

In the Matter of Arbitration Between:

TOWNSHIP OF BELLEVILLE

"Public Employer,"

- and -

**FIREMEN'S MUTUAL BENEVOLENT
ASSOCIATION, LOCAL NOS. 29 & 229**

"Unions."

Docket Nos. IA-2007-093 & IA-2007-094

**OPINION
AND
AWARD**

**Before
James W. Mastriani
Arbitrator**

Appearances:

For the Employer:

Frederick T. Danser, Esq.
Apruzzese, McDermott, Mastro & Murphy

For the Union:

David I. Fox, Esq.
Lynsey A. Johnson, Esq., on the Brief
Fox & Fox

I was designated by the New Jersey Public Employment Commission to serve as interest arbitrator after the Township of Belleville [the "Township"] and FMBA Local Nos. 29 and 229 [the "Unions" or "FMBA"] reached an impasse in negotiations. The two units include rank and file firefighters and fire officers. The parties engaged in extensive efforts to reach agreement. Mediation sessions were conducted on June 27, July 31 and December 12, 2007 without an agreement being reached. Because the impasse remained, a formal interest arbitration hearing was held on February 15, 2008 at which time testimony and documentary evidence was submitted into the record. A post-hearing mediation session was held on October 14, 2008 and direct negotiations continued. Thereafter, post-hearing briefs were filed on or about May 1, 2009 with additional submissions through August 6, 2009. Because the parties did not agree on an alternative terminal procedure, the terminal procedure shall be conventional arbitration under which the arbitrator has the discretion to render an award that is not confined to the last offers of either party.

As required by statute, each party submitted a final or last offer. They are as follows:

FINAL OFFERS OF THE PARTIES

Township of Belleville

For Firefighters

1. **Term of Agreement:** Three (3) year term from January 1, 2007 through December 31, 2009.

2. **Article VII – Wages:** Top Step firefighter shall receive the following increases:

- (a) 1/1/07 – 2%
7/1/07 – 2%
1/1/08 – 2%
7/1/08 – 2.5%
1/1/09 – 2%
7/1/09 – 2.5%
- (b) All steps below top step firefighter shall be increased by 3% annually effective January 1 of each year.
- (c) Effective January 1, 2008 a new salary guide shall be established for employees hired on or after 1/1/08 as follows:

	Effective 1/1/08	Effective 7/1/08	Effective 1/1/09	Effective 7/1/09
Academy Step	25,000		25,750	
Commencing 1 st year of employment after completion of (FF-1) Academy	33,006		33,996	
Commencing 2nd year of employment after completion of Academy	41,012		42,242	
Commencing 3rd year of employment after completion of Academy	49,018		50,488	
Commencing 4th year of employment after completion of Academy	57,024		58,735	
Commencing 5th year of employment after completion of Academy	65,030			
Commencing 6th year of employment after completion of Academy	73,035	74,861	76,359	78,268

- (d) Effective 1/1/09 wages will be paid on a biweekly basis.

3. **Article VIII – Longevity:** Effective January 1, 2008 eliminate longevity for all employees hired on or after 1/1/08.

4. **Article IX – Insurance**

- a. Major Medical – Add language that the Plan provided by the Township per this contract is the exclusive plan for employees covered under this contract and any claim of entitlement to a different plan is hereby withdrawn with prejudice and shall not be asserted to in any form.

- b. Effective January 1, 2009 the deductibles shall be set at \$250.00 for single coverage and \$500.00 for family coverage.
 - c. Effective January 1, 2009 the opt out payment shall be increased from \$1500.00 to \$3000.00.
 - d. Effective January 1, 2009 the co-pay for brand name prescriptions shall be \$20.00 per prescription.
 - e. Effective January 1, 2009 add language to Subsection B that health benefits provided to retirees, including co-payments and contributions to premiums, if any, shall be consistent with the beliefs, co-pays and contributions in effect at the time of retirement.
5. **Article XI – Holiday Pay:** Modify language to clarify that Holiday Pay is calculated on the basis of 126 hours (9 hours x 14 days) and is distributed on a pro rata basis with each regular pay check and there is no holiday pay due and owing to an employee or his estate upon retirement or death.
 6. **Article XIII – Hours to be Worked:** Modify Section B to reflect a normal work week of 42 hours for Administrative and staff assignments.
 7. **Article XVI – Leaves of Absence:** Effective January 1, 2009 eliminate Section B-7.
 8. **Article XVII – Sick Leave:** Add language to confirm that the maximum payout upon death or retirement shall be \$15,000.00.

Township of Belleville

For Fire Officers

1. **Term of Agreement** – The Township proposes a three (3) year term from January 1, 2007 through December 31, 2009.
2. **Article VII, Wages**
 - a) Paragraph A shall be modified to provide:

	1/1/07	7/1/07	1/1/08	7/1/08	1/1/09	7/1/09
	2.00%	2.00%	2.00%	2.5%	2.0%	2.5%

Lieutenant	80,729	82,343	83,990	86,090	87,812	90,007
Captain	92,838	94,695	96,589	99,004	100,984	103,508
Battalion Chief	106,763	108,899	111,077	113,854	116,131	119,034
Deputy Chief	122,778	125,234	127,739	130,932	133,551	136,890

- (b) Effective 1/1/09 wages will be paid on a biweekly basis.
3. Article VIII, Longevity – Effective January 1, 2008 eliminate longevity for all employees hired on or after 1/1/08.
4. Article IX, Insurance –
- a) Major Medical – Add language that Plan provided by the Township per this contract is the exclusive plan for employees covered under this contract and any claim of entitlement to a different plan is hereby withdrawn with prejudice and shall not be asserted in any forum.
 - b) Effective January 1, 2009 the deductibles shall be set at \$250.00 for single coverage and \$500.00 for family coverage.
 - c) Effective January 1, 2009 the opt out payment shall be increased from \$1500.00 to \$3000.00.
 - d) Effective January 1, 2009 the co-pay for brand name prescriptions shall be \$20.00 per prescription.
 - e) Effective January 1, 2009 add language to Subsection B that health benefits provided to retirees, including co-payments and contributions to premiums, if any, shall be consistent with the benefits, co-pays and contributions in effect at the time of retirement.
5. Article XI, Holiday Pay – Modify language to clarify that Holiday Pay is calculated on the basis of 126 hours (9 hours x 14 days) and is distributed on a pro rata basis with each regular pay check and there is no holiday pay due and owing to an employee or his estate upon retirement or death.
6. Article XIII, Hours to be Worked – Modify Section B to reflect a normal work week of 42 hours for Administrative and staff assignments.

7. Article XVI, Leaves of Absence – Effective January 1, 2009 eliminate Section B-7.
8. Article XVII, Sick Leave- Add language to confirm that the maximum payout upon death or retirement shall be \$15,000.00.

FMBA LOCAL 29 & 229

1. **Duration or Term of Contract:** The FMBA proposes a CBA to be effective January 1, 2007 through at least December 31, 2012.
2. **Salary Increases:** The FMBA proposes the following increases for the CBA:

5.5% effective January 1, 2007;
5.5% effective January 1, 2008;
5.5% effective January 1, 2009;
5.5% effective January 1, 2010;
5.5% effective January 1, 2011; and
5.5% effective January 1, 2012;

The FMBA is seeking the above salary increases to be applied to all steps in the firefighter and fire officer salary guide as set forth in the Salary Schedule of both CBAs.

3. **Parity Adjustment:**

The FMBA is seeking to reach parity with its police counterparts. The sought after parity adjustment is \$1,506, plus any additional monies that would result from the inclusion of holiday pay in base pay for pension purposes.

4. **Article VII, Wages, Section D, EMT Certification:** The FMBA currently receives \$600 for maintaining their EMT certification and for responding to EMS calls. The FMBA is seeking to increase the payment to 6%. This payment should be included in base pay.
5. **Article VII, Wages, Section E, First Line Ambulance Responders:** Pursuant to Article VII, Wages, Section E, those FMBA members assigned to first line ambulance duties receive an additional payment of \$2,250 for performing those duties. The FMBA is seeking to increase

that payment to \$5,000 in base pay effective January 1, 2007.

6. **Article VII, Compensation, Section C. Academy Step:** The Academy step of the rank-and-file salary chart has been frozen at \$25,000 since 2003. The FMBA in its final offer sought to increase the academy step so that the starting salary for the 2007 calendar year is \$30,000.
7. **Article VII, Wages, Fire Prevention Specialist:** The FMBA is seeking to incorporate the title of Fire Prevention Specialist and the corresponding salary into the parties' CBA.
8. **Article XVIII, Vacations:** The FMBA and FOA are seeking to increase their vacation allotment of vacation days by two (2) days.
9. **Article VIII, Vacations, Vacation Time Incentive (New Provision):** The FMBA is seeking to incorporate a new provision into its collective bargaining agreements whereby members would receive one (1) vacation day for every period of six (6) continual months in which a member does not use any sick time and two (2) vacation days if the member does not use any sick time for a continual period of one (1) year.
10. **Article XVIII, Compensation, Section 3, Longevity:** The FMBA is seeking to maintain the longevity benefit currently received by employees.
11. **Article XVI, Leaves of Absence, Section B, Subsection 7:** The FMBA and FOA are seeking to increase its personal day benefit by two (2) days.
12. **24/72 Hour Work Week Language:** The FMBA is seeking to incorporate mutually agreed upon language relating to the current 24/72 hour shift into the parties' CBA.
13. **Article IX, Insurance, Section B:** FMBA members currently receive retirement benefits if they complete twenty-five (25) years of service with the Township. The FMBA is seeking to revise this language so that FMBA members who transfer from another municipality will receive service credits toward the twenty-five (25) years of service necessary to receive health benefits upon retirement.

BACKGROUND & POSITIONS

Belleville is a Township located in Essex County that has a Council – Manager form of government. It has a land area of approximately 3.34 square miles and a 2005 estimated population of approximately 35,000 people. The 1999 statistics show per capita income of \$22,000.00 and median household income of \$48,500. The median family income was approximately \$55,200 and the median age was 36.2 years. By 2007, the mean household income had increased to \$66,265 and the median household income to \$55,318. The per capita income had also increased to \$25,073. Approximately 4,800 Belleville citizens or 13.5% of its population were age 65 and over. By 2006 the estimated population for Belleville stood at 34,444 which represented a decrease of 4.1% from calendar year 2000 and an 8.5% decrease from the 37,629 population level in 1970.

In 2006 the composition of the Fire Department in Belleville included a total of 69 union represented uniformed employees – 50 firefighters and 19 fire officers. The base salary cost for these employees was \$5,008,523, and base salary plus longevity and holiday pay totaled \$5,628,321.00. The last agreement between the Township and FMBA Local 29 covered the period 2003 through 2006 and its last agreement with the Fire Officers Association covered a like period of time.

