

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between the:

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**BOROUGH OF HASBROUCK HEIGHTS**

"Public Employer"

-and-

**NEW JERSEY POLICE BENEVOLENT  
ASSOCIATION, INC., LOCAL 102**

"Union."

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Docket No. IA-2002-038

**INTEREST ARBITRATION  
DECISION  
AND  
AWARD**

**Before  
James W. Mastriani  
Arbitrator**

**Appearances:**

**For the Employer:**

Mark S. Ruderman, Esq.  
Ruderman & Glickman, P.C.

**For the Union:**

Richard D. Loccke, Esq.  
Loccke & Correia PA

I was appointed arbitrator by the New Jersey Public Employment Relations Commission on March 15, 2002 in accordance with P.L. 1995, c. 425, in this matter involving the Borough of Hasbrouck Heights [the "Employer" or "Borough"] and Hasbrouck Heights PBA Local No. 102 [the "PBA"]. Pre-arbitration mediation was held on July 1, 2002. Because the impasse was not resolved, a formal interest arbitration hearing was held on October 25, 2002. Testimony was received from Lieutenant Jack DeLorenzo and Borough Chief Financial Officer/Administrator Michael Kronyak. Both parties introduced extensive documentary evidence. Post-hearing briefs were submitted by both parties and were received on or about March 18, 2003.

### **FINAL OFFERS OF THE PARTIES**

The Borough and the PBA submitted the following final offers:

#### **The PBA**

1. Wage Increase – The PBA proposed a 5% annual increase effective on each successive January 1<sup>st</sup> of a three (3) year contract.
2. Holiday Fold In – The PBA proposed that the entire holiday benefit be paid along with regular payroll in equal installments and folded in and thereby utilized for all calculations.

3. Longevity – The PBA proposed that the current longevity program be extended by one additional longevity step which would provide an additional 2% upon completion of 24 years of service.
4. Tour Commander Pay – The PBA proposed that a new provision be added to the contract so that an employee in patrol officer rank who is placed in a supervisory position on a shift would be paid \$55.00 per shift for such designation.

### **The Borough of Hasbrouck Heights**

1. Article VII – Salaries  
  
1/1/02 – 3 percent  
1/1/03 – 3 percent  
1/1/04 – 3 percent
2. Article VII – Salaries. All employees hired after July 1, 2003 shall work a 10 equal step salary guide with a starting salary of \$24,000.00 frozen for the life of the contract.
3. Article VII – Salaries. Effective upon the issuance of the award, employees shall be paid twice a month.
4. Article XII – Longevity. All employees hired after January 1, 2003 shall not be eligible for longevity.
5. Article XV – Vacations. Employees shall be prorated during the last year of service to time served.
6. Article XXI – Insurance. A. The employees attorney rates will be capped at the same rate as the Borough attorney. B. Change the language in paragraph B to say “substantially similar” as opposed to “not less.”
7. Article XXXII – Terminal Leave.  
  
A. Specify in paragraph A that the employee must have 25 years of service to the Borough of Hasbrouck Heights.

- B. The employee must give six (6) months notice other than death or disability in order to receive the terminal leave benefit.
  - C. Employees hired after January 1, 2003 shall not be eligible for terminal leave.
8. New Article XXXVII. Fully Bargained Clause

The Borough proposes to add the following new provision:

This Agreement represents and incorporates the complete and final understanding of settlement by the parties of all bargainable issues which were or could have been the subject of negotiations. During the term of this Agreement neither party will be required to negotiate with respect to any such matter whether or not covered by this Agreement or whether or not within the knowledge or contemplation of either or both parties at the time the negotiators signed this Agreement.

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

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.)).

(2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:

(a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.

(c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995. c. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

(3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical and hospitalization benefits, and all other economic benefits received.

(4) Stipulations of the parties.

(5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq ).

(6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a

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

- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.

### **BACKGROUND**

Hasbrouck Heights is a suburban southern Bergen County municipality. Traffic has increased substantially since 1996 along several major thoroughfares, including Routes 17, 46 and Interstate 80, all of which traverse Hasbrouck Heights. Hasbrouck Heights has a population of approximately 11,662 residents. Its crime rate in 2000 was 18.9 per 1000.

The Borough's municipal tax rate has been relatively stable, decreasing from .917 in 2000 to .900 in 2001, and increasing to .997 in 2003. The Borough has enjoyed a tax collection rate of 97.23% and a rating from Moody's of "A".

The Hasbrouck Heights Police Department is composed of thirty-one (31) police officers excluding the Chief of Police and the Deputy Chief: two (2) Captains, two (2) Lieutenants, seven (7) Sergeants, and twenty (20) Patrolmen. The PBA represents all thirty-one (31) police officers excluding the Chief of Police and the Deputy Chief.

### **POSITIONS OF THE PARTIES**

#### **PBA LOCAL 102**

Addressing the interest and welfare of the public criterion, the PBA describes the Borough as "a rapidly expanding municipality in a key geographic location in northeastern New Jersey." The PBA characterizes the Borough as "one of the most heavily traveled areas in New Jersey and the northeast," pointing out that Interstate 80 and State Highways 17 and 46 pass through the Borough. The PBA also notes that the Borough is within a few miles of the New Jersey Turnpike, the Garden State Parkway and the George Washington Bridge. The PBA maintains that traffic has almost doubled between 1996 and 2000 and that new commercial structures, such as hotels, office buildings, a medical center and food chains have been added in recent years.

Citing the Hasbrouck Heights Police Department Annual Report for 2001, the PBA notes that the Department had almost 13,000 service calls and issued 9,400 citations in 2001. The PBA emphasizes the Department's success at limiting drunk driving, noting that arrests for 2001 increased to 143 compared to only 35 over the preceding three (3) years. The PBA notes that the Department's Annual Report also reflects that its equipment and services have been improved. According to the PBA, the Department is currently handling 911 service for the bordering communities of Wood Ridge and Teterboro.

PBA witness Lt. DeLorenzo testified that the number of sworn officers at the Department has remained essentially unchanged since 1970. DeLorenzo indicated that the average number of officers employed by the Department has been thirty (30) over that time period. He also indicated that the Department is "well lead, well managed" and has good morale.

Turning to the comparability criteria, the PBA contends that the "universive comparison" consists of area Bergen County municipalities with which the Department has regular interaction, mutual aid agreements, or assumes some of their law enforcement duties such as 911 service. The PBA presented at hearing the contracts of its these comparable communities. With respect to average base rates, the PBA provided the following chart for these municipalities for calendar years 2002-2004:



**Percentage Changes in Base Pay Based on PBA Exhibits**

	2002	2003	2004
South Hackensack	4.	4.	4.
Clifton	4.	4.	4.
Rutherford	4.	4.	
East Rutherford	4.	4.	5.
Fairview	4 (2/2)		
Leonida	4.		
Wood Ridge	4.		
Englewood	4.25	4.2	
Bergenfield	4 (3/1)	4 (3/1)	4 (3/1)
Tenafly	3.9	4.	4.1
Edgewater	4.	4.1	
Fort Lee	3.9	3.9	3.9
Oakland	4.	4.1	4.
Moonachie	4.	4.	4.
Bogota	4.	4.	
North Arlington	4.	4.5	
Saddle Brook	4.5	4.5	4.5
Averages	4.032%	4.093%	4.167%

The PBA acknowledges that its wage proposal is higher than the averages listed above. However, it indicates that its proposal is closer to the average than the Borough's proposal which the PBA characterizes as "extremely low." In addition, the PBA contends that the Borough's attempt to seek an additional pay step would have a "significant negative impact on the wage program." According

to the PBA, the Department's current pay step range is "almost identical to the average."

The PBA seeks an additional two percent (2%) longevity step at 24 years of service. Currently officers receive 10% after 20 years of service. In support of this proposal, the PBA presented the following chart illustrating longevity benefits at 24 years of service for municipalities it considers comparable.

**Area Longevity Guide Comparison Based on PBA Evidence**

	Longevity Max (%)	Max Step (Years)
East Rutherford	12	24 yrs.
Fairview	15	24 yrs.
South Hackensack	10	20 yrs.
Rutherford	9	24 yrs.
Leonia	12	24 yrs.
Wood Ridge	9	25 yrs.
Englewood	9.5	24 yrs.
Bergenfield	8	24 yrs.
Tenafly	12.5	25 yrs.
Edgewater	12	30 yrs.
Fort Lee	15	20 yrs.
Oakland	12	23 yrs.
Garfield	9	23 yrs.
North Arlington	10	30 yrs.
Saddle Brook	10	28 yrs.
Averages	11%	24.5 yrs.

