

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between

TOWN OF HACKETTSTOWN,

"Public Employer"

-and-

HACKETTSTOWN PBA LOCAL 369

"Employee Organization"

Docket No. IA-99-48

**INTEREST ARBITRATION
DECISION
AND
AWARD**

**Before
James W. Mastriani, Arbitrator**

Appearances:

For the Employer:

Eric Martin Bernstein, Esq.
Mauro, Savo, Camerino & Grant, P.A.

For the Union:

David J. DeFillippo, Esq.
Klatsky & Klatsky

I was appointed arbitrator by the New Jersey Public Employment Relations Commission on February 5, 1999 in accordance with P.L. 1995, c. 425, in this matter involving the Town of Hackettstown and PBA, Local 369 (the "PBA"). Pre-arbitration mediation was held on May 19, and June 7, 1999. Because the impasse was not resolved, formal interest arbitration hearings were held on September 1, 1999 at which the parties examined witnesses and introduced evidence. Post-hearing briefs were submitted on December 22, 1999. On February 10, 2000 the PBA sought to re-open the record to submit an expert report in rebuttal to a financial report by Jeffrey A. Theriault which was attached to the Town's post-hearing brief. That request was granted and a supplemental statement by Raymond R. Doody, CPA, was filed on March 8, 2000 whereupon the record was closed. The mandatory terminal procedure of conventional arbitration was used to decide all issues in dispute. Under this procedure, the arbitrator has the authority to fashion an award that he believes represents the most reasonable determination of the issues in dispute.

FINAL OFFERS OF THE PARTIES

THE PBA

1. **Duration:** January 1, 1999 through December 31, 2001.
2. **Wages:**

Effective January 1, 1999 5% across the board
Effective January 1, 2000 5% across the board
Effective January 1, 2001 5% across the board

3. Longevity: The PBA proposes to increase longevity for all steps in the PBA 1996-1998 Contract across the board by 1% for each year of the contract.
4. Terminal Sick Leave: The PBA proposes increase the number of accumulated sick leave days toward retirement by five (5) days for each year of the contract (i.e. 1999-155 days; 2000-160 days; and 2001-165 days).
5. Personal Days: The PBA seeks to amend Article XVI(A) to provide that each officer scheduled to work a twelve (12) hour shift shall be provided with twenty-four hours (24) of personal time per year without loss of pay. The PBA also seeks to clarify section (D) to afford officers working a twelve (12) hour shift to accumulate a maximum of forty-eight (48) hours of personal leave.
6. Clothing Allowance: The PBA seeks a \$500 increase in the clothing allowance effective January 1, 1999. The PBA also seeks to delete the second sentence of Article XVII(A) regarding the cleaning service provided to PBA members.
7. Health Insurance: The PBA proposes to eliminate the \$10.00 per pay period co-payment for dependent health insurance in Article XIX(A). The PBA proposes to increase the Town's contribution to dental insurance coverage from

\$750 to \$1000 in Article XIX(C). The PBA also proposes to amend the first sentence of Article XIX(E) to provide:

The Town retains the right to enter into a self-insurance program or to change insurance carriers regarding any insurance benefits so long as the change will not result in a reduction in the level of benefits provided to the PBA or in a change in the administration of those benefits.

8. Meal Allowance: The PBA seeks to amend Article XXI to increase the meal allowance from five dollars (\$5.00) to ten dollars (\$10.00).
9. Minor Disciplinary Disputes - To amend the term "grievance" as set forth under Article V, Section A of the Agreement to include minor disciplinary disputes.

THE TOWN OF HACKETTSTOWN

1. Duration: January 1, 1999 through December 31, 2001
2. Wages:

January 1, 1999	2.8% across the board
January 1, 2000	2.9% across the board
January 1, 2001	3.0% across the board
3. Dental Insurance: The Town proposes to increase its dental premium cost from \$750 to \$785.

4. Work Schedule: The Town seeks (a) the right to change from the existing Pitman schedule to another schedule, identical or akin to the previous schedule with ninety (90) days' notice, except under exigent circumstances; and (b) with ten (10) days' notice, the Police Chief may assign an individual officer from the Pitman schedule back to a forty (40) hour work week, except under exigent circumstances.

The Town and the PBA have offered testimony and considerable documentary evidence in support of their final offers. In addition to the testimony of Patrolman Wade Caccese, Hackettstown Councilmen William Conforti and Roger Hines, statements of position and numerous Town and PBA exhibits were received in evidence. I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (8) which I find relevant to the resolution of these negotiations. I am also required to indicate which of these factors are deemed relevant, satisfactorily explain why the others are not relevant, and provide an analysis of the evidence on each relevant factor. These factors, commonly called the statutory criteria, are as follows:

- (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, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar 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 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 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 for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its 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.

BACKGROUND

Hackettstown is a suburban/rural, predominantly residential community in Warren County. With approximately 8,586 residents, it is the second most populous community in Warren County. As of 1994 its median household income was \$39,307. Its total property valuation in 1998 was \$442,491,000. The average assessed value in Hackettstown in 1999 was \$153,000. The Town's tax rate per \$100 has increased from .459 in 1995 to .537 in 1996, .602 in 1997 and .648 in 1998 and .649 in 1999.

The PBA represents all 19 Police Officers except the Chief. They include two Lieutenants, three sergeants, and thirteen Patrolmen. Crime is below the State average in Hackettstown with most crimes in the Town involving burglary or larceny.

Within this general backdrop the Town and the PBA have expertly and comprehensively set forth their positions, arguments and evidence in support of their respective positions. I will proceed to summarize them as follows.

POSITIONS OF THE PARTIES

THE PBA

Initially, the PBA emphasizes that the community expressed views on its own interest and welfare when it approved an \$8,823,088 public school tax levy on April 20, 1999. The PBA calculates that school taxes, at 2.117, constitute 59% of the total 1999 tax rate of 3.58 or 59% of the total tax levy of \$14,897,305.

The PBA maintains that the Town does not have a problem under the Cap Law. The PBA points out that the Town has underutilized its lawful authority under the Cap Law for the last five years. Despite a maximum permitted increase of 5% in each year, the PBA demonstrates that in 1995, the Town increased its budget by 2.5%. In 1996 the Town increased its budget by 3.5%. In 1997 and 1998, the Town increased its budget by 2.5% each year. In 1998, the Town increased its budget by 1.5%. In addition to underutilized its available

Cap consistently, the PBA emphasizes that the Town underutilized the Caps actually adopted in each of the last five years. Using Town budget documents to substantiate this assertion, the PBA notes that the Town had \$195,843 remaining and not appropriated in 1995, \$188,057 remaining and not appropriated in 1996, \$160,094 remaining and not appropriated in 1997, \$128,556 remaining and not appropriated in 1998 and \$229,358 remaining and not appropriated in 1999.

Focusing on the \$229,358 remaining and not appropriated in 1999, the PBA points out that the Town's budget for 1999 "anticipated a raise in police salaries and wages of more than 8%." The PBA based that calculation the fact that the Town budgeted \$1,320,000, or \$100,000 more than was spent in 1999, for police salaries and wages in 1999.

The PBA also emphasizes that the Town's surplus in 1998 was \$164,148, or over \$50,000 more than its 1997 surplus. Thus, the PBA argues, its economic proposal will not have an adverse financial impact on the Town or its residents and taxpayers. The PBA bases its calculations on its analysis of the Town's surplus balance, the amount of surplus used in the succeeding budget year and the remaining balance. For example, the surplus balance at the close of 1998, as well as on January 1, 1999 was \$965,148. The Town used approximately \$800,000 of its 1998 surplus as a source of general revenue in 1999. Accordingly, the amount remaining as a surplus balance not appropriated as a general revenue source on January 1, 1999 was \$165,148 according to the PBA.

The PBA also points out that the Town regenerated a cash surplus of \$853,991. Looking to how the Town is able to continue to generate such generous surpluses, the PBA asserts that Hackettstown consistently underestimates the percentage of the tax levy that will be collected. Thus, the PBA argues, the Town raises revenue not needed to satisfy expenses and artificially inflates its municipal tax rate. By comparing the estimated percentage of taxes to be collected from 1995 through 1998 to the percentage of taxes actually collected, the PBA shows that the Town actually collected taxes in by an average of 2.64% in excess of its estimate in each year. The PBA anticipates that the Town will continue to regenerate its surplus by underestimating the taxes that it collects.