Salary Increases

The FMBA proposes the following increases for the CBA:

5.5% effective January 1, 2007;
5.5% effective January 1, 2008;
5.5% effective January 1, 2009;
5.5% effective January 1, 2010;
5.5% effective January 1, 2011; and
5.5% effective January 1, 2012;

The FMBA is seeking the above salary increases to be applied to all steps in the firefighter and fire officer salary guide as set forth in the Salary Schedule of both CBAs.

The Township proposes the following increases for top step firefighters:

- (a) 1/1/07 – 2%
7/1/07 – 2%
1/1/08 – 2%
7/1/08 – 2.5%
1/1/09 – 2%
7/1/09 – 2.5%
- (b) All steps below top step firefighter shall be increased by 3% annually effective January 1 of each year.
- (c) Effective January 1, 2008 a new salary guide shall be established for employees hired on or after 1/1/08 as follows:

	Effective 1/1/08	Effective 7/1/08	Effective 1/1/09	Effective 7/1/09
Academy Step	25,000		25,750	
Commencing 1 st year of employment after completion of (FF-1) Academy	33,006		33,996	
Commencing 2nd year of employment after completion of Academy	41,012		42,242	
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Commencing 4th year of employment after completion of Academy	57,024		58,735	
Commencing 5th year of employment	65,030			

after completion of Academy				
Commencing 6th year of employment after completion of Academy	73,035	74,861	76,359	78,268

- (d) Effective 1/1/09 wages will be paid on a biweekly basis.

The Union submits extensive argument on behalf of its salary proposal:

The FMBA's salary proposal, which is higher than the Township's Final Offer, is justified based on the record in this Interest Arbitration, including, *inter alia*, the following facts: (1) The FMBA's Financial Expert submitted a Financial Report regarding the Township's sound fiscal condition and its ability to pay for the FMBA's proposals; (2) The FMBA and FOA's salary is substantially lower than most fire personnel salaries inside and outside of Essex County; (3) Belleville firefighters and fire officers perform comparable public safety functions to Belleville police officers and work more hours per year than Belleville police officers, yet police officers receive a salary that is greater than the salary received by members of the FMBA; This fact is of critical importance since this affects the hourly rate of employees for overtime purposes; and (4) The Township has received substantial revenue for its ambulance service provided by the Fire Department.

As demonstrated by the FMBA's Financial Expert, Dr. Caprio, the Township of Belleville is fiscally sound and can, in fact, provide the FMBA with the percentage increase requested, as well as the other increases in special payments that were requested in the FMBA's Final Offer.

More importantly, however, the FMBA's Final Offer for annual salary increases is appropriate whereas here the FMBA demonstrated that the Belleville firefighters and fire officers compensation is substantially behind Belleville police officers and police superior officers in terms of salaries and fringe benefits.

The maximum base salary for a Belleville Police Officer in 2006 was \$1,506 more than the maximum salary for a Belleville Firefighter in 2006. Since rank differential for a Lieutenant is 15% above the rank of a top pay firefighter, and the same differential exists between the fire superior officer ranks, the same discrepancy would result between fire officers and their police counterparts. The Township's Final Offer, if awarded, will cause an even greater salary disparity between the public safety personnel within the Belleville Police and Fire Department.

In addition to the discrepancy in salary between the Belleville FMBA and FOA and the Belleville Police Department, the discrepancy in salaries between Belleville firefighters and fire officers as compared to other firefighters and fire officers throughout Essex County is substantial. In that regard, the base salaries of Essex County firefighters are

substantially greater than what is received by Belleville fire personnel. Please note that while a chart comparing fire officers is not set forth below, the discrepancy in pay is similar.

MUNICIPALITY	2004	2005	2006	2007	2008
Maplewood	\$66,460.13	\$68,952.39	\$71,538.10	N/A	N/A
E. Orange (eff. July each yr)	\$45,171.00	\$46,752.00	N/A	N/A	N/A
Newark	\$70,946.00	\$73,783.84	\$76,735.19	\$79,804.60	\$82,996.79
Millburn	\$68,422.31	\$71,090.78	\$73,863.32	\$76,817.00	
S. Orange Village	\$66,575.00	\$70,707.00	\$73,624.00	\$76,753.00	N/A
Bloomfield	\$64,942.00	\$67,475.00	\$70,039.00	\$71,439.00	\$76,447.00
Irvington (eff. July each yr)	N/A	\$68,499.39	\$73,378.26	\$76,313.39	\$78,602.79
Montclair	\$68,630.00	\$71,375.00	\$74,123.00	\$77,088.00	\$80,172.00
Nutley	\$65,863.09	\$68,498.26	\$71,238.19	\$74,087.71	\$77,051.23
W. Orange	\$66,152.00	\$67,475.00	N/A	N/A	N/A
City of Orange	\$64,956.74	\$64,453.59	N/A	N/A	N/A

In this instance, in order to close this gap, the Award must allow the FMBA to "close the gap" between it and the Belleville PBA. Peer parity must be restored. Belleville is one of the few municipalities that does not maintain peer parity in terms of salaries and benefits paid to its police and fire employees. The Township's Final Offer will only cause the salary disparity between police and fire employees to continue to widen. As noted above, there is also a substantial discrepancy between the salary of Belleville fire personnel and other Essex County and statewide Fire Departments as demonstrated through the documentary evidence submitted in this Interest Arbitration proceeding.

Initially, the Township urges denial of the FMBA wage proposal. It takes specific note of the changing economic circumstances that occurred during the protracted period of negotiations:

In this interest arbitration proceeding the Township submitted its Final Offer approximately one-year ago, on or about March 8, 2008. Given the unprecedented economic developments that have occurred since September 2008, the Township would not even contemplate making such an offer if this process was just starting. Nonetheless, the offer has been made and it was made in the context of the contract settlement by the Township negotiated with

the PBA for the same period of time that is proposed for the FMBA and FOA – namely – 1/1/2007 through 12/31/2009. This offer has an extremely generous wage component for these economic times but also has some reasonable cost containment provisions. Thus a decision and award that would be responsive to the current economic landscape is an award that would adopt all aspects of the Township's Final Offer as presented.

The Township contends that the Unions' wage proposals are excessive and must be rejected. It focuses mainly upon the relative costs of the parties' proposals:

The Town has proposed a three-year contract from January 1, 2007 through December 31, 2009. The unions propose a five-year agreement from January 1, 2007 through December 31, 2012; or 5 years beyond the date of the award. Assuming an award in this case issues in 2009, the unions would then be proposing an award that would extend from 1/1/07 thru 12/31/14 or a total of 8 years. Setting aside for a moment all of their other salary impacting proposals, the union's proposal for across the board base wage increases is 5.5% per year or 44% compounded over the eight-year term of their proposed new contract. Maximum salary for a firefighter in Belleville as of 12/31/06 is \$68,823. The unions proposal would elevate that base salary to \$105,622.00 as of 1/1/14; an increase of \$36,799.00 or \$4,600.00 per year per firefighter at maximum.

Since the Town has proposed a three-year contract which is consistent with the present term of contract it has with the PBA, this cost analysis and comparison will be limited to that three-year period. The actual full cost of the unions proposal (as distinguished from just the ATB) for that three-year period is \$2,153,523.00 or 37.9% as shown on Exhibit T-117. For a unit of 69 uniformed fire personnel this translates to an average increase of \$31,210.00 per person over three-years or \$10,403.00 per person per year.

The Township offer is a little more complicated than the demands of the unions because it includes split increases for each year of the contract. The salary schedules for Firefighters and Fire Superior Officers that would result from the Township proposal are set forth on Exhibit T-118. These schedules show the maximum rate for a Firefighter increasing by approximately \$10,000.00; but that is over a three-year period as opposed to an average of \$10,403.00 per person per year as proposed by the Unions. By

July of this year the base salary of a Lieutenant will be approximately \$11,000.00 higher than in December of 2006; a Fire Captain rate will be approximately \$12,500.00 higher; a Battalion Chief approximately \$14,000.00 higher; and the base rate for a Deputy Chief will be approximately \$16,500 higher this July than it was on December 31, 2006.

The cost of the Township's proposal can be viewed from two perspectives. First, the cost of base salaries for this unit on a "going forward" basis as of July 1, 2009 is \$5,870,525.00 as compared to the cost of base salaries in 2006 of \$5,008,523.00. This is an increase in cost of base salaries of \$862,002.00 or 17.2% within a period of 30 months. Using this same perspective but including longevity and holiday pay, the cost on 12/31/06 of \$5,628,321.00 escalates to \$6,632,251.00 for an increase of \$1,003,930.00 or 17.8%. All of these figures are set forth in the extended Exhibit (T-118).

The second way to view the Township proposal is from the perspective of actual cost during the term of contract, thereby factoring the cost savings for that term achieved by split increases. When this perspective is employed the base salary increase is reduced by \$70,789.00 to \$791,213.00 and the cost increase for base salary, longevity and holiday pay drops by \$80,030.00 to \$923,900.00. The percentage increases that result from this second perspective are 15.8% for base salary increase and 16.4% for base salary, longevity and holiday pay; all as more particularly set forth on Exhibit (T-119). Thus, even with split salary increases in each year of the contract the Township proposal produces a base salary increase of over 5% per year for the three-year term of the proposed contract.

The result of a comparison of the proposals submitted by the fire unions with the Township proposal is nothing short of shocking. The dollar cost of the fire unions proposal over 3 years is \$2,153,523.00 (T-117) versus the Township's proposed increase of \$923,900.00 (T-119). The difference between the two proposals is \$1,229,623.00 which is \$305,723.00 greater than the entire 3-year cost of the Township proposal; and the Arbitrator is reminded that the Township proposal provides base salary increases of over 5% per annum. To conclude that the Unions proposals "shock the conscience" is an understatement; and this would be so even if we were in the "normal times" of 2007 and the first half of 2008. Needless to say we are no longer in "normal times."

The Township further supports its proposals by asserting that they are consistent with evidence on internal and external comparability:

The economic improvements proposed by the Township are consistent with negotiated settlements and arbitration awards that this arbitrator would consider in rendering his award. See Exhibits (T-190 to T.198). Because of this fact, the salary increases proposed by the Township reasonably address compensation issues for the uniformed fire department and by so doing promote the public interest. In fact, the Township salary offer is actually somewhat more generous than other voluntary settlements and awards to "compensate" for the split increases provided for in each of the three years. (See T-195 – T-198)

The economic improvements contained in the Township proposal are consistent with the settled contract between the Township and the PBA. (T-89) To provide equity in salary increases between the two uniformed services is in the best interest of the public because it easily passes the fairness test and it protects the taxpayers from the expensive effects of whipsawing.

Article VIII – Longevity

The Township proposes to eliminate longevity for all employees hired on or after January 1, 2008, effective January 1, 2008. The FMBA is seeking to maintain the longevity benefit currently received by employees.

