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NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

BOROUGH OF METUCHEN,

“Public Employer,”

- and -

PBA LOCAL 60,

“Union.”

**INTEREST ARBITRATION
DECISION AND
AWARD**

Docket No. IA-2010-103

**Before
James W. Mastriani, Arbitrator**

Appearances:

For the Employer:

Robert T. Clarke, Esq.
Robert J. Merryman, Esq., On the Brief
Apruzzese, McDermott, Mastro & Murphy, P.C.

For the Union:

James M. Mets, Esq.
Brian J. Manetta, Esq., On the Brief
Mets, Schiro & McGovern, LLP

I was appointed interest arbitrator by the New Jersey Public Employment Relations Commission in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Metuchen [the “Borough”] and PBA Local 60 [the “PBA”]. Prior to this, the parties engaged in negotiations over an extended period of time but reached impasse. Pursuant to statutory authority, two pre-interest arbitration mediation sessions were held. Despite the good faith efforts of the parties, a voluntary agreement could not be reached during the mediation process. Thereafter, an interest arbitration hearing was held on January 31, 2012. At hearings each party argued orally and submitted documentary evidence, including financial reports, into the record. Thereafter, pursuant to a briefing schedule, post-hearing were filed, the last of which was received on or about June 1, 2012. Absent an agreement to utilize an alternative terminal procedure, the procedure of conventional arbitration was used. Conventional arbitration confers authority on the arbitrator to fashion an award that is not confined to the terms of either party’s last offer.

As required by statute, each party submitted a last offer on the disputed issues. Their respective offers are as follows:

FINAL OFFERS OF THE PARTIES

PBA LOCAL 60

1. Four year agreement – January 1, 2010 through December 31, 2013.

2. Article V – Grievance Procedure:

Section 4: Remove:

“Except that the Borough Administrator’s decision shall be final in cases dealing with the interpretation and application of policies, rules and regulations and that – disciplinary matters, upon which formal charges have not been brought shall be adjudicated in accordance with N.J.S.A. 40A-147, et. seq. and shall not be subject to arbitration.

3. Article VII – Hours of Work and Overtime

Section 5 – Remove in entirety. Replace with:

“The Pittman Schedule shall commence January 7, 2008.”

Section 13 – Increase amounts as follows:

Per meal - \$4.00 to \$15.00

Breakfast - \$2.00 to \$5.00

Lunch - \$3.50 to \$10.00

Supper - \$5.00 to \$16.00

4. Article VII – Wages and Longevity Schedules:

Increase wages as follows:

January 1, 2010	3.5%
January 1, 2011	2.5%
January 1, 2012	2.0%
January 1, 2013	2.0%

Section 6 – Remove:

“[H]owever, employees hired after January 1, 1983 shall not receive any longevity payments until the completion of ten (10) years of service.”

5. Article XI – Sick Leave:

Section 5a. – Increase \$300.00 by \$100.00 in each year of contract.

Section 5B. – Increase \$150.00 by \$100.00 each year of contract.

6. Article XVI – Clothing and Maintenance Allowances:

Section 2 – Increase clothing allowance by \$100.00 per year.

7. Article XVII – College Credits and Tuition Reimbursement:

Section 1. – Increase \$20.00 by \$5.00 per year for each year of contract.

Section 2. – Increase \$2,400.00 by \$100.00 for each year of contract.

Section 4. – Increase \$100.00 by \$50.00 per year for each year of contract. Increase \$1,500.00 by \$100.00 per year for each year of contract.

8. Article XX – Reduction in Force:

Section 1. – Increase 14 days to 60 days notice, or pay in lieu of notice.

Section 3. – Increase 14 days to 60 days.

9. Article XXI – Separation of Service:

Section 3. – Replace with:

“Laid off persons will receive one month severance for each year of service. In addition, the affected employee will receive one month of health insurance for each year of service, prior to commencement of COBRA options.

Section 7. – New Section:

“Employees will receive service credit of \$500.00 per year for each year of service payable upon termination.”

10. Article XXIII – Notification of Employee Discharge

Section 1. – Delete.

“Under no circumstances shall any discipline or discharge be subject to the grievance procedure, except as herein before stated, but said employee shall have the right as provided by statute and law.”

Replace with:

“Any discipline will be subject to grievance and arbitration clause and shall be determined by a standard of just cause.”

BOROUGH’S FINAL OFFER

1. Duration

January 1, 2010 and expiring on December 31, 2012.

2. Wages – Article VII, shall be modified:

1. Effective January 1, 2010, the salary schedule in the Collective Bargaining Agreement shall remain as is. Those employees eligible for advancement to the next step on the salary schedule shall advance consistent with past practice.
2. Effective January 1, 2011, the salary schedule shall increase by 2%. Those officers eligible to advance to the next step on the salary schedule shall advance to the next step.
3. Effective January 1, 2012, the salary schedule shall increase by 2%. Those officers eligible to advance to the next step on the salary schedule shall advance to the next step.

4. Upon the termination of the Collective Bargaining Agreement on December 31, 2012, there shall be no advancement on the salary schedule.
3. Article V, Grievance Procedure (1) – shall be revised as follows:
 1. A grievance shall be defined as any dispute involving the interpretation application or violation of policies, agreements, Rules and Regulations, or administrative decisions affecting terms and conditions of employment and shall be settled and determined in accordance with the following procedure:
 - Step 1. The grievant and the PBA President, or his designee shall present in writing and discuss the grievance(s) orally with the Lieutenant within twenty-one (21) days of the occurrence giving rise to knowledge of said event. The Lieutenant shall answer the grievance within seven (7) days from the date of the presentation.
 - Step 2. If the grievance is not resolved at Step 1, or if an answer has not been received by the PBA within the time set forth in Step 1, the PBA shall present the grievance in writing within ten (10) days thereafter to the Captain or his designee. The grievance shall be discussed between the Grievant, the PBA President or his designee, and the Captain, or his designee. The Captain or his designee shall answer the grievance in writing within seven (7) days after receipt of said grievance.
 - Step 3. If the grievance is not resolved at Step 1, or if an answer has not been received by the PBA within the time set forth in Step 1, the PBA shall present the grievance in writing within ten (10) days thereafter to the Chief of Police or his designee. The grievance shall be discussed between the Grievant, the PBA President or his designee, and the Chief of Police, or his designee. The Chief of Police or his designee shall answer the grievance in writing within seven (7) days after receipt of said grievance
 - Step 4. If the grievance is not resolved at Step 2, or if an answer has not been received by the PBA within the time set forth in Step 2, the PBA shall notify the Chief of Police or his designee within ten (10) days thereafter of its desire to meet

with the Borough Administrator. The Borough Administrator shall have a hearing on said grievance within fourteen (14) days of the receipt of such notice and shall render his/her written decision within ten (10) days of said hearing date.

4. Article IV, PBA Union Business (3) – shall be revised to provide as follows:

The PBA delegate shall be allowed to attend the monthly County PBA meeting and if said delegate is scheduled to work that day, the delegate shall be released from work (with no loss of time or pay) to travel to the County meeting and if the meeting concludes before the termination of the delegate's shift, the delegate shall return to work.

5. Article XV, (1) Health insurance and Pension Benefits – shall be revised as follows:

Effective as soon as possible, insurance coverage shall be changed as follows:

- (c) 80/20% coinsurance of the first \$2,000.00 of covered changes with 100% coverage thereafter.

- (d) Prescription Drugs:

1. Over the counter medications:

Generic - \$5.00 co-pay for each 30-day prescription filled; all others \$25.00 co-pay for each 30-day prescription filled. On the third retail prescription refill the co-pays shall be increased to generic - \$15.00 co-pay for each 30-day prescription filled; all others \$45.00 co-pay for each 30-day prescription filled. Prescription card must be used in order to obtain reimbursement.

2. Mail Order:

Generic - \$5.00 co-pay for each 90-day prescription filled; all others \$15.00 co-pay for each 90-day prescription filled. Prescription card must be used in order to obtain reimbursement

BACKGROUND AND DISCUSSION

This proceeding concerns the Borough of Metuchen and PBA Local 60. They are parties to a collective bargaining agreement and reached an impasse over new contract terms that were to commence on January 1, 2010. The PBA is the exclusive representative for employees in the police department holding the rank of Patrol Officer, Detective, Corporal and Sergeant. The Police Chief, Captain and Lieutenant are excluded from the bargaining unit. There are twenty-five (25) employees who make up the PBA's bargaining unit. In 2009, the patrol officers earned a base minimum of \$41,401 and a maximum at the 7th Step of \$84,855. The Detective earned \$87,537 while the Sergeants earned \$92,691. In addition, the Agreement covers a position of Corporal which is a temporary assignment with an annual base pay of \$900 above the amount that the Corporal would have earned had he remained as a patrol officer. These amounts are exclusive of holiday and longevity pay.

The Borough of Metuchen is one of twenty-five municipalities in Middlesex County. As of 2010, there were 12,095 residents over a land area of 2.74 square miles. Its central location, coupled with rail and bus service, attracts residents to commuter urban centers. As of 2010, the per capita income in the Borough was \$46,641. The median household income was \$96,711. In 2011, the Borough's total levy was \$50,158,761 with approximately 21% of that total allotted for

municipal taxes. As such, the municipal tax burden on taxpayers as a percentage of the total tax levy is below average. The average tax bill in 2011 was \$8,951, a \$362 increase, or approximately 4% over the average tax bill in 2010. A resident's tax bill has increased by 85% since 1999. The financial evidence shows that the Borough is well managed and has consistently had good financial health but experienced some financial distress after the onset of the deep recession in 2008 impacted on its revenues while expenditures continued to rise.