Additionally, the PBA points out that Hackettstown was able to generate \$853,991, or the equivalent of 16% of the Town's total general appropriation, in excess revenue over expenses in 1998. The PBA also points out that the entire sum was transferred to the Town's surplus account without deductions for County or school purposes. The PBA argues that this rebuts the Town's position that it cannot afford the PBA's economic proposal.

Further, the PBA calculates that the 1998 surplus is the continuation of a pattern of surpluses averaging nearly \$700,000 from 1996 through 1998. According to the PBA, in 1997, Hackettstown generated a \$678,160 surplus, and in 1996, the Town generated a \$562,761 surplus. The PBA points out that in its 1999 budget, the Town once again does not anticipate a surplus despite

surpluses averaging near \$700,000 over the last three years. Assuming that the 1999 surplus will be 16%, or the same percentage of general appropriations as was the 1998 surplus, the PBA calculates that the Town will generate \$863,989 in excess revenues over expenses for 1999.

Turning to other reasons for the Town's surplus, the PBA points out that municipal court revenue has increased by 60% from \$142,216 in 1995 to \$227,424 in 1998. The PBA anticipates that the Town will continue to increase its municipal court revenue by at least 15% in 1999.

The PBA also points out that the Town's revenue from interest on investments increased 72.5% from \$82,017 in 1994 to \$141,560 in 1998. The PBA anticipates that the Town will continue to reap similar revenue gains from interest on its investments in future years.

Increases in uniform construction code fees from 1996 to 1998 have also added to the Town's revenues according to the PBA. Pointing out that the Town collected \$69,442 in fees in 1996 and \$129,669 in construction fees in 1998, the PBA calculates that the revenue generated from construction fees increased 87% between 1996 and 1998.

Based upon the increases in revenues from municipal court and construction fees, as well as interest income and surpluses generated from

underestimating tax collections, the PBA asserts that its economic proposal will not have an adverse impact on the Town, its residents and taxpayers.

Looking to other public sector employees, the PBA argues that Hackettstown teachers work less and earn more than Hackettstown Police Officers. The PBA asserts that Hackettstown teachers are a fair comparison because they are compensated by Hackettstown taxpayers and the school tax levy is voted on annually by Hackettstown taxpayers. Additionally, the PBA points out that Hackettstown taxpayers approved overwhelmingly the 1999 tax levy for public schools. Looking at the working conditions of Hackettstown teachers, the PBA points out that teachers work fewer months, fewer days and fewer hours per year than do its Police Officers. Additionally, the PBA points out that teachers do not work midnight shifts, evening shifts, weekends, holidays, or snow days, as do Police Officers. The PBA points out that teachers work ten months per year, compared to twelve months worked by Police Officers and they receive more bereavement leave and full health benefits at no cost to teachers. The PBA notes that its members must pay \$10 per pay period for dependent coverage.

The PBA also compares the salaries of Hackettstown teachers and Police Officers. For example, the PBA notes that the 1995-1996 starting salary for a Hackettstown teacher was \$30,685 compared with a Police Officer's 1995 starting salary of \$24,946. The PBA continues this comparison for each year,

culminating with the 1998-1999 school year. For that year, the Hackettstown teacher's starting salary was \$32,851 compared with the 1998 starting salary of \$27,631 for a Police Officer. Further, the PBA calculates that if its proposed 5% increase for 1999 is granted, and the starting salaries for 1998 and 1999 are halved then added (to equal a school year), the Police Officer starting salary would be \$28,321, or \$4530 less than that earned by a Hackettstown teacher.

The PBA also notes that a teacher's salary scale includes educational incentives of up to \$8300 for additional credits and a master's degree. In contrast, Police Officers receive a \$500 lump sum payment upon attaining 30 credits and an additional \$500 annual payment for each year the Officer "continues to attain a minimum of three (3) credits and a "C" average each year thereafter until said patrolman attains an Associate's Degree ..." Police Officers who attain 60 credits receive \$1,000 per year as an educational incentive and an Officer who attains a bachelor's degree receives \$1500 per year as an educational incentive. Therefore, the PBA argues, Hackettstown teachers earn more, including better fringe benefits and better higher education incentives and work less than Police Officers, and have nights and weekends off.

The PBA places its proposal in the context of the national economy, which it characterizes as "booming." Demonstrating that wages, salaries and benefits rose by 3.7% in 1998 over 1997 and unemployment was only 4.3% in the Spring of 1998, the PBA cites numerous headlines illustrating the health of the national

economy. Noting that home sales are at record levels, the PBA asserts that confidence in the economy is high and that it is in the interest and welfare of the public that Hackettstown Police should share in the economic growth and national prosperity. Looking to New Jersey, the PBA provides documentation showing that the unemployment rate in the State dropped from 9.3% in the last quarter of 1992 to 4.5% in October 1998. Since then, the PBA maintains, the unemployment rate in New Jersey has hovered between 4.1% and 4.4%. The PBA also points to healthy levels of job creation throughout New Jersey. Specifically, the PBA cites 78,000 new jobs created in the State in 1997, and an additional 50,000 new jobs expected for 1998. According to the PBA, 9300 jobs were created in February of 1999 alone. The PBA also points to the increase in the minimum wage from 4.25 in 1996 to \$5.15 in 1997. The PBA also cites the two-week long UPS strike in 1997, which it characterizes as settled "with extremely favorable terms for the union" as additional evidence of the health of the economy. The PBA argues that Hackettstown Police Officers should share in the current prosperity.

The PBA highlights Hackettstown's financial well being, pointing out that its municipal tax rate has remained relatively stable since 1996, and remained the same in 1999 as in 1998. The PBA also cites with approval Mayor John DiMaio's stated goal to make the Town "debt-free in ten (10) years." While maintaining a stable tax rate, the Town increased the appropriation for police salaries in 1999 by \$99,594. According to the PBA's calculations, the additional

\$99,594 is an 8% increase in the appropriation for police salaries, and it proposes only a 5% increase for 1999. At the same time, the PBA demonstrates that assessed valuations have increased from \$401,378,717 in 1995 to 416,743,111 in 1999 or \$15,364,394 over a five-year period. The PBA shows further that \$9,462,469 of that increase in assessed valuations occurred from 1998 to 1999. Accordingly, the PBA argues that the Town is in excellent financial condition.

Despite the Town's excellent financial condition, the PBA argues that the Town's final offer would render its Police among the worse paid in Warren, Sussex and Morris Counties. Rejecting the Town's comparison only with other Warren County police officers, the PBA asserts that such comparison is too narrow and limited because only 13 of 22 Warren County communities maintain their own police departments and of those 13, Hackettstown, with 18 officers is the second largest department in the County. Noting that many Warren County municipalities employ as few as five police officers, the PBA submits that a true and complete comparison can not be limited only to Warren County municipalities. Additionally, the PBA points out that Hackettstown and other Warren County municipalities are located adjacent to Sussex and Morris Counties and share similar economic conditions with the residents of those counties.

Turning to comparable police settlements, the PBA contends that if awarded, the Town's proposal would constitute the second lowest salary percentage increase in Warren County. Additionally, the PBA contends that between 1996 and 1998, Hackettstown Police received the lowest increases in Warren County. Specifically, the PBA calculates that the 3.4% increase received by Hackettstown Police in 1996 was 1.04% below the County average and in 1997, the 3.5% increase exceeded only those provided to Phillipsburg and Mansfield police and was .49% below the Warren County average.

The PBA maintains that its 3.5% increase for 1998 ranked tenth out of 13 in Warren County and was .50% below the Warren County average for that year. Now, the PBA raises concerns that the Town's proposal of 1999, of 2.8% is awarded would be the third lowest percentage increase in the County for the year and would be .9% below the County average of 3.78%. Examining Police salary increases in Warren County from 1995 to 1999, the PBA asserts that the percentage increases provided to Hackettstown Police have been among the lowest in the County throughout that period.

Looking to Sussex County, the PBA argues that municipal police there have received greater increases than Hackettstown Police between 1996 and 1999. According to the PBA's review of municipal police salary increases in Sussex County, the 3.5% received by Hackettstown Police in 1997 is lower than the percentage increase of any department in Sussex County for that year. In

1998, the PBA compares the 3.5% increase received by Town Police with the average increase of 4.29% in Sussex County. In 1999, the PBA points to an average increase of 4.48% in Sussex County compared with 2.8% proposed by the Town.