The FMBA, pursuant to Article VIII, Longevity, receives the following longevity benefit:

A. Longevity Schedule:

Years of Service	Increment
5 through 10	2.0% of base pay
11 through 15	4.0% of base pay
16 through 20	6.0% of base pay

21 through 24	8.0% of base pay
over 25	10.0% of base pay

- B. Employees hired after October 1, 1994 shall enjoy the following longevity schedule (first two steps) changed:

Years of Service	Increment
Completion of 7 th year	2.0% of base pay
Completion of 12 th year	4.0% of base pay
Completion of 15 th year	6.0% of base pay
Completion of 20 th year	8.0% of base pay
Completion of 24 th year	10.0% of base pay

In support of its proposal, the Township makes the following argument:

Longevity elimination for post 1/1/08 employees will finally provide consistent treatment on this portion of the compensation package for the uniformed services and eventually will furnish the taxpayers with some economic relief.

... a comparison of longevity and personal days between the two services shows the beneficial advantage enjoyed by the Fire service over a substantial period of time (T-78). The Township proposal seeks to level the playing field on these two portions of the compensation package going forward, even though employees in the fire service will have a decade longer enjoyment of longevity that more than offsets any differentiation in salary adjustments that occurred in prior contracts.

The FMBA offers the following arguments in support of its proposal urges rejection of the Township's proposal on longevity:

... the FMBA and FOA are seeking to maintain their current longevity schedule. Please note, this proposal is somewhat different than what was initially proposed.

The following chart demonstrates that, with the exception of Maplewood, all other municipalities in Essex County provide its public safety personnel with single tier longevity benefits. Moreover, the current longevity chart

demonstrates that the FMBA receives one of the least favorable longevity benefits in Essex County.

ESSEX COUNTY MUNICIPAL COMPARISON LONGEVITY

MUNICIPALITY	Years of Service	Percentage of Base
E. Orange	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 22 years Completion of 24 years	2% 4% 6% 8% 14% 16%
Newark	Start of 5 th year Start of 10 th year Start of 15 th year Start of 20 th year Start of 25 th year Start of 30 th year	4% 6% 8% 10% 12% 14%
Bloomfield	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 24 years	2% 4% 6% 8% 10%
Irvington	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 24 years	2% 4% 6% 8% 10%
Nutley	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 24 years	2% 4% 6% 8% 10%
W. Orange	Anniversary 5 years Anniversary 10 years Anniversary 15 years Anniversary 20 years Anniversary 24 years	2% 4% 6% 8% 10%
S. Orange Village	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 25 years	2% 4% 6% 8% 10%
City of Orange	12-14 years of service 15-19 years of service 20-22 years of service 23 and over	6% 8% 10% 14%

Millburn	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years	2% 4% 6% 10%
Montclair	Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 24 years	1.5% 3% 4.5% 6% 7.5%
Belleville Fire Officers	Hired prior to 10/1/94: 5-10 years of service 11-15 years of service 16-20 years of service 21-24 years of service Over 24 years of service Hired after 10/1/94: Completion of 7 years Completion of 12 years Completion of 15 years Completion of 20 years Completion of 24 years	2% 4% 6% 8% 10% 2% 4% 6% 8% 10%
Belleville FMBA	Hired prior to 10/1/94: Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 24 years Hired after 10/1/94: Completion of 7 years Completion of 12 years Completion of 15 years Completion of 20 years Completion of 24 years	2% 4% 6% 8% 10% 2% 4% 6% 8% 10%
Maplewood	Hired prior to 12/23/99: 5 th anniversary 10 th anniversary 15 th anniversary 20 th anniversary 25 th anniversary Hired after 12/23/99: Completion of 5 years Completion of 10 years Completion of 15 years Completion of 20 years Completion of 25 years	2% 4% 6% 8% 10% \$ 800.00 \$1,600.00 \$2,400.00 \$3,200.00 \$4,000.00

As is clear from the longevity provisions that are set forth below, a large majority of municipal employers provide their employees with longevity

increments that are much greater than what is received by the FMBA. The chart set forth below demonstrates that the FMBA and FOA's proposal to maintain their longevity benefit is reasonable and should be awarded.

MUNICIPALITIES	LONGEVITY PAYMENT
Paterson	2% 5 years to 18% 24 years
Hoboken	2% 5 years up to 18% 24 years
East Orange	2% 5 years up to 16% 24 years
Jersey City	2% 5 years up to 16% 24 years
Carteret	2% 5 years up to 15% 24 years
Harrison	2% 3 years up to 14% 24 years
Hackensack	1% every 2 years of service for those hired prior to 1985, i.e. 15% after 30 years of service.
Newark	2% 5 years up to 14% 30 years
Hillside	2% 5 years up to 14% at Start of 23 rd year
Passaic	2% 5 years up to 14% 24 years

It is critical to note that the FMBA and FOA retained their longevity benefits, as compared to the PBA, because the Fire Department bargaining units decided to reduce other benefits in order to maintain that benefit. This is clearly demonstrated by the fact that the PBA received an additional 1.5% salary increase by eliminating the longevity benefit in the late 1990's. That additional salary increase has increased substantially over the years. Accordingly, the Township should not now be able to eliminate this benefit when the FMBA and FOA provided substantial give backs in order to maintain the longevity benefit.

Based on the foregoing, the FMBA's proposal pertaining to longevity increments is reasonable and should be awarded.

Article IX – Insurance

Both parties have advanced proposals that deal with health insurance.

The Township proposes the following modifications to Article IX – Insurance:

- a. Major Medical – Add language that the Plan provided by the Township per this contract is the exclusive plan for

employees covered under this contract and any claim of entitlement to a different plan is hereby withdrawn with prejudice and shall not be asserted to in any form.

- b. Effective January 1, 2009 the deductibles shall be set at \$250.00 for single coverage and \$500.00 for family coverage.
- c. Effective January 1, 2009 the opt out payment shall be increased from \$150.00 to \$300.00.
- d. Effective January 1, 2009 the co-pay for brand name prescriptions shall be \$20.00 per prescription.
- e. Effective January 1, 2009 add language to Subsection B that health benefits provided to retirees, including co-payments and contributions to premiums, if any, shall be consistent with the beliefs, co-pays and contributions in effect at the time of retirement.

The Township argues on behalf of this proposal:

Insurance adjustment of deductible increases from \$100.00 single and \$200.00 family to \$250.00/\$500.00 per year is reasonable; and the adjustment of \$10.00 co-pay for brand name to \$20.00 co-pay is consistent with changes negotiated in the labor agreement between the Township and the PBA, except that the Township will not receive the benefit of that adjustment until 2009. See Exhibits T-54 through T-62 concerning the cost of health insurance for employees and the percentage and dollar amounts of contributions paid by employees. Belleville is not asking for a contribution from fire fighters and fire officers, but rather some measure of cost containment through reasonable user fees.

Further, the improvement in the opt out payment and the language adjustments concerning retirement benefits are also consistent with the PBA contract, and may provide some measure of current cost containment to the extent the "opt out" is used, and eventual cost containment with respect to future retirees.

The proposal to reaffirm that the medical plan provided by the Township is the exclusive plan for employees covered by the labor contracts is in response to a claim asserted by one firefighter and one fire officer that they are somehow entitled to a different health

insurance plan. This claim has been made notwithstanding clear contract language to the contrary, and the public interest requires that this claim be denied so that the taxpayers are not exposed to the cost of defense of such a claim as well as the cost of the underlying claim itself.

The FMBA urges rejection of the Township's insurance proposals:

The proposal to incorporate major medical language into this provision that would limit employees entitlement to a plan not set forth in the contract should be denied. While no evidence was provided by the Township to address this proposal, it can only be assumed that the Township is seeking to address the fact that prior to an agreement between the FMBA and FOA in 2008, a handful of police and fire employees, by agreement with the Township, maintained an AETNA health benefits plan even though all other employees maintained health benefits through the plan acknowledged by the parties CBA.

The parties, as noted above, agreed to eliminate the Aetna plan for all members of the FMBA. As such, all employees currently receive health benefits through the same Plan provided by the Township pursuant to the CBA. Accordingly, the Township's proposal is moot. If this language was awarded, it would arguably lead to confusion between the parties since no employees of the Township would be provided benefits through a plan other than what is set forth in the parties expired CBA.

Notably, this proposal was never discussed during negotiations, and therefore, should not be awarded.

As such, the Township's proposal is unreasonable and should not be awarded.

b. Increase in Major Medical Deductible. As noted above, the Township is seeking to increase the deductibles from \$100 for single coverage to \$250 for single coverage and from \$200 for family coverage to \$500 for family coverage. The Township, which entered into a settlement agreement with the Township for the 2007 through 2009 calendar years with the PBA, did not seek to increase the deductible for members of the PBA. As such, this proposal should not be awarded.

c. **Increase Opt Out Payment.** The FMBA and FOA accept the Township's proposal regarding this opt out payment.

d. **Increase Co-Payment to \$20.00 Per Person for Brand Name Prescription.** Currently, members of the FMBA are provided the following prescription drug co-pay benefit: \$5.00 for generic drugs; and \$10 for brand name drugs. The increase sought for brand name drugs is a substantial increase and is well outside of the norm with respect to co-payments for brand name prescription drugs. In that regard, the following chart demonstrates the a large number of municipalities provide their employer with greater prescription drug benefits:

INSURANCE PRESCRIPTION BRAND NAME UNDER \$20

MUNICIPALITY	Year	Name Brand Amount
W. Orange FOA	2002-2005	\$ 12
Hoboken IAAF	2005-2007	\$ 5
Hillside FMBA	2005-2007	\$ 10
Newark FMBA	2005-2008	\$ 10
Springfield FMBA	2001-2006	\$ 10
Union	2000-2003	\$ 10
Millburn	2004-2007	\$ 10
Atlantic City IAAF	2003-2007	\$ 10
Pemberton PBA	2003-2006	\$ 10
Morris City Sheriffs and PBA	2003-2006	\$ 10
Rutherford PBA	2004-2007	\$ 10
Edison	2001-2004	\$ 3 (does not specify)
Passaic	2001-2006	\$ 10
Paterson	2001-2004	\$ 4 (does not specify)
E. Orange	1999-2006	\$ 10
Bloomfield	2003-2006	\$ 10
Roselle	2003-2008	\$ 10
Springfield FOA	2001-2006	\$ 10
Newark FOA	1999-2003	\$ 5
Bloomfield FOA	2003-2006	\$ 10

Bergenfield	2004-2008	\$ 10
Clifton	2003-2006	\$ 10

Based on the foregoing, the Township's proposal to increase brand name drug co-payments should not be awarded.

e. **Retiree Language.** The Township has not submitted any documentary evidence to establish why it is seeking to incorporate this language into the parties CBA. New Jersey case law is clear in connection with the level of benefits that must be provided to retirees on retirement. In that regard, the Township is required to provide its employees with the same level of benefits that they were eligible to receive under the CBA on their specific date of retirement. As such, there is no reason to incorporate the requested language into the parties CBA. More importantly, however, the parties never discussed this proposal during the negotiations process. As such, the FMBA's proposal is unreasonable and should not be awarded.