The impasse between the parties centers mainly on salary, although many other economic and non-economic issues are also in dispute. The issues include wages, meal allowances, longevity, sick leave incentive bonuses, clothing and maintenance allowance, college credit and tuition reimbursement, layoff notices, separation of service payments, grievance procedure, union business leaves, and health and prescription insurance.

The core of the parties' impasse centers on what a reasonable determination of the salary issue should be in the context of the governing body's ability to handle the financial impact of increased spending, the weight to be given to internal comparability between the PBA and the Borough's civilian employees, external comparability that compares the PBA with law enforcement units in other Middlesex County jurisdictions, and the relevance of other factors

upon which the parties have argued, including cost of living data, wage data from the private sector and the public sector in general, the continuity and stability of employment and how the overall compensation and benefit levels that currently exist influence the contractual changes that should be made based upon the parties' proposals. The presentations of the Borough and the PBA contain extensive and expertly submitted evidence and argument as to why the statutory criteria tends to favor each party's respective position. I will first address and issue an award on salary followed by an analysis and award on each disputed non-salary issue.

The PBA proudly submits that Borough police officers effectively serve the health, safety and welfare needs of the residents, that they are highly trained and have been effective in reducing crime and keeping the increased amounts of gang activity beyond its borders. The interests and welfare of the public are also said to be served by the department's ability to consistently achieve annual reserves in funds that are budgeted for police salaries and other expenses, thus demonstrating that the costs for law enforcement services have been affordable and reasonable. The PBA points out that the municipal budget is only 20% of the total property tax levy and that the police department, while providing for 24/7 police coverage, accounts for approximately 5.8%, or \$413 per year of a homeowner's tax bill which breaks out to only \$34 per month for the average taxpayer.

The PBA submits that its wage proposals are modest and can be paid without adverse financial impact on the governing body or its residents. Based on a financial report from its financial expert, the PBA points to official budget documents reflecting the Borough's ability to consistently regenerate surplus, raise revenues that exceed its budgeted estimates and, in percentage amounts, raise its budget in excess of salary increases given to the PBA over the 2006-2010 period. Recognizing that the residents have recently been impacted by significant tax increases, the PBA contends that the main cause has not been PBA salaries but reductions in state aid caused by the State's use of revenues generated by the energy receipt tax, thus depriving the Borough of property tax relief that is provided for by statute. The Borough's ability to raise revenues through taxation from 1999 to 2011 is shown in a chart reflecting that amounts raised by taxation increased by over \$5 million or an average of 8.4%, far in excess of the increase in police salaries over this time period. The PBA contends that it has shown that the Borough is not financially extended and enjoys good financial health. It points to its current bond rating of Aa2 from Moody's and that its net debt percentage of 0.890% is low. It asserts that the Borough could choose to fund some of its lost revenues from tax appeals through use of borrowing power rather than through current fund operational costs. The PBA also points out that the police department generates additional miscellaneous revenues for the Borough on licenses, fees, permits and records.

From these sources, it cites additional revenues that have been raised in the amount of \$61,043 in 2010, an increase of \$16,000 over 2009.

The PBA also addresses the Borough's lawful spending and taxing limitations. With respect to the limitations on increases in municipal appropriations (N.J.S.A. 40A:4-45.1 et. seq., as amended), the PBA acknowledges that the Borough utilized the full 3.5% COLA rate ordinance to maximize spending limit at \$11,752,458 in 2010 but points out that the Borough opted to limit appropriations to \$9,881,974, thus leaving \$1,870,484 in available spending in the Borough's cap bank for spending in future years. The PBA combines its analysis of the Borough's appropriation cap with the cap on the Borough's tax levy that is required by P.L. 2010 c. 44. The PBA's analysis shows that the Borough elected not to utilize \$251,343 of available tax levy in 2010. Because the Borough had the lawful ability to appropriate well more than the \$251,343 that was legally available to the Borough to raise through additional taxation, the PBA contends that this evidence defeats any claim by the Borough that it does not have the lawful ability to fund the PBA's salary proposals. The PBA further contends that any argument of the Borough as to its reduced 2% tax levy cap in 2011 is without merit given the fact that surplus funds and grant monies are available to fund its proposals. This is said to reflect that taxation is not the only route that the Borough can take to fund the PBA's proposal. The PBA concludes that the Borough maintains the authority to opt for additional

appropriations and additional tax revenues and remain well within its statutory appropriations and tax levy caps.

The PBA further contends that P.L. 2010 c. 2 and P.L. 2011 c. 78 have provided the Borough with savings to offset future health costs by requiring greater healthcare contributions from unit members. The PBA extends this argument to the additional statutory requirement that authorizes the Borough to collect 10% from a police officer's pensionable salary amounting to greater employee contributions towards pensions. The PBA asserts that the increased pension contributions on unit members would result in annual savings to the Borough of more than \$30,000.

The PBA submits that private sector wage data is of little relevance in determining the wage issue. It acknowledges that public sector compensation includes greater payments for benefits than does the private sector. However, it cites a recent study concluding that state¹ and local employees are undercompensated compared to the private sector and that the gap widens with increases in educational levels.

The PBA also contends that the Borough's salary offer fails to account for the historically high cost of living coupled with the recent increases in the CPI. It

¹ "Are New Jersey Public Employees Overpaid?" The Economic Policy Institute, July 30, 2012

cites CPI figures for 2011 and 2012 showing wide monthly fluctuations in the CPI and increases in the food index and energy index beyond the Borough's offer and closer to its own. It concludes that the Borough's offer would not keep Metuchen's police officers in pace with the current cost of living.

The Borough disagrees with the PBA's analysis and arguments. It acknowledges that prior to 2009, its finances were reasonably strong. However, it emphasizes that the post recession effects on the economy, the trends that show declining revenues for several different reasons, the imposition of the 2% tax cap levy and rising pension and health insurance costs have all weakened its finances. It contends that the demands of the PBA's final offer are inconsistent with the budgetary evidence and also the manner in which the Borough has had to deal with salaries for its civilian employees.

The Borough contends that its analysis of the cost of living favors an award of its final offer over that of the PBA. It compares salary increases for its police officers between 2005 and 2009 totaling 23.25% against the CPI-U increase of 20%. In the last year of the prior contract, the Borough provided a 4% increase while the cost of living increase in 2009 was 0.4%. The Borough calculates the overall cost of the PBA's last offer (including salary and increased longevity) as totaling 30% or an average of 7.5% per year. The Borough

concludes that the PBA's proposals are excessive when compared with increases in the CPI.

In support of the overall theme of its presentation, the Borough submits documentary evidence depicting changes in its financial condition. Among other things, the exhibits reflect that the Borough has lost almost \$600,000 or 29% in state aid since 2006. Its investment income has dropped by over \$200,000 and its court revenue has declined by \$55,000 or 14% during the last three years. The Borough attributes much of its financial distress to the loss of \$22,760,601 in assessed value over the last five years causing a reduction of \$1,066,665 in tax revenue. The Borough has also been adversely affected by tax appeals. Records on this issue reflect that the Borough has refunded over \$900,000 as a result of tax appeals over the past seven years and has lost \$1,286,159 in total revenue from the appeals.

The Borough contends that the PBA's financial report portrays a misleading and inaccurate picture of the Borough's finances. For example, it submits that the total amount of police salaries and wage appropriations that lapsed into the 2009 budget was \$25,483 instead of the \$63,000 claimed in the report. Similarly, in 2010, the actual amount was \$9,038 compared to the \$13,378 claimed by the PBA. The Borough does not contest the intent of the PBA's financial report on this subject. However, it points out that the

discrepancies that exist arise from the PBA's failure to take into account the money that the Borough spent in the following January for costs that remained from the prior year. The Borough also points out that a distinction must be made between cash and non-cash surplus. It asserts that the latter cannot be budgeted without authorization from the State. Thus, while the Borough had a total surplus of \$649,391, \$183,134 of that surplus was non-cash and could not be put into the next year's budget. Of the remaining amount of \$466,256, \$375,000 of those funds were used towards the next year's budget. The record also reflects that in 2008 through 2010, the entire cash surplus held by the Borough was utilized in the following year's budget due to lost revenues. Based upon this, the Borough concludes that the PBA's analysis of the Borough's surplus figures are misleading.

The Borough reaches similar conclusions with respect to the PBA's revenue analysis and asserts that the PBA fails to take into account the Borough's loss of revenue in state aid, interest income and tax appeals. The Borough also contends that a main reason for having to increase tax revenues over the past ten years was to cover the increasing costs of salaries and benefits for the PBA. The Borough points out that during the last contract, police salaries increased by 12.3% and health insurance premiums increased by 33%. By way of example, the Borough contends that an officer hired in 2004 would have experienced a 239% increase over the following six year period. The Borough

submits evidence reflecting that it has had to increasingly rely on taxpayers to fund the municipal budget. It compares 2005 when 51.5% of revenue was raised through taxation compared to 2011 when over 70% of the revenue was raised through taxation.