Making similar comparisons with municipal police salary increases in Morris County between 1996 and 1999, the PBA concludes that those percentage increases were also greater than those provided to Town Police. Specifically, the PBA calculates that in 1996 the average increase provided to Morris County municipal police was 4.64% compared with the 3.4% increase received by Town Police. Similarly, in 1997 the average among Morris County municipal police was 4.425 or .92% above that received by Town Police. The 3.5% increase provided to Town Police in 1998 surpassed only two of the 17 Morris County municipalities according to the PBA. Additionally, the PBA maintains that the average Morris County increase for 1999 was 3.73% and if the Town's proposal is awarded, the Town's increase would be exceeded by all of the 14 Morris County municipalities with settlements for 1999.

In addition to percentage increases, the PBA compared actual annual salaries of Town Police with Police employed collectively in Warren, Sussex and Morris Counties. Based upon this analysis, the PBA concludes that Hackettstown Police have received lower increases than police in most municipalities in Warren, Sussex and Morris Counties. According to the PBA's

comparison, in 1996 a Hackettstown Police Officer with ten years of service earned \$47,644, which ranked 12th out of 26 communities in the three counties. In 1997, a Hackettstown Police Officer with ten years of service earned \$49,311 and ranked 19th out of 37 municipalities in the three counties. Further, for 1998, the PBA compares the Hackettstown Police Officer with ten years of service's salary of \$51,037 with the average of \$52,102 among 40 municipalities in the three counties.

Next, the PBA looks to the contract at issue and calculates that the Town's proposal of a 2.8% increase for 1999 would result in a tenth year salary of \$52,466 compared with the average in the three county area of \$53,466. According to the PBA, the Town's proposal would place a tenth year officer at 18th out of 34 communities in the three counties for 1999. Continuing to analyze the Town's proposal in this manner, the PBA calculates that if the Town's proposal is awarded, a Hackettstown Police Officer with ten years of service will earn an annual salary of \$53,987 if the 2.9% proposed by the Town is awarded. That salary would exceed only five municipalities in the three counties under the PBA's comparison. In 2000, the PBA calculates that the average police salary for the three counties is \$57,040. On the other hand, the PBA points out that if its proposal of a 5% increase is awarded in 2000, then a Town Police Officer with ten years of service will earn \$56,267, and will rank tenth out of 17 municipalities in the three counties. Looking to 2001 the PBA compares the 3% increase proposed by the Town with its 5% proposal and shows that under the Town's

proposal a Hackettstown Police Officer with ten years of service would earn \$55,606, a sum which exceeds only two other municipalities in the three counties. If the PBA's proposal was awarded, the PBA calculated that a Hackettstown Police Officer with ten years of service would earn \$59,080 and would rank seventh of among ten communities in the three counties.

Based upon these calculations, the PBA submits that even if its proposal was awarded in full, Hackettstown Police would continue to earn salaries that are among the worst in the Warren, Sussex and Morris Counties. Failure to award its proposal will result in the salaries of Hackettstown Police falling further behind those of police in the three counties.

Additional calculations by the PBA demonstrate that the cost difference between its proposal and the Town's is only \$18,550 for 1999. Noting that it has included longevity in its cost calculations, the PBA places the \$18,550 in context of the Town's budgeted general appropriations of \$5,399,934 for 1999. The PBA calculates that the \$18,550 constitutes .0034352 of the Town's 1999 budget. Further calculating the cost difference between its proposal and the Town's proposal for 2000 to be \$38,294 and average annual cost difference over the three year duration of the contract between the parties' proposals to be \$38,654, the PBA asserts that the total cost of its salary proposal is \$363,565. Calculating the total cost of the Town's proposal to be \$247,603, the PBA calculates the total difference between the parties' proposals is \$115,962. The PBA contends that

the Town has more than sufficient funds in its reserves and other accounts to fund the cost differential between the two proposals.

Focusing on the interest and welfare of the public, the PBA characterizes the Town as an "affluent, vibrant and growing municipality." In support, the PBA cites statements of the Mayor DiMaio touting the 19 new business opened on Main Street in 1998, as well as the other new commercial development evidenced by photographs and new building permits. The PBA notes that 433 building permits were processed in 1997, 475 in 1998, and 349 as of August 30, 1999. 30 new buildings were constructed in 1997, 88 in 1998 and 63 as of August 30, 1999. The PBA also cites the 117% increase in the total value of construction from 1997 to August 30, 1999, and the highest increase in median rent in Warren County between 1980 and 1999. Noting that home values have increased and it is more costly to raise a family in Hackettstown than in other Warren County municipalities, the PBA points to its safety and low crime rate. Specifically, the PBA notes that the crime rate in Hackettstown decreased 19% from 1992 to 1996.

Turning to the continuity and stability of employment, the PBA argues that if the Town's proposals are awarded the Town will, in the future, have significant difficulties retaining junior officers as they will transfer to nearby municipalities with higher salaries. Therefore, the PBA maintains, its proposals would have a greater impact in promoting the continuity and stability of employment within the

Town's Police Department. The PBA asserts that retaining senior officers is in the interest and welfare of the public and promotes the continuity and stability of employment because senior officers know the townspeople, the trouble spots, the streets and the geography. In turn the senior officer is more efficient and more likely to detect crime patterns over the course of years and a senior officer can help train junior officers in these matters. Therefore, the PBA maintains that the continuity and stability of employment would be adversely affected by an award of the Town's proposals.

Additionally, the PBA argues that its proposal to permit the submission of minor disciplinary disputes to grievance arbitration will enhance the continuity and stability of employment. Noting that its proposal conforms with the provisions of N.J.S.A. 34:13A-5.3, including the 1996 amendments providing for the arbitration over minor discipline to police employees. Mindful that grievance arbitration is the preferred means to resolve labor-management disputes, including minor disciplinary disputes, the PBA points out that absent this proposal, its members will be required to submit such disputes to Superior Court. Asserting that arbitration is final, less protracted and less expensive, the PBA urges adoption of its proposal to permit arbitration of minor discipline.

Next, the PBA asserts that its proposal to increase the amount of sick leave that may be accumulated toward retirement from its current level of 150 days by five days in each year of the contract also supports the continuity and

stability of employment. By more equitably compensating Officers for unused sick time, the Department's efficiency will be enhanced and it will be a further disincentive for Officers to use available sick time according to the PBA. The PBA also suggests that its proposal could lead to a reduction in shift shortages and result in savings in overtime compensation.

The PBA also seeks a clarification of the personal day entitlement for Officers working a 12-hour shift. According to the PBA, it does not seek to increase the personal day allotment from its current level of two days per year. Rather, it seeks to modify the language of the side bar agreement establishing the "Pitman Schedule." That agreement provides "Officers shall be entitled to 16 hours personal time per year and may accumulate 32 of personal time." Under the "Pitman Schedule" Officers are assigned to 12-hour shifts rather than 8-hour shifts and the PBA asserts that the continuity and stability of employment would be enhanced by recognition that a day is the equivalent of 12-hours.

Another PBA proposal which it maintains which promote the continuity and stability of employment is its proposal to increase the clothing allowance from \$1,000 per year to \$1,500 per year. According to the PBA, this proposal will more equitably compensate Town Police Officers for the cost of purchasing and replacing their uniforms. Given the stipulation with the Town "to increase the cleaning service to provide for the maintenance of uniforms from \$19.00 per

month to \$26.00 per month" the PBA has withdrawn its proposal to delete the second sentence of Section A of Article XVII.

The PBA also argues that its proposals to eliminate the employee co-pay for dependent medical insurance and increase the Town's contributions toward dental insurance premiums will promote the continuity and stability of employment. Specifically, the PBA alleges that its proposal to eliminate the employee co-pay will lessen the disparity in compensation between Town Police and other police in Warren, Sussex and Morris Counties. With respect to the Town's contribution to dental insurance premiums, the PBA notes that the Town acknowledges that its contribution should increase with its proposal to increase the its contribution to the premium to \$785.00 per year.

The PBA also asserts that its proposal to amend the first sentence of Article XVII, Section E to clarify that any change in health insurance carrier can not result in a reduction in benefit levels or in the administration of those benefits provided to PBA members would also promote the continuity and stability of employment without an adverse impact on the Town. According to the PBA, the current language permits the Town, "to enter into a self-insurance program or to change insurance carriers regarding any insurance benefit so long as the same or substantially equivalent benefits are provided." The PBA contends that its language proposal will better protect the level of benefits provided while maintaining the Town's prerogative to change insurance carriers.