The FMBA offers a proposal concerning eligibility for retiree benefits. Retirees currently receive retirement benefits if they complete twenty-five (25) years of service with the Township. The FMBA is seeking to revise this language so that FMBA members who transfer from another municipality will receive service credits toward the twenty-five (25) years of service necessary to receive health benefits upon retirement. In support of its proposal, the FMBA offers the following argument:

The FMBA clearly demonstrated the dangers faced by firefighters and fire officers in the performance of their jobs. Additionally, the FMBA demonstrated that they are subjected to additional risks as it relates to being exposed to cancer causing agents and the like. Accordingly, it is critical that firefighters and fire officers are provided health benefits upon retirement because of the added risks there are a diagnosis of health related problems upon retirement. More importantly, however, the PBA CBA only requires police officers and police superior officers to maintain employment with the Township for fifteen (15) years prior to becoming eligible to

receive health benefits. The above benefit is also received by other non-public safety entities within the Township. Since the PBA and other non-public safety entities receive this benefit, and since other municipalities provide their public safety employees with this benefit, this benefit should be provided to members of the FMBA.

The Township seeks the denial of this proposal.

Article XI – Holiday Pay

The Township proposes to modify language in Article XI to clarify that Holiday Pay is calculated on the basis of 126 hours (9 hours x 14 days) and is distributed on a pro rata basis with each regular pay check and there is no holiday pay due and owing to an employee or his estate upon retirement or death. In its post-hearing brief, the FMBA supports the inclusion of language that would provide this classification:

The language should be revised to reflect the parties agreement which resulted from the last collective negotiations process. More specifically, the parties, in or about 2003, agreed to incorporate holiday pay into base pay. The FMBA and FOA agree that this language should be revised to appropriately portray the agreement between the parties with respect to the inclusion of holiday pay into base pay. Since the Township is seeking to clarify this language the FMBA and FOA also propose that certain language regarding holiday pay should be revised. In that regard, the CBA should reflect that holiday pay is in base pay for all calculation purposes, i.e. overtime pay, salary increases and the like.

The FMBA and FOA would agree to this revision if any and all outstanding clarifications relating to holiday pay are made by the parties.

Article XIII – Hours to be Worked

The Township proposes to modify Article XIII, Section B to reflect a normal work week of 42 hours for Administrative and staff assignments. According to the Township, this would provide consistency between line staff and administrative/staff employees.

The FMBA disagrees and offers the following argument in opposition to the Township's proposal:

The Township has failed to submit any documentary evidence to demonstrate that the above-referenced amendment to Article XIII, Section B is necessary. More importantly, however, police officers and police superior officers employed by the Township work 40 hours per week, not 42, as is worked by all line staff. This alone demonstrates that this proposal is unreasonable and should not be awarded. In addition to the Township's failure to produce documentary evidence to support the incorporation of this language into the parties' agreement, the following chart demonstrates that the Township's proposal is unreasonable and should not be awarded.

STAFF WORK SCHEDULE LESS THAN 42 HOURS

MUNICIPALITY	Year	Hours of Work
Newark	2005-2008	40 hours
Union	2000-2003	40 hours
Irvington PBA	2003-2005	40 hours
Edison	2001-2004	40 hours
Jersey City IAAF	2006-2008	40 hours
E. Orange	1999-2006	40 hours
Montclair (For Officers in Charge of Fire Alarm Bureau and Training)	2005-2008	40 hours
S. Orange (New Hires in Initial Training or Special Training)	2004-2007	40 hours
Clifton	2003	40 hours

In addition to the above, the Township never addressed this proposal during negotiations. Since this issue was never discussed with the FMBA, in addition to the fact that the Township failed to submit any documentary evidence to support the award of this proposal, the Township's proposal should be denied.

Article XVI – Leaves of Absence

The Township proposes to eliminate personal days as is set forth in Section B-7. The FMBA and FOA, on the other hand, are seeking to increase its personal day benefit by two (2) days.

The Township contends that the PBA Agreement does not contain personal days and that this benefit is aggravating its overtime costs:

Although this proposal was not part of the PBA agreement, it did not need to be because the PBA does not have contractually recognized personal days. Moreover, with the 24/72 hour work schedule now in place the need and justification for paid personal days off for Firemen and Fire Officers has been eliminated.

...

The elimination of personal days will also provide consistency of treatment between fire and police since police do not have personal days; and will promote cost containment in the area of overtime by significantly reducing the number of occasions when the department must hire to replace an absent fire fighter or fire officer. This personal day benefit is particularly problematic when taken in context with the current 24/72 work schedule. The public might well ask why there is a need for personal days at all for employees who only have 90 days of scheduled work per year.

The FMBA offers the following argument in opposition to the Township's proposal:

The Township has failed to submit any documentary evidence to demonstrate that the above-referenced amendment to Article XVI, Section B-7 is necessary. More importantly, however, it is critical to note that a large number of municipalities within the State provide their employees with a personal day benefit. The following chart sets forth a few examples of municipalities that provide their employees with personal day benefits:

**MUNICIPALITIES THAT PROVIDE
FOR PERSONAL DAY BENEFITS**

MUNICIPALITIES
Bloomfield
Hillside
West Orange
Orange
Nutley
Paterson
Newark
Bergenfield
Edison
Clifton
Edgewater

It is critical to note that the Township never addressed this proposal during negotiations.

Based on the foregoing, the Township's proposal to modify the above-provision of parties CBA is unreasonable and should be denied.

The FMBA seeks two (2) additional days. In support of this demand it submits:

The FOA collective bargaining agreement at Article XVI, Leaves of Absence, Section B (7), provides FOA members with four (4) personal days annually without loss of pay. The FOA is seeking to increase the allotment by two days so that FOA members receive six (6) personal days annually.

The FMBA pursuant to Article XVI, Leaves of Absence, Section B (7) receives two (2) separate personal day benefits depending on the employee's date of hire prior to the execution of this expired contract. FMBA members receive four personal days annually without loss of pay. New hires are allotted the following personal day benefit: 0-1 Year - 1 day; 1-2 Years - 2 days; 2-3 Years - 3 days; and 3 plus - 4 days. The FMBA is seeking to increase the above allotment by two days in both guides.

The following sets forth a list of a few Municipalities that provide for greater personal day benefit:

Bloomfield	Less than 25 years - 6 25 years or more - 7
New Brunswick	60 hours
Hillside	53 3/4 hours
West Orange	3 personal days 1 seniority day for every 5 years of employment to a max of five days

Accordingly, the FMBA's proposal relating to its request for an increase in personal days is reasonable and should be awarded.

Article XVII – Sick Leave

The Township proposes to add language to confirm that the maximum payout of sick leave upon death or retirement shall be \$15,000.00. According to the Township, it argues that:

Confirmation that unused sick leave payout upon death or retirement is to a maximum of \$15,000.00 will track with the clear language in the PBA contract and provide consistency in contract terms between the two service branches.

The FMBA urges rejection of this proposal:

Contrary to the Township's position, the maximum payout upon retirement is not \$15,000. The language set forth in the parties CBA clearly demonstrates that the FMBA receives a greater benefit than what is currently being sought by the Township.

The Township has failed to submit any documentary evidence which supports its position with respect to this proposal. More importantly, this proposal was never discussed during the negotiations process.

Accordingly, the Township's proposal is unreasonable and should be denied.

Duration

The FMBA proposes that a contract be effective January 1, 2007 through at least December 31, 2012. The Township proposes a duration of three (3) years from January 1, 2007 through December 31, 2009.

The FMBA supports its proposed duration:

FMBA No. 29 and the Township are parties to a CBA covering all firefighters employed by the Township of Belleville, but excluding fire superior officers. The FOA and the Township are parties to a CBA covering all fire superior officers employed by the Township, but excluding the Fire Chief. The CBA expired December 31, 2006. No voluntary contract settlement was negotiated despite the fact that the FMBA and the Township have engaged in negotiations for a successor CBA since as early as September 2006.

The FMBA's proposal for, at the very least, a six-year CBA, effective January 1, 2007 through December 31, 2012, is appropriate because the award in this Interest Arbitration will probably not be implemented until, at the earliest, the Fall of 2009 or sometime thereafter. The six-year CBA sought by the FMBA will effectively cover approximately three (3) prospective years. This being the case, a successor CBA for a six-year term will promote stability and continuity in labor relations and negotiations.

Anything shorter than a six-year CBA will undoubtedly force the FMBA and the Township to become involved in another protracted contract negotiations, especially given the Township's obvious resistance to negotiating with the FMBA.

The Township does not agree with the FMBA's proposal on duration and instead, asserts that the award should not extend beyond the terms of its agreement with the PBA.

Parity Adjustment

The FMBA is seeking to reach parity with its police counterparts. The sought after parity adjustment is \$1,506, plus any additional monies that would result from the inclusion of holiday pay in base pay for pension purposes. In support of its proposal, the FMBA offers the following argument:

Peer parity is a recognized concept in New Jersey between police and fire employees. Belleville is one of the few municipalities that does not maintain peer parity in terms of salaries and benefits paid to its police and fire employees. Listed below are a few examples of comparable urban/suburban municipalities which have a historical pattern or negotiating history of wage parity among their police and fire employees:

1. Linden
2. Union
3. Elizabeth
4. Montclair
5. Orange
6. Newark
7. Carteret
8. Bayonne
9. West Orange
10. Maplewood
11. Jersey City
12. Long Branch

The final position of the Locals talks about the difference at maximum in 2006 between the parity group with Firefighters and the police department

(patrolmen) of \$1,506. The basic reason for this adjustment involved the difference in hours between the two parties.

The reasoning does not, however, support a claim that parity for the groups should mean that on or after January 1, 2010, new hires should have a longevity adjustment. The last settlement in September 2008 did not necessarily anticipate such an adjustment. The settlement anticipated as set forth in Exhibit No. 1 in 2007 talked about longevity for new hirees based upon limiting it to a fixed cash amount for them converting the percentages at that time strictly to that cash amount so that future longevity would be limited to such fixed amounts and not subject to percentage increases.

Just as important, as is noted in the Exhibits and in this Brief, when longevity was changed in the police situation, Firefighters took a 1½% reduction in pay to avoid having that happen. That accounts perhaps for much of the difference at maximum between the parties. Accordingly, the parity argument of the Locals is inapplicable to longevity.

Based upon the foregoing, the FMBA should receive the parity adjustment it is seeking with respect to parity between firefighters and police officers.