The PBA additionally contends that the comparability evidence purports an award of its last offer. The PBA relies heavily upon an analysis that compares police salaries in the Borough of Metuchen with those paid elsewhere in the County. A summary of the extensive evidence that it submitted into the record concerning law enforcement comparability was summarized in its written post-hearing submission:

Currently, PBA Local 60 members at the top of the salary guide receive a base salary of \$84,855. (Exh. 1-A, Art. VIII, p. 13). This salary has not increased since December 31, 2009. *Id.* The salary earned by bargaining unit members at the expiration of the CNA was not comparable to other municipalities within Middlesex County. In 2009, top paid officers in Carteret earned a base salary of \$85,941. (Exh. 12-A). Top paid officers in East Brunswick earned \$92,537 in 2009. (Exh. 12-C). Top paid officers in Edison received \$96,035. (Exh. 12-D). Top paid officers in Highland Park earned \$93,566 in 2009. (Exh. 12-E). In Monroe, the top paid patrolman in 2009 earned \$89,233. (Exh. 12-F(2)). The top paid patrolman in North Brunswick earned \$89,055 in 2009. (Exh. 12-G). Senior patrolmen in Piscataway earned \$95,664 in 2009. (Exh. 12-H). Senior officers in New Brunswick earned \$89,516 in 2009. (Exh. 12-I). The top paid patrolmen in Sayreville earned \$97,443 in 2009. (Exh. 12-K). In Spotswood, top paid officers received \$90,574. (Exh. 12-M). Senior patrolmen in South Plainfield received \$92,080 in 2009. (Exh. 12-L). Senior officers in South Brunswick earned \$55,579 in 2009. (Exh. 12-O(2)). Officers at the top of the salary guide in Cranbury earned \$88,633 in 2009. (Exh. 12-B(2)). Senior officers in Woodbridge earned \$93,018 in 2009. (Exh. 12-Q).

Thus, P8A Local 60 members do not receive a wage comparable to other police departments in the County from the outset.

The PBA has proposed a 3.5% pay increase for 2010. (PBA Final Offer). Pursuant to this offer, top paid bargaining unit members will receive \$87,825 per year. This amount is still not comparable to other police departments in Middlesex County, but it will help bridge the gap between higher paid departments. In 2010, top paid Carteret officers earned \$89,249. (Exh. 12- A). Senior patrolmen in Cranbury earned \$91,292 in 2010. (Exh. 12- B(2)). Top paid officers in East Brunswick earned \$96,146 in 2010. (Exh. 12-C). In Edison, officers at the top of the salary guide earned \$97,497 in 2010. (Exh. 12-D). In Highland Park, top paid patrol officers earned \$97,215 in 2010. (Exh. 12-E). In Monroe, top paid patrolmen earned \$93,025. (Exh. 12-F(2)). Top paid officers in North Brunswick earned \$92,172 in 2010. (Exh. 12-G). Senior patrolmen in Piscataway earned \$99,443 in 2010. (Exh. 12-H). In New Brunswick, top paid patrolmen earned \$89,516 in 2010. (Exh. 12-I). Top paid patrolmen in Sayreville earned \$99,443 in 2010. (Exh. 12-K). A senior patrolman in South Plainfield earned \$9,671 in 2010. (Exh. 12-L). Top paid patrolmen in Spotswood earned \$94,197 in 2010. (Exh. 12-M). Top paid patrolmen in South Brunswick earned \$90,198 in 2010. (Exh. 12-O). Senior Officers employed by the Township of Woodbridge earned \$96,041 in 2010. (Exh. 12-Q).

Granting the Borough's Final Offer will create further disparity between the pay earned by bargaining unit members and the pay earned by similarly situated officers throughout the County. The Borough has proposed a 0% wage increase. (Borough Exh. B-1). This will further the disparity in pay between bargaining unit members and their contemporaries in other municipalities. Officers in municipalities like Jamesburg, who made \$85,275 in 2010, will surpass PBA Local 60 members in terms of salary. (Exh. 12-N). Moreover, a 0% wage increase actually results in a 1.5% pay decrease, as employees have begun contributing 1.5% towards their health benefits.

The PBA has proposed a 2.5% pay increase for 2011. (PBA Final Offer). Pursuant to this offer, top paid officers will receive \$90,020.63. This amount still pales in comparison to other Middlesex County municipalities. In Carteret, top paid police officers earned \$92,685 in 2011. (Exh. 12-A). Senior Officers in Cranbury earned \$93,574 in 2011. (Exh. 12-B(2)). Senior Officers in Edison earned, \$101,891 in 2011. (Exh. 12-D). Officers at the

top step in Highland Park earned \$101,006 in 2011. (Exh. 12-E). Top paid officers in Monroe earned \$96,810 in 2011. (Exh. 12-F (1)). Senior officers in North Brunswick earned \$95,398 in 2011. (Exh. 12-H). Senior officers in New Brunswick earned \$91,906 in 2011. (Exh. 12-I). Top paid officers in Sayreville earned \$101,773 in 2011. (Exh. 12-K). Senior patrolmen in South Brunswick earned \$93,635 in 2011. (Exh. 12-O(2)). Senior Officers in Woodbridge earned \$99,402 in 2011. (Exh. 12-Q).

While the raise proposed by the PBA for 2011 seeks to bridge the gap between the salaries of PBA Local 60 members and other police officers within the County, the Borough, however, has proposed a 2.0% raise, which will result in further disparity in pay. Accordingly, the Arbitrator must award the PBA's Final Offer, in its entirety.

Both parties have proposed a 2.0% raise in 2012. The PBA has proposed a 2.0% raise in 2013. (PBA Final Offer). This raise will further bridge the gap between pay earned by bargaining unit members and the pay earned by other police officers within the County. Without such a raise, the disparity in pay will grow larger between municipalities within the County. South River patrol officers, earning \$91,000 at the top, will surpass PBA Local 60 members. (Exh. 12-P).

The Borough rejects the PBA's reliance on comparability data. It points out that case law emphasizes that arbitrators cannot place undue reliance on comparability evidence in determining wage increases for individual municipalities. It further contends that Metuchen police officers enjoy favorable comparisons when overall levels of compensation are included for the purpose of analysis. It also contends that the PBA's comparability submission ignores the dramatic differences that exist between and among the different municipalities that it cites. Its arguments are succinctly summarized in its post-hearing submission:

A review of the "comparable municipalities", exhibits submitted to the Arbitrator by the Borough (Exhibit B-52 through B-54), demonstrates that Metuchen Police Officers also do well economically when compared to comparable municipalities. It is crucial to note that with respect to most of the jurisdictions at or near the top with respect to salaries, the officers have extra payments, such as holiday pay and uniform allowance included as part of the listed salary. When including these other payments as part of the salary provided by Metuchen, it is clear that Metuchen's minimum salaries and base salaries are in the top 5 or 6 in the County. While the PBA would like the Arbitrator to focus on much larger jurisdictions, like Edison and East Brunswick, the fact is that Metuchen officers are paid very well, and are extremely competitive with other towns in the County, especially when compared with towns of similar size like Carteret, New Brunswick, Highland Park and Middlesex Borough.

There is one other point that must be considered with respect to the "external comparability" issue. There is no evidence that any other town in Middlesex County has seen an eighty-five (85%) percent increase in average property taxes over the last eleven (11) years; there is no evidence that any other town has seen the loss of nearly \$2 million in revenue in the last five (5) years. (B-112, 113, 115 and 116). Accordingly, mere salary comparisons, or even equalized tax rate comparisons, from municipality to municipality are of little relevance with respect to this particular Interest Arbitration. Rather, the focus of the arbitration must be more of the financial ability of Metuchen, given its history of saddling taxpayers with significant tax increases, to afford its Police Officers while providing fiscal responsibility and good government to its residents, rather than trying to keep up with the "Joneses" in the County.

The Borough also contends that substantial weight must be placed on the terms of settlement that the Borough achieved with its non-law enforcement employees. This internal comparability argument is summarized in its written post-hearing submission as follows:

In comparing PBA members to other unionized Borough employees the Arbitrator must consider the pattern of settlement that has been established. As noted above, both non-represented and represented employees have accepted wage increases calling for a zero (0%) percent followed by a two (2%) percent increase. (B-120). Further, all other unionized Borough employees now have coinsurance of 80/20 for the first \$2,000 of coverage. Thus, a clear pattern of settlement has been set with respect to salary and benefits. Such a pattern of settlement is a critical component of Interest Arbitration.

Arbitrator Joel Weisblatt faced the issue of disparate treatment in In the Matter of the Interest Arbitration between Township of Holmdel and PBA Local 239, Docket No. IA-93-163 (Arb. Weisblatt 1995) and found that;

The Township presents a compelling argument with respect to the reasonableness of consistency among bargaining units under the public interest criterion. Consistency in treatment among bargaining units of the same employer is unquestionably a generally accepted element of good labor relations policy. Sound and consistent labor relations are certainly in the public interest. It prevents "whipsawing" in negotiations and it reduces the potential for the decline in morale, which often accompanies the perception of disparate treatment. The morale issue is a double-edged sword. **Unreasonably favorable treatment of police units could likely cause the morale of the other public employees in the municipality to wane.** Such a result would certainly not be in the public interest.

(emphasis added). The Public Employment Relations Commission has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. In County of Union, IA-2001-46, 28 NJPER 459, 461 (33169 2002), the Commission emphasized that "[P]attern is an important labor relations concept that is relied on by both labor and management." The Commission noted that "[i]nterest 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." Id.

The regulations specifically require the interest arbitrator to consider the "pattern of settlement and benefit changes ... "when considering the issue of comparability within the same jurisdiction. N.J.A.C. 19:16-5.14(c)(5). Thus, when, as is the case in the instant matter, the employer has demonstrated a clear pattern of settlement with respect to both salary increases and changes in benefits, the Arbitrator should give significant weight to such pattern. In fact, the Arbitrator is required to justify a departure from an internal pattern of settlement, and to show why such a departure, which would give compensation for law enforcement employees a priority over other employees, is permissible.

In the instant matter, other unionized Borough employees have agreed to the Boroughs proposed changes in health benefits and wage increases of zero (0%) percent followed by two (2%) percent. Further, these employees have done so when there is no salary guide or increment. Thus, a zero (0%) percent increase actually means zero (0%) percent, while a two (2%) percent increase is only two (2%) percent. These same employees make considerably smaller salaries, do not receive automatic salary increments, do not have the same level of job protection as law enforcement officers and do not have anywhere near the same opportunities for overtime and outside work afforded Police Officers in the Borough. It would be a disservice to these employees to ignore their sacrifices and provide Borough Police Officer, who already received far greater salaries and benefits, a greater wage increase and more generous health benefits than other unionized Borough employees.