The PBA lists the stipulations agreed upon by the parties and asks that they be incorporated into the award. They are:

1. **Article XXII, Section E**

The reference to "November 1st" shall be replaced with December 31st or January 1st of the succeeding year." Therefore, Section E shall be revised to state:

Each employee shall be supplied with a written certification from the Town no later than December 31st or January 1st of the succeeding year which shall state the number of accumulated vacation days or holidays taken, sick days, personal days and other time which is available to the officer.

2. **Article XXI, Section B**

The meal allowance shall be increased from \$5.00 to \$10.00.

3. **Article II, Section A**

The term "designate" shall be replaced with the term "elect".

4. **Article XVII, Section A**

The maintenance allowance shall be increased from \$19.00 per employee to \$25.00 per month per employee.

5. **Article IV**

Any and all references to the term "patrolman" shall be replaced with the term "policeman."

6. **Article XIX, Section D**

The parties have agreed to replace the reference to "Imperial Casualty & Indemnity Co." set forth in Section D with the name of the present insurance carrier for personal liability insurance.

THE TOWN OF HACKETTSTOWN

The Town supports its position by highlighting the differences between its proposal and that of the PBA. Initially, the Town calculates that an award of the PBA's salary proposal would result in increases of \$2,552 in 1999, \$2,679 in 2000 and \$4,813 in 2001 for a three year total increase of \$8,044. The Town emphasizes that this would raise the top step patrolman salary to \$59,081 by the end of the agreement and would cost the Town \$80,440 or almost \$27,000 per year. The additional costs of that same increase for the three sergeants would result in salary increases of \$2,822 in 1999, \$2,963 in 2000 and \$3,111 in 2000 for a total cost to the Town of \$37,640 over the life of the agreement. Adding the costs of 5% increases for the two lieutenants would result in additional costs of \$19,024 over the life of the agreement. Based upon these costs, the Town calculates that the PBA's proposal would cost \$126,152 over three years and the Town has not budgeted for such increases. As a result, the Town maintains that such an award would have a detrimental impact on the Police Department and the Town as a whole. The Town also calculates that with the compounding effect, the PBA's proposal would result in an increase of 15.76% over the three-year period.

The Town also adds the cost of step increases during the life of the agreement for the three officers not yet at top pay and calculates that the cost of increases for these three officers during the life of the agreement would total

\$30,599. Thus, the Town calculates that the additional percentage increases on to the interim steps of the guide results in an additional total percentage increase of approximately 3.03%.

The Town also opposes the PBA's proposal to increase the longevity schedule for employees hired before January 1, 1997 by an additional one percent from 7% to 8%. Citing the history of longevity benefits, the Town explains that the parties agreed to create a flat dollar amount longevity schedule for employees hired on or after January 1, 1997. While the Town acknowledges that the PBA is not seeking to alter this agreement, the Town points out that only one Officer would not be eligible for the enhanced longevity benefit sought by the PBA. Based upon the eight Officers who would be eligible for the enhanced longevity benefit in 1999, the Town calculates that the additional longevity would cost \$4,562 or an average of \$253 per officer or .47%. In 2000, three bargaining unit members would be eligible for the proposed longevity increase and the Town calculates that the cost of that increase would be \$1,314 or an average of \$73 per officer for a .13% increase. The Town further calculates that in 2001 six bargaining unit members would be eligible for a longevity increase at a cost of \$2,813 or an average of \$156 per Officer for a .26% increase.

The Town also resists the PBA's proposal to increase the number of days of terminal leave to be paid in accumulated sick leave by 15 over the life of the agreement. Noting that four Officers will be eligible for retirement over the life of

the agreement, the Town suggests that additional costs would result if those officers retired during the course of the agreement. Additionally, the Town points out that the PBA did not support this proposal at the hearing.

Opposing the PBA's proposal to increase the value of personal days by increasing the number of hours each personal day is worth, the Town asserts that the parties agreed to the existing number of hours when they adopted the "Pitman" schedule during the last contract. The Town points out that the "Pitman" schedule has "barely been in effect." Noting that the cost of the proposal is incalculable, the Town reasons that permitting Officers additional time off has a cost.

Turning to the PBA's proposal to increase the clothing allowance by \$500 effective January 1, 1999, the Town calculates that based upon the 1998 top step patrolman's salary, the cost of this proposal is .98%. The Town also notes that the current clothing allowance is one of the highest in the County and there is no justification for such an increase. The Town also points out that the PBA has not justified its proposal to remove the cleaning service provision except that it would result in a cost savings to Police.

The Town opposes the PBA's proposals to make changes to several insurance benefits. Contending that the provision for a co-pay for dependent health insurance premiums was added by the interest arbitration award of

Arbitrator Zausner in the last contract, the Town asserts that there is no reason to change that provision now. Noting that there is a trend toward contributions toward insurance coverage, the Town calculates that the PBA's proposal would result in an additional economic benefit to Police of .51% per Officer in 1999. The Town also calculates that the employee contribution towards dependent coverage is less than 4% of the total medical insurance premium cost. The Town also opposes the PBA's proposal to increase its obligation to pay for dental insurance from \$750 to \$1,000 per year. The Town suggests that this proposal at a time when the trend is towards increased employee contributions towards the cost of insurance is simply greedy.

The Town supports maintaining the current language in the agreement that requires the same or substantially equivalent coverage in the event that the insurance carrier is changed. The Town asserts that this language provides sufficient safeguards for police and that the PBA's proposal would unduly limit the Town's ability to change carriers. The Town points out that due to its size, insurance typically covers all employees and any restriction in insurance carriers would effectively apply to all Town employees. Accordingly, the Town asserts that would not be in its best interest to change carriers if it was restricted from changing carriers by a collective bargaining agreement covering one group of its employees.

The Town summarizes the costs of the PBA's package as a total of 21.63% over three years or an average increase of 7.21% per year. Breaking down the costs, the Town calculates that the cost would be 8.02% in 1999, 6.92% in 2000 and 6.69% in 2001. Comparing these costs to current increases in the CPI and to PERC data on recent interest arbitration awards and settlements, and collective bargaining agreements, the Town maintains there is no support for economic increases near this amount.

In contrast, the Town asserts that the more modest increases it has proposed would still cost \$82,278 over the life of the agreement. The Town points out that its proposal would allow it to meet the amount budgeted for increases in Police salaries in the 1999 budget. The Town also points out that the compounding effect results in actual increases of 2.8% in 1999, 3.01% in 2000 and 3.15% in 2001. The Town asserts that the costs of moving through the salary guide must also be considered for those employees who are not yet at the top of the guide. Calculating the costs of increments for the three Patrol Officers not yet at the top of the salary guide, the Town asserts that the total cost of their step increases is \$25,565, or divided over the 18 member bargaining unit, an average cost of \$1,420 per Officer. Adding this cost to its proposal for salary increases, the Town calculates that the cost of its final offer is an additional 7.98% over the term of the contract. According to the Town, its total economic proposal is the equivalent of 5.51% in 1999, 5.71% in 2000 and 5.70% in 2001 or a total of 16.90% over the three-year period for an average cost of 5.64% per

year. Based upon present economic conditions, the Town asserts that its more modest proposals are more closely aligned with the economic realities than are those of the PBA. The Town maintains that its proposal is consistent with proposals to its public works bargaining unit and to its unrepresented employees. The Town notes that it settled with its other employees in the 3% range for 1999 and anticipates settlement with the public works union and its unrepresented employees in the 2½ to 3 percent range over the next two years. Therefore, the Town asserts, its proposal is more in line with settlements with its other employees and that must be considered in rendering an award.

The Town calculates that the cumulative cost of the PBA's demands over the contract term are an additional \$152,335. The Town contrasts this amount with the total cost of its proposal, which is \$89,480 over the term of the contract. The Town calculates further that the PBA's demands would cost an average of \$3,492 per Officer over the life of the contract, or when compared to 1998 top step base salary an additional 6.84% increase per Officer over the Town's proposal.

The Town notes that it is proposing to increase its contribution to the dental premium by \$35 per year to \$785 annually. Acknowledging that the amount of the increase is not large, the Town nonetheless points out that increasing its contribution at all is "a large offering from a municipality which was very successful in turning the tide of such payments" towards employees.