According to the PBA, “[m]ost longevity programs have a 24 year step and the average longevity value greater than the maximum longevity value provided in the Hasbrouck Heights program.” The PBA notes that the Borough asserted that some of the other municipalities may have two (2) tier programs, but points out that the Borough failed to provide supporting evidence to justify that approach here.

The PBA also seeks to have the holiday benefit folded into base pay for computation purposes. In support of this proposal, the PBA presented the following chart listing municipalities that currently include a holiday fold-in provision for police in their agreements.

**Holiday Fold In Provisions in Area Police Contracts**

	Holidays Folded In
Rutherford	yes
East Rutherford	yes
Fairview	yes
Leonia	yes
Wood Ridge	yes
Englewood	yes
Bergenfield	yes
Tenafly	yes
Garfield	yes
Saddle Brook	yes

The PBA maintains that its holiday fold-in proposal will have no pension cost to the Borough, because the Borough is not presently paying a pension contribution to the Police and Fire Pension System.

The PBA contends that the Borough's position, including its attempt to change vacation, terminal leave, insurance and payment dates, is unsupported by the evidence submitted in this case and cannot be awarded.

The PBA asserts that private sector comparisons on wages should not be controlling because of the difficulty in comparing the job of a Hasbrouck Heights Police Officer with private sector jobs. The PBA asserts that limited weight should be placed upon private sector comparisons based upon the distinctions between police officers and private sector employees described in the Village of Ridgewood, IA-94141 by Interest Arbitrator William Weinberg. The PBA points to the hazards and risks associated with police work and their obligations to engage in law enforcement activity whether on or off duty. The PBA offers the following argument in its post-hearing brief [at p. 23-24]:

The police officer lives and works within the narrowly structured statutorily created environment in a paramilitary setting with little or no mobility. The level of scrutiny, accountability and authority are unparalleled in employment generally. The police officer carries deadly force and is licensed to use said force within a great discretionary area. A police officer is charged with access to the most personal and private information of individuals and citizens generally. His highly specialized and highly trained

environment puts great stress and demand on the individual.

The PBA notes that the only agreement between the parties is for a three (3) year contract term for calendar years 2002, 2003 and 2004.

Addressing the lawful authority of the employer, the PBA maintains that the Borough is able to fund the PBA's proposals and will not have difficulty staying within the limitations of the Cap Law. The PBA asserts that its proposals will not interfere with the Borough's statutory obligations and would not have adverse financial impact on the governing body or its residents and the Cap Law does not present a problem in Hasbrouck Heights. The PBA calculates that the general appropriations permitted under the Cap Law in 2002 was \$9,247,168 and the Borough appropriated \$8,773,090, leaving an additional \$474,078 available in 2002 within the Cap.

The PBA compares the costs associated with increasing the bargaining unit's salaries by one (1) percentage point with the Borough's Cap bank. According to the PBA, the following chart represents the base pay of unit members:

**Bargaining Unit Base Rate**

(A) Rank	(B) Census	(C) Current Base Rate	(D) Column (B) X Column (C)
Captain	2	\$90,525	\$181,050
Lieutenant	2	\$86,557	\$173,114
Sergeant	7	\$82,576	\$568,032
Patrolmen	20	\$78,587	\$1,571,740
Total	31		\$2,503,936
			1% = \$25,039

Based upon the chart, the total base pay for two (2) Captains, two (2) Lieutenants, seven (7) Sergeants, and twenty (20) Patrolmen is \$2,503,936 and a salary increase of one percent (1%) would cost the Borough \$25,039. According to the PBA, the Borough's Cap bank being carried into 2003 represents 18.93 base wage percentage points. Based upon this calculation, the PBA maintains that the Borough has no Cap problem.

Addressing the financial impact on the Borough, its residents and taxpayers, the PBA asserts that the Borough is able to pay all of the costs associated with the PBA's final offer. Specifically, the PBA notes that the Borough is a town with a strong ratable base of almost one billion dollars and a low effective tax rate of \$2.24. The PBA emphasizes that the ten largest taxpayers in the Borough are all commercial taxpayers. The PBA asserts that the Borough provides a high level of public service at minimum personal cost. The PBA points out that the Borough has acknowledged, in a grant application to

the U.S. Department of Justice, that it needs three additional officers and sought funds to hire additional personnel.

Noting that the Borough's tax collection rate is approximately 98.9%, the PBA asserts that "[e]ssentially all taxes are paid" and that long term delinquent tax obligations are non-existent . Citing the Report of Audit, the PBA asserts that there have been no foreclosures in the Borough in over six years, while the Borough's tax rate has remained static, and assessed value has continued to grow. The PBA asserts that the increase in ratables can be traced to the new structures built in town.

Citing the low voter turnout to vote on the school budget, which constitutes 57% of the tax levy for Borough residents, the PBA contends the Borough's taxpayers are not expressing difficulty over current levels of taxation.

The PBA notes the Borough saves \$195,221 annually as a result of a change in the pension laws that resulted in the pension cost abatement. The PBA calculates that the cost savings represents 7.97% of police bargaining unit base wages.

The PBA made several observations with respect to the Borough's finances and fiscal stability. First, the PBA noted that there is a pattern of regenerating a surplus. According to the PBA, the results of operations for 2001

showed a balance of \$1,121,940. When that surplus is considered next to the 2000 balance of \$1,195,902 and the 1999 balance of \$999,311, the PBA maintains that the Borough is maintaining a surplus and has both budget flexibility and the ability to regenerate its surplus.

The PBA also points out that budget revenues realized have exceeded anticipated revenues in recent years and these amounts lapse into surpluses. The PBA notes that the Borough realized \$795,875 more than anticipated in 2001, and the Borough has also realized more than it anticipated in the years relevant to this matter. Referring to the Borough's Annual Financial Statement, the PBA emphasizes that the Borough has maintained a consistent balance in the unexpected balance of appropriation reserves. The PBA notes that the amount cancelled in 2000 from 1999 was \$255,270.00, and the amount cancelled in 1999 from 1998 was \$133,702.

The PBA points out that the amount of fund balance used in the budget is low, with only 72.9% of the available balance on December 31, 2001 used in the current budget. In 2000, only 77.78% of the available fund balance was used in the then current budget. According to the PBA, the surplus increased \$665,000 or 86% from 1997 to 2001 and the Borough continues to reduce the percentage of surplus used in the budget.

Turning to the municipal tax rate, the PBA notes that it has been fairly static over the last 4 years, decreasing in 2001 from the 2000 level. According to



the PBA, the only portion of the tax that has increased steadily is the school tax. On the other hand, the PBA points out that the revenue raised by the tax levy has increased significantly on an annual basis. According to the PBA, the most recent Report of Audit shows the most recent tax levy was \$23,930,566.00.

The PBA emphasizes that assessed values have risen steadily to \$869,492,682 in 2001 for a total increase of over \$26,000,000 from 1998. According to the PBA, this increase in assessed values will generate approximately \$235,000 in additional revenue, while the value of the tax point is \$86,949.

The PBA notes that the reserve for uncollected taxes illustrates that the actual collection rate has consistently exceeded the anticipated collection rate. The PBA maintains that this is a proper method of accounting, but it is most conservative and results in regular surpluses. Accordingly to the PBA, the tax collection rate is excellent. The PBA compares the State average of approximately 93%, with the rate used by the Borough for budgeting purposes of 96.9%, and with an average actual collection rate of nearly 99%.

The PBA also points out that the Borough's borrowing power is significant. According to the PBA, the Borough's net debt is only .91% and its statutory borrowing power is 3.5%. The PBA emphasizes that it does not suggest that the Borough borrow money to pay for salaries, but simply points out that borrowing

power factor is a measure of fiscal stability. To that end, the PBA notes that the Borough's credit rating under Moody's rating system is AAA.

The PBA notes that the Borough's cash balance in the current fund as of December 31, 2001 was \$2,280,883.00 and the 2002 budget indicates interest income from investments of \$150,649.