The Township rejects the Unions' proposal. Initially, the Township contends that the Unions are making this argument in order to "whipsaw" the Township. The Township does not see the relevance between the terms and conditions for firefighters compared to those in either other jurisdictions or within the Township's police department. It argues as follows:

Thus, we see the substantial portion of evidence presented by the Unions to be focused on portions of the compensation plans in other communities to support demands for excessive increases in similar compensation components provided to firefighters and fire officers by Belleville Township. Moreover, it is this type of comparison that the Unions use to try to justify a 5.5% wage increase in 2007, together with a \$1,506.00 parity adjustment to "catch up" to police salaries in Belleville and then another parity adjustment of 5% to exceed police salaries because fire fighters and fire officers work 5% more hours than do the police. Finally, the Unions use comparability to attempt to justify an increase in EMT pay from \$600.00 to 6% which increases the cost from \$39,500.00 in 2006 to \$345,674.04 in 2007 together with an

increase in cost from \$8,000.00 to \$40,000.00 for eight (8) drivers. When added together these various increases proposed by the Unions equate to a cost in excess of 21% - and that's just for calendar year 2007. (See Exhibit T-117 and compare total including Longevity and Holidays + cost of EMT proposal for 2007). That this criterion could not and should not be used to justify granting such unreasonably excessive demands or anything close to it bespeaks the obvious.

... The Fire unions seek equity adjustments in addition to their 5.5% demand for annual across-the-board wage increases. One such equity adjustment sought is an additional 5% because firefighters and fire officers work 5% more hours than do police officers. Without challenge to the hours of attendance at the work place firefighters and fire officers are scheduled to make, the arbitrator should consider the nature of the work performed by a firefighter versus a police officer during the entirety of their respective shifts. Perhaps a more telling comparison on this point, however, is the number of days worked and the resultant per diem value paid to a firefighter versus a police officer. When that comparison was done for calendar year 2006 it showed that firefighters had a per diem rate of \$970.58 for actual work days compared to a per diem rate of \$482.01 for police officers. Before any salary increase is applied, the FMBA proposal generates a \$2,629.60 increase in the per diem rate by requesting even more time off (T-80). Obviously, differences in work schedules can result in distortions of comparison efforts. What is significant and meaningful, however, is the application of a pattern of settlement. When a pattern is established and applied it provides the element of fairness that is a key ingredient to positive morale among employees. As this arbitrator has observed in many prior decisions, pattern settlement is an extremely significant factor in rendering a final award.

Article VII, Wages, Section D, EMT Certification

The FMBA seeks to increase the current \$600 payment for maintaining EMT Certification and for responding to EMS calls to 6%. The FMBA also proposes to include this payment in base pay. The FMBA offers the following argument in support of this proposal:

All firefighters and fire officers maintain their EMT certification. As such, all firefighters and fire officers receive the above payment. As will be set forth below, and by way of background, eight (8) firefighters are assigned to first line ambulance duties, those firefighters render aid to the victim of an incident and transporting said individual to an appropriate medical center if necessary. Those firefighters receive additional compensation for performing first line ambulance duties.

The FMBA asserts that it is entitled to special consideration in the area of the above-referenced \$600 payment, and other important payments because of the difference in pay between the FMBA and other Fire Departments throughout New Jersey for the performance of these EMS related duties. As set forth in numerous FMBA's Exhibits, and as is set forth throughout this Post-Hearing Brief, the Belleville Fire Department responds to and handles an exceptionally large amount of emergency medical service related calls. The amount of work performed during these medical calls comprises a significant percentage of fire runs.

While it is true that eight (8) individuals perform first line ambulance duties, all firefighters and fire officers are required to respond to and provide aid at a large number of EMS related calls. In that regard, and by way of background, fire apparatus responds to medical calls when: 1. there is a motor vehicle accident; 2. Belleville Fire Department EMS Units (first line ambulance responders) are unavailable; 3. a mutual aid EMS unit is responding in Belleville; and 4. any call where paramedics are required regardless of if the Belleville Fire Department EMS Unit is responding to the medical call. See FMBA and FOA Exhibit No. 16. These types of situations occur on a frequent basis. In addition, the EMS personnel in charge may request that Fire Department personnel provide needed support and assistance in certain situations outside of the four (4) situations referenced above. Id. Of great importance is that fact that the Battalion Chief retains control of emergency scenes under their jurisdiction so that the Battalion Chief coordinates the operations of Fire Department units, ambulances, and law enforcement officers. Id.

As has been demonstrated in FMBA Exhibits, the FMBA responds to a large number of EMS runs which clearly warrants compensation well in excess of \$600. More specifically, the FMBA responded to the following number of EMS runs during the 2004 through 2008 calendar years: 2004-3344; 2005-3555; 2006-3423; 2007-3626 and 2008-3474. It is also important to note that the FMBA responded to the following number of fire calls during the 2003-2006 calendar years: 2003- 2196; 2004-2207; 2005-2442; 2006-2208; 2007-2459; and 2008-2197. Notably, the ambulance is dispatched to all runs that require more than a single engine response. A single engine response would include responses to situations such as brush fires or issues pertaining to carbon monoxide. The practice of sending the ambulance to all responses other than single engine responses is not set forth in the EMS runs above, and as such, the EMS runs are increased by at least half of the fire runs for each of the years set forth above. By way of example, it is likely that the ambulance service responded to 4855 situations in 2007.

As it is clearly set forth in the chart provided below, a large number of municipalities provide payment for responding to medical calls. Many of these municipalities, as set forth in the charts submitted by the FMBA, perform minimal EMS duties, or at the very least, respond to fewer calls than the FMBA, and receive substantial stipends nonetheless. This alone demonstrates that the FMBA should be provided an increase in the above-requested stipend. The following municipalities receive compensation for performing EMS related duties, while likely responding to fewer calls than the Belleville Fire Department:

Municipality	EMT Pay/Stipend
West Orange	2% stipend added to base pay
Teaneck	2% stipend added to base pay
Clifton	\$2,700 added to base pay
Linden	8% stipend added to base pay
Hillside	6% stipend added to base pay
Ocean City	\$3,486
New Brunswick	1.25%
Maplewood	\$1,444 added to base pay
Ventnor City	\$1,500 added to base pay
Roselle	5% + \$1,000 (Ambulance Providers at 3%)
South Orange	\$1,250 added to base pay
Westfield	\$1,500 (Firefighters) \$1,633 (Fire Officers)
Springfield	\$750 in base for EMT; \$750 in base salary for first responder duties
Wildwood	\$1,000 added to base pay
North Wildwood	\$1,000 added to base pay
Ridgewood	\$3,471 added to base pay
Bergenfield	\$1,526.62 added to base pay
Hackensack	\$1,250 added to base pay

It should be noted that a large number, if not all of these municipalities, incorporate this payment into base pay for pension purposes. See FMBA Exhibit No. 14.

As set forth in FMBA Exhibit 20, the Teaneck FMBA Local No. 42 was awarded a 2% EMT stipend to be included in base pay in Interest Arbitrator James P. Begin's decision, dated March 15, 1999. In its discussion of the stipend, Arbitrator Begin noted that there were

compelling bases for awarding the stipends, including the increase in the medical response workload and the fact that EMT/EMS certification has been recognized by many other communities through additional compensation. Arbitrator Begin also noted that uncontroverted evidence had been placed in the record that paying stipends for EMT/EMS certifications are paid in many other municipalities including Hackensack and Ridgewood in Bergen County. He noted that: **“These stipends usually range from \$1,252 to \$3,471 so the 2% awarded here with the current cost around \$1,000.00 at the maximum base salary is at the bottom of payment.” (Emphasis added).** Accordingly, Arbitrator Begin awarded a 2% stipend and base pay for the EMT/EMS certification.

In this instance, however, the FMBA submits that its specific request for a 6% stipend for performing EMS serviced is necessary because of the substantial workload performed by the members of the FMBA. As set forth above, the FMBA has been responding to more than 3,000 EMS calls per year. Moreover, the FMBA, as demonstrated in its submissions, received a substantially lower annual salary when compared to other Firefighters in comparable municipalities in Essex County and throughout the State. This clearly establishes the need to increase the EMS payment, as set forth above.

It is critical to note that the Township, in 2006, received \$452,092.89 for providing ambulance services to the individuals in the municipality. See FMBA and FOA Exhibit No. 56. That revenue arguably increased in the 2007 calendar year. In 2008, the Township realized more than 500,000 for providing ambulance services within the municipality. See FMBA Exhibit No. 133. Notably, the Township has been collecting revenue for the providing ambulance service since 1994.

Accordingly, these members should be compensated in the manner set forth above for providing these critical and necessary duties for the Township.

The Township rejects the Unions' proposal as constituting excessive costs that are unwarranted when applying the statutory criteria.

Article VII, Wages, Section E, First Line Ambulance Responders

Pursuant to Article VII, Wages, Section E, those FMBA members assigned to first line ambulance duties receive an additional payment of \$2,250 for performing those duties. The FMBA is seeking to increase that payment to

\$5,000 in base pay effective January 1, 2007. In support of its proposal, the FMBA offers the following argument:

As noted above, all firefighters and fire officers receive a payment of \$600 for maintaining their EMT certifications and for performing EMS related duties. Eight (8) rank-and-file firefighters receive an additional EMT payment in the amount of \$2,250 for performing first line ambulance duties. These individuals respond to every call that may require EMS related work to be performed.

As noted above and as set forth in the FMBA's documentary evidence, the Fire Department responds to a exceptionally large number of EMS calls annually. As a result, the FMBA is seeking to increase the above payment to \$5,000 in base pay, effective January 1, 2007. This increase is consistent with other municipalities that provide substantial payments to those members assigned to first line ambulance duties. By way of example, Hillside and Linden FMBA provide substantial percentage payments to those firefighters who perform and are assigned to first line ambulance duties.

Based on the foregoing, the FMBA's proposal pertaining to an increase in payment for those assigned to first line ambulance duties is reasonable and should be awarded.

The Township rejects the Unions' proposal as constituting excessive costs that are unwarranted when applying the statutory criteria.

Article VII, Compensation, Section C. Academy Step

The Academy step of the rank-and-file salary chart has been frozen at \$25,000 since 2003. The FMBA in its final offer sought to increase the academy step so that the starting salary for the 2007 calendar year is \$30,000.

The above-requested increase is necessary when reviewing the academy step of police officers in the Belleville Police Department, as well as academy step salaries in Fire Departments in Essex County and throughout the State. Belleville police officers receiving the following academy step salary in the 2007 through 2009

calendar years: 2007-\$31,881; 2008-\$32,838; and 2009-\$33,823. Academy step firefighters should, at the very least, receive a starting salary that is comparable to that of a new hire in the Belleville Police Department.

In addition to the above comparison, it is critical to note that the starting salary in the Belleville Fire Department is lower than all other full-time, paid Fire Departments in Essex County. The following Chart demonstrates the discrepancy in starting salaries in Essex County:

The Town does not see the need for this adjustment in the Academy Step. It notes that the FMBA proposal amounts to an immediate 20% increase.

Article VII, Wages, Fire Prevention Specialist

The FMBA seeks to incorporate the title of Fire Prevention Specialist and the corresponding salary into the parties' Agreement. It offers the following in support of its proposal:

This title and the corresponding salary for the 2005 and 2006 calendar years was adopted by the Township of Belleville as Ordinance No. 3081. A copy of Ordinance No. 3081 was submitted as FMBA Exhibit No. E. The FMBA is seeking to incorporate the title and corresponding salary into the current CBA since it is not referenced in the parties CBA. This proposal does not seek any additional payment or benefits for the Fire Prevention Specialist, and as such, this proposal is non-economic in nature. The FMBA simply seeks to place the current position and corresponding salary into the parties' CBA.