The PBA urges that the Borough's submission on internal comparisons be rejected. It offers the following argument in support of its position:

Factually, the Arbitrator must not consider a "pattern of settlement" argument. First and foremost, Teamsters Local 11 represents a group of DPW employees. (Borough Exh. B-120). These employees perform jobs that are not similar to those performed by PBA Local 60 members. Indeed, PBA members must undergo rigorous training and receive certification by the Police Training Commission before they become police officers. (Exh. 10-A through 10-D). Moreover, PBA Local 60 members carry firearms and regularly place themselves in harms way for the safety of the public. Thus, the positions are not comparable.

The Borough's argument also fails under the legal standards regarding patterns of settlement. While a pattern of settlement may be considered in light of the comparability factors, it is not controlling. Essex County Sheriff and Essex County Sheriff's Officers PBA Local 183, IA-2003-37 (Glasson, R. 2004). This concept is especially true when the financial data does not support the Final Offer. Id. As set forth above, the Borough is certainly able to afford the salary increases sought by the PBA. Moreover, the Borough's Final Offer does not comport with recent Interest Arbitration Awards or voluntary settlements. These factors are all relevant when considering a pattern of settlement argument. Id.

In Essex County Sheriff and Essex County Sheriff's Officers PBA Local 183, Arbitrator Glasson refused to award a final offer that comported with an established pattern of settlement because the financial data and other interest arbitration awards simply did not support blind adherence to an established pattern. Id. Arbitrator Glasson reasoned that the salary increases provided to Sheriff's Officers in other counties did not comport with the established pattern. Id. In addition, the established pattern of settlement had not stood the test of interest arbitration. Id.

Here, the Borough's offer does not comport with recent interest arbitration awards. The Public Employment Relations Commission ("PERC") maintains an Interest Arbitration Salary Increase Analysis, which shows the average salary increase of all awards issued in specific years. The chart below shows that the salary increase proposed by the PBA is comparable to recent decisions and settlements, and the Borough's proposal is severely deficient. Thus, any pattern of settlement" argument must be dismissed out of hand.

Year	Number of Awards	Average Salary Increase of Awards	Voluntary Settlements	Average Salary Increase of Settlements
1/1/2011-12/12/2011	34	2.05%	38	1.87%
1/1/2010-12/31/2010	16	2.88%	45	2.65%

Conversely, the Borough has offered a mere 4.0% over the course of its proposed 2010-2012 contract or an annual average of 1.33%. This offer is not in line with either the current trend in interest

arbitration awards or voluntary settlements. The PBA's offer yields an average annual increase of 2.5%. Accordingly, the "pattern of settlement" argument should be given little or no weight.

The statute requires the arbitrator to make a reasonable determination of the above issues giving due weight to those factors set forth in N.J.S.A. 34:13A-16g(1) through (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 statutory criteria requires that a reasonable determination of all issues must take into consideration the overall economic impact of all terms of an award. Implicit in the criteria is the burden that is placed on the party that seeks to add, delete or modify existing terms and conditions of employment. Each party must establish justification for the proposed change. The burden to be met must go beyond merely seeking change in the absence of sufficient evidentiary support. Any decision to award or deny any individual issue in dispute will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. This is so because the manner in which an individual issue is decided can reasonably impact upon the resolution of other issues. In other words, there may be merit to awarding or denying a single issue if it were to stand alone but any change must be assessed within the context of the overall award. The award on the individual issues in dispute are as follows:

Duration

The PBA proposes a four (4) year agreement commencing January 1, 2010 through December 31, 2013. The Borough proposes a three (3) year agreement commencing January 1, 2010 through December 31, 2012. Each

party offers an analysis of why its respective position on contract duration should be adopted.

After due consideration of their respective submissions, I am persuaded that the contract duration should be as the PBA has proposed. The record closed in June 2012, almost two and one half years after contract expiration. This allowed the parties to submit evidence on all of the statutory criteria that presented information in far more updated fashion than that which would have been presented prior to the time of contract expiration. Significantly, the budgetary data submitted by both parties contains comprehensive financial and economic evidence that presents an accurate projection of the relevant factors that allows for an award through December 31, 2013. Accordingly, the contract duration shall be January 1, 2010 through December 31, 2013.

Salary

The analysis of the salary issue incorporates the general summary of the parties' submissions that were previously set forth in this decision. All of the statutory criteria are relevant when making a reasonable determination of the salary issue, although not all are entitled to the same weight. I have considered the salary proposals of the parties and the evidence in the context of awarding terms that expire on December 31, 2013. This requires the awarding of salary terms that extend over a four year contract period that includes 2010, 2011, 2012

and 2013. The PBA has proposed that wages be increased by 3.5% in 2010, 2.5% in 2011, 2% in 2012 and by an additional 2% in 2013. The Borough has proposed that the salary schedule remain in 2010 as it was in 2009 followed by an increase of 2% in 2011 and an additional 2% in 2012. The Borough does not have a salary proposal for 2013.

In the instant case, I have given the most weight to the criteria that concern the interest and welfare of the public [N.J.S.A. 34:13A-16g(1)], the financial impact [N.J.S.A. 34:13A-16g(6)] of the award on the Borough, its residents and taxpayers, the lawful authority of the employer [N.J.S.A. 34:13A-16g(5)] (including the limitations imposed on the Borough by the appropriation and tax levy caps) and internal and external comparability [N.J.S.A. 34:13A-16g(2)(a), (b) and (c)]. Based upon an application of these criteria, and to a lesser extent the remaining criteria, I have concluded that the wages to be awarded are 0% in 2010, 2.25% in 2011, 2.25% in 2012 and 2.25% in 2013. All increases shall be on each step of the salary schedule, effective and retroactive to January 1 of each contract year. In addition, the award authorizes the payment of steps earned by those officers who are eligible for annual step movement.

The financial evidence shows that the Borough's finances sharply deteriorated after the onset of economic recession in late 2008. The impact of

declining revenues were sharply felt initially in the Borough's 2010 budget year. The record reflects that the Borough had to make dramatic cost saving changes to accommodate the negative impact of the revenue drop, the loss of state aid, tax appeals and increases in mandated costs. These steps were many and they are detailed in the Borough's evidentiary submission. The Borough's proposal for a wage freeze in 2010, except for the 1.5% cost of step movement, is consistent with a negotiated wage freeze for the Borough's civilian units and for its non-unionized employees. The parties argue over whether the 2010 treatment represents a pattern and/or whether there is a basis for deviation assuming that a pattern exists. The issue presented here is not whether the zero increase represents a pattern from which there can be no deviation, but rather whether it was reasonable for the Borough, under the circumstances of a budgetary shortfall, to extend its wage policy in 2010 to its police officers, several of whom, unlike the non-law enforcement employees, received step increases under the salary schedule worth an annual total of approximately \$46,000. The factors that concern financial impact and internal comparability dictate that the Borough's proposal in 2010 to maintain the 2009 salary schedule is reasonable, is supported by the evidence and must be awarded. The PBA's financial expert, in support of its proposed wage increase, has established that the Borough had room under its appropriation and tax levy caps to raise additional revenues that could have provided a wage increase beyond the \$46,000 spent on step movement. This argument has been considered but any merit that may exist as

to this argument is outweighed by the Borough's determination that an increase in its tax rate could not be justified in light of the significant tax increases its taxpayers had to pay during the several years preceding 2010 as well as having all Borough employees, including those with the police department, experience the common sacrifice made by all Borough employees to support the Borough's efforts to cope with the budgetary distress.

In 2011, the Borough continued to exercise budget constraint but the budgetary measures that it was required to take in 2010, in conjunction with the negotiations efforts of the PBA, allowed for sufficient recovery enabling it to offer a 2% wage increase to all of its employees in 2011. The Borough seeks to apply this increase to the PBA. This fact, while entitled to significant weight, does not control the wage determination for the PBA in 2011. Even if the 2011 wage increase could be found to constitute a pattern, the law enforcement comparability evidence submitted by the PBA justifies a modest deviation beyond what the Borough has proposed. This factor must be weighed in conjunction with financial impact and the Borough's statutory limitations in order to remove doubt that the 2.25% increase cannot be accommodated because of these criteria. I have done so and conclude that an increase to each step of the salary schedule of 2.25% represents a reasonable determination of the salary issue and an amount that can be funded without adverse financial impact to the Borough and within its appropriation and tax levy caps.

A similar analysis reflects that the 2.25% increase in 2011 also be applied in contract years 2012 and 2013. The sum of the raises to the salary schedule, including the freeze in 2010, over the four year period averages 1.69% and is in line with the evidence concerning the cost of living and the wage increases in the private sector and public sector in general over the contract years that are at issue. The continuity and stability of employment for the Borough's police officers will be maintained and the overall level of compensation and benefits received by the Borough's police officers will remain at a reasonable level in comparison with law enforcement units within Middlesex County. Evidence as to other latter criterion reflects that holiday and longevity pay fall outside of the base pay salary schedule and must be considered as part of overall compensation received.

The increases that have been awarded supplement the step increases received by the PBA during each contract year. These costs generally run at an annual cost of 1.5% and require some offsets to the financial impacts that result from the increases awarded to the existing salary schedule that now produces a top step salary after six full years of service. One such offset is the health insurance modification shown elsewhere in this award and the award of a new hire salary schedule. Accordingly, I award two additional salary steps to the salary schedule effective for employees hired after the date of the award. The

new salary schedule shall have the same minimum and top step salaries as they have been revised for current employees and the two additional steps will be accommodated between the minimum and the maximum by steps with all steps containing equal dollar amounts.