The PBA cites the testimony of Borough Administrator Michael Kronyak that three officers have retired recently as added evidence of the Borough's ability to pay. The PBA contends the Borough has incurred an actual savings of \$251,713, or over 10 percentage points in base wages alone, and notes the recent retirees received the highest level of longevity. The PBA explains that by promoting two sergeants to vacant lieutenant positions, and leaving the sergeant positions unfilled, current savings are substantial.

Addressing N.J.S.A. 34:13A-16g (7), the cost of living, the PBA contends the figures presented at hearing favor its proposal. The PBA points to data from the New Jersey Department of Labor that indicates the total percent change for all industry was 6.4%, the cost change by county and averages all private sector was 6.9%, and the percent change for Bergen County alone was 7.6%. According to the PBA, the numbers above support its position as they exceed the increases it has proposed.

Addressing the continuity and stability of employment, the PBA contends the private sector standards of "prevailing rate" and "area standards" support an award of its offer. The PBA contends the Borough failed to present support for its position seeking to achieve forfeiture of benefits. The PBA argues strenuously that there is no justification for the taking of longstanding and negotiated benefits simply because the employer includes them on a list of demands.

### **BOROUGH OF HASBROUCK HEIGHTS**

Before addressing the statutory criteria, the Borough reviews the costs of the final offers of both parties. According to the Borough, the PBA's final offer, if awarded in full, would increase the maximum patrol officer's salary by \$12,387 from 2001 (\$78,587) to 2004 (\$90,974). The Borough calculates that straight percentage increase would be 15%, but the compounded rate increase would be 15.76% over three years. With respect to salary increments, the Borough contends that the cost of the increments over a three (3) year contract, without percentage salary increases and no additional hires, will be \$267,129 (\$84,823 in 2002; \$89,586 in 2003; \$92,720 in 2004). The Borough calculates that the incremental increases above are 4.28% for 2002, 4.33% for 2003, and 4.30% for 2004.

With respect to the PBA's holiday pay proposal, the Borough points out that it is required to contribute 12% of each employee's base salary to the

Division of Pensions. If a holiday fold-in is awarded, the Borough contends that it will cost an additional \$16,417 for 2002, which is equivalent to a cost increase of 0.82% from 2001 base salaries. The Borough asserts that the PBA's proposals to increase longevity and to add tour commander pay would also increase costs. The Borough provided the chart illustrating the costs of the PBA's demands:

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Salary Increase	5.00%	5.00%	5.00%
Compounding	0.25%	0.25%	0.26%
Salary Increments	4.28%	4.33%	4.30%
Holidays	0.82%	--	--
Longevity	--	--	--
Commander Pay	--	--	--
Total:	10.35%	9.58%	9.56%
Three Year Total = 29.49% or 9.83% Per Year			

According to the Borough, its final offer, if awarded, would increase the maximum patrol officer's salary by \$7,287 from \$78,587 in 2001 to \$85,874 in 2004. The Borough calculates that straight percentage increase would be 9%, but the compounded rate increase would be 9.27% over three years. The Borough notes that the cost of increments under its proposal would be the same as under the PBA's proposal. The Borough points out that it seeks to freeze the starting salary at \$24,000, but notes that the cost savings from this proposal is speculative because the number of employees to be hired during this agreement is unknown. The Borough also seeks to add three steps to the salary guide for

new hires by expanding the current guide from seven steps in six and one half years to ten steps in nine and one half years.

The Borough presents the total cost of its package:

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Salary Increase	3.00%	3.00%	3.00%
Compounding	0.09%	0.09%	0.09%
Salary Increments	4.28%	4.33%	4.30%
Freeze Starting Salary	--	--	--
Salary Guide Modifications	--	--	--
Payment of Wages	--	--	--
Longevity	--	--	--
Vacation	--	--	--
Insurance	--	--	--
Terminal Leave	--	--	--
Total:	7.37%	7.42%	7.39%

Three Year Total = 22.18% or 7.39% Per Year

The Borough compares the cost of the parties' packages, emphasizing the "dramatic cost differential" between the proposals. According to the Borough, the PBA's salary demands will cost the Borough \$283,790 more than its proposal over the three years. Specifically, the Borough calculates that the cost of the PBA's wage demands, including increments, exceeds the cost of the Borough's proposal by \$42,403 in 2002, by \$91,938 in 2003 and by \$149,449 in 2004, for a total of \$283,790 or 14.32% of 2001 base salaries.

Turning to the statutory criteria, the Borough addresses the interest and welfare of the public, citing, Hillsdale PBA Local 207 v. Borough of Hillsdale, 263 N.J. Super. 163, 188 (App. Div. 1993), rev'd on other grounds, Hillsdale PBA, Local 207 v. Borough of Hillsdale, 137 N.J. 71 (1994) and asserting that this criterion "focuses upon the priority to be given to public employee's wages and other economic benefits within a public employer's finite budget and plans." The Borough emphasizes that this criterion requires consideration of the public as the silent party to this proceeding and urges consideration of the Award's effect upon the citizens and taxpayers.

Addressing N.J.S.A. 34:13A-16g (2) and (3), the criteria covering comparability, the Borough turns first to comparison with private sector employees. The Borough asserts that wage increases in the private sector are well below the 5.0% per year increase proposed by the PBA. The Borough cites the U.S. Compensation Planning Survey, which indicates that base pay increases for all employees are 3.4% for 2002 and 3.8% for 2003. The Borough contends that private sector employers have required employees to contribute towards the cost of health insurance benefits due to recent increases in premiums. The Borough refers to the 2001 Employee Benefits Study published by the U.S. Chamber of Commerce which surveyed 456 employers collectively employing 787,346 full-time workers. The Borough emphasizes the conclusions of the study that approximately 81% of participating employers share the costs of employee medical benefits with employees contributing proportionally. The

Borough also notes that in 2001, medical benefits constituted 10.5% of payroll. The Borough also cites a September 5, 2002 report in the New York Times, that small employers are reducing health benefits as a result of sharp increases in the cost of health insurance premiums, which increased by 12.7% in the year ending in the spring of 2002. According to the Borough, in the private sector, employee contributions to health insurance coverage increased to 27% for employees and to 16% for families, despite average annual increases in salary of 3% to 4%. Similarly, the Borough cites an article in the September 29, 2002 edition of the Star-Ledger, reporting that the average per employee health insurance premium paid by businesses in New Jersey increased to \$6,136, or a 43% increase from 1998 levels.

The Borough points out that the significant increased costs, it continues to participate in the New Jersey State Health Benefit Plan and continues to pay the health care premiums for employees and their dependents. According to the Borough, it anticipated incurring increases ranging from 19.3% to 27.5% in 2003. The Borough notes that these cost increases are on top of the 20.27% from 2001 to 2002 (\$980,722 to \$1,179,489), which included a 35.86% increase in retiree health benefits (\$210,000 to 285,306). The Borough asserts that rapid and severe increases in the cost of health benefits support its proposal to modify Article XXI – Insurance in order to permit it to change carriers without affecting coverage.

With respect to public sector wages and benefits, the Borough refers to the Biennial Report of the Public Employment Relations Commission on the Police and Fire Public Interest Arbitration Reform Act Dated January 2002. The Borough points out that voluntary settlements in 2001 for police and fire bargaining units averaged salary increases of 3.91%. Compulsory interest arbitration awards for 2001 averaged 3.75%.

The Borough presents an internal comparison to its only other bargaining unit representing the Borough's public works employees. The Borough indicates that the Borough settled with the unit with wage increases of 3.25% for 2002 and 3.5% for 2003 and the elimination of longevity for employees hired after January 1, 2001. Based upon that settlement, the Borough contends that it has established an internal pattern of eliminating longevity benefits for new hires. The Borough relies upon County of Union and Union County Corrections Officers, P.E.R.C. No. 2003-33, (IA-2001-46) in support of its position. According to the Borough, the PBA failed to present evidence which justifies a deviation from the public works settlement. The Borough maintains that the settlement "highlights the reasonableness" of its proposal to the PBA given that its officers' salaries "significantly exceed" those of its public works employees.