Based on the foregoing, the FMBA's proposal is reasonable and should be awarded.

The Township offers no specific objection to this proposal.

Article XVIII, Vacations

Article VIII, Vacations, Vacation Time Incentive (New Provision)

Article XVIII, Vacations, Section C, of the FMBA Agreement provides for the following vacation benefit:

Employees covered by this Agreement shall receive vacations with pay in accordance with the following schedule:

Completion of the 2 nd year by October 1	16 working days
Completion of the 5 th year by October 1	18 working days
Completion of the 10 th year by October 1	20 working days
Completion of the 19 th year by October 1	22 working days

Article XVIII, Vacations, Section A, Subsection 1, of the FOA Agreement provides for the following vacation benefit:

All employees covered by this Agreement shall receive vacations with pay in accordance with the following schedule:

Completion of the 5 th year by October 1	18 working days
Completion of the 10 th year by October 1	20 working days

Commencing in the January 1, 2000 Lieutenants will receive two (2) additional vacation days; Captains three (3) additional vacation days; Battalion Chiefs four (4) additional vacation days.

The FMBA and FOA seek to increase their vacation allotment by two (2) days. It supports this proposal with the following argument:

In addition to receiving lower salaries than their police counterparts, the FMBA and FOA also receives lesser vacation benefits and other Fire Departments in Essex County and throughout the State. In that regard, the following chart provides for municipalities in Essex County that provide for greater vacation benefits than what is currently provided to members of the FMBA and FOA:

**ESSEX COUNTY MUNICIPAL COMPARISON
VACATION**

MUNICIPALITY	VACATION
E. Orange	Over 20 years of service = 38 days 20 years of service or less - 28 days
Millburn	0-1 years = 1 day each month worked 1-2 years = 12 working days 3-4 years = 15 working days 5-16 years = 18 working days 17 years = 19 working days 18 years = 20 working days 19 years = 21 working days 20 years or more = 24 working days
Bloomfield	1 st year = 0 days 2 nd year = 1 day per month worked during 1 st year + 2 days 3 - 10 years = 16 days 11 - 20 years = 22 days 21 years and after = 24 days
Nutley	01- year = 1 day for each month of service 2-10 = 15 workdays 11-15 = 20 workdays 16 years and after = 25 workdays
W. Orange	8 24 hour shifts after 1 st year
City of Orange	1 st year = 96 hours 2-6 years = 120 hours 7-15 years = 158 hours 16-20 years = 288 hours 21 years and after = 312 hours

Other municipalities such as Roselle, Camden and New Brunswick provide its firefighters and fire officers with greater benefits than what is currently provided to members of the FMBA and FOA. See FMBA Exhibit Nos. 138-140.

The FMBA also seeks to incorporate a new provision into its Agreement whereby members would receive one (1) vacation day for every period of six (6) continual months in which a member does not use any sick time and two (2) vacation days if the member does not use any sick time for a continual period of one (1) year. It submits that:

This benefit is the norm in other municipalities throughout the State of New Jersey. The following list of municipalities are a sample of municipalities that provide this benefit to its employees: Avon-By-The-Sea, Margate, Millville, Voorhees, Willingboro, Summit, Nutley, Hillside, Irvington, Maplewood. See FMBA Exhibit Nos. 142-151. This benefit, as evidenced by the FMBA's exhibits provides for a number of various practices for the non-use of sick days. For the most part, municipalities provide their employees with either a cash payment or time off for the non-use of sick days.

Based on the foregoing, the FMBA's proposals are reasonable and should be awarded.

The Township rejects the vacation proposals of the Unions. It contends that the vacation entitlement proposal for Fire Officers as presented is misleading:

The proposal reveals the requested vacation entitlement for firefighter (5 years – 20 days; 10 years- 22 days). The fire officers get an enhancement of 2 days for Lieutenants; 3 days for Captains and 4 days for Battalion Chiefs. The actual vacation schedule for Fire Officers if the Union proposal was awarded would be:

	5 Years	10 Years
Lieutenant	22 days	24 days
Captain	23 days	25 days
Battalion Chief	24 days	26 days

When that requested vacation schedule is inserted into the 24/72 work schedule it produces a result whereby, for example, a Battalion Chief working on the line would have a mere 77 days of work per year scheduled (90 days minus 13 vacation days, 26 days

÷ 2, after only 10 years of employment with the Township); and that would be without taking into account personal and sick days. If such a result came about via an interest arbitration award, taxpayers would be appalled and the process would once again come under severe criticism. Such a result would also be a significant detriment to the financial stability of Belleville Township because of the likelihood of overtime increase to cover the vacation absences, and this is at a time when overtime in the Fire Department is already a major cost factor for the Township.

24/72 Hour Work Week Language

The FMBA seeks to incorporate mutually agreed upon language relating to the current 24/72 hour shift into the parties' Agreement.

The Township agreed to implement the 24/72 hour work week in 2000. The 24/72 schedule went into effect in 2002. Information pertaining to the 24/72 schedule is set forth in an Appendix to the parties CBA. The appendix references performance criteria that must be met in order to maintain the 24/72 shift. The period of time in which the performance criteria needed to be met has since lapsed. Accordingly, that language should be deleted from the Appendix. Additionally, language referenced in the Appendix which referenced certain benefits that are relevant to the parties should be incorporated into the CBA instead of being set forth in an Appendix. The FMBA and the FOA are seeking to revise the language so that mutually agreed upon language pertaining to the 24/72 hour shift is incorporated into the parties CBA. Mutually agreed upon language will help ensure that interpretation issues with respect to the shift do not arise during the life of the successor CBA.

Based on the foregoing, the FMBA and FOA's proposal pertaining to the 24/72 language change is reasonable and should be awarded.

The Township does not object to the inclusion of language into the Agreement that references the fact that the fire department operates on a 24/72 hour shift and has done so going back to calendar year 2002. However, it has

maintained at all times throughout the proceeding that it believes that sick leave usage was excessive and resulted in an extraordinary amount of overtime costs. The Township contends that these facts are incompatible with the intent of moving to the 24/72 hour schedule.

DISCUSSION

The FMBA and the Township have submitted substantial documentary evidence, testimony and oral and written argument in support of their last offers. I am required to make a reasonable determination of the disputed issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (9) that I find relevant to the resolution of these negotiations. 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.
- (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).

The issues in dispute are primarily economic in nature and, in addition to wages, embrace many issues of substantial economic consequence. The record reflects that all of the enumerated criteria are relevant to a disposition of these issues. Similar to what I have found in a prior proceeding, all of the statutory criteria have some relevance, directly or indirectly, when setting salary modifications. The more significant question is the weight to be given to the criteria. Virtually all of the statutory criteria implicate the interests and welfare of the public. By way of example, statutory financial limitations and the financial impact of the terms of an award on the public employer, while separate criteria, are among the items that must be considered under the public interest criterion. Continuity and stability of employment of unit employees is also a separate criterion but one that has been found to be interrelated with the public interest. Another factor that interrelates with the interests and welfare of the public is

comparability, especially among several units of a single employer who have strong common interests such as in law enforcement.

The FMBA proposes a six year agreement effective from January 1, 2007 through December 31, 2012. The Town proposes a three year agreement effective July 1, 2007 through June 30, 2009. The FMBA asserts that a six year agreement is appropriate because it would promote continuity and stability in labor relations that it claims has been lacking. According to the FMBA, a shorter period would result in additional protracted negotiations that would occur immediately following the implementation of this Award and leave the parties with another expired contract. There is merit to the FMBA's position that a contract of longer duration be awarded but not to the extent that it seeks. I award a contract duration of January 1, 2007 through December 31, 2011.

SALARY AND BENEFIT ISSUES

It is obvious that the individual issues that concern salary and the other compensation issues of economic impact such as longevity, parity payments, leaves of absence, vacations, personal day, sick leave, night differential, EMT payments and health insurance cannot be properly analyzed and decided in completely separate fashion. There are substantial costs to the Township associated with each issue as well as direct impact upon employees. Moreover, they are interrelated in the context of rendering a reasonable overall

determination on all of the issues, especially given the fact that a calculation of total annual economic change is required by statute.

The Township contends that all compensation issues must be considered as a whole while the FMBA has not analyzed the cumulative cost effects of all of the issues.

For the foregoing reasons, a determination on the most substantial cost item, the salary issue, must first be decided. Any analysis of the salary issue must start with the internal relationships between the FMBA and the PBA because both parties emphasize the relevance of this internal comparability relationship. The Township's position refers to the existence of a pattern of settlement that applies to this bargaining unit. This argument must be reviewed and if such pattern does exist, it must be determined whether such pattern indicates that adherence to its terms represents a reasonable determination of the issue. This is required because evidence of pattern of settlement can, pursuant to established case law on this issue, implicate several of the statutory criteria, including the interests and welfare of the public, internal comparisons between an employer's negotiations units, the continuity and stability of employment. Each party addresses this issue but in different fashion because of the unique history that has occurred between the two departments.

The Township and the PBA came to a voluntary agreement concerning terms for 2007, 2008 and 2009. That agreement provided for salary increases consistent with the Township has offered to the FMBA. The Township's proposal here would increase salaries by 2% on January 1, 2007, 2% on July 1, 2007, 2% on January 1, 2008, 2.5% on July 1, 2008, 2.0% on January 1, 2009 and 2.5% on July 1, 2009. In addition to the argument as to whether this contract should have a longer duration, the FMBA contends, among other things, that the proposal is inadequate because the Township is in sound financial condition according to its financial expert, that its salary schedule lags behind most other fire departments inside and outside Essex County, that the PBA receives greater salaries than the FMBA despite working fewer annual work hours and that the Township has ignored the substantial monies the FMBA raises for the Township from its ambulance service.

The Township disagrees with the FMBA's assessment because its own financial expert paints a far different picture of the Township's financial condition due to rising costs and decreasing revenues. It disagrees that the overall terms of the proposed contract are not comparable to other fire departments and it points out that the comparison the FMBA makes to the PBA is invalid because the PBA removed the longevity benefit for new hires many years ago while the FMBA maintained the longevity benefit. The Township further submits a detailed analysis of current economic trends from which it observes that its proposal

would not have been offered nor justified in current times in the absence of trying to maintain the FMBA's relationship with the PBA.