I have calculated the costs of the award based upon the parties' separate calculations which, while not identical, do not sufficiently deviate. The costs have been effected by changes in the PBA roster that occurred from the effective date of the new contract to the roster in effect in 2012, at which time the record closed. The 2010 base (base salary above), with one less employee is \$1,943,302 or \$28,669 over the 2009 base. The 201 base, due to two retirements, is \$1,936,308 despite the cost of step movement and the 2.25% across the board increase. The 2012 base is \$1,904,590 due to a retirement despite the cost of step movement and the 2.25% across the board increase. The 2013 base, with the 2.25% increase and step movement, must be calculated off the 2012 base with the assumption that the roster has not changed. Its projected cost is calculated at \$2,012,000, although the actual expenditures during 2013 may be less due to roster changes. The salary schedules that result from the terms of the award are set forth as follows:

Effective January 1, 2010, the salary schedule shall remain as is through December 31, 2010. Officers eligible for step movement shall advance to the next step on the salary schedule.

Effective January 1, 2011, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$94,777						\$94,777
Det.	\$89,507						\$89,507
Ptl.	\$42,333	\$45,787	\$53,964	\$62,142	\$70,315	\$78,491	\$86,764

Effective January 1, 2012, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$96,909						\$96,909
Det.	\$91,520						\$91,520
Ptl.	\$43,285	\$46,817	\$55,179	\$63,542	\$71,897	\$80,257	\$88,716

Effective January 1, 2013, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$99,089						\$99,089
Det.	\$93,580						\$93,580
Ptl.	\$44,259	\$47,870	\$56,420	\$64,971	\$73,515	\$82,063	\$90,713

Effective December 31, 2013, there shall be a new hire salary schedule consisting of the same minimum and maximum salaries as set forth above with two (2) additional steps and with all steps between minimum and maximum consisting of equal dollar amounts. The new hire salary schedule is as follows:

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step	8 th Step	9 th Step (Maximum)
Sgt.	\$99,089								\$99,089
Det.	\$93,580								\$93,580
Ptl.	\$44,259	\$50,066	\$55,873	\$61,687	\$67,484	\$73,294	\$79,101	\$84,908	\$90,713

I next turn to the Borough's proposal to end advancement on the salary schedule upon expiration of the Agreement. The PBA objects to the proposal. The parties' arguments have been fully considered.

Article VIII, Section 8 currently states that "the existing practice of salary guide movement on the officer's anniversary date shall continue." Unit employees eligible for step movement, have received them through contract year 2013. It does not appear, based upon the rosters in evidence, that step movement on an anniversary date has occurred beyond December 31, 2013.

Initially, I note that Section 8 refers to a practice of salary guide movement on the officer's anniversary date and that such practice shall continue. It is silent on whether the practice survives contract expiration but it appears that prior practice would support such a conclusion.

The Borough's proposal to not advance an officer on the salary schedule upon termination of the Agreement must be considered in light of significant changes that have been made to the interest arbitration statute and case law as it regards the issue of step movement upon expiration of the contract. The changes have also impacted on certain interest arbitration awards as it relates to this issue. A lengthy summarization and analysis of the statute, PERC case law and interest arbitration awards need not be conducted. Instead, I incorporate

them herein.² None of this legal precedent requires an award of the Borough's proposal. However, its award will serve as guidance to the parties in a manner that would avoid the potential for lengthy and expensive litigation and allow necessary flexibility to the parties during their negotiations of their next agreement in the event that they submit to interest arbitration. The awarding of the Borough's proposal does not undermine the integrity of the existing salary schedule which will constitute the status quo for future negotiations and does not preclude retroactive payments for officers now eligible for step movement as a result of the future collective negotiations process.

Accordingly, and with some modifications, I award the Borough's proposal as follows:

The salary schedules shall, unless mutually agreed to otherwise, remain without change upon the expiration of the agreement, including the use of an officer's anniversary date for purposes of determining eligibility for step movement. However, there shall be no advancement on the steps of the salary schedules based upon length of service beyond the contract expiration date in the absence of a mutual agreement to do so, a new collective negotiations agreement or an interest arbitration award that authorizes such advancement on the salary schedules.

² P.L. 2010, Ch. 105, effective January 1, 2011; County of Atlantic and PBA Local 243, FOP Lodge 43 and PBA Local 77, P.E.R.C. No. 2014-40, December 19, 2013; Ocean County Prosecutor and Ocean County Prosecutor's Detectives and Investigators' Association, PBA Local No. 171, IA-2011-006, aff'd P.E.R.C. No. 2012-59 (Robert Glasson, Arbitrator).

Article XV(1) - Health Insurance and Pension Benefits

The Borough has proposed the following revisions to Article XV(1):

Effective as soon as possible, insurance coverage shall be changed as follows:

(c) 80/20% coinsurance of the first \$2,000.00 of covered changes with 100% coverage thereafter.

(d) Prescription Drugs:

1. Over the counter medications:

Generic - \$5.00 co-pay for each 30-day prescription filled; all others \$25.00 co-pay for each 30-day prescription filled. On the third retail prescription refill the co-pays shall be increased to generic - \$15.00 co-pay for each 30-day prescription filled; all others \$45.00 co-pay for each 30-day prescription filled. Prescription card must be used in order to obtain reimbursement.

2. Mail Order:

Generic - \$5.00 co-pay for each 90-day prescription filled; all others \$15.00 co-pay for each 90-day prescription filled. Prescription card must be used in order to obtain reimbursement

The Borough supports its proposals based upon evidence showing increased costs for its medical, prescription and dental plans and its objective to have the PBA conform to changes that the Borough made to the health plan for other unionized Borough employees. According to the Borough, there was a 33% increase in premiums for a PBA member's family medical and dental plan with those costs rising from \$22,034 in 2007 to \$29,223 in 2011. The change to

the health plan that the Borough proposes would provide for an 80/20 co-insurance for the first \$2,000 of coverage with 100% coverage thereafter. Currently, the PBA's health plan provides for an 80/20 co-insurance for the first \$1,000 with 100% coverage thereafter. The Borough's proposed change would align the PBA with the health plan for other unionized Borough employees whose health plan changed in 2010 to the terms that the Borough now proposes for the PBA.

The Borough also proposes revisions to prescription drug coverage. Currently officers have a \$5.00 co-pay for over the counter generic drugs for each thirty day prescription filled. This benefit would not change under the Borough's proposal. Currently officers have a \$15.00 co-pay for all other prescriptions for each 30 day prescription filled. Under the Borough's proposal, this would change to a \$25.00 for each 30 day prescription filled. Under the Borough's proposal, the generic co-pay would increase to \$15.00 and all other prescriptions to \$45.00 on the third retail prescription refill. Currently, officers are entitled to Mail Order coverage with a \$5.00 co-pay for each 90 day generic prescription that is filled with the co-pay increasing to \$15.00 for all other 90 day prescriptions. Under the Borough's proposal, the terms of the mail order coverage would not change.

The PBA objects to all of the Borough's health insurance proposals. The PBA points to the fact that because P.L. 2010 c. 2 and P.L. 2011 c. 78 require substantial contributions to health insurance, the savings the Borough has derived from its members' contributions pursuant to law represent sufficient change. I am mindful of the contributions required of the PBA unit. Such contributions were not the result of unilateral implementation by the Borough. This, however, cannot serve to defeat any proposed changes to the health insurance plan that could reduce the rise in premiums upon which the contributions are based. Moreover, I am persuaded that the interest and welfare of the public would be served by the Borough's residents and taxpayers supporting a health insurance plan that is common to all of the Borough employees. Although the PBA points out that its co-insurance costs would rise from \$200 to \$400 prior to receiving 100% coverage, the remainder of the Borough's employees have been subject to this change as well despite the fact that the average salary for PBA members far exceeds that of the Borough's other unionized employees. Moreover, the Borough's other employees are subject to the provisions of P.L. 2010 c. 2 and P.L. 2011 c. 78. Accordingly, I award this aspect of the Borough's proposal as follows:

- (c) 80/20% coinsurance of the first \$2,000.00 of covered changes with 100% coverage thereafter.

In the course of their submissions concerning health insurance, both parties acknowledged that legislation had been enacted requiring unit members

to contribute required amounts of base salary towards health care benefits effective May 21, 2010 pursuant to P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78. Chapter 78 provides for amounts of health benefit contributions pursuant to a percentage schedule based upon a combination of the type of coverage the employee selects and the amount of base salary that employee earns. There is no dispute as to the applicability of these provisions to unit employees. This award must be consistent with law because N.J.S.A. 34:13A-16g(5) and (9) require the arbitrator to consider the Borough's lawful authority and statutory limitations. One such legal requirement on the Borough was to implement Chapter 2 and Chapter 78 in accordance with their terms. Article XV should contain reference to the level of contributions unit employees have been required to make. Accordingly, Article XV shall add language reflecting that health care contributions for unit employees be consistent with that required by P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78.

The PBA also objects to the Borough's proposal to increase prescription co-pays. It offers similar reasoning in support of its argument to reject increased co-pays. The existing levels of prescription co-pays were set in the prior agreement that was effective January 1, 2007. The applicable provision at Article XV, Section 1, subsections (d)(1) and (d)(2) set co-pays at \$5.00 for generic, \$15.00 for all others for each 30 day prescription filled and also provided for Mail Order also at \$5.00 co-pay and \$15.00 co-pay for 90 day prescriptions.

There are many collective negotiations agreements that have been submitted into the record. Virtually all reflect increases in prescription co-pays over the time period between 2007 and 2013. Put another way, the existing levels are now comparatively low. The Borough's proposal must be considered in that light as well as its contention, supported by the record, that there is a need to curb the sharp rise in costs for prescription drugs over this time period.