With respect to comparable jurisdictions, the Borough presents for comparison eight Southwest Bergen municipalities (Carlstadt, East Rutherford, Lodi, Lyndhurst, Moonachie, Rutherford, South Hackensack, and Wood-Ridge)



and one Central Bergen municipality (Saddle Brook). The Borough contends that it shares similar geographic and demographics with these communities. According to the Borough, the eight Southwest Bergen municipalities, as well as Hasbrouck Heights and Saddle Brook are urban-suburban in character. The Borough notes that the population of Hasbrouck Heights, 11,662, is approximately 103 people above average for these communities. According to the Borough, population among the comparable communities ranges from 23,971 in Lodi to 2,249 in South Hackensack.

Looking to land use, the Borough notes that it has 121 vacant parcels, which is 25% above the Southwest Bergen average of 97. Among the communities the Borough considers comparable, vacant parcels range from 152 in Lyndhurst to 31 in Moonachie. The Borough is more residential in character than the average Southwest Bergen community, with 3,280 residential parcels, or 16% above the Southwest Bergen average of 2,829. Residential parcels range from 5,068 in Lyndhurst to 512 in South Hackensack.

Similarly, the Borough points out that it employs 34 municipal services employees, one less than the 35 employee average in Southwest Bergen. Municipal service employees range from 53 in Lyndhurst to 20 in Moonachie.

The Borough notes that its crime rate (per 1,000) equals 18.9, while the Southwest Bergen crime rate (per 1,000) averages 28.6. The crime rate (per 1,000) ranges from 50.2 in South Hackensack to 12.3 in Wood-Ridge. The

Borough points out that it collects 97.23% of its tax levy compared to the Southwest Bergen average of 95.45%. The percentage of tax levy collected in Southwest Bergen ranges from 99.10% in Wood-Ridge to 93.22% in East Rutherford. Hasbrouck Heights, along with East Rutherford, Moonachie and Wood-Ridge, carries a Moody's rating of A. Among the communities the Borough considers comparable, only Lodi has a lower rating of BAA1. The Borough asserts that the Southwest Bergen municipalities that are geographically adjacent to or near Hasbrouck Heights and possess similar socio-economic characteristics provide an appropriate comparison to Hasbrouck Heights.

The Borough maintains that its comparison group is more reliable than the PBA's. The Borough contends that the PBA randomly selected a comparison group. The Borough points out that while the PBA selected the eight (8) Southwest Bergen municipalities and included Saddle Brook, "the PBA's comparability list of twenty municipalities hardly represents a county-wide comparison to Bergen County's seventy-two municipalities. In support, the Borough cites an interest arbitration award in South Hackensack Tp. and PBA, where Interest Arbitrator Kurtzman found that Southwest Bergen comparables to be better sources for comparison with South Hackensack than a generalized comparison to municipalities in Bergen County generally.

The Borough contends that its patrol officers received the second highest maximum salary in 2001 among its comparables. It presents the following chart:

<b>Rank</b>	<b>Municipality</b>	<b>Amount</b>
1	South Hackensack	\$79,047
2	Hasbrouck Heights	\$78,587
3	Rutherford	\$77,857
4	Saddle Brook	\$75,678
5	East Rutherford	\$74,996
6	Lodi	\$73,757
7	Carlstadt	\$73,080
8	Lyndhurst	\$72,819
9	Moonachie	\$72,205
10	Wood-Ridge	\$71,808
<b>Average</b>		<b>\$74,983</b>

According to the Borough, its officers' base salaries exceed the comparable average by \$3,604, bordering municipalities Moonachie by \$6,382 and Wood-Ridge by \$6,779. Additionally, the Borough maintains that its Police receive more generous longevity pay, more holidays (14 days compared to 13.8 days), and more liberal vacation benefits after ten, fifteen, twenty and twenty-five years of service when compared to Police in the communities it considers comparable. The Borough emphasizes that only East Rutherford and Lodi provide greater longevity benefits.

Addressing the PBA's proposal to fold holiday pay into base pay, the Borough calculates that in 2002, without any salary increase, holiday pay would cost it \$136,810. The Borough emphasizes that because it must pay 12% of

base salary to the Division of Pensions, including holiday pay in base pay would increase the Borough's costs by 12% or \$16,417, exclusive of any increased overtime costs. Noting that the PBA has not introduced evidence supporting its proposal to fold in holiday pay, the Borough urges rejection of the PBA's proposal to fold holiday pay into base pay

The Borough contends that there is a "growing trend in Bergen County toward two-tiered longevity schedules and the elimination of longevity benefits for new hires." The Borough indicates that Southwest Bergen municipalities Carlstadt, East Rutherford and Moonachie implemented two-tiered schedules. The Borough points out that Bergen County municipalities outside of Southwest Bergen such as Dumont, Paramus, and Bogota were awarded two-tiered longevity schedules. The Borough indicates that the following municipalities also have two-tiered longevity schedules: Franklin Lakes, Northvale, Hillsdale, Elmwood Park, Little Ferry, Ridgewood, and Wyckoff. In addition, the following municipalities have eliminated longevity benefits for new hires: Wallington, Rochelle Park, Midland Park (no longevity for all officers). Additionally, the Borough's only other bargaining unit has agreed to eliminate longevity for new hires. For these reasons, the Borough argues that it has justified its proposal and the PBA has failed to present evidence to the contrary. Moreover, the Borough contends that the PBA failed to support its proposal to add a 12% longevity step at twenty-four years of service.

The Borough seeks to add three (3) steps to the salary guide in order to reduce costs. The Borough presents the following chart in support of its position:

**NUMBER OF SALARY STEPS**

Moonachie	9
Rutherford	9
Carlstadt	8
East Rutherford	7
Hasbrouck Heights	7
Lodi	7
Lyndhurst	7
South Hackensack	7
Wood-Ridge	7
Saddle Brook	6
<hr/>	
Average	7.4

The Borough notes that Dumont was awarded an increase in salary steps from seven (7) to eight (8) as well as a starting salary freeze at 2001 rates through 2003, and Paramus was awarded a three (3) step increase from seven (7) to ten (10) as well as a starting salary freeze.

Addressing N.J.S.A. 34:13A-16g (5), the lawful authority of the employer, the Borough refers to the Cap Law and argues increasing its final appropriations

to the 5% maximum would require the Borough to increase taxes. The Borough calculates that the PBA's total package averages 9.83% per year. To the extent the PBA's total package exceeds the index rate, the Borough asserts that it would need to reduce other expenditures which fall within the Cap to the extent the cost of the economic demands exceed the index rate. The Borough contends that an award of the PBA's final offer could lead to lay-offs, or reduced budgetary appropriations for non-payroll costs to keep the Borough's budget within the index rate.

The Borough notes that it operates with a 2.5% Cap and that its "ability to pay" requires an award of its economic position. Specifically, the Borough notes that its surplus balance as of January 1, 2001 was \$1,427,112 and increased to \$1,439,053 as of January 1, 2002. However, the Borough explains that it expects that the surplus regenerated in 2002 will be insufficient to replenish its surplus balance and it will be required to find other revenue sources to fund the anticipated surplus balance as well as increases in the 2003 budget. The Borough points out that State Aid has been a problematic source of revenue and that its application for \$730,000 in Extraordinary Aid was denied. According to the Borough it does not have "one-shot" revenue sources to fund increases except for the Reserve from Sale of Municipal Assets, which is anticipated to be \$60,000. The Borough also points out that local revenues declined by \$190,000 and lower interest rates have reduced revenue from interest on investments by

approximately \$75,000 and it projects a \$60,000 shortfall in revenue from municipal court.

Looking forward, the Borough points out that it anticipates declining revenue. First, the Borough points to a downturn in summons issued leading to decreased revenue from Municipal Court. Additionally, the Borough notes that the State COPS in School grant of \$125,000 to offset police salaries will be eliminated in 2003. The Borough also asserts that, due to an increasing number of commercial tax appeals, the tax burden on its highly taxed residents will continue to increase even without budget increases. The Borough highlights that insurance premiums are increasing at "astronomical rates". According to the Borough, the events of September 11, 2001 "have had a catastrophic effect on property and casualty insurance rates" and health insurance premiums create a similar budgetary problem. The Borough argues that shrinking revenue sources and expanding appropriations beyond its control require limited increases to present wages and fringe benefits, as well as the implementation of cost controls with respect to present benefits and no new fringe benefits.