Addressing the scheduling issues, the Town explains that it is presently operating under the "Pitman" schedule of 12-hour shifts. Previously, it had operated with eight-hour shifts. The Town and the PBA have agreed that this schedule is "transitional." According to the Town, both parties agree that at present the schedule appears to be working. Under these circumstances, however, the Town seeks flexibility in using the "Pitman" schedule and the previous eight-hour schedule. Therefore, the Town seeks the right to change from the "Pitman" schedule to the previous schedule with 90 days notice except under exigent circumstances. The Town also seeks a provision that would permit the Chief, with ten days notice, to assign an individual officer from the Pitman schedule back to a 40 hour per week schedule, except under exigent circumstances. The Town maintains that these scheduling changes are significant, but do not represent a burden to individuals or to the bargaining unit as a whole and the scheduling flexibility is very important given the size of the Police Department. The Town maintains that its proposal provides protection for Officers by providing notice, while providing the Town with the flexibility necessary to meet its needs. According to the Town, the flexibility is necessary to provide the maximum coverage at the minimum amount of monetary exposure. The Town asserts that requiring the Police Chief to spend more money to make scheduling ends meet is to the detriment of all parties involved and impacts on the Town's Cap.

Looking to comparison with other public safety employees, the Town asserts that none of the agreements or interest arbitration awards submitted by either party provides improvements equal to those demanded by the PBA. Rather, the Town contends, its final offer is closer to the "going rate" for increases in Warren County. The Town also contends that its Police are at or near the top earners when compared to Police in Warren County. The Town contends further that the increases sought by the PBA when coupled with longevity changes, clothing allowance and health insurance would place its senior patrol officers well above their present status in relation to comparable municipalities. In short, the Town asserts that its proposal would maintain the relative position of its police compared to other municipal police in Warren County, while the PBA's proposal would place them in a much better relative position in each year of the agreement as well as at its conclusion.

The Town rejects the PBA's comparisons with communities in Morris and Sussex Counties noting that each of these communities are either larger or more affluent than Hackettstown. The Town points out that there is no basis for comparison with Prosecutor's Office employees. The Town also points out that the agreement between the Hackettstown Board of Education and the Hackettstown Education Association includes both increases and givebacks that are more comparable to the Town's proposals than to those of the PBA.

Turning to private sector comparisons, the Town asserts that such a comparison supports its final offer over that of the PBA. Asserting that in 1998 and the average all-industries median wage increases were 2.8% for a three-year agreement, the Town maintains that its proposal is in keeping with private sector comparisons. The Town also cites an agreement between the IBEW and Jersey Central Power and Light Company for increases averaging 2% per year for three years and an agreement with Phillips Lighting Company providing approximately 1.5% increases over a four-year period. The Town also cites the following private sector agreements in support of its final offer: Entenmanns, Inc. settled with the Bakery, Confectionary & Tobacco Workers for an average of 2% over a three year period from May 1995 to May 1998; Merck settled with its employees for 4% increases per year for three years ending April 30, 2000; Bristol Myers settled for an average of 1.75% per year for May 1997 through April 2000 with no increase in the first year; and Martin Marietta settled for 2.5% in 1997 with a COLA of 0.125% per year for 1997 through 1999). Further, the Town calculates that the salaries earned by its Police exceed private sector wages by a significant margin, and that margin increases when considering superior officers. For these reasons, the Town asserts that its final offer is more rational and reasonable compared to private sector comparisons.

The Town points to the economic burdens it faces. Noting that as its non-tax revenues have decreased over the past several years, its need to meet its budgetary requirements through taxes has grown. The Town points out that its

tax levy has grown 9.81% from \$3,882,163 in 1996 to \$4,263,000 in 1998. Nonetheless, the Town points out that it has stabilized municipal employees' jobs and maintained programs and service while trying to maintain a "level" municipal tax rate. However, the Town notes that the municipal tax rate has increased from \$.459 in 1995 to \$.602 in 1997 to \$.649 in 1999, or 41.54% since 1995. Despite the "tumult", the Town points out that in the last three years it has promoted two patrolmen to sergeants and hired two new patrolmen. The Town also points out that the total tax levy has risen 19% from \$3.00 per \$100 in ratables in 1995 to \$3.58 in 1999. The Town cites an example of an home assessed for \$153,000, the average assessment. That home paid taxes of \$4,590 in 1995 and is now paying \$5,477, or \$877 more. Looking more specifically at the municipal tax rate, the owner of that same home paid \$702 in 1995 and \$993 in 1999. That increase totals \$291 or 41.45%. According to the Town, the tax rate remained relatively flat in 1999 only because significant cuts in non-police departments were made and the surplus was depleted to maintain the tax rate. As a result, the Town maintains that funds are not available for an increase above 2.8%. Additionally, the Town maintains that there is no indication that its tax rate will fall at any time in the future. Discussing its financial situation in more detail, the Town also points to financial indicators including that current taxes used to support the budget have risen to more than 50% of the total revenue base. The Town notes that Police Department salary and wages represent 29% of its total budget for 1999, yet the Town has continued to hire police officers and no other department has increased its staff in the past five

years. In 1999, the Police Department's budget increased by \$60,000 within the Cap while every other department's budget decreased or increased by smaller amounts according to the Town. Additionally, the Town points out that its PFRS payments have increased by an average of 12.6% over the last four years as the salaries of the members of its Police Department have risen.

The Town also asserts that a variety of other costs have risen and show no signs of stabilizing. One example of these costs is a \$205,000 appropriation to pay for a Town-wide revaluation project. The Town is financing this project through emergency bonds in 1999 that will have a special budget line item in 2000 that will total \$41,000 over the next five years. According to the Town, that cost represents a one point tax increase per year in its budget, assuming other costs remain stable. The Town also believes that property tax appeals, including by Mars, Inc., its largest ratable, will rise.

The Town also points out that the municipal tax rate now represents over 25% of the total tax impact, rather than the under 20% that is more typical in most municipalities. However, the Town's tax collection rate has remained over 90% during the last five years. If this rate decreased, the Town maintains that additional revenues would be lost. Noting that the Town's tax rate is the second highest in the County, besides Washington Borough, the Town acknowledges that most of the tax levy is directed to the schools, but a significant amount is paid to the municipality. The Town highlights the fiscal dexterity that has been

required to permit the Town to maintain stability in the Police Department. Specifically, the Town points out that \$0.18 of every tax dollar goes to municipal operations and \$0.05 of that goes to the operation of the Police Department. In other words, the Town calculates that 26.84% of all taxes go to fund the Police Department. Therefore, the Town maintains that it will need to raise taxes or cut services to fund the PBA's demands. Noting that even though home prices have risen, the taxable net valuation in Hackettstown has remained the static, the Town asserts that its proposal is more rational.

The Town also maintains that its final offer is in the interests and welfare of the public as it permits the Town to at least try to maintain its current tax rates without a major impact on services. The Town contends that it budgeted the money in 1999 to cover its 1999 proposal and any amount in excess of that proposal could lead to budget cuts and/or tax increases. The Town also points out that its non-tax revenues decreased by almost \$100,000 from 1998 to 1999 and it dipped into its surplus to make up the difference without a tax increase. Acknowledging the public interest in a properly staffed and educated police force such as it has at present, the Town maintains that it can not come with unlimited costs. Pointing out that no other Town department has had similar cost escalations in the past five years, the Town asserts that such costs must be stabilized. The Town also notes that it did not have a problem filling two patrolman positions in the first six months of 1997.

Looking to comparables the Town calculates that the average base salary for all bargaining unit members on December 31, 1998 was \$51,293 and if existing longevity benefits, with an average length of service of approximately 12 year are included, the average base salary was \$53,858. The Town asserts that its police fare as well or better than police in comparable Warren County municipalities because they earn better longevity than every comparable municipality throughout the longevity scale, have fewer holidays, but they are all in time off. The Town asserts that its Officers earn comparable vacation benefits with more days off earlier than any other comparable municipality. Looking to health insurance, the Town maintains that its benefit is better than any other comparable municipality. The Town asserts that its Police have benefits for college credits comparable with all other Warren County municipalities, receive similar bereavement and personal leave benefits and have comparable overtime, sick leave and terminal leave benefits.

The Town also points out that Police are its top wage earners with most Officers earning more than all but a few senior management personnel. The Town also maintains that its Police earn far more than manufacturing employees in the County. Therefore, the Town contends that the PBA's proposal would increase the pay gap between its Police and comparable police departments as well as with Hackettstown taxpayers.

The Town argues that the PBA's proposals cost much more than it can afford and the costs are cumulative. The Town maintains that without Cap bank capabilities the Town would not have an opportunity to cover the PBA's demands. Additionally, the Town maintains that it has no lawful authority to exceed the CAP rate in 1999 and will have no Cap bank ability in the future. Based upon the current economic picture, it is unclear whether the Town Council will permit the budget to exceed the Cap in 2000. The Town portrays its economic condition as caught between decreasing revenues, increasing costs and a tightening Cap increase available. Accordingly, the Town maintains that additional funds and banked money are not available and an award at or near its proposal should be awarded.