A close examination of the Borough's proposal reflects that it has attempted to accommodate its objectives without significant impact. For example, the \$5.00 co-pay for generic drugs would remain for both over-the-counter medications and mail order. The mail order co-pays would remain at \$15.00 for each 90 day prescription filled for all prescriptions other than generic. The changes proposed would increase over-the-counter medications other than generic to \$25.00 and to increase co-pays to \$15.00 for generic and \$45.00 for other than generic but only on the third retail prescription that is refilled. The obvious goal sought by the Borough is to encourage the use of generic drugs by maintaining a minimum co-pay of \$5.00 and to encourage the use of mail order prescriptions for both generic and all other prescriptions by maintaining the co-pays at the levels that were set on January 1, 2007. When the Borough's proposal is considered in this context, I conclude that it is reasonable and should be awarded with one modification. That modification would be to preserve the co-pays at the level of a generic prescription for both over the counter and mail

order drugs in the event that a generic drug does not exist or is unavailable. By limiting this exception to the non-existence or unavailability of the generic drug, the Borough's objective to encourage the use of the generic drug is met because if the generic drug does not exist or is unavailable, the employee has no option to exercise. Accordingly, I award the following changes to prescription drug coverage:

1. Over the counter medications:

Generic - \$5.00 co-pay for each 30-day prescription filled; all others \$25.00 co-pay for each 30-day prescription filled. On the third retail prescription refill the co-pays shall be increased to generic - \$15.00 co-pay for each 30-day prescription filled; all others \$45.00 co-pay for each 30-day prescription filled. Prescription card must be used in order to obtain reimbursement.

2. Mail Order:

Generic - \$5.00 co-pay for each 90-day prescription filled; all others \$15.00 co-pay for each 90-day prescription filled. Prescription card must be used in order to obtain reimbursement

3. The generic co-pay shall apply in the event that the generic drug either does not exist or is unavailable by either over the counter or mail order at the time the prescription is to be filled.

Article IV – PBA Union Business

The parties have negotiated a provision article concerning PBA Union business at Article IV. The Borough proposes to modify Section 3. Section 3 now states:

3. The PBA Delegate shall be allowed to attend the monthly County PBA meeting and if said delegate is scheduled to work that day, he shall be given the day off with no loss of time or pay.

The Borough's proposal is as follows:

The PBA delegate shall be allowed to attend the monthly County PBA meeting and if said delegate is scheduled to work that day, the delegate shall be released from work (with no loss of time or pay) to travel to the County meeting and if the meeting concludes before the termination of the delegate's shift, the delegate shall return to work.

The PBA opposes the revision sought by the Borough as unwarranted and not justified.

While there may be value to the proposal in the abstract, there is insufficient evidence that the proposed modification would correct any problems that have arisen that stems from the existing provision. Moreover, in the absence of such evidence, the proposal, as phrased, could potentially create disputes over issues such as when a meeting concluded, whether union business conducted as a result of the meeting falls within the definition as to when the meeting concluded and/or whether sufficient time was available after the meeting that would allow for a meaningful return to work. During negotiations for the next agreement, these issues can be discussed and if not resolved, they may be proposed anew. Accordingly, I do not award the Borough's proposal.

Article VII – Wages and Longevity Schedules

The parties have negotiated a longevity schedule under Article VII. It provides for the following schedule:

Upon Completion of Years of Service	Percent Applied to Fixed Salary
4 th	2.0%
5	2.5
6	3.0
7	3.5
8	4.0
9	4.5
10	5.0
11	5.5
12	6.0
13	6.5
14	7.0
15	7.5
16	8.0
17	8.5
18	9.0
19	9.5
20-24	10.0
25 and thereafter	10.5

The provision, at Section 6, limits access to the longevity schedule for employees hired after January 1, 1983. Such employees are not eligible for

longevity until they complete ten (10) years of service. The PBA proposes to lift the ineligibility by eliminating the requirement that officers complete ten (10) years of service prior to receiving the longevity benefit. The PBA submits that its proposal would provide more attractive compensation to officers who have less years of service, thereby enhancing their desire to remain employed in Metuchen. The Borough urges rejection of the proposal based primarily on the annual cost of funding the revision sought by the PBA.

The PBA proposal would provide longevity to seven (7) officers who have not as yet completed ten (10) years of service at an annual cost of almost \$20,000, or an additional 1%, beginning in 2010. The additional cost of the proposal would add annual expenses that cannot be justified as part of the overall economic package that has been awarded. Moreover, Section 6, given its thirty (30) year history, cannot be regarded as a temporary limitation on the longevity schedule as opposed to a longer term alteration to the eighteen (18) step longevity schedule. Officers hired after 1983 will continue to enjoy a longevity schedule of 12 steps providing for percentage amounts starting at 5% and ending at 10.5%, thus providing substantial supplements to overall compensation received. Accordingly, the proposal is denied.

Article V – Grievance Procedure and
Article XXIII – Notification of Employee Discharge

The Borough and the PBA have each advanced proposals to revise Article V, the grievance procedure. The PBA also seeks to delete language in Article XXIII that renders disciplinary grievances non-grievable and to add language subjecting such grievances to the grievance and arbitration clause.

The Borough's proposal revises Steps 1, 2 and 3 of the grievance procedure and adds a new Step 4. The Borough proposes to revise Step 1 by replacing the Captain with the Lieutenant as its representative in Step 1. It also requires the PBA to present the grievance in writing rather than orally before discussions are held with the Captain. The Borough proposes to revise Step 2 by replacing the Chief of Police with the Captain as its representative at Step 2. The Borough proposes to revise Step 3 by having the Chief of Police serve as its representative at Step 3. The new Step 4 would be the step that was previously Step 3. The new Step 4 does not change any of the language that was previously in Step 3 that requires a meeting with the Borough Administrator and the PBA upon the PBA giving notice to the Chief of Police. The PBA contends that the Borough's proposal is without merit and dilutes the grievance procedure by lengthening the process by adding an additional step, thereby requiring more time to be spent processing grievances.

The PBA proposes the removal of the following language that appears in Article V, Section 4:

Except that the Borough Administrator's decision shall be final in cases dealing with the interpretation and application of policies, rules and regulations and that – disciplinary matters, upon which formal charges have not been brought shall be adjudicated in accordance with N.J.S.A. 40A-147, et. seq. and shall not be subject to arbitration.

The first part of the PBA's proposal would lift the prohibition on arbitrating grievances over the interpretation and application of policies, rules and regulations. The PBA contends that a more expansive and inclusive grievance procedure fosters public interest by providing for a less costly process to resolve disputes. Similar rationale is provided as support for the second aspect of its proposal that would lift the prohibition on the arbitration of disciplinary matters upon which formal charges have not been brought. Additionally, the PBA proposes to revise Article XXIII by deleting the following language in Section 1:

"Under no circumstances shall any discipline or discharge be subject to the grievance procedure, except as herein before stated, but said employee shall have the right as provided by statute and law."

The PBA would replace the deleted language with the following:

"Any discipline will be subject to grievance and arbitration clause and shall be determined by a standard of just cause."

The Borough contends that the PBA's proposals are without merit and should be denied.

I first address the Borough's proposals. The Borough has not established a sufficient basis for adding an additional step to the grievance procedure. The additional step would create the initial management level response as resting with the Lieutenant rather than with the Captain. This would result in tiered levels that would include the Lieutenant, the Captain, the Chief of Police and the Borough Administrator prior to the arbitration step. Given the small size of the police department, an additional step would extend the process without any apparent benefit to the grievance process. However, a modification to Step 1 that adds "or his designee" after reference to the Captain, would allow the department to designate the Lieutenant as the initial management representative in the event that the department chose to use the Lieutenant without having to create an additional step. I do find merit in the Borough's proposal to require a Step 1 grievance to be presented in writing. That requirement would relieve the parties of the potential for dispute over the date that the grievance was filed and whether it was timely filed after the "occurrence giving rise to knowledge of said event." Further, because of the award that the grievance be in writing, it is logical for the Captain's answer to the grievance to also be made in writing, thereby providing a full record of the Step 1 filing and the response. I award no additional

changes to the grievance procedure that have been proposed by the Borough.

Accordingly, I award a modification to Article V, Section 1 as follows:

V. Grievance Procedure

Step 1. The Grievant and the PBA President, or his designee, shall present the grievance in writing and discuss the grievance(s) orally with the Captain or his designee within twenty-one (21) days of the occurrence giving rise to the knowledge of said event. The Captain or his designee shall answer the grievance in writing within seven (7) days from the date of the presentation.

The PBA's proposal to lift the prohibition on arbitrating grievances over the interpretation and application of department policies, rules and regulations would give the PBA the right to challenge such policies, rules and regulations even if such actions do not relate to any contract provision or language. I find that the proposal, as phrased, is overly broad and cannot be awarded. However, the PBA has established that there is merit to having the right to arbitrate grievances over the interpretation and application of department policies, rules and regulations in the event that they conflict with the express language provided for in the Agreement. Accordingly, I award a modification to the relevant language in Article V, Section 4 that states the following:

Except that the Borough Administrator's decision shall be final in cases dealing with the interpretation and application of policies, rules and regulations unless such decision conflicts with the express terms of the Agreement and that – disciplinary matters, upon which formal charges have not been brought shall be adjudicated in accordance with N.J.S.A. 40A-147, et. seq. and shall not be subject to arbitration except as set forth in Article XXIII.

The second part of the PBA's proposal would remove language that precludes arbitration over disciplinary matters upon which formal charges have not been brought. The record is not clear as to the significance of the language that references disciplinary matters "upon which formal charges have not been brought." I do not award changes to that language but note that the revisions I have awarded to Article XXIII are intended to confer specific rights to the PBA to, in limited fashion, grieve and arbitrate certain specific minor disciplinary actions that are taken against a police officer.