Addressing N.J.S.A. 34:13A-16g (6), the financial impact on the Borough, its residents and taxpayers, the Borough cites Hillsdale PBA, Local 207 v. Borough of Hillsdale, 137 N.J. 71, 85 (1994), as support for the concept that this factor "do[es] not equate with the municipality's ability to pay." Rather, the Court recognized an arbitrator's responsibility to consider an award's affect upon the

Borough's overall budget and its employees. The Borough points out that the recent economy and the State's "tight financial situation" have a direct impact upon the Borough's ability to raise revenue. According to the Borough, the unemployment rate in September 2002 was 5.6% and property taxes have increased due "in part from the State's decision to cap or halt financial aid programs to local government and schools." The Borough points out that the State's pension funds have lost \$27.5 billion since April 2000 and thousands of workers have been laid off. The Borough points to its predominantly residential base, and its limited possibilities for additional growth. The Borough emphasizes that its residents would bear the burden of any tax increase.

Addressing N.J.S.A. 34:13A-16g (7), the cost of living, the Borough notes that consumer prices for the twelve month period ending July 2002 in the New York region increased by 2.2%, The Borough points out that the CPI in New York for July 2002 decreased by 0.3%, while the national consumer price index for the same month increased 0.1%. The Borough also notes that the national CPI for the twelve month period ending July 2002 increased only 1.5%. The Borough cites the annual cost of living increases that Social Security recipients receive, which correlates with the CPI. According to the Borough, in 2003, Social Security beneficiaries received a 1.4% increase, a decrease of 0.8% from 2002's 2.6% increase and a decrease of 1.6% from 2001's 3.5% increase. The Borough notes that the 1.4% increase for 2003 is the third lowest increase since 1975, when the system was linked to the CPI. Based upon the above, the Borough



asserts that there is no justification for awarding the PBA's wage proposals which significantly exceeds the CPI data.

Addressing the continuity and stability of employment, the Borough maintains that its proposal would allow it "to maintain and continue a stable work force in the Police Department and throughout the municipality."

Turning to its proposals in other than salary, the Borough seeks to eliminate longevity benefits for officers hired after January 1, 2003. According to the Borough, it would not achieve cost savings from this proposal during the contract term since new hires would not normally be eligible for longevity benefits during this contract term.

The Borough seeks to pro-rate vacation benefits during the last year of service based upon time served. The Borough asserts that it would save money each time an officer separates from service, but the amount of any cost savings are speculative since the number of employees who will leave the Borough's Police Department during the life of this agreement is unknown.

The Borough seeks to modify Article XXI – Insurance to add a provision to paragraph A that cap the employee's attorney's rates at the same hourly rate as the Borough attorney. The Borough also seeks to modify paragraph B to replace the words "not less" with "substantially similar" so that the provision would

provide that the "Borough reserves the right to change carriers, so long as "substantially similar coverage" is provided."

The Borough also seeks to modify the terminal leave provisions included in Article XXXII of the parties' agreement. At present, the provision provides officers who retire with 25 years of service with three months' terminal leave pay. The Borough contends that the three month terminal leave benefit it provides is commensurate with the municipalities it deems comparable. The Borough seeks to clarify that this language requires the officer to retire with 25 years of service "with the Borough of Hasbrouck Heights" in order to be eligible for terminal leave. Additionally, the Borough seeks to facilitate its budgeting for terminal leave by requiring that the employee provide six months notice to receive terminal leave benefits except in cases of death or disability. The Borough also proposes to eliminate terminal leave benefits for employees hired after January 1, 2003. The Borough notes that while it will receive long term cost savings from this proposal, it will not benefit from reduced costs during the life of this agreement, because new hires would not be eligible for terminal leave benefits during the contract term.

The Borough further proposes to add a new "Fully Bargained" provision to the parties' agreement:

This Agreement represents and incorporates the complete and final understanding of settlement by the parties of all

bargainable issues which were or could have been the subject of negotiations. During the term of this Agreement neither party will be required to negotiate with respect to any such matter whether or not covered by this Agreement or whether or not within the knowledge or contemplation of either or both parties at the time the negotiators signed this Agreement.

The Borough contends that its proposal to add fully-bargained language to the parties' Agreement would encourage the parties to resolve outstanding negotiable issues and would foster labor peace and provide labor stability.

The Borough also seeks to amend the agreement to pay employees twice each month rather than every two weeks. According to the Borough, this would avoid the problem caused by a twenty-seventh pay period, which occurs every seventh year.

In light of all of the above, the Borough maintains that its final offer is reasonable and should be adopted in its entirety.

### **DISCUSSION**

I am required to issue an award based upon a reasonable determination of all issues in dispute after giving due weight to the statutory criteria which I judge relevant. The Borough and the PBA have fully articulated their positions on the issues and have submitted evidence and argument on each statutory

criterion to support their respective positions. The evidence and arguments have been carefully reviewed, considered and weighed.

Many issues remain in dispute including salary, other compensation related issues and some non-economic issues. I apply the commonly accepted principle that a party seeking changes in terms and conditions of employment bears the burden of establishing the need for such modification.

The PBA seeks to add a new provision to the agreement that would provide patrol officers placed in a supervisory position tour commander pay of \$55.00 per shift for such designation. There is insufficient credible evidence in the record in support of this proposal. According, the proposal to create Tour Commander Pay is denied.

The Borough proposes to prorate vacations for employees for the last year of service leaving the Borough's employ. The vacation provisions of the parties' agreement are silent as to payment of vacation for employees in their last year of service. Although the record establishes that a few officers have retired in recent years, the Borough has not articulated a specific rationale, other than unspecified cost savings, in support of this proposal. Assuming that the ability to receive vacation pay without such proration is an existing term and condition of employment, this benefit for present employees is reasonably anticipated to be present at the conclusion of their active service and I do not award such

modification. However, it is a reasonable modification for new employees who have not accrued vacation time and have no expectation for the present arrangement. Accordingly, the Borough's proposal to prorate vacations for employees in their last year of service with the Borough is denied for existing employees but granted for employees hired after the date of this award.

The Borough also proposes several changes to the terminal leave provisions of the Agreement. First, the Borough seeks to require that an employee must have 25 years of service with the Borough in order to receive terminal leave. Next the Borough seeks to require the employee to give six months notice of retirement, except in the case of death or disability, in order to receive terminal leave. Finally, the Borough seeks to eliminate terminal leave for new hires. The Borough asserts that these proposals would result in unspecified future cost savings and would allow the Borough to better plan for the costs of terminal leave. The PBA objects to these proposals and asserts that they are not supported by evidence.

As the Borough points out, its proposal to eliminate terminal leave for new hires would provide unspecified cost savings in approximately 25 years. This proposal must be evaluated in the context of the existing provision in the Agreement. Article XXXII (A) already provides for a cap on terminal leave pay of three months upon retirement with 25 years of service. That provision provides for a specific cap on costs and does allow the Borough to plan for the costs of the

existing terminal leave benefit over an employee's career. The existing plan is reasonable in comparison with many terminal leave provisions which are in existing agreements throughout Bergen County. While the Borough might achieve unspecified future cost savings as a result of this proposal, the elimination of this benefit could result in additional costs during a new employee's career by providing little incentive not to access paid leave. These considerations lead me to reject this portion of the Borough's proposal.

I also do not award the portion of the Borough's proposal which requires employees to have 25 years of service with the Borough in order to be eligible for terminal leave. I note that this award will contain terms which will provide an incentive for the Borough to hire employees without previous law enforcement experience which will have the practical effect of requiring 25 years of service to the Borough before being eligible for terminal leave.

There is merit to the Borough's proposal to require an employee to provide some notice in order to receive a terminal leave benefit except in the event of death or disability. Notice will enable the Borough to fulfill its staffing requirements in a more orderly fashion. I believe that three months rather than six months notice is sufficient time to fulfill this objective. The Borough's proposal allows for a waiver of notice upon certain circumstances but there may be other legitimate circumstances which require waiver. For this reason, the Borough's proposal should be amended with the addition of "unforeseen

circumstances.” Accordingly, Article XXXII shall provide for a section B which states that the employee must give three months notice other than death or disability or other unforeseen circumstances in order to receive the terminal leave benefit.