Comparing increasing in the cost of living from 1994 to 1999 to PBA salaries, the Town calculates that the CPI-U in the New York-Northern New Jersey area has risen 15.3% or an average of 2.5% per year compared to the PBA's demands for increases averaging 4.3% per year. The Town asserts that the PBA's demands can not be justified in light of current or previous CPI figures and therefore, its proposal is more reasonable.

Noting that the Town has never laid or reduced the rank of any police officers, the Town points out that the average police officer had 12 years of service as of December 31, 1998. Although two new officers were hired without difficulty in 1997, no Officers have left the department to seek employment with

another police department and Hackettstown Police enjoy secure positions. Based upon the local job market, the Town asserts that its final offer is more than sufficient to ensure the continuity and stability of employment and such a guarantee could not be made if the PBA's demands are awarded.

Turning to the remaining items included in its proposal, the Town maintains that none of them has any impact or harm on bargaining unit members except for a slight impact stemming from the insurance co-pay. The Town notes that the public works union has accepted language as to "opt-out/opt-down" and a co-pay on insurance. The Town asserts that its proposal for a language change for probationary employees is in accord with State law and the proposed management rights clause is "boiler plate" that establishes its "inherent managerial prerogative." In addition, the Town seeks rejection of the PBA's proposals since it has not submitted evidence demonstrating the need for the changes sought and its demands are not in accord with the provisions of the Interest Arbitration Act.

The Town notes that during negotiations the parties stipulated to six modifications to the existing collective bargaining agreement. They are: (1) meal allowance; (2) designate v. elected (Article II); (3) dues deduction - patrolmen v. policemen; (4) new PBA identity (Local 359 replaces Local 280); (5) change in the clothing maintenance; and (6) personnel files. The Town asks that these agreements be included in the Award.

DISCUSSION

As stated above, I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Town and the PBA have articulated fully their positions on the issues and have submitted evidence and argument on each statutory criterion to support their respective positions. These submissions are expert and comprehensive in nature. The evidence and arguments have been carefully reviewed, considered and weighed.

The parties have entered into stipulations on several issues. I will incorporate them into the terms of this Award pursuant to N.J.S.A. 34:13A-16(g)(4). They are:

1. Article XXII, Section E

The reference to "November 1st" shall be replaced with December 31st or January 1st of the succeeding year." Therefore, Section E shall be revised to state:

Each employee shall be supplied with a written certification from the Town no later than December 31st or January 1st of the succeeding year which shall state the number of accumulated vacation days or holidays taken, sick days, personal days and other time which is available to the officer.

2. Article XXI, Section B

The meal allowance shall be increased from \$5.00 to \$10.00.

3. Article II, Section A

The term "designate" shall be replaced with the term "elect".

4. Article XVII, Section A

The maintenance allowance shall be increased from \$19.00 per employee to \$25.00 per month per employee.

5. Article IV

Any and all references to the term "patrolman" shall be replaced with the term "policeman."

6. Article XIX, Section D

The parties have agreed to replace the reference to "Imperial Casualty & Indemnity Co." set forth in Section D with the name of the present insurance carrier for personal liability insurance.

Many other issues remain in dispute. One principle which is ordinarily and traditionally considered in the determination of wages, hours and conditions of employment through the bargaining process is that a party seeking such change bears the burden of showing the need for such modification. I apply that principle as part of my analysis to each issue in dispute.

Both the Town and the PBA seek amendments based upon the recent change from an 8-hour schedule to a 12-hour schedule known as the "Pitman Schedule". The PBA seeks to amend the Agreement to provide that personal days, currently paid at 8-hours per personal leave day, be paid at 12-hours per personal leave day or 36 hours of leave compared with 24. The PBA's proposal is designed to provide officers with three personal days off, rather than two, when

a workday is 12 hours. The amount of personal leave time was 24 hours before the schedule change was negotiated and continued to be 24 hours annually under the "Pitman" schedule. The record reflects that personal leave was specifically included in the negotiation of the new schedule. The Town opposes this proposal.

The Town seeks to reserve the right to change the work schedule to a schedule "identical or akin" to the previous schedule with 90 days notice, except under exigent circumstances. The Town also seeks to change the schedules of individual officers back to a 40 hour week upon ten days notice, except in exigent circumstances. According to the Town, this proposal would provide the Chief with additional flexibility and would save money on overtime.

The "Pitman" schedule was introduced approximately one year before this proceeding. Both parties acknowledged that the change has been beneficial and the new schedule is working well. Given the positive but limited experience with the Pitman schedule, there is insufficient justification for either proposal at this time. Police continue to receive the same amount of personal leave time as they did under the old schedule. Adding to that time is not warranted at this juncture, especially since the existing conversion of personal leave time was part of the understanding and negotiation which led to the effectuation of the schedule change. Additionally, the average number of personal days provided to Police in Warren County is, as here, 2 days. I also deny the Town's proposal to reserve

unto itself the unilateral right to disturb work schedules during the term of the Agreement. Further experience with the recently negotiated status quo will provide a more reasonable basis in the future for each party to propose additional changes based upon a longer term experience with the Pitman Schedule.

Both the Town and the PBA seek changes to existing insurance coverage. The PBA proposes to eliminate the \$10.00 per pay period co-payment for dependent health insurance included in Article XIX(A). That co-payment was added as a result of an interest arbitration award which set terms for the previous agreement. The PBA asserts that elimination of the recently added co-pay would lessen the disparity in compensation between the Town's police officers and other comparable police departments and would enhance the continuity and stability of employment. Although the PBA has vigorously argued in support of the deletion of the co-pay, I do not award this proposal. The deletion of any contract term which was awarded in the prior Agreement as a result of an interest arbitration award requires credible substantial evidence I must also consider with a single component of a multi-point award should be deleted without disturbing the balance created by the remainder of that award. I conclude that the PBA has not met its burden on this issue and I also conclude that the status quo on this term shall be carried forward into the new Agreement.

The PBA also proposes to amend the first sentence of Article XIX(E) to provide:

The Town retains the right to enter into a self-insurance program or to change insurance carriers regarding any insurance benefits so long as the change will not result in a reduction in the level of benefits provided to the PBA or in a change in the administration of those benefits.

This proposal would amend the current provision which provides the Town with the ability to change insurance carriers "so long as the same or substantially equivalent benefits are provided." The current provision also requires the Town to "pay particular attention to the ability of the employee to use the new insurance carrier's plan outside the Hackettstown area." The current provision protects both the level of benefits for Police and their ability to seek health care in a broader market than the Hackettstown area while providing the Town with the necessary latitude to consider alternatives while maintaining an obligation to preserve the same or substantially equivalent benefits. There is no evidence of a need to support the PBA's proposal which could inhibit flexibility in the Town's ability to continue to provide quality health insurance at competitive costs. For these reasons, the PBA's proposal is denied.

Each party proposes to increase the dental insurance contribution. The Town would increase its contribution to the dental insurance premium from \$750 to \$785 per year. The PBA seeks an increase in that contribution to \$1000 per year. The Town's proposal would raise the total cost of the dental benefit by

\$270 per year compared with a \$4,500 annual increase in costs under the PBA's proposal. The record reflects that an adjustment modestly above the Town's proposal is warranted, effective on January 1, 2001. Accordingly, the dental insurance premium shall be amended to \$800 per year, effective January 1, 2001, at a total annual increased cost of \$900.

The PBA proposes increase the number of accumulated sick leave days toward retirement by five (5) days for each year of the contract. At present, Article XIII(C) provides Police may accumulate 150 sick leave days towards retirement. Under the PBA's proposal, at the end of the agreement, they would be permitted to accumulate as many as 165 sick leave days towards retirement. Noting that four police officers will be eligible for retirement over the life of the agreement, the Town asserts that additional costs would result if those officers retired during the course of the agreement and the existing benefit is a generous one. There is insufficient evidence supporting a modification to this benefit during this contract term, especially in light of the fact that the benefit amount, expressed in days, will increase as a result of the increases in base pay awarded which will increase the value of a day.