The prohibition against subjecting any discipline or discharge to the grievance procedure in Article XXIII appears to conflict with the legal rights of a police officer to file grievances. In this regard, I refer the parties to W. Windsor Tp. and PERC, P.E.R.C. No. 77-59, 3 NJPER 124 (1977), Aff'd as Mod. 78 N.J. 98 (1978). Accordingly, the language in Article XXIII, Section 1 that prohibits such a filing must be modified to lift the prohibition on the filing of grievances that seek review of disciplinary actions.

The PBA also proposes that discipline and discharge grievances be subject to the arbitration clause. In my consideration of this proposal, I note that the legislature has legislated that minor disciplinary grievances, including those in law enforcement, are a mandatory subject of negotiations, thus allowing, but not requiring, the arbitration of minor disciplinary actions. In addition, the legislature

has authorized the arbitration of major disciplinary actions in non-civil service jurisdictions. Thus, public policy now allows the parties to negotiate the use of the administrative forum for the review and determination of disciplinary actions that are not preempted by law. Given this, I award the right to arbitrate some, but not all, minor disciplinary grievances. Given the size of the department and the need for the Borough to exercise its authority without arbitrable review of disciplinary actions that are of a less serious nature, certain limitations should be placed on the PBA's access to the arbitration procedure. Accordingly, I award the forum of arbitration for minor disciplinary penalties that involve suspensions without pay of two days or more or fines at a level of two days of pay or more. Verbal or written warnings or reprimands and suspensions of one (1) day or less shall not be arbitrable. The language to be awarded in Article XXIII is as follows:

On the day after the issuance of the award, the grievance procedure shall include a new section that will allow for the arbitration of minor disciplinary grievances that involve suspensions of two (2) days or more or fines at a level of two (2) days of pay or more. Verbal and written warnings or reprimands and suspensions of one (1) day or less shall not be arbitrable.

Article VII – Hours of Work and Overtime

Section 5

The parties have negotiated a detailed provision concerning work schedules. The provision differentiates between employees who work on shifts and non-shift employees. A Pittman Schedule was negotiated effective January

7, 2008. Because of the change to 12 hour shifts for shift employees, the parties converted all benefit time from days to hours. They also provided for a six month period to gain experience under the shift with the right of either party to revert back to the prior schedule at the end of the six month period upon written notice. Although not specifically stated, the provision amounts to what is commonly known as a trial or experimental period. Article VII, Section 5 provides for the following:

The "Pittman Schedule" shall commence January 7, 2008 and shall be implemented for six months. After said six month period, either party upon written notice to the other party may request that the schedule revert back to the previous "4-2" schedule. Upon receipt of written notice by either party, the schedule shall revert to the "4-2" schedule in ninety days.

The PBA proposes to remove Section 5 in its entirety and replace it with language stating that "the Pittman Schedule shall commence January 7, 2008." The record contains no evidence of any dispute concerning the continuation of the Pittman schedule for shift employees after its commencement on January 7, 2008 and the expiration of the six months period after its commencement. A full four and a half years passed between the time of the commencement of the work schedule to the close of the record in this proceeding. Thus, the parties have operated under the schedule well after the conclusion of the six month period. Given this, I find that the work schedule, by virtue of its lengthy operation, has become the status quo and the language setting forth the six month period that expired in July of 2008 is no longer necessary. In the event that circumstances

lead the Borough to believe that the operation of the schedule significantly interferes with its governmental policy determinations it maintains its right to challenge the work schedule pursuant to negotiability case law. Accordingly, I award the PBA's proposal to delete language in Section 5 except for the language that states "the Pittman Schedule shall commence January 7, 2008."

Article VII – Hours of Work and Overtime

Section 13

Article VII, Section 13 provides for breaks and for meal allowances for employees who are required to work in excess of ten hours or who are required to work outside the Borough and such work extends to the meal period. The PBA proposes to increase the language that define the amount of the meal allowances. The existing provision and the PBA's proposals (included in brackets) read as follows:

An employee shall be granted up to thirty (30) minutes for a meal break during his regular workday. When an employee is required to work in excess of ten (10) hours or more, he shall be granted a second thirty (30) minute meal period, without loss of pay or time and shall be granted an additional thirty (30) minute meal period for each five (5) hour period over the above-mentioned ten hours, and an allowance of \$4.00 [\$15.00] per meal shall be provided. When an employee's scheduled work takes him outside the Borough of Metuchen and extends into a meal period, he shall be provided an allowance for each meal as follows: \$2.00 [\$5.00] for breakfast, \$3.50 [\$10.00] for lunch, and \$5.00 [\$16.00] for supper.

There is merit to the PBA's contention that the amount of the current allowances are inadequate and that the existing levels of payments make it difficult for an officer to purchase a meal of minimum quality. Yet, the increases the PBA has proposed are beyond the level of increases that can reasonably be provided during a single contract period. Accordingly, I award the following changes in the meal allowances, as underlined below, effective upon issuance of the award.

An employee shall be granted up to thirty (30) minutes for a meal break during his regular workday. When an employee is required to work in excess of ten (10) hours or more, he shall be granted a second thirty (30) minute meal period, without loss of pay or time and shall be granted an additional thirty (30) minute meal period for each five (5) hour period over the above-mentioned ten hours, and an allowance of \$7.50 per meal shall be provided. When an employee's scheduled work takes him outside the Borough of Metuchen and extends into a meal period, he shall be provided an allowance for each meal as follows: \$5.00 for breakfast, \$7.50 for lunch, and \$10.00 for supper.

Article XX – Reduction in Force (RIF)

Article XXI – Separation of Service

The PBA proposes modifications to contract articles concerning Reductions in Force and Separation of Service. The existing provision on Reductions in Force states the following:

Article XX

1. In the reduction of the work force, the rule to be followed shall be the length of service with the Borough. The

employee with the least seniority shall be laid off first. In the restoration of the work force, the same principle shall apply, namely, the last employee laid off shall be the first to be rehired, giving said employee fourteen (14) days notice thereof.

2. In the event of a reduction in the number of persons in a job classification, the displaced employee may bump into a classification, which carries the same rate of pay if he is qualified to perform the duties and is of greater seniority than the employee being bumped.
3. An employee's seniority shall cease under the following conditions: (a) resignation or termination of employment for cause, and (b) failure to report to work following time off no later than the regular shift beginning on the first working day after the fourteenth (14) calendar on which he received a notice by certified mail to return to work.

The PBA proposes to amend Section 1 by increasing the required notice of layoff from fourteen (14) days to sixty (60) days and, in lieu of any notice given, provide payments to the laid off officers. It would amend Section 3 by increasing the amount of time that an officer is deemed to have resigned for failure to report for work from fourteen (14) days to sixty (60) days. The Borough seeks the denial of the proposed modifications to Article XX.

The PBA has established that there is some merit to increasing the notice period prior to layoff but not to the extent that it seeks. The existing requirement of fourteen (14) days falls well short of comparable provisions in other jurisdictions and the legal requirements that exist in civil service jurisdictions. Effective with the date of the award, the notice requirement in Article XX, Section

1 shall be revised to thirty (30) days. I do not award the PBA's proposal for pay in lieu of notice as there is no indication whatsoever that the Borough would be unable to prepare to implement a layoff without fulfilling the notice requirement.

The PBA also proposes two changes in the Separation from Service provision. The first would change the amount of severance pay that an officer would receive if he or she is affected by a layoff. Article XXI, Section 3 now reads as follows:

3. In the event of a separation from employment due to a reduction in force, severance pay relating to the length of service at the time of severance shall be paid as follows:

Length of Service	Compensation
1 to 5 years	Eight (8) hour's pay for each year of service
5 to 10 years	Sixteen (16) hour's pay for each year of service
10 years and over	One hundred sixty (160) hour's pay

The proposal would change the current sliding scale of severance pay to one month's pay for each year of service. It would also add a new benefit of receipt of one month of health insurance for each year of service prior to the commencement of COBRA options. The PBA contends that the existing scheme contains a cap of 160 hours and that this only applies to officers with more than ten years of service. The Borough objects on the basis that if there is a need for

a reduction in force, the increase in severance pay would only exacerbate the fiscal distress that caused the need for a layoff.

I do not award this proposal. The PBA has not met its burden to change the status quo as to the current levels of severance pay benefits.

The second part of the PBA's proposal would add a new benefit of a Service Credit in the amount of \$500.00 per year payable upon termination. The Borough objects to the proposal. It is unclear whether the "service credit" is a longevity type of benefit upon all types of termination or separation or whether it would be applicable only in the event of a layoff. In either instance, there is insufficient justification in the record warranting an award of the proposal to add a new Section 7 providing service credits. The proposal is denied.

Article XVI – Clothing and Maintenance Allowances

Unit members currently receive an annual clothing allowance of \$1,225.00. The PBA proposes to revise Section 2 to increase the allowance by \$100.00 per year for each year of the contract.

Similarly, a slight increase in the clothing allowance will boost the morale of the department and thus enhance the public interest. The PBA seeks an increase of \$100 in the clothing allowance. (PBA Final Offer). This minimal increase will provide increased compensation to bargaining unit members and in turn, raise morale and foster public interest.

The Borough opposes the proposal increase asserting that the present allowance is sufficient and that the proposal is too costly. The Borough calculates the cost of the proposed increase as \$2,500 per year and, when compounding the costs of the annual increases sought over a four year period, the costs to the Borough rise to \$25,000.

I do not award an increase in the clothing and maintenance allowance. The existing amount is relatively comparable to that received in surrounding communities over the time period covered by the Award. If appropriate, the level of allowance can be reviewed and the proposal renewed during the next round of negotiations. The proposal is denied.

