Parties Proposals; I. Proposals Concerning the Same Issues Made by Both Parties; A. The Wage Proposals** there was a typographical error. Below, in italics and single spaced, is the original version of the paragraph containing the former language:

*Accordingly, I Award an increase of 1.8% across-the-board wage increase for all ranks, steps and positions effective on each successive January 1 retroactive to January 1, 2015, and including January 1, 2016 and January 1, 2017. This Award will increase the cost to the Township \$106,498 in the first year of the agreement (\$5,605,149.00 x 1.09%); \$106,498 in the second year of the agreement (\$5,605,149.00 x 1.09%); \$100,892 in the last year of the agreement (\$5,605,149.00 x 1.08%).*

The Award is now corrected to read:

Accordingly, I Award an increase of 1.8% across-the-board wage increase for all ranks, steps and positions effective on each successive January 1 retroactive to January 1, 2015, and including January 1, 2016 and January 1, 2017. This Award will increase the cost to the Township \$106,498 in the first year of the agreement (\$5,605,149.00 x .019%); \$106,498 in the second year of the agreement (\$5,605,149.00 x .019%)(not compounded); \$100,892 in the last year of the agreement (\$5,605,149.00 x .018%)(not compounded).

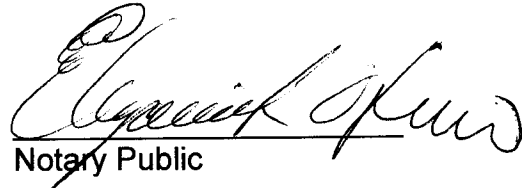


Ira Cure  
Interest Arbitrator

Dated: Brooklyn, New York  
May 11, 2015

State of New York)  
)  
County of Kings)

On this 11th day of May, 2015, before me personally came and appeared Ira Cure to known and known to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



Notary Public