The PBA seeks to increase the clothing allowance by \$500 effective January 1, 1999. Hackettstown Police currently enjoy a \$1,000 annual clothing allowance. In comparison, many communities in Warren County provide uniforms and replacement uniforms, but do not provide an allowance. The

existing clothing allowance is designed to cover the costs of purchasing and replacing uniforms. These costs do increase over time warranting an adjustment but weight must be given to the fact that the existing benefit is among the highest in the Country. For these reasons, the PBA's proposals to increase the clothing allowance is granted but not to the extent sought. This allowance shall be increased by \$50 to \$1,050 effective January 1, 2001 at an annual increased cost of \$900.00

The PBA seeks to increase longevity for all steps by 1% for each year of the contract. Based upon the number of officers eligible for increased benefits in each year of the agreement, the Town calculates that the additional longevity would cost \$4,562 or .47% in 1999, \$1,314 or an additional .13% in 2000 and \$2,813 or .26% in 2001. The present longevity schedule for Officers hired before January 1, 1997 begins with a 2.0% longevity payment at the beginning of the 6th year and rises to 7% at the beginning of the 21st year. For Officers hired after January 1, 1997, longevity payments are defined sums beginning with \$986.00 at the beginning of the 6th year and rising to \$3,452.00 at the beginning of the 21st year. The record on comparables reflects that the Hackettstown longevity schedules are among the best in Warren County. Other police longevity schedules in Warren County may provide longevity benefits earlier or may provide benefits that increase more quickly, but only the Phillipsburg Superior Officers receive a top longevity benefit of 7%. Additionally, police in many Warren County communities receive defined sums that do not increase with

increases in base salaries. For those officers hired prior to January 1, 1997, their longevity benefits, now expressed in percentage terms, will increase as a result of increases in base salary. Based upon these comparisons, an increase in the longevity schedules is not justified at this time and the PBA's proposal is denied.

The PBA has proposed to amend the grievance procedure to include minor disciplinary disputes. This proposal would allow review of disciplinary disputes in length in the arbitration process rather than in Superior Court for grievances involving the imposition of discipline up to five days. The Legislature made this subject matter mandatory negotiable by recent legislation which states that:

Public employees shall negotiate written policies setting forth grievance and disciplinary review procedures ... such procedures may provide for binding arbitration of disputes involving the minor discipline of any public employees ... other than public employees subject to discipline pursuant to R.S. 53:1-10 (State Troopers)

The New Jersey Employer-Employee Relations Act reflects a preference that disputes over terms and conditions of employment should be resolved, if possible, through grievance procedures. The informal nature of arbitration would most likely be more efficient and less expensive than pursuit of formal proceedings by Actions in Lieu of Prerogative Writs in New Jersey Superior Court and would thereby serve the interests and welfare of the public. Arbitral review would be limited to reprimands through five days of suspensions and any award

under this proposal would require compliance with a public interest standard as required by arbitration case law. For these reasons I conclude that there is merit to the PBA's proposal and it is awarded.

I turn now to the issue of salary. The PBA has proposed 5% across the board increases annually and the Town has proposed a 2.8% increase in 1999, 2.9% in 2000 and 3.0% in 2001. The PBA proposes 15% over the three years while the town proposes 8.7%. When these proposals are applied to the existing salary schedule and projected forward for an additional three years, the proposed salary schedules would read as follows:

Step	1998	1999 Proposals		2000 Proposals		2001 Proposals	
		PBA 5%	Town 2.8%	PBA 5%	Town 2.9%	PBA 5%	Town 3.0%
1 Patrolman after 0 months	\$27,631	\$29,013	\$28,404	\$30,463	\$29,227	\$31,986	\$30,104
2 Patrolman after 12 months	\$35,941	\$37,738	\$36,947	\$39,625	\$38,018	\$41,606	\$39,159
3 Patrolman after 24 months	\$39,697	\$41,682	\$40,808	\$43,766	\$41,991	\$45,954	\$43,251
4 Patrolman after 36 months	\$43,476	\$45,650	\$44,693	\$47,932	\$45,989	\$50,329	\$47,368
5 Patrolman after 48 months	\$47,254	\$49,617	\$48,577	\$52,098	\$49,985	\$54,702	\$51,485
6 Patrolman after 60 months	\$51,037	\$53,589	\$52,466	\$56,268	\$53,987	\$59,082	\$55,606
1 Sergeant	\$52,955	\$55,603	\$54,437	\$58,383	\$56,015	\$61,302	\$57,696
2 Sergeant	\$54,696	\$57,431	\$56,227	\$60,302	\$57,857	\$63,317	\$59,593
3 Sergeant	\$56,436	\$59,258	\$58,016	\$62,221	\$59,698	\$64,332	\$61,489
Lieutenant	\$60,349	\$63,366	\$62,039	\$66,535	\$63,838	\$69,862	\$65,753

In 1998, the base salary for the department's two Lieutenants, three Sergeants and 13 Police Officers amounted to \$790,883. The 1998 year is the final year of the prior agreement and serves as the appropriate baseline from which to compute increases. If this base is used from which to calculate the costs of the respective proposals, the difference amounts to \$17,400 for 1999 (\$830,427 vs. \$813,027), \$35,344 in 2000 (\$871,948 vs. \$836,604), and \$53,843

in 2001 (\$915,545 vs. \$861,702). If the 1998 base of \$790,883 is used and longevity and step movements are added to the base, the difference in 1999 is \$18,550 (\$885,323 vs. \$866,773), \$38,294 in 2000 (\$944,764 vs. \$906,470), and \$59,118 in 2001 (\$1,005,259 vs. \$946,141).

When all of the statutory criteria are considered and weighed, and after full consideration of the arguments and evidence submitted, I have concluded that a reasonable determination of the wage issue results in wage increases below that proposed by the PBA but above that proposed by the Town. For the reasons stated below, I have awarded wage increases of 3.5% effective January 1, 1999, 4.0% effective January 1, 2000 and 3.75% effective January 1, 2001 for a total of 11.25% over the three years. In 1999 the salary increase on the salary schedule steps, based upon the \$790,883 base, will cost \$27,680, an additional \$32,742 in 2000, and an additional \$31,923 in 2001. There is also an additional .2% increase in 2001 as a result of the \$50 increases in the dental and clothing allowances. These figures are exclusive of, pre-existing step increases and roll up costs, and assume no resignations, retirements, hiring or promotions. I do not conclude that step increases are chargeable to the wage award nor have I considered the potential retirements as cost saving events which create revenues for the purposes of offsetting wage increases. The new salary schedule shall read:

Step	1/1/99 3.5%	1/1/00 4.0%	1/1/01 3.75%
1 Patrolman after 0 months	\$28,598	\$29,742	\$30,857
2 Patrolman after 12 months	\$37,198	\$38,686	\$40,137
3 Patrolman after 24 months	\$41,086	\$42,729	\$44,332
4 Patrolman after 36 months	\$44,997	\$46,797	\$48,552
5 Patrolman after 48 months	\$48,907	\$50,864	\$52,771
6 Patrolman after 60 months	\$52,824	\$54,938	\$57,000
1 Sergeant	\$54,808	\$57,000	\$59,138
2 Sergeant	\$56,610	\$58,874	\$61,081
3 Sergeant	\$58,411	\$60,747	\$63,025
Lieutenant	\$62,136	\$64,621	\$67,044

Application of several factors included in N.J.S.A. 34:13A-16g requires an inquiry into the Town's financial status and the financial impact of the terms of this Award. These include the interests and welfare of the public [g(1)], the lawful authority of the employer [g(5)] and the financial impact on the governing unit, its residents and taxpayers [g(6)].

Using a CAP index rate of 1.5% for 1999, the Town has declined to appropriate an additional 3.5% which would be allowable under P.L. 176 c. 68 (C.40A:4-45 et seq.). The PBA contends that the Town could have increased its recent annual budgets by significantly more amounts than it did because it consistently underutilized its lawful authority by adopting actual CAPs much less than the 5% allowable by law. For example, the Town adopted a CAP of 2.5% in 1995, 3.5% in 1996, 2.5% in 1997, 2.5% in 1998 and 1.5% in 1999. Although the PBA's point has been considered, I am compelled to examine the Town's lawful authority by virtue of the CAP increase it has adopted rather than the CAP increase it could have adopted. Having done so, I conclude that this award can

be funded without impact on the Town's lawful authority pursuant to the CAP law and therefore does not compel the Town to exceed its lawful authority. This conclusion is supported by the financial data which reflects that the Town has consistently enjoyed surplus balances and has routinely been able to regenerate significant surpluses which it has appropriated as a general revenue source for ensuing budget years. The Town has also budgeted for salary increases and the terms of the Award should not require any expenditures of funds beyond the Town's lawful authority. Thus, I conclude that the costs of the Award can be met without the Town having to usurp its lawful authority.