Article XI – Sick Leave

The PBA proposes a revision to the Sick Leave Incentive Program. The existing benefit in Article XI, Sections 5A and 5B read as follows:

5. Sick Leave Incentive Program: A sick leave incentive bonus shall be paid annually as follows:
 - (a) Three hundred dollars (\$300.00) bonus
 - (1) “Pittman Schedule” 0-24 hours absent from work due to sickness in any calendar year
 - (2) Non-shift officers 0-16 hours absent from work due to sickness in any calendar year

- (b) One hundred and fifty dollar (\$150.00) bonus
 - (1) "Pittman Schedule" 36-60 hours absent from work due to sickness in any calendar year
 - (2) Non-shift officers 24-40 hours absent from work due to sickness in any calendar year

The aforesaid bonus shall be paid in the second pay period following the final budget adoption, but in any event no later than June 1st.

The proposal would increase the existing benefit levels providing for \$300 and \$150 bonuses by \$100 for each year of the contract. The PBA contends that increases in the bonus payments will provide a greater incentive to avoid sick leave usage and, if that were to occur, overtime costs would also be reduced.

The Borough seeks rejection of the proposal asserting that the costs of sick leave incentive program would increase from an average of \$3,000 per year to \$7,000 per year over the life of the contract.

There is no evidence that increased bonuses for less sick leave usage would achieve the goals claimed by the PBA or that current sick leave usage is such that the current sick leave incentive program needs to be revised. Accordingly, the proposals are denied.

Article XVII – College Credits and Tuition Reimbursement

The PBA proposes several changes to the article that concerns college credits and tuition reimbursement. The sections at issue provide for the following benefits:

1. Each employee's base salary shall be increased by the sum of twenty dollars (\$20) per year for each credit satisfactorily completed at an accredited institution of higher education offering courses or a program leading to a degree in law enforcement, criminal justice or police related degree. Such additional compensation shall not exceed, however, the sum of twenty-four hundred dollars (\$2,400) for any calendar year, and shall be payable upon approval of the Borough Council after presentation of a proper certification from the institution attended by such employee setting forth the number of credits completed along with evidence of passing grades in the courses taken.
4. Any employee of the Police Department, who satisfactorily completes course work toward a degree, shall be reimbursed for one-half of his tuition costs. Such reimbursements shall be limited to a maximum of one hundred dollars (\$100) per year and a total of fifteen hundred dollars (\$1,500) for any individual employee.

The PBA's proposals would increase \$20 per year to base salary for each credit satisfactorily completed by \$5 on each contract year, increase the annual cap of \$2,400 by \$100 in each contract year and increase the cap on reimbursement of what the costs are for one-half of tuition costs from \$100 per year by \$50 per year for each year of the contract and the annual cap of \$1,500 on such reimbursements by \$100 per year for each year of the contract.

The PBA asserts that its proposals, if awarded, would provide its members with a greater incentive to further their education, a result that would be in the public interest. The Borough objects to the proposals based upon its view of the sufficiency of existing benefit levels and the potential increased costs to the annual budget.

The existing scheme with respect to base salary payments for college credits compares favorably with any similar program included in the labor agreements in evidence from other jurisdictions. Indeed, most do not provide annual base salary increases for each college credit that is earned. The PBA has not shown sufficient justification to increase the existing benefit levels. With respect to tuition reimbursement, the annual limits on tuition costs must be viewed in the context of the terms of Section 1 which provide substantial benefits for an officer to pursue college course work. Accordingly, the proposals are denied.

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

AWARD

1. All proposals by the Borough and the PBA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those modified by the terms of this Award.

2. Duration

There shall be a four-year agreement effective January 1, 2010 through December 31, 2013.

3. Article V – Grievance Procedure

Revise Step 1:

Step 1. The Grievant and the PBA President, or his designee, shall present the grievance in writing and discuss the grievance(s) orally with the Captain or his designee within twenty-one (21) days of the occurrence giving rise to the knowledge of said event. The Captain or his designee shall answer the grievance in writing within seven (7) days from the date of the presentation.

Revise Section 4:

If a grievance is not resolved at Step 3, or if an answer has not been received by the PBA within the time set forth in Step 3, the PBA may make a written demand for arbitration in accordance with Article V Arbitration as hereinafter set forth except that the Borough Administrator's decision shall be final in cases dealing with the interpretation and application of policies, rules and regulations unless such decision conflicts with the express terms of the Agreement and that – disciplinary matters, upon which formal charges have not been brought shall be adjudicated in accordance with N.J.S.A. 40A-147, et. seq. and shall not be subject to arbitration except as set forth in Article XXIII.

4. Article XXIII – Notification of Employee Discharge

Delete the underlined language in Section 1:

The Borough reserves the right to discharge any permanent employee or probationary employee for any reasons permitted by

law and will follow out the appropriate legal procedures relevant thereto. Under no circumstances shall any discipline or discharge be subject to the grievance procedure, except as herein before stated, but said employee shall have the right as provided by statute and law.

Add new Section 3:

On the day after the issuance of the award, the grievance procedure shall include a new section that will allow for the arbitration of minor disciplinary grievances that involve suspensions of two (2) days or more or fines at a level of two (2) days of pay or more. Verbal and written warnings or reprimands and suspensions or fines of one (1) day or less shall not be arbitrable.

5. Article XV – Health Insurance and Medical Benefits

Add new language:

Health care contributions for unit employees shall be consistent with that required by P.L. 2010, Chapter 2 and P.L. 2011, Chapter 78.

6. Article XV(1) – Health Insurance and Medical Benefits

Effective as soon as is administratively feasible and upon fourteen (14) notice to the PBA, the Borough shall implement the following changes to Article XV, Section 1:

(c) 80/20% coinsurance of the first \$2,000.00 of covered changes with 100% coverage thereafter.

(d)

1. Over the counter medications:

Generic - \$5.00 co-pay for each 30-day prescription filled; all others \$25.00 co-pay for each 30-day prescription filled. On the third retail prescription refill the co-pays shall be increased to generic - \$15.00 co-pay for each 30-day prescription filled; all others \$45.00 co-pay for each 30-day prescription filled. Prescription card must be used in order to obtain reimbursement.

2. Mail Order:

Generic - \$5.00 co-pay for each 90-day prescription filled; all others \$15.00 co-pay for each 90-day prescription filled. Prescription card must be used in order to obtain reimbursement

3. The generic co-pay shall apply in the event that the generic drug either does not exist or is unavailable for by either over the counter or mail order at the time the prescription is to be filled.

7. Article VII – Hours of Work and Overtime, Section 5

Language in Section 5 shall be deleted except for the language that states “the Pittman Schedule shall commence January 7, 2008.”

8. Article VII – Hours of Work and Overtime, Section 13

An employee shall be granted up to thirty (30) minutes for a meal break during his regular workday. When an employee is required to work in excess of ten (10) hours or more, he shall be granted a second thirty (30) minute meal period, without loss of pay or time and shall be granted an additional thirty (30) minute meal period for each five (5) hour period over the above-mentioned ten hours, and an allowance of \$7.50 per meal shall be provided. When an employee's scheduled work takes him outside the Borough of Metuchen and extends into a meal period, he shall be provided an allowance for each meal as follows: \$5.00 for breakfast, \$7.50 for lunch, and \$10.00 for supper.

9. Salary

Effective January 1, 2010, the salary schedule shall remain as is through December 31, 2010. Officers eligible for step movement shall advance to the next step on the salary schedule.

Effective January 1, 2011, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$94,777						\$94,777
Det.	\$89,507						\$89,507
Ptl.	\$42,333	\$45,787	\$53,964	\$62,142	\$70,315	\$78,491	\$86,764

Effective January 1, 2012, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$96,909						\$96,909
Det.	\$91,520						\$91,520
Ptl.	\$43,285	\$46,817	\$55,179	\$63,542	\$71,897	\$80,257	\$88,716

Effective January 1, 2013, all steps on the salary schedule shall be increased by 2.25%. Those employees eligible for advancement to the next step on the salary schedule shall advance to the next step.

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step (Maximum)
Sgt.	\$99,089						\$99,089
Det.	\$93,580						\$93,580
Ptl.	\$44,259	\$47,870	\$56,420	\$64,971	\$73,515	\$82,063	\$90,713

All increases shall be retroactive to their effective dates. All increases shall be at each step of the salary schedule and shall, except for those who have voluntarily resigned or have been separated from employment without good standing, apply to all unit employees and those who have retired on normal or disability pension.

Effective December 31, 2013, there shall be a new hire salary schedule consisting of the same minimum and maximum salaries as set forth above with two (2) additional steps and with all steps between minimum and maximum consisting of equal dollar amounts. The new hire salary schedule is as follows:

	1 st Step	2 nd Step	3 rd Step	4 th Step	5 th Step	6 th Step	7 th Step	8 th Step	9 th Step (Maximum)
Sgt.	\$99,089								\$99,089
Det.	\$93,580								\$93,580
Ptl.	\$44,259	\$50,066	\$55,873	\$61,687	\$67,484	\$73,294	\$79,101	\$84,908	\$90,713


The salary schedules shall, unless mutually agreed to otherwise, remain without change upon the expiration of the agreement, including the use of an officer's anniversary date for purposes of determining eligibility for step movement. However, there shall be no advancement on the steps of the salary schedules based upon length of service beyond the contract expiration date in the absence of a mutual agreement to do so, a new collective negotiations agreement or an interest arbitration award that authorizes such advancement on the salary schedules.

Dated: January 14, 2014
Sea Girt, New Jersey


James W. Mastriani

State of New Jersey }
County of Monmouth } ss:

On this 14th day of January, 2014, 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