The Borough seeks to modify Article XXI covering insurance to add a provision to paragraph A that cap the employee’s attorney’s rates at the same hourly rate as the Borough attorney. The PBA objects to this proposal. The record does not clearly reflect the rate paid to the Borough attorney, the rates which have typically been paid to employees’ attorneys, or an estimate of the cost savings that would result from this amendment. As a result, there is insufficient evidence of the need for such modification of this insurance proposal. The Borough’s proposal to cap the employee’s attorney’s rate at the same hourly rate as the Borough’s attorney is denied.

Article XXI, Paragraph B presently provides that, “[t]he Borough reserves the right to change carriers, so long as “not less coverage” is provided”. The Borough seeks to amend paragraph B to replace the words “not less” with “substantially similar” so that the provision would provide that, the “Borough reserves the right to change carriers, so long as substantially similar coverage is provided.” In support of this proposal, the Borough points to rapid and severe increases in the cost of health benefits and seeks the ability to change insurance carriers but without the result of affecting coverage. The PBA objects to this

proposal. I deny the Borough's proposal because it is difficult to assess the impact its proposed change on cost savings or in changes to benefit levels, if any. The proposal is in the abstract and I am without the ability to measure the impact of the proposed change without an alternative carrier or alternative benefit levels to compare to the present.

The Borough also seeks to add a new Fully Bargained provision to the parties' agreement:

This Agreement represents and incorporates the complete and final understanding of settlement by the parties of all bargainable issues which were or could have been the subject of negotiations. During the term of this Agreement neither party will be required to negotiate with respect to any such matter whether or not covered by this Agreement or whether or not within the knowledge or contemplation of either or both parties at the time the negotiators signed this Agreement.

The Borough contends that this would encourage the parties to resolve outstanding negotiable issues and would foster labor peace and provide labor stability. But there is no evidence of labor instability, that either party has attempted to engage in mid-term bargaining, that the Borough has been unable to exercise a legitimate management prerogative or that there has been unnecessary litigation in the absence of this provision. Accordingly, there is insufficient evidence of a need to add such a provision to the agreement and the Borough's proposal is denied.



The Borough also seeks to amend the agreement to pay employees twice each month rather than every two weeks. According to the Borough, this would avoid the problem caused by a twenty-seventh pay period, which occurs every seventh year. The PBA objects to this proposal. When employees are paid every two weeks, a twenty-seventh pay period, which does alter the calculation of payroll, is added. Annual salaries remain essentially unchanged regardless of the method used. Given the relatively few employees employed in the department, there is insufficient evidence that the infrequent change in the calculation of payroll is so burdensome to the Borough that a change in pay dates is in the public interest. Accordingly, the proposal to pay employees twice each month rather than every two weeks is denied.

The PBA has proposed that Article XVI, Holidays be amended to fold in the entire holiday benefit into regular base compensation. The existing agreement provides each police officer with fourteen (14) days of holiday pay in a single lump payment. The Borough calculates holiday pay at \$136,810 in 2002. There are many factors to review when considering this proposal. The 14 days of pay are currently being paid. Thus, holiday pay is not a new benefit nor new compensation. A fold-in does not cause the duplicate payment of holiday pay. The Borough does not dispute this but it does accurately point out that there are costs directly tied to the inclusion of existing holiday payments into base pay. These include the fact that a police officer's base pay will be increased for pension purposes and the Borough must assume an increase in its portion of

pension contributions in the amount of the difference of the worth of a working day as adjusted by the fold in of the holiday pay. The Borough calculates this cost at 12% of holiday pay or \$16,417. Given that one percentage point of salary equates to \$25,039, the increase in the Borough's pension contribution calculates to approximately \$530 per employee or .065%. In response, the PBA points out that the Borough received \$195,221 in pension contribution savings in 2001 due to S-1961 [P. Ex. #26]. A fold-in of holiday pay will also modestly increase the hourly rate of pay (calculated with a 1950 hours divisor; see Article IX) when calculating overtime rates. The total net economic change resulting from the fold in is not significant when balanced and weighed against the increased value of the fold in to the employee for the purposes of calculating annual salary. The collective negotiations agreements in evidence reflect an increasing number of provisions which provide for fold-in of holiday pay. I have also considered that the award of this proposal is, as set forth below, in conjunction with a new hire package modifying longevity, providing an extended salary schedule and implementing a split raise in year 2004, all of which provide levels of economic offset for the fold in. After due consideration of all of the above, I am persuaded that there is merit in the PBA's proposal to fold holiday pay into base pay and be used for all computation purposes. The implementation of this provision shall have an effective date of January 1, 2004.

Both parties seek to modify the longevity provisions of the agreement. The Borough would eliminate longevity for new hires. The Borough contends

that Carlstadt, East Rutherford and Moonachie have implemented two-tiered longevity schedules. The record reflects that some additional Bergen County municipalities have modified longevity schedules for new hires but there is no evidence that police departments in Southwest Bergen County have eliminated longevity benefits for new hires.

The PBA urges rejection of the Borough's proposal. The PBA also seeks an additional 2% longevity benefit for officers who have completed 24 years of service. After 20 years of service, Borough Police Officers currently enjoy a 10% longevity benefit. The PBA cites other Bergen municipalities who have more such as East Rutherford (12%), Leonia (12%), Tenafly (12%). At present, among Southwest Bergen municipalities, only Officers in East Rutherford enjoy a 12% longevity benefit after 24 years of service, while Wood-Ridge (9%) and Rutherford (9%) have less than Hasbrouck Heights.

The existing longevity schedule reads as follows:

1. Completion of 5 years of service .... 2.5% of Base Annual Salary
2. Completion of 6 years of service .... 3.0% of Base Annual Salary
3. Completion of 7 years of service .... 3.5% of Base Annual Salary
4. Completion of 8 years of service .... 4.0% of Base Annual Salary
5. Completion of 9 years of service .... 4.5% of Base Annual Salary
6. Completion of 10 years of service ... 5.0% of Base Annual Salary
7. Completion of 11 years of service ... 5.5% of Base Annual Salary
8. Completion of 12 years of service ... 6.0% of Base Annual Salary

9. Completion of 13 years of service ... 6.5% of Base Annual Salary
10. Completion of 14 years of service ... 7.0% of Base Annual Salary
11. Completion of 15 years of service ... 7.5% of Base Annual Salary
12. Completion of 16 years of service ... 8.0% of Base Annual Salary
13. Completion of 17 years of service ... 8.5% of Base Annual Salary
14. Completion of 18 years of service ... 9.0% of Base Annual Salary
15. Completion of 19 years of service ... 9.5% of Base Annual Salary
16. Completion of 20 years of service ... 10% of Base Annual Salary

When all of the record evidence is reviewed, considered and weighed on the longevity issue as it relates to current overall salary and benefit levels as revised by this Award, I reach the following conclusions. There is insufficient justification to add an additional level of longevity pay for present employees. There is also insufficient justification to eliminate this benefit for new hires. The existing longevity program rewards employees who remain in Hasbrouck Heights for a career thereby enhancing the continuity and stability of their employment. An elimination of the benefit would significantly alter the relative compensation levels between this department and comparable contiguous communities who have not eliminated the benefit.

However, there is merit to some modification of the longevity program for new hires. New employees will benefit from the enhancement of economic terms of the new agreement. A modification of the existing schedule is a reasonable inclusion in the determination of the overall benefit levels for new employees. For new hires, I award the retention of the existing structure at the levels of 2.5%

for after 5 years of employment, 5.0% for after ten years, 7.5% for after 15 years and 10.0% for after 20 years; but without access to the four intermediate steps between these levels. This will provide for four years of cost savings to the Borough between each level achieved yet maintain the foundation of the program which rewards employees during their achievement of career employment status. Accordingly, the new hire longevity schedule shall commence after the fifth year of service and shall read:

Completion of 5 years of service .... 2.5% of Base Annual Salary  
 Completion of 10 years of service ... 5.0% of Base Annual Salary  
 Completion of 15 years of service ... 7.5% of Base Annual Salary  
 Completion of 20 years of service ... 10% of Base Annual Salary

The final issues in dispute relates to increases to the salary schedule for the contract duration January 1, 2002 through December 31, 2004. The existing salary schedule (see Appendix A-3) is as follows:

<b>Position</b>	<b>2001</b>
Patrolman Start to completion of Academy	\$24,000
Probationary Patrolman	\$29,612
Patrolman First Year	\$43,591
Patrolman Second Year	\$52,341
Patrolman Third Year	\$61,088
Patrolman Fourth Year	\$69,840
Patrolman Fifth Year	\$78,587
Sergeant	\$82,576
Lieutenant	\$86,557
Captain of Police	\$90,525
Captain of Detectives	\$94,180

Assuming all patrolmen at maximum step, total salaries for patrolmen amount to \$1,571,740. The salaries for the seven sergeants total \$568,032 and salaries for the two lieutenants and two captains total \$173,114 and \$181,050 respectively. Total salaries amount to \$2,503,936, and 1% of total salaries amounts to \$25,039. The Borough's proposal (3% annually) would cost \$75,118 in 2002, \$77,371 in 2003 and \$79,692 in 2004. The PBA's proposal (5% annually) would cost \$125,196 in 2002, \$131,456 in 2003 and \$138,029 in 2004. The difference in payroll costs on a cumulative basis between these positions at the end of the new three year contract, is \$162,500 ( $\$394,681 - \$232,181 = \$162,500$ ). On an annual basis, the difference between these positions amounts to \$50,078 in 2002, \$54,085 in 2003 and \$58,337 in 2004.