I also conclude that the terms of the Award will not have adverse financial impact on the governing unit, its residents and taxpayers. The terms are 2.5% above the Town's last offer and 3.75% below the Union's last demand. This additional 2.5% can be funded without adverse financial impact. The evidence presented by the Town causes an Award substantially less than sought by the PBA, but that evidence does not reflect that the terms of the Award beyond its final offer cannot be funded within its financial capabilities or that its financial impact will detrimentally affect its financial interests in a manner adverse to the public's interests or welfare. The Town points out that a recent reevaluation has been costly. As discussed by The Town's Chief Financial Advisor Jeffery Theriault, the Town recently introduced a special emergency bond for \$205,000 to pay for a town-wide revaluation at an annual cost of \$41,000 for each of the next five years. The Town, however, has increased its assessed valuation from

more than \$401,000,000 in 1995 to \$416,000,000 in 1999. Other factors reflect that the Town can fund the terms of the Award without adverse financial impact. Municipal court revenue experienced an \$85,000 increase in revenue from 1995 to 1998. The municipal tax rate did not increase in 1999. The Town has consistently generated excess revenues over total expenses and has consistently collected taxes well above the amount of taxes estimated to be collected.

Both parties place great emphasis on comparisons with other groups of employees, but differ as to the most relevant comparisons. The PBA emphasizes comparison with other law enforcement agencies in Warren, Sussex and Morris Counties, while the Town would emphasize comparison only within Warren County. The Town emphasizes internal comparison with its other employees and the PBA places great emphasis on comparison of its salaries and benefits to those provided to Hackettstown Teachers.

As both parties recognize, other police settlements within Warren County provide a relevant basis for comparison. Based upon my review of the record, while relevant, comparison to police in Sussex and Morris Counties are entitled to some, but lesser weight. The Sussex and Morris County communities the PBA would use for comparison are larger, more developed and have greater significantly higher ratables. While Hackettstown is one of the larger communities in Warren County, its size alone does not merit that significant

weight be given to comparisons with police departments in wealthier, more developed municipalities outside the county. The PBA's comparison with the salary and benefits received by its members to Hackettstown teachers, while relevant, is also due less weight than the comparison to law enforcement employees within Warren County.

Hackettstown has the top patrolman's salary in Warren County and the terms of the Award will enable its salaries to remain as the highest paid. The following chart reflects municipal law enforcement salaries in Warren County.

**Warren County Municipalities
Top Patrolman's Salary**

Town	1998	1999	2000	2001
Hackettstown	\$51,037			
Phillipsburg	\$49,291			
Lopatcong	\$49,524	2.71%	3.5%	3.5%
Mansfield	\$48,172	4.0%	4.0%	
Pohatcong	\$48,532	4.0%	3.5%	
Independence	\$47,367	3.5%	3.5%	
Washington Boro	\$46,297	3.0%	3.0%	
Belvidere	\$41,085	3.0%		
Blairstown	\$40,495	4.95%	3.53%	2.95%
Average	\$46,866	3.59%	3.5%	3.22%

The above chart reflects 1999 increases ranging from a high of 4.0% in Mansfield and Pohatcong to a low of 2.71% in Lopatcong. In 2000, the chart reflects increases ranging from a high of 4.0% in Mansfield to a low of 3.0% in Washington Boro. The terms of this Award averaging 3.75% annually are within

the high and low range. Although the increases do not increase the relative standing of the Hackettstown police within the set of comparables proposed by the PBA outside the County, they do maintain the relative standing of the Hackettstown police within the county within the financial abilities of the Town.

Looking to internal comparisons, only the Public Works employees are represented and the record reflects that they have not reached agreement for the current contract term. The Town asserts that the 3% increase provided to its unrepresented employees supports its final offer. Although the salaries and increases provided to other Town employees are relevant, the record does not reflect a history or pattern of receipt of identical increases. Thus, I rely more heavily upon other considerations and points of comparison as well as remaining statutory criteria. These factors include comparability within and without law enforcement, the financial status of the City, the financial impact of increases in compensation, the interests and welfare of the public and the lawful authority of the employer.

The terms of the Award are compatible with the private sector wage data submitted into the record. Private sector settlements cited by the Town range from 2.8% per year to 4.0% per year and this Award falls within that range. The 3.75% average increase is also compatible with the evidence submitted by the PBA reflecting private sector increases of 3.7% in 1998. The terms of the Award are also compatible with the private sector wage survey compiled by the New

Jersey Department of Labor. These figures reflect an increase in Warren County from 1996 to 1997 of 5.86% and from 1997 to 1998 of 3.2%.

The data submitted by the Town with respect to the increases in the cost of living has also been considered. The Town contends that the PBA could not justify its demands in light of the current and/or previous CPI figures. This factor is relevant and weighs against the 5% increases sought by the PBA, although it does not compel an Award of 8.7% as proposed by the Town. The CPI factor is not controlling and must be weighed against the remaining statutory criteria which I have concluded warrants an increase averaging 3.75%. The continuity and stability of employment for police officers employed by the Town will be maintained by the terms of the Award. The Award will have no appreciable affect on this factor. I also conclude that the interests and welfare of the public will be served by the terms of the Award which is within the lawful authority of the Town, will have no adverse financial impact on the governing body, its residents and taxpayers and will maintain the police officers relative standing within Warren County.

Accordingly, and based upon all of the above, I respectfully enter the following Award.

AWARD

There shall be a three-year agreement effective January 1, 1999 through December 31, 2001. All proposals by the Town and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award.

Wages

Effective January 1, 1999 - 3.5% on each step of the salary schedule
Effective January 1, 2000 - 4.0% on each step of the salary schedule
Effective January 1, 2001 - 3.75% on each step of the salary schedule

Step	1/1/99 3.5%	1/1/00 4.0%	1/1/01 3.75%
1 Patrolman after 0 months	\$28,598	\$29,742	\$30,857
2 Patrolman after 12 months	\$37,198	\$38,686	\$40,137
3 Patrolman after 24 months	\$41,086	\$42,729	\$44,332
4 Patrolman after 36 months	\$44,997	\$46,797	\$48,552
5 Patrolman after 48 months	\$48,907	\$50,864	\$52,771
6 Patrolman after 60 months	\$52,824	\$54,938	\$57,000
1 Sergeant	\$54,808	\$57,000	\$59,138
2 Sergeant	\$56,610	\$58,874	\$61,081
3 Sergeant	\$58,411	\$60,747	\$63,025
Lieutenant	\$62,136	\$64,621	\$67,044

Association Representatives

Article II, Section A shall be amended so that the term "designate" shall be replaced with the term "elect".

Dues Deductions

Article IV shall be amended so that any and all references to the term "patrolman" shall be replaced with the term "policeman."

Clothing Allowance

Article XVII, Section A shall be amended to provide that the maintenance allowance shall be increased from \$19.00 per employee to \$25.00 per month per employee.

The clothing allowance shall be increased to \$1,050.00 effective January 1, 2001.

Hospital and Life Insurance Benefits

Article XIX, Section C is amended to provide that the Town will pay a maximum \$800 for each employee toward a dental insurance premium effective January 1, 2001.

Article XIX, Section D is amended to replace the reference to "Imperial Casualty & Indemnity Co." with the name of the present insurance carrier for personal liability insurance.

Motor Vehicle Reimbursement

Article XXI, Section B is amended to provide that the meal allowance shall be increased from \$5.00 to \$10.00.

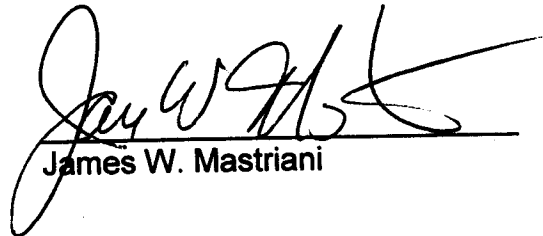
Personnel Files

Article XXII, Section E is amended so that the reference to "November 1st" shall be replaced with "December 31st or January 1st of the succeeding year."

Therefore, Section E shall be revised to state:

Each employee shall be supplied with a written certification from the Town no later than December 31st or January 1st of the succeeding year which shall state the number of accumulated vacation days or holidays taken, sick days, personal days and other time which is available to the officer.

Dated: November 17, 2000
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 17th day of November, 2000, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



GRETCHEEN L. BOONE
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 8/13/2003