I first note that guidelines concerning patterns of settlement exist. Clearly, internal comparability or internal patterns of settlement, especially between and among public safety units, are relevant considerations when evaluating the merits of a party's proposals. The application of this subsection of the statutory criteria, N.J.S.A. 34:13A-16(g)(2)(c), is well established. See In the Matter of Somerset County Sheriff's Office v. Somerset County Sheriff's FOP Lodge #39, Docket No. A-1899-06T3, 34 NJPER 8 (App. Div. 2008) wherein the County objected to the arbitrator's application of § 34:13A-16(g)(2)(c) that requires an interest arbitrator to "consider evidence of settlements between the employer and other of its negotiations units, as well as evidence that those settlements constitute a pattern." In Somerset, internal settlements between the County and other law enforcement units were given significant weight by the arbitrator. In that case, the court rejected the public employer's contention that the arbitrator erred in his application of this factor and the weight to be accorded to that factor. Over the years, numerous interest arbitration awards have been issued where evidence of settlements between a public employer and one or all of its public safety bargaining units have been required to be considered as well as whether such evidence constitutes a pattern to be applied internally.¹ PERC, in reviewing

¹ Among these, See In the Matter of Somerset County Sheriff's Office v. Somerset County Sheriff's FOP Lodge #39, Docket No. A-1899-06T3, 34 NJPER 8 (App. Div. 2008). See County of Union I, P.E.R.C. No. 2003-33, 28 N.J.P.E.R. 459 (¶ 33169 2002) and County of Union II, P.E.R.C. No. 2003-87, 29 N.J.P.E.R. 250 (¶75 2003). Teaneck Tp., P.E.R.C. No. 2000-33, 25 NJPER 450 (¶30199 1999). County of Essex and Essex County Sheriff and Essex County Sheriff's Officers, PBA Local 183, 31 NJPER 41 (2005). See also,

one such award on appeal, supported this approach as a commonly accepted principal in labor relations in the County of Union v. Union County Corrections Officers, PBA Local 999, PERC No. 2003-33. In that case, the County offered a proposal on health benefits that had been accepted by six other bargaining units, including three non-law enforcement units and three law enforcement units. After its proposal had been rejected, a County appeal of that award resulted in a remand wherein PERC stated:

N.J.S.A. 34:13A-16g(2)(c) requires arbitrators to compare the wages, salaries, hours and conditions of employment of the employees in the proceeding with those of employees performing similar services in the same jurisdiction and with "other employees generally" in the same jurisdiction. Thus, this subfactor requires the arbitrator to consider evidence of settlements between the employer and other of its negotiations units, as well as evidence that those settlements constitute a pattern. See N.J.A.C. 19:16-5.14(c)(5) (identifying a "pattern of salary and benefit changes" as a consideration in comparing employees within the same jurisdiction). Pattern is an important labor relations concept that is relied upon by both labor and management.

In addition, a settlement pattern is encompassed in N.J.S.A. 34:13A-16g(8), as a factor bearing on the continuity and stability of employment and as one of the items traditionally considered in determining wages. In that vein, interest arbitrators have traditionally recognized that deviation from a settlement pattern can affect the continuity and stability of employment by discouraging future settlements and undermining employee morale in other units. Compare Fox v. Morris Cty., 266 N.J. Super. 501, 519 (App. Div. 1993), certif. denied, 137 N.J. 311 (1994) (in applying N.J.S.A. 34:13A-16g(8), arbitrator should have considered the effect of an award on employees in other units); see also Anderson, Krause and Denaco, Public Sector Interest Arbitration and Fact Finding: Standards and Procedures, 48.05[6], contained in Bornstein and Gosline Ed., Labor and Employment Arbitration (Matthew Bender 1999) (citing arbitrators' statement that their award, which took pattern into account, would prevent disruption of future employer-

Rutgers, The State University, P.E.R.C. No. 99-11, 24 NJPER 421 (¶ 29195, 1998), City of Clifton, P.E.R.C. 2002-56, 28 NJPER 201 (¶ 33071, 2002).

wide negotiations and also commenting that arbitrators are generally hesitant to award increases that would disturb a pre-arbitration settlement pattern absent a showing that a break in the pattern is required to address a specific problem).

This issue was revisited by PERC after Union County filed an appeal after the interest arbitrator issued a second award after the matter was remanded to him. Although PERC expressed no opinion on the merits of the County's proposal and stated that it made no finding on whether a pattern existed or whether the alleged pattern must be followed, PERC once again ordered a remand² explaining:

[T]he arbitrator did not make explicit findings as to whether or not there was a settlement pattern with respect to health benefits and salary – or either of those items. Nor did he make findings as to whether the settlements differed from the offer to this unit or analyze the significance of any differences. These are critical omissions because, as we explained in Union Cty., the existence – or not – of a pattern is an element that should be considered in determining the weight to be given internal settlements and in assessing the effect of an award on the continuity and stability of employment. 28 NJPER at 461. Further, Union Cty. stated that the Reform Act requires the arbitrator to explain the reasons for adhering or not adhering to any proven settlement pattern. Without specific findings as to the existence, nature or scope of an alleged settlement pattern, we cannot evaluate whether the arbitrator fulfilled that function.

I have carefully reviewed the underlying facts of this dispute to evaluate whether there is an objective basis to conclude that a pattern does, or does not, exist.

² This time to a different arbitrator.

The Town's proposals totaling 13% over three years is consistent with the agreements it has negotiated with the PBA. The FMBA's proposals, while arguing in support of pattern on some issues and parity on others, far exceed the increases that the Township negotiated with the PBA. The FMBA offers rationale for why its proposals should be awarded, but nevertheless, its salary proposals, standing alone or in combination with its remaining compensation proposals, are well in excess of the amounts that would be required to maintain consistency. I have thoroughly reviewed the FMBA's position that salary terms beyond that negotiated by the PBA are justified. After such review, I am not persuaded by the FMBA's arguments which attempts to draw distinctions between top step pay between the departments. But this argument does not take certain relevant facts into consideration. The existing longevity program for the FMBA reaches 10% of base pay. The PBA agreement eliminated longevity for employees hired after January 1, 1997. Thus, for the FMBA, all hires for the last thirteen years enjoy the longevity benefit while those in the police department do not. Because of this difference, the \$1,506 difference in top step pay between firefighters and police officers cannot be considered an inequity that requires greater increases in base pay for the FMBA than those that were received by the PBA. Significantly, the Township has not proposed a lesser increase for the FMBA here and instead has proposed terms that maintain the salary relationships over the years that the increases have been provided to the PBA.

Clearly, the Township's proposal to the FMBA is consistent with that provided to the PBA and it serves as a strong basis for an award of the salary proposals advanced by the Township. Independent from this conclusion, I also observe that the level of increases also satisfy all of the statutory criteria that are relevant for the disposition of the salary issue. They exceed the cost of living, they are equal or better to salary increases negotiated within Essex County and within the State of New Jersey, they will enhance the continuity and stability of employment with firefighters within the Township and will build upon the overall level of compensation and benefits already enjoyed by the firefighters. The FMBA's financial expert, Dr. Ray Caprio, effectively analyzed the Township's budget in a way to show that there are monies within the budget to fund the FMBA's proposal. His testimony, however, must be balanced with that of Victor Canning, the Township Manager, that shows that the Township's budget has been strained and unable to absorb the proposed costs without creating adverse financial impact. Among the points raised by Canning, are an increase in pension costs of \$1,157,587 in 2008, \$50,000 increases in utilities authority, substantial increases in the tax levy in 2007 and 2008 and substantial new salary costs it absorbed in the other agreements including the PBA. The FMBA, notwithstanding the vigorous nature of its arguments, has not met its burden to prove that wage increases should be in excess of what the Township has proposed nor that its parity adjustment proposal be awarded. Adherence, at least with respect to base wages and health insurance, represents a reasonable determination of these issues because to find otherwise would be disruptive to

the labor relations scheme. This does not foreclose the FMBA from seeking other economic changes that would stand apart from that pattern, but any such changes must stand independently from the issue of base salary.

Given my finding with respect to contract duration, I award increases of 1.5% effective January 1, 2010 and an additional 1.5% effective July 1, 2010 and the same increases and effective dates for 2011. These increases are consistent with all of the relevant criteria that would apply to wage determinations.

I also award the other aspects of the Township's proposals to include a new hire schedule, differentiated increases³ in salary steps and the authority to pay wages on a bi-weekly basis. The salary schedule currently allows for top step pay after the conclusion of four years. I award an additional year for new hires after the May 20, 2010 date of the award with a range between a minimum of \$27,000 and a maximum of \$80,633 with steps calculated in equal dollar amounts. The schedule thereafter shall have the same amount of adjustments at each step as the schedule for existing employees. I defer the construction of this schedule to the parties.

The salary schedules for existing firefighters and fire officers would be modified to provide the following terms:

³ This will be accomplished by adjusting each step below top step by 1.5% at each effective date of increase over the course of the revised salary schedule.

	1/1/2007 2.0%	7/1/2007 2.0%	1/1/2008 2.0%	7/1/2008 2.5%	1/1/2009 2.0%	7/1/2009 2.5%
Academy Step	\$25,375	\$25,756	\$26,142	\$26,534	\$26,932	\$27,336
Commencing 1 st year of employment after completion of (FF-1) Academy	\$34,682	\$35,202	\$35,730	\$36,266	\$36,810	\$37,362
Commencing 2nd year of employment after completion of Academy	\$43,475	\$44,128	\$44,790	\$45,461	\$46,143	\$46,835
Commencing 3rd year of employment after completion of Academy	\$52,268	\$53,052	\$53,848	\$54,656	\$55,476	\$56,308
Commencing 4th year of employment after completion of Academy	\$61,061	\$61,977	\$62,907	\$63,851	\$64,808	\$65,780
Commencing 5th year of employment after completion of Academy	\$70,199	\$71,603	\$73,036	\$74,861	\$76,359	\$78,268

	1/1/2010 1.5%	7/1/2010 1.5%	1/1/2011 1.5%	7/1/2011 1.5%
Academy Step	\$27,746	\$28,162	\$28,585	\$29,014
Commencing 1 st year of employment after completion of (FF-1) Academy	\$37,922	\$38,491	\$39,068	\$39,655
Commencing 2nd year of employment after completion of Academy	\$47,538	\$48,251	\$48,975	\$49,709
Commencing 3rd year of employment after completion of Academy	\$57,153	\$58,010	\$58,880	\$59,763
Commencing 4th year of employment after completion of Academy	\$66,767	\$67,769	\$68,785	\$69,817
Commencing 5th year of employment after completion of Academy	\$79,442	\$80,633	\$81,843	\$83,070

	1/1/07 2.0%	7/1/07 2.0%	1/1/08 2.0%	7/1/08 2.5%	1/1/09 2.0%	7/1/09 2.5%
Lieutenant	80,729	82,343	83,990	86,090	87,812	90,007
Captain	92,838	94,695	96,589	99,004	100,984	103,508
Battalion Chief	106,763	108,899	111,077	113,854	116,131	119,034
Deputy Chief	122,778	125,234	127,739	130,932	133,551	136,890

	1/1/10 1.5%	7/1/10 1.5%	1/1/11 1.5%	7/1/11 1.5%
Lieutenant	\$91,357	\$92,727	\$94,118	\$95,530
Captain	\$105,061	\$106,637	\$108,236	\$109,860
Battalion Chief	\$120,820	\$122,632	\$124,471	\$126,338
Deputy Chief	\$138,943	\$141,028	\$143,143	\$145,290

I also find that the health insurance proposal of the Township, as agreed upon between the Township and the PBA, and as is proposed here, shall also be awarded. The reasons for adherence to the pattern on salary also apply to the issue on health insurance. The interests and welfare of the public would be

served by having an insurance plan that is consistent between the fire and police departments. A comprehensive health insurance plan will continue to be provided under the changes proposed by the Township with somewhat higher co-pays and deductibles. I have examined the FMBA's objection to the retiree language but find it to be without merit. It simply provides that health benefits provided to retirees will be consistent with those in effect at the time of an employee's retirement. Accordingly, the Township's proposal is awarded.