In evaluating the respective merits of these proposals, I am required to consider and apply statutory criteria and render a reasonable determination giving due weight to those factors deemed relevant. In doing so, I conclude that all of the criteria are relevant although, for the reasons stated or implied, not all are entitled to equal or identical weight.

Neither position on the wage issue will have an appreciative impact on the continuity and stability of employment of unit members [N.J.S.A. 34:13A-16g(8)]. The bargaining unit is relatively small, with 31 officers. The record reflects turnover resulting solely from retirements and not from the existing terms of the

Agreement. This suggests that increases at the level sought by the PBA are not justified to remedy a salary structure which causes a loss of employees.

The cost of living [N.J.S.A. 34:13A-16g(7)] is not a controlling factor in this wage determination but is a criterion which requires moderation in the PBA's wage demands. Although this factor does weigh against the awarding of the PBA's proposal, I do not conclude that it should be given identical weight to other statutory criteria including spending limitations, financial impact and comparability data which must also be considered. Both parties' positions are above the cost of living data and this factor has not been shown to be determinative in the setting of private sector wage increases in Bergen County, wage increases for law enforcement personnel within the county and throughout the State of New Jersey, or wages provided to the Borough's non-law enforcement employees. The record reflects that private sector wage data has greater swings in its levels than does the public sector data and over the contract period contained in this award, the increases awarded do not significantly deviate.

The record further reflects that the lawful authority of the employer, including limitations imposed upon the Borough of Hasbrouck Heights by the P.L. 1976 c. 68 (C.40A:4-45 et seq.) would not be impeded by the costs of an award at the level proposed either by the Borough or the PBA or at any level in between these positions [N.J.S.A. 34:13A-16g(5)]. The Borough's 2002 budget shows a total Cap Bank of \$525,851.48 and an anticipated surplus of \$1,110,000. The

funds available to support the expenditures required by the parties' positions or the terms of this award are clearly present and would not require the Borough to exceed spending limitations imposed by law.

I have also considered the overall compensation currently being received by unit employees including benefit levels [N.J.S.A. 34:13A-16g(3)]. The PBA contends that unit employees compare unfavorably with law enforcement personnel within the County when overall compensation, including benefits, are considered and compared. The Borough contends that benefit levels are comparable when departments are considered based on similar demographics. These arguments are more suitably addressed within the factors governing comparability. The record does reflect that the salary and benefit levels of unit employees are comprehensive in scope. The Borough nor the PBA have presented evidence of inequities relating to existing benefit or compensation levels which would dictate acceptance of either party's last offer without modification.

The interests and welfare of the public [N.J.S.A. 34:13A-16g(1)] are entitled to substantial weight in the rendering of this award. Although this factor defies precise definition, it unquestionably includes consideration of maintaining a productive and efficient law enforcement department at a cost level which the taxpayers and governing body can support. Consideration must also be given to providing adjustments in terms and conditions of employment which do not



significantly vary with terms and conditions of employment among comparable communities unless the Borough's financial posture is such that those terms would cause adverse financial impact or interfere with its lawful spending limitations.

The PBA and the Borough have submitted substantial comparability data concerning salary levels of unit personnel with law enforcement personnel throughout Bergen County. The PBA urges that comparisons be drawn from a variety of municipalities in Bergen County. For comparison purposes, the PBA looks to South Hackensack, Clifton, Rutherford, East Rutherford, Fairview, Leonia, Wood Ridge, Englewood, Bergenfield, Tenafly, Edgewater, Fort Lee, Oakland, Moonachie, Bogota, North Arlington, and Saddle Brook.

The Borough asserts that several of these municipalities should be disregarded in favor of those which share common locale and demographics in Southwest Bergen County such as Carlstadt, East Rutherford, Lodi, Lyndhurst, Moonachie, Rutherford, South Hackensack, and Wood-Ridge, as well as Saddle Brook, a Central Bergen municipality. The Borough contends that it shares similar geographic and demographics with these communities. According to the Borough, the eight Southwest Bergen municipalities, as well as Hasbrouck Heights and Saddle Brook are urban-suburban in character. There is merit that the Southwest Bergen communities which include Carlstadt, East Rutherford, Lyndhurst, Moonachie, North Arlington, Rutherford, South Hackensack, and

Wood-Ridge are relevant comparisons. Lodi, a contiguous community, and Saddle Brook, a nearby community with similar demographics, are also relevant for comparison purposes. Salaries in South Hackensack, Clifton, Fairview, Leonia, Englewood, Bergenfield, Tenafly, Edgewater, Fort Lee, Oakland, Bogota, are not irrelevant but must be accorded less weight.

The Bergen County municipalities provide salary and benefit levels which vary. Nothing has been presented herein which should compel a more favorable or less favorable relative standing for this public employer. The average percentage salary increase among Bergen County communities which the Borough asserts are more comparable was at or minimally above 4% during the relevant contract years:

	2002	2003	2004
Carlstadt			
E. Rutherford	4% (eff 7/1)	4% (eff 1/1)	5% (eff 7/1)
Lyndhurst			
Moonachie	4%	4%	4%
N. Arlington	4%	4.5%	
Rutherford	4%	4%	
S. Hackensack	4% (eff 4/1)	4% (eff 4/1)	4% (eff 4/1)
Wood Ridge	4%	4%	
Saddle Brook	4.5%	4.5%	4.5%
Lodi			

Based upon the arguments and evidence submitted, and after applying the statutory criteria, I have determined that a three-year agreement with wage increases at 3.75% effective January 1, 2002, 4.0% effective January 1, 2003 and two 2.125% increases effective January 1 and July 1, 2004. This represents a total increase of 12.0% over the three-year term or an average rate increase of 4.0%. The terms of the award will cost the Borough \$87,637 in 2002, an additional \$103,662 in 2003 and an additional \$114,547 in 2004. The terms of the award are \$12,519 more than the Borough's proposal in 2002, \$26,291 more than the Borough's proposal in 2003 and \$34,855 more than the Borough's proposal in 2004. The terms of the award are \$37,559 less than the PBA's proposal in 2002, \$27,794 less than the PBA's proposal in 2003 and \$23,482 less than the PBA's proposal in 2004. These costs are calculated upon the full rate increase being implemented on January 1, 2003. The splitting of the rate increase in 2004 will reduce the actual payout of the full rate increase by approximately 1% of total payroll cost and is a relevant consideration as a cost offset in light of the holiday fold in.

When the terms of the award are applied to the existing salary schedule, it will cause schedule Appendix A-3 to be modified as follows:

<b>Position</b>	<b>1/1/02</b>	<b>1/1/03</b>	<b>1/1/04</b>	<b>7/1/04</b>
Patrolman Start to completion of Academy	\$24,900	\$25,896	\$26,446	\$27,008
Probationary Patrolman	\$30,722	\$31,951	\$32,630	\$33,323
Patrolman First Year of Service After Probation	\$45,225	\$47,034	\$48,034	\$49,054
Patrolman Second Year of Service	\$54,304	\$56,475	\$57,676	\$58,902

After Probation				
Patrolman Third Year of Service After Probation	\$63,379	\$65,914	\$67,314	\$68,745
Patrolman Fourth Year of Service After Probation	\$72,459	\$75,357	\$76,959	\$78,594
Patrolman Fifth Year of Service After Probation	\$81,534	\$84,795	\$86,597	\$88,437
Sergeant	\$85,672	\$89,099	\$90,993	\$92,926
Lieutenant	\$89,802	\$93,395	\$95,380	\$97,406
Captain of Police	\$93,920	\$97,676	\$99,752	\$101,872
Captain of Detectives	\$97,712	\$101,620	\$103,780	\$105,984

The Borough also seeks to freeze the existing starting salary for new hires. The prior agreement set this rate at \$24,000 in 1999 and froze this rate through December 31, 2001. The Borough further seeks to add three additional steps to the salary guide.

Given the enhanced economic levels directed by this Award, there is merit to a new hire salary schedule with additional time required to reach top step, although not to the extent sought by the Borough. Although the Borough points out that communities such as Alpine and Paramus now provide for ten-step salary guides for present new hires, the record reflects that the Borough guide compares more favorably with comparable communities on the length of time to reach top step and that an award of two additional steps is a reasonable extension of the time taken to achieve maximum step. An additional step beyond the two awarded is not warranted during this contract term. Due to the freeze on starting salaries in the prior agreement, a new three year freeze is not warranted.

I award an adjustment in years 2003 and 2004 to the starting rate without an adjustment for year 2002. These adjustments are reflected in Appendix A-4.

Accordingly, a new hire salary guide, Appendix A-4, shall be implemented effective on the date of the award. It shall retain the first two steps (Completion of Academy and Probationary Patrolman) and provide for annual steps starting thereafter starting with the First Year of Service After Probation and ending with Seventh Year of Service After Probation. The steps after completion of probation shall be equidistant in dollar calculation. The starting salary shall increase to \$24,500 and \$25,000 for years 2003 and 2004.

**APPENDIX A-4**  
**FOR EMPLOYEES HIRED AFTER 7/21/03**

<b>Position</b>	<b>7/21/03</b>	<b>1/1/04</b>	<b>7/1/04</b>
Patrolman Start to completion of Academy	\$24,500	\$25,000	\$25,000
Probationary Patrolman	\$31,951	\$32,630	\$33,323
Patrolman First Year of Service After Probation	\$39,499	\$40,339	\$41,196
Patrolman Second Year of Service After Probation	\$47,048	\$48,048	\$49,069
Patrolman Third Year of Service After Probation	\$54,597	\$55,757	\$56,912
Patrolman Fourth Year of Service After Probation	\$62,146	\$63,466	\$64,815
Patrolman Fifth Year of Service After Probation	\$69,695	\$71,175	\$72,688
Patrolman Sixth Year of Service After Probation	\$77,244	\$78,885	\$80,562
Patrolman Seventh Year of Service After Probation	\$84,795	\$86,597	\$88,437
Sergeant	\$89,099	\$90,993	\$92,926
Lieutenant	\$93,395	\$95,380	\$97,406

Captain of Police	\$97,676	\$99,752	\$101,872
Captain of Detectives	\$101,620	\$103,780	\$105,984

The terms of the award are somewhat above those received by other municipal employees in the Borough. This fact has been considered. It does weigh against an award in an amount sought by the PBA but does not require an award of identical terms for law enforcement employees in the absence of a history of identical treatment. Given the comparability data submitted by the Borough and the PBA with respect to law enforcement personnel, an award with identical terms to non-law enforcement personnel would promote unfavorable comparisons for the Borough's law enforcement personnel which I conclude would be inconsistent with the interests and welfare of the public in maintaining a motivated, efficient and productive police department.

The terms of the award will not adversely impact the financial posture of the governing body, its residents and taxpayers. The Borough, through competent financial management, has maintained a comfortable surplus balance over the long-term and continues to regenerate a healthy level of surplus funds. Its municipal tax rate is stable. Its revenue from interest on investments has increased as well as its income from uniform construction code fees. The Borough's assessed valuations for real property have increased substantially over the last several years which reflects its sound financial condition. The additional costs beyond the Borough's proposal can be funded without adverse financial impact.

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

### **AWARD**

1. Duration - There shall be a three-year agreement effective January 1, 2002 through December 31, 2004.
2. 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. Any tentative agreements entered into between the Borough and the PBA shall be incorporated herein.
3. Article XV – Vacation

Employees hired after July 21, 2003 shall have vacations prorated during the last year of service to time served.

4. Terminal Leave

Article XXXII shall include a new Section B stating:

The employee must give three (3) months notice other than death, disability or other unforeseen circumstances in order to receive the terminal leave benefit.

5. Holiday Pay

Effective January 1, 2004 the entire holiday benefit shall be paid along with regular payroll in equal installments and folded in and thereby utilized for all calculations.

6. Longevity

Effective July 21, 2003, the following schedule of longevity pay shall apply to each member of the Police Department employed after July 21, 2003 and who has continuous service in the Police Department of the Borough of Hasbrouck Heights:

Completion of 5 years of service .... 2.5% of Base Annual Salary

Completion of 10 years of service ... 5.0% of Base Annual Salary

Completion of 15 years of service ... 7.5% of Base Annual Salary

Completion of 20 years of service ... 10% of Base Annual Salary

7. Salaries

The salary schedule set forth in Appendix A-3 shall be adjusted on and retroactive to January 1, 2002, January 1, 2003, January 1 and July 1, 2004 at each step by 3.75%, 4.0%, 2.125% and 2.125% respectively. A new salary schedule for employees hired after July 21, 2003 shall be implemented as Appendix A-4. The salary schedules shall read as follows:



### APPENDIX A-3

<b>Position</b>	<b>1/1/02</b>	<b>1/1/03</b>	<b>1/1/04</b>	<b>7/1/04</b>
Patrolman Start to completion of Academy	\$24,900	\$25,896	\$26,446	\$27,008
Probationary Patrolman	\$30,722	\$31,951	\$32,630	\$33,323
Patrolman First Year of Service After Probation	\$45,225	\$47,034	\$48,034	\$49,054
Patrolman Second Year of Service After Probation	\$54,304	\$56,475	\$57,676	\$58,902
Patrolman Third Year of Service After Probation	\$63,379	\$65,914	\$67,314	\$68,745
Patrolman Fourth Year of Service After Probation	\$72,459	\$75,357	\$76,959	\$78,594
Patrolman Fifth Year of Service After Probation	\$81,534	\$84,795	\$86,597	\$88,437
Sergeant	\$85,672	\$89,099	\$90,993	\$92,926
Lieutenant	\$89,802	\$93,395	\$95,380	\$97,406
Captain of Police	\$93,920	\$97,676	\$99,752	\$101,872
Captain of Detectives	\$97,712	\$101,620	\$103,780	\$105,984

FOR EMPLOYEES HIRED AFTER 7/21/03

### APPENDIX A-4

<b>Position</b>	<b>7/21/03</b>	<b>1/1/04</b>	<b>7/1/04</b>
Patrolman Start to completion of Academy	\$24,500	\$25,000	\$25,000
Probationary Patrolman	\$31,951	\$32,630	\$33,323
Patrolman First Year of Service After Probation	\$39,499	\$40,339	\$41,196
Patrolman Second Year of Service After Probation	\$47,048	\$48,048	\$49,069
Patrolman Third Year of Service After Probation	\$54,597	\$55,757	\$56,912
Patrolman Fourth Year of Service After Probation	\$62,146	\$63,466	\$64,815
Patrolman Fifth Year of Service After Probation	\$69,695	\$71,175	\$72,688
Patrolman Sixth Year of Service After Probation	\$77,244	\$78,885	\$80,562
Patrolman Seventh Year of Service After Probation	\$84,795	\$86,597	\$88,437
Sergeant	\$89,099	\$90,993	\$92,926

Lieutenant	\$93,395	\$95,380	\$97,406
Captain of Police	\$97,676	\$99,752	\$101,872
Captain of Detectives	\$101,620	\$103,780	\$105,984

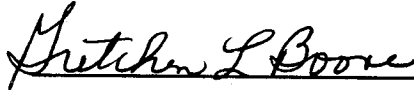
Dated: July 21, 2003  
Sea Girt, New Jersey

  
James W. Mastriani

State of New Jersey  
County of Monmouth

ss:

On this 21<sup>st</sup> day of July, 2003, 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 8/13/2003