The most challenging issue in these negotiations has been the Township's proposal to eliminate the longevity benefit for new hires. As stated above, this benefit was eliminated for police officers hired on or after January 1, 1997. The PBA received a larger increase in salary than did the FMBA based upon this deletion. This difference has remained. The FMBA objects to the elimination of longevity for new hires.

This issue must be addressed in broader fashion than simply the elimination of the longevity benefit. The FMBA points out that the PBA receives a higher top step maximum while the Township responds that newly hired firefighters still enjoy the longevity benefit some thirteen years after its elimination in the police department. It is apparent that this dispute may never be resolved in a satisfactory fashion to both parties. The FMBA has sought additional economic enhancements which, when calculated, simply cannot be awarded due to the cumulative costs of the proposals that, assuming they could be awarded,

would cause adverse financial impact on the Township and jeopardize its ability under the appropriations and revenue statutory caps. With the exception of the FMBA's proposals regarding EMT Certification and First Line Ambulance Responders, I do not award its other economic proposals. These include its request for additional vacation days, either by allotment or by non-use of sick time, and its request to increase the number of personal days.

The FMBA's proposals regarding EMT Certification and First Line Ambulance Responders warrant consideration but not in the absence of a change in its longevity program. Given the fiscal pressures faced by the Township, the awarding of any additional compensation item must be linked with a benefit that will allow the Township to accrue cost savings in the future. One such benefit is to eliminate longevity for new hires, as was done in the police department thirteen years ago. The awarding of additional compensation for the EMT certification and for the work performed by First Line Ambulance Responders would address the existing claimed disparities between departments in the only manner that can be justified at this time. The higher EMT payments will also provide an offset in the loss of longevity benefit for the new hires. Accordingly, I award an increase in the EMT Certification from by \$500 effective January 1, 2010 and an additional increase of \$500 effective January 1, 2011 all of which shall be in base pay. I award an increase in the payment for First Line Ambulance Responders from \$2,250 to \$2,500, also effective January 1, 2011.

With respect to the remaining issues, I find no justification to either increase the number of personal days as proposed by the FMBA nor to eliminate the number of personal days that presently exist as proposed by the Township. I do not award the Township's proposal to add language to confirm that the maximum payout of sick leave upon death or retirement shall be \$15,000. The FMBA disagrees that this amount is currently the maximum payout. Because of this, the language proposed that is intended clarify this issue cannot be added based upon the record before me. This issue may be addressed in future negotiations.

The FMBA has proposed to incorporate the title of Fire Prevention Specialist and the corresponding salary into the parties' Agreement. Assuming that this proposal is intended merely to codify the existence of this title and its salary into the Agreement, it is awarded.

FMBA members currently receive retirement benefits if they complete twenty-five (25) years of service with the Township. The FMBA has proposed to revise this language so that FMBA members who transfer from another municipality will receive service credits toward the twenty-five (25) years of service necessary to receive health benefits upon retirement. This retirement benefit issue should be implemented on a consistent basis between the police and fire departments. There is no evidence that this proposed benefit conforms to the retiree health benefit issue within the public safety departments. If shown,

there would be a basis for such an award. In the absence of such evidence, I decline to award this proposal.

The Township has proposed to clarify holiday pay to state that Holiday Pay is calculated on the basis of 126 hours (9 hours x 14 days) and is distributed on a pro rata basis with each regular pay check and there is no holiday pay due and owing to an employee or his estate upon retirement or death. The FMBA does not dispute the need for this clarification and consents to language that would accurately portray the agreement reached between the parties in 2003 with respect to the inclusion of holiday pay into base pay. I award the Township's proposal.

The Township proposes that Section B of Article XIII be modified to reflect a normal workweek of 42 hours for administrative and staff assignments. This proposal has not been justified and it is not awarded.

The FMBA has proposed to incorporate mutually agreed upon language relating to the current 24/72 hour shift into the CBA. The Township does not disagree with the exception that there is a need to maintain language that addresses the performance criteria that can evaluate the efficiencies of the work schedule. This latter issue has been addressed directly between the parties during their negotiations without mutual understanding. This work schedule has now been implemented for some eight years and because of this, it should not be

disturbed for the remainder of this Agreement. However, in order to preserve all of the parties' rights, I award a continuation of the language that presently exists with the presumption that the work schedule will remain in effect, that discussions will continue between the parties and any disagreements addressed in the next round of negotiations.

Accordingly, and based upon all of the above, I respectfully submit the following Award:

AWARD

1. All proposals by the Township and the FMBA 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 or by mutual agreement of the parties.

2. **Duration**

The duration of the Agreement shall be January 1, 2007 through December 31, 2011.

3. **Salary**

Effective and retroactive to their effective dates, the top step of the salary schedule and each rank shall be increased by the following:

Effective January 1, 2007 – 2.0%
Effective July 1, 2007 – 2.0%
Effective January 1, 2008 – 2.0%
Effective July 1, 2008 – 2.5%
Effective January 1, 2009 – 2.0%
Effective July 1, 2009 – 2.5%
Effective January 1, 2010 – 1.5%
Effective July 1, 2010 – 1.5%
Effective January 1, 2011 – 1.5%
Effective July 1, 2011 – 1.5%

For steps below top step, each step shall increase by 1.5% at each effective date of increase between January 1, 2007 and July 1, 2011.

The salary schedules shall be as follows:

	1/1/2007 2.0%	7/1/2007 2.0%	1/1/2008 2.0%	7/1/2008 2.5%	1/1/2009 2.0%	7/1/2009 2.5%
Academy Step	\$25,375	\$25,756	\$26,142	\$26,534	\$26,932	\$27,336
Commencing 1 st year of employment after completion of (FF-1) Academy	\$34,682	\$35,202	\$35,730	\$36,266	\$36,810	\$37,362
Commencing 2nd year of employment after completion of Academy	\$43,475	\$44,128	\$44,790	\$45,461	\$46,143	\$46,835
Commencing 3rd year of employment after completion of Academy	\$52,268	\$53,052	\$53,848	\$54,656	\$55,476	\$56,308
Commencing 4th year of employment after completion of Academy	\$61,061	\$61,977	\$62,907	\$63,851	\$64,808	\$65,780
Commencing 5th year of employment after completion of Academy	\$70,199	\$71,603	\$73,036	\$74,861	\$76,359	\$78,268

	1/1/2010 1.5%	7/1/2010 1.5%	1/1/2011 1.5%	7/1/2011 1.5%
Academy Step	\$27,746	\$28,162	\$28,585	\$29,014
Commencing 1 st year of employment after completion of (FF-1) Academy	\$37,922	\$38,491	\$39,068	\$39,655
Commencing 2nd year of employment after completion of Academy	\$47,538	\$48,251	\$48,975	\$49,709
Commencing 3rd year of employment after completion of Academy	\$57,153	\$58,010	\$58,880	\$59,763
Commencing 4th year of employment after completion of Academy	\$66,767	\$67,769	\$68,785	\$69,817
Commencing 5th year of employment after completion of Academy	\$79,442	\$80,633	\$81,843	\$83,070

	1/1/07 2.0%	7/1/07 2.0%	1/1/08 2.0%	7/1/08 2.5%	1/1/09 2.0%	7/1/09 2.5%
Lieutenant	80,729	82,343	83,990	86,090	87,812	90,007
Captain	92,838	94,695	96,589	99,004	100,984	103,508
Battalion Chief	106,763	108,899	111,077	113,854	116,131	119,034
Deputy Chief	122,778	125,234	127,739	130,932	133,551	136,890

	1/1/10 1.5%	7/1/10 1.5%	1/1/11 1.5%	7/1/11 1.5%
Lieutenant	\$91,357	\$92,727	\$94,118	\$95,530
Captain	\$105,061	\$106,637	\$108,236	\$109,860
Battalion Chief	\$120,820	\$122,632	\$124,471	\$126,338
Deputy Chief	\$138,943	\$141,028	\$143,143	\$145,290

For employees hired on or after May 20, 2010, the salary schedule shall add an additional year to reach top step pay. For 2010, the minimum shall

be \$27,500, the maximum shall be \$80,633 and the steps on this date shall be equal in amounts. The parties shall construct the schedule. The increases thereafter shall be structured in the same manner as with the schedule for existing employees.

Effective January 1, 2009 wages will be paid on a biweekly basis.

4. **Article IX – Insurance**

- a. Major Medical – Add language that the Plan provided by the Township per this contract is the exclusive plan for employees covered under this contract and any claim of entitlement to a different plan is hereby withdrawn with prejudice and shall not be asserted in any form.
- b. Effective immediately the deductibles shall be set at \$250.00 for single coverage and \$500.00 for family coverage.
- c. Effective immediately the opt out payment shall be increased from \$1500.00 to \$3000.00.
- d. Effective immediately the co-pay for brand name prescriptions shall be \$20.00 per prescription.
- e. Effective immediately add language to Subsection B that health benefits provided to retirees, including co-payments and contributions to premiums, if any, shall be consistent with the beliefs, co-pays and contributions in effect at the time of retirement.

5. **Article VIII – Longevity:**

Effective May 20, 2010 longevity for all employees hired on or after this date shall be eliminated.

6. **Article XI – Holiday Pay:**

Modify language to clarify that Holiday Pay is calculated on the basis of 126 hours (9 hours x 14 days) and is distributed on a pro rata basis with each regular pay check and there is no holiday pay due and owing to an employee or his estate upon retirement or death.

7. **Article VII, Wages, Section D, EMT Certification:**

Payment for EMT Certification shall increase from \$600 to \$1,100 effective January 1, 2010 and by an additional \$500 effective January 1, 2011 all of which shall be in base pay.

8. **Article VII, Wages, Section E, First Line Ambulance Responders:**

First Line Ambulance Responders from \$2,250 to \$2,500, also effective January 1, 2011.

9. **Article VII, Wages, Fire Prevention Specialist:**

The titles and pay of Fire Prevention Specialist shall be placed into the parties' CBA.

10. **24/72 Hour Work Week Language:**


The mutually agreed upon language relating to the current 24/72 hour shift into the parties' CBA with language preserving the parties' rights consistent with what has been stated in the above discussion section.

Dated: May 20, 2010
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 20th day of May, 2010, 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.


Gretchen L. Boone
Notary Public of New Jersey
Commission Expires 4/30/2014